

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 808
SENATE BILL 647

AN ACT TO ABOLISH THE SALE OF TAX LIENS TO PRIVATE PURCHASERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-369 is rewritten to read:

"§ 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 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 order the tax collector to advertise such tax liens at one of the times specified in subsection (b), below. 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) Time for Advertisement. The county tax lien advertisement shall begin on the first Monday in March, April, May, or June, and the municipal tax lien advertisement shall begin on the second Monday in any of the four specified months. (If the taxes of two or more taxing units are collected by the same tax collector, lien advertisements for both, or all, may begin on either the first or second Monday of a month in which tax lien advertisements may be begun.) Failure to comply with the provisions of this section shall not affect the validity of the taxes or the tax liens.

(c) Contents of Advertisement. Advertisement of tax liens shall be made by posting at some public place at the courthouse (in the case of county taxes) or city or town hall (in the case of municipal taxes) and by advertisement once each week for four successive weeks in one or more newspapers having general circulation in the taxing unit. 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) The name of each person to whom is listed real property on which the taxing unit has a lien for unpaid taxes, together with a brief description of each parcel of land to which such 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.

(c) 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 subdivision (c) shall be deemed to be taxes.

(d) 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 the advertisement, but if he fails to do so he shall not be liable for his failure to make the decision.

(e) Listing and Advertising in Wrong Name. No tax lien shall be 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.

(f) Wrongful Advertisement. Any tax collector or deputy tax collector who shall willfully advertise any tax lien knowing that the property is not subject to taxation or that the taxes advertised have been paid shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than 30 days, or both, and shall be required to pay the injured party all damages sustained in consequence."

Sec. 2. G.S. 105-370 is repealed.

Sec. 3. G.S. 105-371 is repealed.

Sec. 4. G.S. 105-372 is repealed.

Sec. 5. G.S. 105-373(a)(1) is rewritten to read:

"(1) Preliminary Report. Not later than the third Monday in June, the tax collector shall make a sworn report to the governing body of the taxing unit showing:

a. A list of the persons owning real property whose taxes remain unpaid and the principal amount due; and

b. A list of the persons not owning real property whose personal property taxes remain unpaid. (To this list the tax collector shall append his statement under oath that he has made diligent efforts to collect the taxes due from the persons listed out of their personal property and by other means available to him for collection, and he shall report such other information concerning these taxpayers as may be of interest to

or required by the governing body, including a report of his efforts to make collection outside the taxing unit under the provisions of G.S. 105-364.)"

Sec. 6. G.S. 105-373(a)(3)c. is rewritten to read:

"c. The principal amount of taxes constituting liens on real property."

Sec. 7. G.S. 105-373(a)(4) is rewritten to read:

"(4) Disposition of Tax Receipts after Settlement. Uncollected taxes allowed as credits in the settlement prescribed in subdivision (a)(3), above, whether represented by tax liens held by the taxing unit or included in the list of insolvents, shall, for purposes of collection, be recharged to the tax collector or charged to some other person designated by the governing body of the taxing unit under statutory authority. The person charged with uncollected taxes shall:

- a. Give bond satisfactory to the governing body;
- b. Receive the tax receipts and tax records representing the uncollected taxes;
- c. Have and exercise all powers and duties conferred or imposed by law upon tax collectors; and
- d. Receive compensation as determined by the governing body."

Sec. 8. G.S. 105-374(b) is rewritten to read:

"(b) Taxing units may proceed under this section, either on the original tax lien created by G.S. 105-355(a) or on the lien acquired at a tax lien sale held under former G.S. 105-369 before July 1, 1983, with or without a lien sale certificate; and the amount of recovery in either case shall be the same. To this end, it is hereby declared that the original attachment of the tax lien under G.S. 105-355(a) is sufficient to support a tax foreclosure action by a taxing unit, that the issuance of a lien sale certificate to the taxing unit for lien sales held before July 1, 1983, is a matter of convenience in record keeping within the discretion of the governing body of the taxing unit, and that issuance of such certificates is not a prerequisite to perfection of the tax lien."

Sec. 9. G.S. 105-375(b) is amended by striking out the word "sale" in line 3 and inserting in lieu thereof the word "advertisement".

Sec. 10. G.S. 105-394(6) is rewritten to read:

"(6) The failure of the collector to advertise any tax lien."

Sec. 11. G.S. 105-394(7) is repealed.

Sec. 12. This act shall not affect the validity of any tax lien sale held before July 1, 1983.

Sec. 13. Anything in this act to the contrary notwithstanding, any person, firm, or corporation who purchased or took assignment of a tax lien sale certificate before July 1, 1983, pursuant to statutes amended or repealed by this act may initiate a foreclosure action under G.S. 105-374 no earlier than six months after the date of the original lien sale.

Sec. 14. All references in this act to portions of Chapter 105 of the General Statutes of North Carolina refer to the same as contained in 1979 Replacement Volume 3D, the 1981 Cumulative Supplement thereto, and 1982 Interim Supplement.

Sec. 15. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of July, 1983.