

CHAPTER 281

REDEMPTION FROM REAL ESTATE TAX SALES

281.01 WHO MAY REDEEM FROM TAX SALE; WHEN.

The right to redeem from a tax sale is a statutory right; and 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 proportionate part of the tax judgment pursuant to section 281.08 notwithstanding the fact that the whole parcel is occupied by a single structure. State ex rel v Erickson, 212 M 218, 3 NW(2d) 231.

281.02 AMOUNT PAYABLE.

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

4. Interest

Laws 1943, c. 281, s. 2, fixing the second Monday in May for interest computation applies only to taxes for 1942 and subsequent years. 1944 OAG 345, May 18, 1943 (412-A-9).

The purchaser of a tax judgment certificate upon redemption may receive interest on the amount of taxes, penalties, and costs, and no other interest whatsoever. OAG Sept. 22, 1945 (412-a-9).

281.03 AUDITOR'S CERTIFICATE.

Notwithstanding the uniform declaratory judgments act, mandamus is the proper remedy pursued by a landowner to secure from the county auditor an official certificate of the amount required to be paid to the county treasurer in redemption of land sold for taxes. Farmers & Mchts. v Billstein, 204 M 224, 283 NW 138.

Where upon redemption the amount certified by the auditor and received in payment is less than that required by law in that it did not include the publication fee, the auditor is liable for the deficiency to the person entitled thereto. OAG May 27, 1947 (419-F-1).

281.04 REDEMPTION BY PERSONS UNDER DISABILITY.

A minor who owns an undivided half of a mortgage on premises claimed by the holder of a certificate of tax sale is entitled under the provisions of section 281.04 to redeem from a tax sale. He may institute proceedings to enforce redemption upon reaching his majority. Miner v Buzick, 206 M 341, 288 NW 582.

281.06 UNDIVIDED PART.

The right to redeem from a tax sale is a statutory right; and because of its remedial nature, section 281.06 must be construed liberally for the owner of the real estate. State ex rel v Erickson, 212 M 218, 3 NW(2d) 231.

281.07 UNDIVIDED SHARE.

Sections 281.06 through 281.09 being closely related must be considered together when the construction of any one of them is challenged. State ex rel v Erickson, 212 M 218, 3 NW(2d) 231.

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281.09 SPECIFIC PART OF UNDIVIDED PART.

NOTE: Sections 281.06 through 281.09 should be read together when the construction of any one of them is challenged, and the annotations under any of these statutes are applicable to the others.

281.10 AUDITOR TO DETERMINE PROPORTION.

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

281.11 TAXPAYER MAY PAY TAXES ON PART.

Owner may not pay delinquent taxes upon a part of the land assessed. In redemption he must follow the provisions of the applicable statute. 1942 OAG 297, May 8, 1941 (412-A-10).

Where there is a default or a confession of judgment contract, the owner may not pay delinquent taxes upon a part of the lands assessed. 1944 OAG 297, May 8, 1941 (412-A-10).

281.12 LAND HELD JOINTLY.

Section 281.10 requiring the county auditor to apportion a tax judgment so that an owner of a specific part of a parcel taxed as a whole can redeem pursuant to section 281.08 does not impose judicial functions upon an administrative officer in violation of Minnesota Constitution, Article 3, Section 1. *State ex rel v Erickson*, 212 M 219, 3 NW(2d) 231.

Respondents, as fee owners of certain described lots, own a "specific part" of the parcel sold for taxes and are entitled to redeem their property. The auditor must apportion the tax judgment for that purpose. There is no merit to the auditor's contention that respondents have an adequate and speedy remedy at law by redemption under section 281.12. *State ex rel v Erickson*, 212 M 224, 3 NW(2d) 231.

281.13 NOTICE OF EXPIRATION OF REDEMPTION.

1. Chronicle of legislation
2. Application to sales
3. What law governs
4. Construction
5. Object of notice; service; sufficiency; tracts included
6. Mandatory
7. Extension of redemption period
8. Statement of amount
9. Statement of time to redeem (sufficient)
10. Statement of time to redeem (insufficient)
11. Direction, service, return
12. Publication
13. Lost certificate
14. Misnomer

1. Chronicle of legislation

L. 1943, c. 281, fixing second Monday in May for interest computation applies only to taxes for 1942 and subsequent years. 1944 OAG 345, May 18, 1943 (412-A-9).

3. What law governs

The law relating to the right to purchase and the right of redemption from tax sales rests entirely upon the statutes, there being no constitutional provisions governing. *State v Aitkin Farm Land Co.* 204 M 495, 284 NW 63.

