

CHAPTER 279

DELINQUENT REAL ESTATE TAXES

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279.01 DUE DATE; PENALTIES, INTEREST.

Subdivision 1. On June first, of each year, with respect to property actually occupied and used as a homestead by the owner of the property, a penalty of three percent shall accrue and thereafter be charged upon all unpaid taxes on real estate on the current lists in the hands of the county treasurer, and a penalty of seven percent on non-homestead property. Thereafter, for both homestead and non-homestead property, on the first day of each month, up to and including November first following, an additional penalty of one percent for each month shall accrue and be charged on all such unpaid taxes. When the taxes against any tract or lot exceed \$10, one-half thereof may be paid prior to June first; and, if so paid, no penalty shall attach; the remaining one-half shall be paid at any time prior to November first following, without penalty; but, if not so paid, then a penalty of four percent shall accrue thereon for homestead property and a penalty of four percent on non-homestead property. Thereafter, for homestead property, on the first day of each month up to and including January 1 following, an additional penalty of two percent for each month shall accrue and be charged on all such unpaid taxes. Thereafter, for non-homestead property, on the first day of each month up to and including January 1 following, an additional penalty of four percent for each month shall accrue and be charged on all such unpaid taxes. If one-half of such taxes shall not be paid prior to June first, the same may be paid at any time prior to November first, with accrued penalties to the date of payment added, and thereupon no penalty shall attach to the remaining one-half until November first following; provided, also, that the same may be paid in installments as follows: One-fourth prior to April first; one-fourth prior to June first; one-fourth prior to September first; and the remaining one-fourth prior to November first, subject to the aforesaid penalties. Where the taxes delinquent after November first against any tract or parcel exceed \$40, they may be paid in installments of not less than 25 percent thereof, together with all accrued penalties and costs, up to the next tax judgment sale, and after such payment, penalties, interest, and costs shall accrue only on the sum remaining unpaid. Any county treasurer who shall make out and deliver or countersign any receipt for any such taxes without including all of the foregoing penalties therein, shall be liable to the county for the amount of such penalties.

Subd. 2. In the case of any tax on homestead property paid within 30 days after the due date specified in this section, the county board may, with the concurrence of the county treasurer, delegate to the county treasurer the power to abate the penalty provided for late payment. Notwithstanding section 270.07, if

any county board so elects, the county treasurer may abate the penalty if in his judgment the imposition of the penalty would be unjust and unreasonable.

History: *RL s 903; 1923 c 324; 1925 c 155 s 1; 1931 c 316 s 1; 1933 c 121 s 1; 1963 c 18 s 1; 1974 c 459 s 1; 1980 c 437 s 10 (2104)*

279.02 DUTIES OF COUNTY AUDITOR AND TREASURER.

On the first business day in January, of each year, the county treasurer shall return the tax lists in his hands to the county auditor, who shall compare the same with the statements receipted for by the treasurer on file in the auditor's office and each tract or lot of real property against which the taxes, or any part thereof, remain unpaid, shall be deemed delinquent, and thereupon an additional penalty of two percent on the amount of the original tax remaining unpaid shall immediately accrue and thereafter be charged upon all such delinquent taxes; and any auditor who shall make out and deliver any statement of delinquent taxes without including therein the penalties imposed by law, and any treasurer who shall receive payment of such taxes without including in such payment all items as shown on the auditor's statement, shall be liable to the county for the amounts of any items omitted.

History: *RL s 904; 1931 c 316 s 2; 1933 c 121 s 2; 1943 c 281 s 1; 1Sp1981 c 1 art 8 s 13 (2105)*

279.03 INTEREST ON DELINQUENT PROPERTY TAXES.

Subdivision 1. **Rate.** The rate of interest on delinquent property taxes levied in 1979 and prior years is fixed at six percent per year until January 1, 1983. Thereafter interest is payable at the rate determined pursuant to section 549.09. The rate of interest on delinquent property taxes levied in 1980 and subsequent years is the rate determined pursuant to section 549.09. All provisions of law except section 549.09 providing for the calculation of interest at any different rate on delinquent taxes in any notice or proceeding in connection with the payment, collection, sale, or assignment of delinquent taxes, or redemption from such sale or assignment are hereby amended to correspond herewith. Section 549.09 shall continue in force with respect to judgments arising out of petitions for review filed pursuant to chapter 278 irrespective of the levy year.

