

CHAPTER 280

REAL ESTATE TAX JUDGMENT SALES

280.01 MODE OF SALE.

1. **Jurisdictional**
2. **Contents**
3. **Posting**
4. **Publication**

4. Publication

Where the county auditor failed to publish notice as required by section 280.01 the tax sale in May 1945 could not be held and consequently the sale on the 1943 taxes and 1944 taxes were held on the second Monday in May, 1946. The sale price of the 1943 taxes should include six per cent interest from the second Monday in May, 1945 to the second Monday in May, 1946 on the full amount of taxes plus penalties and costs accrued as of the date of sale. OAG Sept. 22, 1945 (142-A-9).

The requirement concerning publication of notice of a tax judgment sale is mandatory. Lands not sold at tax judgment sale in the year in which the tax judgment is entered should be sold in the subsequent year. OAG April 30, 1947 (425-B-3).

280.02 PUBLIC VENDUE.

1. **Conduct of sale**
2. **Tracts sold separately; order of offering**
3. **Amount**
4. **Bidding in for state**
5. **Preventing competition**
6. **Caveat emptor**
7. **Judgment void, sale void**
8. **Certificate prima facie evidence of valid sale**

1. Conduct of sale

L. 1933, c. 414, s. 1, in classifying taxpayers into two classes, those who pay promptly and those who do not, and in allowing a remission or discount to the latter, violates Minnesota constitution, article 9, section 1, which requires taxes to be uniform upon the same class of subjects. The classification attempted is unreasonable and arbitrary. *State ex rel v Luecke*, 194 M 247, 260 NW 206.

Where each of two bidders claims he purchased the same land at a tax sale, it is the duty of the county auditor to determine the facts. If the award is not made to either, the county board may direct the land be offered at the next sale. OAG Feb. 19, 1945 (425-E).

Whether the land is sold to private parties or to the state, a tax title based upon properly conducted proceedings is as valid as any other title. OAG Feb. 2, 1946 (410-B).

280.03 CERTIFICATE OF SALE.

Entry of tax judgment six days before time of answering expired is an irregularity not fatal in a collateral attack on the judgment, the trial court erred in holding the tax judgment and certificates of sale issued thereunder to plaintiff, null and

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void. *Shouteau v Hunt*, 44 M 173, 46 NW 341; *Miner v Buzick*, 206 M 341, 288 NW 582.

As between the purchaser at a tax sale and the owner of the property sold, a contract relationship arises, and the law as then in existence determines the contractual rights and obligations of the parties. But that rule does not prevent the legislature from making changes in the manner of enforcing the lien for taxes, provided such changes do not substantially impair any of the obligations of the contract. *State v Aitkin County Land Co.* 204 M 496, 284 NW 63.

The validity of a tax certificate and the rights of the holder thereunder are to be determined by the laws in force at the time the certificate issues. *Absetz v McClellan*, 207 M 202, 290 NW 298.

When a writing is introduced in support of an allegation in a pleading which does not indicate the existence thereof it cannot be required that the opposite party shall anticipate its production and allege in his pleading fraud in its procurement in order to introduce evidence of such fraud. *Turner v Edwards*, 207 M 455, 292 NW 257.

Ordinances attempting to recoup losses of city on special sewer and water main improvements, assessed against a parcel of land forfeited to the state for non-payment of taxes by imposing upon the purchaser from the state a connection fee equal to the one unrealized portion of the assessment as condition of using water and sewer facilities, violate a validly enacted law.

Where realty is sold to the state for delinquent taxes, the state becomes the absolute owner thereof subject only to a trust in favor of the respective taxing subdivisions interested in the property. *Fortman v City of Minneapolis*, 212 M 340, 4 NW(2d) 349.

280.04 WHO MAY PURCHASE.

As between the purchaser at a tax sale and the owner of the property sold, a contract relationship arises, and the law as then in existence determines the contractual rights and obligations of the parties. But that rule does not prevent the legislature from making changes in the manner of enforcing the lien for taxes, provided such changes do not substantially impair any of the obligations of the contract. *State v Aitkin County Land Co.* 204 M 496, 284 NW 63.

Where property was forfeited to the state for delinquent taxes after foreclosure sale at which the mortgagee bid in the premises for the full amount of the mortgage debt, the mortgagor's grantee could purchase the state's title because duty to pay delinquent taxes terminated with the foreclosure.

