

Sec. 4. The terms of office of the members of the Minnesota humane society who served on June 30, 1977, shall terminate on the effective date of this act, except that those members may continue to serve until their successors are appointed. Nothing in this act shall be deemed to prohibit the governor from re-appointing any of those members of the board of directors as reconstituted by this act.

Sec. 5. Minnesota Statutes 1976, Sections 343.02, 343.03, 343.04, 343.05, 343.07 and 343.09 are repealed.

Sec. 6. This act is effective July 1, 1977.

Approved May 25, 1977.

CHAPTER 265—S.F.No.1309

[Coded in Part]

An act relating to tax-forfeited land; providing time limitations for bringing actions; providing procedures for settling tax titles; amending Minnesota Statutes 1976, Section 284.28; and Chapter 541, by adding a section; repealing Minnesota Statutes 1976, Sections 280.34; 284.09 and 284.22.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 284.28, is amended to read:

284.28 TAX FORFEITED LANDS; LIMITATIONS ON ADVERSE CLAIMS, TAX FORFEITED LAND ASSURANCE ACCOUNT. Subdivision 1. (a) Notwithstanding the provisions of any other law to the contrary The title of the state, or its successors in interest, to land forfeited for delinquent taxes shall not be held invalid in any action or proceeding by reason of any failure, omission, error or defect in the proceedings respecting the taxation of the land or forfeiture thereof, including without limitation:

(i) substantial or prejudicial defects, including both non-jurisdictional and jurisdictional defects, in the tax forfeiture proceedings;

(ii) cases where the land was exempt from taxation;

(iii) cases where the taxes upon which the alleged forfeiture was based were in fact paid prior to forfeiture; and

(iv) prejudice to the interests of persons under disability referred to in subdivision 4, except within the limitation periods provided in this section. It is the policy of the state of Minnesota that except as otherwise provided in this section the failures, omissions, errors or defects shall not fetter the marketability of real estate.

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(b) All provisions of law related to the title of the state or its successors in interest, shall be liberally construed in favor of the state, its officers, agents and its successors in interest. The burden of proving that the title of the state, or its successors in interest, is invalid shall rest upon the party asserting the invalidity.

Subd. 2. Except as provided in subdivision 5, no cause of action or defense, claiming that the forfeiture to the state of any land for nonpayment of taxes is invalid because of any jurisdictional defect, shall be asserted or maintained upon any claim adverse to the state, or its successor successors in interest, including but not limited to any claim based upon any failure, omission, error, or defect described in subdivision 1, respecting any lands claimed to have been forfeited to the state for taxes, unless such cause of action or defense is asserted in an action commenced within one year after the filing of the county auditor's certificate of forfeiture, as provided by section 281.23, subdivision 8, and acts supplementary thereto, or by any other law hereafter enacted after January 1, 1970 providing for the filing and recording of such certificates; provided, that if such certificate of forfeiture was filed before January 1, 1970 such cause of action or defense may be asserted in an action commenced within one year after January 1, 1970.

(b) Notwithstanding the provisions of any other law to the contrary

Subd. 3. Except as provided in subdivision 5, no cause of action or defense, claiming that any auditor's certificate of sale or state assignment certificate arising from the nonpayment of taxes on a parcel of land is invalid because of any jurisdictional defect, shall be asserted or maintained upon any claim adverse to the holder of the certificate or his successors in interest, or to the state or its successor successors in interest, including but not limited to any claim based upon any failure, omission, error, or defect described in subdivision 1, respecting any such land, unless such cause of action or defense is asserted in an action commenced within one year after the filing of proof of service of the auditor's notice of expiration of the time for redemption, as provided by section 281.21, and acts supplementary thereto, or by any other law hereafter enacted after January 1, 1970; providing for notice of expiration of time for redemption and the filing thereof; provided, that if proof of filing of the notice of expiration of time for redemption was filed before January 1, 1970, such action or defense may be asserted in an action commenced within one year after January 1, 1970.

