

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**SENATE DRS15307-LAz-29 (4/17)**

Short Title: Amend Delinquent Property Tax Collection. (Public)

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Sponsors: Senators Hartsell, Clodfelter, Dalton, Hoyle, Kerr, and Webster.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO ENFORCE COLLECTION OF PROPERTY TAXES ON REAL PROPERTY AGAINST THE RECORD OWNER AS OF THE DATE THE TAXES BECOME DELINQUENT AND TO CODIFY THE PRORATION OF TAXES ON REAL PROPERTY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-273(17) reads as rewritten:

**"§ 105-273. Definitions.**

When used in this Subchapter (unless the context requires a different meaning):

...

(17) "Taxpayer" means any person whose property is subject to ad valorem property taxation by any county or municipality and any person who, under the terms of this Subchapter, has a duty to list property for taxation. For purposes of collecting delinquent ad valorem taxes assessed on real property under G.S. 105-366 through G.S. 105-375, "taxpayer" means the owner of record on the date the taxes become delinquent and any subsequent owner of record of the real property if conveyed after that date.

**SECTION 2.** G.S. 105-369 reads as rewritten:

**"§ 105-369. Advertisement of tax liens on real property for failure to pay taxes.**

(a) Report of Unpaid Taxes That Are Liens on Real Property. – In February of each year, the tax collector must report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real property. A county tax collector's report is due the first Monday in February, and a municipal tax collector's report is due the second Monday in February. Upon receipt of the report, the governing body must order the tax collector to advertise the tax liens. For purposes of this section, district

1 taxes collected by county tax collectors shall be regarded as county taxes and district  
2 taxes collected by municipal tax collectors shall be regarded as municipal taxes.

3 (b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

4 (b1) Notice to Owner. – After the governing body orders the tax collector to  
5 advertise the tax liens, the tax collector must send a notice to the ~~listing owner and to~~  
6 ~~the~~ record owner of each affected parcel of property, as determined as of ~~December 31~~  
7 ~~of the fiscal year for which the taxes are due.~~the date the taxes became delinquent. The  
8 notice must be sent to each owner's last known address by first-class mail at least 30  
9 days before the date the advertisement is to be published. The notice must state the  
10 principal amount of unpaid taxes that are a lien on the parcel to be advertised and  
11 inform the owner that the ~~names~~name of the ~~listing owner and~~ the record owner as of  
12 the date the taxes became delinquent will appear in a newspaper advertisement of  
13 delinquent taxes if the taxes are not paid before the publication date. Failure to mail the  
14 notice required by this section to the correct ~~listing owner or~~ record owner does not  
15 affect the validity of the tax lien or of any foreclosure action.

16 (c) Time and Contents of Advertisement. – A tax collector's failure to comply  
17 with this subsection does not affect the validity of the taxes or tax liens. The county tax  
18 collector shall advertise county tax liens by posting a notice of the liens at the county  
19 courthouse and by publishing each lien at least one time in one or more newspapers  
20 having general circulation in the taxing unit. The municipal tax collector shall advertise  
21 municipal tax liens by posting a notice of the liens at the city or town hall and by  
22 publishing each lien at least one time in one or more newspapers having general  
23 circulation in the taxing unit. Advertisements of tax liens shall be made during the  
24 period March 1 through June 30. The costs of newspaper advertising shall be paid by  
25 the taxing unit. If the taxes of two or more taxing units are collected by the same tax  
26 collector, the tax liens of each unit shall be advertised separately unless, under the  
27 provisions of a special act or contractual agreement between the taxing units, joint  
28 advertisement is permitted.

29 The posted notice and newspaper advertisement shall set forth the following  
30 information:

31 (1) ~~In the case of property that the listing owner has not transferred after~~  
32 ~~January 1 preceding the fiscal year for which the tax liens are~~  
33 ~~advertised, the name of each person to whom is listed real property on~~  
34 ~~which the taxing unit has a lien for unpaid taxes, in alphabetical order.~~

35 (1a) ~~In the case of property that the listing owner has transferred after~~  
36 ~~January 1 preceding the fiscal year for which the tax liens are~~  
37 ~~advertised, the name of the record owner as of December 31 of each~~  
38 ~~parcel on which the taxing unit has a lien for unpaid taxes, in~~  
39 ~~alphabetical order, followed by a notation that the property was~~  
40 ~~transferred to the record owner and a notation of the name of the~~  
41 ~~listing owner.~~The name of the record owner as of the date the taxes  
42 became delinquent for each parcel on which the taxing unit has a lien  
43 for unpaid taxes, in alphabetical order.

