CHAPTER 57-28
RIGHTS OF COUNTY WHEN LANDS NOT REDEEMED

57-28-01. Notice of foreclosure of tax lien to be given.

On or before June first in each year, the county auditor shall give notice of foreclosure of tax lien for all property for which two or more years have passed since the tax became due.

57-28-02. When tax lien is foreclosed.

The tax lien foreclosure date is October first after the service of the notice of foreclosure.

57-28-03. Contents of notice of tax lien.

Notice of foreclosure of tax lien must include:

1. The description of the property.
2. The amount of delinquent property taxes and special assessments, with penalties, interest, and foreclosure costs, for the tax year foreclosed.
3. The total amount required to satisfy the property tax lien.
4. The time when the foreclosure will occur.

57-28-04. Service of notice of foreclosure of lien.

1. If the current assessment records show that a residential building is located on the property, the county auditor shall deliver the notice of foreclosure of tax lien to the sheriff who shall serve it or cause it to be served personally upon the owner, if known to be a resident of this state. If the owner is a nonresident of this state, the county auditor shall serve the notice by certified mail addressed to the owner at the owner's last-known post-office address and determine whether personal service upon any person is required under subsection 3. If the current assessment records show that no residential building is located on the property, the auditor shall serve the notice by certified mail addressed to the owner at the owner's last-known post-office address.
2. By March first, the county auditor shall request from the recorder and the clerk of the district court a list giving the names and addresses of all persons who appear to be interested as owners, mortgagees, lienholders, or judgment creditors. Ownership does not include an easement or right of way recorded or a mineral interest that was severed from the surface estate. The recorder and the clerk of the district court shall provide the county auditor with the requested lists by April fifteenth following the request.
3. On or before June first, the county auditor shall serve the notice of tax lien foreclosure personally upon any person actually residing upon the property subject to tax lien and by certified mail upon any other person entitled to the possession of the property as may appear from the records of the recorder or clerk of the district court.
4. The county auditor shall serve the notice of foreclosure of tax lien upon each mortgagee, lienholder, and other person with an interest in the property except a person whose only interest is in a mineral interest that was severed from the surface estate before the filing of any unsatisfied lien or mortgage or before January first of the year following the year for which the taxes were levied and to which the notice of foreclosure of tax lien relates, and upon whom personal service is not required by this section, as shown by the records of the recorder or the clerk of the district court of the county. The notice must be served by certified mail. If a mortgagee, lienholder, or other person entitled to notice under this subsection has an agent registered with the secretary of state for the purpose of accepting service, the notice required under this subsection must be served on that registered agent.
5. The expense of service of the notice, publication, and other foreclosure costs under this chapter in the amount of fifty dollars or actual costs whichever is higher must be added to the amount required to satisfy the tax lien. The auditor or sheriff shall make proof of service by mail by affidavit showing the names and addresses of all parties upon whom the notice was served with the date of mailing in each case and shall

attach the registry, certification, and return receipts and file the affidavit and receipts with the original notice of foreclosure of tax lien. Service by publication under this chapter must be shown of record by filing of an affidavit of publication.

57-28-05. Form of notice of foreclosure of tax lien service by certified mail.

The notice of foreclosure of tax lien which the county auditor is required to serve by certified mail must be substantially in the following form:

NOTICE OF FORECLOSURE OF TAX LIEN

To _____, the owner of the record title of the real estate hereinafter described, and to all mortgagees, lienholders, and other persons interested in the real estate:

I, _____, county auditor of _____ County, North Dakota, give notice that the real estate hereinafter described has a lien for delinquent taxes against it for the year _____ and unless the tax and special assessments, with interest, penalties, and cost of foreclosure action are paid on or before October first, after the date of this notice, tax deeds will be issued to the county, granting to and vesting in it, the absolute title in fee to the real property, subject, however, to the lien for installments of special assessments certified or to be certified to the county auditor or which may become due subsequent to the time of service of this notice, and foreclosing all rights of the owner, mortgagees, lienholders, and other persons interested therein, as may appear from the records of the recorder and the clerk of the district court of the county. There is given herewith the description of the parcels of real estate, and set opposite each description is the amount which will be required to satisfy the tax lien for the year _____.

