

CHAPTER 281

REDEMPTION FROM REAL ESTATE TAX SALES

281.01 WHO MAY REDEEM FROM TAX SALE; WHEN.

HISTORY. Ex. 1902 c. 2 s. 34; R.L. 1905 s. 945; G.S. 1913 s. 2137; G.S. 1923 s. 2151; M.S. 1927 s. 2151.

The statutes relating to taxes may be found in Revised Statutes 1851, Chapter 12, Public Statutes 1858, Chapter 9, General Statutes 1866, Chapter 11, General Statutes 1878, Chapter 11, General Statutes 1894, Chapter 11. Our present tax law consists of Ex. Laws 1902, Chapter 2, as amended; is a complete code in itself; and it would be confusing rather than helpful to connect the sections of the present law with the sections in compilations prior to 1902.

1. Statutory
2. Governed by the law of the date of sale; a vested right
3. When may be made
4. Statute construed liberally
5. Who may redeem

1. Statutory

There is no right of redemption except such as the statute gives. *State ex rel v Schaack*, 28 M 358, 10 NW 22.

There is in this state no constitutional right belonging to the taxpayer to redeem from tax sales, nor any right to notice of expiration from such sale. Whatever rights he may possess in respect thereof depend entirely upon statutory enactment. *State v Aitkin County Farm*, 204 M 495, 284 NW 63.

Where land has been sold for taxes for the years 1926, 1927, the owners have, by statute, an option to repurchase. *Laws 1933, Chapter 407.*

2. Governed by the law of the date of sale; a vested right

The right of redemption, based on the statute in force at the time of the sale, is a vested property right which cannot be impaired by subsequent legislation. *State ex rel v McDonald*, 26 M 145, 1 NW 832; *Merrill v Dearing*, 32 M 479, 21 NW 721; *Cole v Lamm*, 81 M 463, 84 NW 329.

As between purchaser at a tax sale and owner of the property sold, a contract relationship arises, and law as therein exists, determines contractual rights and obligations of parties. *Merrill v Dearing*, 32 M 479, 21 NW 721; *Forrest v Henry*, 33 M 434, 23 NW 848; *State ex rel v Smith*, 36 M 456, 32 NW 174; *Kipp v Johnson*, 73 M 34, 75 NW 736; *Cole v Lamm*, 81 M 463, 84 NW 329; *State v Aitkin*, 204 M 495, 284 NW 63.

The right to redeem is a vested property right except that it may be extended as against the state and its assignees. *State ex rel v Smith*, 36 M 456, 32 NW 174.

3. When may be made

The redemption period begins to run from the time when land is sold to a purchaser at the annual delinquent sale, or bid in for the state. *Kipp v Fitch*, 73 M 65, 75 NW 752.

The sale mentioned in General Statutes 1894, Section 1616, refers to lands sold by the county auditor, and redemption of such lands may be made at any time prior to an assignment. *State ex rel v Johnson*, 83 M 496, 86 NW 610.

Following *State ex rel v Moeller*, 189 M 412, 249 NW 330, *Blaisdell v Home*, 189 M 422, 448, 249 NW 334, 893, affirmed 290 US 398, *Laws 1933, Chapter 366*, ex-

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tending the period of redemption, is constitutional. State ex rel v Erickson, 191 M 188, 253 NW 529.

4. Statute construed liberally

Redemption statutes are liberally construed. Merrill v Dearing, 32 M 479, 21 NW 721; Forrest v Henry, 33 M 434, 23 NW 848; State ex rel v Scott, 105 M 69, 117 NW 417.

Owner of a mortgage covering undivided one-half of land sold for taxes may redeem such undivided one-half. 1936 OAG 404, Nov. 8, 1935 (412a-23).

5. Who may redeem

The auditor has no authority to pass upon the validity of the claim. He must accept the redemption money as a matter of course and as a mere ministerial act. A stranger to the land cannot defeat a tax title by redeeming, but that is a matter for private litigation between the parties. The state is not concerned. State ex rel v McDonald, 26 M 145, 1 NW 832.

Mandamus will lie to compel the auditor to allow a redemption. State ex rel v Holden, 62 M 246, 64 NW 568; State ex rel v Holden, 75 M 512, 78 NW 16.

Anyone "claiming" an interest in the land may redeem. Minn. Debenture v Dean, 85 M 473, 89 NW 848.

Any claimant in good faith, even a person claiming by adverse possession, has the right to redeem. Sunderman v Craighead, 143 M 286, 173 NW 653.

Where notice of expiration has been served, and seven years from date of sale having expired without the certificate being recorded, the purchaser cannot redeem from subsequent sale. OAG Aug. 22, 1935 (425b-5).

Entry on United States land, subject to a ditch lien carries right to redeem, and to accept abatement of the lien from the commissioner of taxation. OAG Aug. 9, 1937 (921j).

281.02 AMOUNT PAYABLE.

HISTORY. Ex. 1902 c. 2 s. 35; R.L. 1905 s. 946; 1909 c. 339 s. 1; G.S. 1913 s. 2138; G.S. 1923 s. 2152; M.S. 1927 s. 2152

1. Land sold to private purchaser
2. Land bid in for state and subsequently assigned
3. Delinquent taxes defined
4. Interest
5. Proof

1. Land sold to private purchaser

The amount required to redeem where the land is sold to an actual purchaser at the annual delinquent sale is the total of the following amounts:

(a) The amount paid by such purchaser, with interest thereon, at the rate specified and for which the land was sold.

County auditor cannot accept less than full amount of delinquent taxes, interest, penalties, and costs. 1936 OAG 354, Dec. 11, 1935 (412a-9).

Where taxes for two or more years have gone to sale, one year may not be redeemed separately. 1938 OAG 405, Nov. 10, 1937 (412a-10).

No building can be removed on tract until taxes are paid, including current tax. 1934 OAG 832, July 16, 1934 (112a-24).

Where separate judgment for each year was entered for delinquent taxes for 1927 and subsequent years, purchaser need not pay the subsequent taxes before issuing notice, but at the time of redemption the subsequent taxes must be paid. OAG Aug. 18, 1933.

Notice of expiration of redemption was insufficient where amount required to redeem was not properly stated. OAG April 15, 1937 (339a-2).

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(b) All unpaid delinquent taxes, interest, costs and penalties accruing subsequent to the sale.

To redeem from a sale made in 1900, under the forfeiture tax sale law of 1899, the owner is required to pay not only the amount for which the land was sold, but also the taxes delinquent for the years 1896, 1897, 1898. *State ex rel v Peltier*, 86 M 181, 90 NW 375; *Midland v Eby*, 89 M 27, 93 NW 707; *Jenswold v Minn. Canal*, 93 M 382, 101 NW 603.

(c) The amount paid by the purchaser for any delinquent taxes, penalties, costs and interest accruing subsequent to the sale, with interest at 12 per cent from the day of such payment. This does not include taxes not delinquent. *Sprague v Roverud*, 34 M 475, 36 NW 603.

(d) Where the purchaser again purchases it at a sale for subsequent taxes, the owner on redeeming from the first sale, need not also pay the amount which would be necessary to redeem from the later sale. *Brodie v State*, 102 M 202, 113 NW 2; *Minn. Debenture v Scott*, 106 M 32, 119 NW 391.

2. Land bid in for state and subsequently assigned

The amount required to redeem when land is bid in for the state at the annual delinquent sale and subsequently assigned is the total of the following amounts:

(a) The amount paid for the assignment with interest thereon at 12 per cent from date of the assignment. *Midland v Eby* (overruling *Knight v Knoblauch*, 77 M 8), 89 M 27, 93 NW 707.

(b) All unpaid delinquent taxes, interest, costs and penalties accruing subsequent to the assignment. *Midland v Eby*, 89 M 27, 93 NW 707; *Jenswold v Minn. Canal Co.* 93 M 382, 101 NW 603.

(c) The amount paid by the assignee for any delinquent taxes, penalties, costs and interest accruing subsequent to the assignment with interest thereon at 12 per cent from the day of payment, including interest on the interest paid by the assignee. *McNamara v Fink*, 71 M 66, 73 NW 649; *Berglund v Graves*, 72 M 148, 75 NW 118; *McLachlen v Carpenter*, 75 M 17, 77 NW 436; *State ex rel v Peltier*, 89 M 181, 93 NW 707.

1929 taxes cannot be paid without paying subsequent taxes. 1934 OAG 830, July 11, 1934 (412a-19).

Detail of redemption. 1938 OAG 415, July 15, 1938 (423c).

Redemption often confession of judgment. 1938 OAG 441, Sept. 15, 1937 (412a-19).

State assignment certificate; notice of expiration; amount required to redeem. 1942 OAG 346, Apr. 15, 1942 (423K).

(d) Where a sale has been adjudged void, the state's lien for such taxes, interest, penalties, and costs became revived, but did not accrue and become delinquent within General Statutes 1894, Section 1602, Subdivision 2, until the state had taken steps to enforce its lien by including it in the taxes of the current year, or as provided by law. *Minn. Debenture v United Real Estate*, 99 M 287, 109 NW 251.

3. What are delinquent taxes

Delinquent taxes mean all taxes that are overdue and unpaid in fact. They do not lose their identity as such from the fact that the land against which they are assessed is regularly sold at a tax sale, and, for want of a purchaser bid in for the state. They remain delinquent until actually paid to the county treasurer either by the landowner, the purchaser at the tax sale, or by an assignee of the state. *Jenswold v Minn. Canal Co.* 93 M 382, 101 NW 603.

Statute providing for continuance of right of redemption from delinquent tax sale, for 12 months after proof of service of notice of redemption is not unconstitutional. *State ex rel v Erickson*, 188 M 188, 253 NW 529.

4. Interest

Interest does not run on delinquent taxes prior to sale therefor. *State v Baldwin*, 62 M 518, 65 NW 80.

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When redemption is made the auditor shall compute the interest from the date of the notice to the date of redemption and add to it the amount in the notice, and also the amount of all delinquent taxes, interest, and penalties which have accrued subsequent to the date of the notice. *Midland v Eby*, 89 M 27, 93 NW 707; 1940 OAG 338, March 6, 1939 (412a-9).

5. Proof

It is incumbent upon holder of tax certificate to prove affirmatively dehors the record all essentials and recitals necessary in perfecting the expiration of the right of redemption. *Johnson v Murphy*, 133 M 456, 158 NW 701.

281.03 AUDITOR'S CERTIFICATE.

HISTORY. 1871 c. 1 s. 90; G.S. 1878 c. 11 s. 90; 1887 c. 60 s. 4; G.S. 1894 s. 1602; 1895 c. 87; Ex. 1902 c. 2 s. 36; R.L. 1905 s. 947; G.S. 1913 s. 2139; G.S. 1923 s. 2153; M.S. 1927 s. 2153.

A redemptioner may rely on the certificate as to the amount due and the payment of such amount effects a redemption although the auditor fails to include all that the law required *Forest v Henry*, 33 M 434, 23 NW 848.

