CHAPTER 61

Suits to Clear Tax Titles

**SECTION 12‑61‑10.** Persons who may institute action to clear tax title.

Any county of this State, the forfeited land commission or other similar authority of any such county, any person or the executors, administrators, successors, assigns or grantees thereof, which has purchased at or acquired through a tax sale and obtained title to any real or personal property, may bring an action in the court of common pleas of such county for the purpose of barring all other claims thereto.

HISTORY: 1962 Code Section 65‑3301; 1952 Code Section 65‑3301; 1942 Code Section 2170‑1; 1934 (38) 1563; 1941 (42) 58.

CROSS REFERENCES

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

Library References

Taxation 3140 to 3184.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1535, 1605 to 1622, 1625 to 1683.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Lis Pendens Section 25, Clear Tax Titles.

NOTES OF DECISIONS

In general 1

Jury trial 2

1. In general

An action under this section [Code 1962 Section 65‑3301] may not be maintained by one not in possession of the land whose title he seeks to clear. In such a case the remedy would be to bring an action on the law side of the court. Mullis v. Winchester (S.C. 1961) 237 S.C. 487, 118 S.E.2d 61.

2. Jury trial

In an action pursuant to Section 12‑61‑10 to clear title, the former owner of property sold at a tax sale could not “earn” the right to a jury trial by asserting a counterclaim for trespass to try title, since the legislature intended by Chapter 61 that purchasers of property at tax sales be provided an efficient, unencumbered method of clearing those titles. Rosenbaum v. S‑M‑S 32 (S.C. 1993) 311 S.C. 140, 427 S.E.2d 897, rehearing denied.

**SECTION 12‑61‑20.** Procedure; defendants.

Such action shall be commenced, conducted and concluded by decree as are similar actions in such court and there may be made defendants to the action the former owner of such property, his heirs, executors, administrators, successors or assigns and any other person or legal entity who has or claims any right, title, claim, interest or lien in or to such property, to the end that such rights, titles, interests, claims or liens may be adjudicated in such action and forever barred by the judgment and decree of the court if such are found to be junior or subsequent to the title of the county or any person purchasing at or acquiring title to property through a tax sale.

HISTORY: 1962 Code Section 65‑3302; 1952 Code Section 65‑3302; 1942 Code Section 2170‑1; 1934 (38) 1563; 1941 (42) 58.

Library References

Taxation 3144, 3163, 3182.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1610 to 1612, 1655 to 1657, 1678 to 1680.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Lis Pendens Section 25, Clear Tax Titles.

NOTES OF DECISIONS

Jury trial 1

1. Jury trial

In an action pursuant to Section 12‑61‑10 to clear title, the former owner of property sold at a tax sale could not “earn” the right to a jury trial by asserting a counterclaim for trespass to try title, since the legislature intended by Chapter 61 that purchasers of property at tax sales be provided an efficient, unencumbered method of clearing those titles. Rosenbaum v. S‑M‑S 32 (S.C. 1993) 311 S.C. 140, 427 S.E.2d 897, rehearing denied.

**SECTION 12‑61‑30.** Laws applicable to proceedings.

The proceeding authorized in this chapter shall be subject to the rules and laws governing the procedure and conduct of similar proceedings, including the laws governing service of process and the publication thereof against absent or unknown defendants.

HISTORY: 1962 Code Section 65‑3303; 1952 Code Section 65‑3303; 1942 Code Section 2170‑1; 1934 (38) 1563; 1941 (42) 58.

Library References

Taxation 3165.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1633.

**SECTION 12‑61‑40.** Judgment for defendant may be conditioned on payment of taxes.

In any decree or judgment of the court in an action brought by the county, the forfeited land commission or other similar authority wherein it may be found that a person has a superior title to that of the county, the forfeited land commission or other similar authority, the judgment in favor of such person shall be upon condition that the taxes and penalties thereupon on account of which the property was sold and all taxes which have accrued since such sale and the penalties thereupon be paid in full within sixty days after the date of such judgment and the court shall order the sale of the property in the manner of other judicial sales in default of such payment. From the proceeds of such sale such taxes, costs and penalties shall be first paid.

HISTORY: 1962 Code Section 65‑3304; 1952 Code Section 65‑3304; 1942 Code Section 2170‑1; 1934 (38) 1563; 1941 (42) 58.

Library References

Taxation 3182.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1678 to 1680.

**SECTION 12‑61‑50.** Costs when property was purchased for less than one thousand dollars.

Whenever an action shall be brought under the provisions of this chapter relating to property for which the plaintiff paid less than the sum of one thousand dollars, all costs due shall be only one half of those ordinarily allowed.

HISTORY: 1962 Code Section 65‑3305; 1952 Code Section 65‑3305; 1942 Code Section 2170‑1; 1934 (38) 1563; 1941 (42) 58.

Library References

Taxation 3184.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1682 to 1683.

**SECTION 12‑61‑60.** Construction.

This chapter shall be liberally construed to the end that it shall afford a complete remedy to any plaintiff claiming property by forfeiture unto him for nonpayment of taxes or by acquisition at or through a tax sale, so that he can under this chapter obtain a final and complete adjudication of the nature and extent of the title thereto and, in any event, procure a valid sale of the property from the proceeds of which the unpaid taxes shall be paid.

HISTORY: 1962 Code Section 65‑3306; 1952 Code Section 65‑3306; 1942 Code Section 2170‑1; 1934 (38) 1563; 1941 (42) 58.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Lis Pendens Section 25, Clear Tax Titles.