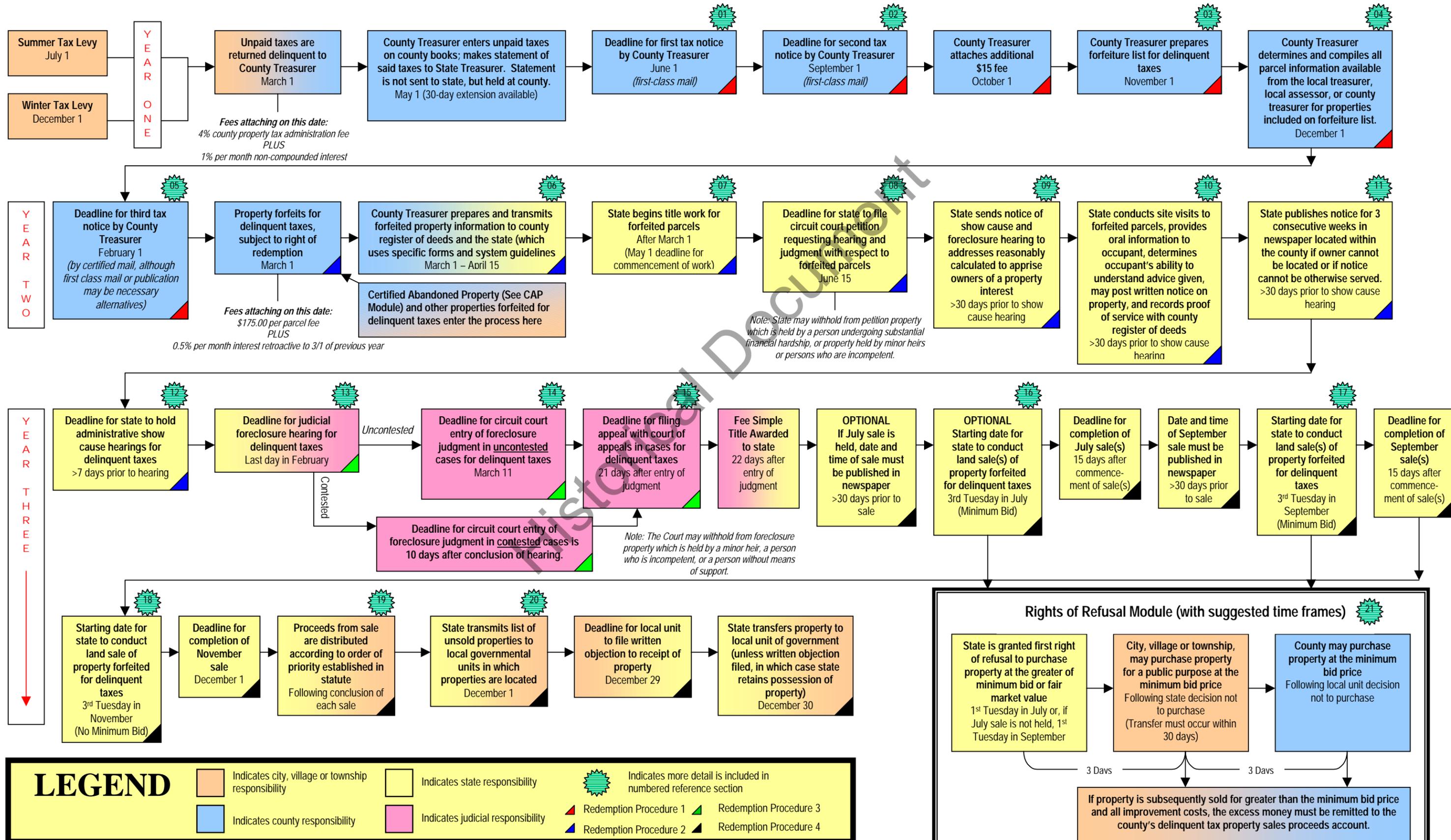


TAX REVERSION PROCEDURE FOR OPT-OUT COUNTIES

ESTABLISHED BY P.A. 123 OF 1999



Notes to Accompany Tax Reversion Procedures for Opt-Out Counties

NOTE 01: Deadline for first tax notice by County Treasurer.

The first notice must be sent by first-class mail, address correction requested, to the following parties:

- The person to whom a tax bill for property returned for delinquent taxes was last sent or to the person identified as the owner of property returned for delinquent taxes;
- Any person entitled to notice of the return of delinquent taxes under section 78a(4) of the act (i.e., any person with an unrecorded property interest, or any other person who has paid appropriate fees for the purpose of receiving such notification); and
- A person to whom a tax certificate for property returned for delinquent taxes was issued (e.g., a lien buyer).