Distinguishing *Forrest v Henry*, 33 M 434, 23 NW 848, it is held that the auditor's omission to certify all taxes does not discharge those omitted. *Croswell v Benton*, 54 M 264, 55 NW 1125.

The statement was one required to be made by the county auditor, and plaintiff had a right to rely upon, and having paid the amount of the statement which proved to be an overpayment, such payment cannot be regarded as voluntary, and plaintiff may recover the amount of the excess payment. *Wheeler v Board*, 87 M 243, 91 NW 890.

Where the notice states a substantially smaller sum than the amount of the tax judgment, though the error is apparently for the benefit of the redemptioner, it is of no avail to enforce forfeiture of his interest in the property. *State ex rel v National Fire*, 92 M 210, 99 NW 799.

Money paid to the county auditor for redemption of land sold for taxes may not be recovered by the holder of certificate after expiration of six years from date of notice. OAG Dec. 13, 1938 (423e).

In those cases where more than six years have elapsed, as to certain items, since the notice of expiration was issued, the auditor must not include said items in his certificate. OAG Aug. 8, 1938 (409a-1).

281.04 REDEMPTION BY PERSONS UNDER DISABILITY.

HISTORY. Ex. 1902 c. 2 s. 37; R.L. 1905 s. 948; G.S. 1913 s. 2140; G.S. 1923 s. 2154; M.S. 1927 s. 2154.

Suit under this section is one not merely to establish the right to redeem, but one to effect an actual redemption. The right of persons under disability is not suspended during disability. *Goodrich v Florer*, 27 M 97, 6 NW 452.

The statute gives the minor who has either a vested or a contingent remainder in lands sold for taxes, and his right to redeem may be asserted in an action against him to determine adverse claims. *Minn. Debenture v Dean*, 85 M 473, 89 NW 848.

Defendant, a minor, owner of an undivided one-half of a mortgage on the premises, is entitled to redeem, and should be adjudged such rights in this action to determine adverse claims. *Miner v Buzick*, 206 M 341, 288 NW 582.

281.05 REDEMPTION WHEN OWNER DIES.

HISTORY. Ex. 1902 c. 2 ss. 38 to 40; R.L. 1905 s. 949; G.S. 1913 c. 2141; G.S. 1923 s. 2155; M.S. 1927 s. 2155.

The sole effect of the statute is to extend the time of redemption from two years to four years when the owner dies before the expiration of the redemption period. It does not dispense with the giving of notice, nor absolutely limit the redemption to four years, no notice having been given. *State ex rel v Holden*, 62 M 246, 64 NW 568.

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281.06 UNDIVIDED PART.

HISTORY. Ex. 1902 c. 2 s. 41; R.L. 1905 s. 950; G.S. 1913 s. 2142; G.S. 1923 s. 2156; M.S. 1927 s. 2156.

Under former statutes, differing materially from the present, it was held that that where at tax sale, land is sold as one tract, the owner of a part of the tract may redeem the whole, but he cannot redeem part of it. *Moulton v Doran*, 10 M 67 (49); *State ex rel v Schaack*, 28 M 358, 10 NW 22.

General Statutes 1878, Chapter 11, Section 92, as amended by Laws 1889, Chapter 185, gave to the holder of a lien on a divided part of an entire tract sold for taxes the right to have the amount of the tax lien apportioned between the parts, and to redeem for tax sale the part on which he held his lien by paying the part of his proportion, and the section as amended by Laws 1893, Chapter 118, provided a remedy for enforcing the right. *Wade v Drexel*, 60 M 164, 62 NW 261.

Clark owned an undivided one-half of a certain tract which was taxed in the name of his grantor, the deed not having been recorded. He held a void tax deed on the other one-half, separately taxed in his name. When a tax judgment had been entered, he paid the tax on an undivided one-half, but the treasurer wrote opposite the entries relating to the latter one-half "judgment satisfied." As to the former one-half, that was bid in by the state. Subsequently, Clark took an assignment of this tax title supposing it covered the part last above mentioned. Held, it did not. *Wray v Litchfield*, 64 M 309, 67 NW 72.

A party claiming refundment had a title on which he would have prevailed in an action. He failed to prove this title, but relied solely on his tax title. He was held guilty of bad faith toward the state, that he is not entitled to refundment. *Easton v Schofield*, 66 M 425, 69 NW 326.

General Statutes 1894, Section 1604, does not necessarily or invariably remove the general inhibition against the assertion of an adverse tax title by one cotenant against another. *Hoyt v Lightbody*, 98 M 189, 108 NW 843.

The owner of a portion of a parcel of land sold as a whole for taxes, his portion having a definite geographical boundary, is entitled to redeem his property by paying his proportional part of the tax judgment pursuant to section 281.08, notwithstanding the whole parcel is occupied by a single structure and the aggregate value of the segregated parts is less than that of the whole parcel as a single tract. *State ex rel v Erickson*, 212 M 218, 3 NW(2d) 231.

Owner of mortgage covering undivided one-half of land sold for taxes may redeem such one-half. 1936 OAG 404, Nov. 8, 1935 (412a-23).

Where each of 12 heirs had an undivided interest, each might redeem for his own part; but if any one redeemed the other interests also, the redemption as to those other parts would be subject to the beneficial interests of the other cotenants, as the same might appear. 1940 OAG 339, May 10, 1940 (423h).

Procedure of determination by county auditor of right of heirs or representatives of deceased persons to repurchase. 1942 OAG 321, Oct. 2, 1941 (425c-13).

281.07 UNDIVIDED SHARE.

HISTORY. Ex. 1902 c. 2 s. 42; R.L. 1905 s. 951; G.S. 1913 s. 2143; G.S. 1923 s. 2157; M.S. 1927 s. 2157.

See annotations under section 281.06.

281.08 SPECIFIC PART.

HISTORY. Ex. 1902 c. 2 s. 43; R.L. 1905 s. 952; G.S. 1913 s. 2144; G.S. 1923 s. 2158; M.S. 1927 s. 2158.

See annotations under section 281.06.

A person obtaining a deed to a part of a parcel is entitled to redeem that part. OAG Sept. 13, 1935 (425b-5).

A person having a mortgage on only part of a tract may redeem such part. 1936 OAG 405, Dec. 31, 1935 (425b-5).

An owner may not pay delinquent taxes upon part of lands assessed. 1942 OAG 297, May 8, 1941 (412A-10).

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281.09 SPECIFIC PART OF UNDIVIDED PART.

HISTORY. Ex. 1902 c. 2 s. 44; R.L. 1905 s. 953; G.S. 1913 s. 2145; G.S. 1923 s. 2159; M.S. 1927 s. 2159.

See, State ex rel v Erickson, 212 M 218, 3 NW (2d) 231.

281.10 AUDITOR TO DETERMINE PROPORTION.

HISTORY. Ex. 1902 c. 2 s. 45; R.L. 1905 s. 954; G.S. 1913 s. 2146; G.S. 1923 s. 2160; M.S. 1927 s. 2160.

See, State ex rel v Erickson, 212 M 218, 3 NW(2d) 231.

Necessity for bids and awarding of contracts for publishing and printing remains, notwithstanding federal NRA. 1934 OAG 189, Dec. 31, 1934 (707a-9).

A person having a mortgage on only part of a tract may redeem such part. 1936 OAG 405, Dec. 31, 1935 (425b-5).

Acceptance of a bid for printing and publishing official proceedings and financial statement "and other, etc." does not bind the county as to publication under sections 279.07, 279.08, 281.10, 281.11. OAG April 11, 1938 (709a-9).

281.11 TAXPAYER MAY PAY TAXES ON PART.

HISTORY. 1923 c. 344; G.S. 1923 s. 2161; M.S. 1927 s. 2161.

281.12 LAND HELD JOINTLY.

HISTORY. Ex. 1902 c. 2 s. 46; R.L. 1905 s. 955; G.S. 1913 s. 2147; G.S. 1923 s. 2162; M.S. 1927 s. 2162.

281.13 NOTICE OF EXPIRATION OF REDEMPTION.

HISTORY. Ex. 1902 c. 2 s. 47; 1905 cc. 270, 271; R.L. 1905 s. 956; G.S. 1913 s. 2148; 1919 c. 470; 1921 c. 501 s. 1; G.S. 1923 s. 2163; M.S. 1927 s. 2163.

1. Chronicle of legislation
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1. Chronicle of legislation

The requirement of a notice was first introduced by Laws 1877, Chapter 6, Section 37, which act went into effect March 6, 1877. Merrill v Dearing, 32 M 479, 21 NW 721; Gaston v Merriam, 33 M 271, 22 NW 614; Pigott v O'Halloran, 37 M 415, 35 NW 4.

Laws 1881, Chapter 10, Section 22, attempting to repeal the law relating to requirement for notice was held unconstitutional, subject not expressed in the title to the act. State ex rel v Smith, 35 M 257, 28 NW 241.

The original act applied only to purchasers and was held not to apply to the state or to an assignee of the state after forfeiture. State ex rel v McDonald, 26 M 145, 1 NW 832; State ex rel v Smith, 36 M 456, 32 NW 174.

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It had previously been held that the requirement of notice applied to assignees from the state prior to forfeiture as well as to purchasers at the annual delinquent sale. *Nelson v Central Land Co.* 35 M 408, 29 NW 121; *State ex rel v Smith*, 36 M 456, 32 NW 174.

Whereupon, by Laws 1889, Chapter 198, the legislature extended the act by extending the requirements of notice to assignees of the state after forfeiture the amendatory act was held constitutional. *Wilson v Bigelow*, 52 M 307, 54 NW 95; *Powell v King*, 78 M 83, 80 NW 850.

That part of Revised Laws 1905, Section 956, which provides a form of notice of expiration of redemption from a tax sale, was superseded by Laws 1905, Chapter 270, so that a notice of expiration from any tax sale subsequent to 1902 must conform substantially to form prescribed by Ex. Laws 1902, Chapter 2, Section 47. *Spear v Noonan*, 131 M 332, 155 NW 107; *Luckland v Dixon*, 132 M 144, 155 NW 1038; *Glaze v Stryker*, 135 M 186, 160 NW 490.

The state was not required to give notice until the enactment of Laws 1893, Chapter 58, Section 4. There is no constitutional right to redeem from tax sales, nor any right to notice of expiration of redemption from such sale. *State v Aitkin Co. Land*, 204 M 495, 284 NW 63.

Moratory legislation. 18 MLR 324.

2. Application to sales

Note analysis (1) as to history of the duty to give notice of expiration of time of redemption. Immediately prior to 1902 the statute had been extended so that notice of expiration of the period of redemption was applicable to all sales whether made to private individuals or to the state; but the requirements requiring service of notice of expiration was not reenacted in the tax code of 1902 but was reenacted by Revised Laws 1905, Section 938; so that, at present the requirement applies to all sales. *State ex rel v Nord*, 73 M 1, 75 NW 760; *Cole v Lamb*, 81 M 463, 84 NW 329; *State ex rel v Peltier*, 86 M 181, 90 NW 375; *Kampfer v East Side Syndicate*, 95 M 309, 104 NW 290; *Johnson v Fraser*, 112 M 126, 127 NW 474, 128 NW 676.

