

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 341

Introduced by Wightman, 36.

Read first time January 18, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-1807, 77-1808, 77-1812, 77-1813, 77-1818, 77-1822,
3 77-1823, 77-1830, 77-1836, 77-1849, and 77-1936, Reissue
4 Revised Statutes of Nebraska, and sections 77-1824,
5 77-1824.01, 77-1825, 77-1831, 77-1832, and 77-1833,
6 Revised Statutes Cumulative Supplement, 2012; to change
7 and eliminate provisions relating to tax sales for
8 delinquent property taxes; to harmonize provisions; to
9 provide an operative date; to repeal the original
10 sections; and to outright repeal sections 77-1820,
11 77-1926, and 77-1937, Reissue Revised Statutes of
12 Nebraska.

13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-1807, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-1807 (1) The person who offers to pay the amount of
4 taxes, delinquent interest, and costs due on any real property, shall
5 be the purchaser. due on any real property for the smallest portion
6 of the same shall be the purchaser, and when such person designates
7 the smallest portion of the real property for which he or she will
8 pay the amount of taxes assessed against any such property, the
9 portion thus designated shall be considered an undivided portion. If
10 no person bids for a less quantity than the whole, the treasurer may
11 sell any real property to any one who will take the whole and pay the
12 taxes and charges thereon. If the homestead is listed separately as a
13 homestead, it shall be sold only for the taxes delinquent thereon.

14 (2) The county treasurer shall announce bidding rules at
15 the beginning of the public auction, and such rules shall apply to
16 all bidders throughout the public auction.

17 (3) The sale, if conducted in a round-robin format, shall
18 be conducted in the following manner:

19 (a) At the commencement of the sale, a count shall be
20 taken of the number of registered bidders present who want to be
21 eligible to purchase property. Each registered bidder shall only be
22 counted once. If additional registered bidders appear at the sale
23 after the commencement of a round, such registered bidders shall have
24 the opportunity to participate at the end of the next following
25 round, if any, as provided in subdivision (e) of this subsection;

1 (b) Sequentially enumerated tickets shall be placed in a
2 receptacle. The number of tickets in the receptacle for the first
3 round shall equal the count taken in subdivision (a) of this
4 subsection, and the number of tickets in the receptacle for each
5 subsequent round shall equal the number of the count taken in
6 subdivision (a) of this subsection plus additional registered bidders
7 as provided in subdivision (e) of this subsection;

8 (c) In a manner determined by the county treasurer,
9 tickets shall be selected from the receptacle by hand for each
10 registered bidder whereby each ticket has an equal chance of being
11 selected. Tickets shall be selected until there are no tickets
12 remaining in the receptacle;

13 (d) The number on the ticket selected for a registered
14 bidder shall represent the order in which a registered bidder may
15 purchase property consisting of one parcel subject to sale from the
16 list per round; and

17 (e) If property listed remains unsold at the end of a
18 round, a new round shall commence until all property listed is either
19 sold or, if any property listed remains unsold, each registered
20 bidder has consecutively passed on the opportunity to make a
21 purchase. Registered bidders who are not present when it is their
22 turn to purchase property shall be considered to have passed on the
23 opportunity to make a purchase. At the beginning of the second and
24 any subsequent rounds, the county treasurer shall inquire whether
25 there are additional registered bidders. If additional registered

1 bidders are present, tickets for each such bidder shall be placed in
2 a receptacle and selected as provided in subdivisions (b) through (d)
3 of this subsection. The second and any subsequent rounds shall
4 proceed in the same manner and purchase order as the last preceding
5 round except that any additional registered bidders shall be given
6 the opportunity to purchase at the end of the round in the order
7 designated on their ticket.

8 (4) Any property remaining unsold upon completion of the
9 public auction shall be sold at a private sale pursuant to section
10 77-1814.

11 (5) A bidder shall (a) register with the county treasurer
12 prior to participating in the sale, (b) provide proof that it
13 maintains a registered agent for service of process with the
14 Secretary of State if the bidder is a foreign corporation, and (c)
15 pay a twenty-five dollar registration fee. The fee is not refundable
16 upon redemption.

