

No. 441, A.]

[Published July 3, 1947.]

CHAPTER 340.

AN ACT to create section 75.521 of the statutes, relating to foreclosure of tax liens by action in rem.

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

SECTION 1. 75.521 of the statutes is created to read:

75.521 FORECLOSURE OF TAX LIENS BY ACTION IN REM. (1) DEFINITION. Wherever used or referred to in this section, unless a different meaning clearly appears from the context:

(a) "County" means one of the counties of the state of Wisconsin and includes any city of the state authorized by law to collect and sell its own taxes.

(b) "Tax lien" means the lien or interest evidenced by any county owned or held tax sale certificate upon which the right of redemption has expired so that a tax deed may be taken as provided by law.

(c) "Treasurer" means either the treasurer of such county or of such city.

(2) APPLICATION OF THIS SECTION. (a) *Adoption of method.* Notwithstanding the provisions of any other general, special or local law or charter provision of such city relating to foreclosure of tax sale certificates, taking of tax deeds upon such tax sale certificates, and perfecting such tax deed title by bar former owner action or quiet title action, or conveyance from former owners of any interest in said lands, the governing body of any county may elect to enforce the collection of tax liens, the taking of tax title in the name of such county to tax delinquent lands and the perfecting of such tax title in the county in the cases where this section applies by means of the methods provided for in this section. Such election shall be evidenced by an ordinance to such effect in substantially the following form:

"ORDINANCE ELECTING TO PROCEED UNDER SECTION 75.521 WIS. STATS. IN RELATION TO THE ENFORCEMENT OF COLLECTION OF TAX LIENS.

The county board of supervisors of the county of do ordain as follows:

From and after.....(*here insert dates*), the.....(*here insert name of county*) elects to adopt the provisions

of section 75.521 Wis. Stats. for the purpose of enforcing tax liens in such county in the cases where the procedure provided by such section is applicable.”

Such ordinance may be adopted by the governing body of such county and a certified copy thereof shall be recorded in the office of the register of deeds of such county prior to the commencement of the first foreclosure proceeding under this section and shall be deemed to affect each separate parcel of land in said county the same as though such parcel were described in said ordinance. Upon the adoption of such ordinance, the provisions of this section shall be applicable to such county and the treasurer of such county need not, thereafter, proceed upon its tax sale certificates in cases where the provisions of section 75.521 are applicable in any of the other methods provided by chapter 75 or its charter provisions but may do so at his option.

(b) *Rescission of election to operate under section 75.521.* Any county, after a period of at least one year from the adoption of such ordinance, may rescind such election by the adoption of an ordinance to such effect, which ordinance shall be adopted and a certified copy recorded in the same manner as said original ordinance. Upon the adoption and recording of a rescinding ordinance, the provisions of section 75.521 shall cease to be applicable to such county and the provisions of chapter 75 in force therein prior to such election relating to the foreclosure of tax liens shall again become applicable to such county, together with any amendments to such laws.

(c) *Saving clause.* Neither the election to adopt the provisions of section 75.521 nor the election to rescind the same shall affect any action or proceeding for foreclosure of the tax lien commenced prior to such election or rescission and such action or proceeding may be continued in the same manner as though such election or rescission had not been made.

(d) *Provisions of in rem method supersede; when:* Whenever any county shall have adopted section 75.521, the provisions of such section shall supersede the provisions of all general, special or local laws relating to the collection of tax liens by such county in conflict therewith. This subsection shall not prevent the use of other sections of the statutes at the option of the county treasurer.

(3) COMMENCEMENT OF ACTION TO FORECLOSE

TAX LIEN. (a) Whenever any lot or parcel of land has been sold to the county for delinquent taxes for 3 consecutive years, within 4 months after the expiration of the time fixed by law for the redemption of the resulting tax sale certificate the treasurer may file in the office of the clerk of the circuit court of such county, one or more lists of parcels of property affected by unpaid tax liens as shown on the delinquent tax rolls in said treasurer's office. Such parcels shall be numbered consecutively. Such list shall be known and designated as the "List of Tax Liens of.....County Being Foreclosed by Action in Rem 19..., No." and shall bear the following caption:

"STATE OF WISCONSIN: CIRCUIT COURT:
 COUNTY In the matter of the foreclosure of tax liens pursuant to section 75.521 Wisconsin Statutes by
 County, List of Tax Liens for 19..., Number"

Such list shall contain, as to each parcel, the following:

1. A brief description sufficient to identify each parcel affected by such tax lien. The description shall state the lot, block and section number of any parcel upon any tract, the plat or map of which is filed in the office of the register of deeds of such county. If the lands be unplatted an engineer's metes and bounds description shall be a sufficient description.

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 register of deeds of the county wherein such parcel is situated.

3. A statement of the amount of the principal sum of each tax lien in the hands of the county treasurer, together with the date from which and the rate at which interest shall be computed on said principal sum.

4. A petition to the court for judgment vesting title to each of said parcels of land in the county, as of the date of entry of judgment in this action and barring any and all claims whatsoever of the former owner or any person claiming through and under him to said lands since the date of filing the list of tax liens in the office of the clerk of the circuit court of such county.

