

CHAPTER 171.

[S. B. 145.]

TAX FORECLOSURE.

AN ACT relating to the determination of title to lands deeded to the county in general tax foreclosure proceedings, and to redemption in such cases, and declaring that this act shall take effect immediately.

Be it enacted by the Legislature of the State of Washington:

Action to quiet title to lands deeded to county in general tax foreclosure.

Authority granted to county.

All tracts included in one action.

Action *in rem*.

Adverse interest of person in possession excepted.

SECTION 1. In any and all instances in this state in which a treasurer's deed to real property has been or shall be issued to the county in proceedings to foreclose the lien of general taxes and the county still retains the title or an interest in the real property thus acquired, and for any reason a defect in title exists or adverse claims against the same have not been legally determined, the county shall have authority to institute an action in the superior court in said county to correct such defects, and to determine such adverse claims and the priority thereof as in this act provided.

SEC. 2. The county shall have authority to include any and all tracts of land involved in one action. Such action shall be one *in rem* as against every right and interest in and claim against any and every part of the real property involved, except so much thereof as may be at the time the summons and notice is filed with the clerk of the superior court in the actual, open and notorious possession of any person or corporation, and then except only as to the interest claimed by such person so in possession: *Provided*, That the possession required under the provisions of this act shall be construed to be that by personal occupancy only, and not merely by representation or in contemplation of law. No person, firm or corporation claiming an interest in or to such lands need be specifically named in the

summons and notice, except as in this act provided, and no pleadings other than the summons and notice and the written statements of those claiming a right, title and interest in and to the property involved shall be required.

Specific naming of claimants in summons.

SEC. 3. Upon filing a copy of the summons and notice in the office of the county clerk, service thereof as against every interest in and claim against any and every part of the property described in such summons and notice, and every person or corporation, except one who is in the actual, open and notorious possession of any of said properties, shall be had by publication in the official county newspaper for six consecutive weeks; and no affidavit for publication of such summons and notice shall be required. In case there are outstanding local improvement assessments against any of the real property described in the summons and notice, a copy of the same shall be served on the treasurer of the city or town within which such real property is situated within five days after such summons and notice is filed.

Filing copy of summons and notice with county clerk.

Notice by publication.

Outstanding local assessments: City treasurer to be served.

The summons and notice in such action shall contain the title of the court; specify in general terms the years for which the taxes were levied and the amount of the taxes and the costs for which each tract of land was sold; give the legal description of each tract of land involved, and the tax record owner thereof during the years in which the taxes for which the property was sold were levied; state that the purpose of the action is to foreclose all adverse claims of every nature in and to the property described, and to have the title of existing liens and claims of every nature against said described real property, except that of the county, forever barred.

Summons and notice: What shall contain.

Said summons and notice shall also summon all persons, firms and corporations claiming any right, title and interest in and to said described real

All claiming interest included in notice.

Publication. property to appear within sixty days after the date of the first publication, specifying the day and year, and state in writing what right, title and interest they have or claim to have in and to the property described, and file the same with the clerk of the court above named; and shall notify them that in case of their failure so to do, judgment will be rendered determining that the title to said real property is in the county free from all existing adverse interests, rights or claims whatsoever: *Provided*, That in case any of the lands involved is in the actual open and notorious possession of anyone at the time the summons and notice is filed, as herein provided, a copy of the same modified as herein specified shall be served personally upon such person in the same manner as summons is served in civil actions generally. Said summons shall be substantially in the form above outlined, except that in lieu of the state relative to the date and day of publication it shall require the person served to appear within twenty days after the day of service, exclusive of the date of service, and that the day of service need not be specified therein, and except further that the recitals regarding the amount of the taxes and costs and the years the same were levied, the legal description of the land and the tax record owner thereof may be omitted except as to the land occupied by the persons served.

Personal service on adverse claimant in possession. Every summons and notice provided for in this act shall be subscribed by the prosecuting attorney of the county, followed by his post office address.

Required summons in such case. SEC. 4. Any person, firm or corporation who or which may have been entitled to redeem the property involved prior to the issuance of the treasurer's deed to the county, and his or its successor in interest, shall have the right, at any time after the commencement of, and prior to the judgment in the action authorized herein, to redeem such property by

Recitals of summons.

Prosecuting attorney shall subscribe summons and notice.

