

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2059
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to create and enact a new section to chapter 57-20 and section 57-28-09.1 of the North Dakota Century Code, relating to collection of real estate taxes and the form of a tax deed; to amend and reenact sections 23-35-07, 57-23-05, 57-28-07, and 57-45-11 of the North Dakota Century Code, relating to the proration of health district funds, filing of an application for abatement, notice of foreclosure of tax lien, and limitation of action against a tax deed; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-35-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-35-07. Health district funds.

1. A district board of health shall prepare a budget for the next fiscal year at the time at which and in the manner in which a county budget is adopted and shall submit this budget to the joint board of county commissioners for approval. The amount budgeted and approved must be prorated in health districts composed of more than one county among the various counties in the health district according to the ~~assessed~~ taxable valuation of the respective counties in the health district. For the purpose of this section, "prorated" means that each member county's contribution must be based on an equalized mill levy throughout the district. Within ten days after approval by the joint board of county commissioners, the district board of health shall certify the budget to the respective county auditors and the budget must be included in the levies of the counties. The budget may not exceed the amount that can be raised by a levy of five mills on the taxable valuation, subject to public hearing in each county in the health district at least fifteen days before an action taken by the joint board of county commissioners. Action taken by the joint board of county commissioners must be based on the record, including comments received at the public hearing. A levy under this section is not subject to the limitation on the county tax levy for general and special county purposes. The amount derived by a levy under this section must be placed in the health district fund. The health district fund must be deposited with and disbursed by the treasurer of the district board of health. Each county in a health district quarterly shall remit and make settlements with the treasurer. Any funds remaining in the fund at the end of any fiscal year may be carried over to the next fiscal year.
2. The district board of health, or the president and secretary of the board when authorized or delegated by the board, shall audit all claims against the health district fund. The treasurer shall pay all claims from the health district fund. The district board of health shall approve or ratify all claims at the board's quarterly meetings.

SECTION 2. A new section to chapter 57-20 of the North Dakota Century Code is created and enacted as follows:

Collection of real estate taxes on leasehold or other possessory interest.

1. If any holder of a leasehold or other possessory interest in exempt real property neglects or refuses to pay any real estate taxes legally assessed and levied on that property at the time required by law for the payment of real property taxes, the taxes shall constitute a personal charge against the holder of the lease or other possessory interest from and after

the day they become due, and all of the provisions of law with respect to the enforcement of collection of personal property taxes are applicable.

2. For property subject to assessment under the provisions of subsection 2 of section 57-02-26, taxes upon the property constitute a personal charge against the lease or easement holder from and after the day they become due, and all of the provisions of law with respect to the enforcement of collection of personal property taxes are applicable.

SECTION 3. AMENDMENT. Section 57-23-05 of the North Dakota Century Code is amended and reenacted as follows:

57-23-05. Application for abatement or refund - Who may make. An application for an abatement or refund must be in writing and must be filed in duplicate with the county auditor. It must state the grounds relied upon for such abatement or refund and give the post-office address of the applicant. The county auditor shall note the date of filing, shall file the same, and, within five business days of the filing date, shall present a copy to the city auditor or the township clerk if the applicant's assessed property is within a city or an organized township. The county auditor shall present the application to the board of county commissioners at its next regular meeting. The county auditor shall give the applicant notice by mail of the time and place of hearing on any abatement or refund not less than ten days prior to such hearing.

Any person having any estate, right, title, or interest in or lien upon any real property who claims that the assessment made or the tax levied against the same is excessive or illegal, in whole or in part, is entitled to make an application for abatement, refund, or compromise, as the case may be, and have such application granted if the facts upon which the application is based bring it within the provisions of this chapter for abatement, refund, or compromise. In addition, if an abatement is based upon any of the grounds specified in section 57-23-04 and if the application for abatement will not result in a refund of tax or a compromise of a tax, the abatement application may be signed and submitted by either the county auditor or the assessor who made the assessment resulting in the tax specified in the abatement application.