For property taxes levied in 1980 and prior years, interest is to be calculated at simple interest from the second Monday in May following the year in which the taxes become due until the time that the taxes and penalties are paid, computed on the amount of unpaid taxes, penalties and costs. For property taxes levied in 1981 and subsequent years, interest shall commence on the first day of January following the year in which the taxes become due, but the county treasurer need not calculate interest on unpaid taxes and penalties on the tax list returned to the county auditor pursuant to section 279.01.

If interest is payable for a portion of a year, the interest is calculated only for the months that the taxes or penalties remain unpaid, and for this purpose a portion of a month is deemed to be a whole month.

Subd. 2. **Composite judgment.** Amounts included in composite judgment, as authorized by section 279.37, and confessed on or after July 1, 1982, are subject to interest at the rate determined pursuant to section 549.09. During each calendar year, interest shall accrue on the unpaid balance of the composite judgment from the time it is confessed until it is paid. The rate of interest is subject to change each year in the same manner that section 549.09 provides for rate changes on judgments. Interest on the unpaid contract balance on judgments

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confessed before July 1, 1982, is payable at the rate applicable to the judgment at the time that it was confessed.

History: 1931 c 315; 1933 c 121 s 3; 1943 c 281 s 2,3; 1979 c 50 s 34; 1980 c 437 s 11; 1Sp1981 c 1 art 8 s 14; 1982 c 523 art 39 s 2 (2105-1)

NOTE: See section 281.02.

279.04 APPLICATION.

The provisions of sections 279.01 to 279.04 shall not apply to the taxes levied for a specific year, the time and method of payment of which, or the penalties and interest on which, are provided for or fixed by any other valid law.

History: 1933 c 121 s 4 (2105-2)

279.05 DELINQUENT LIST, FILING, EFFECT.

On or before February fifteenth, in each year, the county auditor shall file with the clerk of the district court of the county a list of the delinquent taxes upon real estate within his county, which list shall contain a description of each parcel of land on which such taxes shall be so delinquent, except such parcels as shall have theretofore been bid in by the state and not assigned by it or redeemed, with the name of the owner, if known, and, if unknown, so stated, appearing on the delinquent list, and the total amount of taxes and penalties, with the years for which the same are delinquent, set opposite such description, and shall verify such list by his affidavit. The filing of such list shall have the effect of filing a complaint in an action by the county against each parcel of land therein described, to enforce payment of the taxes and penalties therein appearing against it, and shall be deemed the institution of such action, and the same shall operate as notice of the pendency thereof. The affidavit shall be substantially in the following form:

State of Minnesota)
) ss.
County of)

....., being by me first duly sworn, deposes, and says that he is the auditor of the county of; that he has examined the foregoing list, and knows the contents thereof; and that the same is a correct list of taxes delinquent for the year (or years) therein appearing upon real estate in said county.

Subscribed and sworn to before me this day of, 19.....

History: RL s 905; 1955 c 225 s 1 (2106)

279.06 COPY OF LIST AND NOTICE.

Within five days after the filing of such list, the clerk shall return a copy thereof to the county auditor, with a notice prepared and signed by him, and attached thereto, which may be substantially in the following form:

State of Minnesota)
) ss.
County of)

District Court
..... Judicial District.

The state of Minnesota, to all persons, companies, or corporations who have or claim any estate, right, title, or interest in, claim to, or lien upon, any of the several parcels of land described in the list hereto attached:

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The list of taxes and penalties on real property for the county of remaining delinquent on the first Monday in January, 19....., has been filed in the office of the clerk of the district court of said county, of which that hereto attached is a copy. Therefore, you, and each of you, are hereby required to file in the office of said clerk, on or before the twentieth day after the publication of this notice and list, your answer, in writing, setting forth any objection or defense you may have to the taxes, or any part thereof, upon any parcel of land described in the list, in, to, or on which you have or claim any estate, right, title, interest, claim, or lien, and, in default thereof, judgment will be entered against such parcel of land for the taxes on such list appearing against it, and for all penalties, interest, and costs.

(Signed)
 Clerk of the District Court of the County
 of

(Here insert list.)