Subd. 4. Except as provided in subdivision 5, no person under disability to sue during the one year periods provided by subdivisions 2 and 3 by reason of absence, infancy, mental illness resulting in commitment pursuant to section 253A.07, subdivision 17, or any other disability shall have a right to assert any cause of action or defense adverse to the title of the state, or its successors in interest, in any proceeding at law or in equity for opening, vacating, setting aside or invalidating the forfeiture, the auditor's certificate of sale or the state assignment certificate. Persons under the disability to sue shall have the right to commence an action for recovery of damages out of the assurance fund after the disability is removed in accordance with subdivision 10.

Subd. 2 5. In cases where the lands are and ever since the time of filing the auditor's certificate of forfeiture under section 281.23, subdivision 8, or filing of service of notice of expiration of redemption under section 281.21, have been in the actual, open,

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continuous, and exclusive possession of the owner, or his successors in interest, claiming adversely to the state or its successors in interest, ~~the running of the period of limitations provided in subdivision 1 shall be suspended as to such owner, or his successors in interest, during the time of such possession; but no longer shall be~~

(i) the time of the possession, or

(ii) the period of limitations provided in subdivisions 2 and 3, whichever period is greater.

Subd. 3 6. Any ~~person, partnership, corporation, or~~ claimant failing to commence an action or assert a defense within the time prescribed by ~~subdivision 1~~ subdivisions 2 and 3 shall be conclusively presumed to have abandoned all right, title, and interest in the lands described in the county auditor's certificate of forfeiture or notice of expiration of redemption, which certificate of forfeiture when filed under section 281.23, subdivision 8, or notice of expiration of redemption when filed under section 281.21, shall constitute notice of the forfeiture of the lands affected to all persons having or claiming an interest therein. If no action or defense is asserted and notice of lis pendens recorded within the time prescribed by ~~subdivision 1~~ subdivisions 2 and 3, a certificate of sale or state assignment certificate recorded with the register of deeds has the force and effect of a patent after the expiration of the period prescribed by subdivision 1, subject to the rights of persons described in subdivision 2 5 and any rights set forth in the certificate of sale or state assignment certificate.

Except as provided in subdivision 11, the time prescribed by subdivisions 2 and 3 shall not commence to run until the effective date of this act as to any county auditor's certificate of forfeiture or notice of expiration of the time for redemption filed prior to the effective date of this act.

Subd. 4. ~~Subdivision 1 shall not apply to any action or proceeding pending on January 1, 1970.~~

Subd. 5 7. Any ~~person, partnership, corporation, or~~ claimant who, without negligence on his part, sustains any loss or damage by reason of any material failure, omission, mistake, or misfeasance error or defect of any public officer or employee in the performance of his duties under the laws relating to the taxation of land or forfeiture of lands for taxes which results in a jurisdictional defect and who thereof is thereby wrongfully unjustly deprived of any land or of any interest therein, is precluded from bringing an action for the recovery of such land, or of any interest therein, or from enforcing any claim or lien upon the same; but may institute an action in the district court to recover compensation for such loss or damage unjust deprivation out of the assurance account provided in subdivision 6 8. The right provided by this subdivision to institute action to recover compensation from the assurance account does not apply to persons having the right to recover compensation pursuant to section 508.76.

Subd. 6 8. There is established in the state treasury a tax forfeited land assurance account. This account is composed of money appropriated by the legislature for this purpose and all money deposited in the state treasury and credited to the account

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pursuant to this subdivision. Money in the state treasury credited to the tax forfeited land assurance account from all sources is annually appropriated to the state treasurer for the purpose of paying claims ordered by the district court to be paid from the fund. At the time of sale of a parcel of tax forfeited land, the county auditor shall charge and collect in full an amount equal to three percent of the total sale price of land: ~~which amount is in addition to the total sale price of the land.~~ Before filing a notice of expiration of time for redemption, in cases where an auditor's certificate of sale or a state assignment certificate has been issued, the county auditor shall charge and collect in full from the holder of the certificate an amount equal to three percent of the appraised value of the property for tax purposes. The amounts so collected by the auditor shall be deposited in the state treasury and credited to the tax forfeited land assurance account. ~~No person shall recover from the assurance account any sum greater than the fair market value of the land or interest in land at the time of filing of the county auditor's certificate of forfeiture or notice of expiration of redemption, less the amount of all~~

In determining compensation for the unjust deprivation suffered by the claimant, which may include severance damages sustained if the claimant owns adjoining land, the court shall take into account delinquent taxes, penalties, costs, and interest which would have been due and owing if the person was redeeming the parcel of the claimant had redeemed the land.

