

House Study Bill 605 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON NUNN)

A BILL FOR

1 An Act relating to redemption by certain persons of parcels
2 sold at tax sale.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 445.1, Code 2018, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 3A. *“Legal representative”* means a parent,
4 guardian, or conservator of a person with a legal disability, a
5 person appointed by a court to act on behalf of a person with a
6 legal disability, or a person acting on behalf of a person with
7 a legal disability pursuant to a power of attorney.

8 NEW SUBSECTION. 4A. *“Person with a legal disability”* means
9 a minor or a person of unsound mind.

10 Sec. 2. Section 447.7, Code 2018, is amended by striking the
11 section and inserting in lieu thereof the following:

12 **447.7 Redemption by minors and persons of unsound mind.**

13 1. If a parcel of a person with a legal disability is sold
14 at tax sale and the county treasurer has not delivered the
15 treasurer’s deed, a legal representative of the person with the
16 legal disability may redeem the parcel under sections 447.1 and
17 447.3.

18 2. *a.* If a parcel of a person with a legal disability is
19 sold at tax sale and the county treasurer has delivered the
20 treasurer’s deed, the person with the legal disability or the
21 person’s legal representative may redeem the parcel at any
22 time prior to one year after the legal disability is removed
23 by bringing an equitable action for redemption in the district
24 court of the county where the parcel is located, unless the
25 action is required to be brought sooner in time by operation of
26 subsection 3 or 4.

27 *b.* To establish the right to redeem, the person maintaining
28 the action shall prove to the court that the owner of the
29 parcel is a person with a legal disability entitled to redeem
30 prior to the delivery of the treasurer’s deed. If the legal
31 disability has been removed, the person maintaining the action
32 shall establish the date the disability was removed and explain
33 the manner by which the legal disability was removed.

34 *c.* The person maintaining the action shall name as
35 defendants all persons claiming an interest in the parcel

1 derived from the tax sale, as shown by the record.

2 *d.* If the court determines that the person maintaining the
3 action or the person's legal representative is entitled to
4 redeem by virtue of legal disability or prior legal disability,
5 the court shall so order. The order shall determine the
6 rights, claims, and interests of all parties, including liens
7 for taxes and claims for improvements made on or to the parcel
8 by the person claiming under the tax title. The order shall
9 establish the amount necessary to effect redemption. The
10 redemption amount shall include the amount for redemption
11 computed in accordance with section 447.1 or 447.3, whichever
12 is applicable, including interest computed up to and including
13 the date of payment of the total redemption amount to the clerk
14 of court and the amount of all costs added to the redemption
15 amount in accordance with section 447.13. In addition, if
16 the person claiming under the tax title is determined by the
17 court to have made improvements on or to the parcel after the
18 treasurer's deed was issued, the court shall enter judgment in
19 favor of the person claiming under the tax title for an amount
20 equal to the value of all such improvements, and such judgment
21 shall be a lien on the parcel until paid. The order shall
22 direct that the person maintaining the action shall pay to the
23 clerk of court, within thirty days after the date of the order,
24 the total redemption amount the order sets forth.

25 *e.* Upon timely receipt of the payment, the court shall
26 enter judgment declaring the treasurer's deed to be void and
27 determining the resulting rights, claims, and interests of
28 all parties to the action. In its judgment, the court shall
29 direct the clerk of court to deliver the entire amount of the
30 redemption payment to the person claiming title under the
31 treasurer's deed.

32 *f.* If the person maintaining the action fails to timely
33 deliver payment of the total redemption amount to the clerk of
34 court, the court shall enter judgment holding that all rights
35 of redemption of the person with a legal disability who brought

1 the action, or on whose behalf the action was brought, are
2 terminated and that the validity of the tax title or purported
3 tax title is conclusively established as a matter of law
4 against the claims of such person with a legal disability.

5 3. If a person with a legal disability remains in possession
6 of the parcel after the recording of the treasurer's deed, and
7 if the person claiming under the tax title properly commences
8 an action to remove the person from possession, the person
9 with a legal disability shall forfeit any rights of redemption
10 that the person may have under this section, unless either of
11 the following actions is timely filed by or on behalf of the
12 person:

13 a. A counterclaim in the removal action asserting the
14 redemption rights under subsection 2 of the person with a legal
15 disability.

16 b. A separate action under subsection 2. Such action shall
17 be filed within thirty days after the person with a legal
18 disability and the person's legal representative were served
19 with original notice in the removal action. If an action under
20 subsection 2 is filed by or on behalf of the person with a legal
21 disability within the thirty-day period, the court may order
22 the action consolidated with the removal action.

23 4. If a person with a legal disability is not in possession
24 of the parcel at the time of the recording of the treasurer's
25 deed, the person or the person's legal representative is
26 forever barred and estopped from commencing an action under
27 this section if either of the following occurs:

28 a. An affidavit is filed pursuant to section 448.15 and
29 claims adverse to the tax title are barred by section 448.16.

30 b. An action under subsection 2 is not brought within three
31 years after the recording of the treasurer's deed.

32 Sec. 3. Section 447.8, subsection 1, Code 2018, is amended
33 to read as follows:

34 1. a. After the delivery of the treasurer's deed, a person
35 entitled to redeem a parcel sold at tax sale shall do so only by

1 an equitable action in the district court of the county where
2 the parcel is located. The action to redeem may be maintained
3 only by a person who was entitled to redeem the parcel during
4 the ninety-day redemption period in [section 447.12](#), except that
5 such a person may assign the person's right of redemption or
6 right to maintain the action to another person, or by a person
7 entitled to redeem under section 447.7.

