

## CHAPTER 282

## TAX-FORFEITED LAND SALES

## 282.01 CLASSIFICATION OF TAX-FORFEITED LANDS.

Subd. 3, amended by L. 1947 c. 140 s. 1.

The state becomes the absolute owner of real estate sold to the state for delinquent taxes, subject only to a trust in favor of the respective taxing subdivisions interested in the property or proceeds. *State ex rel v Monick*, 201 M 635, 277 NW 211; *Fortman v City of Mpls.* 212 M 340, 4 NW(2d) 349.

We have for guidance sections 282.01 to 282.13 relating to the sale of tax-forfeited land. A careful reading of the sections leads to the conclusion that the "sale" concerning which the 1941 law speaks is such sale as is made between the state and third parties and is distinguishable from the taking or forced sale under condemnation. *State ex rel v Flach*, 213 M 358, 6 NW(2d) 805.

The amendment, L. 1943, c. 627, requires appraisal before sale. Such appraisal should take into consideration improvements. The land and the improvements cannot be appraised separately. A sale of the land where building thereon is disregarded is voidable. 1944 OAG 376, April 5, 1944 (425-C).

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 act, L. 1945, c. 169. 1944 OAG 57, May 8, 1944 (700-B-28).

Where lands had been classified by the St. Louis county board as "non-conservation," it was within their power to refuse a request of the city council of Duluth to reclassify certain lands within the boundaries of the city of Duluth. 1944 OAG 363, July 20, 1944 (425-C).

The county board cannot modify a contract for the sale of tax-forfeited land after the same has been entered into. If the sale was made and the money paid into the treasury under a mistake of fact, the claimant may initiate appropriate proceedings by which relief may be obtained. 1944 OAG 375, Aug. 15, 1944 (425-c).

Tax-forfeited lands when classified and appraised as required by statute may be acquired by the county. OAG Oct. 10, 1944 (425-c-10).

Certificates of purchase under forfeited law are assignable. 1944 OAG 365, Oct. 13, 1944 (425-C-13).

Default in purchase contract may be removed after adoption of resolution of county board ordering cancelation of certificate issued to purchaser who bought the lands on or prior to the effective date of L. 1943, c. 627, provided the lands have not been reappraised or offered for sale. Default cannot be removed after adoption of the resolution with respect to lands bought subsequent to effective date of L. 1943, c. 627. 1944 OAG 366, Nov. 16, 1944 (425-C-6).

Where at a tax-forfeited lands sale each of two parties claim to be purchasers it is the duty of the county auditor to determine the facts. If there cannot be a finding for either party the county board may direct the land be offered at the next sale. OAG Feb. 19, 1945 (425-c).

A list of the land to be sold at tax sale must be submitted to the commissioner of conservation thirty days before the first publication of the list. This provision cannot be waived or excused and a sale without such submission is invalid. L. 1945, c. 99 and c. 150, are both equally effective. OAG Dec. 27, 1945 (983-M).

If serviceman fails to file affidavit at the time prescribed by L. 1945, c. 75, his rights thereunder lapse and the county auditor must proceed under L. 1943, c. 627, s. 2, to terminate the contract. OAG Jan. 23, 1946 (412-A-9).

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Whether land is bid in by the state or by private parties the title to the tax-forfeited land so purchased was as good as any title. OAG Feb. 2, 1946 (410-B).

For the purposes of this section the Minneapolis-St. Paul Metropolitan Airport Commission is a state agency. OAG June 21, 1946 (234).

Sale of tax-forfeited lands pursuant to L. 1935, c. 386, after enactment of L. 1939, c. 328, is valid; and the county board is without authority to direct the county auditor to refuse installments after sale and payment of initial installment. OAG Sept. 10, 1946 (425-C).

County auditor is without power to withdraw lands from sale unless directed to do so by resolution of the county board. OAG Sept. 10, 1946 (425-c).

State tax deeds to tax-forfeited lands may be recorded in office of register of deeds where the title to such lands is registered. OAG Oct. 9, 1946 (374-J).

Tax-forfeited lands may be sold to the university regents, who constitute a state agency. OAG Nov. 1, 1946 (425-c-11).

