

CHAPTER 279

GOVERNMENT - COUNTY

HOUSE BILL 05-1159

BY REPRESENTATIVE(S) Crane, Decker, Lundberg, Rose, Schultheis, Welker, and Kerr;
also SENATOR(S) Hanna.

AN ACT

CONCERNING THE SALE OF TAX LIENS BY A COUNTY TREASURER.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 11 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-11-100.3. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DATE OF SALE" MEANS THE DATE ON WHICH A PUBLIC AUCTION BEGINS.

(2) "ELECTRONIC FUNDS TRANSFER" MEANS A TRANSFER OF FUNDS INITIATED BY USING AN ELECTRONIC TERMINAL, TELEPHONIC INSTRUMENT, OR COMPUTER OR MAGNETIC TAPE TO ORDER OR AUTHORIZE A FINANCIAL INSTITUTION TO CREDIT OR DEBIT AN ACCOUNT. "ELECTRONIC FUNDS TRANSFER" DOES NOT INCLUDE A TRANSACTION ORIGINATED BY CHECK, DRAFT, OR SIMILAR PAPER INSTRUMENT.

(3) "NEGOTIABLE PAPER" MEANS A BANK CHECK, DRAFT, EXPRESS OR POST OFFICE MONEY ORDER, OR CASHIER'S CHECKS APPROVED BY THE TREASURER.

(4) "PUBLIC AUCTION" MEANS THE SALE OF LANDS OR TOWN LOTS UNDER THIS ARTICLE AT A VENUE OR THROUGH A MEDIUM THAT ALLOWS MEMBERS OF THE PUBLIC TO BID AND PURCHASE THE LANDS OR TOWN LOTS.

SECTION 2. 39-11-101, Colorado Revised Statutes, is amended to read:

39-11-101. Notice to delinquent owner. ~~Except as otherwise provided in section 39-2-117 (1) (a), the treasurer, no later than September 1 of each year, shall notify~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~by mail, at the person's last-known address, each person by whom taxes for the previous year are known to be due and unpaid of the amount of the person's delinquency and shall allow fifteen days from the time of mailing of said notice for the payment of such delinquent taxes and delinquent interest thereon. The treasurer shall make a list of all lands and town lots the tax liens on which are subject to sale, describing such land and town lots as the same are described on the tax roll. with an accompanying notice stating that the tax lien on each such tract of land or town lot described in said list, on a day specified thereafter and the next succeeding days, will be sold by the treasurer at public auction for the taxes, delinquent interest, and charges thereon at the treasurer's office or at any other location in the county deemed suitable by the treasurer; except that all of the property offered for sale on the same day shall be offered for sale at the same location.~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-2-117 (1) (a), NO LATER THAN SEPTEMBER 1 OF EACH YEAR, THE TREASURER SHALL SEND A NOTICE BY MAIL, AT THE PERSON'S LAST-KNOWN ADDRESS, TO EACH PERSON BY WHOM TAXES FOR THE PREVIOUS YEAR ARE KNOWN TO BE DUE AND UNPAID. THE NOTICE SHALL INDICATE THE AMOUNT OF THE PERSON'S DELINQUENCY AND STATE THAT IF THE AMOUNT OF THE DELINQUENCY IS NOT PAID WITHIN FIFTEEN DAYS OF THE DATE OF MAILING OF THE NOTICE, THE TREASURER WILL SELL A TAX LIEN ON THE PERSON'S PROPERTY ON THE DATE SPECIFIED IN THE NOTICE AT PUBLIC AUCTION FOR THE DELINQUENT TAXES, INTEREST, AND APPLICABLE FEES. If such list is not made until after September 1, the sale held thereunder shall not be void by reason thereof.

