

CHAPTER 171.

[H. B. 126.]

IRRIGATION DISTRICT ASSESSMENTS.

AN ACT relating to irrigation districts, to the authority and duties of the county treasurer and district officers with respect to sales of land for delinquent district assessments and to the issuance of treasurer's deeds therefor, relating to district land titles, to validation of certain deeds heretofore issued in the name of an irrigation district, to district actions to quiet title, to district assessments and tolls and the liens thereof, providing the rate of interest delinquent district assessments shall bear, providing for notice of application for treasurer's deed by private holders of certificates of sale, providing that certain easement rights shall not be included in sales for delinquent district assessments, providing a limitation of actions to set aside and cancel treasurer's deeds issued on account of sales for delinquent district assessments and tolls or to recover lands sold on account of such assessments and tolls, amending chapter 5, title 48 of Remington's Revised Statutes of Washington by adding thereto a new section to be designated section 7447-1 and amending sections 7448-2 (being section 2, chapter 194, Laws of 1933), 7441, 7442, 7445, 7447 and 7454 of Remington's Revised Statutes of Washington, and repealing all acts or parts of same inconsistent or in conflict with this act or any part of same.

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

SECTION 1. That section 7448-2 of Remington's Revised Statutes of Washington (1938 Annual Pocket Part for Volume 8, being section 2, chapter 194, Laws of Washington 1933 Session) be amended to read as follows:

Amends
§ 7448-2
Rem. Rev.
Stat.

Section 7448-2. ACTION IN REM—SUMMONS AND NOTICE. The irrigation district shall have authority to include in one action any and all tracts of land located in one county and owned by said district. 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,

Action in
rem—
summons
and notice.

Possession construed to be personal occupancy.

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 the law, and personal service of summons and notice hereinafter provided for, upon one in personal possession of land involved, shall be conclusive upon any principal, if any, he may represent in such occupancy. 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.

At any time after the action is instituted and prior to the time judgment is applied for, the district shall file with the clerk of the court the affidavit of the publisher of the summons and notice showing publication thereof as hereafter required and the affidavit of an officer of the district or of its attorney describing the lands, if any, included in the action, not in the actual, open and notorious possession of any person or corporation and such affidavits shall be prima facie evidence of the facts therein alleged.

Amends § 7441 Rem. Rev. Stat.

SEC. 2. That section 7441 of Remington's Revised Statutes of Washington be amended to read as follows:

Lien of assessment.

Section 7441. LIEN OF ASSESSMENT. The assessment upon real property shall be a lien against the property assessed, from and after the first day of January in the year in which it is levied, but as between grantor and grantee such lien shall not attach until the fifteenth day of February of the year

in which the assessment is payable, which lien shall be paramount and superior to any other lien theretofore or thereafter created, whether by mortgage or otherwise, except for a lien for prior assessments, and such lien shall not be removed until the assessments are paid or the property sold for the payment thereof as provided by law. And the lien for the bonds of any issue shall be a preferred lien to that of any subsequent issue. Also the lien for all payments due or to become due under any contract with the United States, or the State of Washington, accompanying which bonds of the district have not been deposited with the United States or the State of Washington, as in section 7429 provided, shall be a preferred lien to any issue of bonds subsequent to the date of such contract.

Other liens.

SEC. 3. That section 7442 of Remington's Revised Statutes of Washington be amended to read as follows:

Amends
§ 7442 Rem.
Rev. Stat.

Section 7442. COLLECTION OF ASSESSMENTS—NOTICE—ROLL. The assessment roll, before its equalization and adoption, shall be checked and verified as to descriptions and ownerships, with the County Treasurer's land rolls. On or before the fifteenth day of January in each year the secretary must deliver the assessment roll or the respective segregation thereof to the County Treasurer of each respective county in which the lands therein described are located, and said assessments shall become due and payable on the fifteenth day of February following.

Collection of
assessments.

One-half of all assessments on said roll shall become delinquent on the first day of June following the filing of the roll unless said one-half is paid on or before the thirty-first day of May of said year, and the remaining one-half shall become delinquent on the first day of December following, unless said one-half is paid on or before the thirtieth day of November. All delinquent assessments shall bear

interest at the rate of ten per cent per annum from the date of delinquency until paid.

Notice.

Within twenty days after the filing of the assessment roll as aforesaid the respective County Treasurers shall each publish a notice in a newspaper published in their respective counties in which any portion of the district may lie, that said assessments are due and payable at the office of the County Treasurer of the county in which said land is located and will become delinquent unless paid as herein provided. Said notice shall state the dates of delinquency as fixed in this act and the rate of interest charged thereon and shall be published once a week for four successive weeks and shall be posted within said period of twenty days in some public place in said district in each county in which any portion of the district is situated.

