

79-2803. Joinder of issues; trial; judgment; redemption before day of sale; duties of clerk and sheriff; apportionment of costs, charges and expenses. Issues may be joined in said action as in other civil actions, but after such issues are so joined said actions shall stand for trial and shall have precedence over all other actions except criminal cases and it shall be the duty of such district court, in as summary way as possible, to investigate and to decide what taxes, charges, interest, and penalty thereon, to the date of the filing of the petition, shall have been legally assessed and charged on such tract, lot, or piece of real estate, and to render judgment therefor, together with the interest, charges and penalty thereon, as provided by law, together with and including in such judgment any taxes, interest charges and penalties which became a lien on such tract, lot, or piece of real estate after the filing of the petition in the same manner as if set out in the petition, together with the cost and expenses of the proceeding and sale and to charge the same as a first and prior lien on said tract, lot, or piece of real estate, subject, however, to valid covenants running with the land and to valid easements of record or in use, whether the holder thereof appears or not, and to order the sale of the said real estate for the payment of such taxes, charges, interest and penalty and the costs, and expense of such proceedings and sale; which sale shall be made and conducted as hereinafter provided: *Provided*, That any person interested in any tract, lot or piece of real estate as owner or holder of the record title, his or her heirs, devisees, executors, administrators, assigns, or any mortgagee or his or her assigns may before the day of sale hereinafter provided for, make redemption in the following manner: Such redemptioner, his or her agent or attorney shall file with the clerk of the court an application to redeem, identifying the parcel to be redeemed, and paying to said clerk, to cover its equitable share of all costs and expenses of the proceedings and sale, such amount as the court may order, or if no order be made then an amount equal to five percent of the amount set forth in the petition as the lien for taxes, charges, interest and penalties chargeable to each tract, lot or piece of real estate plus such charges if any as may be chargeable separately against said parcel.

Upon receipt of such payment the clerk shall issue a receipt therefor which shall be forthwith exhibited to the county treasurer, who shall forthwith calculate the amount of taxes, charges, interest and penalties chargeable against said real estate as of such date, which amount shall be forthwith paid to said treasurer, who shall thereupon issue in triplicate a certificate showing such redemption, one copy of which he or she shall forthwith deliver to the clerk of the district court, the other to such redemptioner, and the third to the county attorney. Such payments shall be a full satisfaction and redemption of such tract, lot or piece of real estate from the lien and shall stay all further proceedings for the collection of such lien as against the particular tract, lot or piece of real estate so redeemed.

The clerk shall immediately upon receipt of such certificate make an entry upon the records in his or her office opposite such case showing that the lien as to such tract, lot or piece of real estate has been redeemed. If an order of sale has been issued the clerk shall thereupon issue and deliver to the sheriff a statement reciting such redemption specifically identifying the tract, lot or piece of real estate redeemed and thereupon the sheriff shall strike such lot, tract or piece of real estate from the execution or order of sale and shall not include it in the sale, and upon making return of the execution or order of sale he or she shall attach thereto such statement.

The court shall as soon as practicable after the sale equitably apportion the cost and charges, and the expenses of the proceedings and sale to each tract, lot or piece of real estate, and the total costs, charges and expenses of the proceedings and sale, less the amount thereof paid by redemptioners shall be deducted from the gross sum received from the sale of all of said lots, tracts, and pieces of real estate, and the balance shall be equitably apportioned to each tract, lot, or piece of real estate that sold for more than its share of the costs, charges, and expenses of the proceedings and sale, and tax liens on all real estate sold or redeemed in said action shall be satisfied and discharged of record.

If any lot, tract or piece of real estate sells for more than the judgment lien for the taxes, interest, penalty, and charges plus its share of the costs, charges and expenses of the proceedings and sale, such excess shall be ordered by the court paid upon due proof to the owner or party entitled thereto.

History: L. 1901, ch. 392, § 3; R.S. 1923, 79-2803; L. 1941, ch. 375, § 19; L. 1943, ch. 302, § 2; L. 1945, ch. 362, § 3; April 1.