The notice that is sent shall include all of the following information:

- The date property on which unpaid taxes were returned as delinquent will be forfeited to the county treasurer for those unpaid delinquent taxes, interest, penalties, and fees;
- A statement that a person who holds a legal interest in the property may lose that interest as a result of the forfeiture and subsequent foreclosure proceeding;
- A legal description or parcel number of the property and the street address of the property, if possible;
- The names of the person or persons to whom the notice is addressed;
- The unpaid delinquent taxes, interest, penalties, and fees due on the property;
- A statement that unless those unpaid delinquent taxes, interest, penalties, and fees are paid within 21 days after judgment is entered in the foreclosure proceeding, absolute title to the property shall vest in the foreclosing governmental unit; and
- A statement of the person's rights of redemption and notice that the rights of redemption will expire 21 days after the court enters an order foreclosing the property.

NOTE 02: Deadline for second tax notice by County Treasurer.

This second notice must be sent by first-class mail, address correction requested, to the following parties:

- The person to whom a tax bill for property returned for delinquent taxes was last sent or to the person identified as the owner of property returned for delinquent taxes;
- Any person entitled to notice of the return of delinquent taxes under section 78a(4) of the act (i.e., any person with an unrecorded property interest, or any other person who has paid appropriate fees for the purpose of receiving such notification); and
- A person to whom a tax certificate for property returned for delinquent taxes was issued (e.g., a lien buyer).

The notice that is sent shall include all of the following information:

- The date property on which unpaid taxes were returned as delinquent will be forfeited to the county treasurer for those unpaid delinquent taxes, interest, penalties, and fees;
- A statement that a person who holds a legal interest in the property may lose that interest as a result of the forfeiture and subsequent foreclosure proceeding;
- A legal description or parcel number of the property and the street address of the property, if possible;
- The names of the person or persons to whom the notice is addressed;
- The unpaid delinquent taxes, interest, penalties, and fees due on the property;
- A schedule of the additional fee that will accrue on the immediately succeeding October 1 pursuant to section 78d of the act if the unpaid delinquent taxes, interest, penalties and fees due on the property are not paid;
- A statement that unless those unpaid delinquent taxes, interest, penalties, and fees are paid within 21 days after judgment is entered in the foreclosure proceeding, absolute title to the property shall vest in the foreclosing governmental unit; and
- A statement of the person's rights of redemption and notice that the rights of redemption will expire 21 days after the court enters an order foreclosing the property.

NOTE 03: County Treasurer prepares forfeiture list for delinquent taxes.

This list shall include all property on which delinquent taxes, interest, penalties, and fees are unpaid on the November 1 after the taxes levied on the property were returned to the county treasurer for forfeiture, foreclosure, and sale. The list shall indicate for each parcel the total amount of delinquent taxes, interest, penalties, and fees, computed to the day preceding the forfeiture (February 28 of the next year).

This list does not need to be sent to the state in November, but will provide the basis for the transmission that is made from the county to the state in the following March.

NOTE 04: County Treasurer determines and compiles all parcel information available from the local treasurer, local assessor, and county treasurer for properties included on forfeiture list.

To the extent possible, county treasurers should determine all of the following based exclusively on information available at the offices of the local treasurer, local assessor and county treasurer:

- The street address of the property; and
- The names and addresses of all of the following:
 - The owner(s);
 - The holder of any undischarged mortgage, tax certificate, or other legal interest (including mineral rights);
 - A subsequent purchaser under any land contract; and
 - A person entitled to notice of the return of delinquent taxes under section 78a(4) of the act (i.e., any person with an unrecorded property interest, or any other person who has paid appropriate fees for the purpose of receiving such notification).

NOTE 05: Deadline for third tax notice by County Treasurer

The third notice must be sent by certified mail, return receipt requested, to the following parties:

- The person to whom a tax bill for property returned for delinquent taxes was last sent and if different, to the person identified as the owner of property returned for delinquent taxes; and
- All other persons identified in the yellow-highlighted section above.

