1994

Revision

of

Delinquent Tax

and

Tax Forfeiture

Manual

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Phone (612) 296-5139 Fax (612) 2976-2166

December 12, 1994

TO: ALL COUNTY AUDITORS

RE: 1994 REVISION OF DELINQUENT TAX + TAX FORFEITURE MANUAL

The Department of Revenue is pleased to provide the first revision of the Delinquent Tax and Tax Forfeiture Manual ("The Red Manual"). The first revision is identified in the footer of each page as the "1ST REVISION: 1994."

The 1994 revision is based on the following changes since the first edition of the Red Manual was printed in April, 1991: (1) changes in the delinquent tax and tax forfeiture statutes by the Minnesota Legislature, (2) changes to clarify ambiguities pointed out by users of the Manual, and (3) changes to account for the additional knowledge acquired since the first edition.

For identification purposes, the 1994 revisions for each of the major Series, or Stages, of the Red Manual are separated with a pink-colored sheet of paper.

Some of the pages and Sections of the 1994 revision change existing pages and Sections in the Red Manual. The existing pages and Sections should be removed, and the new pages and Sections should be inserted in their place.

Other pages and Sections of the 1994 revision are new additions to the Red Manual. The new pages and Sections should be inserted between the existing pages and Sections with the numbers just below and just above the number of the new pages and Sections.

The following examples represent major 1994 revisions which should be handled carefully when making the changes in the Red Manual.

1. In Series 6600, Stage Five: Expiration of Redemption, the old Sections 6620 through 6675 should be pulled out and replaced with the new Sections 6620 through 6678.

(OVER)

2. In Series 6700, Stage Six: Tax Forfeiture, the old Section 6715: Classification of Tax-Forfeited Land should be pulled out and replaced with the new Sections 6715 and 6717.

3. In Series 6700, Stage Six: Tax Forfeiture, the old Section 6735: Acquisition by Local Governments should be pulled out and replaced with the new Sections 6732 through 6735.

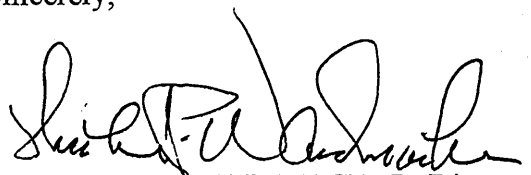
4. In Series 6700, Stage Six: Tax Forfeiture, the old Section 6750: Public Sale by Contract for Deed should be pulled out and replaced with the new Sections 6750 and 6752.

5. In Series 6700, Stage Six: Tax Forfeiture, the old Section 6770: Repurchase of Tax-Forfeited Land should be pulled out and replaced with the new Section 6770.

If your county has a land commissioner and the land commissioner has a copy of the Red Manual, please give one copy of the 1994 revision to the land commissioner. If you did not give your land commissioner a copy of the Red Manual, please consider giving the land commissioner a copy of both the Red Manual and the 1994 revision.

If you have any questions about the content of the 1994 revision or how and where to insert any new pages or Sections, please contact Bob Lerfald at (612) 296-5139.

Sincerely,



MICHAEL P. WANDMACHER, Director
Property Tax Division

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

Mail Station 3340
St. Paul, Minnesota 55146-3340

May 3, 1991

TO: COUNTY AUDITORS

RE: DELINQUENT TAX AND TAX FORFEITURE MANUAL

Over the last few years, the Local Government Services Division of the Department of Revenue has been receiving an increasing number of telephone calls from county officials about delinquent property taxes and tax-forfeited land.

Once the immediate problem has been solved, the county auditors usually close the telephone conversation with the same general question: Is there anything in writing available to help interpret the delinquent tax laws? Until now, the answer has always been — no.

Now, the answer can be — yes! The Local Government Services Division is pleased to announce that a manual on delinquent taxes and tax-forfeited land has been completed. A copy of the manual is enclosed with this cover letter.

It is hoped that the manual will provide at least two important services: (1) help each county interpret and administer the delinquent tax laws on a daily basis, and (2) help all counties interpret and administer the delinquent tax laws in a similar way.

One final note: the delinquent tax manual should not be viewed as the last word on the subject. Instead, it should be looked upon as a starting point. It is the first manual of its kind produced by the interaction of the county auditors and the Local Government Services Division. It should continue to be a common point of reference for both of us to work with — correcting, updating, and expanding it as necessary.

If you have any question about the manual, please feel free to contact Bob Lerfald at (612) 296-5139.

Sincerely,

MICHAEL P. WANDMACHER, Director
Local Government Services Division

AN EQUAL OPPORTUNITY EMPLOYER

MAY 14 1991

DELINQUENT REAL + PERSONAL PROPERTY TAXES SERIES 6000 & 7000

Over the last few years, the Local Government Services Division of the Department of Revenue has been receiving an increasing number of telephone calls from county auditors about delinquent real and personal property taxes. (The term, "delinquent," will be used here to include both delinquent taxes and tax-forfeiture.)

The immediate concern of each county auditor has been to get help with two main questions: (1) how to interpret a specific section of the delinquent tax laws, and (2) how to apply the provisions of that section to a concrete case.

Once the immediate problem has been solved, the county auditors usually close the telephone conversation with the same general questions: Is there anything in writing available to help interpret the delinquent tax laws?; If not, are there any plans to produce anything in writing? Until now, the answer to both questions has always been-- no.

In response to the county requests, the Local Government Services Division appointed one of its Research Analysis Specialists, Bob Lerfald, to begin to gather the necessary information to produce a manual on delinquent taxes.

By November, 1988, a rough draft of a delinquent tax manual was ready. It was based on the following sources of information: (1) the Minnesota Statutes; (2) the teaching handouts used by Jerry Pahl (Hennepin County) and Elden Johnson (Kittson County) at the Auditor's Training Course; and (3) the many telephone conservations with county auditors dealing with concrete cases.

The rough draft of the manual was proofed by three experts on the delinquent tax laws in Minnesota: (1) Arthur Roemer (Minnesota Tax Court Judge), (2) Jerry Pahl (Manager, Administrative/Support Division, Hennepin County Department of Taxation), and (3) Elden Johnson (Kittson County Auditor).

Since early 1989, the rough draft was gradually improved and expanded with the time available. Many corrections were made based on the suggestions from the three experts who proofed the rough draft. Hundreds of details were added to each section based on many telephone calls with county officials. Specific forms and charts were adapted from those used by Hennepin County and Kittson County.

A final draft of the delinquent tax manual was completed at the end of March, 1991, and was sent to the printer in the beginning of April, 1991.

The Local Government Services Division is pleased to provide copies of the delinquent tax manual to the counties. It is hoped that the manual will provide at least two important services: (1) help each county interpret and administer the delinquent tax laws on a daily basis, and (2) help all counties interpret and administer the delinquent tax laws in a similar way.

One final note: the delinquent tax manual should not be viewed as the last word on the subject. Instead, it should be looked upon as a starting point. It is the first manual of its kind produced by the interaction of the county auditors and the Local Government Services Division. It should continue to be a common point of reference for both of us to work with--correcting, updating, and expanding it as necessary.

TABLE OF CONTENTS

SECTION HEADING	SECTION NUMBER
Introduction: Stage One - Determination	6105
Delinquent Date: 1st Business Day in January	6110
Property Tax Lists: 1st Business Day in January	6120
Delinquent Tax List: February 15	6130
Auditor's Affidavit: February 15	6140
Notice of Delinquent Taxes: February 20	6150
Delinquent Tax Letter: March 20	6155
Interest on Delinquent Taxes: January 1st	6160
Record of Interested Parties	6170
Bankruptcy	6175
Summary: Stage One - Determination of Delinquent Taxes	6180
Flow Chart: Stage One - Determination	6185
Sample Case: Stage One - Determination	6190

INTRODUCTION: REAL PROPERTY TAXES SERIES 6000

PART I: DEFINITION OF TERMS

In general, the delinquent real property tax laws consist of a set of provisions for attempting to collect unpaid real property taxes and for ultimately confiscating the taxpayer's real property in lieu of the real property taxes when they remain unpaid.

Technically, the term "delinquent" only applies to the unpaid real property taxes from the time they are declared by law to be delinquent to the end of the time period given by law to pay them. After that time, the unpaid taxes are canceled, and the title to the real property is taken over by the state. This final stage of the process is more accurately referred to as "tax forfeiture."