17 Sec. 2. Section 77-1808, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 77-1808 The person purchasing any real property shall pay
20 to the county treasurer the amount of taxes, interest, and cost
21 thereon, which payment may be made in the same funds receivable by
22 law in the payment of taxes. If any purchaser fails to so pay, then
23 the real property shall at once again be offered as if no such sale
24 had been made.

25 Sec. 3. Section 77-1812, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 77-1812 The county treasurer shall keep a ~~sale book~~
3 record showing in separate columns the number and date of each
4 certificate of sale, the name of the owners or owner if known, the
5 description of the real property, the name of the purchaser, the
6 total amount of taxes and costs for which sold, the amount of
7 subsequent taxes paid by the purchaser and date of payment, to whom
8 assigned, and the amount paid therefor, name of person redeeming,
9 date of redemption, total amount paid for redemption, name of person
10 to whom conveyed, and date of deed.

11 Sec. 4. Section 77-1813, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-1813 On or before the first Monday of April following
14 the sale of the real property, the county treasurer shall file in the
15 office of the county clerk a return thereon as the same shall appear
16 upon the county treasurer's ~~sale book, record,~~ and such return, duly
17 certified, shall be evidence of the regularity of the proceedings.

18 Sec. 5. Section 77-1818, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 77-1818 The purchaser of any real property sold by the
21 county treasurer for taxes shall be entitled to a certificate in
22 writing, describing the real property so purchased, the sum paid, and
23 the time when the purchaser will be entitled to a deed, which
24 certificate shall be signed by the county treasurer in his or her
25 official capacity and shall be presumptive evidence of the regularity

1 of all prior proceedings. The purchaser acquires a perpetual lien of
2 the tax on the real property, and if after the taxes become
3 delinquent he or she subsequently pays any taxes levied on the
4 property, whether levied for any year or years previous or subsequent
5 to such sale, he or she shall have the same lien for them. Each tax
6 lien shall be shown on a single certificate. ~~and may add them to the~~
7 ~~amount paid by him or her in the purchase.~~

8 Sec. 6. Section 77-1822, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-1822 The certificate of purchase shall be assignable
11 by endorsement, and an assignment thereof shall vest in the assignee,
12 or his or her legal representatives, all the right and title of the
13 original purchaser. The statement in the treasurer's deed of the fact
14 of the assignment shall be presumptive evidence thereof. An
15 assignment shall be recorded by the county treasurer who shall
16 collect a reassignment fee of ~~ten~~ twenty dollars and issue a new
17 certificate to the assignee. The fee is not refundable upon
18 redemption.

19 Sec. 7. Section 77-1823, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-1823 The county treasurer shall charge a ~~ten-dollar~~
22 twenty-dollar issuance fee for each deed or certificate made by him
23 or her for a sale of real property for taxes together with the fee of
24 the notary public or other officer acknowledging the deed. ~~, but any~~
25 ~~number of items of real property bought by any one person may be~~

1 ~~included in one deed as desired by the purchaser.~~ The issuance fee
2 shall not be required if the tax sale certificate is issued in the
3 name of the county, but the issuance fee is due from the purchaser
4 when the county assigns the certificate to another person. The fee is
5 not refundable upon redemption. Whenever the county treasurer makes a
6 deed to any real property sold for taxes, he or she shall enter an
7 account thereof in the ~~sale book~~ record opposite the description of
8 the real property conveyed.

9 Sec. 8. Section 77-1824, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 77-1824 The owner or occupant of any real property sold
12 for taxes or any person having a lien thereupon or interest therein
13 may redeem the same. For owner-occupied real property, the right of
14 redemption expires forty-five days after the date of application for
15 the tax deed, and for all other real property, the right of
16 redemption expires when the purchaser files an application for tax
17 deed with the county treasurer. A redemption shall not be accepted by
18 the county treasurer, or considered valid, unless received prior to
19 the close of business forty-five days after the date of application
20 for the tax deed for owner-occupied real property or prior to the
21 close of business on the day the application for the tax deed is
22 received by the county treasurer for other real property. Redemption
23 shall be accomplished by paying the county treasurer for the use of
24 such purchaser or his or her heirs or assigns the sum mentioned in
25 his or her certificate, with interest thereon at the rate specified

1 in section 45-104.01, as such rate may from time to time be adjusted
2 by the Legislature, from the date of purchase to date of redemption,
3 together with all other taxes subsequently paid, whether for any year
4 or years previous or subsequent to the sale, and interest thereon at
5 the same rate from date of such payment to date of redemption. The
6 amount due for redemption shall include the issuance fee charged
7 pursuant to section 77-1823. In addition, if owner-occupied real
8 property is redeemed after the day the purchaser files an application
9 for a tax deed, the owner shall pay a redemption fee equal to ~~twenty~~
10 ten percent of all other amounts due.