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

None of the 1945 laws make any change in the form or in the manner of service of the notices required by section 281.13. OAG June 13, 1945 (419-f).

9. Statement of time to redeem (sufficient)

Where an old age assistance lien attached to a homestead in 1936 and taxes were unpaid and the land bought in for the state May 12, 1943, and a third party purchased an assignment certificate and requested the auditor to prepare a notice of expiration of redemption, the stated period of redemption applicable is five years as provided in section 281.17, but in case of a purchaser, notice must be given in accordance with section 281.21, and the five-year period not having expired the notice of expiration could not properly be given at the time demanded. The tax lien upon forfeiture is superior to the old age assistance lien. There is no statutory authority permitting the county to redeem from the tax sale in order to protect the lien. OAG May 9, 1947 (409-c-2).

11. Direction, service, return

The return of the deputy sheriff of service of notice of redemption of time of redemption of land sold for taxes was not conclusive but the burden was on the defendant to overcome the effect of the sheriff's return by clear and satisfactory evidence. In the instant case the trial court properly held that the defendants were personally served so that judgment quieting title to the land in the plaintiff was proper. *Holmes v Conter*, 212 M 394, 4 NW(2d) 106.

Failure to make service on the occupants of a dwelling house vitiated the service of notice of redemption. *Absetz v McClellan*, 207 M 202, 290 NW 298.

281.15 REDEMPTIONS FROM TAX SALES.

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

281.16 STATED PERIOD OF REDEMPTION.

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

Confession of judgment; default; procedure outlined after default occurs. 1942 OAG 298, Jan. 18, 1941 (412-A-10).

Forfeiture proceedings void for indefiniteness of description. Further procedure defined. 1942 OAG 306, May 10, 1941 (412-A-13).

Statutes authorizing refundments are exclusive. Schedule herein as to what and when the county auditor may issue a valid state assignment. 1944 OAG 398, April 7, 1943 (409-C-2).

The town board is not vested with the power to cancel taxes. Its concern with the 1942 assessment terminated upon the adjournment of the June 1942 meetings. 1944 OAG 390, Dec. 16, 1943 (407-O).

Validity of tax bargain statutes. 18 MLR 849.

281.17 PERIOD OF REDEMPTION EXTENDED TO JULY 1, 1936.

A valid state assignment certificate may be issued until expiration of the period of redemption after date of judgment sale but issuance of a state assignment certificate after the expiration of the stated period of redemption is unauthorized. OAG April 7, 1943 (409-c-2).

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281.18 LANDS MAY BE REDEEMED.

In cases where notice of expiration has been given, but the redemption period has not expired, under the provisions of L. 1945, c. 324, delinquent taxes may be paid without penalty and interest any time prior to October 1, 1945, OAG May 15, 1945 (412-a-9).

281.22 COUNTY AUDITOR TO GIVE NOTICE.

Failure to make proper service as required under section 281.23 rendered tax forfeiture proceedings void. *McHardy v State*, 215 M 146, 9 NW(2d) 435.

281.23 NOTICE.

Taxpayer has no constitutional right to redeem from tax sales or to have notice of expiration of redemption from such sale; and the statute providing for different procedure for termination of right to redeem lands after tax sale than was prescribed in prior statute did not impair contract obligation. *State v Aitkin Co. Farm Lands Co.* 204 M 495, 284 NW 63.

Under sections 281.22 and 281.23, service of notice of expiration of redemption in tax forfeiture proceedings must be made upon all occupants or persons in possession of the premises involved. Strict compliance with this requirement is vital. The occupancy or possession must be of a substantial nature. The determination of the fact of occupancy is for the jury. *McHardy v State*, 215 M 132, 141, 146, 9 NW(2d) 427, 432, 435.

L. 1943, c. 281, fixing second Monday in May for interest computation applies only to taxes for 1942 and subsequent years. 1944 OAG 345, May 18, 1943 (412-A-9).

The redemption period for 1937 taxes is sixty days. 1944 OAG 367, Aug. 31, 1944 (423C).

A person could not be deemed a person in possession under the provisions of this section if he resided in a county other than the county in which were located the tax-forfeited lands. OAG Feb. 12, 1945 (419f).

Personal service of notice of expiration of redemption is all that is required upon persons in actual possession. OAG July 12, 1945 (419F).

Where the sheriff served notices believing publications had been made, upon finding out that no publication had been made, he should cause the proper publications to be made and again serve the notices. OAG July 23, 1945 (423-e).