However, for the sake of brevity and clarity, the term "delinquent" will be used throughout this part of the manual to refer to the complete process of trying to collect the unpaid (delinquent) real property taxes and finally confiscating the taxpayer's real property in lieu of the taxes when they remain unpaid (tax-forfeiture).

The phrase, "delinquent tax amount," will be used throughout this part of the manual to refer to the sum of the separate amounts which must be paid in order to remove a parcel of real property from the delinquent tax list.

The separate amounts which are combined into the term, "delinquent tax amount," are outlined below.

1. The delinquent real property taxes which remain unpaid.

2. Special assessments which were included on the tax statement and remain unpaid.

3. The penalties which accrued on the unpaid real property taxes during the year when they were due.

4. The interest which accrued on the unpaid taxes since they became delinquent.

5. The county costs of administering the steps in the delinquent tax process.

PART II: OVERVIEW

For over a century, the citizens of Minnesota have authorized the government and the courts to confiscate the taxpayer's real property, as a last resort, in order to compensate the taxing districts for lost revenue due to delinquent real property taxes.

It has been traditionally believed that the drastic measure of confiscating the taxpayer's real property is necessary in order to guarantee an equitable property tax system-- everyone paying his or her fair share as determined by law.

Because confiscation is the final step, the delinquent real property tax laws are purposefully set up to assure that all of the steps leading to the seizure and sale of real property are legally justifiable.

The complex set of provisions gives the taxpayer every chance to pay and makes the taxpayer clearly aware of the consequences of not paying the taxes before the confiscation of the real property.

Only then can the title to the real property be justifiably acquired by the state and transferred to the purchaser of the property.

PART III: ORGANIZATIONAL PLAN

Throughout the 20th Century, the Minnesota legislature has gradually built the major provisions of the delinquent real property tax laws into four chapters in the statutes: Chapters 279, 280, 281, and 282.

In this part of the manual, the major provisions of the delinquent real property tax laws have been chronologically divided into the following six stages.

1. Stage One: Determination of Delinquent Taxes.

2. Stage Two: Publication of Delinquent Taxes.

3. Stage Three: Court Judgment against Delinquent Taxes.

4. Stage Four: Redemption Period + Confession of Judgment

5. Stage Five: Expiration of Redemption and Forfeiture

6. Stage Six: Conveyance of Tax-Forfeited Property.

The six stages which outline and explain the major provisions of the delinquent real property tax laws in chronological order are contained in Series 6100 through Series 6700 in this part of the manual.

Stage one is identified as Series 6100. It covers the first major step in the proceedings: the determination of the delinquent real property taxes. This involves preparing and signing the delinquent tax list and the notice of delinquent taxes.

Stage two is identified as Series 6200. It covers the second major step in the proceedings: the announcement of the delinquent real property taxes. This is done through a newspaper publication and a first-class mailing.

Stage three is identified as Series 6300. It covers the third major step in the proceedings: the court judgment against the delinquent real property taxes. This is performed by the district court administrator acting in the name of the court or the district court itself.

Stage four covers the fourth major step in the proceedings: the payment of the delinquent tax amount before the property forfeits to the state. Stage four is divided into two parts. One part is identified as Series 6400. It covers the payment method under the standard tax judgment plan. The other part is identified as Series 6500. It covers the alternative method of payment-- the confession of judgment.

Stage five is identified as Series 6600. It covers the fifth major step in the proceedings: the end of the time allowed to pay the delinquent tax amount and the forfeiture of the property to the state. This involves a notice of expiration and a certificate of forfeiture.

INTRODUCTION: REAL PROPERTY TAXES SERIES 6000
(Continued) (Page 4)

Stage six is identified as Series 6700. It covers the sixth and final major step in the proceedings: the repurchase or sale of the tax-forfeited land. In most cases, this means that the former owner pays the delinquent tax amount due or the property is sold at a public or private auction.

Series 6800 consists of a calendar of events for the major steps in the delinquent real property tax proceedings. The calendar serves as a short, chronological outline of the major steps in the proceedings.

Series 6900 contains an index to the major topics of the delinquent real property tax laws covered in this part of the manual. The major topics in the index are alphabetized and cross referenced.

Each of the six stages of the manual are subdivided into Sections which cover the major topics of that stage of the delinquent real property tax proceedings.

The Sections in each stage are identified with a topic heading and a breakdown of the Series number. For example, the Sections of stage one which is Series 6100 are identified as 6105, 6110, 6120, 6130, 6140, 6150, 6155, 6160, 6170, 6180, 6185, and 6190.

For a more detailed example, Section 6155 also has the topic heading, "Delinquent Tax Letter: March 20."

The pages of this part of the manual are not numbered consecutively from the beginning to the end. Instead, the pages within each Section are numbered consecutively. This is done so that one page or all of the pages in a Section can be revised and replaced without having to change the pagination of the whole manual.

Each page in this part of the manual has a footer. With this first edition, the footer includes only the month and year when the manual was finished-- April, 1991. Each time a revision is made in the future, the footer to the revised pages will show the number of the revision and the month and year of the revision.

As a final part of the organizational plan, color-coded, plastic dividers with labelled tabs are used to separate each of the ten Series in the manual. Yellow-colored dividers are used for the first half of the manual which deals with delinquent real property taxes. The yellow-colored dividers are intended to help find a particular Series more quickly.

TABLE OF CONTENTS

STAGE ONE: DETERMINATION

SERIES 6100

SECTION HEADING	SECTION NUMBER
Introduction: Stage One - Determination	6105
Delinquent Date: 1st Workday in January	6110
Property Tax Lists: 1st Workday in January	6120
Delinquent Tax List: February 15	6130
Auditor's Affidavit: February 15	6140
Notice of Delinquent Taxes: February 20	6150
Delinquent Tax Letter: March 20	6155
Interest on Delinquent Taxes: January 1st	6160
Record of Interested Parties	6170
Summary: Stage One - Determination of Delinquent Taxes	6180
Flow Chart: Stage One - Determination	6185
Sample Case: Stage One - Determination	6190

INTRODUCTION: STAGE ONE - DETERMINATION SECTION 6105

The process of identifying and officially listing which taxes remain unpaid after the year in which they are due is the first stage of the delinquent real property tax proceedings.

The major tasks that must be accomplished in order to complete the first stage are outlined below.

1. **The county treasurer returns the property tax list for all real property taxes payable in the previous year to the county auditor.**

2. **The county auditor identifies and records the parcels of real property with unpaid taxes.**

3. **The county auditor prepares the delinquent tax list and the notice of delinquent taxes and sends a copy of each to the administrator of the district court.**

4. **The administrator of the district court signs the notice of delinquent taxes and returns the signed notice and a copy of the delinquent tax list to the county auditor.**

5. **The county auditor prepares a delinquent tax letter for each property owner, taxpayer of record, and other interested party whose names are on the delinquent tax list.**

6. **The county auditor adds interest to the delinquent taxes, penalties, and costs for each month they remain unpaid.**

7. **The county auditor keeps a record of those interested parties who have qualified to receive three designated property tax documents.**

The major tasks and other related procedures are explained in more detail in Sections 6110 through 6170.

A summary of the major tasks required in stage one along with a transition to stage two is included in Section 6180.

Section 6185 contains a flow chart that graphically illustrates the major steps that must be taken to complete stage one of the delinquent real property tax proceedings.

Section 6190 contains a sample case that is intended to dramatize the major steps in stage one. The sample case consists of a fictional delinquent tax situation with fictional names, places, dates, and tax amounts.

INTRODUCTION: STAGE ONE - DETERMINATION SECTION 6105

Section 6190 contains a sample case that is intended to dramatize the major steps in stage one. The sample case consists of a fictional delinquent tax situation with fictional names, places, dates, and tax amounts.

In order to provide a sense of continuity, the same sample case with the same fictional delinquent tax situation and fictional names, places, dates, and tax amounts will be used in the first three Series in this manual. The only thing that will change is the stage of the property tax proceedings that is being dramatized.

The purpose of using the sample case is purely educational and not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

Note: For purposes of clarity and convenience, the phrase, "delinquent tax amount," will be used in Series 6100 to mean the sum of the amounts listed below.