In addition, a copy of this notice must be mailed to the property by first-class mail, addressed to “occupant,” if the occupant of the property is not already included in the immediately preceding list. The notice that is sent shall include all of the following information:

- The date property on which unpaid taxes were returned as delinquent will be forfeited to the county treasurer for those unpaid delinquent taxes, interest, penalties, and fees;
- A statement that a person who holds a legal interest in the property may lose that interest as a result of the forfeiture and subsequent foreclosure proceeding;
- A legal description or parcel number of the property and the street address of the property, if possible;
- The names of the person or person(s) to whom the notice is addressed;
- The unpaid delinquent taxes, interest, penalties, and fees due on the property;
- A schedule of the additional fees that will accrue on the immediately succeeding March 1 pursuant to section 78g of the act if the unpaid delinquent taxes, interest, penalties and fees due on the property are not paid;
- A statement that unless those unpaid delinquent taxes, interest, penalties, and fees are paid within 21 days after judgment is entered in the foreclosure proceeding, absolute title to the property shall vest in the foreclosing governmental unit; and
- A statement of the person’s rights of redemption and notice that the rights of redemption will expire 21 days after the court enters an order foreclosing the property.

The county treasurer may insert one or more additional notices in a newspaper published and circulated in the county in which the property is located, if there is one. If no newspaper is published in that county, publication may be made in a newspaper published and circulated in an adjoining county.

NOTE 06: County Treasurer prepares and transmits forfeited property information to county register of deeds and the state (which uses specific forms and systems guidelines).

The forms to be used for this purpose are included in Appendix B of this document. The systems requirements (which should be reviewed carefully) are included in Appendix A.

NOTE 07: State begins title work with respect to forfeited parcels.

The state will contract with Title Check, LLC for its title work. Title Check, LLC will have access to the state-maintained delinquent property database and will perform 40-year title searches on each parcel contained therein.

Title Check, LLC will not be paid for its work on parcels that are redeemed prior to foreclosure.

NOTE 08: Deadline for state to file circuit court petition requesting hearing and judgment with respect to forfeited parcels.

The state must file a circuit court petition in the county where a parcel (or group of parcels) is located. The statute permits a single filing listing multiple parcels, rather than one filing for each parcel. The state court administrator also has written a letter in support of this consent.

The petition shall seek a judgment in favor of the foreclosing governmental unit for the forfeited unpaid delinquent taxes, interest, penalties, and fees listed against each parcel of property. The petition shall also request that a judgment be entered vesting absolute title to each parcel of property in the foreclosing governmental unit, without right of redemption. Before the date of hearing on the petition, the foreclosing governmental unit shall file proof of any notice, service, or publication required under this act with the court.

The state is permitted to withhold parcels from the circuit court petition under certain circumstances.

The state has prepared a form for the filing of the circuit court petition, which is included for information purposes only in Appendix B.

NOTE 09: State sends notice of show cause and foreclosure hearings to addresses reasonably calculated to apprise owners of a property interest.

Owners of a property interest shall be identified using the following sources:

- Records in the office of the county register of deeds;
- Tax records in the office of the county treasurer;
- Records in the office of the local assessor; and
- Records in the office of the local treasurer.

Notice of the show cause and foreclosure hearings must be sent by certified mail, return receipt requested, to the following parties:

- Those persons reasonably determined by the state (using the above-listed sources) to have a property interest in the parcel in question, including mineral rights;
- A person entitled to notice of the return of delinquent taxes under section 78a(4) of the act (i.e., any person with an unrecorded property interest, or any other person who has paid appropriate fees for the purpose of receiving such notification); and
- A person to whom a tax deed for property returned for delinquent taxes was issued (I e., a lien buyer).

The notice shall include:

- The date on which the person was forfeited to the county treasurer;

- A statement that the person notified may lose his or her interest in the property as a result of the foreclosure proceeding under section 78k of the act;
- A legal description or parcel number of the property and the street address of the property, if possible;
- All persons to whom the notice is addressed;
- The total taxes, interest, penalties, and fees due on the property;
- The date and time of the show cause hearing under section 78j of the act;
- The date and time of the hearing on the petition for foreclosure under section 78k of the act, and a statement that unless the forfeited unpaid delinquent taxes, interest, penalties, and fees are paid within 21 days after judgment is entered in the foreclosure proceeding, the title to the property shall vest absolutely in the foreclosing governmental unit (in this case, the state); and
- An explanation of the person's rights of redemption and notice that the rights of redemption will expire 21 days after judgment is entered in the foreclosure proceeding under section 78k.

The state will use the form provided in Appendix B of this document for this notice.

NOTE 10: State conducts site visits to forfeited parcels, provides oral information to occupant, determines occupant's ability to understand advice given, may post written notice on property, and records proof of service with county register of deeds.

