

LOCAL GOVERNMENT ACT

Part 11 — Annual Municipal Tax Sale

Annual tax sale

- 403** (1) At 10 a.m. on the last Monday in September, at the council chambers, the collector must conduct the annual tax sale by offering for sale by public auction each parcel of real property on which taxes are delinquent.
- (2) If the last Monday in September is a holiday, the tax sale must instead be held on the next Monday that is not a holiday.
- (3) The collector may adjourn the tax sale to the same hour on the following day, and from day to day until each parcel is disposed of.
- (4) The collector may act as auctioneer at the tax sale.
- (5) The collector may also offer for sale at the tax sale the other improvements on the real property that are taxable under this Act or the *Community Charter* and on which taxes are delinquent.
- (6) A sale under subsection (5) must be in accordance with section 252 [*recovery of taxes by the legal remedy of distress*] of the *Community Charter*.
- (7) The sale of real property under this section is not a bar to a sale under section 252 [*recovery of taxes by the legal remedy of distress*] of the *Community Charter*.

Exemption of Crown land from tax sale

- 404** (1) A council may, by bylaw, exempt from the tax sale the sale of any real property owned by the Provincial government.
- (2) An exemption under subsection (1) does not relieve the real property from taxes lawfully imposed or prejudice the right of the collector to offer it for sale in a succeeding year.

Notice of tax sale

- 405** (1) Notice of the time and place of the tax sale and the description and street address, if any, of the property subject to tax sale must be published in at least 2 issues of a newspaper.
- (2) The last publication under subsection (1) must be at least 3 days and not more than 10 days before the date of the tax sale.

Municipality may bid at tax sale

- 406** A person authorized by the council may bid for the municipality at the tax sale up to a maximum amount set by the council.

Upset price and conduct of tax sale

- 407** (1) The collector is authorized to receive from the proceeds of a sale under section 403 the following amounts for the use of the municipality:
- (a) the amount of delinquent taxes, taxes in arrear and interest to the first day of the tax sale for which the parcel of land and the improvements are liable for sale;
 - (b) the taxes, including penalties incurred, for the current year on the land and improvements;
 - (c) 5% of the amounts under paragraph (a) and (b);
 - (d) the fees prescribed under the *Land Title Act*.
- (2) The total of the amounts under subsection (1) is the upset price and the lowest amount for which the parcel may be sold.
- (3) The highest bidder above the upset price or, if there is no bid above the upset price, the bidder at the upset price, must be declared the purchaser.
- (4) If there is no bid, or no bid equal to the upset price, the municipality must be declared the purchaser.
- (5) If the municipality has been declared the purchaser of a parcel, the collector may offer the parcel for sale again later at the tax sale on the same conditions as before.
- (6) If a purchaser fails to immediately pay the collector the amount of the purchase price, the collector must promptly again offer the parcel for sale.

Purchaser to give authority to register tax sale title

- 408** (1) At the time of the tax sale and before the purchaser is given the certificate of sale, a purchaser other than the municipality must provide a statement, signed by the purchaser or the purchaser's agent,
- (a) setting out the purchaser's full name, occupation and address, and
 - (b) authorizing the collector to make the application referred to in section 420 (2) to register at the appropriate time the purchaser's title to the real property.
- (2) A statement under subsection (1) must be preserved with the records of the sale.

Collector to provide certificate of sale

- 409** After a sale to a person other than the municipality, the collector must sign and give to the purchaser a certificate
- (a) describing the parcel sold,
 - (b) stating the sale price, and

(c) stating that an indefeasible title will be applied for on the purchaser's behalf at the end of one year from the date of sale unless the property is redeemed or the sale is cancelled under section 423.

Tax sale of Crown land subject to an agreement to purchase

- 410** (1) The collector may, by sale held at the annual tax sale, sell land, the fee simple of which is vested in the Provincial government, but held by a person under an agreement to purchase.
- (2) A sale under this section is subject to the interest of the Provincial government and the collector must expressly state at the sale that the interest of the Provincial government is prior to all claims and is not affected by the sale.
- (3) Sections 412 to 420 do not apply to a sale under this section.
- (4) The collector must sign and give the purchaser of land at a sale under this section a certificate that
- (a) describes the land sold,
 - (b) states the price at which the land was sold,
 - (c) states that the interest of the Provincial government has priority over all claims and is not affected by the sale, and
 - (d) states that the sale is made under this section.
- (5) The collector must promptly provide to the minister responsible for the administration of the *Land Act*
- (a) a copy of the certificate under subsection (4), and
 - (b) the address of the purchaser.

