

## **Chapter 5723: FORFEITED LANDS**

### **5723.01 Forfeited lands**

(A)(1) Every tract of land and town lot, which, pursuant to foreclosure proceedings under section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code, has been advertised and offered for sale on two separate occasions, not less than two weeks apart, and not sold for want of bidders, shall be forfeited to the state or to a political subdivision, school district, or county land reutilization corporation pursuant to division (A)(3) of this section.

(2) The county prosecuting attorney shall certify to the court that such tract of land or town lot has been twice offered for sale and not sold for want of a bidder. Such forfeiture of lands and town lots shall be effective when the court by entry orders such lands and town lots forfeited to the state or to a political subdivision, school district, or county land reutilization corporation pursuant to division (A)(3) of this section. A copy of such entry shall be certified to the county auditor and, after the date of the certification, all the right, title, claim, and interest of the former owner is transferred to and vested in the state to be disposed of in compliance with this chapter.

(3) After having been notified pursuant to division (A)(2) of this section that the tract of land or town lot has been twice offered for sale and not sold for want of bidders, the court shall notify the political subdivision and school district in which the property is located, and any county land reutilization corporation in the county, and offer to forfeit the property to the political subdivision, school district, or corporation, or to an electing subdivision as defined in section 5722.01 of the Revised Code, upon a petition from the political subdivision, school district, or corporation. If no such petition is filed with the court within ten days after notification by the court, the court shall forfeit the property to the state. If a political subdivision, school district, or corporation requests through a petition to receive the property through forfeiture, the forfeiture of land and town lots is effective when, by entry, the court orders such lands and town lots forfeited to the political subdivision, school district, or corporation. The court shall certify a copy of the entry to the county auditor and, after the date of certification, all the right, title, claim, and interest of the former owner is transferred to and vested in the political subdivision, school district, or corporation.

(B) Every parcel against which a judgment of foreclosure and forfeiture is made in accordance with section 5721.16 of the Revised Code is forfeited to the state on the date the court enters a finding under that section. After that date, all the right, title, claim, and interest of the former owner is transferred to the state to be disposed of in compliance with the relevant provisions of this chapter.

Effective Date: 03-27-1991; 2008 HB138 09-11-2008; 2008 SB353 04-07-2009

### **5723.03 Redemption of forfeited property**

If the former owner of real property that has been forfeited, at any time before the state has disposed of such property, pays into the treasury of the county in which the property is situated, all the taxes, assessments, penalties, interest, and costs incurred in the foreclosure or foreclosure and forfeiture proceedings under section 323.25, 5721.14, or 5721.18 or sections 323.65 to 323.79 of the Revised Code or in proceedings under this chapter that stand charged against the property at the time of such payment, the state shall relinquish to such former owner all claim to such property. The county auditor shall then reenter the property on the auditor's tax list, under the name of the proper owner.

Effective Date: 05-25-1994; 2008 SB353 04-07-2009

### **5723.04 Forfeited land list - transfer of title**

(A) The county auditor shall maintain a list of forfeited lands and shall offer such lands for sale annually, or more frequently if the auditor determines that more frequent sales are necessary.

(B) Notwithstanding division (A) of this section, upon the request of a county land reutilization corporation organized under Chapter 1724. of the Revised Code, the county auditor shall promptly transfer to such corporation, by auditor's deed, the fee simple title to a parcel on the list of forfeited lands, which shall pass to such corporation free and clear of all taxes, assessments, charges, penalties, interest, and costs. Any subordinate liens shall be deemed fully and forever satisfied and discharged. Upon such request, the land is deemed sold by the state for no consideration. The county land reutilization corporation shall file the deed for recording.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 03-27-1991; 2008 SB353 04-07-2009

Effective Date: 03-27-1991

### **5723.08 Appropriation of forfeited lands for conservation purposes**

After any county auditor has compiled a list of forfeited lands as provided for in section 5723.04 of the Revised Code, the auditor shall furnish and deliver to the director of natural resources an authenticated copy of such list within ten days after its completion. The director of natural resources, in behalf of the state, may select and designate tracts of land so forfeited which are situated within the boundaries of any legally established state forest or park purchase area, which in the director's opinion are suitable for reforestation, public recreation, wildlife habitat, water impoundment, or other uses incident to the conservation of natural resources. Whereupon, said director shall notify the auditor in writing, within

thirty days after receipt of such list, of the intention of the state to take and hold such forfeited lands as the director has designated for such use.

