

ASSEMBLY BILL No. 79—COMMITTEE ON TAXATION

(ON BEHALF OF CLARK COUNTY)

PREFILED NOVEMBER 20, 2018

Referred to Committee on Taxation

SUMMARY—Revises provisions governing the collection of delinquent property taxes. (BDR 32-490)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; creating an expedited procedure for the sale by a county of abandoned property on which delinquent certain taxes, assessments, penalties, interest and costs are owed; establishing the criteria to determine whether property is abandoned; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if delinquent property taxes and any associated interest, penalties and costs are not paid by 5 p.m. on the first Monday in June, the county treasurer, as tax receiver of the county, is required to make out a certificate, which authorizes the county treasurer to hold each property described in the certificate for a period of 2 years, unless a property is redeemed by the payment of the taxes, interest, penalties and costs which are due. (NRS 361.570) If a property described in the certificate is not redeemed within the 2-year period, the county treasurer is authorized to sell or otherwise dispose of the property after following certain procedures, including, without limitation, providing certain notice to the owner of the property. (NRS 361.585, 361.595, 361.603-361.608) This bill authorizes a county treasurer to use an expedited procedure for the sale of abandoned property on which delinquent taxes and associated interest, penalties and costs are owed.

Section 1 of this bill establishes the procedure that the county treasurer, as tax receiver of the county, is required to use to determine whether a property is abandoned. Under **section 1**, if, after an investigation, the county treasurer determines that the property is abandoned, the county treasurer is required to notify the owner of the property of the determination and that the county treasurer is authorized to use an expedited procedure to sell the property if it is determined to be abandoned. If the owner does not respond to the notice within a certain period,



the county treasurer is required to determine the property to be abandoned. If the owner, within a certain period, objects to the determination that the property is abandoned, the county treasurer is required to issue a decision on whether to uphold the initial determination that the property is abandoned. If the property is determined to be abandoned, the person who conducted the investigation of the property is required to execute and deliver to the clerk of the board of county commissioners an affidavit setting forth the conditions and circumstances on the property supporting that determination. **Section 1** also sets forth the criteria to be used to determine whether property is abandoned.

Sections 2, 3 and 5 of this bill establish the expedited procedure for the sale of abandoned property. **Sections 2 and 3** provide that if property is determined to be abandoned pursuant to **section 1**, the certificate made out by the county treasurer, as tax receiver for the county, provides a 1-year redemption period rather than a 2-year redemption period. If the property that is determined to be abandoned pursuant to **section 1** is not redeemed within the redemption period, **section 5** requires the county treasurer to provide the owner of the property at least 45-days' notice, rather than 90-days' notice, of the sale of the property.

Existing law provides that certain deeds conveying property on which property taxes and associated interest, penalties and costs are owed conclusively establish the facts authorizing the conveyance of the property and the regularity of the procedure for the conveyance, unless actual fraud has occurred. (NRS 361.590, 361.595) **Sections 4 and 5** of this bill provide that if a county treasurer uses an expedited procedure for the sale of property on which property taxes and associated interest, penalties and costs are owed, the deeds conveying the property conclusively establish that the property was abandoned, unless actual fraud has occurred.

Under existing law, certain taxes and assessments are required to be enforced in the same manner as property taxes. (NRS 244.3661, 541.240) **Sections 6 and 7** of this bill make a conforming change to authorize the expedited procedure to be used to enforce these taxes and assessments that are enforced in the same manner as property taxes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The tax receiver of a county may elect to use an expedited procedure for the sale of a property on which delinquent taxes, penalties, interest and costs have not been paid if, after an investigation, the tax receiver:

(a) Determines that the property is abandoned pursuant to the criteria set forth in subsection 6; and

(b) Complies with the requirements of this section.