Provincial government may accept tax sale purchaser

- 411** (1) The minister responsible for the administration of the *Land Act* may accept the tax sale purchaser as purchaser of the land and may deal with that purchaser to the exclusion of the person whose interest was sold at the tax sale and of all persons claiming under that person.
- (2) If that minister accepts the tax sale purchaser as purchaser of the land, the minister must notify the collector of this.
- (3) If that minister does not accept the tax sale purchaser as purchaser of the land or does not notify the collector within 6 months from the date of sale that the minister has accepted the purchaser, the purchaser is entitled to a refund from the municipality of the amount the purchaser paid together with interest at the rate prescribed under subsection (4).
- (4) The Lieutenant Governor in Council may prescribe a rate of interest for the purposes of subsection (3).
- (5) If a refund is made under subsection (3), the collector must promptly replace the amount of the upset price, together with the interest paid to the purchaser, as delinquent taxes on the land.

Resale of land purchased by municipality at tax sale

- 412** (1) If property is purchased by a municipality under section 407 and is not sold later at the tax sale, within 9 months after the purchase, the council may sell the property to any person for not less than the upset price plus interest accrued from the date of purchase at the rate prescribed under section 11 (3) of the *Taxation (Rural Area) Act*.
- (2) On a sale under this section, the council must direct the collector to give the purchaser a certificate similar to that under section 409.
- (3) A sale under this section does not affect the period for or the right of redemption by the owner under this Act.

Notice of tax sale must be filed in land title office

- 413** Promptly after selling property for taxes, the collector must
- (a) file in the proper land title office the notice of the tax sale, and
 - (b) pay the fees prescribed under the *Land Title Act* for filing the notice and making the proper references.

Owners must be given notice of tax sale and redemption period

- 414** (1) Not later than 3 months after the sale of property at the tax sale, the collector must give written notice of the sale and of the day the redemption period ends, either by serving the notice or by sending it by registered mail, to persons registered in the land title office
- (a) as owner of the fee simple of the property, or
 - (b) as owner of a charge on the property.
- (2) On application, the Supreme Court may order that the notice under subsection (1) may be served by substituted service in accordance with the order.
- (3) No liability or responsibility other than as set out in subsection (1) rests with the collector or municipality to give notice of the sale for taxes.

Assessment and taxes during redemption period

- 415** (1) During the period allowed for redemption, real property sold at the tax sale must continue to be assessed and taxed in the name of the person who at the time of sale appeared on the assessment roll as owner and that person is liable for taxes accruing.
- (2) The accruing taxes continue to be a special lien on the property under section 250 [*taxes are a special charge on the land*] of the *Community Charter*.
- (3) The purchaser at the tax sale may pay the taxes that become due during the period of redemption, and the amount paid must be added to the amount required to redeem.

Application of surplus from tax sale

- 416** (1) If the property is not redeemed, money received by the collector at the tax sale above the upset price must be paid without interest to the owner at the time of the tax sale, on written application to the council.
- (2) The money must not be paid to the owner if a claim to the surplus is made by another person on the ground that the property belonged to the other person, or that the other person is otherwise entitled to the surplus.
- (3) If a claim referred to in subsection (2) is made, the money must, without leave, be paid into the Supreme Court, accompanied by
- (a) a copy of the certificate of sale under section 409, and
 - (b) a statement of the municipal corporate officer setting out the facts under which the payment into court is made and the names of both the owner at the time of the tax sale and the claimant.
- (4) Money paid into court under subsection (3) is payable out of court to the party entitled on a court order to be made on application in a summary manner and subject to the giving of the notices directed by the court.
- (5) If surplus money remains unpaid 6 months after the end of the redemption period, in the next month the council must have published in a newspaper a notice stating
- (a) the name of the owner to whom the surplus is payable,
 - (b) the date it became payable, and
 - (c) the amount of the surplus.
- (6) If the surplus remains unclaimed 3 months after publication under subsection (5), it must be transferred to the administrator under the *Unclaimed Property Act*.
- (7) Money transferred under subsection (6) is deemed to be an unclaimed money deposit under the *Unclaimed Property Act*.