The list referred to in the notice shall be substantially in the following form:

List of real property for the county of, on which taxes remain delinquent on the first Monday in January, 19...:

Name of Owner	Town of (Fairfield), Township (40), Subdivision of	Range (20), Section	Section	Total Tax and Penalty \$ cts.
John Jones	S.E. 1/4 of S.W. 1/4..		10	2.20
James Smith	Und. half of S.E. 1/4..		20	4.40
Amos Brown	Beg. at; thence in N.E. dirc. 40 rods to; thence in E. dirc. 10 rods to; thence in S.W. dirc. 40 rods to; thence 10 rods N. to place of beg.....		21	3.15

As to platted property, the form of heading shall conform to circumstances and be substantially in the following form:

Name of Owner	City of (Smithtown) Brown's Addition, or Subdivision	Lot	Block	Total Tax and Penalty \$ cts.
John Jones		15	9	2.20
James Smith		12	9	1.20
Amos Brown		4	10	4.40

The names, descriptions, and figures employed in parentheses in the above forms are merely for purposes of illustration.

The name of the town, township, range or city, and addition or subdivision, as the case may be, shall be repeated at the head of each column of the printed lists as brought forward from the preceding column.

History: *RL s 906; 1973 c 123 art 5 s 7 (2107)*

279.07 PUBLICATION, BIDS.

Prior to the day on which the county board designates a newspaper for the publication of the notice and list, any publisher or proprietor of a legal newspaper, as defined by law, may file with the county auditor an offer to publish such notice and list in such paper, stating the rate at which he will make such publication, which shall not exceed the amounts provided for in section 331.08. The board may in its discretion receive offers presented to it at any time prior to the time when designation is made.

History: *RL s 907; 1941 c 400 s 1; 1951 c 505 s 1; 1957 c 443 s 2 (2108)*

279.08 NEWSPAPER, DESIGNATION.

At their annual meeting in January, and prior to the designation, the county board shall open, examine, and consider all offers for publication filed or presented as provided in section 279.07, and shall thereupon award the publication of the notice and list to the publisher or proprietor of the newspaper whose offer is found to be the lowest, and does not exceed the amounts provided for in section 331.08. The board may reject any offer, if in its judgment the public interest so requires, and thereupon designate a newspaper without regard to any rejected offer. In counties now or hereafter having a population of 450,000 or more, the board shall designate a daily newspaper of general circulation throughout such county. If no such daily newspaper submits a bid at the rate herein provided, the board may designate a weekly newspaper of general circulation throughout the county. In any county in which there is no legal newspaper, the board shall designate any such newspaper printed in the judicial district in which the county is situated, and circulating in the county. Every such designation shall be by resolution, which shall be substantially in the following form:

“Resolved, that (here state the name of the newspaper) is hereby designated by the county board of the county of as the newspaper in which the notice and list of the real estate remaining delinquent on the first Monday of January, 19....., shall be published.”

A copy of the resolution certified by the auditor shall be filed with the clerk of the district court. If, for any reason, the board fails to designate a newspaper, or the proprietor of the newspaper fails to give the required bond, the auditor shall thereupon designate the same in writing and immediately file such writing in his office and a certified copy thereof with such clerk.

History: *RL s 908; 1911 c 5 s 1; 1941 c 400 s 1; 1951 c 505 s 2; 1957 c 443 s 3 (2109)*

279.09 PUBLICATION OF NOTICE AND LIST.

The county auditor shall cause the notice and list of delinquent real property to be published once in each of two consecutive weeks in the newspaper designated, the first publication of which shall be made on or before March twentieth immediately following the filing of such list with the clerk of the district court. The auditor shall deliver such list to the publisher of the newspaper designated, at least 20 days before the date upon which the list shall be published for the first time.

History: *RL s 909; 1955 c 224 s 1 (2110)*

279.10 PUBLICATION CORRECTED.

Immediately after preparing his forms for printing such notice and list, and at least five days before the first day for the publication thereof, every such publisher shall furnish proof of the proposed publication to the county auditor for correc-

tion. When such copy has been corrected by the auditor he shall return the same to the printer, who shall publish it as corrected. On the first day on which such notice and list are published, the publisher shall mail a copy of the newspaper containing the same to the auditor. If during the publication of the notice and list, or within ten days after the last publication thereof, the auditor shall discover that such publication is invalid, he shall forthwith direct the publisher to republish the same as corrected for an additional period of two weeks. If such republication is necessary by reason of the neglect of the publisher, he shall receive no further compensation therefor; otherwise, he shall be entitled to the same compensation as allowed by law for the original publication.