The property is described as follows, with the amount required to satisfy the tax lien set out opposite each description: _____

_____

Given pursuant to authority of law on _____, _____.

County auditor of _____ County, North Dakota.

57-28-06. Service of notice by publication.

The county auditor shall serve notice of foreclosure by publication as to all property for which notice is served upon the owner by certified mail. The notice may include any number of parcels of property and only one heading is necessary for the entire list. The notice must contain the description and any street address of each parcel of property. However, the failure to include the street address in the notice does not affect the validity of the notice. The notice must be published once on or before August first in the official newspaper of the county.

57-28-07. Form of notice for publication.

The notice of foreclosure of tax lien to be served by publication must be substantially in the following form:

I, _____, county auditor, of _____ County, North Dakota, give notice that the real estate hereinafter described has a lien for delinquent taxes against it for the year _____, and unless the tax and special assessments, with interest, penalties, and cost of foreclosure action are paid, on or before October first after the date of this notice, the real estate will become the absolute property in fee of this county, subject to the lien for installments of special assessments certified or to be certified to the county auditor or which may become due subsequent to the time of service of this notice, and the former owner, mortgagees, lienholders, and other interested persons therein will be forever foreclosed and barred from asserting any further rights to the real estate. The following is a list of the real estate on which the tax lien will be foreclosed on October first. Opposite each description of the real estate appears any street address of the property, the name of the owner of the record title, and the amount which must be paid to satisfy the tax lien. (List descriptions, names of owners, and amount necessary to satisfy the tax lien.)

Given pursuant to authority of law on _____, _____.

The failure to include the street address in the notice does not affect the validity of the notice.

57-28-08. Effect of failure to satisfy tax lien.

The failure of the owner, any mortgagee, or other lienholder to satisfy the tax lien before the date of foreclosure shall:

1. Pass any interest of the owner, mortgagee, or lienholder in the property to the county. The interest acquired by the county is subject to the lien for installments of special assessments certified to the county auditor or which may become due after the service of the notice of foreclosure of tax lien. The interest acquired by the county is subject to an easement or right of way recorded with an effective date that precedes the date of official notice to the record titleholder which states that property taxes are delinquent and constitute a property lien.
2. Foreclose all rights of satisfaction.
3. Waive all errors, irregularities, or omissions which do not affect the substantial rights of the parties, except jurisdictional defects.

57-28-09. Tax deed to be issued.

After the date of foreclosure for property with an unsatisfied tax lien, the county auditor shall issue a tax deed to the county or, in cases in which the state engineer has made an assessment against the property under section 61-03-21.3, the county auditor shall issue a tax deed to the state or, if the property was sold by another political subdivision of this state within the ten years preceding the foreclosure, the county auditor shall issue a tax deed to that political subdivision. The tax deed passes the property in fee to the county, the state, or political subdivision, free from all encumbrances except installments of special assessments certified to the county auditor or which may become due after the service of the notice of foreclosure of tax lien, a homestead credit for special assessments lien provided for in section 57-02-08.3, and an easement or right of way recorded with an effective date that precedes the date of official notice to the record titleholder which states that property taxes are delinquent and constitute a property lien. While the county, the state, or political subdivision holds title under a tax deed, it is not liable for the payment of any installments of special assessments which become due unless the board of county commissioners, the state, or political subdivision has leased or contracted to sell the property. A deed issued under this section is prima facie evidence of the truth and regularity of all facts and proceedings before the execution of the deed.

57-28-09.1. Form of tax deed.

A tax deed must be substantially in the following form:

TAX DEED

This deed is made by _____ (name of county auditor), county auditor of _____ County, North Dakota, in the name of the state to _____ (name of county) County, as provided by the laws of the state of North Dakota:

Whereas, there was assessed for _____ (year) the following real property: _____ (legal description of the property); and

Whereas, the taxes for _____ (year) levied against the property amounted to $_____; and

Whereas, the taxes were not paid and a property tax lien for the payment of the taxes attached; and

Whereas, notice was given to interested parties under chapter 57-28 of foreclosure of the tax lien and that the issuance of a tax deed was pending; and

Whereas, the property tax lien has not been satisfied by _____ (name of former owner) or any other person entitled to satisfy it.

