

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 281.34 REAL ESTATE TAX SALES, REDEMPTION

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### 281.34 FEES FOR NOTICE

HISTORY. 1871 c 1 s 95; GS 1878 c 11 s 95; 1885 s 2 s 19; GS 1894 s 1608; Ex1902 c 2 s 48; RL 1905 s 957; 1907 c 85; MS 1927 s 2172.

A county auditor who at the time of redemption by the owner fails to collect the cost of publication of the notice of expiration is personally liable for the cost of publication. OAG May 27, 1947 (419-F-1).

### 281.37 INTEREST WHEN LAND NOT IN LIST

Where taxes were listed as being delinquent, but through error there had been no certification from the county auditor to the clerk of court and therefor delinquent taxes never received proper publication, the clerk in entering his judgment against the judgment in 1952, should include interest computed to date of the entry of judgment on taxes for all years prior to 1950 that were delinquent. OAG March 6, 1952 (412-A-9).

### 281.38 REDEMPTION MONEY TO PURCHASER; LOSS CERTIFICATE

HISTORY. 1878 c 1 s 93; GS 1878 c 11 s 93; GS 1894 s 1605; Ex1902 c 2 s 77; 1903 c 116; RL 1905 s 962; MS 1927 s 2176.

A county auditor who at the time of redemption by the owner fails to collect the cost of publication of the notice of expiration is personally liable for the cost of publication. OAG May 27, 1947 (419-F-1).

281.41 to 281.51 Unnecessary.

281.53 to 281.65 Unnecessary.

## CHAPTER 282

### TAX-FORFEITED LAND SALES

#### CLASSIFICATION OF LAND

### 282.01 TAX-FORFEITED LANDS

HISTORY. 1927 c 119 s 4, 5; Mason's 1927 s 2139-4, 2139-5, 2139-15; 1935 c 386 s 1; Ex1936 c 105 s 1; 1939 c 328 s 1; 1941 c 394 s 1; 1941 c 511 s 1; 1943 c 37 s 1; 1943 c 204 s 1, 2; 1943 c 627 s 1-3; 1945 c 99 s 1; 1945 c 150 s 1, 2; 1945 c 574 s 1; 1947 c 140 s 1; 1949 c 251 s 1; 1949 c 359 s 1; 1953 c 144 s 1; 1953 c 316 s 1; 1953 c 493 s 1; 1953 c 549 s 1.

Reversion of unused tax-forfeited land to the state. 31 MLR 73.

A city may not buy real estate to be given away in a radio contest intended to advertise the area. OAG Oct. 26, 1948 (59-A-40).

It is a question of fact for the county board to determine whether a tract could be subdivided and offered for sale in such manner as to be advantageous for the purpose of sale. OAG May 16, 1950 (310).

The law does not authorize a county to mine marl or appropriate money for the purpose of mining marl on tax-forfeited lands owned by the state. OAG Nov. 15, 1947 (311-E).

The commissioner of taxation may convey certain tax-forfeited lands to a housing and redevelopment authority provided the authority is duly established and func-

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tioning and the provisions of sections 462.421, 462.425, 462.455, and 462.521 have been duly complied with. OAG June 28, 1950 (410-B).

The ownership of the heirs of a purchaser of tax-forfeited lands can only be evidenced by a certified copy of the final decree of a probate court. OAG Sept. 14, 1953 (410-B).

In the matter of the sale of tax-forfeited land the county board is authorized to attach a condition requiring the lands to be placed in an auxiliary forest only in those cases where acting pursuant to section 282.011 by resolution it has designated such land as appropriate and suitable for auxiliary forest lands. These lands must be either conservation lands so classified under the provisions of section 282.01, subdivision 1, or non-agricultural lands so classified under the provisions of section 282.14. OAG Aug. 3, 1949 (425-C).

The county board may sell to a governmental subdivision or property may be released from the trust in favor of the taxing district upon application of any state agency for any authorized use. After the county board has so acquired tax-forfeited property, it may be devoted to a public purpose including housing of the poor. OAG Feb. 2, 1950 (425-C-10).

Where a governmental subdivision for a public purpose purchases tax-forfeited land from the county board, the land, if no longer needed by the governmental subdivision for a public purpose, does not revert to the state but may be sold by the governmental subdivision. OAG July 17, 1947 (425-C-11).

Where a village for a public purpose acquired tax-forfeited lands but deeded the undesired portion of the land to the state, the land could not be sold by the state except at public sale where there could be competitive bidding. OAG July 27, 1947 (425-C-11).

Upon application of the village of Little Fork, approved by the county board, the commissioner of taxation is authorized to convey a tract of tax-forfeited land under the provisions of section 282.01 for more than one authorized use. Each of the seven tracts should be included in a separate application naming a particular purpose; and if the county board desires to reserve the sand and gravel for the benefit of the taxing district, it may be done in the following words: "excepting and reserving to the said state, in trust for the taxing districts concerned, all minerals and mineral rights, as provided by law." OAG Sept. 9, 1949 (425-C-11).