11 Sec. 9. Section 77-1824.01, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 77-1824.01 (1) For purposes of sections 77-1801 to
14 77-1863, owner-occupied real property means real property that is
15 actually occupied by the record owner of the real property, the
16 surviving spouse of the record owner, or a minor child of the record
17 owner on the date of the notice of the application for the tax deed.

18 (2) The determination of owner-occupied real property
19 shall be made solely by the purchaser. The purchaser's determination
20 shall be proved by affidavit at the time of the application and shall
21 be accepted as true and correct by the county treasurer for his or
22 her determination of statutory compliance with sections 77-1801 to
23 77-1863. Any person swearing falsely in the affidavit shall be guilty
24 of perjury and upon conviction thereof shall be punished as provided
25 by section 28-915.

1 Sec. 10. Section 77-1825, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 77-1825 The county treasurer shall enter a memorandum of
4 redemption of real property in the ~~sales book record~~ and shall give a
5 receipt therefor to the person redeeming the same, for which the
6 county treasurer may charge a fee of two dollars. The county
7 treasurer shall send written notice of redemption, ~~by registered or~~
8 ~~certified mail~~, to the holder of the county treasurer's certificate
9 of tax sale by first-class mail if the post office address of the
10 holder of the certificate is filed in the office of the county
11 treasurer or by electronic means if previously agreed to by the
12 parties. The redemption money, including any redemption fee under
13 section 77-1824, shall be paid to or upon the order of the holder on
14 return of the certificate.

15 Sec. 11. Section 77-1830, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-1830 Any person claiming an undivided part of any real
18 property sold for taxes may redeem the property on paying such
19 proportion of the purchase money, interest, costs, and subsequent
20 taxes as he or she claims of the real property sold. The owner or
21 occupant of a divided part of any real property sold for taxes or any
22 person having a lien thereon or interest therein may redeem the
23 property by paying the taxes separately assessed against such divided
24 part, together with interest, costs, and subsequent taxes. If no
25 taxes have been separately assessed against such divided part, then

1 it shall be the duty of the county assessor, upon demand of the owner
2 or lienholder or upon the demand of the county treasurer, to assess
3 the divided part and to certify the assessment to the county
4 treasurer. The owner or lienholder of the divided part may thereupon
5 redeem the divided part upon the payment to the treasurer of such sum
6 so assessed, together with interest thereon, costs, and subsequent
7 taxes. The treasurer shall make a proper entry of such partial
8 redemption in his or her ~~sale book, record,~~ and no deed thereafter
9 given shall convey a greater interest than that remaining unredeemed.

10 Sec. 12. Section 77-1831, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 77-1831 ~~(1)~~—No purchaser at any sale for taxes or his or
13 her assignees shall be entitled to a tax deed from the county
14 treasurer for the real property so purchased unless such purchaser or
15 assignee, at least three months before applying for the tax deed,
16 serves or causes to be served a notice that, after the expiration of
17 at least three months from the date of service of such notice, the
18 tax deed will be applied for.

19 The notice shall include:

20 ~~(a)~~—(1) The following statement in sixteen-point type:
21 UNLESS YOU ACT YOU WILL LOSE THIS PROPERTY;

22 ~~(b)~~—(2) The date when the purchaser purchased the real
23 property sold by the county for taxes;

24 ~~(c)~~—(3) The description of the real property;

25 ~~(d)~~—(4) In whose name the real property was assessed;

1 ~~(e)-(5)~~ The amount of taxes represented by the tax sale
2 certificate, the year the taxes were levied or assessed, and ~~any~~
3 ~~subsequent taxes paid and interest~~ a statement that subsequent taxes
4 may have been paid and interest may have accrued as of the date the
5 notice is signed by the purchaser; and