2. If a tax receiver of a county has a reasonable belief that property on which delinquent taxes, penalties, interest and costs have not been paid is abandoned, the tax receiver or his or her designee may inspect the property to determine whether it is abandoned in accordance with the criteria set forth in subsection

6. The tax receiver or his or her designee and any employee of the



1 tax receiver or his or her designee may enter the property, but may
2 not enter any dwelling or structure, to perform an inspection
3 pursuant to this subsection, and the tax receiver, his or her
4 designee and any employee of the tax receiver or his or her
5 designee who enters a property pursuant to this subsection is not
6 liable for any civil damages as a result of any act or omission on
7 the property, not amounting to gross negligence, or for trespass.

8 3. If, after an inspection pursuant to subsection 2, the tax
9 receiver determines that the property is abandoned in accordance
10 with the criteria set forth in subsection 6, the tax receiver shall
11 serve a notice by certified and first-class mail to the owner or
12 owners of the property providing that unless the owner or owners
13 of the real property contact the tax receiver within 30 days after
14 service of the notice, the property will be determined to be
15 abandoned and the tax receiver may seek an expedited procedure
16 for the sale of the property. In addition to providing service by
17 mail, the tax receiver shall cause the same notice to be published:

18 (a) At least once in the newspaper which publishes the list of
19 taxpayers pursuant to NRS 361.300 or, if there is no newspaper in
20 the county, by posting the notice in at least five conspicuous places
21 within the county;

22 (b) On an Internet website that is maintained by the county
23 treasurer or, if the county treasurer does not maintain an Internet
24 website, on an Internet website maintained by the county; and

25 (c) By posting the notice in a conspicuous place of the
26 property.

27 4. If, within 30 days after service of the notice pursuant to
28 subsection 3, a property owner:

29 (a) Fails to respond to the notice, the tax receiver must
30 determine the property to be abandoned.

31 (b) Submits a written objection to the determination of the tax
32 receiver that the property is abandoned, the tax receiver must
33 conduct a review of the property and issue a decision on whether
34 to uphold the original determination that the property is
35 abandoned. A person who is aggrieved by a determination of the
36 tax receiver pursuant to this paragraph may, within 30 days after
37 the person receives notice of the determination, commence an
38 action for judicial review of the determination in district court for
39 the county in which the property is located.

40 5. A tax receiver who elects to use an expedited procedure for
41 the sale of property pursuant to this section must execute and
42 deliver to the clerk of the board of county commissioners an
43 affidavit setting forth the facts supporting the determination that
44 the property is abandoned in accordance with the criteria set forth
45 in subsection 6. The affidavit required by this subsection must:



(a) *Be signed and verified by the person who conducted the investigation to determine whether the property is abandoned;*

(b) *State that, after investigation, the property was determined to be abandoned; and*

(c) *State the conditions or circumstances supporting the determination that the property is abandoned.*

6. *For the purposes of this section, property is abandoned if at least two of the following conditions are found to exist by a preponderance of the evidence:*

(a) *No person appears to be residing in the property at the time the property is inspected;*

(b) *Utility service to the property, including, without limitation, gas, electric or water service, has been disconnected or delinquent for over 1 year;*

(c) *Multiple windows on the property are boarded up or closed off or are smashed through, broken off or unhinged, or multiple window panes are broken and unrepaired;*

(d) *Doors on the property are smashed through, broken off, unhinged or continuously unlocked;*

(e) *The property has been stripped of copper or other materials, or interior fixtures to the property have been removed;*

(f) *Law enforcement officials have received at least one report of trespassing or vandalism or other illegal acts being committed at the property within the immediately preceding 6 months;*

(g) *If the property is residential real property, the residential real property has been declared unfit for occupancy and ordered to remain vacant and unoccupied under an order issued by a municipal or county authority or a court of competent jurisdiction;*

(h) *The local police, fire or code enforcement authority has requested that the owner or any other interested or authorized party secure the property because the local authority has declared the property to be an imminent danger to the health, safety and welfare of the public;*

(i) *The property is open and unprotected and in reasonable danger of significant damage resulting from exposure to the elements or vandalism; or*

(j) *Other reasonable indicia of abandonment exist.*

Sec. 2. NRS 361.5648 is hereby amended to read as follows:

361.5648 1. Within 30 days after the first Monday in March of each year, with respect to each property on which the tax is delinquent, the tax receiver of the county shall mail notice of the delinquency by first-class mail to:

(a) The owner or owners of the property;



(b) The person or persons listed as the taxpayer or taxpayers on the tax rolls, at their last known addresses, if the names and addresses are known;

(c) Each holder of a recorded security interest if the holder has made a request in writing to the tax receiver for the notice, which identifies the secured property by the parcel number assigned to it in accordance with the provisions of NRS 361.189; and

(d) Each assignee of a tax lien on the property, if the assignee has made a request in writing to the tax receiver for the notice described in paragraph (c).

2. The notice of delinquency must state:

(a) The name of the owner of the property, if known.

(b) The description of the property on which the taxes are a lien.

(c) The amount of the taxes due on the property and the penalties and costs as provided by law.

(d) That if the amount is not paid by or on behalf of the taxpayer or his or her successor in interest, the tax receiver will, at 5 p.m. on the first Monday in June of the current year, issue to the county treasurer, as trustee for the State and county, a certificate authorizing the county treasurer to hold the property, subject to redemption within 2 years , *or within 1 year if the property is determined to be abandoned pursuant to section 1 of this act*, after the date of the issuance of the certificate, by payment of the taxes and accruing taxes, penalties and costs, together with interest on the taxes at the rate of 10 percent per annum, assessed monthly, from the date due until paid as provided by law, except as otherwise provided in NRS 360.232 and 360.320, and that redemption may be made in accordance with the provisions of chapter 21 of NRS in regard to real property sold under execution.

3. Within 30 days after mailing the original notice of delinquency, the tax receiver shall issue his or her personal affidavit to the board of county commissioners affirming that due notice has been mailed with respect to each parcel. The affidavit must recite the number of letters mailed, the number of letters returned and the number of letters finally determined to be undeliverable. Until the period of redemption has expired, the tax receiver shall maintain detailed records which contain such information as the Department may prescribe in support of the affidavit.

4. A second copy of the notice of delinquency must be sent by certified mail, not less than 60 days before the expiration of the period of redemption as stated in the notice.

5. The cost of each mailing must be charged to the delinquent taxpayer.

6. A county and its officers and employees are not liable for any damages resulting from failure to provide actual notice pursuant



to this section if the county, officer or employee, in determining the names and addresses of persons with an interest in the property, relies upon a preliminary title search from a company authorized to provide title insurance in this State.

Sec. 3. NRS 361.570 is hereby amended to read as follows:

361.570 1. Pursuant to the notice given as provided in NRS 361.5648 and 361.565 and at the time stated in the notice, the tax receiver shall make out a certificate that describes each property on which delinquent taxes, penalties, interest and costs have not been paid. ~~[The]~~ *Except as otherwise provided in this subsection, the certificate authorizes the county treasurer, as trustee for the State and county, to hold each property described in the certificate for the period of 2 years after the first Monday in June of the year the certificate is dated, unless sooner redeemed. For each property described in the certificate that has been determined to be abandoned pursuant to section 1 of this act, the certificate authorizes the county treasurer, as trustee for the State and county, to hold the property for the period of 1 year after the first Monday in June of the year the certificate is dated, unless sooner redeemed.*

2. The certificate must specify:

(a) The amount of delinquency on each property, including the amount and year of assessment;

(b) The taxes, and the penalties and costs added thereto, on each property, and that, except as otherwise provided in NRS 360.232 and 360.320, interest on the taxes will be added at the rate of 10 percent per annum, assessed monthly, from the date due until paid; and

(c) The name of the owner or taxpayer of each property, if known.

3. The certificate must state:

(a) ~~[That]~~ *For each property described in the certificate that has not been determined to be abandoned pursuant to section 1 of this act, that each such property ~~[described in the certificate]~~ may be redeemed within 2 years after the date of the certificate;*

(b) *For each property described in the certificate that has been determined to be abandoned pursuant to section 1 of this act, that each such property may be redeemed within 1 year after the date of the certificate;*

(c) That the title to each property not redeemed vests in the county for the benefit of the State and county; and

~~[(e)]~~ (d) That a tax lien may be assigned against the parcel pursuant to the provisions of NRS 361.7303 to 361.733, inclusive.