Tax-forfeited lands conveyed to a governmental subdivision for a public purpose must be reconveyed in full when no longer needed, and a portion of the land is desired for a different governmental purpose, a new application must be made. OAG April 12, 1950 (425-C-11).

The statute imposes upon the governing body of a governmental subdivision to which tax-forfeited land has been conveyed for a public use the duty of authorizing a reconveyance of such land to the State of Minnesota if it fails to put the land to the proper use or it shall abandon such use. The duty so imposed is mandatory. The statute does not require acceptance of the reconveyance on behalf of the state. If the governing body fails to provide for reconveyance when it should, the statute vests in the commissioner of taxation the power and duty to act. If and when the tax-forfeited land is reconveyed to the state, it is the duty of the county board to classify and appraise the land so that it can again be offered for sale by the county auditor as provided by law. OAG April 4, 1952 (425-C-11).

Where lots owned by a municipality are forfeited for nonpayment of taxes, the municipality if they can show that they need the lots for public purposes, may under section 282.01, obtain a deed of the lot without payment of the taxes, but if they merely wish to get the title back and do not have any immediate public use for the lots, they must repurchase under provisions of section 282.241. OAG Aug. 23, 1951 (425-C-13).

The only method by which special assessments for improvements may be imposed against lands which have been tax-forfeited is by following the procedure outlined in section 282.01, subdivision 3. The underlying reason is that while lands are owned by the state they are not subject to taxation or assessment. OAG April 4, 1950 (425-C-15).

The provisions of Laws 1947, Chapter 437, Article V, Section 24, authorizing authority to dispose of its property, do not in any manner affect the conditions imposed upon the title to tax-forfeited land acquired under authority of section 282.01, subdivision 1. The conveyance of tax-forfeited land held under a conditional deed effects reversion. OAG Nov. 23, 1948 (430).

The state teachers college is not an entity and cannot hold title to real property. The title to the real property which comprises a state teachers college is vested in the state. In order that tax-forfeited land might be appropriated for the use of a state teachers college the college board must approve the establishment and maintenance of a forest upon the lands for use by the college; or the commissioner of conservation must approve the establishment and maintenance of such forest and appropriate action must be taken by the county board as required by section 282.01, subdivision 1, with reference to such lands. OAG Dec. 31, 1953 (983-E).

**282.011 NON-AGRICULTURAL LANDS CLASSIFIED FOR CONSERVATION PURPOSES OR AUXILIARY FORESTS**

In the matter of the sale of tax-forfeited land the county board may attach a condition requiring the lands to be placed in an auxiliary forest only in those cases where, acting pursuant to section 282.011 by resolution, it has designated such land as appropriate and suitable for auxiliary forest lands. These lands must either be conservation lands, so classified under the provisions of section 282.01, subdivision 1, or non-agricultural lands, so classified under the provisions of section 282.14. OAG Aug. 3, 1949 (425-C).

**NON-CONSERVATION AREA****282.02 LIST OF LANDS OFFERED FOR SALE**

The legislature, in enacting section 282.02, provided for the exclusive method of publication of sale of tax-forfeited lands. The provisions of section 375.21 are not applicable. OAG Dec. 28, 1950 (419-B).

**282.03 LIMITATIONS IN USE OF LANDS**

A fine collected pursuant to the penalty imposed by section 232.02 should be paid by the justice of the peace to the county treasurer under the provisions of section 633.36. OAG Jan. 18, 1951 (199-B-4).

In the matter of the sale of tax-forfeited land the county board may attach a condition requiring the lands to be placed in an auxiliary forest only in those cases where, acting pursuant to section 282.011 by resolution, it has designated such land as appropriate and suitable for auxiliary forest lands. These lands must be either conservation lands, so classified under section 282.01, subdivision 1, or non-agricultural lands, so classified under section 282.14. OAG Aug. 3, 1949 (425-C).

**282.031 AGRICULTURAL LAND, PURCHASED BY VETERANS**

**HISTORY.** 1947 c 422 s 1; 1949 c 456 s 1; 1953 c 81 s 1; 1953 c 699 s 11.

Purchase of agricultural tax-forfeited land by veterans. 33 MLR 54.

Planting Christmas trees does not constitute the use of land for agricultural development and purposes within the meaning of section 282.031. OAG Nov. 22, 1950 (27-A).

A certified copy of a veteran's discharge is required when a purchase is made under section 282.031. It is not furnished free nor may the county pay for it. OAG Oct. 3, 1947 (310).

Laws 1947, Chapter 422, applies to purchase by veterans of World War II of tax-forfeited lands, including lands in the Red Lake game preserve and certain other conservation areas. Section 282.033 authorizes certain refunds, which must be made

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from the special fund created by sections 282.19 and 282.226, as amended by Laws 1947, Chapter 484, and should be made before the net amount is transmitted to the commissioner of conservation. Sale under Laws 1947, Chapter 422, may be made at any time and need not await the annual right of the record owner to repurchase. The board fixes all conditions of purchase by the veteran, within the provisions of Laws 1947, Chapter 422, and cancellations under section 6 must follow the procedure provided by law prior to the date of approval of Laws 1947, Chapter 484. OAG Nov. 5, 1947 (310).