The DNR will conduct the site visits required by PA 123. If the property is occupied, the DNR representative will attempt to personally serve the person occupying the property with a copy of the notice of the show cause and foreclosure hearings. If personal service occurs, the DNR representative will orally inform the occupant of the following:

- That the property will be foreclosed;
- That the occupants will be required to vacate unless all forfeited unpaid delinquent taxes, interest, penalties, and fees are paid;
- Of the time within which all forfeited unpaid delinquent taxes, interest, penalties, and fees must be paid; and
- Of agencies or other resources that may be available to assist the owner to avoid loss of the property. A listing of the FIA resources available, by county, is provided in Appendix C of this document. Local resources, such as church groups and other agencies, also may be available.

The state's script for this oral advice is included for informational purposes only in Appendix C of this document.

If it becomes clear to the DNR representative that the occupant lacks the ability to understand the advice given, the agency will either (a) notify the Family Independence Agency, or (b) provide the occupant with the names and telephone number of the agencies that may be able to assist the occupant (again, see listing in Appendix C), or both.

If the DNR representative is unable to personally meet with the occupant, he or she shall place a copy of the notice in a conspicuous manner on the property. The representative also will post a brief explanation, in plain English that explains the following:

- That the property will be foreclosed unless all forfeited unpaid delinquent taxes, interest, penalties, and fees are paid;
- Of the time within which all forfeited unpaid delinquent taxes, interest, penalties, and fees must be paid; and
- Of agencies or other resources that may be available to assist the owner to avoid loss of the property. Again, a listing of the FIA resources available, by county, is provided in Appendix C of this document. Local resources, such as church groups and other agencies, also may be available.

A written sample of this notice is attached in Appendix C of this document.

Following completion of these notice requirements, proof of service and the personal visit to the property shall be filed with the register of deeds in the county in which the property is located. These forms are included in Appendix B of this document.

NOTE 11: State publishes notice for 3 consecutive weeks in newspaper located within the county if owner cannot be located or if notice cannot be otherwise served.

The notice shall be published for 3 consecutive weeks, once each week, in a newspaper published and circulated in the county in which the property is located, if there is one. If no paper is published in that county, then publication shall be made in a newspaper published and circulated in an adjoining county, and proof of publication, by affidavit of the printer or the publisher of the newspaper, shall be recorded with the register of deeds in the county in which the property is located.

A form for affidavit of publication is included in Appendix B of this document.

NOTE 12: Deadline for state to hold administrative show cause hearings for delinquent taxes.

For all properties subject to a foreclosure hearing, the state shall hold a hearing not later than 7 days immediately preceding the date of the foreclosure hearing to show cause why absolute title to the property in question should not vest in the state. The act permits the state to hold separate or combined hearings for different owners or persons with a property interest.

A person claiming an interest in a parcel of property may redeem the property at the show cause hearing, or may contest the validity or correctness of the forfeited unpaid delinquent taxes, interest, penalties, and fees for one or more of the following reasons:

- No law authorizes the tax;
- The person appointed to decide whether a tax shall be levied under a law of the state acted without jurisdiction or did not impose the tax in question;
- The property was exempt from the tax in question, or the tax was not legally levied;

- The tax has been paid within the time limited by law for payment or redemption;
- The tax was assessed fraudulently; or
- The description of the property used in the assessment was so indefinite or erroneous that the forfeiture was void.

Note that lack of notice is not one of the reasons included as a valid basis for contesting the foreclosure.

If a person contesting the foreclosure prevails in the show cause hearing, the state shall notify the county treasurer and the county treasurer shall correct the tax roll. If the state prevails, then the foreclosure hearing takes place as scheduled.

NOTE 13: Deadline for judicial foreclosure hearing for delinquent taxes.

Before the date of the foreclosure hearing, the state shall file proof of service and/or publication required under the act with the clerk of the circuit court.

A person claiming an interest in a parcel of property set forth in the foreclosure petition may contest the validity of the forfeited unpaid delinquent property taxes for one or more of the reasons highlighted in yellow, above. Again, note that lack of notice is not one of the reasons included as a valid basis for contesting the foreclosure. In order to contest the foreclosure petition, a person shall file written objections with the clerk of the circuit court and serve those objections on the state.

NOTE 14: Deadline for circuit court entry of foreclosure judgment for delinquent taxes.

The court may find in one of three ways:

- In favor of the state (petitioner), in which case absolute title is granted to the state.
- In favor of a person contesting the foreclosure, in which case the state must contact the county treasurer to ensure that the tax rolls are corrected to reflect that ruling.
- The court also may find that the owner of the property is a minor heir, is incompetent, or is without means of support. In these instances, the court may withhold that property from foreclosure for one year or may enter an order extending the redemption period as the court determines to be equitable. In this circumstance a taxing unit's lien is not prejudiced.