4. Until the expiration of the period of redemption, each property held pursuant to the certificate must be assessed annually



1 to the county treasurer as trustee. Before the owner or his or her
2 successor redeems the property, he or she must also pay the county
3 treasurer holding the certificate any additional taxes, penalties and
4 costs assessed and accrued against the property after the date of the
5 certificate, together with interest on the taxes at the rate of 10
6 percent per annum, assessed monthly, from the date due until paid,
7 unless otherwise provided in NRS 360.232 and 360.320.

8 5. A county treasurer shall take a certificate issued to him or
9 her pursuant to this section. The county treasurer may cause the
10 certificate to be recorded in the office of the county recorder against
11 each property described in the certificate to provide constructive
12 notice of the amount of delinquent taxes on each property
13 respectively. The certificate reflects the amount of delinquent taxes,
14 penalties, interest and costs due on the properties described in the
15 certificate on the date on which the certificate was recorded, and the
16 certificate need not be amended subsequently to indicate additional
17 taxes, penalties, interest and costs assessed and accrued or the
18 repayment of any of those delinquent amounts. The recording of the
19 certificate does not affect the statutory lien for taxes provided in
20 NRS 361.450.

21 **Sec. 4.** NRS 361.590 is hereby amended to read as follows:

22 361.590 1. If a property described in a certificate is not
23 redeemed within the time allowed by law for its redemption, the tax
24 receiver or his or her successor in office shall make to the county
25 treasurer as trustee for the State and county a deed of the property,
26 reciting in the deed substantially the matters contained in the
27 certificate of sale or, in the case of a conveyance under NRS
28 361.604, the order of the board of county commissioners, and that
29 no person has redeemed the property during the time allowed for its
30 redemption.

31 2. The deed must be recorded in the office of the county
32 recorder within 30 days after the date of expiration of the period of
33 redemption.

34 3. All such deeds are, except as against actual fraud, conclusive
35 evidence that:

- 36 (a) The property was assessed as required by law.
37 (b) The property was equalized as required by law.
38 (c) The taxes were levied in accordance with law.
39 (d) The taxes were not paid.
40 (e) At a proper time and place a certificate of delinquency was
41 filed as prescribed by law, and by the proper officer.

42 (f) *If, pursuant to section 1 of this act, the tax receiver has*
43 *elected to use an expedited procedure for the sale of the property,*
44 *the property was abandoned.*

45 (g) The property was not redeemed.



~~(e)~~ (h) The person who executed the deed was the proper officer.

4. Such deeds are, except as against actual fraud, conclusive evidence of the regularity of all other proceedings, from the assessment by the county assessor to the execution of the deed.

5. Except as otherwise provided by specific statute, the deed conveys to the county treasurer as trustee for the State and county the property described therein, free of all encumbrances, except any easements of record for public utility purposes, any lien for taxes or assessments by any irrigation or other district for irrigation or other district purposes, and any interest and penalties on the property, except when the land is owned by the United States or this State, in which case it is prima facie evidence of the right of possession accrued as of the date of the deed to the purchaser, but without prejudice to the lien for other taxes or assessments or the claim of any such district for interest or penalties.

6. No tax assessed upon any property, or sale therefor, may be held invalid by any court of this State on account of:

(a) Any irregularity in any assessment;

(b) Any assessment or tax roll not having been made or proceeding had within the time required by law; or

(c) Any other irregularity, informality, omission, mistake or want of any matter of form or substance in any proceedings which the Legislature might have dispensed with in the first place if it had seen fit so to do, and that does not affect the substantial property rights of persons whose property is taxed.

➤ All such proceedings in assessing and levying taxes, and in the sale and conveyance therefor, must be presumed by all the courts of this State to be legal until the contrary is shown affirmatively.

