CHAPTER 59

Forfeited Lands

ARTICLE 1

General Provisions

**SECTION 12‑59‑10.** Creation and membership of county forfeited land commissions.

 A forfeited land commission is created in each of the counties of this State, consisting of the county treasurer, county auditor and clerk of court, all acting ex officio, who shall serve without compensation. The chairman of the governing body of any county may also serve on the forfeited land commission when officially designated so to do by the county legislative delegation and in such case he shall have equal authority with other members of the commission and shall serve without compensation. In all counties having a register of deeds such register shall be a member of the forfeited land commission for that county in lieu of the clerk of court.

HISTORY: 1962 Code Section 65‑2901; 1952 Code Section 65‑2901; 1942 Code Section 2167; 1936 (39) 1627.

Code Commissioner’s Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to “Register of Mesne Conveyances” to “Register of Deeds” wherever appearing in the 1976 Code of Laws.

Library References

Taxation 3223.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1760 to 1765.

**SECTION 12‑59‑20.** Organization of Commission; compensation of secretary; quorum.

 The forfeited land commissions for the several counties shall organize by electing one of their number chairman and may elect a secretary whose duties they shall prescribe and whose compensation they shall fix, subject to the approval of the county legislative delegation. But in no case shall such compensation exceed five per cent of the money received for the sale of lands made by the commission, such compensation and other necessary expenses to be paid by vouchers drawn on the county treasurer and paid by the county treasurer from the ordinary county fund of the county and signed by all members of the commission for such county. A majority of each commission shall constitute a quorum for the transaction of other business.

HISTORY: 1962 Code Section 65‑2906; 1952 Code Section 65‑2906; 1942 Code Section 2171; 1932 Code Section 2172; 1926 (34) 920; 1929 (36) 125.

Library References

Taxation 3223.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1760 to 1765.

**SECTION 12‑59‑30.** Repealed.

HISTORY: Former Section, titled Transfer of titles from State to commissions; power to sell and dispose of lands; validity of certain deeds, had the following history: 1962 Code Section 65‑2907; 1952 Code Section 65‑2907; 1942 Code Section 2175; 1939 (41) 381. Repealed by 2015 Act No. 87, Section 58, eff June 11, 2015.

**SECTION 12‑59‑40.** Sale of forfeited lands; method and terms of sale.

 The forfeited land commissions created in this article for each of the counties of the State shall effect the sale of lands forfeited and bid in for the various forfeited land commissions of the State by the county auditors or the tax collectors of the several counties of the State in pursuance of Section 12‑51‑55. All lands deeded to the forfeited land commission of any county shall be held by it as assets of the county and sold to the best interest of the county. It shall sell and dispose of such lands in such a manner and upon such terms and conditions as to it may appear to be for the best interest of its county, but the terms of sale shall not in any case provide for a longer term than ten years for the full payment of the purchase price of such property and shall be secured by a first real estate mortgage upon the property sold.

HISTORY: 1962 Code Section 65‑2908; 1952 Code Section 65‑2908; 1942 Code Sections 2168, 2170; 1932 Code Section 2168; 1926 (34) 920; 1929 (36) 125; 1933 (38) 212; 1934 (38) 1366; 1936 (39) 1349, 1575; 1938 (40) 1717; 2015 Act No. 87 (S.379), Section 59, eff June 11, 2015.

Code Commissioner’s Note

At the direction of the Code Commissioner, the reference to Section 12‑49‑510 was changed to Section 12‑51‑55.

Effect of Amendment

2015 Act No. 87, Section 59, inserted “or the tax collectors” in the first sentence, and twice substituted “the county” for “the county and State” in the second sentence.

Library References

Taxation 3231.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1776 to 1784.

Attorney General’s Opinions

The Forfeited Land Commission of Lancaster County likely is authorized to sell property transferred to it by deed for the amount of the taxes due, without including in the sale price an amount equal to the outstanding assessments and fees, provided that doing so will serve the best interests of the county and the State. S.C. Op Atty Gen (Sept. 23, 2011) 2011 WL 4592371.