A county auditor has authority to execute a state assignment certificate for lands sold at regular delinquent tax sale after more than three years have elapsed from the date of the tax sale, and before proceedings to sell under the provisions of the statute have been initiated in any one year. *State ex rel v Scott*, 105 M 69, 117 NW 417.

When a new county is formed out of the territory of an existing county, notice of expiration of redemption from a tax sale of lands in such territory must be issued by the auditor of the original county. *Culligan v Cosmopolitan*, 126 M 218, 148 NW 273.

Notice of expiration of redemption must be served before state can own lands bid in for state for taxes for 1926 and subsequent years. 1934 OAG 835, June 8, 1934 (423c).

Discussion of right of redemption and the service of notice under Laws 1933, Chapter 366. 1934 OAG 837, May 18, 1933 (425b-4).

Notice may be issued on certificate of absolute property sale, and state assignment certificate made at the same time. OAG May 26, 1935 (423c).

Notice of expiration of redemption under Laws 1935, Chapter 278, and redemption from tax sales; mailing of notice; service. 1936 OAG 400, Sept. 17, 1935 (425b-5); 1936 OAG 409, July 17, 1935 (423c).

Cancellation of tax certificates. 1938 OAG 401, May 6, 1938 (409a-1).

Grouping of contiguous parcels of land in delinquent proceedings. 23 MLR 992.

3. What law governs

The law of the date of the sale governs. *Merrill v Dearing*, 32 M 479, 21 NW 721; *Gaston v Merriam*, 33 M 271, 22 NW 614; *Kenaston v G. N. Ry.* 59 M 35, 60 NW 813; *Phelps v Powers*, 90 M 440, 97 NW 136; *Roessler v Romer*, 92 M 218,

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99 NW 800; *Stein v Hanson*, 99 M 387, 109 NW 821; *Lawton v Barker*, 105 M 102, 117 NW 249; *State ex rel v Krohmer*, 112 M 372, 128 NW 288.

Where lands were sold for delinquent taxes of 1886 to 1905 in November, 1906, at forfeited tax sale, for less than authorized by law, and not authorized by the state auditor, and, after elimination of the right of redemption by notice, a governor's deed was executed, it was held that the sale and subsequent proceedings under it were governed by Revised Laws 1905, Sections 936 to 940, and not by Laws 1902, Chapter 2. *Minnesota Debenture v Scott*, 106 M 32, 119 NW 391; *Hage v St. Paul Land Co.* 107 M 350, 120 NW 298.

Where lands were bid in by the state at a tax sale in 1901, under General Statutes 1894, and were sold by the state at forfeited sale in 1907, it was held that the notice was governed by Revised Laws 1905, Section 956, and that the requirement that the notice shall state that the amount required to redeem and shall include interest as provided by law to the day of redemption is made, is constitutional and not an infringement upon the vested property rights of the owner, whose lands had been bid in for the state at the tax sale in 1901, and sold as forfeited lands in 1907, since the right of redemption is preserved, though in a more restrictive sense, and the legislation was favorable and not adverse to the owner. *Johnson v Fraser*, 112 M 126, 127 NW 474, 128 NW 676.

Procedure provided for termination of right of redemption under Laws 1935, Chapter 278, (sections 281.16 to 281.27), while different from the procedure prescribed by section 281.13 falls within permissible legislative changes respecting remedy and does not substantially impair any contract obligation. *State v Aitkin County Land*, 204 M 495, 284 NW 63.

Notice of expiration of redemption of land sold for delinquent taxes 1932, bid in for the state at annual tax judgment sale in 1934, and not redeemed or assigned, should not be served until four years after date lands were bid for state, and time for redemption would not expire until twelfth month thereafter. OAG April 27, 1938 (412a-23); OAG May 20, 1938 (425b-4).

Land bid in at a tax judgment sale between passage of Laws 1933, Chapter 366, and Laws 1935, Chapter 278, is governed by Laws 1935, Chapter 278, Section 2(b) (sections 281.17 to 281.20), and by Laws 1933, Chapter 366, (section 281.15), and by section 281.13. 1940 OAG 343, Aug. 4, 1939 (419f).

The form provided in section 281.13 applies and may be used under Laws 1933, Chapter 366, except that the time "60 days" should be changed to "one year." 1934 OAG 833, March 1, 1934 (423c).

4. Construction

It must not be retroactive. *State ex rel v McDonald*, 26 M 145, 1 NW 832.

The statute is remedial in its nature and must be construed liberally. *Merrill v Dearing*, 32 M 479, 21 NW 721.

Mere service of a notice of expiration of the time for redemption from a tax sale does not vest in the holder of the tax certificate title to the land; it may ultimately ripen into title should the property owner fail to make redemption. *Foster v Wagener*, 129 M 11, 151 NW 407.

The deed when executed is not conclusive that the time of redemption had expired, and the owner of the land may show that no notice of expiration had in fact been given and that the right to redeem had not expired. *Swanson v Campbell*, 129 M 72, 151 NW 534.

Validity of tax bargain sales. 18 MLR 849.

5. Object of notice; service; sufficiency; tracts included

The object of the notice is to apprise the owner in a definite and timely manner that his land has been sold for taxes and that he must redeem from the sale within a certain time, or lose his property. *Merrill v Dearing*, 32 M 479, 21 NW 721; *Western Land v McComber*, 41 M 20, 42 NW 543; *Roessler v Romer*, 92 M 218, 99 NW 800; *Trask v Skoog*, 138 M 229, 164 NW 914.

The notice need not state in whose name the property is assessed. It is a matter in rem. (Ex. Laws 1902, Chapter 2, Section 47). *Sperry v Goodwin*, 44 M 207, 46 NW 328.

The notice in substance conforms to the provisions of the statute. *Hinkel v Krueger*, 47 M 497, 50 NW 689.

A mistake in the date of judgment or sale is fatal. *Eide v Clark*, 57 M 397, 59 NW 484; *Kipp v Fitch*, 73 M 65, 75 NW 752.

Notice of expiration of the time for redemption cannot now be served until at least three years after the sale, but prior to Laws 1905, Chapter 271, it could be served at any time after the sale. *Flannagan v City of St. Paul*, 65 M 347, 68 NW 47; *Kipp v Fitch*, 73 M 65, 75 NW 752; *Merchants' v City of St. Paul*, 77 M 343, 79 NW 1040.

A notice of the expiration of the time of redemption contained three different tracts of land which were all assessed to the same persons, sold to the same purchaser at the same tax sale, and were separately and distinctly described in the notice, with date of sale, amount sold for, interest and amount required to redeem set opposite each tract. The notice was so worded that the owner might redeem one or more of all the tracts. Held, the notice was not invalid because it included more than one tract. *Snyder v Ingalls*, 70 M 16, 72 NW 807.

The statute requires a notice sufficient on its face; not one that can be upheld only by reason of some legal fiction, or one that can be understood only by reference to the statute. *Clary v O'Shea*, 72 M 105, 75 NW 115.

A notice must be valid when issued by the auditor and its validity cannot be made to depend on the act of the officer in filing or omitting to file the proof of service on the day service is made. *Kipp v Johnson*, 73 M 34, 75 NW 736.

A reference to the statute does not vitiate a notice otherwise sufficient. *McNamara v Fink*, 71 M 66, 73 NW 649; *Phelps v Powers*, 90 M 440, 97 NW 136.

A mistake in the amount for which the land was sold, is fatal. *State ex rel v Scott*, 92 M 210, 99 NW 799.

The fact that an error in the notice is apparently beneficial to the redemptioner, is immaterial. *State ex rel v Scott*, 92 M 210, 99 NW 799.

A notice is not void because it contains recitals not required. *Holland v Billings*, 116 M 105, 133 NW 399.

Service must be upon the person in whose name land at the time is assessed, therein failing, upon person in possession, or if unoccupied, then, by publication. *Foster v McClure*, 121 M 409, 141 NW 797.

The sole issue for trial was one of fact, namely, whether defendants were served personally with notice of the expiration of the time of redemption on July 26, 1937, at St. Paul, Minnesota, as returned by the deputy sheriff. The finding that it was so served is sustained by the record. *Holmes v Conter*, 212 M 394, 4 NW(2d) 106.

Time of redemption for land sold in May, 1935, for taxes for the year 1931, expires in May, 1940, and for lands sold in 1934 for 1932 taxes in May, 1939. OAG Sept. 28, 1937 (412a-23).

Where land was bid in for 1932 taxes at regular tax judgment sale in May, 1934, and was thereafter sold to an individual purchaser by assignment certificate covering 1932, 1933 and 1934 taxes, 12 months' notice of expiration of time for redemption may now be served at any time. 1940 OAG 343, Aug. 4, 1939 (419f).

6. Mandatory

The statutory requirement of notice is mandatory and must be followed with strictness. *Kenaston v Great Northern*, 59 M 35, 60 NW 813; *Peterson v Mast*, 61 M 118, 63 NW 168; *State ex rel v Nord*, 73 M 1, 75 NW 760; *Kipp v Johnson*, 73 M 34, 75 NW 736; *Kipp v Fitch*, 73 M 65, 75 NW 752; *Gahre v Berry*, 82 M 200, 84 NW 733; *Walker v Martin*, 87 M 489, 92 NW 336; *State ex rel v Scott*, 92 M 210, 99 NW 799; *Roessler v Romer*, 92 M 218, 99 NW 800.

The above rule has been carried to the extreme. *Roessler v Romer*, 92 M 218, 99 NW 800.

The form prescribed by Ex. Laws 1902, Chapter 2, Section 47, must in all substantial respects be followed. Where the statutory form was used but the notice failed to state the year in which the taxes upon which the sale was founded were delinquent, and the rate of interest necessary to be paid on the amount re-

quired to redeem the same being contained in the statutory form, held void. *Lawton v Barker*, 105 M 102, 117 NW 249; *Downing v Lucy*, 121 M 301, 141 NW 183.

7. Extension of redemption period; request of certificate-holder

The effect of the statute is to make the lapse of the right of redemption depend on the service of notice and the filing of proof thereof and to extend the period of redemption indefinitely until such service and filing of proof and 60 days thereafter. *State ex rel v McDonald*, 26 M 145, 1 NW 832; *Merrill v Dearing*, 32 M 479, 21 NW 721; *Gaston v Merriam*, 33 M 271, 22 NW 614; *Nelson v Central Land*, 35 M 408, 29 NW 121; *Wakefield v Day*, 41 M 344, 43 NW 71; *Kenaston v Great Northern*, 59 M 35, 60 NW 813.

Any person who is interested in the land as owner or lienholder is entitled to the benefit of such extension whether the land is assessed in his name or not. *Wakefield v Day*, 41 M 344, 43 NW 71.

The auditor should not act on his own motion. It is said that inasmuch as no one but the purchaser or his successor can put a limit to the time for redemption, it is probably necessary that he should call upon the auditor to give the notice. *Hinkel v Krueger*, 47 M 497, 50 NW 689.