SECTION 4. AMENDMENT. Section 57-28-07 of the North Dakota Century Code is amended and reenacted as follows:

57-28-07. Form of notice for publication. The notice of ~~the expiration of the period of redemption~~ foreclosure of tax lien to be served by publication must be substantially in the following form:

I, _____, county auditor, of _____ County, North Dakota, give notice that the real estate hereinafter described has a lien for delinquent taxes against it for the year _____, and unless ~~such~~ the tax and special assessments, with interest, penalties, and cost of foreclosure action are paid, on or before October first after the date of this notice, the ~~same~~ real estate will become the absolute property in fee of this county, subject, ~~however,~~ to the lien for installments of special assessments certified or to be certified to the county auditor or which may become due subsequent to the time of service of this notice, and the former owner ~~thereof,~~ mortgagees, lienholders, and other ~~persons~~ persons interested persons therein will be forever foreclosed and barred from asserting any further rights to the real estate ~~whatsoever.~~ The following is a list of the real estate on which the tax lien will be foreclosed on October first. Opposite each description of the real estate appears any street address of the property, the name of the owner of the record title ~~thereof,~~ and the amount which must be paid to satisfy the tax lien. (List descriptions, names of owners, and amount necessary to satisfy the tax lien.)

Given pursuant to authority of law on _____, _____.

The failure to include the street address in the notice does not affect the validity of the notice.

SECTION 5. Section 57-28-09.1 of the North Dakota Century Code is created and enacted as follows:

57-28-09.1. Form of tax deed. A tax deed must be substantially in the following form:

TAX DEED

This deed is made by _____ (name of county auditor), county auditor of _____ County, North Dakota, in the name of the state to _____ (name of county) County, as provided by the laws of the state of North Dakota:

Whereas, there was assessed for _____ (year) the following real property: _____ (legal description of the property); and

Whereas, the taxes for _____ (year) levied against the property amounted to \$ _____ ; and

Whereas, the taxes were not paid and a property tax lien for the payment of the taxes attached; and

Whereas, notice was given to interested parties under chapter 57-28 of foreclosure of the tax lien and that the issuance of a tax deed was pending; and

Whereas, the property tax lien has not been satisfied by _____ (name of former owner) or any other person entitled to satisfy it.

Now, therefore, I _____ (auditor's name), county auditor of _____ County, North Dakota, in the name of the state, hereby grant to _____ (name of county) County, all the property situated in _____ County, North Dakota, described in this document.

Witness my hand on this date _____ (date, including year).
_____, County Auditor
_____, County, North Dakota

SECTION 6. AMENDMENT. Section 57-45-11 of the North Dakota Century Code is amended and reenacted as follows:

57-45-11. Limitation of action against tax deed. Any person having or claiming title to or a lien or encumbrance upon any land, whether in that person's possession or the possession of another, or vacant or unoccupied, may commence and maintain an action against any person, county, or state claiming any title to or interest in ~~such lands~~ the land, or a lien upon the ~~same land~~, adversely to the person by or through any tax deed, to test the validity of the ~~tax sale, tax certificate, or~~ tax deed, or to quiet the title to ~~said~~ the land as against the claims of ~~such~~ the adverse claimant, or to remove the cloud from the title arising from ~~such~~ the tax deed. ~~No~~ An action ~~nor~~ or defense based upon the invalidity of ~~any such~~ a tax deed may not be commenced or interposed after three years from the issuance of a tax deed unless ~~such~~ the tax deed is void by reason of jurisdictional defects. The holder of a tax deed may maintain an action to establish the validity ~~thereof~~ of the tax deed or to quiet title to ~~said lands, the land and the holder of a tax deed~~ may demand the possession of ~~such lands~~ the land.

SECTION 7. EFFECTIVE DATE. Sections 2 and 5 of this Act are effective for taxes that become due after December 31, 1999. The remainder of this Act is effective for taxable years beginning after December 31, 2000.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2059.

Senate Vote: Yeas 46 Nays 0 Absent 3

House Vote: Yeas 94 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State