**SECTION 12‑59‑50.** Sale by former owner of forfeited lands; application to commission for approval of sale.

 The owner of any property which has been sold for delinquent county taxes and which has been bid in by the forfeited land commission may sell all or any part of such property so bid in by the forfeited land commission upon securing the approval, in writing, of the forfeited land commission, if such land has not theretofore been sold by such commission and application for such approval be made to the commission by the owner within five years from the day following the expiration of the period allowed by law to owners to redeem property sold for taxes.

HISTORY: 1962 Code Section 65‑2913; 1952 Code Section 65‑2913; 1942 Code Section 2170‑2; 1934 (38) 1253; 2015 Act No. 87 (S.379), Section 60, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 60, deleted “State and” following “sold for delinquent”.

Library References

Taxation 3231.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1776 to 1784.

**SECTION 12‑59‑60.** Sale by former owner of forfeited land; old tax shall be paid on sale of whole tract; seventy‑five per cent on sale of part.

 The forfeited land commission shall not give its approval for the sale of the entire lot or tract unless the owner pays all taxes which may at any time be due thereon. In case the owner petitions the commission to sell a part thereof and the commission shall deem it advisable to permit such sale, the owner shall pay to the forfeited land commission from the proceeds of the sale of such part or portion of the property involved not less than seventy‑five per cent of the entire sale price, unless a smaller amount is sufficient to pay all taxes due, and upon such payment the commission shall release the lien for taxes on the property so sold.

HISTORY: 1962 Code Section 65‑2914; 1952 Code Section 65‑2914; 1942 Code Section 2170‑2; 1934 (38) 1253.

CROSS REFERENCES

Emergency procedures for county forfeited land commission, see Section 12‑59‑140.

Library References

Taxation 3231.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1776 to 1784.

**SECTION 12‑59‑70.** Sale by former owner of forfeited land; commission may convey such property.

 Should the title have been made by the tax collector to the forfeited land commission and not theretofore been sold, the forfeited land commission may, if it approve the application of the owner to sell a portion of the property so bid in as provided in this article, execute and deliver to the owner or anyone whom he may designate a deed upon payment of the amount as provided in Section 12‑59‑60.

HISTORY: 1962 Code Section 65‑2915; 1952 Code Section 65‑2915; 1942 Code Section 2170‑2; 1934 (38) 1253; 2015 Act No. 87 (S.379), Section 61, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 61, amended the section by removing the sheriff from tax sale collection process.

Library References

Taxation 3231.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1776 to 1784.

**SECTION 12‑59‑80.** Commission may assign its bids.

 The forfeited land commission may assign its bids at any time before title deed being made pursuant to sale, provided the consideration to be paid for such assignments shall not be less than the amount of taxes, penalties and costs for which the property was sold. The chairman or his designee may accept sealed bids for assignments of the forfeited land commission bids for a designated time period. Assignments not made during this time may then be assigned on a first come, first served basis. A list of available forfeited land commission properties is to be maintained at an assigned location as determined by the county forfeited land commission.

HISTORY: 1962 Code Section 65‑2916; 1952 Code Section 65‑2916; 1942 Code Section 2170‑2; 1934 (38) 1253; 2015 Act No. 87 (S.379), Section 62, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 62, added the text following the first sentence, relating to the procedure for accepting sealed bids for assignment.

Library References

Taxation 3231.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1776 to 1784.

**SECTION 12‑59‑85.** Forfeited land commission.

 After land has been bid in by the county auditor and before it has been conveyed to the county’s forfeited land commission, the forfeited land commission or a majority of its members may refuse to accept title to the property if the commission determines that to accept title would be against the interest of the public.

HISTORY: 2012 Act No. 186, Section 2, eff June 7, 2012.

Library References

Taxation 3231.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1776 to 1784.

**SECTION 12‑59‑90.** Execution of deeds and validation of certain deeds.

 All deeds for lands sold under the authority of Section 12‑59‑40 shall be made by the forfeited land commission of the county holding title thereto or by a majority of the members thereof and all conveyances heretofore made to and by the several forfeited land commissions, or by a majority of the members thereof, are declared valid and of full force and effect and to have been made in accordance with the provisions of this section. The forfeited land commission of any county, or a majority of the members thereof, may require the tax collector or other officer authorized by law to execute a deed to any land which may be bid in by the county auditor to convey such land to any purchaser to whom it may be sold by such forfeited land commission, or a majority of the members thereof, after such land has been bid in by the county auditor and before it has been conveyed to the forfeited land commission, and all conveyances of real property heretofore made by the tax collector or other officer authorized by law to execute such conveyances pursuant to authority and direction of any forfeited land commission, or a majority of the members thereof, are declared valid and effectual to convey title according to their respective terms, notwithstanding that they may have been made by the tax collector or other officer pursuant to authority or direction of only a majority of the members of any such commission.