5. The names of all municipalities, other than the municipal taxing district foreclosing, having any right, title or interest in the land or in the tax liens or in the proceeds thereof.

(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 shall constitute 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 may be mailed by registered mail by the county treasurer to the last known post office address of each owner and mortgagee of record as 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.

(4) DUTY OF THE CLERK OF CIRCUIT COURT. Each clerk of the circuit court with whom such list of tax liens is filed, shall index it in a separate book kept for that purpose and such clerk shall be entitled to a fee of \$3 for such receiving, filing, and indexing of each such list, in lieu of any other fees to which he might otherwise be entitled for such services. The circuit court of such county in which such delinquent list is filed, is hereby given jurisdiction of the action authorized by this section.

(5) RIGHTS OF PERSONS HAVING AN INTEREST IN PARCELS OF LAND AFFECTED BY TAX LIENS. Every person, including any municipal taxing district other than the one foreclosing, having any right, title or interest in, or lien upon, any parcel described in such list may redeem such parcel by paying all of the sums mentioned in such list of tax liens together with interest thereon before the expiration of the redemption period mentioned in the notice published pursuant to subsection (6) of this section, or may serve a duly verified answer upon the county treasurer of such county, setting forth in detail the nature and amount of his interest in any defense or of foreclosure of the tax lien. The caption

of such answer shall contain a reference to the number or numbers of the parcels concerned as shown by the treasurer's list. Such answer must be served on said county treasurer and filed in the office of the clerk of the circuit court within 30 days after the date mentioned in the notice published pursuant to subsection (6) of this section, as the last day for redemption. In the event of the failure to redeem or answer by any person having the right to redeem or answer within the time herein limited, such person, and all persons claiming under and through him, from and after the date of the filing of said list of tax liens with the clerk of the circuit court of such county, shall be forever barred and foreclosed of all his right, title and interest in and to the parcel described in such list of tax liens and a judgment in foreclosure may be taken as herein provided. Upon redemption as permitted by this section, the person redeeming, shall be entitled to a certificate evidencing such redemption from the county treasurer of such county, describing the property in the same manner as it is described in such list of tax liens and the fact of such redemption shall be noted upon the tax rolls in the office of the county treasurer, who shall file a certified copy of such redemption certificate with the clerk of the circuit court and upon such filing, such clerk shall note the word, "Redeemed" and the date of such filing opposite the description of said parcel on such list of tax liens. Such notation shall operate to cancel the notice of pendency of action with respect to such parcel. The person so redeeming shall be entitled to add the amount paid in redemption to the face amount of any lien which he may have against said lands to have interest thereon until paid.

(6) PUBLIC NOTICE OF IN REM ACTION. 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 the newspaper of general circulation published in the English language in such county possessing the qualifications specified in section 331.20, and having the largest circulation in such

county, 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:

NOTICE OF COMMENCEMENT OF ACTION IN REM TO FORECLOSE TAX LIENS BY.....COUNTY

(Here insert list of tax liens and petition as filed in office of clerk of the circuit court.)

TAKE NOTICE that all persons having or claiming to have any right, title or interest in or lien upon the real property described in the list of tax liens, No., on file in the office of the clerk of the circuit court of county, dated, and hereinabove set forth, are hereby notified that the filing of such list of tax liens in the office of the clerk of the circuit court of county constitutes the commencement by said county of an action in the circuit court for county to foreclose the tax liens therein described by foreclosure proceeding in rem and that a notice of the pendency of such action against each piece or parcel of land therein described was filed in the office of the clerk of the circuit court on (insert date). Such action is brought against the real property herein described only and is to foreclose the tax liens described in such list. No personal judgment will be entered herein for such taxes, assessments or other legal charges or any part thereof.

TAKE FURTHER NOTICE that all persons having or claiming to have any right, title or interest in or lien upon the real property described in said list of tax liens are hereby notified that a certified copy of such list of tax liens has been posted in the office of the county treasurer of county and will remain posted for public inspection up to and including (here insert date at least 8 weeks from the date of the first publication of this notice) which date is hereby fixed as the last day for redemption.

TAKE FURTHER NOTICE that any person having or claiming to have any right, title or interest in or lien upon any such parcel may, on or before said (insert redemption final date), redeem such delinquent tax liens by paying to the county treasurer of

county, the amount of all such unpaid tax liens and in addition thereto, all interest and penalties which have accrued on said unpaid tax liens, computed to and including the date of redemption.

..... County

By

County Treasurer

(7) **RIGHT OF PERSON HAVING AN INTEREST IN OR LIEN UPON PARCELS DESCRIBED IN LIST OF TAX LIENS, TO ANSWER PETITION.** Every person having any right, title or interest in or lien upon any parcel described in such list of tax liens, may serve a duly verified answer upon the county treasurer for such county, setting forth in detail, the nature and amount of his interest and objecting to the proposed foreclosure upon one or more of the following grounds only:

(a) That the lands in which such person is interested, described in such list of tax liens, were not liable to taxation or special assessment at the time the tax or special assessment for the nonpayment of which the tax lien arises, was levied.