The provisions of sections 282.031 to 282.037, and of section 282.222 are incompatible, and the later law, chapter 422, prevails. OAG Feb. 2, 1948 (310).

The determination of the number of acres of land which has been cleared and placed under cultivation by the purchaser between the date of purchase and up to the date of application for allowance of credit is one for the county board to make in the exercise of its best judgment in each individual case. The land must be both cleared and placed under cultivation. Clearing land means removing therefrom all timber of any size. Credit is not given for cultivated land which had been under cultivation prior to the purchase. Full credit at the rate of \$20 per acre must be given even though the cost of clearing the land was much less than the \$20. OAG May 12, 1948 (310).

Under the provisions relating to forfeited land sales to veterans in determining credit for the number of acres of land cleared and placed under cultivation, it is the duty of the county board in the exercise of its best judgment in each individual case to determine the facts and make its determination based upon all the facts. OAG July 17, 1949 (310).

In the matter of forfeited land sales to veterans and in determining what land has been cleared and placed under cultivation, the law is silent about allowing county commissioners additional compensation or expense for performing such duties. Under the provisions of sections 350.11 and 375.06 county board members may be paid when in the discharge of their official duties they are acting on a committee under the direction of the board. OAG July 17, 1949 (310).

The obvious purpose of the phrase "along a suitably maintained public road" was to prevent the sale of land which would place upon the town or community an additional burden resulting from the request of the purchaser of such land, asking the construction of a highway to gain access to the land. The word "along" as used in the above quotation means "contiguous to", "bounding upon", "on", or "over". OAG Dec. 12, 1947 (310).

Veterans of World War I and World War II are eligible to purchase tax-forfeited lands under sections 282.031-282.037, notwithstanding Laws 1951, Chapter 635, which amended section 282.032 in a manner germane to eligibility. OAG June 8, 1951 (310).

Since the enactment of Laws 1951, Chapter 7, state-owned agricultural land situated in the Red Lake game preserve may be sold to a veteran provided all provisions of sections 282.031-282.037 are present and are followed. OAG April 1, 1952 (310) (425-C).

A contract for the purchase of non-forfeited lands by a veteran made prior to classification and appraisal is void. There is no authority under which the county board may pay the purchaser for work done on the property. OAG Dec. 21, 1953 (310).

A purchaser of tax-forfeited land under the provisions of section 282.35 is entitled to receive a tax deed from the state upon proper certification through the commissioner of taxation. The interest of a federal purchaser of tax-forfeited land under section 282.031 et seq, is assignable and the assignee is entitled to receive a state tax deed upon proper certification to the commissioner of taxation. OAG Nov. 13, 1950 (425-C-13) (410-B).

Land zoned under sections 396.01-396.23 cannot be sold to a veteran under the provisions of section 282.031. OAG July 17, 1947 (425-C).

Even though the veteran meets all the requirements of Laws 1947, Chapter 422, the purchase contract as provided for cannot run to the veteran and his wife as joint tenants. The contract must be with the veteran only. OAG Jan. 10, 1949 (425-C).

Where, under the provisions of Laws 1947, Chapter 422, a veteran purchased 80 acres of land on a public road and near a public school and resided thereon, he is eligible on a later date to purchase an additional 80 acres of tax-forfeited land not located along a public road or on a bus route, provided the land so purchased is attached to, joins with, and abutts upon his property and merely augments the size of his personal farm. OAG Dec. 26, 1947 (425-C).

A veteran having previously purchased less than 160 acres may apply to purchase additional land so-as to hold the maximum permitted. Additional land so purchased need not be contiguous to the land previously acquired. OAG Feb. 14, 1950 (425-C).

Laws 1947, Chapter 422 is constitutional. The purchase price is composed of two elements, (1) the appraised value of the improvements and standing timber and (2) the appraised value of the land. The whole purpose of the legislature was to give an incentive to the purchase of such lands by veterans by giving them credit for their own efforts in improving the land. The improvements upon the lands upon the time of purchase and the standing timber thereon are not the results of the efforts of the purchaser. As to the standing timber the purchaser has already received credit upon the total purchase price of the land, timber and improvements. If he has sold the timber he has already reimbursed himself for the cost thereof; if he has not he still has the timber as an asset. The \$20 per acre credit should be granted only upon the purchase price of the land which is dealt with in the act as a separate component of the total amount paid for the land, improvements and timber. OAG Oct. 3, 1947 (425-C-8).

Upon the purchase by the veteran under the provision of Laws 1947, Chapter 422, the money received from the sale of the timber should be placed in the forfeited tax sale fund and deposited to the interested taxing units. OAG Oct. 3, 1947 (425-C-8).