Now, therefore, I _____ (auditor's name), county auditor of _____ County, North Dakota, in the name of the state, hereby grant to _____ (name of county) County, all the property situated in _____ County, North Dakota, described in this document.

Witness my hand on this date _____ (date, including year).

_____, County Auditor
_____ County, North Dakota

57-28-10. Appraisal for annual sale - Minimum sale price.

All property acquired by the county by tax deed must be appraised by the board of county commissioners at least thirty days before the annual sale under this chapter. The appraised price must be sufficient to cover all taxes, special assessments, homestead credit for special assessments, penalties, interest, and costs which were due against the property at the time of the service of the notice of foreclosure of tax lien, plus an amount equal to the estimated taxes and special assessments for the current assessment year. If the fair market value of the property is more than the total amount due against the property, the minimum sale price of the property must be at least equal to the total amount due against the property. If the fair market value of the property is less than the total amount due against the property, the board shall fix a fair minimum sale price for the property.

57-28-11. Hearing on appraisal.

After making the appraisal of property acquired by tax deed, the board of county commissioners shall set a date for hearing objections to the minimum sale price determined. At least ten days before the hearing, the county auditor shall mail to the auditor of any city, or the clerk of the board of supervisors of any township, in which appraised property is located a written notice stating the time when objections to the established minimum sale price will be heard. Any member or representative of the governing body of any taxing district may appear at the hearing with reference to the fair market value of appraised property, and the board may make appropriate changes in the minimum sale price of property.

57-28-12. Appeal.

If dissatisfied with the determination of the board of county commissioners under section 57-28-11, the governing body of any taxing district may appeal to the district court under section 28-34-01. Appeals under this section must be heard by the court without a jury. The county auditor shall make any changes in minimum sale price ordered by the court.

57-28-13. Time and place of annual sale.

The annual sale of land acquired by tax deed must be held at the county auditor's office or the usual place of holding district court in the county beginning on the third Tuesday of November of each year.

57-28-14. Notice of annual sale - Contents.

Notice of the annual sale must include a description, any street address, and minimum sale price for each parcel of property to be sold. Notice must be given in both of the following manners:

1. By posting a notice at the county auditor's office at least fifteen days before the date of sale.
2. By publishing a notice in the official newspaper of the county once, not less than ten days before the date of sale.

The failure to include the street address in the notice does not affect the validity of the notice.

57-28-15. Annual sale at auction - Sale price - Terms of payment.

The annual sale must be conducted in the following manner:

1. Each parcel of land must be sold at auction to the highest qualified bidder for no less than the minimum sale price as fixed before the sale. The sale may be made either for cash or one-fourth of the purchase price in cash, and the balance in equal annual installments over a period of not more than ten years. The purchaser may pay any or all annual installments with interest before the agreed due date of the installments.
2. If the sale is for cash, the purchaser shall promptly pay the amount bid to the county treasurer.
3. If the purchase price is to be paid in installments, the purchaser shall pay the first installment to the county treasurer and be given a contract for deed setting forth the terms of the sale. The contract for deed must be executed by the purchaser, the

chairman of the board of county commissioners, and the county auditor. The contract must be in a form prescribed by the state tax commissioner. The contract must give the county the right to cancel the contract by resolution and due notice upon default by the purchaser.

4. The original contract for deed must be filed with the county treasurer, who shall record upon it all payments made by the purchaser. The interest rate for the contract must be established by the board of county commissioners at no more than twelve percent.
5. Upon completion of a cash sale or payments under a contract for deed, the county auditor shall execute and deliver a deed conveying to the purchaser the entire interest of the county in the property.
6. Upon the execution and delivery of the deed or contract for deed, the property becomes taxable to the purchaser.
7. A person is unqualified to be the highest bidder for property if the person owes delinquent taxes to any county.

57-28-16. Form of deed to purchaser.

The deed which the county shall execute and deliver to the purchaser must be substantially in the following form:

COUNTY DEED

This indenture made on _____, _____, between the county of _____, North Dakota, party of the first part, and _____, party of the second part, witnesseth:

WHEREAS, the real property hereinafter described was acquired by the county through tax deed proceedings for the nonpayment of taxes levied and extended against the property for the years of _____ to _____ inclusive, with interest and penalties, amounting to the sum of _____ dollars; and

WHEREAS, the real property was offered for sale, and sold, pursuant to authority of law, on _____, _____, and at the sale, the second party became the purchaser of the whole thereof, for the sum of _____ dollars, which has been paid in full;

NOW, THEREFORE, the county as party of the first part, in consideration of the premises, and pursuant to authority of law, hereby does grant, bargain, sell, and convey to the second party, the second party's heirs and assigns, that certain real property situated in the county of _____, North Dakota, described as follows:

To have and to hold the above described real property with all of the appurtenances thereunto belonging to the party of the second part, _____ heirs and assigns forever.