History: *RL s 910 (2111)*

279.11 [Repealed, 1Sp1981 c 1 art 8 s 19]

279.12 CERTIFICATE BEFORE PAYMENT.

Before such publisher shall be entitled to the fees for publishing such notice and list, he shall obtain from the county attorney and file with the county auditor a certificate that the publication was made according to law; and any auditor paying for such publication without such certificate being filed shall be liable to the county for the amount so paid. If there be no county attorney, or if upon application he refuse to give such certificate, the publisher may apply to the attorney general, on five days' notice to the county auditor and to the county attorney, if any, of such application; and, on filing with the auditor the certificate of the attorney general that such publication was made according to law, the auditor shall issue a warrant for the payment of such fees.

History: *RL s 912 (2113)*

279.13 AFFIDAVIT OF PUBLICATION.

The owner, publisher, manager, or foreman in the printing office of the newspaper in which such notice and list have been published shall forthwith make and file with the clerk of the district court an affidavit of such publication, stating the days on which such publication was made and shall also file with the clerk three copies of each number of the paper and supplement, if any, in which the notice and list have appeared. The publication may be made in such newspaper, or partly therein and partly in a supplement issued therewith. The affidavit shall be substantially in the following form:

State of Minnesota)
) ss.
 County of)

....., being first duly sworn, deposes and says that he is the
 (here state whether affiant is owner, publisher, manager, or foreman) of
 (here state name of newspaper), in which was printed the notice and list of
 real estate remaining delinquent in county on the first Monday of
 January, 19.....; that the notice and list were duly printed and published in the
 newspaper on each of the following days: On (day of week), the
 ... day of, 19....., and (day of week), the
 ... day of, 19.....; and that each of the days on which the notice and
 list were so published was the usual and regular day of the issuance and
 publication of the newspaper.

.....
 Subscribed and sworn to before me this day of
, 19.....

History: *RL s 913 (2114)*

279.14 CONCLUSIVENESS OF JUDGMENT, JURISDICTIONAL DEFECTS.

When the last publication shall have been made the notice shall be deemed to have been served and the court to have acquired full and complete jurisdiction to enforce against each parcel of land in such published list described in the taxes, accrued penalties, and costs upon it then delinquent, so as to bind every estate, right, title, interest, claim, or lien, in law or equity, in, to, or upon such parcel of land, of every person, company, or corporation. Such jurisdiction shall not be affected by any error in making the list filed with the clerk, nor by any error, irregularity, or omission in the assessment or levy of the taxes, or in any other proceedings, prior to filing the list; nor by any mistake in copying the list for publication, or in publishing the list, or in the designation of the newspaper wherein such list is published; nor by reason of the taxes having been charged in any other name than that of the rightful owner; nor by any mistake in the amount of tax in such published list appearing against any piece or parcel of land therein described; provided, that any judgment rendered in such proceedings shall be void upon satisfactory proof made at any time that such real estate was exempt from taxation or that such taxes were paid before judgment was rendered.

History: *RL s 914; ISp1981 c 1 art 8 s 15 (2115)*

279.15 WHO MAY ANSWER; FORM.

Any person having any estate, right, title, or interest in, or lien upon, any parcel of land embraced in such list as published, within 20 days after the last publication of the notice, may file with the clerk of the district court an answer, verified as a pleading in a civil action, setting forth his defense or objection to the tax or penalty against such parcel of land. The answer need not be in any particular form, but shall clearly refer to the parcel of land intended, and set forth in concise language the facts constituting the defense or objection to such tax or penalty; and, if the list shall embrace the taxes for two or more years, the defense or objection may be to the taxes or penalty for one or more of such years. The answer may embrace his defense or objection to any number of parcels of land in or upon which he has any estate, right, title, interest, or lien. No reply shall be necessary, but at the trial the allegations of the answer shall be deemed to be denied.

History: *RL s 915 (2116)*

NOTE: See sections 278.01 and 278.13.

279.16 JUDGMENT WHEN NO ANSWER; FORM; ENTRY.

Upon the expiration of 20 days from the publication of the notice and list, the affidavit of publication being filed, the clerk shall enter judgment against each and every such parcel as to which no answer has been filed, which judgment shall include all such parcels, and shall be substantially in the following form:

State of Minnesota) District Court,
) ss.
County of) Judicial District.