Sec. 5. NRS 361.595 is hereby amended to read as follows:

361.595 1. Any property held in trust by any county treasurer by virtue of any deed made pursuant to the provisions of this chapter may be sold and conveyed in the manner prescribed in this section and in NRS 361.603 or conveyed without sale as provided in NRS 361.604.

2. If the property is to be sold, the board of county commissioners may make an order, to be entered on the record of its proceedings, directing the county treasurer to sell the property particularly described therein, after giving notice of sale, for a total amount not less than the amount of the taxes, costs, penalties and interest legally chargeable against the property as stated in the order.

3. ~~[Notice]~~ *Except as otherwise provided in subsection 4, notice* of the sale must specify the day, time and place of the sale and be:



(a) Posted in at least three public places in the county, including one at the courthouse and one on the property, not less than 20 days before the day of sale or, in lieu of such a posting, by publication of the notice at least once a week for 4 consecutive weeks by four weekly insertions in some newspaper published within the county, the first publication being at least 22 days before the day of the sale, if the board of county commissioners so directs.

(b) Mailed by certified mail, return receipt requested, not less than 90 days before the day of the sale, to the owner of the parcel as shown on the tax roll and to any person or governmental entity that appears in the records of the county to have a lien or other interest in the property. If the receipt is returned unsigned, the county treasurer must make a reasonable attempt to locate and notify the owner or other person or governmental entity before the sale.

4. *If, pursuant to section 1 of this act, the tax receiver has elected to use an expedited procedure for the sale of the property and the requirements of section 1 of this act were met, notice of the sale must specify the day, time and place of the sale and be:*

(a) *Posted in at least three public places in the county, including one at the courthouse and one on the property, not less than 20 days before the day of sale or, in lieu of such a posting, by publication of the notice at least once a week for 4 consecutive weeks by four weekly insertions in some newspaper published within the county, the first publication being at least 22 days before the day of the sale, if the board of county commissioners so directs.*

(b) *Mailed by certified mail, return receipt requested, not less than 45 days before the day of the sale, to the owner of the parcel as shown on the tax roll and to any person or governmental entity that appears in the records of the county to have a lien or other interest in the property. If the receipt is returned unsigned, the county treasurer must make a reasonable attempt to locate and notify the owner or other person or governmental entity before the sale.*

5. Except as otherwise provided in subsection ~~5.1~~ 6, the county treasurer shall make, execute and deliver to any purchaser, upon payment to the county treasurer, as trustee, of a consideration not less than that specified in the order, a quitclaim deed, discharged of any trust of the property mentioned in the order.

~~5.1~~ 6. If, not later than 5 p.m. on the third business day immediately preceding the day of the sale by the county treasurer, a municipality provides the county treasurer with an affidavit signed by the treasurer of the municipality stating that:

(a) The municipality sold the property or the property was stricken off to the municipality pursuant to NRS 271.560; and



(b) A certificate of sale for the property was issued to the purchaser pursuant to NRS 271.570 or to the municipality pursuant to NRS 271.560,

↳ the county treasurer may not issue the quitclaim deed described in subsection ~~[4]~~ 5 unless the person who purchased the property from the county pays to the municipality any amount owed pursuant to the certificate of sale issued pursuant to NRS 271.560 and 271.570 and the municipality provides an affidavit signed by the treasurer of the municipality stating that such amounts have been paid. If the purchaser does not pay the amount owed to the municipality within 20 days after the sale of the property by the county, the sale of the property by the county is void and the county treasurer may retain for administrative costs not more than 10 percent of the purchase amount paid by the purchaser.

~~[6]~~ 7. Before delivering a deed, the county treasurer shall record the deed at the expense of the purchaser.

~~[7]~~ 8. All deeds issued pursuant to this section, whether issued before, on or after July 1, 1955, are primary evidence:

(a) Of the regularity of all proceedings relating to the order of the board of county commissioners, the notice of sale and the sale of the property; ~~[and]~~

(b) *That if, pursuant to section 1 of this act, the tax receiver has elected to use an expedited procedure for the sale of the property, the property is abandoned; and*

(c) That, if the real property was sold to pay taxes on personal property, the real property belonged to the person liable to pay the tax.