Sections 282.10, 283.01, and other sections carry provisions for refundment, but where there is no specific statutory provision for refundment of an amount paid by a purchaser for tax-forfeited lands sold by the state, the only remedy available to the purchaser for obtaining relief is an application to the legislature. OAG April 8, 1947 (424-A-5).

## **282.011 NON-AGRICULTURAL LANDS CLASSIFIED FOR CONSERVATION PURPOSES OR AUXILIARY FORESTS; RESOLUTION FORWARDED TO COMMISSIONER; CERTIFICATE; SALE.**

HISTORY. 1947 c. 496 s. 1.

## **282.012 PRIOR OWNER MAY PURCHASE.**

HISTORY. 1947 c. 496 s. 2.

## **282.013 PLACED IN AUXILIARY FOREST BY PURCHASER.**

HISTORY. 1947 c. 496 s. 3.

## **282.014 COMPLETION OF SALE AND CONVEYANCE.**

HISTORY. 1947 c. 496 s. 4.

## **282.015 PROCEEDS OF SALE.**

HISTORY. 1947 c. 496 s. 5.

## **NON-CONSERVATION AREA**

## **282.02 LIST OF LANDS OFFERED FOR SALE.**

A county may have one sale of tax-forfeited lands, and no more, in any one calendar year, the date being set by the county board. OAG Jan. 8, 1943 (425-C-5).

## **282.031 PURCHASE OF AGRICULTURAL LAND BY VETERANS OF WORLD WAR II.**

HISTORY. 1947 c. 422 s. 1.

The phrase "making his living thereon" means maintaining himself in an economic sense and does not include a requirement that the veteran live on the land in the sense of maintaining a dwelling thereon. OAG Aug. 26, 1947 (310).

## **282.032 APPLICATION TO COUNTY BOARD; HEARING; TERMS OF PAYMENT.**

HISTORY. 1947 c. 422 s. 2.

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### 282.033 PAYMENT CREDIT FOR PAYMENT OF LAND.

HISTORY. 1947 c. 422 s. 3.

### 282.034 FINAL PAYMENT; COUNTY AUDITOR TO CERTIFY.

HISTORY. 1947 c. 422 s. 4.

### 282.035 PURCHASER MAY SELL; LIMITATION ON CREDIT.

HISTORY. 1947 c. 422.s. 5.

### 282.036 CANCELATION.

HISTORY. 1947 c. 422 s. 6.

### 282.037 AFFECTED LANDS WITHDRAWN FROM SALE.

HISTORY. 1947 c. 422 s. 7.

### 282.04 COUNTY AUDITOR MAY SELL HAY STUMPAGE, LEASE LANDS, AND SELL TIMBER.

The statute authorizes the county auditor to repair buildings located on the land, but cannot acquire additional land, estates, or easements to supplement the operation and use of the forfeited property. 1944 OAG 362, April 12, 1943 (107-B-20).

Under provisions of section 282.01 the tax commissioner may convey an easement over tax-forfeited lands. OAG March 24, 1945 (700-A-3).

Where rent has been paid in advance, the purchaser is entitled to a refund of rent paid in advance of the date of his purchase. OAG Jan. 25, 1946 (425-C-14).

Where the final scale of cut timber products on timber sold on tax-forfeited land in non-conservation area show an excess payment, the amount of the excess may be refunded to purchaser upon audit and allowance by the county board. OAG Aug. 5, 1946 (425-c).

The statutes relating to the sale of tax-forfeited lands leaves the determination of the appraised value to the county board in the exercise of sound discretion; and does not prescribe a mathematical formula of original appraised value, plus cost of grading. OAG Oct. 17, 1946 (525).

"Adjoining owner" means an owner of property which is contiguous to or touching the tax-forfeited land which it is asked that the state shall grade. OAG Oct. 17, 1946 (525).

A county board may rent equipment to grade tax-forfeited land under section 282.04 without advertising for bids though the rental exceeds \$500. OAG Oct. 16, 1946 (707-a-7).