The provision for service of notice of redemption within sixty days is directory and not mandatory. Notices may be served by the sheriff within a reasonable time after the thirty days have expired; and such reasonable time is a question of fact based upon conditions and circumstances. OAG Dec. 27, 1945 (423-E).

281.24 LAND SUBJECT TO ASSIGNMENT.

After expiration of the statutory period of redemption a state assignment certificate may not issue. OAG Oct. 5, 1943 (409-B-5).

Statutes authorizing refundments are exclusive. Schedule herein indicates what and when the county auditor may issue a valid assignment under each of the several statutes. 1944 OAG 398, April 7, 1943 (409-c-2).

Under the provisions of L. 1945, c. 442, land bid in for the state and not sold or assigned to an actual purchaser is subject to assignment until date of forfeiture. OAG June 7, 1945 (412-a-27).

281.25 TITLES TO BE HELD IN TRUST BY THE STATE.

See as to status of lands upon which an outstanding certificate of sale has been fully paid and which have been subsequently forfeited for non-payment of taxes considered as affecting L. 1935, c. 278, s. 10; L. 1935, c. 386; and L. 1941, c. 374. See, clarifying L. 1945, c. 169. 1944 OAG 57, May 8, 1944 (700-D-28).

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281.273 SERVICE OF NOTICE OF EXPIRATION OF TIME OF REDEMPTION ON LANDS IN WHICH PERSONS IN MILITARY SERVICE ARE INTERESTED.

Neither the county board nor any county officer has any authority to lease lands forfeited to the state during the time the owner is in military service. OAG July 11, 1944 (310); OAG April 30, 1945 (425-C).

281.31 FAILURE TO SERVE NOTICE TO EXTINGUISH LIEN.

Section 281.31 does not apply to tax sales under L. 1927, c. 119, giving tax sales purchaser absolute title after expiration of five years from date of sale. *Absetz v McClellan*, 207 M 202, 290 NW 298.

Absetz v McClellan, 207 M 202, 299 NW 298, determined that sections 281.31 and 281.32 were inapplicable to taxes for 1926 and subsequent years. L. 1941, c. 399 were passed to supply the deficiency. 1944 OAG 350, June 20, 1944 (409-B-5).

Date mentioned in L. 1941, c. 399, ss. 1, 2, refer to tax judgment sales and not to date of assignment certificate. Section 280.08 controls the recording of state assignment certificate. 1944 OAG 351, Sept. 14, 1943 (409-B-5).

281.32 LIMITATION OF TIME FOR FILING CERTIFICATE.

50 U.S.C.A., s. 525, relating to persons in military service, does not toll the time for recording a certificate of a tax judgment as prescribed by section 281.32. OAG April 4, 1944 (412-A-10).

281.321 FAILURE TO SERVE NOTICE TO EXTINGUISH LIEN.

Section 281.321 prescribes definite limitations upon the recording of state assignment certificates based on tax sale. OAG June 20, 1945 (373-B-17-A).

281.324 CANCELED BY LIMITATION.

Where taxes for the years 1924, 1925, and 1926 were sold in 1926, 1927, and 1928 and the certificates lost, if no notice of redemption was ever issued, the auditor under the provisions of sections 281.324 or 281.326 may cancel the certificates. OAG Sept. 16, 1946 (409-A-1).

Certificates of assignment where the 1886 taxes were sold May 7, 1888, may be canceled under sections 281.324 or 281.326. OAG Dec. 4, 1946 (409-a-1).

County auditor may cancel certificate under sections 281.324 or 281.326. OAG Feb. 6, 1947 (409-a-1).

281.325 CANCELANON OF CERTIFICATES, ON REQUEST OF HOLDER.

Even if title has been perfected, the auditor on request of the holder of the certificate may cancel same. OAG Aug. 6, 1945 (409-A-1).

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

Certificates of assignment relating to the 1886 taxes, and the sale was had May 7, 1888, may be canceled under sections 281.324 or 281.326. OAG Dec. 4, 1946 (409-a-1).

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

Where there is a default in a confession of judgment contract, the owner may not pay delinquent taxes upon part of the lands assessed. The owner may reinstate under L. 1941, cc. 26, 108. 1944 OAG 297, May 8, 1941 (412-A-10).

L. 1943, c. 603, requires the purchaser to deposit with the county auditor a sum sufficient to pay all delinquent instalments due under the contract at the time of reinstatement with interest, and all delinquent taxes, penalties, interest, and costs accruing subsequent to the making of the repurchase contract, as well as an amount equal to the taxes and assessments that would have been levied and payable but for the termination of the repurchase agreement to be computed as provided by the act. 1944 OAG 370, Feb. 15, 1944 (425-C-6).