In the matter of the proceedings to enforce payment of the taxes on real estate remaining delinquent on the first Monday in January, 19....., for the county of, state of Minnesota.

A list of taxes on real property, delinquent on the first Monday in January, 19....., for said county of, having been duly filed in the office of the clerk of this court, and the notice and list required by law having been duly published as required by law, and more than 20 days having elapsed since the last publication

of the notice and list, and no answer having been filed by any person, company, or corporation to the taxes upon any of the parcels of land hereinafter described, it is hereby adjudged that each parcel of land hereinafter described is liable for taxes, penalties, and costs to the amount set opposite the same, as follows:

Description.	Amount.
--------------	---------

The amount of taxes, penalties, and cost to which, as hereinbefore stated, each of such parcels of land is liable, is hereby declared a lien upon such parcel of land as against the estate, right, title, interest, claim, or lien, of whatever nature, in law or equity, of every person, company, or corporation; and it is adjudged that, unless the amount to which each of such parcels is liable be paid, each of such parcels be sold, as provided by law, to satisfy the amount to which it is liable.

Dated this day of, 19.....

.....
 Clerk of the District Court,
 County of

The judgment shall be entered by the clerk in a book to be kept by him, to be called the real estate tax judgment book, and signed by the clerk. The judgment shall be written out on the left-hand pages of the book, leaving the right-hand pages blank for the entries in this chapter hereinafter provided; and the same presumption in favor of the regularity and validity of the judgment shall be deemed to exist as in respect to judgments in civil actions in such court, except where taxes have been paid before the entry of judgment, or where the land is exempt from taxation, in which cases the judgment shall be prima facie evidence only of its regularity and validity.

History: *RL s 916 (2117)*

279.17 PROCEEDINGS ON ANSWER.

If answers be filed within the time hereinbefore prescribed, the issues raised thereby shall stand for trial at any general term of the district court in the county where such proceedings are pending in session when the time to file answers shall expire, or, if the court be not then in session, then at the next general or special term appointed to be held in such county; and, if no such term be appointed to be held within 30 days thereafter, then the same shall be brought to trial at any general term appointed to be held within the judicial district, upon ten days notice. The county attorney of the county in which such taxes are levied shall take charge of and prosecute such proceedings, but the county board may employ any other attorney to assist him. At the term at which the proceedings come on for trial, they shall take precedence of all other business before the court. The court shall, without delay and summarily, hear and determine the objections or defenses made by the answers, and shall direct judgment accordingly, and in the trial thereof shall disregard all technicalities and matters of form not affecting the substantial merits.

History: *RL s 917 (2118)*

279.18 JUDGMENT.

If, after hearing, the court sustain the taxes and penalties, in whole or in part, against any parcel of land, judgment shall be rendered against the same for the amount as to which such taxes and penalties shall be sustained, with costs and disbursements, and interest at one percent per month from and after the expiration of the 20 days named in the published notice, unless the court otherwise direct. The judgment may be substantially in the form prescribed in cases where no answer is filed, except that, in addition, it shall state that it was rendered after answer and trial; and after the description of each parcel shall be stated the name of the person answering as to the same. If the court sustain the defense or objection as to any parcel, the judgment shall discharge such parcel from the taxes

in such list charged against it, or from such portion of such taxes as to which the defense or objection is sustained, and from all penalties. If such defense or objection is not sustained for the entire amount of taxes charged against any parcel, judgment shall be rendered against the same for the amount as to which the defense or objection is not sustained. The court may, in its discretion, award disbursements for or against either party.

History: *RL s 918 (2119)*

279.19 APPLICATION FOR JUDGMENT.

If all provisions of law in relation to assessment and levy of taxes have been complied with, of which the list so filed with the clerk shall be prima facie evidence, judgment shall be rendered for such taxes and the penalties and costs. No omission of any of the things by law provided in relation to such assessment and levy, or of anything required by any officer to be done prior to the filing of the list with the clerk, shall be a defense or objection to the taxes appearing upon any parcel of land, unless it be also made to appear to the court that such omission has resulted to the prejudice of the party objecting, and that the taxes thereon have been partially, unfairly, or unequally assessed, or that such parcel has been assessed and taxed at a valuation greater than its real and actual value, in which case, but no other, the court may reduce the amount of taxes thereon, and give judgment accordingly. It shall always be a defense, when made to appear by answer and proofs, that the taxes have been paid, or that the property was not subject to taxation.