Assessment
book.

Upon receiving the assessment roll the County Treasurer shall prepare therefrom an assessment book in which shall be written the description of the land as it appears in the assessment roll, the name of the owner or owners where known, and if assessed to the unknown owners, then the word "unknown", and the total assessment levied against each tract of land. Proper space shall be left in said book for the entry therein of all subsequent proceedings relating to the payment and collection of said assessments.

Upon payment of any assessment the County Treasurer must enter the date of said payment in said assessment book opposite the description of the land and the name of the person paying and give a receipt to such person specifying the amount of the assessment and the amount paid with the description of the property assessed. On all assessments levied prior to the time this amendatory act takes effect the County Treasurer shall collect the interest and penalty upon delinquent assessments in accordance with the law in effect at the time such assessments were levied; and on all assessments levied

after this amendatory act takes effect it shall be the duty of the treasurer to collect the interest provided by this amendatory act.

It shall be the duty of the County Treasurer of the county in which any land in the district is located to furnish upon request of the owner, or any person interested, a statement showing any and all assessments levied as shown by the assessment roll in his office upon land described in such request, and all statements of general taxes covering any land in the district shall be accompanied by a statement showing the condition of irrigation district assessments against such lands: *Provided*, That the failure of the County Treasurer to render any statement herein required of him shall not render invalid any assessments made by any irrigation district or proceedings had for the enforcement and collection of irrigation district assessments pursuant to this act.

Statement of assessments furnished.

It shall be the duty of the County Treasurer of any county, other than the county in which the office of the board of directors is located, to make monthly remittances to the County Treasurer of the county in which the office of the board of directors is located covering all amounts collected by him for the irrigation district during the preceding month.

Monthly remittances.

The provisions of this act with respect to delinquency and interest to be charged shall apply to all assessments now delinquent as well as to all assessments becoming delinquent hereafter, and it shall be the duty of the respective County Treasurers to collect interest at said rate of ten per cent per annum without regard to the date of levy or delinquency: *Provided*, That upon redemption from any certificate of sale other than certificates of sale held by an irrigation district the County Treasurer shall collect interest at the rate prescribed in such certificate of sale.

Delinquency and interest.

Amends
§ 7445 Rem.
Rev. Stat.

SEC. 4. That section 7445 of Remington's Revised Statutes of Washington, be amended to read as follows:

Designation
of property
for sale.

Section 7445. SALES, HOW CONDUCTED. The owner or person in possession of any real estate offered for sale for assessments due thereon may designate in writing to the County Treasurer by whom the sale is to be made, and prior to the sale, what portion of the property he wishes sold, if less than the whole; but if the owner or possessor does not, then the Treasurer may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessment and costs due, including one dollar to the treasurer for duplicate of the certificate of sale, is the purchaser. The Treasurer shall account to the district for said one dollar. If the purchaser does not pay the assessment and costs before ten o'clock A. M. the following day, the property must be re-sold on the next sale day for the assessments and costs. In case there is no purchaser in good faith for the same on the first day that the property is offered for sale, and if there is no purchaser in good faith when the property is offered thereafter for sale, the whole amount of the property assessed shall be struck off to the irrigation district as the purchaser, and the duplicate certificate shall be delivered to the secretary of the district, and filed by him in the office of the district. No charge shall be made for the duplicate certificate where the district is the purchaser, and in such case the Treasurer shall make an entry, "Sold to the district," and he will be credited with the amount thereof in settlement. An irrigation district, as a purchaser at said sale, shall be entitled to the same rights as a private purchaser, and may assign or transfer the certificate of sale upon the payment of the amount which would be due if redemption were being made by the owner.

Irrigation
district as
purchaser.

If no redemption is made of land for which an irrigation district holds a certificate of purchase, the district will be entitled to receive the treasurer's deed therefor in the same manner as a private person would be entitled thereto. The district may lease from year to year with the right to include an option to purchase, sell on contract on deferred payments, or sell for cash and convey the lands so acquired, by deed executed by the president and secretary of the board and acknowledged by the president: *Provided*, That authority to so lease, option, sell or convey must be conferred by resolution of the board entered on its minutes, fixing the price at which such option may be granted or sale may be made, which price shall be not less than the reasonable market value of such property except as hereinafter authorized:

Provided, That the board shall have authority without consideration by resolution stating the necessity therefor, to authorize the execution and delivery of a quit claim deed in the name of the district correcting errors in descriptions in a deed regularly and previously issued and also removing clouds on title arising from sales of land erroneously and illegally made by the County Treasurer, and any deed of conveyance heretofore regularly issued in the name of any irrigation district solely for any of the purposes in this proviso mentioned, is hereby validated, approved and confirmed, and:

Title
validated.

