

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF TAX AND REVENUE

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Office of Tax and Revenue (“OTR”) pursuant to the authority set forth in the D.C. Official Code § 1-204.24c, as amended by Section 155 of the District of Columbia Appropriations Act 2001, approved November 22, 2000, (114 Stat. 2476; Pub. L. 106-522) and the Office of the Chief Financial Officer, Financial Management and Control Order No. 00-5, effective June 7, 2000, gives notice of the adoption on an emergency basis of an amendment to Chapter 3 of Title 9 DCMR, (“Real Property Tax Sales”), by adding a new section 316.

The new amendments to Chapter 13 of Title 9 DCMR, “Real Property Tax Sales,” clarify certain provisions in the new Chapter 13A, Real Property Tax Sales in the Tax Clarity Act of 2000 (D.C. Law 13-305) and provide citizens with rules regarding the administrative process for tax sales purchases; rules and prerequisites to be followed by the real property owner or party in interest to redeem the property prior to the initiation of a Superior Court foreclosure action; rules and prerequisites to begin the processing of a redemption refund and the collection of the reimbursable pre-complaint expenses and redemption refund prior to the initiation of a Superior Court foreclosure action; rules and prerequisites for payment of subsequent real property taxes made by the tax sale purchaser; rules and prerequisites to be followed to redeem the property after the initiation of a Superior Court foreclosure action; rules and prerequisites to be followed to collect the redemption refund after the initiation of a Superior Court foreclosure action; rules and prerequisites to be followed by the tax sale purchaser before the issuance of a tax deed; rules for cancellation of a certificate of sale; and rules and prerequisites to be followed for assignments of a certificate of sale.

This emergency action is necessary to protect the health, welfare and safety of the citizens of the District of Columbia, and will be affected when significant revenues are not collected that would provide critical human services. As such, the failure to put in place procedures to define the revenue collections process for tax sale properties sold at the Fiscal Year 2001 Tax Sale and beyond will pose a threat to the welfare of citizens unable to receive essential services due to reducing revenues. This emergency rule was adopted on March 26, 2002, and became effective immediately on that date.

OTR also gives notice of intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

The emergency regulations will expire within 120 days from their effective date or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

Chapter 3 of Title 9 of DCMR is added to read as follows:

Section 316 Tax Sale

316.1 Applicability

- a) Sale of Property for Delinquent Taxes, having been repealed by publication in the DC Register on July 20, 2001 at 48 DCR 6449 is restated as Tax Sale Redemption and Tax Deed Issuance Rules.
- b) This section shall apply to any tax sale conducted in July 2001 and each tax sale conducted thereafter.

316.2 Rules and prerequisites to be followed by the real property owner or party in interest to redeem the property prior to the initiation of a Superior Court foreclosure action:

- a) To redeem, the real property owner or party in interest shall pay in full the following:
 - i) All taxes, assessments, fees and other costs levied by a taxing agency against the real property;
 - ii) The reimbursable pre-complaint expenses the tax sale purchaser has incurred prior to the initiation of a Superior Court foreclosure action; and
 - iii) All liens sold to a third party assignee.
- b) The property shall not be redeemed until all taxes, assessments, fees and other costs have been made current and the reimbursable pre-complaint expenses have been satisfied in full.
- c) Any liens sold to a third party assignee shall be paid by certified check, cashier's check or money order. The payee shall retain a copy of the paid receipt issued by the third party assignee and a copy of the certified check, cashier's check or money order (as applicable) as proof of satisfaction of the lien.
- d) To stop further adverse actions to enforce collection of the lien sold at tax sale, the property owner or party in interest shall provide the Office of Tax and Revenue, Real Property Tax Administration, with proof of payment of all outstanding taxes, assessments, fees and other costs in the manner provided below:
 - i) If the real property owner or party in interest satisfies the taxes, assessments, fees and/or costs (except liens sold to a third party assignee) by cash payment, the property owner or party in interest shall provide the Office of Tax and Revenue, Real Property Tax Administration, with the following information:

- A) A copy of the bill reflecting the outstanding taxes, assessments, fees and/or costs; and
 - B) A copy of the paid receipt issued by the bank or DC Treasurer. The tax sale purchaser shall indicate on the paid receipt that payment was made by cash payment. The tax sale purchaser shall also initial and date the receipt.
- ii) If the real property owner or party in interest satisfies the taxes, assessments, fees and/or costs (except liens sold to a third party assignee) by cashier's check, certified check or money order, the real property owner or party in interest shall provide the Office of Tax and Revenue, Real Property Tax Administration, with the following information:
- A) A copy of the bill(s) reflecting the outstanding taxes, assessments, fees and/or costs;
 - B) A copy of the cashier's check, certified check or money order made payable to the DC Treasurer and remitted for the payment of the taxes, assessments, fees and/or costs; and
 - C) The paid receipt issued by the bank and/or Cashier for the DC Treasurer.
- iii) When a real property owner or party in interest satisfies a lien that was sold to a third party assignee, the real property owner or party in interest shall provide the Office of Tax and Revenue, Real Property Tax Administration, with the following information:
- A) A copy of the pay-off statement reflecting the principal amount of the lien, accrued interest and other allowable costs;
 - B) A copy of the cashier's check, certified check or money order remitted in payment of the lien; and
 - C) A copy of the receipt issued by the third party assignee.
- e) The bills for taxes, assessments, fees and/or costs (including liens sold to a third party payee) may include but are not limited to:
- i) Real Property Tax Bill;
 - ii) Business Improvement District (BID) Bill;
 - iii) Public Space Bill;

- iv) Special Assessment Bill;
 - v) Nuisance Assessment Bill (including Clean City Fee Bill);
 - vi) Water and Sewer Bill;
 - vii) Bill or pay-off statement for lien(s) sold to a third party assignee; and
 - viii) Any other special assessment or special tax levied by a taxing agency against real property.
- f) If real property taxes are due and owing against the real property, the property owner or party in interest shall obtain a real property tax bill from the Office of Tax and Revenue, Real Property Tax Administration.
 - g) If assessments, fees and/or other costs are due and owing against the real property, the property owner or party in interest shall obtain a bill from the appropriate taxing agency.
 - h) If the real property tax lien has been sold to a third party assignee, the property owner or party in interest shall obtain a pay-off statement from the third party assignee. The pay-off statement issued by a third party assignee shall not include an amount for the reimbursable pre-complaint expenses.

316.3 Rules and prerequisites to begin the processing of a redemption refund and collection of the reimbursable pre-complaint expenses and redemption refund prior to the initiation of a Superior Court foreclosure action:

- a) To begin the processing of a redemption refund, the property must have been redeemed in accordance with the requirements set forth in section 316.2 or cancelled in accordance with the requirements set forth in section in 316.8.
- b) Upon notification from the Office of Tax and Revenue or information obtained from the records of the Office of Tax and Revenue that the property has been redeemed, the tax sale purchaser shall surrender the certificate of sale. The certificate of sale shall be surrendered to the Office of Tax and Revenue, Real Property Tax Administration located at 941 North Capitol Street, NE, Washington DC 20002.
- c) Upon receipt of the certificate of sale, the Office of Tax and Revenue shall process the redemption refund.
- d) The redemption refund shall be comprised of the amount paid at tax sale including any surplus. Interest shall be paid at a rate of 1 ½ percent per month or part thereof on the amount paid at tax sale that represents the delinquent tax. Interest shall not be paid on the surplus.