History: *RL s 919 (2120)*

279.20 PAPERS FILED BY CLERK.

The clerk shall attach together and file the list, notice, affidavit of publication, one copy of the newspaper and supplement, if any, in which the notice and list were published, all answers, all orders made in the proceedings, and all affidavits and other papers filed in the course thereof.

History: *RL s 920 (2121)*

279.21 APPEAL TO SUPREME COURT.

The orders and judgment of the district court shall be subject to review by the supreme court as in other civil actions. As soon as the appeal is decided the clerk of the supreme court shall enter the proper order and forthwith transmit a certified copy thereof to the clerk of the district court. Such appeal shall not prevent the entry of judgment in the district court, or the sale of any parcel of land pursuant to such judgment, unless at the time of taking the appeal there be filed with the clerk of the district court a bond, with sureties, in an amount to be approved by the judge thereof, conditioned for the payment of the amount for which such judgment shall be rendered, and the penalties and costs allowed by law, if the decision of the district court shall be affirmed.

History: *RL s 921 (2122)*

279.22 OPENING AND VACATING OF TAX JUDGMENTS.

The court wherein any tax judgment is entered may, at any time, upon satisfactory proof, vacate and set aside such judgment on the ground that the tax in question was paid before judgment was rendered, or that the land in question was not subject to taxation. Application to open such judgment may be summary, upon such notice to the purchaser and county auditor as the court may direct; and, if a defense is allowed to be interposed, the case shall proceed in all respects as in defended cases.

History: *RL s 922; 1939 c 311 (2123)*

279.23 COPY OF JUDGMENT TO COUNTY AUDITOR.

When any real estate tax judgment is entered, the clerk shall forthwith deliver to the county auditor, in a book to be provided by the auditor, a certified copy of such judgment, which shall be written on the left-hand pages of the book, leaving the right-hand pages blank.

History: *RL s 923 (2124)*

279.24 CLERK'S FEES.

For all services in tax proceedings, except oaths to witnesses on trial, the clerk shall make a charge of one dollar for each description, including the entry to be made by him on the right-hand page of the real estate tax judgment book, which sum shall be included in the amount charged to each description in the judgment. Of said charge 45 cents shall be allowed the clerk for his services. For each oath administered to a witness on the trial, he shall receive 25 cents, which sum shall be included in any amount charged by the judgment against the parcel with respect to which the oath was administered. Such fees shall be paid to him by the county in which the taxes are levied. This section shall not relate to or affect the fees of any clerk of the district court of any county where such fees are now fixed by special law.

History: *RL s 924; 1949 c 149 s 1; 1951 c 509 s 1 (2125)*

279.25 PAYMENT BEFORE JUDGMENT.

Before sale any person may pay the amount adjudged against any parcel of land. If payment is made before entry of judgment, and the delinquent list has been filed with the clerk, the county auditor shall immediately certify such payment to the clerk, who shall note the same on such delinquent list; and all proceedings pending against such parcel shall thereupon be discontinued. If payment is made after judgment is entered and before sale, the auditor shall certify such payment to the clerk, who, upon production of such certificate and the payment of a fee of ten cents, shall enter on the right-hand page of the real estate tax judgment book, and opposite the description of such parcel, satisfaction of the judgment against the same. The auditor shall make proper entries in his books of all payments made under this section.

History: *RL s 925 (2126)*

279.32 DELINQUENT TAXES; ENTRY OF JUDGMENT IN CERTAIN CASES.

Where lands bid in for the state for delinquent taxes between the passage of Laws 1933, Chapter 366, and the passage of Laws 1935, Chapter 278, have not been assigned to actual purchasers, the county board of the county in which such lands are located may, at any time prior to February 1, 1945, adopt a resolution instructing the county auditor to list such lands as delinquent for taxes for 1942 and to file and docket such list with the clerk of the district court as though said taxes for 1942 were the first delinquent taxes against said lands and judgment shall be entered and proceedings taken with reference to such lands as though the delinquent taxes for the year 1942 constituted the first instance of real estate tax delinquency with respect thereto; provided, that nothing herein contained shall impair the right of the state to enforce any lien in its favor which has accrued by reason of the delinquency or nonpayment of taxes for any year prior to the year 1942.