A form for the court's judgment of foreclosure, as well as a form for the registers of deeds to use in recording this judgment, can be found in Appendix B.

NOTE 15: Deadline for filing appeal with court of appeals in cases for delinquent taxes.

Owners or persons with a property interest have 21 days to appeal the circuit court's decision. This is accomplished by paying the amount due to the county treasurer and filing a notice of appeal in the court of appeals. The appeal is limited to the record of proceedings in the circuit

court and shall not be de novo. The circuit court's judgment shall be stayed until the court of appeals has either reversed or affirmed that judgment.

If the judgment is affirmed, then the amount determined to be due shall be refunded to the person who appealed the judgment. If the circuit court's decision is reversed or modified, then the county treasurer shall refund the amount determined to be due to the person who appealed the judgment and retain the balance in accordance with the court of appeals' order.

NOTE 16: OPTIONAL Starting date for state to conduct July land sale(s) of property forfeited for delinquent taxes.

The DNR will conduct land sales on behalf of the state. Beginning on the third Tuesday in July immediately succeeding the entry of judgment vesting absolute title in the state, the state or its representative could hold one or more property sales at one or more convenient locations at which property foreclosed by the judgment would have to be sold by auction sale. Notice of the time and location of the sale would be required to be published not less than 30 days before the sale in the county's newspaper, or if there is no county newspaper where the property is located, then in an adjoining county's newspaper. The sale or sales would have to be completed within 15 days.

The property would have to be sold to the person bidding the highest amount above the minimum bid*, and could be offered as individual parcels or as two or more parcels for sale as a group. The state could require full payment by cash, certified check, or money order at the close of each day's bidding. Within 30 days after the date of a sale, the state would have to convey the property by deed to the winning bidder.

NOTE 17: Starting date for state to conduct September land sale(s) of property forfeited for delinquent taxes.

Beginning on the third Tuesday in September immediately after the July auction sale, all property not previously sold would have to be re-offered for sale, subject to the yellow-highlighted requirements included above.

NOTE 18: Starting date for state to conduct November land sale(s) of property forfeited for delinquent taxes.

Beginning on the third Tuesday in November immediately after the property sale is held in September, all property not previously sold would have to be re-offered for sale again subject to the same yellow-highlighted requirements, except that the minimum bid would not be required.

NOTE 19: Proceeds from sale are distributed according to order of priority established in statute.

The state would be required to deposit the proceeds from the sale of property into a restricted account designated as the "Delinquent Tax Property Sales Proceeds for the Year (specified)" and the state would direct the investment of the account.

Pursuant to the act, sale proceeds shall be distributed in the following order of priority:

- The Delinquent Tax Revolving Fund would be reimbursed for any amounts that had not been charged back to a local unit of government if the local unit was paid the delinquent tax on property offered for sale, whether or not that property was sold;
- All costs of the sale of property for the year would be paid;
- Any costs of the foreclosure proceedings for the year, including but not limited to costs of mailing, publication, personal service, and outside contractors would be paid;
- Any costs for the sale of property or foreclosure proceedings for any prior year that had not been paid, or reimbursement from that prior year's delinquent tax property sales proceeds would be paid;
- Any costs incurred by the state in maintaining foreclosed property before the sale, including costs for any environmental remediation; and
- Finally, any remaining balance would be transferred to the Land Reutilization Fund.

NOTE 20: State transmits list of unsold properties to local governmental units in which properties are located.

Sample language for the written objection that a city, village or township may wish to file is included in Appendix D of this document.

NOTE 21: RIGHT OF REFUSAL MODULE (with suggested time frames)

Each party has three business days to notify the others of its decision to purchase or refuse specific parcels of property. This notification shall be made in writing to the treasurer of the governmental unit in question, and may be transmitted via e-mail, fax, overnight or U.S. mail delivery, as long as it is received by the other governmental units by 5:00 p.m. on the third business day.

Example: Beginning on the first Tuesday in July, the state begins its formal consideration of the purchase of Parcel X, which is located in the City of Bangor in Van Buren County. It must notify the other local units by 5:00 p.m. on Thursday. In this instance, the state refuses to purchase the parcel and makes proper notification by fax. The City of Bangor then has until 5:00 p.m. on the following Tuesday to exercise its rights of refusal, and Van Buren County follows with a Thursday deadline of 5:00 p.m. If none of the governmental units choose to purchase the property, then it may be offered for sale beginning the third Tuesday in July.