### 282.05 PROCEEDS TO BE APPORTIONED.

Upon repurchase of tax-forfeited land in reforestation area proceeds should be placed in a special fund and remitted to the commissioner of conservation. OAG Oct. 5, 1945 (107-B-19).

### 282.07 AUDITOR TO CANCEL TAXES.

Cases illustrative of the absolute ownership of the state of realty sold to the state at tax-forfeited land sale. State ex rel v Luecke, 194 M 246, 260 NW 206; State ex rel v Hubbard, 203 M 111, 280 NW 9; State v Aitkin Co. Land Co. 204 M 495, 284 NW 63; Fortman v City of Mpls. 212 M 340, 4 NW(2d) 349.

Lands having been forfeited to the state deeds thereafter may be recorded without the payment of the cancelled taxes. OAG June 21, 1943 (131-E).

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

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considered as affected by L. 1935, c. 278, s. 10; L. 1935, c. 386; and L. 1941, c. 374. See, clarifying act, L. 1945, c. 169. 1944 OAG 57, May 8, 1944 (700-B-28).

State school lands sold on certificate and thereafter forfeited for non-payment of taxes again become trust lands. OAG Nov. 26, 1945 (700-D).

Immediately upon forfeiture under sections 281.16 to 282.27 the county auditor should cancel special assessments on the tax-forfeited lands. OAG Nov. 29, 1946 (921-B).

### 282.08 APPORTIONMENT OF PROCEEDS.

Amended by L. 1947 c. 553 s. 1.

Upon tax-forfeiture of land, there is no abatement or reduction of drainage assessments. OAG Feb. 4, 1944 (407-D).

There is no requirement for repair of sidewalk fronting on tax-forfeited land, but where money is available from rental or sale it may be used to pay special assessments. OAG July 6, 1944 (425-C-15).

Where tax-forfeited lands within the reforestation area are created under sections 84A.31 through 84A.40, and 88.64 through 88.75, are repurchased, the money proceeds are required by L. 1943, c. 164, s. 6, to be deposited in the special fund created by section 282.19. OAG Oct. 5, 1945 (107-B-19).

### 282.09 FORFEITED TAX SALE FUND.

Amended by L. 1947 c. 346, s. 1.

Forfeited tax sale fund cannot be used for cutting weeds except in counties having cities of the first class. 1944 OAG 377, Aug. 7, 1944 (107-B-19).

Moneys derived from sale of gravel sold from tax-forfeited lands must be credited to the tax-forfeited sale funds. OAG Aug. 14, 1945.

Upon repurchase of tax-forfeited land in reforestation area the proceeds should be placed in a special fund and remitted to the commissioner of conservation. OAG Oct. 5, 1945 (107-B-19).

Members of the Ramsey County board of commissioners for services in connection with tax-forfeited land may receive, under L. 1947, c. 346, up to \$300 in addition to the statutory salary of \$2,000. OAG May 19, 1947 (124).

A general state law establishing the state policy supersedes any inconsistent provision of a city charter; so that, the commissioner of finance of the city of St. Paul may accept the position of tax-forfeited land commissioner of the county of Ramsey and receive compensation therefor under L. 1947, c. 346. OAG May 29, 1947 (104-B-16).

In addition to other lawful compensation county commissioners, for services in relation to tax-forfeited land, may receive compensation as provided in L. 1947, c. 346, and L. 1947, c. 583. OAG July 21, 1947 (23-D).

### 282.10 REIMBURSEMENT OF PURCHASE PRICE IN CERTAIN CASES.

Where there is a mutual mistake of fact regarding the property purchased the county board may, upon proper showing and upon reconveyance of the property to the state, refund the purchase price; but the board cannot modify the contract of sale, or refund a part of the purchase price. It must be all or nothing. OAG March 3, 1947 (425-C).

### 282.11 APPLICATION.

A careful reading of sections 282.01 to 282.13 and other sections in chapter 282 leads to the conclusion that the "sale" concerning which the 1941 law speaks is such a sale as is made between the state and third parties and is clearly distinguishable from the taking or forced sale under condemnation. State v Flach, 213 M 358, 6 NW(2d) 808.

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### 282.13 COUNTY LAND COMMISSIONER; COMPENSATION.