HISTORY: 1962 Code Section 65‑2918; 1952 Code Section 65‑2918; 1942 Code Section 2170; 1933 (38) 212; 1936 (39) 1349, 1575; 1938 (40) 1717; 2015 Act No. 87 (S.379), Section 63, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 63, substituted “tax collector” for “sheriff” three times in the final sentence.

Library References

Taxation 3231.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1776 to 1784.

**SECTION 12‑59‑100.** Deposit of funds from sale of forfeited land commission.

 The proceeds of any such sales shall be turned over by such forfeited land commission to the county treasurer. And the county treasurer shall deposit such funds, after deducting the expense warrants as drawn on him by the forfeited land commission of his county into the general county fund. If any tract of land is sold for less than the taxes and penalties due thereon, the proceeds of such sale shall be divided between the county and taxing entities in the proportion of the amount of taxes and penalties due each of them.

HISTORY: 1962 Code Section 65‑2919; 1952 Code Section 65‑2919; 1942 Code Section 2170; 1933 (38) 212; 1936 (39) 1349, 1575; 1938 (40) 1717; 2015 Act No. 87 (S.379), Section 64, eff June 11, 2015.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

2015 Act No. 87, Section 64, rewrote the section.

CROSS REFERENCES

Emergency procedures for county forfeited land commission, see Section 12‑59‑140.

Library References

Taxation 3231.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1776 to 1784.

Attorney General’s Opinions

Discussion of whether the settlement amount, attorney’s fees and other expenses incurred by the Forfeited Land Commission of Aiken County while negotiating the sale of land would be considered allowable “expense warrants”. S.C. Op.Atty.Gen. (March 15, 1999) 1999 WL 397932.

**SECTION 12‑59‑110.** Repealed.

HISTORY: Former Section, titled Fees and costs of sheriff on purchase by commission, had the following history: 1962 Code Section 65‑2921; 1952 Code Section 65‑2921; 1942 Code Section 2172; 1932 Code Section 2171; 1929 (36) 125. Repealed by 2015 Act No. 87, Section 65, eff June 11, 2015.

**SECTION 12‑59‑120.** Commission shall have access to tax records.

 Any agent of the forfeited land commission of the respective counties shall be allowed free access by the auditors, the treasurers and tax collectors to all executions issued for the collection of taxes by the county treasurer and returned “nulla bona” for any reason or “double entry”, or which are not collected for any reason, to the tax books, and to all records in their respective offices relating to tax matters.

HISTORY: 1962 Code Section 65‑2922; 1952 Code Section 65‑2841; 1942 Code Section 2153; 1932 Code Section 2153; Civ. C. ‘22 Section 113; Civ. C. ‘12 Section 108; Civ. C. ‘02 Section 104; 1898 (22) 726; 1958 (50) 1917; 2015 Act No. 87 (S.379), Section 66, eff June 11, 2015.

Effect of Amendment

2015 Act No. 87, Section 66, substituted “tax collectors” for “sheriffs”.

Library References

Taxation 3223.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1760 to 1765.

**SECTION 12‑59‑130.** Municipal forfeited land commissions.

 When any municipal corporation desires to set up and put in operation a commission for the purpose of buying lands sold under tax executions for taxes or assessments due such corporation, its town council may designate one or more, not exceeding three, of the officers of such municipal corporation, by resolution duly passed and entered upon the minutes of any regular meeting of such body, as the forfeited land commission of the municipality. The person or persons so designated and their respective successors in office shall ex officio constitute the forfeited land commission of such municipality. The commission shall receive such compensation for its services as may be fixed by the municipality. Every forfeited land commission set up and established under the terms of this section shall bid in lands sold under tax execution for delinquent taxes or assessments due to the municipality unless such lands bring the amount of taxes and costs thereon, take title thereto, look after the preservation thereof, rent them and collect the rents and sell them and make and execute good and sufficient deeds of conveyance therefor.