The return of service is held to be of prima facie validity. That there is no evidence that the holder of the tax certificate presented it to the auditor, in order that notice to eliminate redemption should be issued, nor proof that the auditor delivered the notice to the person holding the certificate, or that such person delivered the notice to the sheriff for service, does not invalidate the notice. *Slocum v McLaren*, 106 M 386, 119 NW 406.

8. Statement of amount; payment of subsequent taxes

A mistake of a few cents is not fatal under the doctrine of *de minimis non curat lex*. *Western Land v McComber*, 41 M 20, 42 NW 543; *Roberts v Western Land*, 43 M 3, 44 NW 668; *London v Gibson*, 77 M 394, 80 NW 205, 777.

Prior to the enactment of Ex. Laws 1902, Chapter 2, Section 47, it was an open question whether it was necessary to state the rate of interest. *Roberts v Western Land*, 43 M 3, 44 NW 668.

Due to "*de minimis non curat lex*" and other rules and doctrines, there were some modifications of the above rule. *Roberts v Western Land*, 43 M 3, 44 NW 668; *Snyder v Ingalls*, 70 M 16, 72 NW 807; *McNamara v Fink*, 71 M 66, 73 NW 649; *Towle v St. Paul Loan*, 84 M 105, 86 NW 781; *Cook v Schroeder*, 85 M 374, 88 NW 971; *Phelps v Powers*, 90 M 440, 97 NW 136.

When the land is bid in for the state and subsequently assigned the gross amount paid by the assignee is "the amount sold for" to be inserted in the notice. *Speery v Goodwin*, 44 M 207, 46 NW 328; *McNamara v Fink*, 71 M 66, 73 NW 649.

The assignment from the state is the "sale" from which redemption is made. *McNamara v Fink*, 71 M 66, 73 NW 649.

Great exactness is required in the statement of the amount necessary to be paid. A mistake of a single dollar has been held fatal. *State ex rel v Nord*, 73 M 1, 75 NW 760; *London v Gibson*, 77 M 394, 80 NW 205, 777; *State ex rel v Scott*, 92 M 210, 99 NW 799.

Delinquent taxes which the redemptioner must pay must be included in the total amount, and it is sufficient to state in general terms that delinquent taxes must be paid. *Midland v Eby*, 89 M 27, 93 NW 707; *Jenswold v Minn. Canal*, 93 M 382, 101 NW 603.

The statute providing that interest shall be paid to the time of redemption enters into the transaction and makes the amount required to redeem definite and certain. *Midland v Eby*, 89 M 27, 93 NW 707; *Roessler v Romer*, 92 M 218, 99 NW 800; *Slocum v McLaren*, 106 M 386, 119 NW 406; *Johnson v Fraser*, 112 M 126, 127 NW 474, 128 NW 676.

Prior to the enactment of Ex. Laws 1902, Chapter 2, Section 47, it was held that the amount must be stated in gross as to the date of the notice, interest being calculated up to the date of the notice and included in the total amount, over-

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ruling *Knight v Knoblauch*, 77 M 8. *Midland v Eby*, 89 M 27, 93 NW 707; *Roessler v Romer*, 92 M 218, 99 NW 800.

If the correct amount is stated, the addition of the words "and delinquent taxes" may be regarded as surplusage, if in fact there are no such taxes or no showing that there are. *Phelps v Powers*, 90 M 440, 97 NW 136.

Decisions of the court relative to "exactness" in amount as modified by the doctrine of "de minimis" classified and followed. *Roessler v Romer*, 92 M 218, 99 NW 800.

The expression "delinquent taxes" in this connection means all taxes that are overdue and unpaid in fact. Delinquent taxes do not lose their identity as such from the fact that the land against which they are assessed is regularly sold at a tax sale, and, for want of a purchaser, bid in for the state. They remain delinquent until actually paid to the county treasurer either by the landowner, the purchaser at a tax sale, or by an assignee of the state. A notice which fails to include the amount for which the land was thus bid in for the state, is defective. *Jenswold v Minn. Canal*, 93 M 382, 101 NW 603.

The purchaser or assignee need not insert in the notice the amount of the state's lien arising from a prior tax sale which has been adjudged void. *Minn. Debenture v United Real Estate*, 99 M 287, 109 NW 251.

Where land is sold, and the purchaser again purchases it at a sale for subsequent taxes, it is not necessary to include the amount which would be necessary to redeem from the second sale in a notice of the expiration of the time for redemption from the first. *Brodie v State*, 102 M 202, 113 NW 2.

A notice which fails to state that the amount required to redeem shall include interest, as provided by law, to the day such redemption is made as required by this section, is void. *Lawton v Barker*, 105 M 102, 117 NW 249; *Johnson v Fraser*, 112 M 126, 127 NW 474, 128 NW 676.

A notice is not insufficient because it stated that the amount required to redeem was a named sum, "with interest on said sum at 12 per cent (since a named date), exclusive of costs to accrue upon redemption." *Slocum v MacLaren*, 106 M 386, 119 NW 406.

A notice under Ex. Laws 1902, Chapter 2, Section 47, giving the amount as the amount of principal and interest computed to date of notice and interest on that sum from date of notice to the date of redemption, is void. *Shine v Olson*, 110 M 44, 124 NW 452.

A notice stating that the sale was held November 16, 1906, and that the amount required to redeem would draw interest at 12 per cent per annum from November 14, 1909, was void. *Peterson v St. Paul Real Estate*, 115 M 333, 132 NW 273; *Holland v Billings*, 116 M 105, 133 NW 399.

Relating to the payment of interest under Laws 1929, Chapter 415, Section 4. *State ex rel v Erskine*, 178 M 404, 227 NW 209.

Where separate judgments for each year were entered for delinquent taxes for 1927 and subsequent years, purchaser at tax sale for 1927 taxes need not pay subsequent taxes before issuing notice of expiration of redemption, but all delinquent taxes subsequent to 1927 taxes must be paid at time of redemption. OAG Aug. 18, 1933.

Notice of expiration of redemption to include and describe subsequent delinquent taxes held by the state, and in redeeming such delinquent taxes must be paid. OAG Dec. 27, 1933.

In notice of expiration of time for redemption from sale for 1932 taxes, unpaid 1931 taxes must be included in amount required to redeem. 1934 OAG 343, Sept. 18, 1934 (419f).

Amount paid for taxes each year included in state assignment certificate need not be stated separately, nor rate of interest thereon, but statement of amount necessary to redeem for taxes of 1928 to 1933 and 1929 taxes at 12 per cent per annum, and interest on 1930 and 1931 taxes from such date at ten per cent per annum, and interest on 1932 and 1933 taxes from such date at eight per cent per annum. OAG Aug. 25, 1935 (425c-13).

Taxes included in composite judgment are not assignable where no default in such judgment exists and composite judgment and delinquent taxes for 1931,

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1932, 1933 and 1934 taxes, included therein, are not to be mentioned in notice of expiration of redemption upon tax certificate covering 1930 taxes. OAG July 14, 1936 (412a-23).

9. Statement of time to redeem; sufficient

Under General Statutes 1878, Chapter 11, Section 121: "That the time for redemption from said sale will expire 60 days after service of this notice." *Parker v Branch*, 42 M 155, 43 NW 907; *Kenaston v Great Northern*, 59 M 35, 60 NW 813.

"The time within which said land can be redeemed from said assignment will expire 60 days after service of this notice and proof thereof has been filed in the manner prescribed by Laws 1877, Chapter 6, Section 37, and amendments thereto." *McNamara v Fink*, 71 M 66, 73 NW 649.

Under General Statutes 1894, Section 1654: "That the time of redemption from sale allowed by law will expire 60 days after service of this notice and proof thereof has been filed." *Kipp v Fitch*, 73 M 65, 75 NW 752.

"That the period within which said land can be redeemed will expire when 60 days shall have elapsed after due service of this notice upon you, and after due proof of such service shall be filed in the office of the auditor of said St. Louis County." *Patterson v Grettum*, 83 M 69, 85 NW 907.

"That the time for redemption of such piece and parcel of land will expire 60 days after the service of this notice and the due filing of proof thereof and of the sheriff's fees therefor in the office of the county auditor of said Ramsey county, Minnesota." *Doherty v Real Estate Title*, 85 M 518, 89 NW 853.

"Sixty days after service of this notice in the manner prescribed in Laws 1877, Chapter 6, Section 37, and amendments thereto." *Phelps v Powers*, 90 M 440, 97 NW 136.

Amount accurately stated. *Fortier v Parry*, 128 M 235, 150 NW 803.

Notice of the expiration of redemption from sale of land on May 12, 1930, for delinquent taxes for 1928 should state that time for redemption will expire 12 months after service of notice and proof thereof has been filed in office of county auditor. 1934 OAG 838, Sept. 18, 1934 (423c).

Copy of notice must be mailed to holder of mortgage sufficient length of time prior to expiration of redemption period. 1936 OAG 393, Sept. 3, 1936 (412a-23).

10. Statement of time to redeem (insufficient)

"The time of redemption from said sale allowed by law will expire 60 days after service of this notice." *Kenaston v Great Northern*, 59 M 35, 60 NW 813.

"On the ninth day September, 1888, or within 60 days after the service of this notice." *Peterson v Mast*, 61 M 118, 63 NW 168.

Under General Statutes 1894, Section 1654: "Sixty days after the service of this notice in the manner prescribed by Laws 1877, Chapter 6, Section 37, and amendments thereto." *State ex rel v Holden*, 62 M 246, 64 NW 568.

Prior to Laws 1905, Chapter 271, a new and corrected notice might be served at any time. *Flanagan v City of St. Paul*, 65 M 347, 68 NW 47; *Mpls. Realty v City of St. Paul*, 77 M 343, 79 NW 1040.

"That the time of redemption from said sale allowed by law will expire on the seventh day of May, 1891, or 60 days after service of this notice." *Clary v O'Shea*, 72 M 105, 75 NW 115.

Under General Statutes 1878, Chapter 11, Section 121: "Sixty days after the service of this notice and proof thereof has been filed." *Kipp v Johnson*, 73 M 34, 75 NW 736.

A notice fixing the time at 90 instead of 60 days after the service of notice and filing of proof thereof. *State ex rel v Nord*, 73 M 1, 75 NW 760; *Kipp v Robinson*, 75 M 1, 77 NW 414.

An insufficient notice does not destroy the lien of the certificate holder and in any judgment to be rendered on account of insufficiency of notice the lien should be saved. *Kipp v Johnson*, 73 M 34, 75 NW 736.

"That the time allowed by law for redemption from said sale will have expired after 60 days have elapsed after service this notice has been made and

proof thereof and of the sheriff's fees has been filed in this office." *Mather v Curley*, 75 M 248, 77 NW 957; *Gahre v Berry*, 82 M 200, 84 NW 733.

But compare *State v Holden*, 62 M 246, 64 NW 568, and *Kenaston v Great Northern*, 59 M 35, 60 NW 813, with *Phelps v Powers*, 90 M 440, 97 NW 136.