SECTION 3. 39-11-102, Colorado Revised Statutes, is amended to read:

39-11-102. Treasurer to publish and post notice. (1) The treasurer shall cause ~~said~~ THE NOTICE DESCRIBED IN SUBSECTION (2) OF THIS SECTION to be published in the newspaper selected pursuant to section 39-11-105, the first publication being at least four weeks before the ~~day~~ DATE of sale, and shall post a written or printed notice in a conspicuous place in the office of the treasurer for not less than four weeks before the DATE OF sale. If there is no newspaper published in the county, a like notice shall be given by posting one written or printed notice for the above length of time on or near the outer door of the treasurer's office. When publication is made in a weekly newspaper, the notice shall be published in three successive weekly issues. When publication is made in a daily newspaper, the notice shall be published only three times, once each week, on the same day of the week.

(2) THE NOTICE OF SALE AT PUBLIC AUCTION SHALL CONTAIN:

(a) A DESCRIPTION OF THE LANDS AND TOWN LOTS ON WHICH THE TAX LIENS ARE SUBJECT TO SALE;

(b) THE DATE, TIME, AND PLACE OF THE TAX LIEN SALE, INCLUDING THE ELECTRONIC ADDRESS IF THE PUBLIC AUCTION IS CONDUCTED BY MEANS OF THE INTERNET OR OTHER ELECTRONIC MEDIUM;

(c) THE LOCATION OF COMPUTER WORKSTATIONS THAT ARE AVAILABLE TO THE PUBLIC AND INFORMATION ABOUT HOW TO OBTAIN INSTRUCTIONS ON ACCESSING THE PUBLIC AUCTION AND SUBMITTING BIDS IF THE PUBLIC AUCTION IS CONDUCTED BY MEANS OF THE INTERNET OR OTHER ELECTRONIC MEDIUM; AND

(d) IF THE PUBLIC AUCTION IS CONDUCTED BY MEANS OF THE INTERNET OR OTHER ELECTRONIC MEDIUM, A STATEMENT THAT THE BIDDING RULES FOR THE PUBLIC AUCTION WILL BE POSTED ON THE INTERNET OR OTHER ELECTRONIC MEDIUM USED TO CONDUCT THE PUBLIC AUCTION AT LEAST TWO WEEKS BEFORE THE DATE OF SALE.

SECTION 4. 39-11-106 (1), Colorado Revised Statutes, is amended to read:

39-11-106. Advertising and auction fees. (1) To the amount of delinquent taxes there shall be added a fee to cover the cost of advertising, as provided in section 30-1-102, C.R.S. IF THE PUBLIC AUCTION IS CONDUCTED BY MEANS OF THE INTERNET OR OTHER ELECTRONIC MEDIUM, THE TREASURER MAY ADD A FEE TO COVER THE COST OF CONDUCTING THE PUBLIC AUCTION.

SECTION 5. 39-11-108, Colorado Revised Statutes, is amended to read:

39-11-108. Manner of conducting public auction - definitions. (1) On the day designated in the notice of sale, the treasurer shall commence the ~~sale~~ PUBLIC AUCTION of the tax liens on those lands and town lots on which the taxes, INTEREST, and ~~charges~~ FEES have not been paid and shall continue the same from day to day, Saturdays and Sundays excepted, until the tax liens on each parcel are sold. Where two or more lots or tracts of land are valued and assessed as one parcel, the treasurer shall sell a single tax lien on such land or tract. THE PUBLIC AUCTION SHALL BE HELD AT THE TREASURER'S OFFICE OR AT ANOTHER LOCATION IN THE COUNTY DESIGNATED BY THE TREASURER, AND ALL LANDS AND TOWN LOTS OFFERED AT THE PUBLIC AUCTION ON THE SAME DATE OF SALE SHALL BE OFFERED FOR PUBLIC AUCTION AT THE SAME LOCATION; EXCEPT THAT THE PUBLIC AUCTION MAY BE CONDUCTED BY MEANS OF THE INTERNET OR OTHER ELECTRONIC MEDIUM.