IN WITNESS WHEREOF _____ and _____, as chairman of the board of county commissioners and county auditor, respectively, of said county, hereby do set their hands the day and year first above written and do cause the seal of said county to be affixed thereto.

_____ County,
North Dakota

_____
Chairman, board of county commissioners

_____
County auditor

STATE OF NORTH DAKOTA
County of _____

On _____, _____, personally appeared before me, a notary public within the aforesaid county and state, _____ and _____, to me personally known to be the chairman of the board of county commissioners and the auditor, respectively, of said county, and acknowledged to me that they executed the foregoing deed for and on behalf of said county.

_____

My commission expires _____. Notary Public, for _____ County, North Dakota.

57-28-17. Sale between annual sales.

Any property not sold at the annual November sale may be sold by the county auditor at private sale before the next annual November sale for not less than the property's minimum sale price. A parcel of real estate against which an unpaid special assessment continues as a lien under section 57-28-09 may be sold by the county auditor free of the lien if the governing body of the city in which the property is located finds that the sum of the minimum sale price and the unpaid special assessment exceeds the market value of the property. If the governing body of the city makes this finding, it may cancel all or part of the special assessment lien against the property to reduce the lien to an amount which, when added to the minimum sale price, will be equal to the market value of the property. The action of the governing body shall be certified by the city auditor or clerk to the county auditor. The county auditor may then sell the property at private sale before the next annual November sale for not less than the resulting amount. The purchaser acquires the property free from any part of any lien for special assessment which was canceled by the governing body of the city, and the county auditor shall remove from the record any canceled special assessments.

Notwithstanding the provisions of this section or other provisions of law, any property acquired by the county which is subject to a special assessment lien for improvements made by a city may be sold to that city for cash at any price agreed upon by the board of county commissioners and the governing body of the city.

57-28-17.1. Private sale between annual sales by nonexclusive listing agreements.

The board of county commissioners may by resolution engage licensed real estate brokers to attempt to sell property not sold at the annual November sale. The resolution must authorize sale by way of nonexclusive listing agreements; describe the real property to be sold; provide a maximum rate of fee, compensation, or commission; and provide that the county reserves the right to reject any and all offers determined to be insufficient. Property that is subject to a special assessment lien for improvements made by a city must first be offered for sale to the city.

57-28-18. Terms of private sale and distribution of proceeds.

Any private sale of real property made between the annual November sales must be made upon the same terms and conditions as a sale may be made at the November sale. The sale of farmland acquired by the county by tax deed is subject to any existing lease of the property for the year of the sale. If the farmland is to be sold by private sale to any person other than the former owner or other interested person, a deed or contract for deed may not be delivered to the purchaser until thirty days after service by certified mail upon the former owner or other interested party of the pending sale, the date when the sale will become final, and the amount required to repurchase the property. For the purposes of this section, "other interested party" means the executor, administrator, parent, spouse, or child of the former owner who has notified the county auditor in writing of that status, the address at which service may be made, and that the person should be notified of the expiration of the period of repurchase in connection with any private sale of the property.

In case of the sale, contract for sale, or repurchase by the former owner of tax deed property during January, the property must be assessed and taxed for that year, and the purchaser or repurchaser is entitled to the rental and landlord's share of crops on the property for the year. In case of the sale, contract for sale, or repurchase by the former owner of tax deed land after January, the property must not be assessed and taxed for that year, and the county is entitled to the rental and landlord's share of the crops on the property for the year. The proceeds realized from a sale between annual November sales must be apportioned in the same manner as the proceeds of the annual November sale.

57-28-19. Rights of repurchase.

