

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

S

1

SENATE BILL 1451

Short Title: Amend Delinquent Property Tax Collection. (Public)

Sponsors: Senators Hartsell, Clodfelter, Dalton, Hoyle, Kerr, Webster; and
Boseman.

Referred to: Finance.

May 17, 2006

A BILL TO BE ENTITLED

1 AN ACT TO ENFORCE COLLECTION OF PROPERTY TAXES ON REAL
2 PROPERTY AGAINST THE RECORD OWNER AS OF THE DATE THE TAXES
3 BECOME DELINQUENT AND TO CODIFY THE PRORATION OF TAXES ON
4 REAL PROPERTY.
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 105-273(17) reads as rewritten:

8 "**§ 105-273. Definitions.**

9 When used in this Subchapter (unless the context requires a different meaning):

10 ...

11 (17) "Taxpayer" means any person whose property is subject to ad valorem
12 property taxation by any county or municipality and any person who,
13 under the terms of this Subchapter, has a duty to list property for
14 taxation. For purposes of collecting delinquent ad valorem taxes
15 assessed on real property under G.S. 105-366 through G.S. 105-375,
16 "taxpayer" means the owner of record on the date the taxes become
17 delinquent and any subsequent owner of record of the real property if
18 conveyed after that date."

19 **SECTION 2.** G.S. 105-369 reads as rewritten:

20 "**§ 105-369. Advertisement of tax liens on real property for failure to pay taxes.**

21 (a) Report of Unpaid Taxes That Are Liens on Real Property. – In February of
22 each year, the tax collector must report to the governing body the total amount of unpaid
23 taxes for the current fiscal year that are liens on real property. A county tax collector's
24 report is due the first Monday in February, and a municipal tax collector's report is due
25 the second Monday in February. Upon receipt of the report, the governing body must
26 order the tax collector to advertise the tax liens. For purposes of this section, district
27 taxes collected by county tax collectors shall be regarded as county taxes and district
28 taxes collected by municipal tax collectors shall be regarded as municipal taxes.

1 (b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

2 (b1) Notice to Owner. – After the governing body orders the tax collector to
3 advertise the tax liens, the tax collector must send a notice to the ~~listing owner and to~~
4 ~~the~~ record owner of each affected parcel of property, as determined as of ~~December 31~~
5 ~~of the fiscal year for which the taxes are due.~~the date the taxes became delinquent. The
6 notice must be sent to each owner's last known address by first-class mail at least 30
7 days before the date the advertisement is to be published. The notice must state the
8 principal amount of unpaid taxes that are a lien on the parcel to be advertised and
9 inform the owner that the ~~names name~~ of the listing owner and the record owner as of
10 the date the taxes became delinquent will appear in a newspaper advertisement of
11 delinquent taxes if the taxes are not paid before the publication date. Failure to mail the
12 notice required by this section to the correct ~~listing owner or~~ record owner does not
13 affect the validity of the tax lien or of any foreclosure action.

14 (c) Time and Contents of Advertisement. – A tax collector's failure to comply
15 with this subsection does not affect the validity of the taxes or tax liens. The county tax
16 collector shall advertise county tax liens by posting a notice of the liens at the county
17 courthouse and by publishing each lien at least one time in one or more newspapers
18 having general circulation in the taxing unit. The municipal tax collector shall advertise
19 municipal tax liens by posting a notice of the liens at the city or town hall and by
20 publishing each lien at least one time in one or more newspapers having general
21 circulation in the taxing unit. Advertisements of tax liens shall be made during the
22 period March 1 through June 30. The costs of newspaper advertising shall be paid by
23 the taxing unit. If the taxes of two or more taxing units are collected by the same tax
24 collector, the tax liens of each unit shall be advertised separately unless, under the
25 provisions of a special act or contractual agreement between the taxing units, joint
26 advertisement is permitted.

27 The posted notice and newspaper advertisement shall set forth the following
28 information:

29 (1) ~~In the case of property that the listing owner has not transferred after~~
30 ~~January 1 preceding the fiscal year for which the tax liens are~~
31 ~~advertised, the name of each person to whom is listed real property on~~
32 ~~which the taxing unit has a lien for unpaid taxes, in alphabetical order.~~

33 (1a) ~~In the case of property that the listing owner has transferred after~~
34 ~~January 1 preceding the fiscal year for which the tax liens are~~
35 ~~advertised, the name of the record owner as of December 31 of each~~
36 ~~parcel on which the taxing unit has a lien for unpaid taxes, in~~
37 ~~alphabetical order, followed by a notation that the property was~~
38 ~~transferred to the record owner and a notation of the name of the~~
39 ~~listing owner.~~The name of the record owner as of the date the taxes
40 became delinquent for each parcel on which the taxing unit has a lien
41 for unpaid taxes, in alphabetical order.

42 (1b) After the information required by subdivision (1) ~~or~~ (1a) of this
43 subsection for each parcel, a brief description of each parcel of land to

1 which a lien has attached and a statement of the principal amount of
2 the taxes constituting a lien against the parcel.

3 (2) A statement that the amounts advertised will be increased by interest
4 and costs and that the omission of interest and costs from the amounts
5 advertised will not constitute waiver of the taxing unit's claim for those
6 items.

7 (3) In the event the list of tax liens has been divided for purposes of
8 advertisement in more than one newspaper, a statement of the names
9 of all newspapers in which advertisements will appear and the dates on
10 which they will be published.