- e) Interest shall begin to accrue the first month after the date of the tax sale and shall cease to accrue on the date of redemption or cancellation.
- f) To collect the reimbursable pre-complaint expenses, the tax sale purchaser shall provide the following information upon notification that the property has been redeemed:
 - i) A copy of the paid receipt issued for the rendering the of pre-complaint services; and
 - ii) An affidavit attesting to the fact that the pre-complaint expenses were rendered.
- g) The documentation required in subsection 316.6(d) shall be provided to the Office of Tax and Revenue, Real Property Tax Administration, 941 North Capitol Street, NE, Washington, DC 20002.
- h) Upon receipt of the documentation required in subsection 316.3(e), the Office of Tax and Revenue shall process the refund of the pre-complaint expenses. Interest shall not be paid on the pre-complaint expenses.

316.4 Rules and prerequisites for payment of the subsequent real property taxes by the tax sale purchaser

- a) The tax sale purchaser shall obtain a copy of the Tax Sale Purchaser's Bill from the Office of Tax and Revenue, Real Property Tax Administration, which shall be different from the Real Property Tax Bill provided to and paid by the real property owner or party in interest.
- b) The tax sale purchaser shall pay the Tax Sale Purchaser's Bill at the Cashier's Office of the DC Treasurer. Once payment has been remitted, the tax sale purchaser shall immediately provide the Office of Tax and Revenue, Real Property Tax Administration, with a copy of the paid receipt issued by the Cashier for the DC Treasurer and retain a copy of the receipt for the tax sale purchaser's record.
- c) Any payments made against the real property tax bill that is not a Tax Sale Purchaser's Bill shall be applied against the real property taxes due and owing against the property as if the payments were made by the property owner or party in interest. The tax sale purchaser shall not receive credit for any payment of subsequent real property taxes unless payment is made toward a Tax Sale Purchaser's Tax Bill in the manner provided in section 316.4

- d) Any payments made by a tax sale purchaser pursuant to a Tax Sale Purchaser's Bill shall be applied to the real property tax account at the time a Tax Deed has been issued to the tax sale purchaser.
- e) The tax sale purchaser shall be liable for the interest and penalty due at the time of payment.

316.5 Rules and prerequisites to redeem the property after the initiation of a Superior Court foreclosure action.

- a) To redeem, the real property owner or party in interest shall pay in full the following:
 - i) All taxes, assessments, fees and/or other costs levied by a taxing agency;
 - ii) The reimbursable pre-complaint expense;
 - iii) All liens that have been sold to a third party assignee; and
 - iv) All fees and costs incurred as a result of the initiation of a Superior Court foreclosure action by the tax sale purchaser at the July 2001 tax sale or tax sale occurring thereafter.
- b) Upon notification of redemption, the Office of Tax and Revenue, Real Property Tax Administration, shall request a pay-off statement of all fees and costs incurred as a result of the initiation of a Superior Court foreclosure action from the tax sale purchaser.
- c) Within thirty (30 of sale) days from the date of a request for a pay-off statement, the tax sale purchaser shall provide the property owner or party in interest a pay-off statement reflecting the amount to satisfy the fees and costs incurred as a result of the initiation of the Superior Court foreclosure action. The tax sale purchaser shall provide the Office of Tax and Revenue, Real Property Tax Administration, with a copy of the pay-off statement at the same time it provides the pay-off statement to the property owner or party in interest.
- d) If there is a dispute regarding the redemption, the party redeeming may apply to the Superior Court of the District of Columbia for an order fixing the amount necessary for redemption. The real property shall not be redeemed until the amount appearing on an order of the court is satisfied in full. The redeeming party shall provide the Office of Tax and Revenue, Real Property Tax Administration, with a copy of the court order and documentation showing the amount in the court order has been fully satisfied.

