

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SENATE BILL 1451
RATIFIED BILL**

AN ACT TO ENFORCE COLLECTION OF PROPERTY TAXES ON REAL PROPERTY AGAINST THE RECORD OWNER AS OF THE DATE THE TAXES BECOME DELINQUENT, TO CODIFY THE PRORATION OF TAXES ON REAL PROPERTY, TO REQUIRE A TAX COLLECTOR TO TAKE REASONABLE ADDITIONAL STEPS TO NOTIFY A PROPERTY OWNER OF A TAX SALE UNLESS THE TAX COLLECTOR HAS AFFIRMATIVE KNOWLEDGE THAT THE MAILED NOTICE REACHED THE RECIPIENT, TO AMEND THE DEFINITION OF INVENTORIES TO INCLUDE DISPLAY MODULAR HOMES, AND TO STUDY THE VALUATION OF PROPERTY AT ITS PRESENT-USE VALUE FOR PROPERTY TAX PURPOSES.

The General Assembly of North Carolina enacts:

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

"§ 105-273. Definitions.

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

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

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

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

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

(b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

(b1) Notice to Owner. – After the governing body orders the tax collector to advertise the tax liens, the tax collector must send a notice to the ~~listing owner and to the~~ record owner of each affected parcel of property, as determined as of ~~December 31 of the fiscal year for which the taxes are due.~~ the date the taxes became delinquent. The notice must be sent to ~~each~~ the owner's last known address by first-class mail at least 30 days before the date the advertisement is to be published. The notice must state the principal amount of unpaid taxes that are a lien on the parcel to be advertised and inform the owner that the ~~names~~ name of the ~~listing owner and~~ the record owner as of the date the taxes became delinquent will appear in a newspaper advertisement of delinquent taxes if the taxes are not paid before the publication date. Failure to mail the

notice required by this section to the correct ~~listing owner or~~ record owner does not affect the validity of the tax lien or of any foreclosure action.

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

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

- ~~(1) In the case of property that the listing owner has not transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of each person to whom is listed real property on which the taxing unit has a lien for unpaid taxes, in alphabetical order.~~
- (1a) ~~In the case of property that the listing owner has transferred after January 1 preceding the fiscal year for which the tax liens are advertised, the name of the record owner as of December 31 of each parcel on which the taxing unit has a lien for unpaid taxes, in alphabetical order, followed by a notation that the property was transferred to the record owner and a notation of the name of the listing owner.~~ The name of the record owner as of the date the taxes became delinquent for each parcel on which the taxing unit has a lien for unpaid taxes, in alphabetical order.
- (1b) After the information required by subdivision ~~(1) or~~ (1a) of this subsection for each parcel, a brief description of each parcel of land to which a lien has attached and a statement of the principal amount of the taxes constituting a lien against the parcel.
- (2) A statement that the amounts advertised will be increased by interest and costs and that the omission of interest and costs from the amounts advertised will not constitute waiver of the taxing unit's claim for those items.
- (3) In the event the list of tax liens has been divided for purposes of advertisement in more than one newspaper, a statement of the names of all newspapers in which advertisements will appear and the dates on which they will be published.
- (4) A statement that the taxing unit may foreclose the tax liens and sell the real property subject to the liens in satisfaction of its claim for taxes.

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

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

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

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

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

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

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

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

SECTION 4. G.S. 105-375(b) reads as rewritten:

"(b) Docketing Certificate of Taxes as Judgment. – In lieu of following the procedure set forth in G.S. 105-374, the governing body of any taxing unit may direct the tax collector to file with the clerk of superior court, no earlier than 30 days after the tax liens were advertised, a certificate showing the following: the name of the taxpayer~~listing real property on which the taxes are a lien, as defined in G.S. 105-273(17), for each parcel on which the taxing unit has a lien for unpaid taxes,~~ together with the amount of taxes, penalties, interest, and costs that are a lien thereon; the year or years for which the taxes are due; and a description of the property sufficient to permit its identification by parol testimony. The fees for docketing and indexing the certificate shall be payable to the clerk of superior court at the time the taxes are collected or the property is sold."

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

"(c) Notice ~~Listing to~~ Taxpayer and Others. –

(1) Notice required. – The tax collector filing the certificate provided for in subsection (b), ~~above,~~ (b) of this section, shall, at least 30 days prior to docketing the judgment, send notice of the tax lien foreclosure a registered or certified letter, return receipt requested, to the ~~listing taxpayer at his~~taxpayer, as defined in G.S. 105-273(17), at the taxpayer's last known address, and to all lienholders of record who have a lien against the ~~listing taxpayer or against any subsequent owner of the property~~ (including any liens referred to in the conveyance of the property to the taxpayer), ~~listing taxpayer or to the subsequent owner of the property), stating that the judgment will be docketed and the execution will be issued thereon in the manner provided by law. A notice stating that the judgment will be docketed and that execution will be issued thereon shall also be mailed by certified or registered mail, return receipt requested, to the current owner of the property (if different from the listing owner) if: (i) a deed or other instrument transferring title to and containing the name of the~~

~~current owner was recorded in the office of the register of deeds or filed or docketed in the office of the clerk of superior court after January 1 of the first year in which the property was listed in the name of the listing owner, and (ii) the tax collector can obtain the current owner's mailing address through the exercise of due diligence.~~

