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THE 1949 AMENDMENTS TO THE PENNSYLVANIA REAL ESTATE TAX SALE ACT OF 1947

By

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In a recent article,¹ the writer compared the Pennsylvania tax sale procedure under the existing law with the procedure set up under the Real Estate Tax Sale Act of 1947.²

The Act of 1947 was amended so liberally by the 1949 legislature that a re-appraisal of the Act, as amended, is believed to be timely. This is particularly true because one of the amendments³ authorizes counties which heretofore were barred because of the limitation of time contained in the original Act,⁴ to accept the new Act.

The present article will endeavor to outline and evaluate the 1949 amendments, and suggest the course to be followed in future amendments to the Act.

Act No. 242, approved May 2, 1949, changes the date of mailing registered mail notice of the return and entry of claim to not later than July 31st. It also changes the time when the one year period of redemption begins to run, to August 1st,⁵ although the corresponding change in date of sale to August 15th failed to pass, with the result that there is a one year period of redemption ending August 1st, while the sale is required to be held the second Monday of July. This discrepancy should be corrected by the 1951 legislature. Meanwhile the date of sale should probably be treated as directory only, and the sale held after August 1st. It extends the time of returning previous claims, notices thereof, and transferring them from the treasurer's office to August 31, 1949 and validates notices and transfers previously made.

Act No. 477 increases the county's allowance for collection from 2% to 4% for four years from the effective date of the act, *i.e.*, September 1, 1949. It also permits the Bureau, when acting as sequestrator, to lease a property to a former owner or one in his family receiving public assistance for what he receives

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¹ The Old and the New Tax Sale Procedure, March, 1949, Dickinson Law Review.

² Act of 1947, July 7, P.L. 1368; 72 P.S. 5860

³ Act No. 484.

⁴ Acceptance was required during January, 1948.

⁵ The amendment actually only provides that the notice shall state that "on August first the one year period of redemption shall commence or has commenced to run." Section 501 of the original Act still provides that the property may be redeemed within one year after July 1st. However, the later date required to be set forth in the notice would probably govern and it would seem that an owner may redeem at any time prior to August 1st.

from the public agency for that purpose, and bars public sales of property occupied by such persons.

Act No. 848, permits additional counties to accept the act hereafter by resolution adopted during the month of January of any year, and sets up the dates when the treasurer shall transfer tax claims to the Bureau, or taxing districts shall transfer claims in the prothonotary's office not reduced to judgment, as the first Monday of June following the acceptance. It fixes the period when the commissioners turn over county-owned tax properties to the Bureau as within one year after acceptance and the period within which to sell such land as within two years after acceptance. It extends the power of the Bureau to set aside or reduce a claim for any reason "not involving a question which could have been raised by an appeal provided for by law." It also authorizes the Court of Common Pleas to stay tax sales in any political subdivision for one year upon the joint petition of the taxing authorities of the subdivision and the county commissioners. It provides that the Bureau shall not sell property which it holds as agent for other taxing districts (*i.e.*, tax owned property turned over to the Bureau by the county) when it is occupied by persons receiving assistance from any public agency, and provides that notice of such occupancy shall be given the Bureau by the county. Finally, Act No. 484 authorizes the county commissioners, at a sale under order of court free of liens, to bid it in for \$1.00, and thereafter to lease it, use it for county purposes, or sell it in the same manner as other real property owned by the county in fee simple.

Act No. 36 validates sales by county commissioners of land which they should have turned over to the Bureau.

The net result of the 1949 amendments has been to strengthen and improve the Act. Granting to the Bureau broader power to set aside or reduce defective claims will tend to purge the records of defective claims and to eliminate future questions as to the validity of tax titles founded upon them. Giving discretionary powers to courts to postpone sales will prevent undue hardship to taxpayers in depression periods. Restraining the sale of tax properties when occupied by former owners receiving public assistance is a concession to humanitarian, at the expense of administrative, considerations.

On the other hand, the Act still has weaknesses which should be corrected by further amendment. For one thing, the provision for continuance when purchasers do not bid a property at a public sale at an upset price should be carefully reconsidered and re-drawn. Under the procedure for public sales, as the Act now stands, the Bureau fixes an upset price, and if this price is not bid at the sale, the sale is continued from month to month for three months. During the year after the first exposure to sale, it can be sold at private sale, but if it is not so sold, it must be put up for public sale, free and divested of liens, pursuant to a petition and order of court with abstract of title attached. Under the 1949 amendment, at this final sale the county commissioners may bid it in for \$1.00, and later sell it

as other county-owned property is sold—*viz.*, after another order of court and advertisement once a week for three weeks in two newspapers, as required by the County Code. This amendment does not meet the need for revision.

The whole procedure for sales after the failure to receive the upset price at the first sale is still too complicated and unduly expensive. It may be unobjectionable when a valuable property, encumbered by a mortgage, is the subject of the sale, but it is unrealistic if not absurd when a relatively worthless vacant lot is involved. The fact is that very few encumbered properties are sold for taxes. Practically all vacant lots are unencumbered. The common reason why properties do not attract purchasers at tax sale is that nobody wants to buy them because they aren't worth the upset price. Hundreds of small worthless vacant lots are now owned by counties for this reason.

The procedure for selling this type of unencumbered property should be simplified. Title to these unwanted properties should not be taken by the county at all. Instead the Bureau should retain them until purchasers can be found. The writer suggests that the Act be amended to make the proceedings for sale under order of court free of liens optional instead of mandatory, and to permit the Bureau to continue generally a public sale where the upset price is not bid, and thereafter to sell the property at any time for whatever it will bring after only one additional advertisement.

Future amendments, however, should be limited. Amendments creating exceptions, and amendments changing one date without changing other dates, dependent upon the first date, tend to destroy the Act. All proposed amendments should be cleared through one body, such as the Local Government Commission, and that body should approve only amendments that simplify the Act or remedy faults in it that are disclosed through experience and then only if the proposals are consistent with the other provisions of the Act.