County land commissioner may be deputy county auditor if separately appointed and separately paid. 1944 OAG 232, Dec. 2, 1944 (358-A-2).

Where veteran applicants for the office of county land commissioner do not possess the necessary qualifications for the office the county board, acting in good faith, may appoint a non-veteran. OAG May 20, 1946 (85-C).

### 282.131 CERTAIN POWERS AND DUTIES MAY BE DELEGATED.

Amended by L. 1947 c. 369 s. 1.

## CONSERVATION AREA

### 282.14 CLASSIFICATION OF FORFEITED LANDS.

Parcels of agricultural lands in conservation areas, the whole of which have been classified, appraised, the sale approved and offered for sale, may not legally be split into portions and offered separately at the sale. 1944 OAG 56, Feb. 8, 1944 (700-D-28).

Where land in a conservation area under sections 84A.20 through 84A.30 is sold to a private individual under provisions of sections 282.14 through 282.22, sand and gravel is not included in reservation of "minerals." OAG Aug. 13, 1946 (311-J).

### 282.15 SALES OF FORFEITED LANDS.

An immaterial defect in reference to statute does not invalidate the published notice of sale of tax-forfeited lands in conservation area. 1942 OAG 326, Nov. 14, 1941 (419-B).

Any contract between a purchaser and the county auditor must follow the provisions of the statute, otherwise it is void. OAG Sept. 24, 1945.

### 282.16 PUBLIC SALE; NOTICE.

Where a parcel of agricultural land is classified, appraised, sale approved and properly for sale, the parcel must be sold in one tract. OAG Feb. 8, 1944 (700-D-2).

### 282.17 CANCELLATION OF CONTRACTS.

Amended by L. 1947 c. 484 s. 1.

### 282.19 COUNTY TREASURER TO COLLECT PAYMENTS.

Amended by L. 1947 c. 484 s. 2.

Rentals paid on conservation lands when collected by the county auditor must be remitted to the state auditor without deduction other than the per diem payments to the county commissioners; but the proceeds of rentals of non-conservation lands are credited to the tax-forfeited sales fund, and after deducting the authorized statutory deduction, shall be distributed in accordance with the provisions of sections 282.05, 282.08. OAG Oct. 5, 1945 (107-B-19).

Only charges against and payments from the special fund created by section 282.19 and authorized by the provisions of the section may be made by the county auditor. Fees of the sheriff for serving notices of expiration of redemption of tax-forfeited lands in area created by sections 88.54 to 88.63 may not be paid out of said fund. OAG May 27, 1946 (107-B-19).

### 282.20 MINERAL RIGHTS RESERVED.

Sand and gravel are not minerals within the meaning of the statute providing for the reservation of mineral rights to the state. OAG Aug. 13, 1946 (311-J).

**282.222 SALE.**

Subd. 4, amended by L. 1947 c. 484 s. 3.

Subd. 5, L. 1947 c. 484 s. 4.

Subd. 6, L. 1947 c. 484 s. 5.

**282.226 FUNDS COLLECTED.**

Amended by L. 1947 c. 484 s. 7.

Cost of recording certificate of forfeiture as required by section 281.23, subd. 8, is not authorized by section 282.226, and must be paid out of counties' general revenue fund. OAG May 27, 1946 (107-B-19).

**282.227 SEVERABLE.**

HISTORY. 1947 c. 484 s. 8.

**282.241 REPURCHASE OF LAND AFTER FORFEITURE FOR TAXES.**

Amended by L. 1947, c. 490 s. 1.

Under L. 1933, c. 407, the word "taxes" included assessments for local improvements included in the tax judgment. *State ex rel v Monick*, 201 M 635, 277 NW 211.

In the absence of constitutional or statutory limitations a state may sell and dispose of its property for cash or on credit on its own terms and conditions. The purpose of Ex. L. 1937, c. 88, was to furnish a speedy and effective means by which tax-forfeited lands might return to the tax rolls. *State ex rel v Hubbard*, 203 M 111, 280 NW 9.

