

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 120
Committee Substitute Favorable 4/22/99

Short Title: Tax Lien Advertisement and Collection.

(Public)

Sponsors:

Referred to:

February 22, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND
ADVERTISING TAX LIENS ON REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. 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. ~~On the first Monday in February in each year, each county tax collector and on the second Monday in February in each year, each municipal tax collector shall~~ 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, and the governing body shall thereupon 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 may order the tax collector to advertise such 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(b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

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

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

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

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

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

38 (1b) ~~together with a~~ After the information required by subdivision (1) or (1a)
39 of this subsection for each parcel, a brief description of each parcel of
40 land to which such a lien has attached and a statement of the principal
41 amount of the taxes constituting a lien against the parcel.

42 (2) A statement that the amounts advertised will be increased by interest
43 and costs and that the omission of interest and costs from the amounts

1 advertised will not constitute waiver of the taxing unit's claim for those
2 items.

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

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

9 ~~Failure to comply with this subsection does not affect the validity of the taxes or tax~~
10 ~~liens.~~

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

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

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

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

32 Section 2. Article 26 of Chapter 105 of the General Statutes is amended by
33 adding a new section to read:

34 "**§ 105-370. Notice of delinquent taxes.**

35 If the governing body of a taxing unit decides not to advertise tax liens for a fiscal
36 year, the tax collector must, at least 30 days before initiating any lien foreclosure action
37 under G.S. 105-374, send a notice to the listing owner and the record owner of the
38 affected parcel of property, as determined as of December 31 of the fiscal year for which
39 the taxes are due. The notice must be sent to each owner's last known address by first-
40 class mail. The notice must state the principal amount of unpaid taxes that are a lien on
41 the property and inform the owner that the lien may be foreclosed to enforce collection of
42 those taxes. Failure to mail the notice required by this section to the correct listing owner
43 or record owner does not affect the validity of the tax lien or of any foreclosure action."

1 Section 3. G.S. 105-375(b) reads as rewritten:

2 "(b) Docketing Certificate of Taxes as Judgment. – In lieu of following the
3 procedure set forth in G.S. 105-374, the governing body of any taxing unit may direct the
4 tax collector to ~~file, no earlier than six months following the advertisement of tax liens, with the~~
5 ~~clerk of superior court~~ file with the clerk of superior court, no earlier than 30 days after the
6 tax liens were advertised or May 6 following the delinquency date, whichever occurs
7 first, a certificate showing the following: the name of the taxpayer listing real property
8 on which the taxes are a lien, together with the amount of taxes, penalties, interest, and
9 costs that are a lien thereon; the year or years for which the taxes are due; and a
10 description of the property sufficient to permit its identification by parol testimony. The
11 fees for docketing and indexing the certificate shall be payable to the clerk of superior
12 court at the time the taxes are collected or the property is sold."

13 Section 4. G.S. 105-375(e) reads as rewritten:

14 "(e) Special Assessments. – Street, sidewalk, and other special assessments may be
15 included in any judgment for taxes taken under this ~~section; or such section, or the special~~
16 ~~assessments may be included in a separate judgment docketed under this section, which is~~
17 ~~hereby declared to be made available section.~~ The tax collector may use such a judgment as
18 a method of foreclosing the lien of special assessments. When used to foreclose the lien
19 of special assessments, the procedure may be instituted at any time after the assessment
20 or installment falls due and remains unpaid; the ~~six months'~~ waiting period required by
21 subsection (b), above, shall (b) of this section does not apply to the foreclosure of special
22 assessments."

23 Section 5. This act becomes effective January 1, 2001.