1. **Delinquent taxes**

2. **Delinquent special assessments (if any)**

3. **Penalties**

4. **Costs**

5. **Interest**

The terms, "tax" or "taxes," will be used to include the delinquent real property tax and any delinquent special assessments. Special assessments are included since they are part of the property tax statement and are to be "collected and paid over in the same manner as other municipal taxes." (M.S. 276.03; 276.04, Subd. 1; 276.131; and 429.061, Subd. 3)

DELINQUENT DATE: 1ST BUSINESS DAY IN JANUARY SECTION 6110

The amount of any unpaid taxes and penalties imposed on a parcel of real property becomes delinquent on the first business day in January after the year when the taxes and penalties are due. (M.S. 279.02)

EXAMPLE: RESIDENTIAL HOMESTEAD TAX PAYABLE IN 1998

1. 1st Step: Taxes Payable in 1998 Are Not Paid

First Half Due: May 15, 1998

If the first half is not paid, a penalty begins to accrue on May 16 and increases on the first of each of the following five months in 1998. The maximum penalty is 10% for homestead property and cabins and 14% for nonhomestead property if the first half taxes remain unpaid on the first business day in January of the following year--January 4, 1999. (M.S. 279.01)

Second Half Due: October 15, 1998

If the second half is not paid, a penalty is imposed on October 16 and increases on the first of each of the following two months in 1998. The maximum penalty is 10% for homestead property and cabins and 14% for nonhomestead property if the second half taxes remain unpaid on the first business day in January of the following year--January 4, 1999. (M.S. 279.01)

Note: Under M.S. 279.01, Subd. 2, the county board, with the county treasurer's concurrence, may delegate to the county treasurer the power to abate the penalty imposed for the late payment of property taxes in the current year, based on a finding that imposition of the penalty would be unjust and unreasonable.

2. 2nd Step: Unpaid Taxes Payable in 1998 Become Delinquent

If any of the above property taxes payable in 1998 remain unpaid on the first business day (January 4) in 1999, they are declared to be delinquent. The delinquent tax proceedings begin and an annual rate of interest is imposed each month on the sum of the delinquent taxes, penalties, and costs.

DELINQUENT DATE: 1ST BUSINESS DAY IN JANUARY SECTION 6110
(Continued)

SPECIAL CASE: 20-DAY/21-DAY GRACE PERIODS

The example that is used on page 1 of Section 6110 assumes that the county treasurer mailed out the payable 1998 real property tax statements by the March 31, 1998 deadline. (M.S. 276.04, Subd. 3)

Under M.S. 279.01, Subd. 1, the taxes on a parcel of real property which total $50 or less and the first-half payment of the taxes on a parcel of real property which total more than $50 are due on the later of May 15 or 20 calendar days after the postmark date on the envelope containing the real property tax statement.

Any of the above taxes remaining unpaid on the later of May 16 or 21 days after the postmark date on the envelope containing the real property tax statement are subject to penalty.

Actually, the extension does not take place unless the postmark date on the envelope containing the property tax statement is April 26 or later. This is true because the 21-day grace period from the postmark date takes effect before the 1st-half installment of real property taxes are subject to penalty only when the 21-day grace period ends later than May 16.

For example, a property tax statement postmarked April 25 would still have a taxes due date of May 15 (20 days later) and a tax penalty date of May 16 (21 days later). A property tax statement postmarked April 26, however, would have a taxes due date of May 16 (20 days later) and a tax penalty date of May 17 (21 days later).

PROPERTY TAX LISTS: 1ST BUSINESS DAY IN JANUARY SECTION 6120

DELINQUENT TAXES

The process of determining delinquent real property taxes begins with the county treasurer returning to the county auditor the county property tax lists for all real property taxes payable in the previous year. (M.S. 279.02)

The county property tax lists is to be returned by the county treasurer to the county auditor on the first business day in January after the year when the taxes are due. The county property tax lists contains a record of the parcels of taxable real property and the amount of the total tax that has been paid on each parcel up to that date. (M.S. 279.02)

According to the law, the county auditor is to compare the county property tax lists with the set of tax statements for the previous taxes payable year and mark as officially delinquent the unpaid tax on each parcel in the county property tax lists. (M.S. 279.02)

PENALTIES ADDED TO DELINQUENT TAXES

The county auditor is to add to each delinquent tax the total amount of penalties that have accrued on the unpaid tax during the previous year when the tax was due. This includes the final additional penalty of 2% for the month of December. (M.S. 279.02)

As explained on page 1 of Section 6110, the maximum penalty that can accrue on any unpaid tax during the year when the tax is due is 10% on homestead property and cabins, and 14% on nonhomestead property. This includes the final additional penalty of 2% for the month of December. (M.S. 279.01)

For an explanation of the schedule of penalties on unpaid real property taxes see M.S. 279.01. A table showing the accrual of the penalties for each month of the taxable payable year is listed on the back of each county's real property tax statement.

PROPERTY TAX LISTS: 1ST BUSINESS DAY IN JANUARY SECTION 6120
(Continued)

THE LAW VS. COMPUTER PRACTICE

In practice, there is no hands-on comparison of county property tax lists to tax statements in most counties. Instead, most counties generate a computer list of delinquent taxes and penalties per parcel in the format of the delinquent tax list suggested by law.

AUDITOR/TREASURER LIABLE FOR PENALTIES

If the county auditor does not add the penalties that are to be imposed on all real property taxes remaining unpaid during the taxes payable year to the delinquent taxes, the auditor is liable to the county for the uncollected penalties. (M.S. 279.02)

If the auditor does include the penalties but the county treasurer does not collect them, the treasurer is responsible to the county for the uncollected penalties. (M.S. 279.02)

OPTIONAL TASK: MULTIPLE OWNERS

In the case where a parcel of real property is owned by two or more parties, the county auditor may want to determine the portion of the delinquent tax amount attributed to each of the multiple-owners.

This information can be used later if the multiple-owners choose to pay off their portions of the delinquent tax amount or confess judgment on them.

Note: **In some counties, taxes are calculated for separate owners only if they hold an undivided interest in the parcel; i.e., joint tenancy or tenancy in common.**

PROPERTY TAX LISTS: 1ST BUSINESS DAY IN JANUARY SECTION 6120
(Continued)

REDUCTION OR ABATEMENT OF TAXES

Upon written application by the owner, the county board may grant the reduction or abatement of estimated market values or taxes and of any penalties, interest, or costs on them as the county board determines to be just and equitable. The county board may refund all or any part of the taxes, penalties, interest, or costs that were erroneously or unjustly paid. (M.S. 375.192, Subd. 2)

In 1993, the county board's authority was restricted to taxes payable in the current year and the two prior years. Any reductions or abatements for the two prior years must be considered or granted only for (1) clerical errors, or (2) when the taxpayer fails to file for a reduction or an adjustment due to hardship, as determined by the county board.

All applications for the reduction or abatement of estimated market value, taxes, or costs must be approved by the following county officials: (1) the county assessor (or city assessor of a first or second class city), (2) the county auditor, and (3) the county board.

All applications for the reduction or abatement of penalties or interest must be approved by the following county officials: (1) the county treasurer, (2) the county auditor, and (3) the county board. Approval of the county or city assessor is not required for abatements of penalties or interest.

No reduction, abatement, or refund of any special assessments that were levied by any municipality for local improvements can be made unless it is also approved by the board of review or similar taxing authority of the municipality.

Before acting on any reduction or abatement of more than $10,000, the county board must give a 20-day notice to the school board and municipality in which the property is located. If the school board and municipality do not respond, the county board may take final action after the 20-day period has expired. If the school board or municipality object to the abatement, the county board must submit the reduction or abatement to the Property Tax Division of the Department of Revenue for final approval or denial.

PROPERTY TAX LISTS: 1ST BUSINESS DAY IN JANUARY SECTION 6120
(Continued)

All reductions or abatements of delinquent taxes, penalties, interest, or costs must be processed on the Department of Revenue Form 5, "APPLICATION FOR SETTLEMENT AND ABATEMENT OF DELINQUENT TAXES, PENALTIES, INTEREST, AND COSTS UPON REAL ESTATE (M.S. 375.192).

For more information about the reduction or abatement process and the official form, please contact the Property Tax Division at (651) 296-0336.

NOTE: All applications must include the social security number of the applicant. The social security number is private data on individuals as defined by M.S. 13.02, Subd. 12.