Under Ex. Laws 1902, Chapter 2, Section 47, a notice of expiration of redemption that fails to state that the tax certificate has been presented to the county auditor by the holder thereof, is invalid. *De Laurier v Stillson*, 121 M 339, 141 NW 293; *Helmer v Shevlin*, 129 M 25, 151 NW 421.

The description so indefinite as not to describe the land. *Foster v McClure*, 121 M 409, 141 NW 797.

In the absence of proof of the amount of delinquent taxes, and that redemptioner paid them, the notice though properly served and sufficient on its face, is ineffectual to terminate the right of redemption. *Johnson v Murphy*, 133 M 456, 158 NW 701.

A notice of redemption from a tax sale, which imposes upon the redemptioner the burden of determining which of two amounts stated therein as necessary to redeem, is correct, does not comply with the statute and is insufficient. *Tilford v McGillis*, 130 M 397, 153 NW 758.

When no one is in possession there must be a return of the sheriff to that effect as a prerequisite to the publication of the notice. *Nichols v Crocker*, 133 M 153, 157 NW 1072.

A notice of expiration of redemption made under the tax law of 1902 which fails to recite that the tax sale certificate was presented to the auditor by its holder, is ineffectual. *Culligan v Cosmopolitan*, 126 M 218, 148 NW 273; *Fortier v Parry*, 128 M 235, 150 NW 803.

11. Direction; service; return

The notice must be directed to and served upon the person in whose name the land is assessed at the date of the notice. *Mueller v Jackson*, 39 M 431, 40 NW 565; *Western Land v McComber*, 41 M 20, 42 NW 543; *Wakefield v Day*, 41 M 344, 43 NW 71; *Sperry v Goodwin*, 44 M 207, 46 NW 328; *Reimer v Newel*, 47 M 237, 49 NW 865; *Mitchell v McFarland*, 47 M 535, 50 NW 610; *Eide v Clarke*, 57 M 397, 59 NW 484; *Snyder v Ingalls*, 70 M 16, 72 NW 807; *Berglund v Graves*, 72 M 148, 75 NW 118; *Walker v Martin*, 87 M 489, 92 NW 336; *Sterling v Urquhart*, 88 M 495, 93 NW 898.

And this is so, even if though such person is the holder of the tax certificate. *Wakefield v Day*, 41 M 344, 43 NW 71; *Sperry v Goodwin*, 44 M 207, 46 NW 328; *Mitchell v McFarland*, 47 M 535, 50 NW 610.

The notice is not served upon the "owner" as such. Ownership is often difficult of ascertainment and others besides the owner are entitled to redeem. The legislature has adopted the prescribed mode of service as one best adopted in its judgment to reach, in the great majority of cases, the persons entitled to redeem. *Western Land v McComber*, 41 M 20, 42 NW 543; *Wakefield v Day*, 41 M 344, 43 NW 71.

It is not necessary to state in whose name the property is assessed. Ex. Laws 1902, Chapter 2, Section 47. *Sperry v Goodwin*, 44 M 207, 46 NW 328.

If the notice is directed and served upon the proper person, it is immaterial that it is also directed to others. *Sperry v Goodwin*, 44 M 207, 46 NW 328; *Snyder v Ingalls*, 70 M 16, 72 NW 807.

Property is assessed within the meaning of the statute when the assessor returns the assessment books to the county auditor. *Eide v Clarke*, 57 M 397, 59 NW 484; *Walker v Martin*, 87 M 489, 92 NW 336.

If it is stated in the assessment book that the owner is unknown, the notice should be addressed to the "unknown owner" or to "unknown." *State v Holden*, 62 M 246, 64 NW 568; *Hoyt v Clark*, 64 M 139, 66 NW 262.

It is not necessary to serve the assignee of an insolvent owner. *Wyman v Baker*, 83 M 427, 86 NW 432.

The court must take judicial notice that land is assessed each even-numbered year. *Hoyt v Chapin*, 85 M 524, 89 NW 850; *Sterling v Urquhart*, 88 M 495, 93 NW 898.

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There must be a valid assessment to sustain a notice. *Walker v Martin*, 87 M 489, 92 NW 336.

The burden rests upon a person seeking to establish a tax title to prove, without the aid of presumptions, that at the last assessment prior to the date of the notice the land was assessed in the name of the person to whom the notice is addressed, and on whom it was served. There is no presumption that the auditor has discharged his duty and inserted in the notice the name of the proper person or that the land continued to be assessed in the name of the same person from year to year. *Sterling v Urquhart*, 88 M 495, 93 NW 898.

That the return was improperly dated did not deprive the notice of its statutory effect; and the fact that the notice was directed to "Hans C. Hanson" while the notice as published was directed to "Hans C. Hansen," was a mere irregularity. *Stein v Hanson*, 99 M 387, 109 NW 821.

In an action by the record owner to quiet title to land on which the defendant had a tax title, failure to serve notice of expiration of redemption on plaintiff, who, through another, was in actual possession, avoided the notice. *Wallace v Sache*, 106 M 123, 118 NW 360.

A notice was not invalidated because there was no proof that the auditor delivered it to the holder of the certificate, or that he ever delivered it to the sheriff for service. See as to sufficiency of return. *Slocum v MacLaren*, 106 M 386, 119 NW 406.

Review of the cases relating to the sufficiency of notice of expiration of period of redemption. *Johnson v Fraser*, 112 M 126, 127 NW 474, 128 NW 676.

The provision of Laws 1915, Chapter 77, requiring the holder of a tax certificate to give notice of expiration of redemption and to record his certificate within seven years, does not impair the obligation of the certificate-holder's contract with the state. *Northern Counties v Excelsior*, 146 M 207, 173 NW 497.

A notice of the expiration of redemption from a tax sale must be directed to the person in whose name the lands are assessed, and to all owners and persons interested in the land, and the return of the notice by the sheriff must show the time, place, and manner of service upon the persons to whom the notice is directed. *Gordon v Palmer*, 160 M 136, 199 NW 895.

The presumption that public officers perform official duties does not dispense with the necessity of a showing of a strict compliance with the requirements of the statute in a sheriff's return of service of a notice of expiration of time of redemption from a tax sale, in a tax title proceeding. *Gordon v Palmer*, 160 M 136, 199 NW 895; *Deaver v Napier*, 139 M 219, 166 NW 187.

The notice of expiration of the time of redemption from a tax sale must be served upon the one in possession though he is the tax title holder, if the person to whom it is addressed, that is, the one in whose name the land is assessed, cannot be found in the county. *Hutchinson v Child*, 164 M 195, 204 NW 648; *Pomroy v Beattie*, 139 M 127, 165 NW 960.

Under Laws 1935, Chapter 278, notice of expiration of redemption need not be mailed as provided in this section to mortgagees and licensees. 1936 OAG 400, Sept. 17, 1935 (425b-5).

When the county auditor has leased the hay stumpage under provisions of section 280.38, notice must be served on the lessee. OAG March 27, 1937 (425c-7).

12. Publication

Proof of publication of a notice is inadmissible without preliminary proof that it was addressed and served on the person in whom the property was assessed at the time of the notice. *Mueller v Jackson*, 39 M 431, 40 NW 565.

A trifling variance between the original and published notice is not fatal. *Sperry v Goodwin*, 44 M 207, 46 NW 328.

The return of the officer is not conclusive and it is not exclusive evidence that the land is vacant or that the person named in the notice cannot be found in the county. The return of the deputy sheriff is sufficient and it may be in the form of a certificate or an affidavit. *Reimer v Newel*, 47 M 237, 49 NW 865.

Notice must be published although the land is assessed in the name of "unknown," if the land is vacant. The requirement of publication is not affected by

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General Statutes 1894, Section 1662, extending the time of redemption in case of death. *State ex rel v Holden* 62 M 246, 64 NW 568.

Publication and proof thereof held sufficient. *Cook v Schroeder*, 85 M 374, 88 NW 971.

Lands assessed to "A, et al." are in legal effect assessed to "A" and other parties unknown, and when the sheriff receives a notice on lands appearing to be so assessed, if the lands are vacant and unoccupied, he may serve it on such unknown owners by publication. *Berg v Van Nest*, 97 M 187, 106 NW 255.

Where the owner of the land, being the person in whose name it was assessed for taxation and to whom the notice was directed, is in fact a resident of the county, the service of the notice by publication is a nullity. *Swanson v Campbell*, 129 M 72, 151 NW 534.

Necessity for bids and awarding of contracts for publication and printing to lowest bidder are not abrogated by NRA code. 1934 OAG 189, Dec. 31, 1934 (707a-9).

Personal service on landowner outside the county probably a good substitute for publication. OAG July 31, 1939 (419d).

13. Lost certificate

If the certificate is lost or destroyed, or for any reason not procurable, the auditor may prepare the notice from other sources of information. *Hinkel v Krueger*, 47 M 497, 50 NW 689.

14. Misnomer

A variance between the assessment roll and the notice as to the name of the party is immaterial if the proper party is personally served; and when the service is by publication, the name on the assessment roll must probably be copied literally in the notice. *Snyder v Ingalls*, 70 M 16, 72 NW 807; *Clary v O'Shea*, 72 M 105, 75 NW 115.

A notice addressed to "Goodridge-Call L'b'r. Co." the land being assessed in the name "Goodridge-Call Lbr Co.", is sufficient. *Lovine v Goodridge-Call*, 130 M 202, 153 NW 517.

281.14 EXPIRATION OF TIME FOR REDEMPTION.

HISTORY. 1905 c. 270 s. 1; G.S. 1913 s. 2149; G.S. 1923 s. 2164; M.S. 1927 s. 2164.

The rights of the purchaser of lands forfeited to the state before the enactment of Ex. Laws 1902, Chapter 2, and sold to him before Revised Laws 1905 went into effect are governed by laws in force prior to 1902, and so where a notice of time to redeem was defective, a new and proper notice could be served at any time. Under Laws 1905, Chapter 270, the form of notice is substantially as in Ex. Laws 1902, Chapter 2, Section 47. *Burnside v Moore*, 124 M 321, 145 NW 27; *Spear v Noonan*, 131 M 332, 155 NW 107.

The tax deeds do not comply with the form prescribed under Ex. Laws 1902, Chapter 2, in several particulars and are therefore void on their face. *Helmer v Simpson*, 129 M 25, 151 NW 421.

Notice of redemption must be definite and specific as to amount and free from any doubt or uncertainty. *Telford v McGillis*, 130 M 397, 153 NW 758.

The notices of expiration of redemption were not served as required by law, for the reason that the affidavit of the publisher stated the paper was "generally circulated in Ramsey county and elsewhere." *Burbridge v Warren*, 139 M 346, 166 NW 403.

General resume of laws relating to redemption from tax sales, chronology of enactments. *State v Aitkin Co. Lands*, 204 M 503, 284 NW 63.

The six years within which notice of expiration of redemption upon a state assignment certificate may be issued or served commences to run from date of state assignment certificate. OAG Jan. 24, 1935 (423c).

