

No. 490, S.]

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CHAPTER 342.

AN ACT to repeal 75.51, and to amend 75.50, 75.521 (3) (a) 2, (b), (c), (6) (introductory paragraph), (8), (14a), and 274.01 (1) of the statutes, relating to the enforcement of collection of delinquent taxes.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 75.50 of the statutes is amended to read:

75.50 If the plaintiff in such action cannot ascertain who are the proper persons to make defendants as to any tract or parcel of land described in his complaint he may allege the fact in his complaint and they may be proceeded against as nonresident defendants and shall be described in the proceedings as unknown owners * * *.

SECTION 2. 75.51 of the statutes is repealed.

SECTION 3. 75.521 (3) (a) 2. of the statutes is amended to read:

75.521 (3) (a) 2. The name or names of the last owner or owners, and mortgagee or mortgagees of such parcel as such ownership or mortgage interest appears of record in the office of the register of deeds of the county wherein such parcel is situated, *and the state of Wisconsin where it has a determined but unpaid inheritance tax lien, a filed, non-outlawed income tax warrant or a docketed judgment, all in the county where such parcel is situated.*

SECTION 4. 75.521 (3) (b) and (c) of the statutes are amended to read:

75.521 (3) (b) Such list of tax liens shall be verified by the affidavit of the county treasurer and shall be posted in his office. The filing of such list of tax liens in the office of the clerk of the circuit court of such county shall constitute and have the same force and effect as the filing and recording in the office of the register of deeds of such county of a separate and individual notice of the pendency of such action as to each parcel described in such list, and likewise, *notwithstanding any other provision of law, shall*

constitute *the commencement of an action by the county against each parcel of real estate therein described* and have the same force and effect as the filing of an individual and separate complaint by the county against each parcel of real estate therein described to enforce the payment of the tax liens against such property.

(c) A copy of the petition and so much of the list of tax liens as shall include the description of a particular parcel shall be mailed by registered mail by the county treasurer to the last known post-office address of each owner and mortgagee of record * * * and the state of Wisconsin in the instances specified in subsection (3) (a) 2. and to each municipality, other than the municipal taxing district foreclosing, having any right, title or interest in the land or in the tax liens or the proceeds thereof. An affidavit of the treasurer setting forth the names of the owners, mortgagees, *the state of Wisconsin in the proper case* and municipalities for whom a post-office address has been ascertained, giving such addresses and stating that notice was mailed thereto, giving the date thereof, and further stating that no present post-office address was ascertainable for the other owners and mortgagees, shall be filed and constitute full compliance with this paragraph.

SECTION 5. 75.521 (6) (introductory paragraph) of the statutes is amended to read:

75.521 (6) Upon the filing of such list in the office of the clerk of the circuit court, the county treasurer forthwith shall prepare a notice that such list of tax liens and petition has been filed in the office of the clerk of the circuit court and a copy thereof posted in the office of said county treasurer. Such treasurer shall cause such notice, together with the list of tax liens and petition, to be published at least once a week for 3 successive weeks in * * * a newspaper of general circulation published in the English language in such county possessing the qualifications specified in section 331.20, * * * *selected by such treasurer*, and if there be none, in at least one such newspaper published in an adjoining county, and if there be no such newspaper, then in 2 newspapers having a general circulation in the county. Such notice shall be in substantially the following form:

SECTION 6. 75.521 (8) of the statutes is amended to read:

75.521 (8) In the event of the failure to redeem or answer by any person having the right to redeem or answer as hereinabove provided, such person and all persons claiming under and through him, from and after the date of the filing of the list of tax liens in the office of the clerk of the circuit court of the county, shall be forever barred and foreclosed of all his right, title and interest and equity of redemption in and to the parcel described in such list of the tax liens, and upon filing of an affidavit of such default or failure of redemption by the county treasurer of such county, the court in which such list of tax liens is filed, shall render final judgment ordering and adjudging that the county is vested with an estate in fee simple absolute in such lands, subject, however, to all unpaid taxes and charges which are subsequent to the latest dated *valid* tax lien appearing on the list specified in subsection (3) (b) of this section and to recorded restrictions as provided by section 75.14 (4) and all persons, both natural and artificial, including the state of Wisconsin, infants, incompetents, absentees and nonresidents who may have had any right, title, interest, claim, lien or equity or redemption in such lands, are forever barred and foreclosed of such right, title, interest, claim, lien or equity of redemption. Such judgment shall be deemed to be based on the latest dated *valid* tax lien appearing on the list of tax liens. No personal judgment shall be entered against any person having or claiming to have any right, title or interest in or lien upon said lands. Such judgment shall have the effect of the issuance of a tax deed or deeds and of judgment to bar former owners and quiet title thereon.

SECTION 7. 75.521 (14a) of the statutes is amended to read:

75.521 (14a) Any person who was the owner of any right, title or interest in land which right, title or interest was lost by judgment of foreclosure as provided in this section may within * * * 2 years from the date of entry of such judgment, *in the cases hereinafter mentioned other than fraud and within 6 years in the case of fraud*, commence an action in the circuit court against the county to recover the fair market value of said lands or of his interest therein at the date of entry of said judgment of foreclosure in rem. If the court shall determine that such person's right, title and interest in said land was unjustly foreclosed and lost because (a) said lands or said person's interest in such lands was not subject to taxation or special assessment at the time of the levy of the tax for nonpayment of which said lands were foreclosed, or (b) that in fact such tax was paid by said owner, or (c) that the tax lien upon which the judgment of foreclosure in rem was based was barred by the statute of limitations, or (d) if such person lost said property through fraud without fault on his part, the court shall determine the fair market value of said land or of said person's interest therein as hereinabove set forth by dividing the assessed valuation of such lands in the year in which such judgment in rem was entered by the percentage ratio of real estate assessments prevailing

for the taxing district in which the lands were located as set forth in the equalization for state tax purposes of the same year, and award judgment to such plaintiff in such amount, together with a reasonable attorney's fee to be fixed by the court, and the plaintiff's costs and disbursements of such action. *The amount awarded the plaintiff shall be reduced, however, by the total amount due, as of the date of entry of such judgment, for all current taxes and upon all tax sales certificates held by the county on such date that the court shall find were valid.* Upon payment of the judgment the county may charge back as a tax to any taxing district the amount which such district received from the county in payment of taxes and interest on said land either by distribution of proceeds of sale thereof by the county or through other payment by the county *to the extent that it exceeds the amount distributable to such district had the same been based upon the payment of the taxes and interest found by the court to be properly payable at the time of the entry of the judgment of foreclosure and applied in reduction of the amount awarded to the plaintiff hereunder.*

SECTION 8. 274.01 (1) of the statutes is amended to read:

274.01 (1) Except as otherwise specially provided, the time within which a writ of error may be issued or an appeal taken to obtain a review by the supreme court of any judgment or order in any civil action or special proceeding in a court of record is limited to 6 months from the date of the entry of such judgment or order, but if the person against whom a judgment is rendered is, at the time of the rendition thereof, either a minor or insane, or imprisoned on a criminal sentence, the time during which such disability shall continue *except as to writs of error or appeals taken in actions authorized by sections 75.39 to 75.50, inclusive*, not exceeding 10 years, shall not be reckoned a part of said 6 months; said 6 months shall begin to run immediately from the entry of such judgment or order.

SECTION 9. Sections 1, 2, and 8 of this chapter shall become effective January 1, 1952. The other sections shall take effect upon passage and publication. After the grace period allowed by the effective date of sections 1, 2 and 8 of this act, such sections shall be retroactive to include the rights of any minor or incompetent accruing either prior to or subsequent to January 1, 1952.

Approved June 8, 1951.