Until the insertion of the proviso in Laws 1947, Chapter 490, an owner before forfeiture has an absolute right of repurchase of tax-forfeited land if it had not been sold on condemnation proceedings, been begun by the state, its political subdivisions or the United States; but the language of the proviso qualifies the right of repurchase by requiring certain action by the board of county commissioners before the land may be repurchased and tax-forfeited land is not subject to repurchase by a veteran under Laws 1947, Chapter 422, as amended, until it has been classified as non-conservation or agricultural land and appraised as provided by law. OAG May 21, 1949 (425-C-13).

The defeat of the constitutional amendment submitted under Laws 1947, Chapter 642, would not affect the validity of the present laws relating to veterans' privileges as found in MSA, Chapter 197, and Section 282.031. The public funds to be expended under our present laws relating to veterans' benefits are provided by biennial appropriations from the general revenue fund. Consequently, those laws do not involve contraction of a public debt within the limitation of Article IX, section 5. OAG Aug. 17, 1948 (844-A).

The clearing of land and placing it under cultivation and using the same for purposes of raising nursery stock of various kinds should be considered as agricultural development and agricultural purposes within the meaning of section 282.031. OAG Jan. 4, 1951 (923-D).

### 282.032 APPLICATION, HEARING, PAYMENT

HISTORY. 1947 c 422 s 2; 1951 c 635 s 1; 1953 c 699 s 12.

Returns of sale for the land under section 282.032 are: (1) the purchase price is the total of the appraised value of the land plus the appraised value of the improvements and the standing timber; (2) the amount of the down payment is fixed

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by the county board but cannot be less than the 10 percent of the purchase price; (3) the county board shall determine and prescribe the terms of payment of the deferred installment; (4) the rate of interest on the unpaid balance is fixed by the statute at four percent. OAG Nov. 5, 1947 (310).

The purchaser is to receive credit toward the purchase price, and credit for land-clearing is not allowable after payment in full and delivery of the deed. OAG March 31, 1950 (310).

Applications by veterans to purchase tax-forfeited lands must be heard and acted upon in the order of their filing, but the county board may reject all applications and if, in its discretion, in the public interest, it may sell at a regular land sale. OAG April 4, 1950 (310) (425-C).

As between section 282.031, as amended by Laws 1953, Chapter 81, and section 282.032, as amended by Laws 1953, Chapter 699, the latter law, as amended, is now the law of the state. OAG June 18, 1953 (310).

### 282.033 PAYMENT CREDIT FOR PAYMENT OF LAND

The veteran is entitled to credit on purchase price of \$20 per acre for each acre which he clears of timber or brush and puts under cultivation, but he is not entitled to credit for cultivating acreage which was formerly under cultivation, or virgin prairie which did not need clearing, and he is not entitled to credit for clearing timber and not cultivating the land when cleared. OAG May 12, 1948 (310).

In determining whether a veteran of World War II who has purchased land which has been forfeited for taxes is entitled to \$20 an acre under this section for clearing the land and putting it under cultivation, the county board has the duty of exercising its best judgment in each individual case to determine the facts. OAG July 17, 1949 (310).

### 282.035 SALE BY PURCHASER; CREDIT LIMITATION

HISTORY. 1947 c 422 s 5; 1951 c 635 s 2.

### 282.037 AFFECTED LANDS WITHDRAWN FROM SALE

Under the provisions relating to forfeited land sales to veterans in determining credit for the number of acres of land cleared and placed under cultivation, it is the duty of the county board in the exercise of its best judgment in each individual case to determine the facts and make its determination based upon all the facts. OAG July 17, 1949 (310).

In the matter of forfeited land sales to veterans and in determining what land has been cleared and placed under cultivation, the law is silent about allowing county commissioners additional compensation or expense for performing such duties. Under the provisions of sections 350.11 and 375.06 county board members may be paid when in the discharge of their official duties they are acting on a committee under the direction of the board. OAG July 17, 1949 (310).

The provisions of sections 282.031 to 282.037, and of section 282.222 are incompatible, and in accordance with the rule found in section 648.26, the later law, Laws 1947, Chapter 422, must prevail. OAG Feb. 2, 1948 (310).

### 282.04 SALE OF TIMBER; LEASE OF LANDS; PARTITION; EASEMENT

HISTORY. 1935 c 386 s 4; 1939 c 328 s 3; M Supp s 2139-18; 1941 c 355 s 1; 1943 c 627 s 4; 1945 c 92 s 1; 1945 c 93 s 1; 1951 c 203 s 1, 2; 1951 c 534 s 1; 1953 c 111 s 1.

The county board is not authorized to mine marl on state owned tax-forfeited lands. OAG Nov. 15, 1947 (311-E).

A member of the county board may not be appointed to scale timber for compensation under section 282.04. Such employment constitutes a contract prohibited by section 382.18. OAG Dec. 20, 1948 (90-B).

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An application by an electric power company for an easement to extend its line over certain tax-forfeited lands may be made either to the commissioner of conservation under section 84.415, or to the county auditor under section 282.04 OAG July 26, 1950 (700-A-3).

Permits and easement across unsold tax-forfeited lands may be granted under certain conditions and may not exceed a period of one year except by annual renewal and subject to cancellation at any time upon refundment for the unexpired term. OAG Dec. 8, 1950 (700-A-3).