Provided, That the board shall also have full authority without consideration to authorize the release, dedication, grant or conveyance of district lands or easements therein for highway or domestic water purposes and for other public utility purposes conveniencing the inhabitants of the district when in the judgment of the members of the board such action will enhance the value of the remaining district land to an extent equal to or greater than the

Conveyance
for public
utility
purposes.

value of the interest or easement released, dedicated, granted or conveyed, and:

Omission
of lands.

Provided, That in any instance where assessments for one or more years duly levied by the district have been delinquent for the time required by law to make the land chargeable therewith, subject to sale, and said land for any reason has been omitted from the general sale next held after any of such delinquency or delinquencies, and also in any instance where a sale of property by the County Treasurer on account of delinquent district assessments is illegal by reason of a defective notice of sale or material errors in the description of the property sold and the Treasurer's deed has not yet been delivered to the purchaser at such illegal sale, in any of such instances, a reassessment of the property by the district shall not be required, but said Treasurer shall have authority and it shall be his duty, upon learning of such omission or defective sale, to sell the omitted property or sell the property previously defectively sold, at the time of the next general annual sale, for all such delinquent district assessments and such sale thereafter held shall be noticed and conducted in the same manner and the sale shall have the same force and effect, as sales in the first instance. The purchaser at an illegal sale aforesaid who has not accepted delivery of his or its deed from the County Treasurer shall be entitled to a return of any moneys paid to the County Treasurer on account of the bid upon return of the certificate of sale, and:

Defective
sale.

Reassess-
ment not
required.

Sale of
previously
omitted or
defectively
sold lands.

Title to
easements
not conveyed.

Provided, That sales of land made by the Treasurer, or deeds issued pursuant to such sales, shall not operate to convey the title to any easement owned by any public service corporation, or by the district, or by any municipal or public corporation, or to convey the title to any pipe line, electric transmission lines, telephone lines or other public service facilities constructed or maintained on such

land under such easement, including also any private easement owned by third parties through or by which service is maintained or received from such district, municipal or public service corporation, and:

Provided, further, That when lands shall have been deeded by the County Treasurer to the district and if title shall remain vested in the district, and in the judgment of the Board of Directors, said sale shall have resulted from unavoidable accident, inadvertency, or misfortune and without intent on the part of the owner or person entitled to make redemption, to permit said assessments to become delinquent and the land to be sold, the Board of Directors may, pursuant to an order entered upon the minutes of the board, cause said land to be reconveyed to the owner or person entitled to redemption within the period of one year after deed is issued, upon the payment by the owner or person who would have been entitled to make redemption before deed of the amount stated in the certificate of sale with interest thereon at ten per cent per anum from the date of sale, one dollar for the deed, and all subsequent assessments with interest.

Redemption,
when sale
made
through
inadvertency.

After receiving the amount of assessments and costs, the County Treasurer must make out in duplicate a certificate, dated on the day of sale, stating (when known) the names of the persons assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and the year of assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the Treasurer making the sale and one copy delivered to the purchaser, and the other filed in the office of the County Treasurer of the county in which the land is situated: *Provided,* That upon the sale of any lot, parcel or tract of land not larger than an acre, the fee for a duplicate certificate shall be twenty-five cents (25¢) and in case of a sale to a person or a dis-

Treasurer's
certificate.

tract, of more than one parcel or tract of land, the several parcels or tracts may be included in one certificate.

§ 7447 Rem.
Rev. Stat.

SEC. 5. That section 7447 of Remington's Revised Statutes of Washington be amended to read as follows:

Redemption,
when made.

Section 7447. REDEMPTION, WHEN MADE—DEED—FEE. A redemption of the property sold may be made by the owner or any person on behalf and in the name of the owner or by any party in interest at any time before deed issued, and delivered by the treasurer by paying the amount of the purchase price and interest as in this act provided, and the amount of any assessments which such purchaser may have paid thereon after purchase by him and during the period of redemption in this section provided, together with like interest on such amount, and if the irrigation district is the purchaser, the redemptioner shall not be required to pay the amount of any district assessment levied subsequent to the assessment for which said land was sold, but all subsequent and unpaid assessments levied upon said land to the date of such redemption shall remain a lien and be payable and the land be subject to sale and redemption at the times applicable to such subsequent annual district assessment. Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and the County Treasurer must credit the amount paid to the person named in the certificate and pay it on demand to such person or his assignees. No redemption shall be made except to the County Treasurer of the county in which the land is situated.