History: *1939 c 310; 1943 c 240 s 1 (2164-4c)*

279.33 CANCELANON OF CERTIFICATES OF FORFEITURE FOR LANDS WHICH WERE EXEMPT.

Where a certificate of forfeiture required by section 281.23, subdivision 8, describing lands which were exempt from taxation under the laws of the United States in the year upon which the supposed forfeiture is based, or which describes lands that were owned by the state of Minnesota, or some department or subdivision thereof, at the time the supposed forfeiture took place or lands which, because of defective service of the notice of forfeiture or other reason, the title thereto did not in fact forfeit to the state, has been erroneously recorded or filed, such forfeiture may be set aside and such certificate may be canceled as to any such lands in the manner provided in section 279.34.

History: 1939 c 312 s 1; 1941 c 441 s 1; 1947 c 279 s 1 (2164-12a)

279.34 APPLICATION BY OWNER.

The owner at the time of forfeiture or someone authorized to act in his behalf shall file an application for cancelation with the county auditor submitting therewith a statement of the facts of the case and satisfactory proof that the supposed forfeiture was erroneous upon one or more of the grounds stated in section 279.33. Such application may be made by the county auditor when he has knowledge of the facts. Such application shall be considered by the county board and the county auditor as in the case of application under section 270.07, and shall thereafter be submitted to the commissioner of revenue with the recommendation of the county board and the county auditor. The commissioner of revenue shall consider the application and if he determines that the supposed forfeiture was erroneous upon such grounds he shall order the county auditor to record and file in the manner in which the original certificate of forfeiture was recorded and filed a certificate of cancelation, specifically describing the land which did not in fact forfeit, which shall refer to the original certificate, the provisions of sections 279.33 and 279.34, and the proceedings taken pursuant thereto, and state that the original certificate is void, as to such lands, upon the grounds so determined. Upon compliance with such order by the county auditor, the supposed forfeiture and original certificate thereof, as to lands included therein but which the commissioner found by order did not in fact forfeit, shall be void. Unless exempt, the lands affected by such cancelation shall be deemed to have been subject to taxation as if the supposed forfeiture had not occurred, and all taxes and assessments which have been canceled or omitted be reinstated or levied and assessed as in the case of omitted taxes, as the case may require.

History: 1939 c 312 s 2; 1941 c 441 s 2; 1947 c 279 s 2; 1973 c 582 s 3 (2164-12b)

NOTE: See chapter 282.

279.35 [Repealed, 1965 c 45 s 73]

279.36 [Repealed, 1965 c 45 s 73]

279.37 CONFESSION OF JUDGMENT FOR DELINQUENT TAXES.

Subdivision 1. **Composition into one item.** Delinquent taxes upon any parcel of real estate which have been bid in for and are held by the state and not assigned by it, may be composed into one item or amount by confession of judgment at any time prior to the forfeiture of such parcel of land to the state for taxes, for the aggregate amount of all such taxes, costs, penalties, and interest accrued against said parcel, as hereinafter provided; provided that only taxes upon property which, for the previous year's assessment, was classified as homestead property pursuant to section 273.13, subdivisions 6, 6a, 7, and 14a shall be eligible to be composed into any confession of judgment pursuant to this section.

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Subd. 2. **Installment payments.** The owner of any such parcel, or any person to whom the right to pay taxes has been given by statute, mortgage, or other agreement, may make and file with the county auditor of the county wherein the parcel is located a written offer to pay the current taxes each year before they become delinquent, or to contest the taxes under Minnesota Statutes 1941, Sections 278.01 to 278.13, and agree to confess judgment for the amount hereinbefore provided, as determined by the county auditor, and shall thereby waive all irregularities in connection with the tax proceedings affecting the parcel and any defense or objection which he may have to the proceedings, and shall thereby waive the requirements of any notice of default in the payment of any instalment or interest to become due pursuant to the composite judgment to be so entered, and shall tender therewith one-tenth of the amount of the delinquent taxes, costs, penalty, and interest, and agree therein to pay the balance in nine equal instalments, with interest as provided in section 279.03, payable annually on instalments remaining unpaid from time to time, on or before December 31 of each year following the year in which judgment was confessed, which offer shall be substantially as follows:

