

JUDICIAL REMEDIES

CHAPTER 229

S. B. No. 196

Introduced by Senators Brunsdale and Day

FORECLOSURE OF REAL ESTATE TAX LIENS

An Act To amend and reenact sections 32-3101, 32-3103 and 32-3106 of the North Dakota Revised Code of 1943, providing that District Courts shall have Jurisdiction in the Foreclosure of Tax liens upon real property, prescribing the procedure in such cases; providing that such remedy shall be cumulative.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 32-3101 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows:

32-3101. In any case in which real estate has been sold at tax sale for general taxes, for special assessments, for hail indemnity taxes, for assessments of irrigation districts, for drain assessments, or for both general taxes and any such special taxes or assessments, the District Court of the proper county shall have jurisdiction in an action in equity brought for that purpose to foreclose the lien of the delinquent taxes and assessments for which such land was sold and to enter judgment foreclosing the same and decreeing that the same shall be sold under special execution in a manner similar to that prescribed in case of the foreclosure by action of a mortgage or other lien upon real property.

If in such action it shall appear that the taxes or assessments, or the tax certificate, are invalid or void by reason of non-compliance with the law, the Court shall determine the true and just amount which the property attempted to be so assessed should pay to make the same uniform with other taxes and assessments for the same purpose, and judgment must be rendered and given against the property liable for such taxes or assessments without regard to the proceedings had for the levy thereof, and such judgment shall be a lien upon the property upon which the taxes or assessments shall have been levied, of equal force and effect as the lien of the tax or assessment, and the lien of such judgment shall be enforced by the Court in such action.

§ 2. AMENDMENT.] That Section 32-3103 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows:

32-3103. An action to foreclose a tax lien may be brought by the purchaser at tax sale or his successor in interest and such tax sale shall be held to have assigned, transferred and conveyed to the purchaser and his successors in interest the lien of the taxes included therein and all subsequent taxes paid by the purchaser or his successors in interest. In case such land, at such tax sale, was struck off to the county, such action shall be brought in the name of the county in which such real estate is situated as plaintiff, and may be instituted by the attorney general or by the state's attorney of such county.

§ 3. AMENDMENT.] That Section 32-3106 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows:

32-3106. If redemption is not made from the execution sale, sheriff's deed, at the expiration of the period of redemption, shall be issued to the county, and the board of county commissioners shall dispose of the land by sale as in other cases. Out of the proceeds of such sale, after paying the costs of such action and of the sale, there shall be paid all general taxes, or if the sum realized is not sufficient to pay all general taxes, then the county auditor shall apportion the amount realized ratably among the state and the several interested taxing districts. Irrigation District Assessments and hail insurance taxes shall be considered general taxes in making such apportionment. After paying all general taxes, such portion of the balance as may be necessary shall be applied in payment of special assessments, or if the amount is not sufficient to pay special assessments in full, then the amount available shall be apportioned ratably among the special assessment funds entitled to share therein. Any balance remaining after the payment of all costs, general taxes, irrigation district assessments, hail insurance taxes, and special assessments shall be paid into the general fund of the county.

Approved March 13, 1945.