

accordance with the provisions of this section shall be binding upon all the stockholders of the association, whether they voted to authorize the same or not.

Approved April 24, 1929.

CHAPTER 335—S. F. No. 1033

An act to amend Section 2691, General Statutes 1923, relating to the collection of delinquent motor vehicle taxes.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Registrar to file statement of delinquents with clerk of court.—Section 2691, General Statutes 1923, is hereby amended so as to read as follows:

"2691. As soon as practicable after the first day of April in each year, the registrar shall prepare a list containing the names of owners of motor vehicles previously registered and upon which the tax for the current year has not been paid and concerning which there is not satisfactory report explaining such nonpayment, and demand payment from each by letter. When deemed necessary, and for the purpose of obtaining more complete information concerning the probable success of enforcement proceedings as to those who do not respond to such notice, the registrar may assign to one or more employees in the motor vehicle department the duty of personal investigation in such counties in which the information at hand is not sufficient to enable him to determine whether payment of the tax due from any owner named in the list can be enforced, and the reasonable traveling expenses of these investigators shall be paid as department maintenance.

The preliminary investigation and reports herein prescribed are intended to enable the registrar to exclude from the delinquent list to be prepared and presented in accordance with the next succeeding paragraph the names of owners who cannot be found or whose vehicles are stolen, destroyed by the elements, or dismantled before the first day of the current year and to include therein only the names of delinquents from whom payment can probably be enforced.

Failure to comply with any of these provisions shall not affect the validity of the tax or the means of enforcement, nor shall the tax on any vehicle omitted from the delinquent list according to the provisions of this section be waived or the enforcement thereof im-

paired if at a later date application is made for re-registration and it is discovered that taxes are due in arrears.

The registrar on the second Monday in July next after any tax herein provided for shall become delinquent and on or before the tenth secular day of each subsequent month of the year shall certify to and file with the clerk of the district court of the proper county, a statement of delinquent taxes imposed under the provisions of this act; and not excluded therefrom as uncollectible, and such certified statement so filed shall be prima facie evidence of the correctness of the tax or taxes therein stated to be delinquent. *Immediately upon receipt of this list the clerk shall mail written notice to each owner whose name appears therein, in form to be prescribed by the registrar, stating in substance that the list has been filed and that, as indicated thereon, there is imposed against him a tax in the amount stated due from such addressed owner and demanding immediate payment thereof.* On or before the tenth secular day next after the filing of this list, any owner whose name is included in such certified statement may file with the clerk of said court an answer verified as pleadings in civil actions, setting forth his defense or objections to the tax or penalty against him.

The notice herein required to be mailed by the clerk to the respective owners is intended as an aid to securing payment of the motor vehicle tax and failure to send such notice or the failure of the registered owner to receive it shall not affect the tax or impair proceedings for its enforcement. On the reverse side of the clerk's notice shall be a blank form of answer which the owner may make and return to the clerk stating any defense he may have to proceedings for the enforcement of the payment of the tax indicated therein, but if this blank form does not fully provide for the conditions of any particular case the answer need not follow the form, but shall clearly refer to the tax or penalty intended to be contested, and shall set forth in concise language the facts constituting the defense or objection of the owner to such tax or penalty.

The clerk shall submit to the county attorney the answers received with such particular information affecting each case as he shall have received in response to his notice or otherwise, and the county attorney therefrom and from such other information as the clerk shall submit therewith, and from such information as he may otherwise obtain, shall report in writing by mail to the registrar the names of owners on the delinquent list filed with the clerk from whom, in his judgment, payment of the indicated motor vehicle tax cannot be collected. Upon receipt of such report the registrar may strike from the delinquent list the names of all persons against whom, in his judgment based upon the information he has at hand, payment of the in-

dedicated tax cannot be enforced, and shall report such eliminated names to the clerk, who shall also strike them from the delinquent list on file in his office and dismiss the proceedings against the owner whose name is thus eliminated. In all other cases the issues raised by such answer shall stand for trial at any term of the court in such county in session when the time to file answer shall expire, or at the next general or special term appointed to be held in such county; and, if no such term be appointed to be held within thirty days thereafter, then the same shall be brought to trial at any general term appointed to be held within the judicial district, upon ten days' notice. The county attorney of the county within which such taxpayer resides shall prosecute the same. At the term at which such proceedings come on for trial they shall take precedence over all other business before the court. The court shall without delay and summarily hear and determine the objections or defense made by the answers and at the same term direct judgment accordingly, and in the trial shall disregard all technicalities and matters of form not affecting the substantial merits. If the taxes and penalties shall be sustained, the judgment shall include costs.