Laws 1941, c. 43, is "remedial" in purpose. The state does not wish to deprive owners of their realty, and it is the policy of the state to protect owners from tax forfeiture, and all means have been devised to implement such policy so long as there is no injury to the general public. *Burnquist v Flach*, 213 M 353, 6 NW(2d) 805.

Wife of man who owned tax-forfeited land at time of forfeiture is not authorized to repurchase in her own name. OAG Jan. 21, 1946 (425-c-13).

Where land was forfeited, on Dec. 20, 1944, for nonpayment of taxes for 1936, and subsequent years, the last date for repurchase by the owner was one year from the date of the forfeiture. OAG Nov. 12, 1946 (425-C-13).

L. 1945, c. 296, coded as sections 282.241 to 282.334 provides a complete act permitting repurchase of tax-forfeited lands, the conditions and proceedings being set out in detail. L. 1947, c. 490, modifies and amends section 282.241. All applications must be made as provided in L. 1947, c. 490. OAG June 11, 1947 (425-c-13).

County board must pass upon each application to repurchase tax-forfeited lands. OAG June 25, 1947 (425-c-13).

**282.311 EXCEPTIONS.**

L. 1945, c. 296, s. 8, does not apply to lands which have been classified by the county board as conservation lands. Such classification cuts off former owner's privilege of repurchase. OAG Sept. 5, 1945 (425-C-13); OAG Oct. 28, 1946 (425-C-13).

**282.34 RESTATEMENT OF AGREEMENTS ON TAX-FORFEITED LANDS.**

Repurchase was made under Ex. L. 1937, c. 88, and a holder of a mortgage on the land at the time of the forfeiture foreclosed and obtained a sheriff's sale certificate. Such certificate holder under the provisions of L. 1945, c. 505, s. 1, was entitled to apply for reinstatement of the repurchase agreement. OAG Sept. 27, 1945 (425-c-13).

Laws 1945, c. 505, applies only to contracts for repurchase of tax-forfeited lands, and does not apply to contracts for purchase by the general public at public or private sale. OAG May 3, 1946 (425-c-13).

**282.35 OWNER OF FORFEITED LAND MAY RE-PURCHASE.**

In the early history of the state the title passed without notice. The first requirement of notice is found in L. 1877, c. 6, s. 37, which applied only to the assignee of the state prior to forfeiture. Laws 1889, c. 198, applied to the assignee of the state after forfeiture. The tax code, L. 1902, c. 2, repealed all laws relating to notice. Laws 1905, c. 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 required of a 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.

The emergency tax laws fall into three classes: (1) repurchase acts, the base act being L. 1933, c. 407; (2) redemption of forfeited land act, the base act being L. 1935, c. 278; (3) confession of judgment acts, the base act being Ex. L. 1936, c. 72.

As to the so-called repurchase acts, L. 1933, c. 407, applied to lands forfeited to the state for 1926, 1927, taxes, provided the land-owner acted within a year from the date of forfeiture. Laws 1937, c. 485, was applicable where land had been forfeited on account of unpaid taxes for years 1928, 1929, provided the application be made prior to Dec. 31, 1937. Ex. L. 1937, c. 88, applied to years 1926, 1927, 1928, 1929, 1930, provided the application was made prior to March 1, 1938. Laws 1939, c. 283, applied to certain lands, and provided the application be made prior to Nov. 1, 1939. Laws 1941, c. 43, required that the application be made prior to Nov. 1, 1941. Laws 1943, c. 164, required the application be made prior to Nov. 1, 1943. *State ex rel v Monick*, 201 M 635, 277 NW 211; *State ex rel v Hubbard*, 203 M 113, 280 NW 9; *State v Aitkin Co. Lands*, 204 M 495, 284 NW 63; *Fortman v Mpls.* 212 M 343, 4 NW(2d) 349; *State ex rel v Flach*, 213 M 353, 6 NW(2d) 805.

Under L. 1945, c. 505, a reinstatement of a contract for purchase of tax-forfeited land means reinstatement of the entire contract. Reinstatement of a portion of the land covered by the original contract is not permitted. OAG Dec. 20, 1946 (425-c-13).

Validity of tax bargain statutes. 18 MLR 849.