Due notice in writing, sent by certified mail, of the intention of the state to take and hold such lands shall be given to known holders of title thereto, and to holders of liens or mortgages of record, at their last known addresses, by the auditor within fifteen days after the auditor has been notified by the director that the state intends to take and hold such lands for conservation purposes. Such notice shall contain a recapitulation showing the total amount of delinquent taxes, assessments, penalties, interest, and costs, due and unpaid, for which the land had been forfeited to the state.

Holders of title to such lands, together with holders of liens or mortgages of record, individually or collectively, shall file with the auditor a written exception to the intent of the state to take and hold such lands for conservation purposes within fifteen days after such notice has been delivered to them. Upon failure to file such exception and to pay the total amount of delinquent taxes, assessments, penalties, interest, and costs due and payable, prior to the time of the general sale of tax forfeited lands, the auditor shall not offer said lands for sale in accordance with section 5723.05 of the Revised Code. On or after the date of general sale of forfeited lands, the auditor shall execute a deed for such lands to the state. Thereafter the title of the state in such lands is incontestable, section 5723.03 of the Revised Code notwithstanding.

The department of natural resources, upon receipt of the deed of such lands to the state from the auditor, and upon approval of title to such lands by the attorney general, shall pay to the auditor from moneys appropriated or available for such purposes, an amount equal to the taxes, assessments, penalties, interest, and costs due and payable to the county at the time such lands were declared forfeited, and such moneys shall be disbursed by the auditor in the manner provided in section 5723.18 of the Revised Code.

Lands acquired by the state pursuant to this section are subject to the same laws and policies relating to other lands under the control of the department, or said department may assign custody, management, and use of such lands for the purposes defined in this section to any agency or subdivision of government.

If the department of natural resources and a county land reutilization corporation organized under Chapter 1724. of the Revised Code request title to the same parcel, the one that first requested the parcel in writing shall be entitled to acquire the title thereto.

Effective Date: 09-21-1982; 2008 SB353 04-07-2009

Effective Date: 06-24-1988

## **5723.11 Payment of excess proceeds of sale to owner - civil action to determine owner**

If any forfeited lands are sold for a greater sum than the amount of the tax, assessment, penalty, interest, and costs of sale, the county auditor shall charge the county treasurer separately in each case, in the name of the supposed owner, with the excess above such amount. The treasurer shall retain such excess in the treasury for the proper owner of the forfeited lands, and upon demand by such owner, within one year from the day of sale, shall pay the excess to the owner. After that one year, the treasurer shall dispose of any excess according to law or, if a county land reutilization corporation organized under Chapter 1724. of the Revised Code exists in the county, shall pay the amount to the corporation. Such money shall be used for the corporation's public purposes.

If the treasurer, upon demand, is not fully satisfied as to the right of the person demanding to receive such excess sum or if there are several different claimants, the treasurer shall commence a civil action by filing a petition of interpleader in the court of common pleas of the county where the land was sold, wherein the treasurer shall make the person claiming the excess, and the state, defendants, and the action shall proceed as other civil actions. The costs of the proceedings shall be paid by the person claiming the excess, as the court orders. The prosecuting attorney shall prosecute the action, in behalf of the treasurer.

Effective Date: 09-21-1982; 2008 SB353 04-07-2009

### **5723.12 Certificate of sale - deed - previous title and liens extinguished**

(A) The county auditor, on making a sale of a tract of land to any person under this chapter, shall give the purchaser a certificate of sale. On producing or returning to the auditor the certificate of sale, the auditor, on payment to the auditor by the purchaser, the purchaser's heirs, or assigns, of the sum of forty-five dollars, shall execute and file for recording a deed, which deed shall be prima-facie evidence of title in the purchaser, the purchaser's heirs, or assigns. Once the deed has been recorded, the county auditor shall deliver the deed to the purchaser. At the time of the sale, the county auditor shall collect and the purchaser shall pay the fee required by law for the recording of deeds. In the case of land sold to the state under division (B) of section 5723.06 of the Revised Code, the director of natural resources or a county land reutilization corporation shall execute and file for recording the deed, and pay the fee required by law for transferring deeds directly to the county auditor and recording deeds directly to the county recorder.

