

CHAPTER 32-31 FORECLOSURE OF TAX LIENS

32-31-01. Jurisdiction of district court in foreclosure of tax lien.

In any case in which the owner of real estate has been given notice of tax lien under chapter 57-20 for general taxes, for special assessments, for assessments of irrigation districts, for drain assessments, or for both general taxes and any such special taxes or assessments, the district court of the proper county shall have jurisdiction in an action in equity brought for that purpose to foreclose the lien of the delinquent taxes and assessments for which such land was noticed and to enter judgment foreclosing the same and decreeing that the same shall be sold under special execution in a manner similar to that prescribed in case of the foreclosure by action of a mortgage or other lien upon real property.

If in such action it shall appear that the taxes or assessments are invalid or void by reason of noncompliance with the law, the court shall determine the true and just amount which the property attempted to be so assessed should pay to make the same uniform with other taxes and assessments for the same purpose, and judgment must be rendered and given against the property liable for such taxes or assessments without regard to the proceedings had for the levy thereof, and such judgment shall be a lien upon the property upon which the taxes or assessments shall have been levied, of equal force and effect as the lien of the tax or assessment, and the lien of such judgment shall be enforced by the court in such action.

32-31-02. Procedure in equity governs.

The ordinary procedure in an equity case shall apply to an action brought under the provisions of this chapter. The court shall include in its decree such provision as will permit such period of redemption from execution sale as may be necessary to give to those entitled to redeem at least as long a period of redemption as they would have had if the foreclosure of tax lien in question had been valid in all respects and tax deed thereunder had been applied for at the earliest date permitted under statutes with reference to procuring tax deeds under tax lien foreclosures. The remedy provided by this chapter shall be cumulative and in addition to all other remedies and shall not be held to impair or detract from any other remedy provided by any other statute or statutes.

32-31-03. Action brought by whom.

An action to foreclose a tax lien shall be brought in the name of the county in which such real estate is situated as plaintiff, and may be instituted by the attorney general or by the state's attorney of such county.

32-31-04. Special counsel.

If the attorney general or state's attorney of such county shall fail or refuse to institute an action, or if the board of county commissioners of the county interested, or the governing board of any city or school district interested in such taxes, shall desire to be represented by additional counsel, the district court, upon application, may enter an order appointing special counsel to represent such county, city, or school district.

32-31-05. County treasurer to bid at execution sale.

The county treasurer shall attend the execution sale held pursuant to the decree in any action to foreclose a tax lien in which the county is plaintiff, and if there are no other bidders offering the amount of the judgment plus interest and accrued and accruing costs, the county treasurer shall bid such amount in the name of the county and the sheriff shall sell the same to the county, but the county shall not be required to pay any cash upon such sale.

32-31-06. Disposal of land by county.

If redemption is not made from the execution sale at the expiration of the period of redemption, a sheriff's deed shall be issued to the county, and the board of county commissioners shall dispose of the land by sale as in other cases. Out of the proceeds of such

sale, after paying the costs of such action and of the sale, there shall be paid all general taxes, or if the sum realized is not sufficient to pay all general taxes, then the county auditor shall apportion the amount realized ratably among the state and the several interested taxing districts. Irrigation district assessments and hail insurance taxes shall be considered general taxes in making such apportionment. After paying all general taxes, such portion of the balance as may be necessary shall be applied in payment of special assessments, or if the amount is not sufficient to pay special assessments in full, then the amount available shall be apportioned ratably among the special assessment funds entitled to share therein. Any balance remaining after the payment of all costs, general taxes, irrigation district assessments, hail insurance taxes, and special assessments shall be paid into the general fund of the county.

32-31-07. Sale to cash purchaser at execution sale.

If, however, the real estate is sold by the sheriff at execution sale to a cash purchaser, the sheriff shall pay over to the clerk of the district court the proceeds of the sale to be disposed of in accordance with the order of the court.