- e) The property owner or party in interest shall pay in full the fees and costs incurred as a result of the initiation of the Superior Court foreclosure action. Payment shall be made to the tax sale purchaser and shall be made in the form of a certified check, cashier's check or money order.
- f) At the time the property owner or party in interest satisfies to the tax sale purchaser the fees and costs incurred as a result of a Superior Court foreclosure action, the tax sale purchaser shall provide to the property owner or party in interest a receipt showing full satisfaction of the foreclosure fees and costs.
- g) Upon full satisfaction of the foreclosure fees and costs, the tax sale purchaser shall file for dismissal of the foreclosure action.
- h) Upon receipt of the court order dismissing the Superior Court foreclosure action and payment of all taxes due and owing against the property to all taxing agencies, the Office of Tax and Revenue shall issue to the property owner a Certificate of Redemption.

316.6 Rules and prerequisites to be followed to collect the redemption refund after the initiation of a Superior Court foreclosure action:

- a) Upon receipt of an order dismissing the Superior Court foreclosure action, the tax sale purchaser shall submit the following documentation for a refund:
 - i) Certificate of Sale;
 - ii) Court Order dismissing the foreclosure action; and
 - iii) Receipts showing payments of subsequent taxes.
- b) Upon receipt of documentation required in subsection (a) of this section, the Office of Tax and Revenue, Real Property Tax Administration shall process the refund.
- c) The refund shall be comprised of:
 - i) The amount paid for the property sold at tax sale, including surplus and statutory interest. Interest shall be paid on the amount paid at tax sale that represents the amount of the delinquent tax due and owing against the property at the time of the sale. Interest shall not be paid on the surplus.
 - ii) The pre-complaint expenses; and
 - iii) The amount to satisfy the subsequent real property taxes and statutory interest.

- d) The statutory interest is paid on the amount of the real property tax delinquency sold at tax sale and accrues at a rate of 1 ½ percent per month or a part thereof. The statutory interest begins to accrue on the date of the sale and shall cease to accrue on the date of cancellation of the tax sale or redemption.
- e) The statutory interest is paid on the amount paid by the tax sale purchaser for the subsequent real property tax and accrues at a rate of 1 ½ percent per month or a part thereof. The statutory interest begins to accrue on the date of payment of the subsequent real property taxes and shall cease on the date of cancellation of the tax sale or redemption.

316.7 Rules and prerequisites to be followed by the tax sale purchaser for the issuance of a tax deed:

- a) To apply for a tax deed, the tax sale purchaser shall submit to the Office of Tax and Revenue, Real Property Tax Administration, a certified copy of the final judgment issued by the Superior Court of the District of Columbia.
- b) Upon proper application for a tax deed, the tax sale purchaser shall be issued a Bill for Tax Deed.
- c) The Bill for Tax Deed shall be satisfied on or before the due date provided on the Bill for Tax Deed. The due date for payment of the Bill for Tax Deed shall be no less than thirty (30) days from the date of issuance.
- d) Payments of the taxes, assessments, fees and other costs due and owing against the property at the time of application for tax deed is made shall be in the form of cash, certified check, cashier's check or money order.
- e) If the payment for a tax deed is made in cash, the tax sale purchaser shall provide the Office of Tax and Revenue, Real Property Tax Administration, with a copy of the receipt issued by the bank and/or third party assignee. The tax sale purchaser shall indicate on the paid receipt that the payment was made by cash. The tax sale purchaser shall also initial and date the receipt.
- f) If the payment is made by certified check, cashier's check or money order, the tax sale purchaser shall provide the Office of Tax and Revenue, Real Property Tax Administration, with a copy of the certified check, cashier's check or money order (as applicable) and a copy of the receipt issued by the bank, the Cashier for the DC Treasurer and/or third party assignee. The copy of the payment and receipt shall be submitted at the time the application for deed is made.
- g) The tax sale purchaser shall forfeit all monies paid for the property at tax sale and any payment made toward the subsequent real property taxes if the tax sale

purchaser fails to satisfy the Bill for Tax Deed on or before the due date provided on the Bill for Tax Deed.