(2) A PUBLIC AUCTION CONDUCTED BY MEANS OF THE INTERNET OR OTHER ELECTRONIC MEDIUM TO SELL LANDS AND TOWN LOTS UNDER THIS ARTICLE SHALL ALLOW MEMBERS OF THE PUBLIC TO SUBMIT BIDS BY COMPUTER AND PERMIT THE TREASURER TO ACCEPT BIDS FOR AS LONG AS THE TREASURER DEEMS NECESSARY. THE COUNTY AND ITS EMPLOYEES ACTING IN THEIR OFFICIAL CAPACITY IN PREPARING, CONDUCTING, AND EXECUTING A SALE OF LANDS AND TOWN LOTS UNDER THIS ARTICLE ARE NOT LIABLE FOR THE FAILURE OF A DEVICE THAT PREVENTS A PERSON FROM PARTICIPATING IN A SALE UNDER THIS ARTICLE. AS USED IN THIS SUBSECTION (2), "DEVICE" INCLUDES, BUT IS NOT LIMITED TO, COMPUTER HARDWARE, A COMPUTER NETWORK, A COMPUTER SOFTWARE APPLICATION, AND AN INTERNET WEBSITE.

(3) If there is no bid for any tax lien offered, the offering of such tax lien shall remain open until all the tax liens are offered for sale and the sale is ended or until the treasurer is satisfied that no more sales can be effected, whereupon it is ~~his~~ THE TREASURER'S duty to strike off to the county, city, town, or city and county the tax liens on those lands and town lots remaining unsold, for the amount of such taxes, delinquent interest, and ~~costs~~ FEES thereon. When the treasurer strikes off a tax lien on any tract of land or town lot, ~~he~~ THE TREASURER shall issue to the county, city, town, or city and county a certificate of purchase. No taxes levied against any lands for which a county has purchased a tax lien under the provisions of this section shall be payable until the same have been derived by the county from the sale of a tax lien on such lands or from the redemption of such lands.

SECTION 6. 39-11-109, Colorado Revised Statutes, is amended to read:

39-11-109. Time of public auction. The ~~sale~~ PUBLIC AUCTION of tax liens on lands upon which taxes remain delinquent shall commence on or before the second Monday in December of each year. ~~and shall be held at the treasurer's office in each county or at any other location in the county deemed suitable by the treasurer; except that all of the property offered for sale on the same day shall be offered for sale at the same location.~~

SECTION 7. 39-11-110, Colorado Revised Statutes, is amended to read:

39-11-110. When public auction can be held. If, from any cause, the tax lien on real property cannot be duly advertised and offered for sale AT PUBLIC AUCTION on or before the second Monday of December, it is the duty of the treasurer to hold the ~~sale~~ PUBLIC AUCTION on any subsequent day in which it can be held, allowing time for the publication of notice as provided in section 39-11-102.

SECTION 8. 39-11-111, Colorado Revised Statutes, is amended to read:

39-11-111. Method of payment. When the treasurer sells any tax lien on any lands or lots for delinquent taxes, ~~he shall require the purchase price thereof to be paid in cash.~~ THE TREASURER MAY ACCEPT PAYMENT OF THE PURCHASE PRICE IN THE FORM OF CASH, NEGOTIABLE PAPER, OR ELECTRONIC FUNDS TRANSFER, SUBJECT TO THE TREASURER'S BIDDING RULES.

SECTION 9. 39-11-115 (1), the introductory portion to 39-11-115 (2), and 39-11-115 (4), Colorado Revised Statutes, are amended to read:

39-11-115. To whom tax lien shall be sold. (1) When the taxes levied for the preceding year or years on any lands remain unpaid, the tax liens on such lands offered at public ~~sale~~ AUCTION at the times provided by law shall be sold to the persons who pay therefor the taxes, delinquent interest, and ~~costs~~ FEES then due thereon or who further pay the largest amount ~~in cash~~; in excess of said taxes, delinquent interest, and ~~costs~~. ~~Said~~ FEES. THE excess amount ~~in cash~~ shall be credited to the county general fund. Each tax lien shall be sold for an entire piece of property. The taxes, delinquent interest, and ~~costs~~ FEES shall draw interest at the rates fixed by law, and, when the tax liens on any lands are bid in by the county, city, town, or city and county, the amount for which they are bid in shall draw interest at the same rates. Real property for which a tax lien is sold may be redeemed in the manner provided by law.