The sheriff, clerk of court, and county attorney shall confer concerning the items on the list where no answer has been made and if in their best judgment the owners can be found then upon the fifteenth secular day next after the filing of such certified statement, the said clerk shall issue his warrants to the sheriff of the county as to all taxes and penalties embraced in the certified statement, except those to which answer has been filed, directing him to proceed to collect the same. If such taxes are not paid upon demand, the sheriff shall distrain sufficient goods and chattels belonging to the person charged with such taxes, if found within the county, to pay the same, with a penalty of ten per cent and all accruing costs, together with twenty-five cents from each delinquent taxpayer as compensation to said clerk. Immediately after making distress the sheriff shall give at least ten days' posted notice in the town or district where the property is taken, stating that the property, or so much thereof as will be sufficient to pay the taxes for which it is distrained, with penalties, and the costs of distress and sale, will be sold at public vendue at a place and time therein designated, which time shall not be less than ten days after such taking. If such taxes and penalties and accrued costs are not paid before the day designated, the sheriff or his deputy shall proceed to sell the property pursuant to the notice.

If the sheriff is unable, for want of goods and chattels whereon to levy to collect by distress or otherwise the taxes or any part thereof assessed under the provisions of this act, he shall file with the clerk of the court within sixty days following the receipts of such warrants a list of such delinquent taxes, with an affidavit of

himself, or the deputy sheriff entrusted with the collection thereof, stating that he has made diligent search and inquiry for goods and chattels from which to collect such taxes and is unable to collect the same. He shall note in the margin of such list the place to which any delinquent taxpayer may have removed, with the date of his removal, if he is able to ascertain the fact. At the time of the filing such list he shall also return all the warrants with endorsements thereon showing his doings in the premises, and the clerk shall file and preserve the same. On the receipt of such warrants from the sheriff, the clerk shall *confer again with the sheriff and county attorney as to the collectibility of the items that are still not clearly uncollectable. They shall then add their recommendations to the report by the sheriff of his findings and the clerk shall transmit their report thereon to the registrar*, who shall by comparison of such list with the records in his office ascertain whether or not all motor vehicles taxes reported by him to the clerks as delinquent, except those included in such list, have been paid into the office of the registrar.

The registrar may then strike from the list as uncollectible all those items concerning which he agrees with the recommendations of the county attorney, sheriff, and clerk of court.

As to all delinquent motor vehicle taxes not collected by distress and sale as herein provided, *and for which the registrar is of the opinion that the state can and should proceed to judgment*, the registrar shall promptly file with the clerk of the district court of the proper county a revised certified statement showing the names of the owners to be delinquent and the amount of tax and penalties owed by each. Within ten days thereafter the clerk shall issue a citation to each delinquent named in the revised list, stating the amount of the tax and penalties requiring such delinquent to appear on the first day of the next general or special term of the district court in the county, appointed to be held at a time not less than thirty days after the issuance of such citation, and show cause, if any there be, why he should not pay such tax and penalty. The citation shall be delivered for service to the sheriff of the county where such person may reside or be. If such person, after service of citation, fails to pay such tax, penalty and costs to the sheriff before the first day of the term, as aforesaid, or on said day to show cause as aforesaid, the court shall direct judgment against him for the amount of such tax, penalty and costs. When the sheriff is unable to serve the citation he shall return the same to the clerk with his return thereto attached to that effect and thereupon, or, if the court decides that service of such citation made or attempted to be made, or the issuance thereof by the clerk, was illegal, the clerk shall issue another like citation requiring such delinquent to appear on the first day of the next general or special term to be held not less than thirty days thereafter in the county, and

show cause as aforesaid, and if he fails to pay or to show cause the court shall direct judgment as aforesaid. Whenever the sheriff has been unable to serve any citation theretofore made or attempted to be made, or the issuance thereof by the clerk was illegal, the clerk shall issue another like citation requiring such delinquent to appear as in the case last provided and with like effect; provided, that all citations other than the first shall be issued only upon the request of the county attorney.