316.8 Rules for Cancellation of a tax sale

- a) A tax sale may be cancelled for the following reasons which may include, but not be limited to:
 - i) Ownership and mailing address errors in the agency records in cases where the owner reasonably believes the property is exempt from payment of real property taxes or owner reasonably believes the taxes were satisfied.
 - ii) Payment of taxes were not properly credited to the real property tax account;
 - iii) An application for exemption or tax relief has been filed and owner reasonably believes the taxes are not due as a result of filing an application for real property tax exemption or tax relief;
 - iv) The property has been combined, subdivided or split and as a result the Square, Suffix (if any) and Lot number or Parcel and Lot number no longer exists;
 - v) A taxing agency has determined that the tax, assessment or costs are not due;
 - vi) The property is the subject of a bankruptcy proceeding; and
 - vii) To prevent an injustice to the real property owner.
- b) If a tax sale is cancelled for any reason, other than for the reason of fraud on the part of the tax sale purchaser, the tax sale purchaser shall be refunded the following:
 - i) The amount paid for the property sold at tax sale, including surplus and statutory interest.
 - ii) The pre-complaint expenses; and
 - iii) The amount paid to satisfy the subsequent real property taxes and statutory interest.
 - iv) The statutory interest is paid on the amount of the real property tax delinquency sold at tax sale and accrues at 1 ½ percent per month or a part

thereof. The statutory interest shall begin to accrue on the date of the tax sale and shall cease to accrue on the date of cancellation.

- v) The statutory interest is paid on the amount paid by the tax sale purchaser for the subsequent real property tax and accrues at a rate of 1 ½ percent per month or a part thereof. The statutory interest shall begin to accrue on the date of the tax sale and shall cease to accrue on the date of cancellation.
- c) The Office of Tax and Revenue, Real Property Tax Administration, shall provide the tax sale purchaser a notice of cancellation of the tax sale.
- d) If the tax sale is cancelled after the initiation of a Superior Court foreclosure action, the tax sale purchaser shall provide the Office of Tax and Revenue, Real Property Tax Administration, with the following to be refunded the expenses incurred as a result of the initiation of the foreclosure;
 - i) A pay-off statement for the expenses incurred as a result of the initiation of the foreclosure;
 - ii) A copy of the paid receipt issued for the rendering of services for the initiation of a foreclosure action; and
 - iii) An affidavit attesting to the fact that services were rendered for the initiation of a foreclosure action.

316.9 Rules and prerequisite to be followed for assignment of the Certificate of Sale

- a) The assignee of the Certificate of Sale shall notify the Office of Tax and Revenue, Real Property Tax Administration within thirty (30) days from the assignment of the Certificate of Sale.
- b) An assignee of the Certificate of Sale shall not be delinquent in the payment of real property taxes.
- c) The assignee of the Certificate of Sale shall submit a completed “Clean Hands Certification for Potential Tax Sale Purchasers and Assignees”.
- d) If an assignee of the Certificate of Sale shall be found to be delinquent in the payment of real property taxes, the assignee shall forfeit all monies paid for the assignment of the certificate of sale and any monies paid toward the subsequent real property taxes.
- e) Once the certificate of sale has been assigned, the assignee becomes the tax sale purchaser of the property associated with the certificate. The assignee shall be bound by all rules and regulations pertaining to a tax sale purchaser.

316.10 Definitions

- a) For the purposes of section 316.1 through 316.9, the term taxing agencies shall mean any agency of the District of Columbia which may levy a tax, assessment or charge collectible Chapter 13A of Title 47 of the DC Code.
- b) For purposes of section 316.1 through 316.8, the term third party assignee shall mean a party who was assigned a tax lien for tax years 1990 and 1995 from the District TLC Trust, 1996.

Person desiring to comment on the proposed regulations should submit comments in writing to Mr. Henry M. Terrell, Attorney Advisor, Office of General Counsel, Office of Tax and Revenue, 941 North Capitol Street, NE, Suite 810, Washington, DC 20002 not later than 30 days after publication of this notice in the DC Register. Copies of these proposed rules and related information may be obtained by writing to the person and address stated herein.