The grantee of a mortgagor stands in no better position than the mortgagor in so far as his ability to acquire a tax title valid as against the mortgagee is concerned. *Pulsifer v Paxton*, 212 M 68, 2 NW(2d) 427.

280.05 WHO MAY NOT PURCHASE OR TAKE ASSIGNMENT.

Tax-forfeited lands may be purchased by county officers or employees, except those named in section 280.05. OAG Oct. 16, 1946 (90-B).

280.08 RECORD OF ASSIGNMENT.

State assignment certificate may be recorded as provided in section 280.08, with time limitations provided by law. The date mentioned in L. 1941, c. 399, ss. 1, 2, refers to tax judgment sales and not to date of assignment certificate. 1944 OAG 351, Sept. 14, 1943 (409-B-5).

A state assignment certificate may be recorded with the register of deeds before service of notice of expiration of time of redemption. OAG Sept. 22, 1943 (373-B-17-A).

280.10 PAYMENT OF SUBSEQUENT TAXES.

A purchaser of a state assignment certificate who pays taxes which are due but not delinquent at the time he acquires his certificate is entitled to a lien for the amount expended. *Bratrud v Security State Bank*, 203 M 464, 281 NW 809.

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Taxes paid by assignee of the state before delinquent are not included in notice of expiration of time for redemption. OAG May 31, 1945 (412-a-19).

280.11 LANDS BID IN FOR STATE.

Where the notice required to be published and attached to the list of delinquent real estate taxes for 1932 included the paragraph provided by L. 1927, c. 119, s. 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 section 281.15 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. Where judgment had been entered for 1932 delinquent real estate taxes, delinquent taxes for subsequent years were properly attached to the tax judgment and omitted from subsequent tax lists. *Singer v Village of Goodridge*, 210 M 324, 298 NW 35.

280.12 UNREDEEMED LANDS.

Where realty is sold to the state for delinquent taxes, the state becomes the absolute owner thereof subject only to a trust in favor of the respective taxing subdivisions interested in the property. *Fortman v City of Minneapolis*, 212 M 340, 4 NW(2d) 349.

Service of notice of expiration of redemption at tax forfeiture proceedings not having been made upon all occupants or persons on the premises there was not sufficient compliance with the requirements of the statutes and the trial court properly held that the title acquired by the state at the tax forfeiture sale was invalid. *McHardy v State*, 215 M 132, 9 NW(2d) 427.

280.13 UNREDEEMED LANDS.

1. Conduct of sale
2. Cash bids
3. Containing ditch liens or special assessments
4. Payment; certificates

1. Conduct of sale

A bid of \$10.00 at a sale accompanied by a statement he would go much higher, even to \$150.00 if necessary, does not take precedence over a bid of \$12.00. OAG Aug. 3, 1945 (425-c).

4. Payment; certificates

The validity of a tax certificate and the rights of the holder thereunder are to be determined by the laws in force at the time the certificate issues. *Absetz v McClellan*, 207 M 202, 290 NW 298.

Under the provision of section 282.24 providing that a land owner at the time of 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," upon facts recited and for reasons noted in the opinion, a "taking" under condemnation is not a "sale" of the property within the meaning of the repurchase act. *State ex rel v Flach*, 213 M 353, 6 NW(2d) 805.

280.15 UNREDEEMED LANDS.

Where realty is sold to the state for delinquent taxes, the state becomes the absolute owner thereof subject only to a trust in favor of the respective taxing sub-

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divisions interested in the property. *Fortman v City of Minneapolis*, 212 M 340, 4 NW(2d) 349.

280.19 TAX SALE FOR 1931 TAXES DEFERRED.

Moratory legislation for relief of mortgagors. 18 MLR 318.

280.25 PURCHASER TO RECEIVE DEED.

Tax sale of a servient estate as affecting the easement. 22 MLR 578.

280.26 HOW AND WHEN PURCHASER TO GET DEED.

Purchaser's equitable interest in real estate purchased from the federal government under an executory contract may be sold under state laws leaving the fee of the United States in priority over interests transferable by the tax sale. *S.R.A. v State of Minnesota*, 66 SC 749, 327 US 558.

280.37 ENDORSEMENT BEFORE RECORD.

The county auditor may endorse upon a state assignment certificate issued in 1924 the fact that taxes thereon have been paid since the issuance of the certificate and may in 1947 endorse such other information thereon as is required by section 280.37. OAG April 2, 1947 (409-C).