6 ~~(f)-(6)~~ The following statements:

7 ~~(i)-(a)~~ That the issuance of a tax deed is subject to the
8 right of redemption under sections 77-1824 to 77-1830;

9 ~~(ii)-(b)~~ The right of redemption requires payment to the
10 county treasurer, for the use of such purchaser, or his or her heirs
11 or assigns, the amount of taxes represented by the tax sale
12 certificate for the year the taxes were levied or assessed and any
13 subsequent taxes paid and interest accrued as of the date payment is
14 made to the county treasurer. In addition, if the real property is
15 owner-occupied real property and the redemption occurs after the day
16 the purchaser files an application for a tax deed, a redemption fee
17 equal to ~~twenty~~ ten percent of all other amounts due must be paid;
18 and

19 ~~(iii)-(c)~~ The right of redemption expires at the close of
20 business forty-five days after the date of application for the tax
21 deed for ~~owner-occupied~~ real property that is actually occupied by
22 the record owner of the real property, the surviving spouse of the
23 record owner, or a minor child of the record owner or at the close of
24 business on the day the purchaser files an application for a tax deed
25 with the county treasurer for all other real property.

1 ~~(2) In addition to the notice required under subsection~~
2 ~~(1) of this section, no purchaser of owner occupied real property at~~
3 ~~any sale for taxes or his or her assignees shall be entitled to a tax~~
4 ~~deed from the county treasurer for the real property so purchased~~
5 ~~unless such purchaser or assignee, upon application for the deed,~~
6 ~~serves or causes to be served a notice that, after the expiration of~~
7 ~~forty five days after the date of application for the tax deed, the~~
8 ~~tax deed will be executed and delivered by the county treasurer~~
9 ~~unless the owner redeems the real property.~~

10 ~~The notice shall include:~~

11 ~~(a) The date when the purchaser purchased the real~~
12 ~~property sold by the county for taxes;~~

13 ~~(b) The description of the real property;~~

14 ~~(c) In whose name the real property was assessed;~~

15 ~~(d) The amount of taxes represented by the tax sale~~
16 ~~certificate, the year the taxes were levied or assessed, and any~~
17 ~~subsequent taxes paid and interest accrued as of the date the notice~~
18 ~~is signed by the purchaser plus the amount of the redemption fee; and~~

19 ~~(e) The following statements:~~

20 ~~(i) That the issuance of a tax deed is subject to the~~
21 ~~right of redemption under sections 77-1824 to 77-1830;~~

22 ~~(ii) The right of redemption requires payment to the~~
23 ~~county treasurer, for the use of such purchaser, or his or her heirs~~
24 ~~or assigns, the amount of taxes represented by the tax sale~~
25 ~~certificate for the year the taxes were levied or assessed and any~~

1 ~~subsequent taxes paid and interest accrued as of the date payment is~~
2 ~~made to the county treasurer. In addition, if the real property is~~
3 ~~owner occupied real estate and the redemption occurs after the day~~
4 ~~the purchaser files an application for a tax deed, a redemption fee~~
5 ~~equal to twenty percent of all other amounts due must be paid; and~~

6 ~~(iii) The right of redemption expires forty five days~~
7 ~~after the date of application for the tax deed for owner occupied~~
8 ~~real property.~~

9 Sec. 13. Section 77-1832, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 77-1832 (1) Service of the notice provided by ~~subsection~~
12 ~~(1) of section 77-1831 shall be made by:~~

13 (a) Personal or residence service as described in section
14 25-505.01 upon every person in actual possession or occupancy of the
15 real property who qualifies as an owner-occupant under section
16 77-1824.01; or and upon the person in whose name the title to the
17 real property appears of record who can be found in this state; or

18 (b) Certified mail, return receipt requested, upon the
19 person in whose name the title to the real property appears of record
20 ~~who cannot be found in this state or who cannot be served by personal~~
21 ~~or residence service~~ to the address where the property tax statement
22 was mailed and upon every encumbrancer of record in the office of the
23 register of deeds of the county. Whenever the record of a lien shows
24 the post office address of the lienholder, notice shall be sent by
25 certified mail, return receipt requested, to the holder of such lien

1 at the address appearing of record.