The county auditor may grant an easement or permit for electric power lines over tax-forfeited lands, but may not authorize a drainage ditch over such land. OAG July 17, 1952 (700-A-3).

The county auditor may lease tax-forfeited lands for temporary use as a potato warehouse. OAG Aug. 1, 1950 (700-D-18).

Where land has been forfeited for nonpayment of taxes and subsequently leased the county board has authority to cancel such leases. A cancellation by the land commissioner would be without authority and invalid. OAG Apr. 7, 1952 (700-D-18).

## 282.07 AUDITOR TO CANCEL TAXES

Upon forfeiture of land to the state for non-payment of taxes, it is the duty of the county auditor to cancel all taxes and tax liens appearing upon the records and it follows that when these lands are forfeited, they become free from back taxes and assessments and the lands are subject to sale. Repurchase by the former owner is but another means of disposing of the forfeited land in lieu of disposing at public sale and the repurchaser has lands free of tax liens, and quit-claim deeds relating to the property are entitled to be recorded with the payment of back taxes. OAG Dec. 13, 1948 (373-B-17-D).

Where a county has a judgment for delinquent personal property taxes against the property of the brewing company against which property and other real estate taxes are delinquent, the county must satisfy its delinquent personal property judgment out of personal property if possible. If after sequestering and selling the personal property there is still a balance due on the personal property judgment a levy may be made upon the land, but there can be no merger of the personal property judgment with the real property judgment. The purchaser at the execution sale on the personal property judgment buys subject to the real estate tax judgment lien. OAG June 9, 1953 (474).

Where land assessed for benefits became tax-forfeited and no part of assessment for benefits has been paid, the land upon becoming the property of the state is exempted from any lien growing out of the ditch proceedings. There is no authority in the statutes for any procedure by which the general revenue fund of the county may be reimbursed in the amount advanced out of that fund to pay administration and other expenses in the ditch proceedings. OAG April 8, 1953 (602-B).

The duties under section 282.07 are those of the county auditor. The county board has no duties to perform. OAG Nov. 29, 1946 (921-B).

## 282.08 APPORTIONMENT OF PROCEEDS

**HISTORY.** 1935 c 386 s 8; 1939 c 328 s 4; Mason's Supp s 2139-22; 1941 c 394 s 2; 1947 c 553 s 1; 1949 c 27 s 1; 1949 c 401 s 1.

Tax-forfeited land must be viewed by appraisers and damages awarded to this state in exactly the same manner as damages would be awarded to private owners. OAG May 8, 1950 (107-B-19).

Where the sewer was completed before the state conveyed the land in tax forfeiture proceedings, but the assessments for benefits made by the village were not certified to the county auditor until after the date of the deed conveying the premises, the assessments were nevertheless valid. OAG Oct. 7, 1947 (425-C-15).

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### 282.09 FORFEITED TAX SALE FUND

**HISTORY.** 1935 c 386 s 9; 1939 c 328 s 5; Mason's Supp s 2139-23; 1943 c 472 s 1; 1945 c 158 s 1; 1945 c 294 s 1; 1947 c 346 s 1; 1949 c 46 s 1; 1951 c 468 s 1.

Where a certificate of sale shows the sale of more than one parcel of land to the same person at the same time, the auditor is not entitled to receive 50 cents for the sale of each parcel described in the certificate. OAG Nov. 2, 1947 (23-D).

Members of county board are not entitled to reimbursement for the cost of their meals during service in making appraisals of tax-forfeited lands. OAG April 6, 1950 (124).

### 282.10 REIMBURSEMENT OF PURCHASE PRICE IN CERTAIN CASES

Where the description of the land in a tax-forfeiture proceeding and in the action to quiet title was defective, the tax title purchaser may not receive a refund. OAG Nov. 28, 1947 (424-A-5).

In all the tax-forfeiture proceedings, the tract was described as it was carried on the tax assessment books. Subsequent to the entry of a tax judgment an action was brought to quiet title, using the same description. Subsequent to entry of judgment in the action to quiet title, the land was sold to P using the same description. P sold to another purchaser in good faith who in time platted the property and sold lots. P and one of the lot purchasers again brought an act to quiet title and an heir of the original vendor to the city answered, claiming title because of faulty description in the tax proceedings. The sum of \$500 was paid in compromise. There is no statutory provision authorizing refundment of amount paid by the purchaser, upon the facts stated, even if the description in the state proceedings and conveyances were erroneous. The purchaser only took such interest as the state had. He received all the state had to convey or did convey. OAG Nov. 28, 1947 (424-A-5).

### 282.12 ALL MINERALS RESERVED

Upon application of the village of Little Fork, approved by the county board, the commissioner of taxation is authorized to convey a tract of tax-forfeited land under the provisions of section 282.01 for more than one authorized use. Each of the seven tracts should be included in a separate application naming a particular purpose, and if the county board desires to reserve the sand and gravel for the benefit of the taxing district, it may be done in the following words: "excepting and reserving to the said state, in trust for the taxing districts concerned, all minerals and mineral rights, as provided by law." OAG Sept. 9, 1949 (425-C-11).

