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BILL SUMMARY

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S.F. No. 4985 – Tax-Forfeited Lands Policy Changes (1st Engrossment)

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Background: In 2023, the United States Supreme Court held in *Tyler v. Hennepin County*[1] that a state may not (1) retain surplus value in forfeited property in excess of the amount of delinquent taxes and penalties by declining to sell the forfeited property; and (2) retain proceeds from the sale of the property in excess of the amount of delinquent taxes and penalties unless the state first provides an opportunity for the owner of the property at time of forfeiture to recover the surplus. SF 4985 is one option for amending Minnesota's tax-forfeited lands statutes to comply with the holding in *Tyler*.

Section 1 [Modification to Notice of Expiration of Redemption Form] requires the statutory "notice of expiration of redemption" form to be modified to notify the former owner that if the parcels forfeit, the parcels will be sold and that the former owner may be entitled to excess proceeds from the sale. Requires the form to be further modified to state that the former owner will be notified if this happens and will be required to submit a claim form to receive the proceeds.

Section 2 [Tax-Forfeited Land; Initial Sale]

> **Subd. 1 [Sale Required]** requires all tax-forfeited land to be offered for sale. Only if the land cannot be sold for the sum of the delinquent taxes, special assessments, penalties, interest, and costs levied on the parcel can it continue to be managed and disposed of under the other provisions of Chapter 282.
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> **Subd. 2 [Definitions]** defines various terms used in the section.
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> **Subd. 3 [Redemption]** authorizes an interested party to redeem the property prior to the auction by paying the sum of all delinquent taxes, assessments, penalties, interest, and costs.

[1] 598 U.S. 631 (2023).

Subd. 4 [Public Auction] requires the county auditor to sell the property at public auction to the highest bidder in a manner reasonably calculated to facilitate public participation, including by online auction.

Subd. 5 [Sale Proceeds] when property is sold under this section, this subdivision requires the county auditor to dispose of proceeds from the sale in accordance with new language added to the statute that governs their disposition, which requires that any excess be made available for claims under subdivision 6.

Subd. 6 [Claims for Surplus Proceeds] requires the county auditor to notify interested parties within 60 days if a sale of tax-forfeited lands results in a surplus. The notice must contain certain information and must be accompanied by a claim form. Interested parties are entitled to make a claim for surplus proceeds if they file a claim within six months of the date the notice is first mailed to interested parties, unless the county extends the period within which claims can be made.

If only a single claim is made, the county must pay the surplus proceeds to the claimant at the end of the claims period. If there are multiple claims for the property, payment must be divided proportionally. Where disputes about payments arise, the county auditor may deposit the surplus money in district court and file a petition asking the court to determine claimants' rights. If the court determines that no party is entitled to the surplus, it is returned to the county for deposit in the county's forfeited tax sale fund.

Subd. 7 [Manner of Service] governs the manner of service for notices of surplus proceeds under subdivision 6 or notices of the sale of mineral interests under subdivision 8.

Subd. 8 [Claims for Mineral Interests; Payments; Appropriation] provides that upon forfeiture, any iron-bearing stockpiles, minerals, and mineral interests shall be sold to the state for $50. The county auditor is required to notify interested parties within 60 days and to provide a form on which an interested party can allege that their value exceeds $50. Claims must be submitted within six months of the date the notice is first mailed to interested parties, unless the county extends the period within which claims can be made.

If a claim is filed under this subdivision, the commissioner of natural resources (DNR) must determine the value of the forfeited iron-bearing stockpiles, minerals, and mineral interests. If the value exceeds the delinquent taxes, assessments, and other amounts owed, the claimant is entitled to payment of the surplus. Otherwise, the claimant is not entitled to a payment.

Where there are multiple claimants, the process for resolving them is the same as the process for resolving disputes regarding claims for surplus proceeds under subdivision 6, except that upon a finding that no claimant is entitled to payment, the payment must be returned to the commissioner of natural resources and is canceled to the general fund.

Subd. 9 [Expiration of Surplus] provides that surplus proceeds must be returned to the county's forfeited tax sale fund if no interested party makes a claim for the proceeds within the applicable time limit or it is determined that no claimant is entitled to the surplus.

Subd. 10 [Rights Affected by Forfeiture] extinguishes all rights in property upon forfeiture other than rights to surplus proceeds under this section, rights of redemption provided under federal law, easements and rights-of-way holders who are not interested parties, and benefits or burdens of any real covenants.

Subd. 11 [Property Bought by the State] reiterates that property purchased by the state under Chapter 282 is to be held in trust for the benefit of the taxing districts and that it must be managed in accordance with Chapters 93 and 282.

Section 3 [Use of Proceeds of Tax-Forfeited Land] amends the statute that governs the disposition of proceeds from the sale of tax-forfeited lands to require that proceeds from the sale of tax-forfeited lands under the statute enacted in section 2 must be applied according to the the following hierarchy:

(1) to provide reimbursement for increased value resulting from improvements to the property made after forfeiture;
(2) to provide reimbursement for increased value resulting from pollution cleanup undertaken by state agencies after forfeiture;
(3) to discharge any special assessment chargeable against the parcel;
(4) to pay the sum of all delinquent taxes and assessments not already paid;
(5) to pay attorney fees and costs reasonably incurred in connection with the delinquency proceedings and tax sale; and
(6) to pay surplus value to interested parties under the new section 282.005, subdivision 6.

Section 4 [Conforming Change] limits the power of former owners, their heirs, devisees, or representatives, and other interested parties, to repurchase forfeited lands to reflect the fact that those lands will usually be sold shortly after forfeiture under the bill.