8 *b.* In order to establish the right to redeem, the person
9 maintaining the action shall be required to prove to the court
10 either that the person maintaining the action or a predecessor
11 in interest was not properly served with notice in accordance
12 with the requirements of [sections 447.9 through 447.12](#), or that
13 the person maintaining the action or a predecessor in interest
14 acquired an interest in or possession of the parcel during
15 the ninety-day redemption period in [section 447.12](#). A person
16 shall not be entitled to maintain such action by claiming that
17 a different person was not properly served with notice of
18 expiration of right of redemption, if the person seeking to
19 maintain the action, or the person's predecessor in interest,
20 if applicable, was properly served with the notice. A After
21 the execution and delivery of the treasurer's deed, a person
22 ~~is not allowed to~~ may only redeem a parcel sold for delinquent
23 taxes ~~in any other manner after the execution and delivery of~~
24 ~~the treasurer's deed~~ under this section or section 447.7.

25 Sec. 4. Section 448.6, subsection 1, Code 2018, is amended
26 to read as follows:

27 1. A deed executed by the county treasurer in conformity
28 with the requirements of [sections 448.2 and 448.3](#) shall
29 be presumed to effect a valid title conveyance, and the
30 treasurer's deed may be challenged only by an equitable action
31 in the district court in the county in which the parcel is
32 located. If the action seeks an order of the court to allow
33 redemption after delivery of the treasurer's deed because the
34 person seeking to redeem is a person with a legal disability
35 who was entitled to redeem prior to the delivery of the

1 treasurer's deed, the action shall be brought in accordance
2 with section 447.7. If the action seeks an order of the court
3 to allow redemption after delivery of the treasurer's deed
4 based on improper service of notice of expiration of right of
5 redemption, the action shall be brought in accordance with
6 section 447.8. If the action is not brought ~~on that basis~~
7 under section 447.7 or 447.8, the action shall be controlled by
8 the provisions of this section.

9 Sec. 5. Section 448.16, subsection 3, Code 2018, is amended
10 to read as follows:

11 3. An action to enforce a claim filed under subsection 1
12 shall be commenced within sixty days after the date of filing
13 the claim. The action may be commenced by the claimant, or
14 a person under whom the claimant claims title, under either
15 section 447.7, 447.8, or 448.6. If an action by the claimant,
16 or such other person, is not filed within sixty days after the
17 filing of the claim, the claim thereafter shall be forfeited
18 and canceled without any further notice or action, and the
19 claimant, or the person under whom the claimant claims title,
20 thereafter shall be forever barred and estopped from having or
21 claiming any right, title, or interest in the parcel adverse to
22 the tax title or purported tax title.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to the mechanism by which minors or persons
27 of unsound mind, or their legal representatives, who own real
28 estate which was sold at a tax sale may redeem such parcels.

29 The bill defines "legal representative" as a parent,
30 guardian, or conservator of a person with a legal disability, a
31 person appointed by a court to act on behalf of a person with a
32 legal disability, or a person acting on behalf of a person with
33 a legal disability pursuant to a power of attorney. The bill
34 defines "person with a legal disability" as a minor or a person
35 of unsound mind.

1 Under current law, if a person with a legal disability is the
2 owner of a parcel that is sold at a tax sale and the treasurer's
3 deed has been delivered, the person with a legal disability
4 may redeem the parcel at any time within one year after the
5 disability is removed, in the manner specified in Code section
6 447.8. Code section 447.8 specifies the manner of redemption
7 by an owner who alleges a failure by the holder of the tax title
8 to serve the parcel owner with notice of the tax sale and the
9 parcel owner's redemption rights.

10 The bill specifies the procedure by which a person with
11 a legal disability can redeem a parcel sold at a tax sale
12 after the delivery of the treasurer's deed. Before delivery
13 of the treasurer's deed, the bill provides that the person
14 with a legal disability or the person's legal representative
15 may redeem under Code sections 447.1 and 447.3, which is the
16 same as current law. After delivery of the treasurer's deed,
17 the person with a legal disability or the person's legal
18 representative must bring an equitable action for redemption in
19 the district court of the county where the parcel is located
20 and prove to the court that prior to the delivery of the
21 treasurer's deed, the person with a legal disability or the
22 person's legal representative was entitled to redeem by virtue
23 of such disability. All persons claiming an interest in the
24 parcel from the tax sale must be named as defendants. If the
25 court determines that the person with a legal disability or the
26 person's legal representative is entitled to redeem, the court
27 will determine the rights, claims, and interests of all of the
28 parties, and will establish the amount necessary to effect
29 redemption. The person with a legal disability or the person's
30 legal representative has 30 days after the date of the order
31 to pay the redemption amount. Upon timely receipt of payment,
32 the court shall declare the treasurer's deed to be invalid.
33 If the person with a legal disability or the person's legal
34 representative fails to timely deliver payment, such person's
35 redemption rights are terminated.

1 The action may be brought until one year after the disability
2 is removed unless otherwise barred. The bill bars bringing
3 the action if the person with a legal disability remained in
4 possession of the parcel, the person claiming under the tax
5 title properly commenced an action to remove the person with
6 a legal disability, and the person with a legal disability
7 or the person's legal representative fails to timely file
8 a counterclaim or separate action asserting the right of
9 redemption. The bill also bars the action if the person with
10 a legal disability is not in possession of the parcel and the
11 action is barred by Code section 448.16. Code section 448.16
12 bars actions where the person claiming under tax title records
13 an affidavit with the county recorder of the county where the
14 parcel is located and a person with redemption rights fails to
15 file a claim within 120 days after the filing of the affidavit.
16 Finally, the bill bars the action if it is not filed within
17 three years of the recording of the treasurer's deed.