Upon completion of redemption the County Treasurer to whom redemption has been made shall enter the word "redeemed", the date of redemption and by whom redeemed on the certificate and on the margin of the assessment book where the entry of

the certificate is made. If the property is not re-
 deemed within one year, after the fifteenth day of
 January of the year in which such property was
 sold, the County Treasurer of the county in which the
 land sold is situated must thereafter, upon demand
 by the owner of the certificate of sale, make to the
 purchaser, or his assignees a deed of the property,
 reciting in the deed substantially the matters con-
 tained in the certificate, and that no person redeemed
 the property during the time allowed by law for its
 redemption. Where the owner of the certificate is
 some party other than an irrigation district, deed
 shall not be issued until an affidavit or affidavits
 showing service or publication of the notice re-
 quired by section 6 hereof has been filed with the
 County Treasurer and twenty-one days have elapsed
 since the service or first publication of said notice.
 The treasurer shall also endorse on the margin of
 the current district assessment roll opposite the de-
 scription of the land described in the deed, the date
 of delivery of the deed and the name of the certifi-
 cate holder receiving the deed, and the transfer of
 the title to the grantee in the deed and the issuance
 of said deed shall be construed to take place and
 shall be complete as of the time of delivery of said
 deed. The treasurer shall receive from the pur-
 chaser, for the use of the district, one dollar (\$1.00)
 for making such deed: *Provided*, If redemption is
 not made of any lot, parcel or tract of land not larger
 than one acre, the fee for a deed shall be twenty-five
 cents (25¢) and when any person or district holds a
 duplicate certificate covering more than one tract of
 land, the several parcels, or tracts of lands men-
 tioned in the certificate may be included in one deed.

SEC. 6. That chapter 5, title 48 of Remington's
 Revised Statutes of Washington be amended by
 adding thereto a new section to be designated sec-
 tion 7447-1 and to read as follows:

Redemption
 date.

Deed.

Adds § 7447-1
 Rem. Rev.
 Stat.

Notice to parties having interest of application for tax deed.

Section 7447-1. The owner of any certificate of sale for irrigation district assessments, not including irrigation districts, shall, at least twenty-one days before applying for a deed, serve, in the manner provided herein, all parties having an interest in said property or a mortgage lien thereon according to the records of the county auditor's office in the county in which said property is located with a written notice stating that said property has been sold for delinquent irrigation assessments, giving the date of the sale, a description of the property, the amount for which it was sold, and the time the purchaser will apply for a tax deed. The property may be redeemed at any time until such notice has been given and the deed issued. Notice to any party having an interest in or a mortgage lien on said property shall be given by registered mail, addressed to such party at his usual place of address, if known to the owner of the certificate, and, if not known, at the place of address shown by the instrument in the county auditor's office under which such party has an interest in or a mortgage lien on said property. If the name or address of any party upon whom service of notice is required is unknown to the owner of the certificate (his affidavit shall be *prima facie* evidence of that fact) and cannot be ascertained from the record of the instrument under which such party has an interest in or mortgage lien on said property, the owner of the certificate shall serve notice on such party or parties by publishing in two successive weekly issues of a newspaper published in the county where the property is situated a notice substantially in the following form:

NOTICE OF APPLICATION FOR IRRIGATION TAX DEED.

Notice is hereby given that the undersigned is the owner and holder of an irrigation district tax certificate of sale covering the land hereinafter described, and, unless redeemed, the undersigned will, on or after the expiration of twenty-one days from

Form of notice.

the first publication of this notice, apply to the County Treasurer of the county in which said land is located for a tax deed to said property. The date of said certificate, the amount thereof, the names of the parties to whom said property was assessed, and the description of the property are as follows:

- Date of certificate.....;
- Amount of certificate.....;
- Party assessed
- Description of property.....;
- Date of first publication.....

Applicant.

The first publication of such notice must be made at least twenty-one days before application for tax deed. If no newspaper is published in the county in which the property is situated, publication shall be had in a newspaper published in an adjoining county.

Publication of notice.