In addition to the above provisions, the county board may, with the concurrence of the county treasurer, delegate to the county treasurer the power to abate penalties for the late payment of property taxes in the current year. The county treasurer given this power may abate the penalty on the late payment of property taxes in the current year on the finding that the imposition of the penalty would be unjust and unreasonable. This authorization applies only to the penalties on the late payment of taxes which are due in the current taxes payable year. It does <u>not</u> apply to (a) the property taxes on which the penalties are based, (b) the penalties on taxes which became delinquent prior to payment, or (c) the interest on delinquent property taxes. (M.S. 279.01, Subd. 2)

DELINQUENT TAX LIST: FEBRUARY 15 SECTION 6130

By February 15 each year, the county auditor is to send a copy of the delinquent tax list to the administrator of the district court in the county. The information contained in the delinquent tax list is derived from the county property tax lists received from the county treasurer. (M.S. 279.05)

DELINQUENT TAX LIST: PARCELS INCLUDED + EXCLUDED

The delinquent tax list is to include all parcels of property with unpaid taxes due in the previous year with the following three exceptions: (1) parcels which have already been bid in for the state and have not been redeemed, (2) parcels which are under U.S. bankruptcy orders, and (3) parcels for which a petition for review has been filed in district court or tax court. (M.S. 278.04; 279.05)

EXCEPTION #1: PARCELS PREVIOUSLY BID IN FOR THE STATE

The first exception means that the delinquent tax list is not to include parcels of property that have delinquent taxes for the previous year if there are delinquent taxes remaining unpaid for any year prior to the previous year.

In this case, the parcel would have already been listed in a previous year's delinquent tax list and would already have a tax judgment and lien against it. Consequently, there is no need to include the parcel in the delinquent tax list again.

Instead of listing the parcel again, the county auditor is to add the delinquent tax and penalties for the previous year to the existing delinquent tax amount. In short, the new delinquent tax and penalties are incorporated into the existing tax judgment and lien against the parcel of property.

Of course, if the county auditor inadvertently forgets to include a parcel of property with delinquent taxes in the appropriate year's delinquent tax list, the county auditor may include the parcel of property in a later delinquent tax list as soon as the omission is discovered.

EXCEPTION #2: PROPERTY SUBJECT TO U.S. BANKRUPTCY

The second exception means that the county auditor is not to include in the delinquent tax list any parcel of property subject to a bankruptcy proceeding .

Bankruptcy proceedings do not stop the levying of property taxes or the determination of property tax delinquency on the property subject to the bankruptcy proceedings. However, the automatic stay imposed by the bankruptcy court stops any further delinquency or forfeiture processing until the bankruptcy has been completed. In addition, the taxpayer could contest the property taxes in the bankruptcy court.

The order of the bankruptcy court may affect the amount of penalty and interest that the county may collect. It may also affect the tax amount that the county may collect if the property taxes were contested in the bankruptcy court.

Upon completion of the bankruptcy, the property tax delinquency or forfeiture process may continue on from the point where it was stayed. However, the estate usually pays the total real property taxes due, including delinquent taxes, penalties, and interest. This is because in Minnesota, local property taxes are by statute a secured lien on real property having higher priority than other secured interests, and secured interests have higher priority than unsecured interests.

In bankruptcy cases, the county auditor should do the following: (1) make a record of the judge's action, (2) obtain a copy of the order, (3) treat the delinquent tax amount as in "suspended tax delinquency," and (4) when the bankruptcy has been discharged, collect the delinquent tax amount as "non-judgment" taxes.

See Section 6175 for more information concerning bankruptcy and its effect on the property tax delinquency and tax forfeiture process for parcels subject to bankruptcy proceedings.

EXCEPTION #3: PETITION FOR REVIEW FILED IN DISTRICT OR TAX COURT

The third exception means that the county auditor is not to include in the delinquent tax list any parcel of property for which a petition for review has been filed in district court or tax court.

After the court has entered its judgment under M.S. 278.07, the county auditor is to bill the taxpayer for the unpaid portion of the judgment, if any, plus the allowable costs, penalties, and interest that have accrued to the date of entry. If the judgment is not paid within 30 days of the billing, the county auditor is to enter the judgment in the "real estate tax judgment book" for the year for which the taxes were levied, with the same effect as if judgment had been entered under M.S. Chapter 279, except that interest does not apply to the 30-day payment period.

DELINQUENT TAX LIST: FEBRUARY 15 **SECTION 6130**
(Continued) (Page 3)

If the court's judgment is entered after the second Monday in May, and the judgment is not paid within the 30-day payment period, interest begins to accrue again and the parcel of land is immediately bid-in for the state, with all subsequent events, deadlines, and periods related to the enforcement of the judgment measured from this bid-in date. (M.S. 278.10)

DELINQUENT TAX LIST: INFORMATION NEEDED

The delinquent tax list is to contain the following information for each parcel of property with unpaid taxes. (M.S. 279.05)

1. **The names of the parties who are authorized to pay the real property taxes-- the "TAXPAYER OF RECORD."* The "taxpayer of record" is often the fee owner. An example of a taxpayer of record who is not the fee owner is a buyer under a contract for deed.**

2. **The names of the parties who own the property on which the real property taxes are delinquent-- the "PROPERTY OWNER."* Ownership is determined by whose name is on the deed of record in the county recorder's office-- the fee owner.**

3. **The names of any other "INTERESTED PARTIES" who have filed to receive tax notices for the property as authorized under M.S. 276.041.* Examples of other "interested parties" include (a) a mortgagee who is not paying the property tax out of the mortgagor's escrow account (the mortgagor is paying the taxes directly to the county), and (b) any other party who holds a lien on a parcel of real property under any legal contract. (See Section 6170 for more information about "interested parties.")**

4. **The property tax identification number ("PID").**

5. **A "LEGAL DESCRIPTION" of the land on which the real property taxes are delinquent. The authority for the legal description is the deed to the property that is recorded in the county recorder's office.**

6. **The "YEAR" for which the tax is delinquent. This means the year when the taxes were due not the year when they became delinquent. This information is to be listed opposite the legal description.**

7. **The total amount of the delinquent "TAX" and "PENALTIES."**

* **NOTE: The auditor may choose to include or not include the addresses along with the names of the taxpayers, property owners, and other interested parties. (M.S. 279.05)**

DELINQUENT TAX LIST: NAMES INCLUDED

Presently, the names of the property owners, taxpayers of record, and any other interested parties that are listed on the delinquent tax list should be the most current names determined at the time the taxes become delinquent. A history of the steps leading up to this current position is outlined below.

INTERPRETATION BEFORE 1983

Prior to 1983, the language of M.S. 279.05 stressed the importance of listing the legal description of the property and the total amount of the tax and penalties due. The name of the owner was to be listed only if known.

An early court case and a June 5, 1962 Attorney General's Opinion affirmed that the listing of the legal description of the property was primary and the listing of the ownership was secondary.

INTERPRETATION AFTER 1983

The 1983 legislature amended M.S. 279.05 by requiring that the names of the property owners, taxpayers of record, and other interested parties be on the delinquent tax list.

It was the intention of the 1983 legislature that the list should contain the most current names determined at the time the taxes are declared delinquent.

The result of this interpretation is that all of the parties who have a legal interest in the property and stand to lose that interest are to be notified when the taxes go delinquent. (Laws 1983, Chapter 342, Article 15, Section 4)

DELINQUENT TAX LIST: PURPOSE

The filing of the delinquent tax list with the administrator of the district court functions as an official notice of the county's intention to take legal action against the property in order to enforce payment of the delinquent tax amount. (M.S. 279.05)

To put it another way, the county action of filing the delinquent tax list with the district court administrator serves as the necessary first step in the process of announcing and validating the county's future legal action against the property if the delinquent tax amount is not paid.

The delinquent tax list is to be made available in the county auditor's office for public use. It is also to be published in the county's official newspaper along with the notice of delinquent taxes. The delinquent tax list will no longer be part of the mailing. The mailing will consist of the new delinquent tax letter and the notice.

DELINQUENT TAX LIST: EFFECT OF ERRORS

Insignificant errors in the delinquent tax list that relate to a specific parcel of property do not affect the legal validity of the subsequent tax judgment or the tax judgment sale. (M.S. 279.06)

This means that the delinquent tax proceedings will legally continue as if there were no errors. A court judgment will be brought against the property for the taxes, and the property will be bid in for the state even though there may be errors in the delinquent tax list. However, the error should be corrected as soon as it is found. An "insignificant error" in this context generally means one that does not mislead the taxpayer or property owner into thinking that the property does not have delinquent taxes, when in fact it does.

