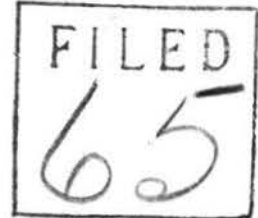


TAXATION : Until final sale, under the provisions of Senate
AND REVENUE : Bill No. 311, Laws of Missouri 1939 and especial-
ly Section 9953a thereof, or delivery of a deed
under the provisions of Section 9957, Senate Bill
No. 94, Laws of Missouri 1933, cities may collect
delinquent taxes on real estate as provided by
statute, the lien for general taxes being para-
mount is unaffected by such procedure.

September 26, 1939.

Honorable Charles E. Murrell, Jr.
Prosecuting Attorney
Adair County
Kirksville, Missouri



Dear Mr. Murrell:

On September 23, 1939 we received your request for
an opinion, which is as follows:

"I would like to have the opinion of
your department on the following ques-
tion:

"We have in this County certain pieces of
real estate which are delinquent on both
City and County taxes. The County Collec-
tor has informed me that he intends to
sell the property for delinquent taxes
under the Jones-Monger Law. If this pro-
perty is sold by the County Collector is
it subject to resale by the City for de-
linquent City taxes? Would also like to
know if the City sells property for delin-
quent City taxes and if the County may re-
sell it for delinquent County taxes?
When I speak of County taxes I include
both State and County real estate."

Section 9952c, Laws of Missouri 1933, at page 431,
provides that lands and lots shall be subjected to sale
and sold for delinquent and unpaid taxes on real estate.

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Section 9953, thereof, provides for a reoffering of such lands and lots unless there is a bid at the first offering, in a sum equal to the delinquent taxes, interest, penalty and costs. Also that if at such reoffering no person shall bid a sum equal to the taxes, penalty, interest and costs, the clerk of the sale shall note such fact upon the note of such sale.

Section 9953a, thereof, providing for a third sale to the highest bidder and Section 9953b, thereof, providing for the redemption of delinquent lands were both repealed by Senate Bill No. 311 of the Laws of Missouri for 1939, at page 850, and especially by Section 9953a of said Senate Bill No. 311, which provided for a third sale and made the same final by providing for the delivery of a deed to the purchaser under such sale. It also provided that in event of no sale at such third offering the Collector, in his discretion, need not offer the same oftener than every five years after such third offering and that a sale thereunder would be final, entitling the purchaser to a collector's deed. It further provided that such reoffering would toll the operation of any applicable statute of limitations.

Section 9957 of the Laws of Missouri 1933, at page 438, provides that:

"If no person shall redeem the lands sold for taxes within two years from the sale * * * the Collector * * * shall execute to the purchaser * * * a conveyance * * * which shall vest in the grantee an estate in fee simple, subject, however * * *".

In Meriwether vs. Overly, 228 Mo. 218, 250, in construing the status of a lien for general taxes on real estate, the court said:

"A tax against real estate is a tax against the property, and not against the owner. If the taxes have been legally assessed, they become a lien on the property prior to all other liens."

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In Little River vs. Sheppard, 75 S. W. (2nd) 1013, 1014, the same principle was restated by the court, en banc, in the following language:

"The lien for state and county taxes shall be paramount".

A final sale for county and state taxes under the provisions of Section 9953a of Senate Bill No. 311, supra, and a deed executed by the collector under the provisions of Section 9957, supra, after the two year redemption period, would foreclose the lien and equity of redemption of all junior lienors for taxes on real estate for the particular years involved.

The rights of certificate holders, obtained by sales consummated under the provisions of Sections 9952c and 9953, supra, are construed by the court in the case of Hilton vs. Smith, 33 S. W. 464, 465, 466 as follows:

" * * * In the absence of provisions of law defining the rights of the holder of a certificate of purchase, the generally accepted rule is that until the delivery of a deed he takes no title to the land, either legal or equitable. * * * After the period allowed for redemption has expired, as was the case here, the holder of the certificate has a mere naked right to demand and receive a deed from the collector".

Therefore, until such time as a final sale is consummated under the provisions of Section 9953a, supra, or title conveyed under the provisions of 9957, supra, cities may collect their delinquent taxes on real estate in the manner

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provided by statute. The lien for general taxes, being paramount, would be unaffected by such procedure.

Respectfully submitted,

S. V. MEDLING
Assistant Attorney General

APPROVED:

J. W. BURKE
(Acting) Attorney-General

SVM:LB