In all cases coming under the provisions of this act, the owner of a delinquent tax certificate or any officer thereof, if the owner is a corporation, shall, before being entitled to receive a tax deed, make and file with the County Treasurer an affidavit showing service of notice as required by this section and, if published, an affidavit of the owner of the certificate and of the publisher showing compliance with the provisions of this section, and the affidavit or affidavits so filed shall be kept as a part of the permanent records of the office of the County Treasurer. If, where a party other than an irrigation district holds a tax certificate, the property is redeemed after January 15 of the year following the year in which said certificate is issued, the party redeeming shall, in addition to paying the amount required to redeem, pay to the County Treasurer an amount equal to five per cent of the principal amount of the certificate, not exceeding the sum of ten dollars (\$10.00), which sum shall be paid to the holder

Affidavit of serving notice.

Additional fee paid by redemptioner.

of the certificate if, prior to redemption, he has served or commenced publication of the notice provided for in this section. If the holder of the certificate has not served such notice or commenced publication at the time of redemption, said sum shall be returned to the redeptioner.

Amends
§ 7454, Rem.
Rev. Stat.

SEC. 7. That section 7454 of Remington's Revised Statutes of Washington be amended to read as follows:

Construction
and operating
costs, how
payable.

Section 7454. CONSTRUCTION AND OPERATING FUND—TOLLS. The cost and expense of purchasing and acquiring property, and construction, reconstruction, extension and betterment of the works and improvements herein provided for, and the expenses incidental thereto, and indebtedness to the United States for district lands assumed by the district, and for the carrying out of the purposes of this chapter, may be paid for by the board of directors out of the funds received from bond sales. For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair and improvement of the district irrigation, domestic water, electrical, or telephone system and appliances or of any portion thereof, or for the payment of any indebtedness due the United States or the State of Washington, the board may either fix rates or tolls and charges, and collect the same from all persons for whom district service is made available for irrigation, domestic water, electric energy, and other purposes, or they may provide for the payment of said costs and expenses by a levy of assessment therefor, or by both said tolls and assessment; if by the latter method, such levy shall be made on the completion and equalization of the assessment roll each year, and the board shall have the same powers and functions for the purpose of said levy as possessed by it in case of levy to pay bonds of the district. The procedure for the collec-

Levy and
assessment.

tion of assessments by such levy shall in all respects conform with the provisions of this chapter, relating to the payment of principal and interest of bonds herein provided for, and shall be made at the same time. If the toll and charge method is adopted in whole or in part the secretary shall deliver to the board of directors, within the time for filing the assessment roll, a schedule containing the names of the persons to whom the toll is to be charged or to whom the property is assessed, the description of the various parcels of land against which tolls and charges are to be levied and the amount to be charged against each parcel for irrigation and other public uses. Said schedule of charges shall be equalized pursuant to the same notice, in the same manner, at the same time and with the same legal effect as in the case of assessments. Such schedule of tolls for a given year shall be filed with the proper County Treasurer within the same time as that provided by law for the filing of the annual assessment roll, and the County Treasurer shall collect and receipt for the payment of said tolls and credit them to the proper funds of the district. The board may designate the time and manner of making such collections and shall require the same to be paid in advance of delivery of water and other service and may accept short term interest bearing notes with or without collateral in their discretion for any portion of such charges. The board may also base such charges upon the quantity of water to be delivered and may fix a minimum charge to be paid by each acre of land within the district which shall represent the delivery of a stated quantity of water in acre feet with the graduated charge for each additional acre-foot of water delivered. The board may in the same year use the assessment method for part of the lands in the district and the toll and charges method for the remaining lands in the district in such proportion as

Tolls and
charges.

it may deem advisable for the best interest of the district.

Tolls and charges constitute assessment against district.

All tolls and charges levied shall also at once become and constitute an assessment upon and against the lands for which they are levied, with the same force and effect, and the same manner of enforcement, and with the same rate of interest from date of delinquency, in case of non-payment, as other district assessments.

Limitation of actions.

SEC. 8. Actions to set aside or cancel the deed of any County Treasurer issued after and upon the sale of lands for irrigation district assessments or toll charges, or for the recovery of lands sold for delinquent irrigation assessments or toll charges, must be brought within three years from and after the date of such treasurer's deed: *Provided*, This act shall not apply to actions not otherwise barred on deeds heretofore issued if the same be commenced within one year after the passage of this act.

Partial invalidity.

SEC. 9. All acts or parts of same inconsistent or in conflict with this act or any part thereof are hereby repealed in so far as inconsistent or in conflict with this act or any part thereof.

Passed the House March 9, 1939.

Passed the Senate March 7, 1939.

Approved by the Governor March 16, 1939.