 Wherever applicable, even by analogy, the law governing the duties conferred upon forfeited land commissions of the several counties of the State shall govern and are devolved upon forfeited land commissions created under the provisions of this section.

HISTORY: 1962 Code Section 65‑2905; 1952 Code Section 65‑2905; 1942 Code Section 7267; 1932 (37) 1300; 1933 (38) 164.

Library References

Taxation 3223.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1760 to 1765.

**SECTION 12‑59‑140.** Emergency procedures for county forfeited land commission.

 (A) The county council may petition the Department of Revenue for authority to use the procedures provided for in this section when the number and percentage of subdivided properties in the county that have been bid into the commission have, and are reasonably continued to have:

 (1) a significant adverse effect on county ad valorem tax collections that severely affect continued essential public services in the county; or

 (2) a significant adverse effect on economic development and employment in the county resulting from the limited number of properties available for sale and improvement.

 (B) For purposes of this section, “subdivided properties” refer to a parcel or parcels of real property, residential or commercial, made up of multiple lots.

 (C) The petition to the Department of Revenue must provide for:

 (1) all necessary documentation to support the past and anticipated future adverse impacts, including historical data on the number and percentage of properties bid into the forfeited land commission;

 (2) the loss of ad valorem tax revenues associated with these properties;

 (3) the impact of any millage increases imposed by the county to compensate for such lost ad valorem tax revenues;

 (4) the past and projected future impact on the ability of the county to deliver essential public services; and

 (5) the past and projected future impact on county development and employment opportunities.

 (D) If the Department of Revenue approves the petition, the county’s forfeited land commission is authorized to utilize the emergency procedures contained in this section for a period not to exceed five years from the date of approval. This authorization may be extended for additional one‑year increments, not to exceed two one‑year extensions. Petitions for extensions must contain the same types of documentation specified in subsection (C).

 (E) Notwithstanding any other provision of law:

 (1) The forfeited land commission of any county may, at its discretion, establish a revolving fund to pay for its legal and other expenses. This fund shall be established and maintained by the county treasurer from a portion of the proceeds of the sale of forfeited lands in an amount not exceeding fifty percent of the sale price of any forfeited land, in whole or in part. Legal and other expenses for which the funds may be expended may not include compensation to any members of the commission, but may include:

 (a) payment of legal or other expenses in connection with the commission’s decision to accept or reject a forfeited land to be held as an asset of the county;

 (b) payment of legal or other expenses in connection with the commission’s decision to obtain clear title to a forfeited land pursuant to Section 12‑61‑10;

 (c) payment of a commission to a certified realtor or broker not to exceed three percent of the sales price of any forfeited land, in whole or in part;

 (d) the cost of advertising the sale of forfeited lands, including the cost of any multiple realty listing established or provided by commercial realtors or brokers; and

 (e) the cost of any clean up of a site, including demolition and disposal costs, intended to make the property salable.

 (2) The acquisition of clear title to forfeited lands shall be considered an industrial or commercial development project pursuant to Chapter 29, Title 4, for which a county council may issue special revenue bonds for the purpose of initial funding of revolving funds under this section. Payment of the principal and interest for such bonds may be made from the proceeds of the sale of the forfeited lands.

 (3) The forfeited land commission of a county that has established a revolving fund under this section shall dissolve or reduce the amount of funds held by the county treasurer in the fund when it is no longer required for the timely and effective marketing and sale of forfeited lands. The released funds will be deposited into the general fund of the county not later than thirty days from the date of decision by the commission or the date of the expiration of the authorization and, if necessary, may be used to complete any payment of principal and interest remaining from the sale of any special revenue bonds used for the initial establishment of the revolving fund.

 (4) The authorized representative of a forfeited land commission that elects to clear tax titles pursuant to Section 12‑61‑10 may bring multiple actions to the court of common pleas in a single suit, if all of the properties included in the suit were previously owned by a single, individual, partnership, or corporation.

 (5) The payment of the expenses of forfeited land commissions exercising authority under this section shall include the collection of its expenses as a part of the sale price of forfeited lands by former owners pursuant to Section 12‑59‑60 and the disposition of the proceeds of land sales pursuant to Section 12‑59‑100.

 (6) Deductions from “value” pursuant to Section 12‑24‑30(B) shall include any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.

