

TAXATION: Tenant occupying premises for a term, may, within such term, redeem such premises from a holder of a certificate of purchase, within statutory period.

January 15, 1938

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Mr. Mark W. Wilson
Prosecuting Attorney
Henry County
Clinton, Missouri



Dear Mr. Wilson:

We wish to acknowledge your request for an opinion dated January 11, 1938, which is as follows:

"The county treasurer has asked me to secure an opinion from your department as to the construction of Section 9956a, Laws of Missouri, 1933. In said section it reads 'the owner or occupant of any land or lot sold for taxes, or any other person having an interest therein, may redeem the same at any time during the two years next ensuing, etc.' The particular problem before the treasurer is the case of a tenant occupying land sold for taxes and who is now endeavoring to redeem said land on the ground that he is an occupant.

"The treasurer would like to know if said tenant has such an interest in the land that he may redeem. We will appreciate an opinion on this section as soon as possible."

Section 9952a of the 1933 Session Acts, at page 430, is in part as follows:

"All lands and lots on which taxes are delinquent and unpaid shall be subject to sale to discharge the lien for said delinquent and unpaid taxes as provided for in this act on the first Monday of November of each year, and it shall not be necessary to include the name of the owner, mortgagee, occupant or any other person or corporation owning or claiming an interest in or to any of said lands or lots in the notice of such sale; * * * "

Section 9956a of the 1933 Session Acts, at page 437, is in part as follows:

"The owner or occupant of any land or lot sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the two years next ensuing, * * * "

Section 9954a of the 1933 Session Acts, at page 435, is in part as follows:

"The purchaser of any tract or lot of land at sale for delinquent taxes, homesteads excepted, shall at any time after one year from the date of sale be entitled to the immediate possession of the premises so purchased during the redemption period provided for in this act, unless sooner redeemed; provided however, any owner or occupant of any tract or lot of land purchased may retain possession of said premises by making a written assignment of, or agreement to pay, rent certain or estimated to accrue

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during such redemption period or so much thereof as shall be sufficient to discharge the bid of the purchaser with interest thereon as provided in the certificate of purchase. The purchaser, his heirs or assigns, may enforce his rights under said written assignment or agreement in any manner now authorized or hereafter authorized by law for the collection of delinquent and unpaid rent; provided further, nothing herein contained shall operate to the prejudice of any owner not in default and whose interest in the tract or lot of land is not encumbered by the certificate of purchase, nor shall it prejudice the rights of any occupant of any tract or lot of land not liable to pay taxes thereon nor such occupant's interest in any planted, growing or unharvested crop thereon. Any additions or improvements made to any tract or lot of land by any occupant thereof, as tenant or otherwise, and made prior to such tax sale, which such occupant would be permitted to detach and remove from the land under his contract of occupancy shall also, to the same extent, be removable against the purchaser, his heirs or assigns."

The terms of the above provisos indicate that the word "tenant" is comprehended by the word "occupant" in 9956a, supra, which recites that an "occupant" may redeem.

CONCLUSION

Therefore, it is the opinion of this department that a tenant, occupying premises for a term, may, within such term, redeem such premises from a holder of a certificate of purchase, within statutory period.

Respectfully submitted,

S. V. MEDLING
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General