“To the clerk of the district court of county, I,, owner of the following described parcel of real estate situate in county, Minnesota, to-wit: upon which there are delinquent taxes for the year, and prior years, as follows: (here insert year of delinquency and the total amount of delinquent taxes, costs, interest, and penalty) do hereby offer to confess judgment in the sum of \$..... and hereby waive all irregularities in the tax proceedings affecting such taxes and any defense or objection which I may have thereto, and direct judgment to be entered for the amount hereby confessed, less the sum of \$....., hereby tendered, being one-tenth of the amount of said taxes, costs, penalty, and interest; I agree to pay the balance of said judgment in nine equal, annual instalments, with interest as provided in section 279.03, payable annually, on the instalments remaining unpaid from time to time, said instalments and interest to be paid on or before December 31 of each year following the year in which this judgment is confessed and current taxes each year before they become delinquent, or within 30 days after the entry of final judgment in proceedings to contest such taxes under Minnesota Statutes 1941, Sections 278.01 to 278.13.

Dated this, 19.....”

Subd. 3. Upon the receipt of said offer and payment of the sums herein required, the said auditor shall note the same upon his records and shall forthwith file said offer and confession of judgment with the clerk of the district court of the county who is hereby directed to enter judgment in accordance with said offer.

Subd. 4. The auditor shall immediately deliver to the treasurer the initial payments received by him. The judgment so rendered shall not constitute a personal judgment against the party or parties therein and shall be a judgment in rem.

Subd. 5. Upon the entry of said judgment, all the interest on the taxes embraced within said judgment shall be waived, except as herein provided, and further proceedings shall be suspended on any judgment for taxes embraced in said confessed judgment as long as no default exists. Upon the payment in full of the amounts required to be paid under the confessed judgment, except the then current taxes not yet delinquent, the original judgment shall be satisfied.

Subd. 6. The county auditor shall give notice by mail not later than November 30 of each year to the person or persons making such confession of judgment at the address given therein of the payment due under the confession on the following December 31. If the county auditor has not received the installment payment by December 31, he shall give notice by certified mail at the last known

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address of the person making the confession of judgment, without regard to the county or state of his residency. This notice shall state that the property shall be subject to the tax forfeiture laws if payment is not made within 60 days from the preceding December 31. Failure to send or receive the notice shall not operate to postpone any payment or excuse any default under the confession of judgment. Proof of such mailing shall be made by the certificate of the auditor filed in his office.

Subd. 7. The county auditor's statement and county treasurer's receipt issued for payment of a deferred instalment, as herein provided for, shall not read for any specific year's taxes, but shall read for partial or full release of judgment, as the case may be, and shall show the year that such judgment was entered. In distributing the taxes collected in this manner, the county auditor shall apply the same in the inverse order to that in which such taxes were levied. All penalties and interest collected under the provisions of this section shall be apportioned by the county auditor in accordance with Minnesota Statutes 1941, Sections 276.13 and 276.14. A duplicate treasurer's receipt for payment of a deferred instalment, as hereinafter provided, shall be delivered to the clerk of the district court, and the clerk of the district court shall credit the amount so paid upon the judgment entered.

Subd. 8. The party or parties making such confession of judgment shall pay the county auditor a fee of 50 cents and a fee of 50 cents to the clerk of the court for entry of judgment and 15 cents for each full or partial release thereof, which shall be collected by the county auditor; provided, that in counties where said fees would revert to the county revenue fund under existing laws, the county auditor may use said fees for the purchase of supplies necessary to carry out the provisions of this section or for additional clerk hire in his office.

Subd. 9. This section shall not apply to any parcel of land which has become or hereafter may become the absolute property of the state in fee or in trust under the provisions of any law declaring a forfeiture of lands to the state for taxes. Failure to make any payment required by this confessed judgment within 60 days from the date on which payment was due shall constitute a default. In the event of default occurring in the payments to be made under any confessed judgment entered pursuant hereto, the interest waived under the terms of subdivision 5 shall be reinstated and the lands described in such confessed judgment shall thereupon be subject to forfeiture according to the provisions of law applicable thereto.

Subd. 10. Not more than two confessions of judgment and agreement to pay in instalments under this section affecting the same taxes or any portion thereof may be made by or on behalf of any owner of any particular right, title, interest in, or lien upon, any given parcel of land, his heirs, representatives, or assigns.

History: 1945 c 121 s 1-7; 1975 c 339 s 8; 1980 c 437 s 12; 1Sp1981 c 1 art 2 s 16; 1982 c 523 art 39 s 3,4