DELINQUENT TAX LIST: REQUIRED FORMAT

Until 1991, the format of the delinquent tax list used by the county auditor and the administrator of the district court was based on the statutory format contained in M.S. 279.06.

The 1990 Legislature directed the Department of Revenue to prescribe a new format for the delinquent tax list required under M.S. 279.06. The prescribed format is to be used for the exchange between the county auditor and the administrator of the district court beginning in January, 1991.

It was also the 1990 Legislature's intention to have the county auditor use the new prescribed format for the publication of the delinquent tax list beginning in January, 1991. The publication is required under M.S. 279.09.

An explanation of the major components of the new format for the delinquent tax list is outlined below.

1. **The introductory paragraph under the title provides the readers with a capsule summary of what the list contains and what has to be done to remove a parcel from the list.**

DELINQUENT TAX LIST: FEBRUARY 15 **SECTION 6130**
(Continued) **(Page 6)**

2. **The four columns contain the delinquent tax data required under M.S. 279.05. The four-column layout has been designed to present the required data logically and simply so that the data can be quickly and easily understood.**

3. **The names of the property owners, taxpayers of record, and other interested parties have been placed in column one because that is the column that will be read first. By scanning the first column, the readers can find their names quickly and be aware immediately that their property is on the list.**

4. **The county auditor may choose whether or not to include the addresses with the names in column one. If the addresses are included, it may help some readers identify their properties on the list. This would be especially true if there were several parties on the list with the same name.**

5. **Column two contains both the property identification number and the legal description. Both of these make up the official property tax description of each parcel and can logically be placed together. There is no need to separate this information into two columns.**

6. **The tax year included in column three and the total tax and penalties included in column four are required by M.S. 279.05. For maximum clarity, it seems best to list them in separate columns. For the same reason, it seems best to repeat the tax year for each parcel entry even though the same year is used for each one.**

7. **The solid vertical and horizontal lines that block out sections of the page help the reader clearly and quickly separate the delinquent tax data for each entry. If your county computer system and/or printer have the capability, please include the solid vertical and horizontal lines on the list.**

8. **As stated earlier, this format for the delinquent tax list is to be used in the exchange between the county auditor and the administrator of the district court and for publication along with the delinquent tax notice. It is not to be used as part of the mailing.**

NOTE: An example of the new format for the delinquent tax list is presented on the next page.

DELINQUENT TAX LIST

The Following Table Contains A List Of Real Property Located In Spruce County On Which Taxes And Penalties Became Delinquent On January 2, 1991. Interest Calculated From January 1, 1991, And County Costs Must Be Paid Along With The Total Tax And Penalties In Order For A Parcel of Real Property To Be Removed From The Delinquent Tax List.

Names of Owners, Taxpayers, & Interested Parties	Description of Property	Tax Year	Total Tax + Penalties ($ + Cents)
	CITY OF APPLEWOOD		
Kathryn & Jason Davis 563 Franklin Street Applewood, MN 57252 Homestead Mortgage Co. 345 Parkview Ave. Barkton, CA 94705	02-0135-0014, Oak Hill Subdivision, Lot 2 & West 30 Feet of Lot 3, Block 4	1990	$457.23
Jiffy Car Wash Co. 421 State Street Applewood, MN 57252	02-0692-0059, Sawyer Addition, East 25 Feet of Lot 6 & West 50 Feet of Lot 7, Block 8	1990	$694.18
	CITY OF GREENBRIAR		
Shirley Harriston 154 Sandstone Street Greenbriar, MN 56323	08-0325-0001, Towers Subdivision, Lot 2 & Lot 3, Block 5	1990	$83.65
Riverside Furniture Co. 632 West Broadway Greenbriar, MN 56323	08-0711-0034, Crystal Addition, Lots 16, 17, & West 40 Feet of Lot 18, Block 4	1990	$2,376.10
	TOWN OF WILLOW CREEK		
Raymond & Esther Cologne Rural Route #3, Box #12 Greenbriar, MN 56323 Farmer's State Bank 129 Main Street Greenbriar, MN 56323	04-0034-0038, Twp 120, Range 37, Section 22, Northwest 1/4 & North 1/2 of Southwest 1/4, 240 Acres	1990	$963.62
Arnold A. Zimmerman Rural Route #1, Box #64 Greenbriar, MN 56323	04-0087-0013, Twp 120, Range 37, Section 8, East 1/2 & Southeast 1/4 of Southwest 1/4, 360 Acres	1990	$1,043.53
	UNORGANIZED TERRITORY UNPLATTED RANGE 62-2W		
Frank & Joyce Wroblewski Post Office Box #15 Greenbriar, MN 56323	06-0012-0007, Section 22, East 100 Feet of West 940 Feet of East 1/2 Lot 3, South of Service Road, Document 8043, Book 16, Page 19	1990	$356.48

NOTICE OF DELINQUENT TAXES

State of Minnesota — District Court

County of Spruce — 5th Judicial District

TO: ALL PERSONS WITH A LEGAL INTEREST IN THE PARCELS OF REAL PROPERTY DESCRIBED IN THE FOLLOWING DELINQUENT TAX LIST

A list of real property in Spruce County on which delinquent property taxes and penalties are due has been filed with the district court administrator of Spruce County. This list is published to inform all persons that the listed property is subject to forfeiture because of delinquent taxes.

The property owner, taxpayer, or other interested person must either pay the tax and penalty, plus interest and costs, or file a written objection with the district court administrator. The objection must be filed by April 10, 1991, stating the reason why the tax or penalty is not due on the property. If no objection is filed, a court judgment will be entered against the property for the unpaid tax, penalty, interest, and costs.

For property under court judgment, the period of redemption begins on May 13, 1991, and ends three to five years later, depending on the type of property and where it is located. The period of redemption means the time within which taxes must be paid to avoid losing the property through forfeiture.

To avoid forfeiture, taxes on property located within a township must be paid by May 13, 1996. Taxes must also be paid by May 13, 1996, if the property is one of the following types in a city: (1) residential homestead, (2) farm homestead, (3) private cabins, (4) resorts occupied by the owner, and (5) resorts in operation for not more than 225 days a year. Payment of tax by May 13, 1994, is necessary to avoid forfeiture of any property in a city which is not described in the preceding sentence.

To determine how much interest and costs must be added to pay the tax in full, contact the Spruce County Auditor's Office, Spruce County Courthouse, 234 West Broadway, Greenbriar, Minnesota, 56323. The telephone number is (234) 567-8910.

Thornton J. Longstreet

Thornton J. Longstreet
District Court Administrator
5th Judicial District

District Court Seal

Date: February 20, 1991

AUDITOR'S AFFIDAVIT: FEBRUARY 15 SECTION 6140

The county auditor is to certify the authenticity of the delinquent tax list with a written affidavit. The county auditor's affidavit is to be sent to the administrator of the district court along with the copy of the delinquent tax list by February 15. (M.S. 279.05)

The county auditor's affidavit is to be substantially in the form of the sample listed below. (M.S. 279.05)

State of Minnesota
County of Spruce

Nicholas B. Archer, being duly sworn, deposes, and says that he is the auditor of the county of Spruce; that he has examined the foregoing list, and knows the contents thereof; and that the same is true and correct.

Nicholas B. Archer
Nicholas B. Archer
Spruce County Auditor

Subscribed and sworn to before me
this 15th day of February, 1991.

Cory L. Patchen
Cory L. Patchen
Deputy Auditor
Spruce County

NOTE: Failure of the county auditor to certify the delinquent tax list with an affidavit to the court administrator or any defect in the affidavit does not invalidate the court judgment and lien against the properties included on the delinquent tax list. (Cook v. John Schroeder Lumber Co., 1902, 85 Minn. 374, 88 N.W. 971)

NOTICE OF DELINQUENT TAXES: FEBRUARY 20 SECTION 6150

Technically, the district court administrator is responsible for preparing the notice of delinquent taxes. The notice is to be signed and returned with a copy of the delinquent tax list within five days after the county auditor files the delinquent tax list with the district court administrator but not later than February 20. (M.S. 279.06)

In practice, the county auditor prepares both the delinquent tax notice and list. The delinquent tax notice is sent along with the list to the district court administrator. The administrator reviews them, signs the notice, and returns them to the county auditor.