- (2) Contents of notice. – All notice required by this subsection shall state that a judgment will be docketed and the proposed date of the docketing, that execution will be issued as provided by law, a brief description of the real property affected, and that the lien may be satisfied prior to judgment being entered.
- (3) Service of notice. – The notice required by this subsection shall be sent to the taxpayer by registered or certified mail, return receipt requested.
- (4) Additional efforts may be required. – If within 10 days following the mailing of said ~~letters of the~~ notice, a return receipt has not been received by the tax collector indicating receipt of the ~~letter,~~ notice, then the tax collector shall ~~have~~ do both of the following:
 - a. Make reasonable efforts to locate and notify the taxpayer and all lienholders of record prior to the docketing of the judgment and the issuance of the execution. Reasonable efforts may include posting the notice in a conspicuous place on the property, or, if the property has an address to which mail may be delivered, mailing the notice by first-class mail to the attention of the occupant.
 - b. Have a notice published in a newspaper of general circulation in ~~said the~~ county once a week for two consecutive weeks directed to, and naming, all unnotified lienholders and the listing taxpayer that a judgment will be docketed against the listing taxpayer. The notice shall contain the proposed date of such docketing, that execution will issue thereon as provided by law, a brief description of the real property affected, and notice that the lien may be paid off prior to judgment being entered.
- (5) Costs of notice added to lien. – All costs of mailing and publication, plus a charge of fifty dollars (\$50.00) to defray administrative costs, shall be added to the amount of taxes that are a lien on the real property and shall be paid by the taxpayer to the taxing unit at the time the taxes are collected or the property is sold."

SECTION 6. G.S. 105-375(i) reads as rewritten:

"(i) Issuance of Execution. – At any time after three months and before two years from the indexing of the judgment as provided in subsection (b), above, execution shall be issued at the request of the tax collector in the same manner as executions are issued upon other judgments of the superior court, and the real property shall be sold by the sheriff in the same manner as other real property is sold under execution with the following exceptions:

- (1) No debtor's exemption shall be allowed.
- (2) In lieu of personal service of notice on the ~~owner of the property,~~ taxpayer, the sheriff shall send notice by registered or certified mail ~~mail, return receipt requested, notice shall be mailed to the listing owner-taxpayer at the listing owner's taxpayer's last known address at least 30 days prior to the day fixed for the sale. The notice must also be mailed to the current owner by registered or certified mail if notice was required to be mailed to the current owner pursuant to subsection (c) of this section. If within 10 days following the mailing of the notice, a return receipt has not been received by the sheriff indicating receipt of the notice, then the sheriff shall make additional efforts to locate and notify the taxpayer and all lienholders of record of the sale~~

under execution in accordance with subdivision (4) of subsection (c) of this section.

- (3) The sheriff shall add to the amount of the judgment as costs of the sale any postage expenses incurred by the tax collector and the sheriff in foreclosing under this section.
- (4) In any advertisement or posted notice of sale under execution, the sheriff may (and at the request of the governing body shall) combine the advertisements or notices for properties to be sold under executions against the properties of different taxpayers in favor of the same taxing unit or group of units; however, the property included in each judgment shall be separately described and the name of the ~~listing~~ taxpayer specified in connection with each.

The purchaser at the execution sale shall acquire title to the property in fee simple free and clear of all claims, rights, interests, and liens except the liens of other taxes or special assessments not paid from the purchase price and not included in the judgment."

SECTION 7. Chapter 39 of the General Statutes is amended by adding the following new Article to read:

"Article 10.

"Real Property Tax Proration.

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

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

SECTION 8. G.S. 105-273(8a) reads as rewritten:

"(8a) "Inventories" means (i) goods held for sale in the regular course of business by manufacturers, retail and wholesale merchants, and contractors, and (ii) goods held by contractors to be furnished in the course of building, installing, repairing, or improving real property. As to manufacturers, the term includes raw materials, goods in process, and finished goods, as well as other materials or supplies that are consumed in manufacturing or processing, or that accompany and become a part of the sale of the property being sold. The term also includes a modular home as defined in G.S. 105-164.3(21b) that is used exclusively as a display model and held for eventual sale at the retail merchant's place of business. The term also includes crops, livestock, poultry, feed used in the production of livestock and poultry, and other agricultural or horticultural products held for sale, whether in process or ready for sale. The term does not include fuel used in manufacturing or processing, nor does it include materials or supplies not used directly in manufacturing or processing. As to retail and wholesale merchants and contractors, the term includes, in addition to articles held for sale, packaging materials that accompany and become a part of the sale of the property being sold."

SECTION 9. The Revenue Laws Study Committee shall study and recommend any changes to the special class of property taxed on the basis of the value of the property at its present use. The study shall include an evaluation of the following:

- (1) Expanding the present-use value system to include wildlife land and other conservation land.
- (2) Adding more specific land resource management criteria to the sound management programs required for lands enrolled in the present-use value system.

The Committee shall make a report of its findings and recommendations to the 2007 General Assembly.

SECTION 10. Section 7 of this act becomes effective for contracts entered into on or after October 1, 2006. Section 9 of this act is effective when it becomes law. The remainder of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2006.

In the General Assembly read three times and ratified this the 6th day of July, 2006.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2006