- 1 (1b) After the information required by subdivision ~~(1)~~ or (1a) of this  
2 subsection for each parcel, a brief description of each parcel of land to  
3 which a lien has attached and a statement of the principal amount of  
4 the taxes constituting a lien against the parcel.
- 5 (2) A statement that the amounts advertised will be increased by interest  
6 and costs and that the omission of interest and costs from the amounts  
7 advertised will not constitute waiver of the taxing unit's claim for those  
8 items.
- 9 (3) In the event the list of tax liens has been divided for purposes of  
10 advertisement in more than one newspaper, a statement of the names  
11 of all newspapers in which advertisements will appear and the dates on  
12 which they will be published.
- 13 (4) A statement that the taxing unit may foreclose the tax liens and sell the  
14 real property subject to the liens in satisfaction of its claim for taxes.
- 15 (d) Costs. – Each parcel of real property advertised pursuant to this section shall  
16 be assessed an advertising fee to cover the actual cost of the advertisement. Actual  
17 advertising costs per parcel shall be determined by the tax collector on any reasonable  
18 basis. Advertising costs assessed pursuant to this subsection are taxes.
- 19 (e) Payments during Advertising Period. – At any time during the advertisement  
20 period, any parcel may be withdrawn from the list by payment of the taxes plus interest  
21 that has accrued to the time of payment and a proportionate part of the advertising fee to  
22 be determined by the tax collector. Thereafter, the tax collector shall delete that parcel  
23 from any subsequent advertisement, but the tax collector is not liable for failure to make  
24 the deletion.
- 25 (f) Listing and Advertising in Wrong Name. – No tax lien is void because the  
26 real property to which the lien attached was listed or advertised in the name of a person  
27 other than the person in whose name the property should have been listed for taxation if  
28 the property was in other respects correctly described on the abstract or in the  
29 advertisement.
- 30 (g) Wrongful Advertisement. – Any tax collector or deputy tax collector who  
31 willfully advertises any tax lien knowing that the property is not subject to taxation or  
32 that the taxes advertised have been paid is guilty of a Class 3 misdemeanor, and shall be  
33 required to pay the injured party all damages sustained in consequence."

34 **SECTION 3.** G.S. 105-374(c) reads as rewritten:

35 "(c) Parties; Summonses. – The listing taxpayer owner of record as of the date the  
36 taxes became delinquent and spouse (if any), the current owner, any subsequent owner,  
37 all other taxing units having tax liens, all other lienholders of record, and all persons  
38 who would be entitled to be made parties to a court action (in which no deficiency  
39 judgment is sought) to foreclose a mortgage on such property, shall be made parties and  
40 served with summonses in the manner provided by G.S. 1A-1, Rule 4.

41 The fact that the listing taxpayer owner of record, any subsequent owner, or any  
42 other defendant is a minor, is incompetent, or is under any other disability shall not  
43 prevent or delay the tax lien sale or the foreclosure of the tax lien; and all such persons

1 shall be made parties and served with summons in the same manner as in other civil  
2 actions.

3 Persons who have disappeared or who cannot be located and persons whose names  
4 and whereabouts are unknown, and all possible heirs or assignees of such persons, may  
5 be served by publication; and such persons, their heirs, and assignees may be designated  
6 by general description or by fictitious names in such an action."

7 **SECTION 4.** G.S. 105-375(c) reads as rewritten:

8 "(c) Notice Listing Taxpayer and Others. – The tax collector filing the certificate  
9 provided for in subsection (b), above, shall, at least 30 days prior to docketing the  
10 judgment, send a registered or certified letter, return receipt requested, to the ~~listing~~  
11 ~~taxpayer at his~~owner of record as of the date the taxes became delinquent at the owner's  
12 last known address, and to all lienholders of record who have a lien against the listing  
13 ~~taxpayer~~owner of record or against any subsequent owner of the property (including any  
14 liens referred to in the conveyance of the property to the ~~listing taxpayer~~owner of record  
15 or to the subsequent owner of the property), stating that the judgment will be docketed  
16 and the execution will be issued thereon in the manner provided by law. ~~A notice stating~~  
17 ~~that the judgment will be docketed and that execution will be issued thereon shall also~~  
18 ~~be mailed by certified or registered mail, return receipt requested, to the current owner~~  
19 ~~of the property (if different from the listing owner) if: (i) a deed or other instrument~~  
20 ~~transferring title to and containing the name of the current owner was recorded in the~~  
21 ~~office of the register of deeds or filed or docketed in the office of the clerk of superior~~  
22 ~~court after January 1 of the first year in which the property was listed in the name of the~~  
23 ~~listing owner, and (ii) the tax collector can obtain the current owner's mailing address~~  
24 ~~through the exercise of due diligence. If within 10 days following the mailing of said~~  
25 ~~letters of notice, a return receipt has not been received by the tax collector indicating~~  
26 ~~receipt of the letter, then the tax collector shall have a notice published in a newspaper~~  
27 ~~of general circulation in said county once a week for two consecutive weeks directed to,~~  
28 ~~and naming, all unnotified lienholders and the listing taxpayer~~owner of record that a  
29 judgment will be docketed against the ~~listing taxpayer~~owner of record. The notice shall  
30 contain the proposed date of such docketing, that execution will issue thereon as  
31 provided by law, a brief description of the real property affected, and notice that the lien  
32 may be paid off prior to judgment being entered. All costs of mailing and publication,  
33 plus a charge of fifty dollars (\$50.00) to defray administrative costs, shall be added to  
34 the amount of taxes that are a lien on the real property and shall be paid by the taxpayer  
35 to the taxing unit at the time the taxes are collected or the property is sold."

36 **SECTION 5.** Chapter 39 of the General Statutes is amended by adding the  
37 following new Article to read:

38 "Article 10.

39 "Real Property Tax Proration.

40 "**§ 39-60. Property tax proration on sale of real property.**

41 Unless otherwise provided by contract, property taxes on the real property being  
42 sold shall be prorated between the seller and buyer of the real property on a  
43 calendar-year basis."

1           **SECTION 6.** Section 5 of this act becomes effective for contracts entered  
2 into on or after October 1, 2006. The remainder of this act is effective for taxes  
3 imposed for taxable years beginning on or after July 1, 2006.