

## CHAPTER 1039

### REDEMPTION OF PROPERTY SOLD AT TAX SALES — PERSONS WITH LEGAL DISABILITIES

H.F. 2318

**AN ACT** relating to redemption by certain persons of parcels sold at tax sale.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. [Section 445.1](#), Code 2018, is amended by adding the following new subsections:

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

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

Sec. 2. [Section 447.7](#), Code 2018, is amended by striking the section and inserting in lieu thereof the following:

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

1. If a parcel of a person with a legal disability is sold at tax sale and the county treasurer has not delivered the treasurer’s deed, a legal representative of the person with the legal disability may redeem the parcel under sections [447.1](#) and [447.3](#).

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

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

*c.* The person maintaining the action shall name as defendants all persons claiming an interest in the parcel derived from the tax sale, as shown by the record.

*d.* If the court determines that the person maintaining the action or the person’s legal representative is entitled to redeem by virtue of legal disability or prior legal disability, the court shall so order. The order shall determine the rights, claims, and interests of all parties, including liens for taxes and claims for improvements made on or to the parcel by the person claiming under the tax title. The order shall establish the amount necessary to effect redemption. The redemption amount shall include the amount for redemption computed in accordance with [section 447.1](#) or [447.3](#), whichever is applicable, including interest computed up to and including the date of payment of the total redemption amount to the clerk of court and the amount of all costs added to the redemption amount in accordance with [section 447.13](#). In addition, if the person claiming under the tax title is determined by the court to have made improvements on or to the parcel after the treasurer’s deed was issued, the court shall enter judgment in favor of the person claiming under the tax title for an amount equal to the value of all such improvements, and such judgment shall be a lien on the parcel until paid. The order shall direct that the person maintaining the action shall pay to the clerk of court, within thirty days after the date of the order, the total redemption amount the order sets forth.

*e.* Upon timely receipt of the payment, the court shall enter judgment declaring the treasurer’s deed to be void and determining the resulting rights, claims, and interests of all parties to the action. In its judgment, the court shall direct the clerk of court to deliver the

entire amount of the redemption payment to the person claiming title under the treasurer's deed.

*f.* If the person maintaining the action fails to timely deliver payment of the total redemption amount to the clerk of court, the court shall enter judgment holding that all rights of redemption of the person with a legal disability who brought the action, or on whose behalf the action was brought, are terminated and that the validity of the tax title or purported tax title is conclusively established as a matter of law against the claims of such person with a legal disability.

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

*a.* A counterclaim in the removal action asserting the redemption rights under [subsection 2](#) of the person with a legal disability.

*b.* A separate action under [subsection 2](#). Such action shall be filed within thirty days after the person with a legal disability and the person's legal representative were served with original notice in the removal action. If an action under [subsection 2](#) is filed by or on behalf of the person with a legal disability within the thirty-day period, the court may order the action consolidated with the removal action.

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

*a.* An affidavit is filed pursuant to [section 448.15](#) and claims adverse to the tax title are barred by [section 448.16](#).

*b.* An action under [subsection 2](#) is not brought within three years after the recording of the treasurer's deed.

Sec. 3. [Section 447.8, subsection 1](#), Code 2018, is amended to read as follows:

1. *a.* After the delivery of the treasurer's deed, a person entitled to redeem a parcel sold at tax sale shall do so only by an equitable action in the district court of the county where the parcel is located. The action to redeem may be maintained only by a person who was entitled to redeem the parcel during the ninety-day redemption period in [section 447.12](#), except that such a person may assign the person's right of redemption or right to maintain the action to another person, or by a person entitled to redeem under [section 447.7](#).

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

Sec. 4. [Section 448.6, subsection 1](#), Code 2018, is amended to read as follows:

1. A deed executed by the county treasurer in conformity with the requirements of [sections 448.2 and 448.3](#) shall be presumed to effect a valid title conveyance, and the treasurer's deed may be challenged only by an equitable action in the district court in the county in which the parcel is located. If the action seeks an order of the court to allow redemption after delivery of the treasurer's deed because the person seeking to redeem is a person with a legal disability who was entitled to redeem prior to the delivery of the treasurer's deed, the action shall be brought in accordance with [section 447.7](#). If the action seeks an order of the court to

allow redemption after delivery of the treasurer's deed based on improper service of notice of expiration of right of redemption, the action shall be brought in accordance with [section 447.8](#). If the action is not brought ~~on that basis~~ under [section 447.7](#) or [447.8](#), the action shall be controlled by the provisions of [this section](#).

Sec. 5. [Section 448.16, subsection 3](#), Code 2018, is amended to read as follows:

3. An action to enforce a claim filed under [subsection 1](#) shall be commenced within sixty days after the date of filing the claim. The action may be commenced by the claimant, or a person under whom the claimant claims title, under either [section 447.7](#), [447.8](#), or [448.6](#). If an action by the claimant, or such other person, is not filed within sixty days after the filing of the claim, the claim thereafter shall be forfeited and canceled without any further notice or action, and the claimant, or the person under whom the claimant claims title, thereafter shall be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title.

Approved March 28, 2018