(2) In order that the ~~sale~~ PUBLIC AUCTION may be conducted in an efficient and equitable manner, the treasurer is hereby granted broad powers to set bidding rules governing the ~~sale~~ PUBLIC AUCTION. Such powers shall include, but need not be limited to, the following:

(4) The treasurer shall announce bidding rules at the beginning of the ~~sale~~ PUBLIC AUCTION, and the rules announced shall apply to all bidders throughout the ~~sale~~ PUBLIC AUCTION. IF THE PUBLIC AUCTION IS CONDUCTED BY MEANS OF THE INTERNET OR OTHER ELECTRONIC MEDIUM, THE TREASURER SHALL CAUSE THE INTERNET BIDDING RULES TO BE POSTED ON THE MEDIUM FOR AT LEAST TWO WEEKS BEFORE THE

DATE OF SALE. THE INTERNET BIDDING RULES POSTED SHALL APPLY TO ALL BIDDERS THROUGHOUT THE PUBLIC AUCTION.

SECTION 10. 39-11-116, Colorado Revised Statutes, is amended to read:

39-11-116. Procedure when purchaser fails to pay. If ~~any~~ A person bidding fails to pay the amount due, the treasurer may again offer the tax lien on such land for sale if the ~~sale~~ PUBLIC AUCTION has not closed, and, if it has closed, ~~he~~ THE TREASURER may again advertise it specially in the same manner as in the original advertisement and for not less than one week, ~~when he~~ AFTER WHICH THE TREASURER may again offer and sell the tax liens on such lands or lots as provided in section 39-11-115; or at ~~his~~ THE TREASURER'S option, the treasurer may recover the amount bid by civil action brought in the name of the county in any court of competent jurisdiction. IN A PUBLIC AUCTION CONDUCTED BY MEANS OF THE INTERNET OR OTHER ELECTRONIC MEDIUM, IF A PERSON BIDDING FAILS TO PAY THE AMOUNT DUE, THE TREASURER MAY OFFER THE TAX LIEN, WITHOUT ADDITIONAL ADVERTISEMENT, TO ANOTHER BIDDER, WHETHER OR NOT THE PUBLIC AUCTION HAS CLOSED; OR AT THE TREASURER'S OPTION, THE TREASURER MAY RECOVER THE AMOUNT BID BY CIVIL ACTION BROUGHT IN THE NAME OF THE COUNTY IN ANY COURT OF COMPETENT JURISDICTION. THE TREASURER MAY PROHIBIT A PERSON WHO FAILS TO PAY THE AMOUNT DUE FROM BIDDING ON SALES UNDER THIS ARTICLE FOR UP TO FIVE YEARS.

SECTION 11. 39-11-117, Colorado Revised Statutes, is amended to read:

39-11-117. Certificate of purchase. The treasurer shall prepare, sign, and retain for safekeeping or deliver to the purchaser of a tax lien on any real property sold for the payment of delinquent taxes a certificate of purchase describing the property on which the taxes and ~~costs~~ FEES were paid by the purchaser, as the same was described in the record of sales, and also stating the rate of interest and the total amount of all taxes, delinquent interest, and ~~costs~~ FEES on each tract or lot for which the tax lien was sold, as described in the record of sales, and that payment thereof has been made, with columns for subsequent taxes. For each certificate so delivered, the purchaser shall pay a fee to the treasurer as provided in section 30-1-102, C.R.S.

SECTION 12. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 2005