Redemption by owner

- 417** (1) A parcel of property sold at a tax sale may be redeemed in accordance with this section by
- (a) an owner or registered owner in fee simple of the parcel,
 - (b) an owner of a registered charge against the parcel, or
 - (c) another person on behalf of a person referred to in paragraph (a) or (b).
- (2) The time limit for making a redemption is one year from the day the tax sale began, or a further time allowed by bylaw under subsection (6).
- (3) A redemption is made by paying or tendering to the collector for the use and benefit of the purchaser under section 407 the total of the following amounts:
- (a) the upset price of the parcel at the time of the tax sale;

- (b) all costs of which the collector has had notice that have been incurred by the purchaser in maintenance of the real property and in prevention of waste;
 - (c) taxes advanced by the purchaser;
 - (d) interest to the date of redemption on any amount in excess of the upset price and on the total amount expended by the purchaser under paragraphs (a) to (c) during the period for redemption, at the rate prescribed under section 11 (3) of the *Taxation (Rural Area) Act*.
- (4) So much of the amount received by the collector at the sale for land title fees as is not required must be deducted.
- (5) On redemption of a parcel, the purchaser is entitled to receive from the municipality all amounts paid by the purchaser, together with interest to the date of redemption at the rate prescribed under section 11 (3) of the *Taxation (Rural Area) Act*.
- (6) If the municipality has been declared the purchaser and the property has not been subsequently sold under section 407, the council may, by bylaw, extend for one year only the period for redemption.

Redemption payments by instalments

- 418** (1) This section applies in the case of land of which the municipality has been declared the purchaser under section 407 if
- (a) there are improvements on the land,
 - (b) the land has not been subsequently sold under section 407 or 412, and
 - (c) the municipality has not adopted a bylaw under section 417 (6).
- (2) A person empowered under section 417 to redeem the land and improvements referred to in subsection (1) is entitled to redeem them under subsection (3) if the person pays to the collector, on or before the latest date allowed under this Act for redemption, 50% of the total of
- (a) the amount of the upset price for which the land and improvements were offered for sale, and
 - (b) interest on the amount under paragraph (a).
- (3) A person who makes a payment under subsection (2) may redeem the land and improvements by paying to the collector the remainder of the total referred to in that subsection at any time within 11 months and 21 days from the latest date otherwise allowed for redemption.
- (4) In the circumstances described in this section, the time for redemption is extended accordingly.

Notice of redemption must be filed in land title office

419 If real property sold for taxes is redeemed within the time allowed for redemption, the collector must promptly send to the registrar of land titles for filing the notice required by section 273 of the *Land Title Act*, together with any applicable fee under that Act.

Registration of purchaser

420 (1) If a parcel of land sold for taxes is not redeemed as provided in this Act, at the end of the redemption period, the collector must forward a notice to that effect to the registrar of land titles.

(2) The notice under subsection (1) must

(a) show the full name, occupation and address of the purchaser, and

(b) be accompanied by

(i) the fees payable under the *Land Title Act*, and

(ii) an application in the form approved under the *Land Title Act* for registration of title in fee simple in the name of the purchaser.

(3) It is not necessary with the application referred to in subsection (2) (b) to produce an outstanding absolute certificate of title or duplicate, or interim certificate of indefeasible title.

(4) On forwarding the notice referred to in subsection (1) to the registrar of land titles, the municipality must immediately notify the administrator under the *Property Transfer Tax Act*.

(5) The notice referred to in subsection (1) operates

(a) as a conveyance to the purchaser from the registered owner in fee simple, without proof of the signature of the collector and without an attestation or proof of execution, and

(b) as a quit claim in favour of the purchaser of all right, title and interest of every previous owner in fee simple of the parcel, or of those claiming under any previous owner, and of all claims, demands, payments, charges, liens, judgments, mortgages and encumbrances of every type, and whether or not registered in accordance with the *Land Title Act*, subsisting at the time the application to register was received by the registrar, except

(i) the matters set out in section 276 (1) (c) to (g) of the *Land Title Act*, and

(ii) any lien of the Crown or an improvement district.