Laws 1935, Chapter 278, Section 8, controls service of notice of expiration for 1931 taxes. OAG April 5, 1938 (425c-7).

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Cancelation of tax certificates. 1938 OAG 401, May 6, 1938 (409a-1).

Validity of tax bargain statutes. 18 MLR 849.

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HISTORY. 1933 c. 366 s. 1; M. Supp. s. 2164-1.

See section 281.27 repealing this section in part.

This act is constitutional as an emergency measure. *State v. Erickson*, 191 M 189, 253 NW 529.

In the early history of the state there was no requirement of notice of redemption from a tax sale. The title passed without notice. The first requirement of notice is found in Laws 1877, Chapter 6, Section 37, which applied only to the assignee of the state prior to forfeiture. Laws 1889, Chapter 198, applied to the assignee of the state after forfeiture. The tax code, Laws 1902, Chapter 2, repealed all laws relating to notice, and again title passed without notice. Laws 1905, Chapter 270 (281.14) made it necessary to give notice when land was sold by the state but no provision that the state give notice. The notice was given by the purchaser only. The law so remained until the emergency laws were enacted beginning in 1933. Section 281.13 still applies to all cases prior to 1926. The old laws apply to all tax sales prior to 1926. *State v. Aitkin Co. Farm Land Co.* 204 M 495, 284 NW 63.

The validity of a tax certificate is determined by the law in force at the time the certificate issues. The rights of a purchaser at a delinquent tax sale under Laws 1927, Chapter 119, are not extinguished by failure to record his certificate of tax sale within the statutory limit fixed by sections 281.31, 281.32. *Absetz v McClellan*, 207 M 202, 290 NW 298.

Where the notice required to be published and attached to the list of delinquent real estate taxes for 1932 included the paragraph provided by Laws 1927, Chapter 119, Section 3, to the effect that five years after the sale of the land for taxes the real estate would become the absolute property of the purchaser, the state or its assigns, without any further right of redemption, and without any notice of the expiration of the time to redeem, such notice did not vitiate the district court's jurisdiction, even though Laws 1933, Chapter 366, Section 1, provided that the right of redemption from any sale for delinquent taxes continued for a period of 12 months after proof of service of a notice of expiration of the time within which redemption could be made had been filed in the county auditor's office, because it merely related to the redemption from the tax judgment and not to the court's acquisition of jurisdiction. *Singer v Village of Goodridge*, 210 M 324, 298 NW 35.

The notice required to be attached to the delinquent tax list under the provisions of Laws 1927, Chapter 119, Section 3, as amended, should not be omitted on account of Laws 1933, Chapter 366, Section 1. 1934 OAG 784, Jan. 17, 1934 (412a-13).

Notice of expiration of redemption should not be issued until the unexpired time is one year or less. 1934 OAG 833, March 1, 1934 (423c).

Notice should be issued and served prior to the expiration of six years from the date of the assignment certificate, and the owner may redeem at any time within 12 months after the filing of the proof of service of the notice. 1934 OAG 834, April 30, 1934 (423c).

Notice of expiration of redemption must be served before the state can own lands bid in for state for taxes for 1926 and subsequent years, but the provisions of Laws 1933, Chapter 366, must remain in operation for lack of appropriation. 1934 OAG 835, June 8, 1934 (423c).

This act is applicable to all tax sales to state or to private individuals where title had not been passed prior to the date when the act became operative. 1934 OAG 837, May 18, 1933 (425b-4).

Where land was sold May 12, 1930, for delinquent taxes 1928, the notice of expiration of redemption should state that the time for redemption will expire 12 months after service of notice and proof of filing. 1934 OAG 838, Sept. 18, 1934 (423c).

Resume (25 subdivisions) of the laws relating to redemption, protection of land bid in for state, and with special reference to Laws 1933, Chapter 366. 1934 OAG 842, June 16, 1933 (425e-5).

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Copy of notice must be mailed to holder of mortgage sufficient length of time prior to expiration of redemption period. 1936 OAG 393, Sept. 3, 1936 (412a-23).

Purchaser at 1923 forfeited tax sale, must give notice of expiration of 12 months as required by Laws 1933, Chapter 366. 1936 OAG 395, Sept. 5, 1935 (425e-7).

Discussion of effect of Laws 1933, Chapter 407, and Laws 1935, Chapter 386, on notices given under Laws 1931, Chapter 156. 1936 OAG 403, Oct. 26, 1936 (412a-13).

Cancellation of tax certificates. 1938 OAG 401, May 6, 1938 (409a-1).

Under Laws 1935, Chapter 387, redemptioner is required to pay interest to the date when the redemptioner tenders payment. 1938 OAG 403, May 28, 1937 (412a-5).

Resume regarding redemption. 1940 OAG 343, Aug. 4, 1939 (419f).

Moratory legislation for the relief of delinquent taxpayers. 18 MLR 595.

Validity of "tax bargain statutes." 18 MLR 849.

Impairment of contract by tax legislation. 19 MLR 215.

Form of notice of expiration; grouping of contiguous parcels of land. 23 MLR 992.

281.16 STATED PERIOD OF REDEMPTION.

HISTORY. 1935 c. 278 s. 1; M. Supp. s. 2164-5.

NOTE: The "emergency," "moratory" or "tax bargain" laws fall into three classes: (1) repurchase act (section 282.35), the base act being Laws 1933, Chapter 407, sustained in *Beith v Monick*, 201 M 635, 277 NW 211; (2) redemption of forfeited lands (sections 281.16 to 281.27), the base act being Laws 1935, Chapter 278, sustained and discussed in *State v Aitkin County Land*, 204 M 495, 284 NW 63; and (3) confession of judgment acts (section 279.36), the base law being Ex. Laws 1936, Chapter 72.

The power of taxation is inherent in sovereignty and reposes in the legislature. Constitutional provisions are not a grant but a limitation on this power. There is no constitutional right belonging to the taxpayer to redeem from tax sales, nor right to notice of expiration of redemption. What right he may possess in respect thereof depends entirely upon statutory enactment. *State v Aitkin Co. Land Co.* 204 M 495, 284 NW 63.

Procedure provided for termination of right of redemption under the provisions of sections 281.16 to 281.27, while different from the procedure prescribed by section 281.13, falls within permissible legislative changes respecting the remedy and does not substantially impair the contract obligation. *State v Aitkin Co. Land Co.* 204 M 495, 284 NW 63.

The confession of judgment statute (section 279.36, Ex. Laws 1936, Chapter 72) and the repurchase statute (282.35, based on Ex. Laws 1937, Chapter 88) did not do away with the necessity on the part of the delinquent taxpayer to comply with notice of expiration of redemption issued and served pursuant to sections 281.16 to 281.27, (Laws 1935, Chapter 278), inasmuch as it appears that in the instant case the taxpayer made no effort to bring himself within the provisions of either of the mentioned acts. *State v Aitkin Co. Land Co.* 204 M 495, 284 NW 63.

Under Laws 1941, Chapter 43, Section 1 (section 282.24), providing that a landowner at the time of the forfeiture of his property for delinquent taxes is given the right of repurchase if made prior to a given date "unless prior to the time repurchase is made such parcel shall have been sold by the state as provided by law," held, that a "taking" under condemnation is not a "sale" of the property within the meaning of the repurchase act. *State ex rel v Flack*, 213 M 353, 6 NW(2d) 805.

Requirements for and effect of giving notice of expiration of time of redemption under Laws 1935, Chapters 278, 387. 1936 OAG 397, July 11, 1935 (425c).

Laws 1933, Chapter 407, and Laws 1895, Chapter 386, as amended, do not affect the provisions of Laws 1931, Chapter 156, in the instant case. 1936 OAG 403, Oct. 26, 1936 (412a-13).

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Notwithstanding the fact that Laws 1935, Chapter 387, was enacted on April 29, 1935, while Laws 1935, Chapter 278, was enacted on April 24, 1935, the later in date law was not intended to and did not repeal or modify section 9 of the prior law in so far as said section 9 limits the time within which assignments of tax delinquent land may be made in the manner provided by law. 1936 OAG 406, June 15, 1936 (425c-2).

Discussion relative to service of notice of expiration of period of redemption and form of return. 1936 OAG 408, July 17, 1935 (423c).

Service of notice of expiration of redemption under Laws 1935, Chapter 278. 1936 OAG 409, Sept. 23, 1935 (425b-4).

Date of expiration of period of redemption for land sold for taxes for years 1926 to 1933, inclusive, stated and discussed. 1936 OAG 419, July 16, 1935 (425b-5).

State trust fund lands in the instant case have become forfeited to the state pursuant to provisions of Laws 1935, Chapter 278. 1938 OAG 442, June 2, 1937 (425-9).

The state legislature cannot have intended to include state trust fund lands in the sales of lands authorized in Laws 1937, Chapter 485, or Ex. Laws 1937, Chapter 88, or it would have noted the regulations of the constitution with reference to the manner of sale of such lands. 1938 OAG 450, Aug. 11, 1937 (525).

Who may exercise the right of repurchase of tax-forfeited lands. 1938 OAG 452, May 21, 1937 (425c-13).

In default of making of payments contracted to be made under the confession of judgment act of Ex. Laws 1936, Chapter 72, the lands after forfeiture become subject to the provisions of Laws 1935, Chapter 278. 1938 OAG 460, June 10, 1937 (412a-13).

"H" purchased lots pursuant to Laws 1935, Chapters 278, 386, as amended by Laws 1939, Chapter 328. One improvement was treating the streets with tarvia, the other grading the street. Held, as real property, the title to which is vested in the state cannot be charged with a lien for local improvements, and no lien attaches as far as the tarvia expense is incurred, but the lien as to the grading attached after title was vested in H and is valid. 1940 OAG 296, Dec. 21, 1939 (412a-26).

It is the legislative intent, when default has occurred under the confessed judgment, to restore the judgment for taxes to the same status it would have had if there had been no confession of judgment, 1940 OAG 332, Feb. 28, 1939 (423f).

In cases of defaulted confession of judgment settlements, except where the 1931 and 1932 taxes are involved, the county auditor should give notices of expiration of redemption under Laws 1935, Chapter 278, based on the original real estate tax judgment, giving credit for payments made. 1940 OAG 333, July 5, 1940 (412a-10); 1940 OAG 343, Aug. 4, 1939 (419b).

Where it is desired to serve notice of expiration of redemption of real property subject to delinquent taxes for 1932, substantially the form prescribed by section 281.13 should be used. 1940 OAG 341, April 26, 1939 (423c).

281.17 PERIOD OF REDEMPTION EXTENDED TO JULY 1, 1936.

HISTORY. 1935 c. 278 s. 2; M. Supp. s. 2164-6.

The provisions of this act do not repeal or affect the provisions of sections 281.31, 281.32. OAG July 25, 1935 (425b-4).

Outline of procedure as to expiration of period of redemption and notice thereon as to lands sold for 1929 taxes on Aug. 8, 1932. 1936 OAG 394, Feb. 21, 1936 (425b-5).