The delinquent tax notice is intended to provide all property owners, taxpayers of record, and other interested parties with the information needed to give them ample time to object to the delinquency and understand fully what will happen if they do not choose to file an objection or pay the delinquent tax amount.

The major types of information which are to be included in the delinquent tax notice are outlined below.

NOTICE: DEADLINE FOR FILING OBJECTIONS

Property owners, taxpayers of record, and other interested parties are to file a written objection with the administrator of the district court within 20 days after the last publication of the delinquent tax notice and list in order to have their case heard by the court. (M.S. 279.06)

The court will either dismiss all or part of the delinquent tax amounts on each parcel or enter judgment against each parcel of property for all or part of the delinquent tax amounts. See Series 6300 for more information about the tax judgment.

NOTICE: IMPENDING TAX JUDGMENT AND LIEN

If no objection is filed or if one is filed and not upheld by the court, a tax judgment will be entered against each parcel for the delinquent tax amount. A tax judgment entered by the court means that the court has attached a lien on the property. (M.S. 279.06)

If the delinquent tax amount is not paid, the property will later be "bid in for the state." Eventually, the property will be forfeited to the state and, in most cases, sold at a public or private auction. The proceeds of the sale will be distributed to the taxing districts in lieu of the lost tax revenue.

NOTICE: PERIOD OF REDEMPTION

Property owners, taxpayers of record, and other interested parties have a specific period of time after the property is bid in for the state to remove the tax judgment and lien against the property by paying the delinquent tax amount. This time period is officially called "the period of redemption." (M.S. 279.06)

The period of redemption is 3 years or 5 years after the property is bid in for the state depending on whether or not the property is located in a city and what the classification of the property is.

1. See Series 6300 for more detailed information on the court judgment and the bidding in for the state.

2. See Series 6400 for more detailed information on the redemption periods and examples of exceptions to the standard 3-year and 5-year periods of redemption.

NOTICE: REQUIRED FORMAT

Until 1991, the format of the delinquent tax notice used by the county auditor and the administrator of the district court was based on the statutory format contained in M.S. 279.06.

The 1990 Legislature directed the Department of Revenue to prescribe a new format for the delinquent tax notice required under M.S. 279.06. The prescribed format is to be used for the exchange between the county auditor and the administrator of the district court beginning in January, 1991.

It was also the 1990 Legislature's intention to have the county auditor use the new prescribed format for the publication and mailing of the delinquent tax notice beginning in January, 1991. The publication and mailing are required under M.S. 279.09 and M.S. 279.091.

NOTICE OF DELINQUENT TAXES: FEBRUARY 20 SECTION 6150
(Continued) **(Page 3)**

An explanation of the major components of the new format for the delinquent tax notice is outlined below.

1. **The purpose of paragraph one is to announce that the delinquent tax list has been sent to the administrator of the district court and to warn that the properties listed are subject to forfeiture if the delinquent tax amount is not paid.**

2. **Paragraph two provides information about the right to file a written objection, the deadline for filing an objection, and the tax judgment that will be entered against the properties if no objection is filed.**

3. **In paragraphs three and four, the exact calendar dates when the periods of redemption end are used instead of saying that they extend for three years or five years. The term, "period of redemption," is used and defined.**

   The emphasis is placed on getting the taxes paid now rather than stressing the idea of payment plans that can be discussed as later alternatives.

   When it is applicable, a county will have to add a sentence to paragraph four explaining the period of redemption for parcels located in a Targeted Neighborhood.

4. **The final paragraph lets the readers know that they can call the auditor's office specifically to find out how much they owe in total. It also includes the telephone number of the auditor's office.**

5. **As stated earlier, this format for the delinquent tax notice is to be used for the following purposes: (a) the exchange between the county auditor and the administrator of the district court, (b) the publication along with the delinquent tax list, and (c) the mailing along with the delinquent tax letter.**

NOTE: An example of the new format for the delinquent tax notice is presented on the next page.

NOTICE OF DELINQUENT TAXES: FEBRUARY 20 **SECTION 6150**
(Continued) (Page 4)

NOTICE OF DELINQUENT TAXES

State of Minnesota District Court

County of Spruce 5th Judicial District

TO: ALL PERSONS WITH A LEGAL INTEREST IN THE PARCELS OF REAL PROPERTY DESCRIBED IN THE FOLLOWING DELINQUENT TAX LIST

A list of real property in Spruce County on which delinquent real property taxes and penalties are due has been filed with the district court administrator of Spruce County. This list is published to inform all persons that the listed property is subject to forfeiture because of delinquent taxes.

The property owner, taxpayer, or other interested persons must either pay the tax and penalty plus interest and costs or file a written objection with the district court administrator. The objection must be filed by March 31, 1998, stating the reason why the tax or penalty is not due on the property. If no objection is filed, a court judgment will be entered against the property for the unpaid tax, penalty, interest, and costs.

For property under court judgment, the period of redemption begins on May 11, 1998, and ends three to five years later, depending on the type of property and where it is located. The period of redemption means the time within which taxes must be paid to avoid losing the property through forfeiture.

To avoid forfeiture, taxes on property located within a township must be paid by May 11, 2003. Taxes must also be paid by May 11, 2003, if the property is one of the following types in a city: (1) residential homestead, (2) farm homestead, (3) private cabins, or (4) resorts in operation for not more than 250 days a year, including resorts occupied by the owner. Payment of tax by May 11, 2001, is necessary to avoid forfeiture of any property in a city that is not described in the preceding sentence.

To determine how much interest and costs must be added to pay the tax in full, contact the Spruce County Auditor's Office, Spruce County Courthouse, 234 West Broadway, Greenbriar, Minnesota, 56323. The telephone number is (234) 567-8910.

_____

Thornton J. Longstreet (District Court Seal)
District Court Administrator
5th Judicial District

Date: February 19, 1998

DELINQUENT TAX LETTER: MARCH 20 SECTION 6155

According to M.S. 279.091, on or before March 20, the county auditor is to mail a copy of the delinquent tax notice and the appropriate portion of the delinquent tax list to all taxpayers and other interested parties included on the list. (M.S. 279.091)

Until 1991, most of the county auditors were using the statutory format for the delinquent tax notice as the basis for part of the mailing. When they added a heading and ending to make the statutory notice into a letter, the content usually had to be reduced to get it all on one page. This made the mailed notice even more difficult to read than the published notice.

Until 1991, most of the county auditors were also duplicating the entry from the delinquent tax list for each party and mailing it with the notice. The duplication process and the usual reduction of the print made the mailed entry from the list even more difficult to read than the published list.

As part of the 1990 Legislature's directive explained in Sections 6130 and 6150, the Department of Revenue prescribed a new form called "the delinquent tax letter." This new letter is to be used in place of the duplicated entry from the published delinquent tax list. It is to be mailed along with a copy of the signed delinquent tax notice beginning in January, 1991.

The new delinquent tax letter is an adaptation of a preliminary letter which some counties send out in early January. The parties who pay their delinquent tax amounts shortly after the mailing have their parcels deleted from the preliminary list. The final list and notice are then sent to the district court administrator. The list and notice signed by the administrator are returned and later published in the newspaper.

A county may continue to mail the preliminary letter, but not as a substitute for the delinquent tax letter. The delinquent tax letter must be mailed along with a copy of the delinquent tax notice signed by the administrator of the district court in order to comply with M.S. 279.091 as amended by the 1990 Legislature's directive.

An explanation of the major components of the format for the delinquent tax letter is outlined below.

1. The delinquent tax letter is intended to be a ONE-PAGE MAILER which can be generated by the county's computer system. For maximum economy, the delinquent tax letter can be printed on one side of the page, and the delinquent tax notice can be printed on the other side of the page.

2. At the top of the page, the NAME and ADDRESS of the property owner, taxpayer of record, or other interested party and the LEGAL DESCRIPTION of the property can be retrieved from the computer files already on hand.

3. The name following "Dear" in the SALUTATION can come from the first line of the names and addresses used at the top of the page on the left. A county may choose to replace the personalized salutation with a more business-like salutation.

4. The purpose of PARAGRAPH ONE is to inform the addressee that a list of delinquent taxes including the addressee's parcel described at the top of the page has been sent to the administrator of the district court.