2 (2) Service of the notice pursuant to subsection (2) of
3 section 77-1831 shall be made by certified mail upon the owner of
4 owner-occupied real property.

5 (3) Personal or residence service shall be made by the
6 county sheriff of the county where service is made or by a person
7 authorized by section 25-507. The sheriff or other person serving the
8 notice shall be entitled to the statutory fee prescribed in section
9 33-117. Within twenty days after the date of request for service of
10 the notice, the person serving the notice of service, shall (a) make
11 proof of service to the person requesting the service, and state the
12 time and place of service including the address if applicable, the
13 name of the person with whom the notice was left, and the method of
14 service or (b) return the proof of service with a statement of the
15 reason for the failure to serve. Failure to make proof of service or
16 delay in doing so does not affect the validity of the service.

17 Sec. 14. Section 77-1833, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 77-1833 The service of notices provided by section
20 77-1832 shall be proved by affidavit, and the notice and affidavit
21 shall be filed and preserved in the office of the county treasurer.
22 The purchaser or assignee shall also affirm in the affidavit that a
23 title search was conducted to determine those persons entitled to
24 notice pursuant to such section. The certified mail return receipt
25 shall be filed with and accompany the return of service. The

1 affidavit shall be filed with the application for the tax deed
2 pursuant to section 77-1837. For each service of such notice, a fee
3 of one dollar shall be allowed. The amount of such fees shall be
4 noted by the county treasurer in the ~~sales book~~ record opposite the
5 real property described in the notice and shall be collected by the
6 county treasurer in case of redemption for the benefit of the holder
7 of the certificate.

8 Sec. 15. Section 77-1836, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-1836 If any person is compelled to publish notice in a
11 newspaper as provided in sections 77-1834 and 77-1835, then before
12 any person who may have a right to redeem such real property from
13 such sale is permitted to redeem, he or she shall pay the officer or
14 person who by law is authorized to receive such redemption money the
15 amount paid for publishing such notice, for the use of the person
16 compelled to publish the notice. The fee for such publication shall
17 not exceed five dollars for each item of real property contained in
18 such notice. The cost of making such publication shall be noted by
19 the treasurer in the ~~sales book~~ record opposite the real property
20 described in the notice.

21 Sec. 16. Section 77-1849, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-1849 Whenever it shall be made to appear to the
24 satisfaction of the county treasurer, either before the execution of
25 a deed for real property sold for taxes, or, if a deed be returned by

1 the purchaser, that any tract or lot has been sold which was not
2 subject to taxation, or upon which the taxes had been paid previous
3 to the sale, he shall make an entry opposite such tract or lot on the
4 ~~sale book record~~ that the same was erroneously sold, and such entry
5 shall be evidence of the fact therein stated. In such cases the
6 purchase money shall be refunded to the purchaser.

7 Sec. 17. Section 77-1936, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-1936 When any county, city, village, school district,
10 drainage district or irrigation district shall have acquired real
11 estate under such tax foreclosure proceedings, the governing body of
12 such governmental subdivision or municipal corporation shall have
13 power to convey any such real estate by a deed signed by the chairman
14 or other presiding officer of such body, subject to the right, if
15 any, of any person, persons, firm, corporation, or governmental body
16 to attack the same by action or proceeding within the one-year
17 limitation provided in sections ~~77-1933 to 77-1937,~~ 77-1934 to
18 77-1936, for such price as the governing body of any such
19 governmental subdivision or municipal corporation, in the exercise of
20 good faith, shall determine to be a fair and reasonable price for the
21 property.

22 Sec. 18. This act becomes operative on January 1, 2015.

23 Sec. 19. Original sections 77-1807, 77-1808, 77-1812,
24 77-1813, 77-1818, 77-1822, 77-1823, 77-1830, 77-1836, 77-1849, and
25 77-1936, Reissue Revised Statutes of Nebraska, and sections 77-1824,

1 77-1824.01, 77-1825, 77-1831, 77-1832, and 77-1833, Revised Statutes
2 Cumulative Supplement, 2012, are repealed.

3 Sec. 20. The following sections are outright repealed:
4 Sections 77-1820, 77-1926, and 77-1937, Reissue Revised Statutes of
5 Nebraska.