(B) Except as otherwise provided in division (C) of this section and except for foreclosures to which the alternative redemption period has expired under sections 323.65 to 323.79 of the Revised Code, when a tract of land has been duly forfeited to the state and sold under this chapter, the conveyance of the real estate by the auditor shall extinguish all previous title and invest the purchaser with a new and perfect title that is free from all liens and encumbrances, except taxes and installments of special assessments and reassessments not due at the time of the sale, federal tax liens other than federal tax liens that are discharged in accordance with subsection (b) or (c) of section 7425 of the "Internal Revenue Code of 1954," 68A Stat. 3, 26 U.S.C. 1, as amended, and any easements and covenants running with the land that were created prior to the time the taxes or assessments, for the nonpayment

of which the land was forfeited, became due and payable and except that, if there is a federal tax lien on the tract of land at the time of the sale, the United States is entitled to redeem the tract of land at any time within one hundred twenty days after the sale pursuant to subsection (d) of section 7425 of the "Internal Revenue Code of 26 U.S.C. 1954," 68A Stat. 3, 26 U.S.C. 1, as amended.

(C) Except for foreclosures to which the alternative redemption period has already expired under sections 323.65 to 323.79 of the Revised Code, when a tract of forfeited land that was foreclosed upon as a result of proceedings for foreclosure instituted under section 323.25, sections 323.65 to 323.79, or division (C) of section 5721.18 of the Revised Code is sold under this chapter, the conveyance of the real estate by the auditor shall extinguish all previous title and invest the purchaser with a new title free from the lien for land taxes, assessments, charges, penalties, and interest for which the lien was foreclosed, the property was forfeited to the state, and in satisfaction of which the property was sold under this chapter, but subject to all other liens and encumbrances with respect to the tract.

Effective Date: 05-08-1996; 2008 SB353 04-07-2009

### **5723.18 Deduction of costs - distribution of remaining proceeds - deficiency judgment**

(A) Except as otherwise provided in division (B)(2) of section 5721.17 and division (B) of section 319.43 of the Revised Code, the proceeds from a forfeiture sale shall be distributed as follows:

(1) The county auditor shall deduct all costs pertaining to the forfeiture and sale of forfeited lands, including costs pertaining to a foreclosure and forfeiture proceeding instituted under section 5721.14 of the Revised Code, except those paid under section 5721.04 of the Revised Code, from the moneys received from the sale of land and town lots forfeited to the state for the nonpayment of taxes, and shall pay such costs into the proper fund. In the case of the forfeiture sale of a parcel against which a foreclosure and forfeiture proceeding was instituted under section 5721.14 of the Revised Code, if the proceeds from the forfeiture sale are insufficient to pay the costs pertaining to such proceeding, the county auditor, at the next semiannual apportionment of real property taxes, shall reduce the amount of real property taxes that the auditor otherwise would distribute to each subdivision to which taxes, assessments, charges, penalties, or interest charged against the parcel are due. The reduction in each subdivision's real property tax distribution shall equal the amount of the unpaid costs multiplied by a fraction, the numerator of which is the amount of taxes, assessments, charges, penalties, and interest due the subdivision, and the denominator of which is the total amount of taxes, assessments, charges, penalties, and interest due all such subdivisions.

(2) Following the payment required by division (A)(1) of this section, the part of the proceeds that is equal to ten per cent of the taxes and assessments due shall be deposited

in the delinquent tax and assessment collection fund created pursuant to section 321.261 of the Revised Code.

(3) Following the payment required by division (A)(2) of this section, the remaining proceeds shall be distributed by the auditor to the appropriate subdivisions to pay the taxes, assessments, charges, penalties, and interest which are due and unpaid. If the proceeds available for distribution under this division are insufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the auditor shall distribute the proceeds available for distribution under this division to the appropriate subdivisions in proportion to the amount of those taxes, assessments, charges, penalties, and interest that each is due.

(B) If the proceeds from the sale of forfeited land are insufficient to pay in full the amount of the taxes, assessments, charges, penalties, and interest; the costs incurred in the proceedings instituted pursuant to this chapter and section 5721.18 of the Revised Code, or the foreclosure and forfeiture proceeding instituted pursuant to section 5721.14 of the Revised Code; and, if division (B)(2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code, the court may enter a deficiency judgment against the last owner of record of the land before its forfeiture to the state, for the unpaid amount. The court shall enter the judgment pursuant to section 5721.192 of the Revised Code. Except as otherwise provided in division (B) of section 319.43 of the Revised Code, the proceeds paid pursuant to the entry and satisfaction of such a judgment shall be distributed as if they had been received as a part of the proceeds from the sale of the land to satisfy the amount of the taxes, assessments, charges, penalties, and interest which are due and unpaid; the costs incurred in the associated proceedings which were due and unpaid; and, if division (B)(2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code.

Effective Date: 05-25-1994; 2008 SB353 04-07-2009