When interested party may redeem.

paying to the county treasurer the amount of the taxes for which the property was sold to the county, and the amount of any other general taxes which may have accrued prior to the issuance of said treasurer's deed, together with interest on all such taxes from the date of delinquency thereof, respectively, at the rate of twelve per cent per annum, and by paying for the benefit of the assessment district concerned the amount of principal, penalty and interest of all special assessments, if any, which shall have been levied against such property and by paying such proportional part of the costs of the tax foreclosure proceedings and of the action herein authorized as the county treasurer shall determine.

Redemption
require-
ments.

Upon redemption of any property before judgment as herein provided, the county treasurer shall issue to the redemptioner a certificate specifying the amount of the taxes, special assessments, penalty, interest and costs charged describing the land and stating that the taxes, special assessments, penalty, interest and costs specified have been fully paid, and the lien thereof discharged. Such certificate shall clear the land described therein from any claim of the county based on the treasurer's deed previously issued in the tax foreclosure proceedings.

Certificate
issued to
redemp-
tioner.

Recitals.

Claim of
county
discharged.

SEC. 5. At any time after the return day named in the summons and notice the county shall be entitled to apply for judgment. In case any person has appeared in such action and claimed any interest in the real property involved adverse to that of the county, such person shall be given a three days' notice of the time when application for judgment shall be made. The court shall hear and determine the matter in a summary manner similar to that provided in section 11298 of Remington's Compiled Statutes, relating to judgment and order of sale in general tax foreclosure proceedings, and shall pro-

Motion for
judgment.

Notice to
defendant.

Motion to
be made.

Hearing
rules
governing.

nounce and enter judgment according to the rights of the parties and persons concerned in the action. No order of sale shall be made nor shall any sale on execution be necessary to determine the title of the county to the real property involved in such action.

Order of sale or sale on execution not necessary.

Validity of taxes determines county's right of action.

Proof required of county.

Presumptions.

Appearance fee.

Tender of taxes, etc., required.

Court review.

Final judgment.

Conclusiveness.

Rights of persons under disability foreclosed.

SEC. 6. The right of action of the county under this act shall rest on the validity of the taxes involved, and the county shall be required to prove only the amount of the former judgment foreclosing the lien thereof, together with the costs of the foreclosure and sale of each tract of land for said taxes, and all the presumptions in favor of the tax foreclosure sale and issuance of treasurer's deed existing by law shall obtain in said action.

SEC. 7. Any person filing a statement in such action shall pay the clerk of the court an appearance fee in the amount required by the county for appearances in civil actions, and shall be required to tender the amount of all taxes, interest and costs charged against the real property to which he lays claim, and no further costs in such action shall be required or recovered.

SEC. 8. Any person aggrieved by the judgment rendered in such action shall have the right to appeal from the part of said judgment objectionable to him to the supreme court of the state substantially in the manner and within the time prescribed for appeals in section 11299 of Remington's Compiled Statutes.

SEC. 9. The judgment rendered in such action, unless appealed from within the time prescribed herein and upon final judgment on appeal, shall be conclusive, without the right of redemption upon and against every person who may or could claim any lien or any right, title or interest in or to any of the properties involved in said action, including minors, insane persons, those convicted of crime, as well as those free from disability, and against those

who may have at any time attempted to pay any tax on any of the properties, and against those in actual open and notorious possession of any of said properties.

Such judgment shall be conclusive as to those who appeal therefrom, except as to the particular property to which such appellant laid claim in the action and concerning which he appealed, and shall be conclusive as to those in possession of any property and who were not served except as to the property which such person is in the actual, open and notorious possession of, and in any case where it is asserted that the judgment was not conclusive because of such possession, the burden of showing such actual, open and notorious possession shall be on the one asserting such possession.

Conclusive-
ness of
judgment
on appellant
and those
not served.

SEC. 10. Nothing in this act contained shall be construed to deprive any city or town, local improvement or special assessment district of its right to reimbursement for special assessments out of any surplus over and above the taxes, interest and costs involved.

Right of
municipal-
ity, local
improvement
or special
assessment
district to
reimburse-
ment for
special
assessments.

SEC. 11. This act is necessary for the immediate support of the state government and its existing public institutions, and shall take effect immediately.

Emergency.

Passed the Senate January 6, 1926.

Passed the House January 5, 1926.

Approved by the Governor January 18, 1926