The owner is not deprived of his interest in crops of tenant by failure to remove before forfeiture, but the state is not deprived of its rights where the owner's share is attached under section 280.38. 1936 OAG 360, May 7, 1936 (474b-3).

There is no irreconcilable conflict between sections 282.01 to 282.13 and sections 281.08 to 281.13, and no implied repeal; but there can be no sale of lands to which section 282.35 is applicable until one year after the title passes to the state. 1936 OAG 428, April 4, 1936 (425b).

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Assignment may be made any time prior to expiration of stated period of redemption and county auditor may issue new notice of expiration of redemption at request, 1938 OAG 414, Dec. 6, 1937 (423k).

Stated period of redemption. 1940 OAG 340, Aug. 12, 1940 (412a-23).

Time for redemption 1932 taxes; inclusive of 1931 taxes. 1940 OAG 343, Aug. 4, 1939 (419f).

281.18 LANDS MAY BE REDEEMED.

HISTORY. 1935 c. 278 s. 3; M. Supp. s. 2164-7.

Time for redemption expires one year after giving notice of expiration of redemption and filing proof thereof with the county auditor. OAG June 3, 1936 (425b-5).

The period of redemption having expired, judgment cannot be confessed. OAG June 13, 1936 (425d).

Excusable negligence of the landowner cannot stay a forfeiture. OAG Oct. 7, 1936 (412a-8).

Lands having become forfeited to the state under section 281.18, interest payments may not be accepted nor redemption permitted under section 92.21. 1938 OAG 442, June 2, 1937 (425g).

281.19 WHO MAY REDEEM.

HISTORY. 1935 c. 278 s. 4; M. Supp. s. 2164-8.

281.20 TO WHAT SALES APPLICABLE.

HISTORY. 1935 c. 278 s. 5; M. Supp. s. 2164-9.

Purchaser at 1923 forfeited tax sale must give 12 months' notice of expiration as required by Laws 1933, Chapter 366. 1936 OAG 395, Sept. 5, 1935 (425c-7).

Detailed resume relating to service of notice and form of return. 1936 OAG 408, July 17, 1935 (423c).

Laws 1933, Chapter 366, applies only to sales outlined in section 281.20. OAG July 25, 1935 (425b-4).

Notices on sales of land at forfeited tax sale for 1925 and prior years require a one-year period for redemption. OAG Sept. 6, 1935 (425c-7).

Mailed notice need not under section 281.20 be sent to mortgagees or licensees. OAG Sept. 17, 1935 (425b-5).

Land delinquent for taxes for the year 1932, bid in for the state before the enactment of Laws 1895, Chapter 278, and not assigned, is not subject to forfeiture by posted notice of expiration of redemption. OAG March 30, 1938 (425c-13).

Where a parcel of land was bid in by the state for 1932 taxes, the time for redemption will expire 12 months after service and filing proof of notice. The form of notice should be as in section 281.13, except that the specified period be changed from 60 days to one year. OAG May 20, 1938 (425b-4); 1940 OAG 343, Aug. 4, 1939 (419f).

Form of notice. 23 MLR 993.

281.21 NOTICE OF EXPIRATION OF REDEMPTION.

HISTORY. 1935 c. 278 s. 6; M. Supp. s. 2164-10.

Resume of manner of service of notice under Laws 1935, Chapter 278. 1936 OAG 398, Oct. 31, 1935 (425b-4).

Form of sheriff's return under Laws 1935, Chapter 278. 1936 OAG 399, Oct. 19, 1935 (423c).

Notice of expiration under Laws 1935, Chapter 278, need not be mailed to mortgagees or licensees; but where owners of lake homes reside within the state notice must be served. 1936 OAG 460, Sept. 17, 1935 (425b-5).

No notice of expiration may be issued after the expiration of six years from the date of the tax judgment sale, nor such certificate filed in the office of the

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register of deeds, or of the registrar of titles, after the expiration of seven years. 1936 OAG 422, June 10, 1935 (425b-7).

If after notice has been given, a state assignment has been made, the notice is ineffectual, but the county auditor may issue a new notice at the request of the purchaser. 1938 OAG 414, Dec. 6, 1937 (423k).

Condemnation proceeding by the state does not extend the time for bargain redemptions. OAG May 28, 1937 (412a-5).

If the sheriff fails to give notice, there is no forfeiture to the state. OAG July 5, 1938 (425b-4).

281.22 COUNTY AUDITOR TO GIVE NOTICE.

HISTORY. 1935 c. 278 s. 7; M. Supp. s. 2164-11.

The procedure in respect to notice of expiration of redemption under Laws 1935, Chapter 278, while different from that prescribed by section 281.13, is adequate in so far as the contents of the notice and the service on the taxpayer is concerned, but there are not equal rights of relief from forfeiture. *State v Aitkin Co. Land Co.*, 204 M 511, 284 NW 63.

Failure to make service on the wife rendered the tax forfeiture proceedings void. *McHardy v State*, 215 M 132, 141, 146, 9 NW(2d) 428, 432, 435 (two cases).

Section 281.17 was not intended to shorten the stated period of redemption. It was only intended to extend the stated period to July 1, 1936, in cases where the stated period then provided by law would expire prior to July 1, 1936. 1936 OAG 394, Feb. 21, 1936 (425b-5).

Directions and forms relative to procedure under Laws 1935, Chapter 278. 1936 OAG 396, July 11, 1935 (423c); 1936 OAG 408, July 17, 1935 (423c).

Where land is disposed of under the provisions of Laws 1935, Chapter 387, the land is no longer subject to costs incurred in giving notice under sections 281.22 and 281.23. 1936 OAG 425, Aug. 3, 1935 (425c-3).

See as to failure to serve occupant. 1936 OAG 402, Dec. 11, 1936 (423c).

Rules relative to publication and affidavit. 1938 OAG 416, Aug. 7, 1937 (413f-3).

Year of redemption does not expire until one year after filing proof with county auditor. OAG Dec. 7, 1937 (407L).

Where the period of redemption will expire on July 1, 1936, publication and posting should not commence prior to July 2, 1935. Publishing is mandatory. OAG July 17, 1935 (423c).

Notice relating to 1932 delinquent taxes, there being no redemption or assignment, should be served as provided in section 281.13, except that "12 months" should be substituted for "60 days", and should not be served until four years have elapsed after the sale in 1934. OAG May 20, 1938 (425b-4).

Former owner may not repurchase under Ex. Laws 1937, Chapter 88, until one year after filing of proof of service with auditor. OAG Sept. 1, 1937 (425c-5).

Where Laws 1935, Chapter 278, has been complied with as to notice and owner has confessed under Ex. Laws 1936, Chapter 72, and thereafter defaults, owner may still confess judgment under Laws 1937, Chapter 486. OAG July 20, 1937 (412a-10).

Lands forfeited to the state under section 281.22 cannot be included in confession of judgment under Ex. Laws 1936, Chapter 72, Section 1. OAG June 18, 1937 (412a-23).

281.23 NOTICE.

HISTORY. 1935 c. 278 s. 8; M. Supp. s. 2164-12.

See *State v Aitkin*, 204 M 511, 284 NW 63, and *McHardy v State*, 215 M 132, 141, 146, 9 NW(2d) 428, 432, 435.

The 30 days within which the sheriff must make service is directory, not mandatory. 1936 OAG 379, Aug. 21, 1935 (390a-6).

A year's notice required in all cases except where taxes are offered for sale after enactment of Laws 1935, Chapter 278, or after April 24, 1935. 1936 OAG 396, July 11, 1935 (423c).

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Resume of requirements as to notice under Laws 1935, Chapter 278. 1936 OAG 393, Oct. 31, 1935 (425b-4).

If the sheriff serves ten persons and travels only one mile each way, his charge for mileage is 30 cents divided between the ten landowners. 1936 OAG 399, Oct. 19, 1935 (423c).

Even though the sheriff's return shows proper service, yet if there were actual occupants in the cabin they should have been served. 1936 OAG 400, Sept. 17, 1935 (425b-5).

Although the sheriff's return shows proper service, if notice was not actually served on occupants, time for redemption did not expire, but redemption should only be permitted on a court order. 1936 OAG 402, Dec. 11, 1936 (423c).

See as to sheriff's fees. 1936 OAG 407, Jan. 30, 1936 (390c-8).

Forms for use of sheriff. 1936 OAG 408, July 15, 1935 (423c).

When the same person is in possession of a number of contiguous 40-acre tracts, it is sufficient to serve him with only one notice. 1936 OAG 409, Sept. 23, 1935 (425b-4).

Unless controlled by special acts applicable to his county, the sheriff should receive pay for services at the same rate as for summons in a civil action. 1936 OAG 410, Nov. 30, 1935 (390c-13).

Where there is disposition of a parcel of land under Laws 1935, Chapter 387, the land is no longer subject to any costs incurred in giving notice under Laws 1935, Chapter 278, Sections 7, 8. 1936 OAG 425, Aug. 3, 1935 (425c-3).

Calculation as to when lands became forfeited to the state. 1936 OAG 427, Nov. 10, 1936 (407i).

Where a defective notice has been posted, the proper county official may proceed with new notice. 1938 OAG 416, Aug. 7, 1937 (419f-3).

Affidavit must be filed; auditor's affidavit must show posting for the statutory time; place of service must be shown by the sheriff's return; and the date of the judgment sale and the year for which the tax was delinquent must be shown by the posted notice. 1938 OAG 416, Aug. 7, 1937 (419f-3).

The county auditor should proceed in the usual manner and in addition to the posting and publishing of notice and service upon occupants, a notice should be filed with the clerk of the court in which bankruptcy proceeding is pending. The notice to the clerk should contain a description of the property and the name of the owner to which the property is assessed. 1940 OAG 346, July 11, 1940 (520b).

The judgment and forfeiture in this case are valid, but the auditor's certificate or assignment must show the easement of the railway company. 1942 OAG 304, June 16, 1942 (216-5).

281.24 LAND SUBJECT TO ASSIGNMENT.

HISTORY. 1935 c. 278 s. 9; M. Supp. s. 2164-13; 1945 c. 442 s. 1.

While Laws 1935, Chapter 387, was enacted April 29th, and Laws 1935, Chapter 278, enacted April 24th, nevertheless the law later in date did not modify or repeal Laws 1935, Chapter 278, Section 9, as to time within which assignment may be made. 1936 OAG 406, June 15, 1936 (425c-2).

The stated period of redemption governs the termination of the right to assign, and not the termination of the period allowed by law in which to redeem after service of notice. 1936 OAG 408, July 17, 1935 (423c).

The auditor may execute assignments any time prior to expiration of stated period of redemption, and may, at the request of the purchaser, issue a new notice of expiration of redemption. 1938 OAG 414, Dec. 6, 1937 (423k).

A new notice must be issued and served after an assignment by the state. OAG May 8, 1939 (419f).

281.25 TITLES TO BE HELD IN TRUST BY THE STATE.

HISTORY. 1935 c. 278 s. 10; M. Supp. s. 2164-14.