5. PARAGRAPH TWO encourages the addressee to read the enclosed delinquent tax notice. The purpose of enclosing the notice is to provide the addressee with the information needed to avoid losing the parcel for failure to pay the delinquent tax amount.

6. In paragraph three, the date entered in the blank after "TOTAL AMOUNT DUE FIGURED THROUGH:" depends on when the delinquent tax letter is prepared. If it is prepared in January, the date to enter is "01/31/91." If it is prepared in February, the date to use is "02/28/91." If it is prepared in March, the date should be "03/31/91."

7. In paragraph three, the TAX and PENALTY amounts will be the same regardless of which month the delinquent tax letter is prepared. The INTEREST will be calculated for January, 1991, through the month in which the letter is prepared. The county COSTS are to be included if the letter is prepared after the delinquent tax notice and list have been published.

8. The purpose of paragraph four is to provide the addressee with the information needed to calculate the additional interest due if the delinquent tax amount is paid after the date listed in paragraph three.

   The monthly interest rate can be determined by dividing the annual interest rate in effect for the current delinquent tax year by 12. The result should be carried out to four decimal places as it is in the example.

   The monthly interest rate used in the example delinquent tax letter is based on the 10% annual interest rate for 1991.

9. The Department of Revenue recommends that the delinquent tax letter be mailed along with a copy of the signed delinquent tax notice to all parties included on the delinquent tax list for each parcel. This potentially means the property owners, taxpayers of record, and other interested parties who have filed under M.S. 276.041.

   The reason for this recommendation is that some property owners, taxpayers of record, and other interested parties will not have access to the newspaper in which the delinquent tax notice is published. If they do not receive a copy of the notice along with the letter in the mail, they will have no way of knowing the details explained in the notice.

   In practice, if the county's computer files do not include the names and addresses of the property owners who are not the taxpayers of record and these property owners have not filed under M.S. 276.041, then the county, obviously, cannot be asked to include them in the mailing.

NOTE: An example of the format for the delinquent tax letter is presented on the next page.

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, Minnesota 56323
(234) 567-8910

Kathryn & Jason Davis
563 Franklin Street
Applewood, MN 57252

02-0135-0014, Oak Hill Subdivision,
Lot 2 & West 30 Feet of Lot 3,
Block 4

Dear Kathryn & Jason Davis

As stated in the enclosed Notice of Delinquent Taxes, a list of real property in Spruce County on which delinquent property taxes and penalties are due has been filed with the district court administrator of Spruce County. The parcel of property which is described above and in which you have a legal interest is included in that delinquent tax list.

Please read the enclosed Notice of Delinquent Taxes so that you will understand what you must do in order to avoid losing your legal interest in the property because of delinquent taxes.

TOTAL AMOUNT DUE FIGURED THROUGH: 02/28/91

Year	Tax	Penalty	Interest	Cost	Total
1990	$415.66	$41.57	$8.57	$10.00	$475.80

If you have not paid the above total amount by February 28, please add the following percent of interest to the sum of the tax, penalty, and cost for each additional month of delinquency: 0.9167%.

Please make checks payable to: Spruce County Treasurer. Please return this letter with your payment.

If you have any questions about these proceedings or need help in determining the total amount due to pay the delinquent taxes in full, please contact the Spruce County Auditor's office.

Respectfully,

Nicholas B. Archer

Nicholas B. Archer
Spruce County Auditor

INTEREST ON DELINQUENT TAXES SECTION 6160

BASIS OF THE INTEREST

An annual rate of interest is to be imposed on the sum of the following amounts: (1) the delinquent taxes; (2) the delinquent special assessments, if any; (3) the penalties; and (4) the county costs. (M.S. 279.03, Subd. 1) In this manual, the sum of the above amounts are referred to as the "delinquent tax amount." For the sake of brevity, the terms, "tax" or "taxes," will be used to include the delinquent taxes and special assessments, if any.

For taxes payable in 1981 and prior years (delinquent in 1982 and prior years), an annual rate of interest was to be calculated from the second Monday in May of the year when the unpaid taxes and penalties became delinquent until the time when they were paid.

Beginning with taxes payable in 1982 (delinquent in 1983), an annual rate of interest is to be calculated from January 1st of the year when the unpaid taxes and penalties become delinquent through the month when they are paid.

The county treasurer is not required to calculate interest on the unpaid taxes and penalties on the property tax list returned to the county auditor on the 1st business day in January.

INTEREST PRORATED MONTHLY

The annual rate of interest is to be prorated monthly on the delinquent tax amount remaining unpaid. The interest is to be imposed only for the months that the delinquent tax amount remains unpaid. (M.S. 279.03, Subd. 1)

A portion of a month is considered to be a whole month. This means that the prorated interest for a given month is the same regardless of when the delinquent tax amount is paid during that month.

INTEREST RATE: ADJUSTED PRIME RATE (APR)

Beginning on January 1, 1991, the annual rate of interest on delinquent real property taxes, penalties, and costs is to be computed according to M.S. 270.75, Subd. 5. This is the adjusted prime rate (APR) charged by banks on bank-to-business loans. The APR is determined by the Board of Governors of the Federal Reserve System. The APR is subject to change on January 1st of each year. (M.S. 279.03, Subd. 1a)

The adjusted prime rate (APR) which is used for delinquent tax amounts beginning on January 1, 1991 is subject to a 10% minimum and a 14% maximum. In other words, the rate that is used for delinquent tax amounts cannot drop below 10% and cannot rise above 14% regardless of what the APR charged by banks may be for any given year.

The adjusted prime rate (APR) applies to the delinquent tax and tax-forfeited land situations outlined below.

1. **Real property taxes and penalties which became delinquent prior to January 1, 1991, and which remain unpaid on or after January 1, 1991. This also includes the costs that may be added to the unpaid taxes and penalties. In this situation, the adjusted prime rate (APR) is used in the determination of that portion of the accumulated interest rate that relates to the years of delinquency 1991 and thereafter. (M.S. 279.03, Subd. 1a)**

2. **Unpaid real property taxes and penalties that become delinquent for the first time on or after January 1, 1991. This also includes the costs that may be added to the unpaid taxes and penalties. (M.S. 279.03, Subd. 1a)**

3. **Confessions of judgment under the 10-year installment plan for delinquent tax amounts confessed on or after January 1, 1991. (M.S. 279.37, Subd. 2)**

4. **Confessions of judgment under the 5-year installment plan for delinquent tax amounts regardless of when they were confessed. (M.S. 279.37, Subd. 1a)**

5. **The unpaid balance of any repurchase contract approved by the county board on or after January 1, 1991. (M.S. 282.261, Subd. 2)**

6. **The unpaid balance of the basic sale price of a parcel of tax-forfeited land sold under a contract for deed on or after January 1, 1991. (M.S. 282.01, Subd. 4)**

INTEREST ON DELINQUENT TAXES **SECTION 6160**
(Continued) (Page 3)

SCHEDULE OF ADJUSTED PRIME RATES (APR's)

A schedule of the annual, adjusted prime rates (APR's) which apply to the above delinquent tax and tax-forfeited land situations is listed below. The county auditor may keep track of the rates as they are known after payable 1998 by entering them on the appropriate line on the schedule.

Payable Year	Delinquent Year	APR
Payable 1990	(Delinquent 1/1/91)	10%
Payable 1991	(Delinquent 1/1/92)	10%
Payable 1992	(Delinquent 1/1/93)	10%
Payable 1993	(Delinquent 1/1/94)	10%
Payable 1994	(Delinquent 1/1/95)	10%
Payable 1995	(Delinquent 1/1/96)	10%
Payable 1996	(Delinquent 1/1/97)	10%
Payable 1997	(Delinquent 1/1/98)	10%
Payable 1998	(Delinquent 1/1/99)	10%
Payable 1999	(Delinquent 1/1/00)	%
Payable 2000	(Delinquent 1/1/01)	%
Payable 2001	(Delinquent 1/1/02)	%
Payable 2002	(Delinquent 1/1/03)	%
Payable 2003	(Delinquent 1/1/04)	%
Payable 2004	(Delinquent 1/1/05)	%
Payable 2005	(Delinquent 1/1/06)	%

INTEREST RATE: FLOATING RATE (FR)

The annual rate of interest on delinquent real property taxes and penalties that were levied in 1979 and prior years was fixed at 6% until January 1, 1983. From January 1, 1983 through December 31, 1990, interest on the unpaid balance of these delinquent tax amounts was payable at the rate determined under M.S. 549.09. This also included any costs. (M.S. 279.03, Subd. 1)

The annual rate of interest on delinquent real property taxes and penalties that were levied in 1980 and subsequent years was to be determined according to M.S. 549.09 until January 1, 1991. This also included any costs.