(6) One application may be made under this section on behalf of a purchaser for registration of any number of parcels contained in the same block and listed on the one notice produced for registration, but subject to the requirements of section 158 of the *Land Title Act*.

(7) If the registrar of land titles refuses to register the title in the name of a purchaser of property at a tax sale and no appeal is made under section 311 of the *Land Title Act*, or if an appeal has been made and the decision of the

registrar sustained, the municipality is deemed to have been declared the purchaser of the property at the tax sale, and the municipality must refund the purchase price, without interest, to the purchaser.

Effect of tax sale on rights of owner

421 (1) When real property is sold at a tax sale under this Act, all rights in it held by the person who at the time of the sale was the owner, the registered owner in fee simple or the registered owner of a registered charge on the property, immediately cease to exist, except as follows:

- (a) the property is subject to redemption as provided in this Act;
- (b) the right to possession of the property is not affected during the time allowed for redemption, subject, however, to
 - (i) impeachment for waste, and
 - (ii) the right of the purchaser at the tax sale to enter on the property sold to maintain it in a proper condition and to prevent waste;
- (c) during the period allowed for redemption, an action may be brought under section 422 to have the tax sale set aside and declared invalid.

(2) During the period allowed for redemption, subsection (1) does not operate to affect in any way the rights of the owner, the registered owner in fee simple or the owner of a registered charge, among or as between themselves.

Action by owner to have tax sale set aside

422 (1) A person who at the time of a tax sale was the owner, the registered owner in fee simple or the registered owner of a charge on the real property may bring an action in the Supreme Court to have the sale set aside and declared invalid.

(2) An action under subsection (1) may only be brought on one or more of the following grounds:

- (a) the property was not liable to taxation during the years in which the taxes for which the property was sold were imposed;
- (b) the taxes for which the property was sold were fully paid;
- (c) irregularities existed in connection with the imposition of the taxes for which the property was sold;
- (d) the sale was not fairly and openly conducted;
- (e) the collector did not give to that person the notice required by section 414.

(3) An action under this section may not be brought until one month after written notice has been given by the person to the council stating in detail the grounds of complaint.

(4) During the period allowed for redemption, subsection (1) does not operate to affect in any way the rights of the owner, the registered owner in fee simple or the owner of a registered charge, among or as between themselves.

Reinstatement of taxes if sale set aside

- 423** (1) If the court declares that a tax sale is set aside or invalid for a reason referred to in section 422 (2) (c) or (d), the court may
- (a) provide that the amount of unpaid taxes on the real property at the date of sale, together with interest from that date, is a lien on the property as if the tax sale had not taken place, in which case that amount is deemed to be delinquent taxes,
 - (b) provide for the immediate payment of those taxes, or
 - (c) otherwise deal with those taxes according to the circumstances.
- (2) During the period allowed for redemption, if the council finds a manifest error in the tax sale or in the proceedings before the sale, it may order that
- (a) the purchase price be returned to the purchaser together with interest at the rate prescribed under subsection (3), and
 - (b) the taxes be dealt with as the circumstances require, either
 - (i) by restoring the taxes as they were before the sale, or
 - (ii) otherwise as directed by the council.
- (3) The Lieutenant Governor in Council may prescribe a rate of interest for the purposes of subsection (2) (a).