When the person to whom the citation is issued is not a resident of the state so that personal service thereof cannot be made, the citation may be served by publication thereof and by attachment as provided by law in a civil action against non-resident defendants, upon affidavit of the county attorney, but no bond on such attachment or entry of judgment shall be required. The citation shall be prima facie evidence of the correctness of the tax or taxes therein stated to be delinquent. No omission of any of the things by law required in relation to such taxes or anything required by any officer to be done prior to the issuance of such citation shall be a defense or objections to such taxes, unless it be also made to appear to the court that such omission has resulted to the prejudice of the party objecting and that such taxes have been unfairly or unequally assessed; and in such case but no other the court may reduce the amount of such taxes and give judgment accordingly. It shall, however, always be a defense to such taxes that the same have been paid or that the property, because of which the same were assessed, was not subject to taxation.

In all counties in which the compensation of the clerk of the district court is not paid by fixed annual salary in lieu of other compensation, he shall be paid the following fees for services performed under the requirements of this act: For each notice to delinquent owners required under this act twenty-five cents to be collected from said such delinquent owner; for each affidavit prepared by and taken before him in attempted justification or excuse by the owner for nonpayment of tax listed against him fifty cents, to be paid by the owner for whom it is prepared; for each warrant issued to the sheriff against a delinquent owner twenty-five cents; for each citation twenty-five cents; and in contested cases such additional fees as are allowed to the clerk by law in civil actions. All such fees and costs shall be entered, taxed and made a part of the judgment and be paid to said clerk when and as collected. Any delinquent owner who pays the tax after the clerk's notice has been sent to him or submits affidavit in attempt at justification or excuse for nonpayment shall, before the proceedings can be dismissed, pay such of the aforesaid clerk's fees as have been earned by the clerk for service to him.

Execution shall be issued upon the judgment at the request of the county attorney and shall state that the judgment was obtained

for delinquent motor vehicle taxes, and no property shall be exempt from seizure thereunder, and such execution may be renewed and re-issued in the same manner as provided by law in case of executions upon judgments in civil actions.

The sheriff or his deputy shall be allowed the same fees for collecting such taxes and for making distress and sale of goods and chattels for the payment of taxes as are allowed by law to sheriffs for making levy and sale of property on execution; traveling fees to be computed from the county seat to the place of making distress, unless such distress is made by his deputy, in which case the same shall be computed from the resident of the deputy. Such fees shall be added to the tax and collected by the sheriff. If any of such fees cannot be collected by the sheriff, they may be audited and paid by the registrar from any funds in his possession on duly itemized and verified claims filed with him by such sheriff and any sums so paid by said registrar as sheriff's fees shall be deducted from his monthly report to the state auditor. A detailed report of such refundments shall accompany said report.

If the sheriff shall refuse or neglect to collect any tax levied under the provisions of this act where the same is collectible, or to file a delinquent list and affidavit as herein provided, he shall be held for the whole amount of such taxes collected, and the same shall be deducted from any bills presented by him to and allowed by the county board, and the amount thereof shall be transmitted to the registrar as herein provided for.

Every judgment for motor vehicle taxes shall be docketed and thereafter become a lien upon the real property of the debtor in the county within which the judgment was rendered to the same extent as other judgments for the recovery of money, and may be docketed in other counties in like manner and with like effect. Whenever a judgment shall hereafter be entered and docketed for the recovery of taxes herein provided for, the same shall bear interest until paid at the rate of 6% per annum. Upon payment to the registrar of any motor vehicle tax for which judgment has been obtained, together with the fees, costs and interest due, the registrar shall deliver a certificate of such fact to the clerk who shall file the same and satisfy the judgment upon the margin on the record thereof, stating the date of payment, and shall note the satisfaction upon the docket. Out of said sum so collected on any such judgment, the registrar shall remit to the clerk of said court and the sheriff of the proper county any unpaid fees due either of said officers under the provisions of this act.

Approved April 24, 1929.