(b) That the tax, for the nonpayment of which said tax lien arises, was in fact paid before the last day of the redemption period provided by law.

(c) That the tax lien is barred by the statute of limitations.

No other defense to the petition of said county set forth in such tax list, shall be set up. Such answer must be filed in the office of the clerk of the circuit court and served upon the county treasurer of such county within 30 days after the date hereinabove mentioned, as the last date for redemption.

(8) **DUTY OF THE COURT TO ENTER JUDGMENT IN DEFAULT CASES.** 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 to such effect ordering and adjudging that the county is vested with a fee simple absolute in such lands. Such judgment shall be deemed to be based on the latest dated 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.

(9) FILING OF AFFIDAVIT. All affidavits of filing, publication, posting, mailing, or other acts required by this section, shall be made by the person or persons performing such acts and shall be filed in the office of the clerk of the circuit court of the county in which the property subject to such tax lien is situated and shall, together with all other documents required in this section, filed in such office, constitute and become part of the judgment roll in such foreclosure action.

(10) CONTESTED ISSUES AND TRIAL THEREOF. If a duly verified answer is served upon the county treasurer for such county within the period mentioned in subsection (7), the court shall hear and determine the issues raised by the petition and answer in the same manner and under the same rules as it hears and determines other actions, except as in this section otherwise provided. Upon such trial, proof that such tax or special assessment, together with any interest or penalty which may have been due was paid, or that the property was not subject to tax or special assessment, shall constitute a complete defense. Whenever an answer is interposed as here provided, there shall be a severance of the action as to any parcel or parcels of land in which such answering defendant has any right, title or interest as alleged in his answer, and as to the other parcels in such list, the action shall proceed as provided in subsection (8).

(11) PREFERENCE OVER OTHER ACTIONS. Any action brought pursuant to this section shall be given preference over all other causes and actions not on trial and no such action shall be referred.

(12) PRESUMPTIONS OF VALIDITY. It shall not be necessary for the county to plead or prove the various steps, proceedings and notices for the assessment and levy of the taxes, assessments or other lawful charges against the lands set forth in the list of tax liens and all such taxes, assessments or other lawful charges and the lien thereof shall be presumed to be valid. Defendant alleging any jurisdictional defect or

invalidity in the tax or special assessment, because of which said land was not liable to taxation or special assessment, must particularly specify in his answer such jurisdictional defect or invalidity and must affirmatively establish such defense. The provisions of this chapter shall apply to and be valid and effective with respect to all defendants even though one or more be infants, incompetents, absentees or nonresidents of the state of Wisconsin.

(13) JUDGMENT, CONTENTS. (a) Where, as to any parcel in the list of tax liens, an answer has been interposed by a party and the court shall determine in favor of such party upon such answer, the court shall make a final judgment divesting said parcel of the lien alleged to have accrued against same.

(b) In the event that the court shall determine that the issues raised by the answer of the defendant is without merit, a final judgment to such effect shall be entered 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 a lien thereon and to recorded restrictions as provided by section 75.14, 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 of 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 tax lien appearing on the list of tax liens. 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.

(14) JUDGMENT TO BE RECORDED. A certified copy of the judgment of the court in both default and contested cases shall be recorded by the prevailing party in the office of the register of deeds of such county.

(15) EFFECTIVE DATE. This act shall become effective January 1, 1948.

(16) ACT RETROACTIVE. After the grace period allowed by the effective date of this act as provided by section 15 this section shall be retroactive to include all tax sale certificates not outlawed by the statute of limitations, and the rights of any minor, incompetent or nonresident in any tax sale cer-

tificate of date prior to the effective date of this act shall be governed by the provisions hereof.

Approved June 28, 1947.

No. 467, A.]

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CHAPTER 341.

AN ACT to create 67.12 (12) of the statutes, enabling cities of the first class to borrow, upon issuance of promissory notes, for permanent improvements, and other municipal purposes.

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

67.12 (12) of the statutes is created to read:

67.12 (12) BORROWING BY CITIES OF THE FIRST CLASS UPON PROMISSORY NOTES. (a) In addition to the powers heretofore given, any city of the first class may borrow money for the acquisition of lands for public purposes, for permanent improvements of lands, for public work or improvement, and the enlargement or extension thereof, or for equipment or machinery or for general and current municipal expenses.

(b) To evidence such indebtedness the city shall issue to the lender its promissory note or notes, payable in equal annual installments, with interest not exceeding 5 per cent per annum, within a period not exceeding 10 years following the next tax levy, as may be agreed upon.

(c) The lender may grant to the city an extension of time, to be evidenced by an extension note or notes, for payment of any amount unpaid upon such terms and annual installments as may be agreed upon with interest not exceeding said rate and for up to a like term as the stated term of the note or notes, in the event that the city has not paid the full amount due at the end of the stated term. The notes shall provide that if the city did not borrow money at a lower rate of interest during the year prior to prepayment, the city shall have the right and option to prepay any or all of the unpaid principal and interest at any installment payment