### 282.13 COUNTY LAND COMMISSIONER; DUTIES; COMPENSATION; LAND EXCHANGES

**HISTORY.** 1935 c 386 s 11; Mason's Supp s 2139-25; 1943 c 627 s 5; 1951 c 562 s 1; 1953 c 340 s 1.

Under the provisions of sections 282.13 and 350.11 the land commissioner or his assistant are allowed five cents per mile as compensation for the use of their automobile. OAG Dec. 4, 1947 (104-A-8).

## CONSERVATION AREA

### 282.14 CLASSIFICATION OF FORFEITED LANDS

Where tax-forfeited land in a conservation area is sold the authority to execute the conveyance of such realty is imposed upon the commissioner of conservation and not the commissioner of taxation. OAG Oct. 25, 1950 (410-B).

### 282.15 SALES OF FORFEITED LANDS

The commissioner of conservation is under the provisions of section 84.027 empowered to execute conveyance of land within the Mahnomen county conservation area. OAG Feb. 13, 1947 (24-B).

The power and duty to convey tax-forfeited lands situated in a conservation area is vested in the commissioner of conservation. OAG Feb. 13, 1948 (24-B) (983-M).

Proceedings to cancel real estate tax sale certificate, state assignment certificate, or forfeited tax sale certificate pursuant to section 281.327 are judicial and are not applicable to cancellations generally. The term "any person interested in the land" appears in section 281.327 but not in section 282.17. OAG Nov. 25, 1947 (409-A-1).

### 282.17 CANCELLATION OF CONTRACTS

The phrase "person interested in land" as used in section 281.327 does not apply to the county auditor, his interest being on behalf of the public and not personal. OAG Nov. 13, 1947 (409-A-1).

Proceedings to cancel real estate tax sale certificate, state assignment certificate, or forfeited tax sale certificate, pursuant to MSA, section 281.327, are judicial and are not applicable to cancellations generally. The term "any person interested in the land" appears in section 281.327 but not in section 282.17. OAG Nov. 25, 1947 (409-A-1).

### 282.171 CONTRACTS, MEMBERS OF ARMED FORCES, CANCELLATION

HISTORY. 1943 c 341 s 1, 2; 1945 c 75 s 1; 1951 c 34 s 1.

### 282.18 COUNTY AUDITOR TO LEASE LANDS

If a mortgage given by a railroad company to a trustee to secure a bond issue covers personal property of the railroad, it should be recorded with the secretary of state and in the office of register of deeds of each county through which the railroad runs and if the mortgage covers personal property only and does not cover real estate there is no tax to be paid under the provisions of section 287.05 and mortgage is entitled to record in the offices referred to without payment of any tax. OAG Dec. 5, 1949 (418-B-20).

The county auditor may lease tax-forfeited lands for temporary use as a potato warehouse. OAG Aug. 1, 1950 (700-D-18).

### 282.19 COUNTY TREASURER TO COLLECT PAYMENTS

HISTORY. 1939 c 320 s 6; M Supp s 2139-27g; 1945 c 381 s 3; 1945 c 466 s 1, 2; 1947 c 484 s 2; 1949 c 524 s 1.

The mileage of the county commissioners and the land commissioner of Beltrami county for their services in appraising and re-classifying tax-forfeited land is governed by sections 282.19 and 282.226. OAG Nov. 25, 1952 (104-A-8).

The receipts from the sale of tax-forfeited lands classified as non-conservation lands and not in conservation or reforestation areas should be deposited in the tax-forfeited tax sale fund whether sold under the Repurchase Act or not, but if the lands are in conservation or reforestation areas the proceeds should be paid into the special fund. OAG April 18, 1947 (107-B-19).

Laws 1947 c 422 applies to purchase by veterans of World War II of tax-forfeited lands, including lands in the Red Lake Game Preserve and certain other conservation areas. Section 282.033 authorizes certain refunds. Such refunds must be made from the special fund created by section 282.19 and 282.26 as amended by Laws 1947, Chapter 484. Such refunds should be made before the net amount is transmitted to the commissioner of conservation. Sale under Laws 1947, Chapter 422 may be made at any time and need not await the annual sale. Laws 1947, Chapter 422 does not affect the right of the record owner to repurchase. The board fixes all conditions of purchase by the veteran, within the provisions of Laws 1947, Chapter 422. Cancellations under Laws 1947, Chapter 422, Section 6, must follow the procedure provided by law prior to the date of the approval of Laws 1947, Chapter 484. OAG Nov. 5, 1947 (310).

## 282.20 MINERAL RIGHTS RESERVED

Tax-forfeited lands when repurchased under section 282.241, as amended by Laws 1951, Chapter 514, do not retain such a mineral reservation by the state as found in section 282.20. OAG Sept. 26, 1951 (425-C-13).