 (7) Investments by county treasurers under Section 12‑45‑220(A) may include sums held by the treasurer on behalf of a forfeited land commission under this section.

 (F) The provisions of this section do not apply to property for which legal ownership by the defaulting taxpayer was acquired solely through the laws of intestacy through more than one generation.

HISTORY: 2015 Act No. 59 (S.78), Section 2, eff June 4, 2015.

**SECTION 12‑59‑150.** Certain purchasers prohibited from buying forfeited land.

 An immediate family member of a county forfeited land commission member may not purchase land from the forfeited land commission on which their relative serves, unless the sale is through a competitive bid process or a listing open to members of the general public which has been made available for at least ten days. For purposes of this section, an immediate family member is a spouse, parent, sibling, or child of a forfeited land commission member.

HISTORY: 2015 Act No. 59 (S.78), Section 3, eff June 4, 2015.

ARTICLE 3

Titles to Lands Forfeited Prior to December 24, 1887 Renounced

**SECTION 12‑59‑310.** Title of State by forfeiture prior to 1887 renounced.

 The State of South Carolina renounces all title by forfeiture for nonpayment of taxes to each and every parcel of land in the several counties of the State listed on the forfeited land record on December 24, 1887 and will treat them hereafter as the lands of the former owner, his heirs or assigns. But this renunciation of title is upon the reservation and condition that the State may hereafter collect by suit at law or other legal method from such lands a sum equal to the aggregate amount of all annual assessments for taxes with the penalties that might and would have been assessed and charged against such lands in case they had never been declared delinquent and forfeited. The retention of the possession and use of such lands for ninety days after December 24, 1887 by such former owner, his heirs or assigns shall be sufficient evidence of his acquiescence in and acceptance of the reservations and conditions of such renunciation of title.

HISTORY: 1962 Code Section 65‑2931; 1952 Code Section 65‑2931; 1942 Code Section 2147; 1932 Code Section 2147; Civ. C. ‘22 Section 107; Civ. C. ‘12 Section 102; Civ. C. ‘02 Section 98; 1887 (19) 864.

Library References

Taxation 3223.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1760 to 1765.

**SECTION 12‑59‑320.** State Fiscal Accountability Authority shall hear petition for relief.

 The State Fiscal Accountability Authority may hear and determine upon satisfactory proof the petition of any taxpayer praying relief on ground that all such taxes described in Section 12‑59‑310 have been paid or that portions of such taxes have been paid and an offer to pay the balance, accompanied by the sum admitted to be owing. The State Fiscal Accountability Authority shall grant such relief in the premises as may be just.

HISTORY: 1962 Code Section 65‑2932; 1952 Code Section 65‑2932; 1942 Code Section 2148; 1932 Code Section 2148; Civ. C. ‘22 Section 108; Civ. C. ‘12 Section 103; Civ. C. ‘02 Section 99; 1888 (20) 52.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Taxation 3227.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1766 to 1768.

**SECTION 12‑59‑330.** Lien against such formerly forfeited lands.

 To secure the entire debt due the State for prior taxes or other dues accrued to the State against such formerly forfeited lands, to and including the levy of 1886, or for any other purpose whatsoever, and for the levy of 1887, and for all subsequent levies as they may have accrued or shall accrue upon each parcel of such land and the costs and penalties due thereon, the State shall have a prior and preferred lien upon such lands, to be enforced and asserted in any court of competent jurisdiction by the State Fiscal Accountability Authority in such cases, at such time and to such extent as it may deem most advantageous to the interests of the State. The proceeds of any sale ordered by the court in such suit shall be applied first to the payment to the State Fiscal Accountability Authority of the taxes, costs and penalties charged against the property and next to the payment of the taxed costs in the suit and expenses of sale and the surplus, if any there be, shall be paid over to the former owners or parties in interest as their interest may appear.

HISTORY: 1962 Code Section 65‑2933; 1952 Code Section 65‑2933; 1942 Code Section 2149; 1932 Code Section 2149; Civ. C. ‘22 Section 109; Civ. C. ‘12 Section 104; Civ. C. ‘02 Section 100; R. S. 372; 1887 (19) 865; 1888 (20) 52; 1889 (20) 345.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

Taxation 3223.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1760 to 1765.