The former owner; the former owner's executor or administrator; or any parent, spouse, or child of the former owner may repurchase any property forfeited to the county under tax deed proceedings, so long as the tax title to the property remains in the county. If any city has made a special assessment for public improvements against the property and the special assessment

has become delinquent and remains unpaid, the city has a right to purchase the property for cash, at the appraised value, prior to that of any party. Upon appraisal of the property, the county auditor shall give notice to the auditor of any such city and the city has thirty days within which to exercise its priority right to purchase the property under this section. A repurchase by a private party under this section may be for cash or contract for deed made by and between the board of county commissioners and the former owner; the executor or administrator of the former owner; or any parent, spouse, or child of the former owner. The consideration of the repurchase contract with a private party must include:

1. The total amount required to be paid to effect a satisfaction of tax lien.
2. The total amount of all subsequent taxes and special assessments with interest, penalties, and costs.

If the fair market value of the property at the time of the repurchase is less than the amount to be paid under subsections 1 and 2, the board shall fix a fair sale price for the property. If a repurchase under this section is by contract for deed, the party making the repurchase must pay at least twenty-five percent of the total contract price in cash and the remainder must be payable in no more than ten annual equal installments. The board of county commissioners shall establish the rate of interest for a contract for deed under this section, not exceeding the prime rate of interest established by the Bank of North Dakota for the month immediately preceding the month in which the contract was entered. A contract for deed under this section must provide that if the repurchaser or the successor in interest fails to pay one or more of the installments when due, with interest, the board of county commissioners may cancel the contract and all payments and improvements made by the repurchaser or the successor in interest will be forfeited to the county as liquidated damages for breach of contract unless otherwise expressly provided. Upon the completion of a cash sale or payments under a contract for deed under this section, the county auditor shall execute and deliver a deed conveying to the repurchaser the entire interest of the county in the property. Upon the execution and delivery of a deed or contract for deed under this section, the property becomes taxable to the repurchaser. In case of repurchase or contract for repurchase of tax deed property during January, the property must be assessed and taxed for that year, and the repurchaser is entitled to the rental and landlord's share of crops on the property for the year. In case of the repurchase or contract for repurchase of tax deed land after January, the property must not be assessed and taxed for the current year, and the county is entitled to the rental and landlord's share of crops on the property for the year. The repurchase or contract for repurchase of tax deed farmland is subject to any existing farm lease of the property for the year in which the repurchase or contract for repurchase is made.

57-28-19.1. Real estate sold to city or acquired by the county by tax deed to be marketable.

A city that has purchased property or a county that has acquired a tax deed to property under this chapter is deemed to have marketable record title to the property if all of the following apply:

1. The county deed conveying the property has been recorded.
2. The city or county has entered into possession of the property and continued its possession for three months or longer.
3. No lis pendens giving notice of the pendency of an action challenging the validity of tax proceedings or of the deed has been recorded within three months of the date on which the city or county entered into possession of the property.

A city or county that is deemed to have marketable record title may convey title free of any claims based on a defect in the process through which the city or county obtained title to the property. If title of the city or county is deemed marketable under this section, a claimant who would be entitled to some claim on the property because of a defect in the process by which the city or county obtained title has instead the right to recover from the city or county the net value of that claim, subject to the statutory restrictions on claims against a city or county. For the purpose of this section, the fact of possession by the city or county may be shown of record by one or more affidavits that contain the legal description of the property and show that the city or county entered into possession of the property and continued possession for three months or

longer. The posting on the property of a sign or notice, legible from the street adjacent to the property, stating that the property is owned or for sale by the city or county is an act of possession by the city or county, but is not required.

57-28-20. Disposition of proceeds of sales.

All proceeds from the public or private sale of property under this chapter must be apportioned as regular tax payments are apportioned among and within taxing districts in which the property is located, as follows:

1. The county treasurer shall issue a regular tax receipt in the name of the county, beginning with the earliest year for which the taxes are delinquent. Tax receipts must be written for the original amount of the tax, without penalty and interest. If the property was sold for an amount sufficient to cover all outstanding taxes and special assessments, tax receipts must be written for all such years, and any remaining amount must be credited to the general fund of the county.
2. If the property is sold under a contract, the county treasurer shall issue tax receipts, beginning with the earliest year for which taxes or special assessments are delinquent, without penalty and interest, and all subsequent payments made on the contract must be applied to the earliest remaining unpaid taxes or special assessments. Any payment under the contract after all taxes and special assessments are paid must be credited to the county general fund.
3. If the property is sold for less than the total amount of the taxes due, the treasurer shall write tax receipts beginning with the earliest year and for as many subsequent years as the proceeds realized from the sale will satisfy, and the remainder of any unpaid general taxes or special assessments must be canceled by the board of county commissioners.