~~[8]~~ 9. No deed may be executed and delivered by the county treasurer until he or she files at the expense of the purchaser, with the clerk of the board of county commissioners, proper affidavits of posting and of publication of the notice of sale, as the case may be, together with his or her return of sale, verified, showing compliance with the order of the board of county commissioners, which constitutes primary evidence of the facts recited therein.

~~[9]~~ 10. If the deed when regularly issued is not recorded in the office of the county recorder, the deed, and all proceedings relating thereto, is void as against any subsequent purchaser in good faith and for a valuable consideration of the same property, or any portion thereof, when his or her own conveyance is first recorded.

~~[10]~~ 11. The board of county commissioners shall provide its clerk with a record book in which must be indexed the name of each purchaser, together with the date of sale, a description of the property sold, a reference to the book and page of the minutes of the board of county commissioners where the order of sale is recorded, and the file number of the affidavits and return.



Sec. 6. NRS 244.3661 is hereby amended to read as follows:

244.3661 1. Except as otherwise provided in NRS 704.664, a board of county commissioners may, by ordinance, impose an excise tax on the use of water in an amount sufficient to ensure the payment, wholly or in part, of obligations incurred by the county to acquire and construct a new facility for the treatment of water for public or private use, or both. The tax must be imposed on customers of suppliers of water that are capable of using the water treatment services provided by the facility to be financed with the proceeds of the tax.

2. An excise tax imposed pursuant to subsection 1 may be levied at different rates for different classes of customers or to take into account differences in the amount of water used or estimated to be used or the size of the connection.

3. The ordinance imposing the tax must provide the:

- (a) Rate or rates of the tax;
- (b) Procedure for collection of the tax;
- (c) Duration of the tax; and
- (d) Rate of interest that will be charged on late payments.

4. Late payments of the tax must bear interest at a rate not exceeding 2 percent per month, or fraction thereof. The tax due is a perpetual lien against the property served by the water on whose use the tax is imposed until the tax and any interest which may accrue thereon are paid. The county shall enforce the lien in the same manner as provided in NRS 361.5648 to 361.730, inclusive, *and section 1 of this act* for property taxes.

5. A county may:

(a) Acquire and construct a new facility for the treatment of water for public or private use, or both.

(b) Finance the project by the issuance of general obligation bonds, medium-term obligations or revenue bonds or other securities issued pursuant to chapter 350 of NRS, or by installment-purchase financing pursuant to that chapter.

(c) Enter into an agreement with a public utility which provides that:

(1) Water treatment services provided by the facility will be made available to the public utility; or

(2) The public utility will operate and maintain the facility, or both. An agreement entered into pursuant to this paragraph may extend beyond the terms of office of the members of the board of county commissioners who voted upon it.

6. A county may pledge any money received from the proceeds of a tax imposed pursuant to this section for the payment of general or special obligations issued for a new facility for the treatment of water for public or private use, or both. Any money pledged by the



1 county pursuant to this subsection may be treated as pledged
2 revenues of the project for the purposes of subsection 3 of
3 NRS 350.020.

4 7. As used in this section, “public utility” has the meaning
5 ascribed to it in NRS 704.020 and does not include the persons
6 excluded by NRS 704.021.

7 **Sec. 7.** NRS 541.240 is hereby amended to read as follows:

8 541.240 If the taxes and assessments levied are not paid as
9 provided in NRS 541.230, then the real property, if not redeemed
10 within the time allowed by law, must be sold and conveyed for the
11 payment of taxes, assessments, interest and penalties in the manner
12 provided in NRS 361.5648 to 361.730, inclusive, *and section 1 of*
13 *this act* for the sale of real property after default in payment of
14 general taxes.

15 **Sec. 8.** This act becomes effective on July 1, 2019.