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Lands having been forfeited to the state for nonpayment of taxes are thereafter not subject to special assessments. OAG Sept. 21, 1938 (408c).

Section 282.08 governs as to preference between special assessments and general taxes. OAG June 18, 1937 (412a-3).

Where warrants for damages are issued jointly to owner and to the county, and thereafter the land is forfeited to the state, the county auditor must obtain a court order before any warrant is turned over to the owner. OAG Aug. 30, 1937 (450f-6).

281.26 NOTICE.

HISTORY. 1935 c. 278; s. 11; M. Supp. s. 2164-15.

281.27 LAW REPEALED.

HISTORY. 1935 c. 278 s. 12; M. Supp. s. 2164-16.

281.273 SERVICE OF NOTICE OF EXPIRATION OF TIME OF REDEMPTION.

HISTORY. 1943 c. 565 s. 1.

281.274 WITHHELD FROM SALE, PAYMENTS.

HISTORY. 1943 c. 565 s. 2.

281.275 COUNTY BOARD PETITION TO DISTRICT COURT.

HISTORY. 1943 c. 565 s. 3.

281.276 RETURN OF SHERIFF TO SHOW MILITARY SERVICE.

HISTORY. 1943 c. 565 s. 4.

281.277 NOT TO AFFECT OTHER RIGHTS.

HISTORY. 1943 c. 565 ss. 5, 6.

281.28 AGENTS, SERVICE OF NOTICE OF EXPIRATION OF REDEMPTION.

HISTORY. 1917 c. 388 s. 1; G.S. 1923 s. 2165; M.S. 1927 s. 2165.

281.29 STATEMENT TO BE FILED WITH COUNTY AUDITOR.

HISTORY. 1917 c. 388 s. 2; G.S. 1923 s. 2166; M.S. 1927 s. 2166.

281.30 SERVICE.

HISTORY. 1917 c. 388 ss. 3, 4; G.S. 1923 ss. 2167, 2168; M.S. 1927 ss. 2167, 2168.

281.31 FAILURE TO SERVE NOTICE TO EXTINGUISH LIEN.

HISTORY. 1905 c. 271 s. 1; G.S. 1913 s. 2150; 1915 c. 77 s. 1; G.S. 1923 s. 2169; M.S. 1927 s. 2169.

Laws 1905, Chapter 271, limiting the time within which notice of expiration of redemption from tax sales may be given, and requiring the certificate of sale to be recorded within the time therein prescribed, in default of which the certificate shall be invalid for any purpose, does not extinguish the tax lien upon failure of the certificate holder to comply with the statute. *Downing v Lucy*, 121 M 301, 141 NW 183.

The notice of expiration required by Laws 1905, Chapter 270, must comply in substance with form prescribed by Ex. Laws 1902, Chapter 2, Section 47 (s. 281.13). *Burnside v Moore*, 124 M 321, 145 NW 27.

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State assignment certificates issued under Ex. Laws 1902, Chapter 2, were not included within the limitation of Laws 1905, Chapter 271. The provisions of Laws 1905, Chapter 271, requiring the holder to give notice of expiration of redemption and to record his certificate within seven years does not impair the obligation of the certificate holder's contract with the state. *Northern Counties v Excelsior*, 146 M. 207, 178 NW 497.

The statute is one of limitation, and provides a reasonable time for giving notice and for recording the certificate and does not impair vested rights. *Hutchinson v Child*, 164 M 195, 204 NW 648.

When the holder of a tax certificate, issued pursuant to section 281.31, fails to have it recorded in the office of the register of deeds within seven years from date of the sale, as provided in said statute, he never acquires title in fee simple as contemplated by section 280.03. *Klasen v Thompson*, 189 M 254, 248 NW 817.

A later law abrogates a prior contrary law. The rights of a purchaser at a delinquent tax sale under the provisions of Laws 1927, Chapter 119, were not extinguished by failure to record his certificate within the statutory limit provided by sections 281.31, 281.32. *Absetz v McClellan*, 207 M 202, 290 NW 298.

Where sections 281.31 and 281.32 differ, in case there is any inconsistency, section 281.32 governs. OAG Aug. 4, 1934 (423a).

Section 281.32 probably supersedes section 281.31. OAG July 25, 1935 (425b-4).

The provisions of section 281.31 are not repealed or affected by Laws 1935, Chapter 278. OAG July 25, 1935 (425b-4).

281.32 LIMITATION OF TIME FOR FILING CERTIFICATE.

HISTORY. 1917 c. 488 s. 1; 1919 c. 169 s. 1; G.S. 1923 s. 2170; M.S. 1927 s. 2170. See *Absetz v McClellan*, 207 M 202, 290 NW 298.

Analysis of effect of Laws 1933, Chapter 366, on section 281.32. OAG Sept. 5, 1933.

Where land was bid in by the state on May 9, 1928, for 1926 taxes, and assignment was dated Sept. 13, 1928, notice of redemption is required and must be served prior to six years from the date of the assignment certificate (Sept. 13, 1928) so that the certificate can be recorded with the register within seven years from the date of the assignment certificate, and the owner may redeem at any time within 12 months after filing proof of service of the notice. 1934 OAG 834, April 30, 1934 (423c).

Section 281.32 governs when inconsistent with section 281.31. OAG Aug. 14, 1934 (423a).

Where a tract of land was sold at the annual forfeited sale held Aug. 9, 1915, for taxes due the state for years 1896 to 1914, notice of expiration of redemption cannot now be served. 1934 OAG 836, July 31, 1933 (419f-2).

The six years within which notice of expiration of redemption upon a state assignment certificate may be issued or served commences to run from the date of the state assignment certificate. OAG Jan. 24, 1935 (423c).

No notice of expiration of the time of redemption may be issued or served after expiration of six years from date of tax judgment sale, and no certificate may be recorded after seven years from date of sale or date of assignment certificate. OAG June 10, 1935 (425b-7).

The procedure in giving notice of expiration of redemption is governed by Laws 1935, Chapter 278. OAG July 25, 1935 (425b-4).

Copy of notice must be mailed to holder of mortgage within sufficient time prior to expiration of period of redemption. 1936 OAG 393, Sept. 3, 1936 (412a-23).

Ex. Laws 1937, Chapter 71, does not require cancelation of certificates issued during that period of the history of the laws of taxation when service of notice of expiration of the period of redemption was not necessary. 1938 OAG 401, May 8, 1938 (409a-1).

If a certificate is not recorded within seven years of the date of sale, it is invalid. OAG March 30, 1938 (409b-10).

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In making a certificate of delinquent taxes as required by section 281.03, the county auditor should not include therein taxes included in a certificate of tax judgment sale, a state assignment certificate issued to a purchaser at a forfeited tax sale, where more than six years have elapsed after issuance of such certificate, unless notice of redemption has been issued within six years. OAG Aug. 8, 1938 (409a-1).

281.321 COUNTY AUDITOR SHALL CANCEL CERTIFICATES.

HISTORY. 1941 c. 399 s. 4.

281.322 CANCELOATION OF CERTIFICATE UPON JUDICIAL ORDERS.

HISTORY. Ex. 1937 c. 71 s. 3; M. Supp. s. 2145-3.

281.323 CERTIFICATE MUST BE RECORDED.

HISTORY. 1941 c. 399 s. 3.

281.324 CANCELED BY LIMITATION.

HISTORY. 1941 c. 399 s. 4.

281.325 CANCELOATION OF CERTIFICATES, ON REQUEST OF HOLDER.

HISTORY. Ex. 1937 c. 71 s. 1; M. Supp. s. 2145-1.

281.326 CANCELOATION OF CERTIFICATES WHEN NOTICE OF EXPIRATION OF TIME FOR REDEMPTION NOT GIVEN WITHIN SIX YEARS.

HISTORY. Ex. 1937 c. 71 s. 2; M. Supp. s. 2145-2.

281.327 CANCELOATION OF CERTIFICATE UPON JUDICIAL ORDER.

HISTORY. Ex. 1937 c. 3; M. Supp. s. 2145-3.

281.33 REDEMPTION, WHEN EXPIRES.

HISTORY. Ex. 1902 c. 2 s. 48; R.L. 1905 s. 958; G.S. 1913 s. 2152; G.S. 1923 s. 2171; M.S. 1927 s. 2171.

Cancellation of tax certificates; comparison of cases. 1938 OAG 401, May 6, 1938 (409a-1).

281.34 FEES FOR NOTICE.

HISTORY. Ex. 1902 c. 2 s. 48; R.L. 1905 s. 957; 1907 c. 85; G.S. 1913 s. 2151; G.S. 1923 s. 2172; M.S. 1927 s. 2172.

Service of notice; form of return, and fees for sheriff in re tax sales. 1936 OAG 408, July 17, 1935 (423c).

281.35 FRAUD IN THE SERVICE; LIMITATION FOR BRINGING ACTION.

HISTORY. 1903 c. 318; R.L. 1905 s. 959; G.S. 1913 s. 2153; G.S. 1923 s. 2173; M.S. 1927 s. 2173.

281.36 INTEREST ON PURCHASE MONEY.

HISTORY. Ex. 1902 c. 2 s. 49; R.L. 1905 s. 960; G.S. 1913 s. 2154; G.S. 1923 s. 2174; M.S. 1927 s. 2174.

Our statutes on the subject of taxation do not provide interest upon delinquent personal property tax, nor upon real estate taxes, except (1909) in the instances mentioned in Revised Laws 1905, Sections 960, 961 (281.36, 281.37). State v New England, 107 M 52, 119 NW 427.

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281.37 REDEMPTION FROM REAL ESTATE TAX SALES

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281.37 INTEREST WHEN LAND NOT IN LIST.

HISTORY. Ex. 1902 c. 2 s. 50; R.L. 1905 s. 961; G.S. 1913 s. 2155; G.S. 1923 s. 2175; M.S. 1927 s. 2175.

281.38 REDEMPTION MONEY TO PURCHASER; LOST CERTIFICATE.

HISTORY. Ex. 1902 c. 2 s. 77; 1903 c. 116; R.L. 1905 s. 962; G.S. 1913 s. 2156; G.S. 1923 s. 2176; M.S. 1927 s. 2176.

281.39 TIME FOR REDEMPTION FROM TAX SALE EXTENDED IN CERTAIN CASES.

HISTORY. 1933 c. 274 s. 1; M. Supp. s. 2176-1.
Cancellation of tax certificates; comparison of statutes and cases. 1938 OAG 401, May 6, 1938 (409a-1).

281.40 MAY REDEEM PART OF TRACT.

HISTORY. 1933 c. 274 s. 2; M. Supp. s. 2176-2.

281.52 ADDITIONAL CLERKS FOR COUNTY AUDITOR.

HISTORY. Ex. 1936 c. 102; M. Supp. s. 2176-17.

281.66 AGREEMENTS FOR REPURCHASE OF TAX-FORFEITED LANDS MAY BE REINSTATED.

HISTORY. 1941 c. 108 s. 1.

281.67 COUNTY BOARD TO ACT ON PETITION.

HISTORY. 1941 c. 108 s. 2.