57-28-21. Cancellations from record.

Repealed by S.L. 1999, ch. 503, § 47.

57-28-22. Sale of property owned by county more than ten years.

The board of county commissioners may sell property acquired by the county at tax sale or by foreclosure of tax lien more than ten years ago without further notice.

57-28-23. County lands may be leased.

The board of county commissioners may lease any property acquired by the county by tax deed. A mineral lease in farmland acquired by the county by tax deed may not be entered until thirty days after giving the former owner or other interested party notice of the right to repurchase the property from tax lien foreclosure in the manner provided in section 57-28-18.

57-28-24. Terms of leases.

All leases of property under this chapter must be made subject to sale and limited to a term not exceeding five years. However, property may be leased for grazing purposes without being subject to sale for a term not exceeding ten years.

57-28-25. Board of county commissioners may act as leasing agents or may employ a county land agent.

The board of county commissioners may not expend more than ten percent of the total lease revenue collected under this chapter for costs in connection with the supervision and collection of rentals. The board may authorize one or more of its members to act as the county land agent or employ a county land agent to manage, lease, and collect rentals for any property owned by the county. The county land agent must be bonded by the state bonding fund, in an amount determined by the board of county commissioners. The agent shall deposit all amounts collected with the county treasurer and obtain a receipt. The board of county commissioners shall fix the compensation and expenses of the agent, but the compensation and expenses may

not exceed ten percent of the total revenue collected by the agent and must be paid out of the revenue from the rentals of county lands.

57-28-26. Disposition of rental revenue.

All the net revenue from leases of property under this chapter and all federal payments for property acquired by the county by tax deed must be paid into the county treasury. On or before January tenth in each year, the county treasurer shall apportion these amounts received in the previous calendar year to the county, city, school district, township, or other taxing districts in which the property is located in the proportion that the previous year's general fund levy in the taxing district bears to the total of general fund levies of all taxing districts in which the property is located.

57-28-27. Discretion of county commissioners in lease or sale of tax deed lands.

The board of county commissioners may refuse to sell or lease any agricultural lands held by the county under a tax deed if the board finds that any of the following would result:

1. The use would seriously impair the fertility of the property or adjoining property due to wind or water erosion.
2. The property will become a part of an agricultural unit that will be too small or too large to be operated in the best interests of the community and taxing districts and the use may result in failure of the owner or lessee to pay taxes upon the property.
3. The use would result in lessening the value or marketability of adjacent property held by the county.

The board of county commissioners may classify agricultural lands held by the county according to suitability for tillage, haying, or grazing purposes. Applicants for deeds or leases may file with the county auditor a statement of the size of the farming unit for which the property is desired, the uses intended for the property, and any other information relative to the planned operation of the property which is required by the board of county commissioners.

57-28-28. County lien for costs of improvement to distressed property forfeited in tax foreclosure.

1. If property sold by the county under this chapter is sold for less than the total amount of the taxes due and the costs to improve salability of the property which were incurred by the county in cleanup, repairs, demolition, or other action necessary because of damage, neglect, or waste by the prior owner, those costs incurred by the county to improve salability which were not recovered by the county from the sale constitute a lien on any real property owned, or later acquired, in the county by that prior owner.
2. The county auditor shall extend and enter upon the tax list of real estate then in the hands of the county treasurer, opposite the description of real estate designated by the board of county commissioners which belongs to the prior owner, the year for which an obligation to the county exists under this section and the amount of that obligation. The entry must be made without regard to any prior payment of real estate taxes on those properties and the treasurer may not thereafter issue any receipt in full for real estate taxes on those properties without making collection at the same time of the obligation under this section. A taxpayer holding a specific superior lien on those properties ahead of a lien under this section is entitled to tax receipts without regard to nonpayment of obligations under this section.

57-28-29. Notice of tax delinquency - Central indexing system.

Repealed by S.L. 2013, ch. 257, § 47.