No claimant shall recover the value of improvements made to the land by other persons or the increment in value of land that occurs after the claimant has actual notice of the forfeiture proceeding. All claims against the tax forfeited land assurance account and ordered by the district court to be paid therefrom shall be obligations of the state and shall be paid out of the first moneys coming into the assurance fund from legislative appropriations, the collection of money by county auditors or from any other sources as provided by law.

Subd. 7 9. In any action brought to recover loss or damage from the tax forfeited land assurance account, the state treasurer, in his official capacity, shall be named as defendant. If the assurance account is insufficient to pay the amount of any judgment, in full, the unpaid balance thereof shall bear interest at the legal rate and ~~be paid out of the first money coming into the assurance fund from any legislative appropriation and the collection of money by county auditors shall be paid together with any accrued interest thereon.~~ The attorney general or, at the attorney general's request, the county attorney of the county in which the land or a major part of it lies, shall defend the state treasurer in all such actions.

Subd. 8 10. Any action or proceeding to recover damages out of the assurance fund shall be commenced within ~~six ten~~ ten years after the expiration of the ~~period~~ periods within which claims may be asserted pursuant to ~~subdivision 1~~ subdivisions 2 and 3, and not afterwards. If, within this ~~six ten~~ ten year period ~~or the period within which claims may be asserted pursuant to subdivision 1~~, the person entitled to bring such action or proceeding is under legal disability, such person, or anyone claiming under him, may commence such action or proceeding within the period expiring two years after such disability is removed ~~or within the ten year period, whichever period is greater.~~

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Subd. 11. This act shall not affect any right already barred when this act becomes effective.

Subd. 12. The period of limitations provided in subdivisions 2 and 3 shall not apply to any action or proceeding pending on the effective date of this act.

Subd. 13. Except as may be necessary to give effect to the provisions of this act, this section is supplementary to and not exclusive of other laws dealing with the same subject matter.

Sec. 2. Minnesota Statutes 1976, Chapter 541, is amended by adding a section to read:

[541.024] LIMITATION OF ACTIONS AFFECTING TITLE TO OR POSSESSION OF TAX FORFEITED LANDS. Subdivision 1. As against a real estate title based upon or derived from a county auditor's certificate of forfeiture, or auditor's certificate of sale or state assignment certificate which has been of record for at least ten years in the office of the county recorder or in the office of the registrar of titles, no action affecting the possession or title of the real estate shall be commenced on or after June 15, 1978, to enforce any adverse right, claim, interest, incumbrance or lien, based upon the alleged invalidity of the county auditor's certificate of forfeiture, or auditor's certificate of sale or state assignment certificate.

Subd. 2. This section shall not affect any rights of the federal government or any rights of a person in actual, open, hostile, notorious and exclusive possession of the real estate on the date of the placing of record of the county auditor's certificate of forfeiture, auditor's certificate of sale or state assignment certificate and continuously thereafter to the time of the commencement of an action.

Subd. 3. A claimant under any instrument, event or transaction barred by this section shall be conclusively presumed to have abandoned all right, claim, interest, incumbrance or lien based thereon; and the title based upon or derived from the county auditor's certificate of forfeiture, auditor's certificate of sale or state assignment certificate shall be deemed marketable. It is the policy of the state of Minnesota that, except as provided by this act, unadjudicated adverse rights shall not fetter the marketability of tax titles of real estate.

Subd. 4. This section does not extend the right to commence any action beyond the date on which the right would be extinguished under section 1 or any other law.

Subd. 5. This section applies to real estate titles based upon or derived from a county auditor's certificate of forfeiture, or auditor's certificate of sale or state assignment certificate issued prior to June 15, 1977.

Sec. 3. Minnesota Statutes 1976, Sections 280.34; 284.09 and 284.22 are repealed.

Sec. 4. This act is effective on June 15, 1977.

Approved May 25, 1977.

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