## 282.21 CONVEYANCE

The power and duty to convey tax-forfeited lands situated in a conservation area, is vested in the commissioner of conservation. OAG Feb. 13, 1948 (24-B) (983-M).

## 282.222 SALE

Subdivision 4, amended by Laws 1947, Chapter 484, Section 3.

Subdivision 5, amended by Laws 1947, Chapter 484, Section 4.

Subdivision 6, amended by Laws 1947, Chapter 484, Section 5.

Subdivision 7, amended by Laws 1947, Chapter 484, Section 6.

It is the responsibility of the buyer to determine for himself whether he is eligible to purchase tax-forfeited lands. The determination of the buyer is not binding upon the county auditor. It is the duty of the county auditor when conducting the sale of tax-forfeited lands to ascertain and determine the eligibility of the buyer. If such prohibited sale is made to a person who is ineligible by law to purchase tax-forfeited lands, such sale is void. The status of the parcel of tax-forfeited land, if such sale can be considered void, is as though there had never been a sale of such lands. It is the duty of the county auditor to correct his own error in making such sale and in removing the lands from the tax-forfeited sale list, by restoring such lands to such list. There is no authority to reoffer such lands at the next sale other than the general authority under section 282.01 to withdraw a parcel of tax-forfeited land from a sale and reappraise it and reoffer it at the next subsequent sale. OAG Dec. 1, 1953 (425-C) (90-B).

Laws 1947, Chapter 422 applies to purchase by veterans of World War II of tax-forfeited lands, including lands in the Red Lake Game Preserve and certain other conservation areas. Section 282.033 authorizes certain refunds. Such refunds must be made from the special fund created by section 282.19 and 282.226 as amended by Laws 1947, Chapter 484. Such refunds should be made before the net amount is transmitted to the commissioner of conservation. Sale under Laws 1947, Chapter 422 may be made at any time and need not await the annual right of the record owner to repurchase. The board fixes all conditions of purchase by the veterans, within the provisions of Laws 1947, Chapter 422. Cancellations under Laws 1947, Chapter 422, Section 6, must follow the procedure provided by law prior to the date of the approval of Laws 1947, Chapter 484. OAG Nov. 5, 1947 (310).

The provisions of sections 282.031 to 282.037, and of section 282.222 are incompatible, and in accordance with the rule found in section 648.26, the later law, must prevail. OAG Feb. 2, 1948 (310).

Tax-forfeited lands in the Red Lake Game Preserve may be platted and sold in parcels which are any fractional part of a government subdivision if less than 160 acres if classified and appraised as agricultural land by the county board and approved by the commissioner and properly described in the notice of sale. OAG Feb. 24, 1949 (700-A-8).

## 282.226 FUNDS COLLECTED

The compensation for mileage of the county commissioners and the land commissioner of Beltrami county for their services in appraising and re-classifying tax-forfeited land is governed by sections 282.19 and 282.226. OAG Nov. 25, 1952 (104-A-8).

Laws 1947, Chapter 422, applies to purchase by veterans of World War II of tax-forfeited lands, including lands in the Red Lake Game Preserve and certain other conservation areas. Section 282.033 authorizes certain refunds. Such refunds must

be made from the special fund created by sections 282.19 and 282.226 as amended by Laws 1947, Chapter 484. Such refunds should be made before the net amount is transmitted to the commissioner of conservation. Sale under Laws 1947, Chapter 422, may be made at any time and need not await the annual right of the record owner to repurchase. The board fixes all conditions of purchase by the veteran, within the provisions of Laws 1947, Chapter 422. Cancellations under Laws 1947, Chapter 422, Section 6, must follow the procedure provided by law prior to the date of the approval of Laws 1947, Chapter 484. OAG Nov. 5, 1947 (310).

**282.24** Unnecessary, superseded by section 282.241.

## **282.241 REPURCHASE OF LAND AFTER FORFEITURE FOR TAXES**

**HISTORY.** 1945 c 266 s 1; 1947 c 490 s 1; 1949 c 461 s 1; 1951 c 514 s 1; 1953 c 471 s 1.

The receipts from the sale of tax-forfeited lands classified as non-conservation lands and not in conservation or reforestation areas should be deposited in the tax-forfeited tax sale fund whether sold under the repurchase act or not; but if the lands are in conservation or reforestation areas, proceeds should be paid into the special fund. OAG April 18, 1947 (107-B-19).

The commissioner of conservation may grant permits to prospect for iron ore on land forfeited to the state for taxes even though the time for repurchase by the owner or his representative has not yet expired. OAG Jan. 14, 1948 (311-G).

Notwithstanding the provisions of section 282.241, as amended by Laws 1947, Chapter 490, the commissioner of conservation may issue to applicants permits to prospect for iron ore on tax-forfeited lands even though the right of repurchase exists in the former owner. OAG Jan. 14, 1948 (311-G).

The fact that upon forfeiture for nonpayment of taxes the title of the land vests in the state is evidenced by the fact that the legislature permits the sale by the state of tax-forfeited land prior to repurchase. OAG Jan. 14, 1948 (311-G).