Restrictions on legal actions in relation to tax sale

- 424** (1) After the end of the period allowed for redemption, no action may be brought to recover the property sold or to set aside its sale.
- (2) No action may be brought
- (a) against the registrar of land titles, the minister charged with the administration of the *Land Title Act*, the Land Title and Survey Authority of British Columbia or the collector in respect of the sale of the property or the registration of an indefeasible title to it, or
 - (b) against the municipality in respect of any loss or damage sustained by reason of the sale, except as provided in this section.
- (3) A person who at the time of the tax sale was an owner of, a registered owner in fee simple of or an owner of a registered charge on the property must be indemnified by the municipality for any loss or damage sustained by the person on account of the sale of the property if the circumstances referred to in section 422 (2) (a), (b) or (e) existed.
- (4) As limits on subsection (3),
- (a) no action may be brought to recover indemnity or compensation under this section after the end of one year from the time allowed by this Act for redemption of the real property, and
 - (b) there is no right to indemnity or compensation under subsection (3) if it is shown that the person claiming indemnity or compensation was aware

at the time of tax sale that the property was offered for sale, or was aware during the period allowed for redemption that it had been sold.

Reposessed tax sale land

425 If land that became the property of a municipality as a result of tax sale has been sold by agreement for sale or subject to mortgage and is reposessed by the municipality for satisfaction of amounts due, the land is deemed to be again tax sale land.

Procedure on default of purchaser under agreement

- 426** (1) The collector must send a notice in accordance with subsection (2) if
- (a) land becomes the property of the municipality as a result of tax sale or failure to pay taxes and is sold by agreement for sale, and
 - (b) there is default in the payment to the municipality of any instalment or interest.
- (2) The notice under subsection (1)
- (a) must be sent to the purchaser
 - (i) by personal service on the purchaser, or
 - (ii) by registered mail to the purchaser at the purchaser's address named in the agreement for sale, and
 - (b) must be to the effect that, if the amounts in default are not paid within 90 days from the date of the service or mailing,
 - (i) all the right, title and interest of the purchaser in and to the agreement for sale, the amounts paid under it and the land referred to in it will cease and determine, and
 - (ii) the amounts paid under the agreement for sale will be forfeited to the municipality.
- (3) On application, the Supreme Court may order that a notice under subsection (1) may be served by substituted service in accordance with the order.
- (4) If the purchaser fails to pay or cause to be paid the amounts in default within the period referred to in subsection (2) (b),
- (a) all that person's right, title and interest in and to the agreement for sale, the amounts paid under it and the land referred to in it cease and determine,
 - (b) the land immediately reverts in the municipality, free from all claims in respect of the agreement for sale, and
 - (c) all amounts paid under the agreement are forfeited to the municipality.
- (5) Despite the *Law and Equity Act* or any rule of law or equity to the contrary, a person may not commence or bring an action against the municipality for relief against forfeiture or otherwise in respect of the cancellation of the agreement for sale or the retainer of the money paid to the municipality under the agreement for sale.

(6) On the collector filing in the land title office an affidavit of the continuation of the default after the expiration of the 90 day period, together with evidence of notice or service, the registrar of land titles must cancel all charges or encumbrances, of any type, appearing in the records of the land title office against the land.

(7) The registrar of land titles may require evidence of sufficiency of service and, if not satisfied, the service must be effected in the manner the Supreme Court may direct on an application by the municipality without notice to any other person.

Redemption by municipality of land sold for Provincial taxes

427 (1) This section applies if

(a) land in a municipality has become subject to forfeiture to the Provincial government or has been sold by the Surveyor of Taxes or by the Inspector of Dikes to a person under any statute for the recovery of Provincial taxes, or school taxes, or diking assessments, or other charges in arrear, and

(b) there are taxes in arrear due to the municipality in respect of the land.

(2) In the circumstances referred to in subsection (1), the council may redeem the land at any time during the period allowed for redemption by paying to the Surveyor of Taxes or the Inspector of Dikes, as applicable, the amount required to redeem it as provided in the Act under which the land became subject to forfeiture or was sold.

(3) On the redemption of land by a council under this section, it may add the amount of the redemption payment made by it to the amount of municipal taxes in arrear in respect of the land, and the amount added is deemed to be delinquent taxes under this Act.

(4) If land subject to forfeiture referred to in subsection (1) has not been redeemed, but has been forfeited to and vested in the Provincial government, the council may purchase the land under the terms of any Act that provides for sale of the forfeited land to the municipality.

(5) Despite the sale of land referred to in subsection (1) by the Surveyor of Taxes or by the Inspector of Dikes for the recovery of taxes, assessments or other charges in arrear, the land continues to be liable to taxation by the municipality in which it is located.