11 (4) A statement that the taxing unit may foreclose the tax liens and sell the
12 real property subject to the liens in satisfaction of its claim for taxes.

13 (d) Costs. – Each parcel of real property advertised pursuant to this section shall
14 be assessed an advertising fee to cover the actual cost of the advertisement. Actual
15 advertising costs per parcel shall be determined by the tax collector on any reasonable
16 basis. Advertising costs assessed pursuant to this subsection are taxes.

17 (e) Payments during Advertising Period. – At any time during the advertisement
18 period, any parcel may be withdrawn from the list by payment of the taxes plus interest
19 that has accrued to the time of payment and a proportionate part of the advertising fee to
20 be determined by the tax collector. Thereafter, the tax collector shall delete that parcel
21 from any subsequent advertisement, but the tax collector is not liable for failure to make
22 the deletion.

23 (f) Listing and Advertising in Wrong Name. – No tax lien is void because the
24 real property to which the lien attached was listed or advertised in the name of a person
25 other than the person in whose name the property should have been listed for taxation if
26 the property was in other respects correctly described on the abstract or in the
27 advertisement.

28 (g) Wrongful Advertisement. – Any tax collector or deputy tax collector who
29 willfully advertises any tax lien knowing that the property is not subject to taxation or
30 that the taxes advertised have been paid is guilty of a Class 3 misdemeanor, and shall be
31 required to pay the injured party all damages sustained in consequence."

32 **SECTION 3.** G.S. 105-374(c) reads as rewritten:

33 "(c) Parties; Summonses. – The ~~listing taxpayer~~ owner of record as of the date the
34 taxes became delinquent and spouse (if any), ~~the current owner,~~ any subsequent owner,
35 all other taxing units having tax liens, all other lienholders of record, and all persons
36 who would be entitled to be made parties to a court action (in which no deficiency
37 judgment is sought) to foreclose a mortgage on such property, shall be made parties and
38 served with summonses in the manner provided by G.S. 1A-1, Rule 4.

39 The fact that the ~~listing taxpayer~~ owner of record, any subsequent owner, or any
40 other defendant is a minor, is incompetent, or is under any other disability shall not
41 prevent or delay the tax lien sale or the foreclosure of the tax lien; and all such persons
42 shall be made parties and served with summons in the same manner as in other civil
43 actions.

1 Persons who have disappeared or who cannot be located and persons whose names
2 and whereabouts are unknown, and all possible heirs or assignees of such persons, may
3 be served by publication; and such persons, their heirs, and assignees may be designated
4 by general description or by fictitious names in such an action."

5 **SECTION 4.** G.S. 105-375(c) reads as rewritten:

6 "(c) Notice Listing Taxpayer and Others. – The tax collector filing the certificate
7 provided for in subsection (b), above, shall, at least 30 days prior to docketing the
8 judgment, send a registered or certified letter, return receipt requested, to the ~~listing~~
9 ~~taxpayer at his~~owner of record as of the date the taxes became delinquent at the owner's
10 last known address, and to all lienholders of record who have a lien against the ~~listing~~
11 ~~taxpayer~~owner of record or against any subsequent owner of the property (including any
12 liens referred to in the conveyance of the property to the ~~listing taxpayer~~owner of record
13 or to the subsequent owner of the property), stating that the judgment will be docketed
14 and the execution will be issued thereon in the manner provided by law. ~~A notice stating~~
15 ~~that the judgment will be docketed and that execution will be issued thereon shall also~~
16 ~~be mailed by certified or registered mail, return receipt requested, to the current owner~~
17 ~~of the property (if different from the listing owner) if: (i) a deed or other instrument~~
18 ~~transferring title to and containing the name of the current owner was recorded in the~~
19 ~~office of the register of deeds or filed or docketed in the office of the clerk of superior~~
20 ~~court after January 1 of the first year in which the property was listed in the name of the~~
21 ~~listing owner, and (ii) the tax collector can obtain the current owner's mailing address~~
22 ~~through the exercise of due diligence.~~ If within 10 days following the mailing of said
23 letters of notice, a return receipt has not been received by the tax collector indicating
24 receipt of the letter, then the tax collector shall have a notice published in a newspaper
25 of general circulation in said county once a week for two consecutive weeks directed to,
26 and naming, all unnotified lienholders and the ~~listing taxpayer~~owner of record that a
27 judgment will be docketed against the ~~listing taxpayer~~owner of record. The notice shall
28 contain the proposed date of such docketing, that execution will issue thereon as
29 provided by law, a brief description of the real property affected, and notice that the lien
30 may be paid off prior to judgment being entered. All costs of mailing and publication,
31 plus a charge of fifty dollars (\$50.00) to defray administrative costs, shall be added to
32 the amount of taxes that are a lien on the real property and shall be paid by the taxpayer
33 to the taxing unit at the time the taxes are collected or the property is sold."

34 **SECTION 5.** Chapter 39 of the General Statutes is amended by adding the
35 following new Article to read:

36 "Article 10.

37 "Real Property Tax Proration.

38 "**§ 39-60. Property tax proration on sale of real property.**

39 Unless otherwise provided by contract, property taxes on the real property being
40 sold shall be prorated between the seller and buyer of the real property on a
41 calendar-year basis."

42 **SECTION 6.** Section 5 of this act becomes effective for contracts entered
43 into on or after October 1, 2006. The remainder of this act is effective for taxes
44 imposed for taxable years beginning on or after July 1, 2006.