Where a repurchase has been made of tax-forfeited lands under the provisions of Laws 1941, Chapter 43, and a 20 percent payment only was made on the repurchase, and when the second installment came due and was not paid, there was a default under the provisions of section 282.301. This canceled the contract by operation of law. It was the duty of the county auditor to show on his records the date of default and the date of the cancelation of the contract which were, of course, the same. OAG June 2, 1953 (425-C-6).

Where mortgages on two lots were foreclosed and the period of redemption had expired and the mortgagor was not disturbed in his possession and the whereabouts of the mortgagee were unknown, upon forfeiture of the lots to the state for nonpayment of taxes and the mortgagor claimed to be the owner repurchased one lot under the provisions of section 281.41 and the other lot under provisions of section 281.55 and thereafter paid the taxes thereon, the mortgagor acquired no title to either lot and the title to the lots was vested in the state subject to the interests of the several taxing subdivisions of the state. The lots revert to the original status of tax-forfeited land subject to repeal. OAG Sept. 19, 1947 (425-C-13).

The right to repurchase forfeited lands is limited to the owner at the time of the forfeiture, to his heirs, devisees, representatives, or any person to whom the right to pay taxes was given by statute, mortgage, or other agreement. Unless the applicant for repurchase comes within that schedule, he has no right of repurchase. It is significant that the word "assigns" was not used. OAG Aug. 16, 1949 (425-C-13).

Where lots owned by a municipality are forfeited for nonpayment of taxes, the municipality if they can show that they need the lots for public purposes, may under section 282.01, obtain a deed of the lot without payment of the taxes, but if they merely wish to get the title back and do not have any immediate public use for the lots, they must repurchase under provisions of section 282.241. OAG Aug. 23, 1951 (425-C-13).

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## TAX-FORFEITED LAND SALES 282.35

Tax-forfeited lands repurchased under section 282.241, as amended by Laws 1951, Chapter 514, do not retain such a mineral reservation by the state as is found in section 282.20. OAG Sept. 26, 1951 (425-C-13).

Repurchase of tax-forfeited lands under section 282.241, as amended by Laws 1951, Chapter 514, must be made within one year from the date of forfeiture or on or before November 1, 1951. OAG Sept. 27, 1951 (425-C-13).

In the repurchase of tax-forfeited land the first payment must be made within one year from the date of the forfeiture or on or before November 1, whichever is later. OAG Nov. 14, 1951 (425-C-13).

The right of repurchase by the original owner is extinguished by a sale of tax-forfeited land. The purchaser may repurchase by complying with the terms of section 282.241. OAG Aug. 4, 1953 (425-C-13).

**282.25-282.32** Unnecessary, superseded by sections 282.251-282.324.

### **282.261 DOWN PAYMENT**

In the repurchase of forfeited land the first payment must be within one year from the date of the forfeiture or on or before Nov. 1, whichever is later. OAG Nov. 14, 1951 (425-C-13).

**282.34** Superseded by 282.341.

### **282.341 REINSTATEMENT OF TAX-FORFEITED CERTIFICATE**

Where purchaser of tax-forfeited lands defaulted on terms of purchase agreement, the reinstatement of the contract of purchase was governed by section 282.341 and not by section 282.241. OAG Sept. 13, 1951 (425-C-6).

Reinstatement must conform to the original repurchase, and the apportionment of a lesser parcel is not permitted. OAG Dec. 20, 1946 (425-C-13).

### **282.35 OWNER OF FORFEITED LAND MAY REPURCHASE**

A purchaser of tax-forfeited land under the provisions of section 282.35 is entitled to receive a tax deed from the state upon proper certification through the commissioner of taxation. The interest of a federal purchaser of tax-forfeited land under section 282.031 et seq. is assignable and the assignee is entitled to receive a state tax deed upon proper certification to the commissioner of taxation. OAG Nov. 13, 1950 (425-C-13) (410-B).

Mortgage on lot 29 was foreclosed, and the period of redemption expired Aug. 24, 1925; mortgage on lot 30 was foreclosed and the period of redemption expired June 11, 1928. The original owner continued to live on the land. The owners through foreclosure have disappeared and their residence is unknown. Lot 29 was forfeited to the state for taxes Jan. 15, 1937, and lot 30 likewise on June 24, 1937. Under claim of ownership the original owner repurchased lot 29 under provisions of Laws 1933, Chapter 407 and completed payments under the contract Dec. 31, 1943, and repurchased lot 30 under the provisions of Laws 1937, Chapter 188, making final payment July 10, 1947. He continued to pay current taxes. As he was not an "owner" the repurchase in each instance was a nullity, and lots 29 and 30 remain the property of the state and certain subdivisions thereof, and it is the duty of the county board, after bringing an action to quiet title under section 284.07 et al to resell in a manner similar to the sale of all tax-forfeited lands. Under certain conditions, the county board may, on application refund the repurchase money mistakenly paid. The money paid voluntarily as current taxes cannot be refunded. OAG Sept. 19, 1947 (425-C-13) (424-A-5).