The annual rate of interest determined under M.S. 549.09 is the floating rate (FR) based on the secondary market yield on one-year United States treasury bills. The FR is subject to change on January 1st of each year.

Beginning on January 1, 1991, the floating rate (FR) determined under M.S. 549.09 applies to the delinquent tax and tax-forfeited land situations outlined below.

1. **Unpaid taxes and penalties that became delinquent before January 1, 1991, and remain unpaid on or after that date, but only for the years of delinquency prior to 1991. This also includes the costs that may be added to the unpaid taxes and penalties. In this situation, the floating rate (FR) is used in the determination of that portion of the accumulated interest rate that relates to the years of delinquency prior to 1991.**

2. **Confessions of judgment under the 10-year installment plan for delinquent tax amounts confessed before January 1, 1991. (M.S. 279.37, Subd. 2)**

3. **The unpaid balance of any repurchase contract approved by the county board before January 1, 1991. (M.S. 282.261, Subd. 2)**

4. **The unpaid balance of the purchase price of tax-forfeited land sold under a contract for deed before January 1, 1991. (M.S. 282.01, Subd. 4)**

INTEREST ON DELINQUENT TAXES **SECTION 6160**
(Continued) **(Page 5)**

SCHEDULE OF FLOATING RATES (FR's)

A schedule of the annual, floating rates (FR's) which apply to the above delinquent tax and tax-forfeited land situations is listed below. Once the exact rates for each year after payable 1998 are known, the county auditor may keep track of the rates historically by entering them on the appropriate line on the schedule.

Payable Year	Delinquent Year	FR
Payable 1982	(Delinquent 1/1/83)	8%
Payable 1983	(Delinquent 1/1/84)	9%
Payable 1984	(Delinquent 1/1/85)	9%
Payable 1985	(Delinquent 1/1/86)	8%
Payable 1986	(Delinquent 1/1/87)	8%
Payable 1987	(Delinquent 1/1/88)	8%
Payable 1988	(Delinquent 1/1/89)	8%
Payable 1989	(Delinquent 1/1/90)	7%
Payable 1990	(Delinquent 1/1/91)	7%
Payable 1991	(Delinquent 1/1/92)	5%
Payable 1992	(Delinquent 1/1/93)	4%
Payable 1993	(Delinquent 1/1/94)	3%
Payable 1994	(Delinquent 1/1/95)	6%
Payable 1995	(Delinquent 1/1/96)	5%
Payable 1996	(Delinquent 1/1/97)	5%
Payable 1997	(Delinquent 1/1/98)	5%

INTEREST ON DELINQUENT TAXES **SECTION 6160**
(Continued) **(Page 6)**

SCHEDULE OF FLOATING RATES (FR's) (Continued)

Payable Year	Delinquent Year	FR
Payable 1998	(Delinquent 1/1/99)	4%
Payable 1999	(Delinquent 1/1/00)	%
Payable 2000	(Delinquent 1/1/01)	%
Payable 2001	(Delinquent 1/1/02)	%
Payable 2002	(Delinquent 1/1/03)	%
Payable 2003	(Delinquent 1/1/04)	%
Payable 2004	(Delinquent 1/1/05)	%
Payable 2005	(Delinquent 1/1/06)	%

INTEREST ON DELINQUENT TAXES **SECTION 6160**
(Continued) **(Page 7)**

EXAMPLE: CALCULATION OF INTEREST ON DELINQUENT TAXES

The following example shows the steps in calculating the interest for a hypothetical situation where the payable 1996 real property tax and penalties on a residential homestead became delinquent on January 2, 1997 and remained unpaid along with the costs until July 15, 1999.

1. Total Payable 1996 Property Tax Due	**$**	**1,000.00**
2. Total Penalty: January 2, 1997 @ 10%	**$**	**100.00**
3. Publication Costs	**$**	**10.00**
4. Base for Interest (Lines 1 + 2 + 3)	**$**	**1,110.00**
5. First Delinquent Year: Interest on December 31, 1997 @ 10% Per Annum (Adjusted Prime Rate under M.S. 270.75, Subd. 5), @ 0.8333% for 12 Months (Line 4 X 10%)	**$**	**111.00**
6. Second Delinquent Year: Interest on December 31, 1998 @ 10% Per Annum (Adjusted Prime Rate under M.S. 270.75, Subd. 5), @ 0.8333% for 12 Months (Line 4 X 10%)	**$**	**111.00**

(((Taxpayer Pays Delinquent Tax Amount on July 15, 1999)))

7. Third Delinquent Year: Interest on July 15, 1999 @ 10% Per Annum (Adjusted Prime Rate under M.S. 270.75, Subd. 5), @ 0.8333% for 7 Months (Line 4 X 5.8333%)	**$**	**64.75**
8. Total of Delinquent Tax, Penalties, Costs, and Interest Accrued and Collected (Lines 4 + 5 + 6 + 7)	**$**	**1,396.75**

INTEREST RATES: SOURCE

As soon as they are known each year in December, the Property Tax Division of the Department of Revenue will certify the new floating interest rate and the new adjusted prime rate for the next calendar year to each county auditor and treasurer in an official memorandum.

The new adjusted prime rate for the next calendar year will also be incorporated in an updated chart of accumulated interest rates for delinquent taxes and tax-forfeited land that will be mailed with the official memorandum.

REDUCTION OR ABATEMENT OF INTEREST

See Section 6120, page 3, for information about the county's authority to reduce or abate interest on delinquent taxes under M.S. 375.192, Subd. 2.

DOUBLE INTEREST FOR 25% TAX TEST

The interest rate on delinquent taxes that remain unpaid after January 1, 1992 must be doubled when an individual or organization owns one or more parcels of property with delinquent taxes and the total delinquent taxes are more than 25% of the prior year's school district levy. (M.S. 279.03, Subd. 1a)

The interest rate that is to be doubled is the rate computed according to M.S. 270.75, Subd. 5. This is the adjusted prime rate charged by banks on bank-to-business loans. See pages 2 and 3 of this Section 6160 for more information about the adjusted prime rate.

INTEREST RATE FOR COURT JUDGMENTS

The interest rate to use for court judgments arising out of petitions for review is the floating rate based on the secondary market yield on one-year United States treasury bills, determined under M.S. 549.09. See Section 6335 for information concerning how this interest rate applies depending on whether the tax is sustained in full, is increased, is decreased, or the petitioner has overpaid the amount of tax determined to be due. See the Schedule of Floating Rates earlier in this section for the interest rates to use for court judgments. (The source of the interest rate to use for Chapter 278 property tax judgments was decided by the Minnesota Supreme Court in the case of Arcadia Development Corp. v. Hennepin, March 3, 1995.) (M.S. 278.08)

Note: Court judgments under M.S. Chapter 278 may or may not involve property taxes that are actually delinquent.

INTEREST RATE FOR UNPAID DRAINAGE DITCH COSTS

M.S. 103E.601 through 103E.661 contain the provisions for funding, collecting, and paying the costs of a drainage ditch system. The county auditor must prorate the costs to each affected property. A drainage lien for each property is filed in the county recorder's office. Interest on the unpaid balance of the drainage lien, determined under M.S. 549.09 (the floating rate based on the secondary market yield on one-year United States treasury bills), is an additional lien on the property. The county auditor must add the annual installments plus interest to the tax lists for each year.

If an installment plus interest is not paid by a taxes due date, it is subject to the penalty schedule for unpaid real property taxes. If it remains unpaid, it becomes delinquent in January of the year after it was due. It is then subject to the interest rate for delinquent property taxes under M.S. 279.03, Subd. 1a (the adjusted prime rate (APR) charged by banks on bank-to-business loans). In other words, unpaid drainage ditch installments plus interest are subject to the same penalty and delinquent tax provisions as real property taxes. (M.S. 103E.611)

RECORD OF INTERESTED PARTIES SECTION 6170

Individuals and organizations with a legal interest in a parcel of real property may file their names and current addresses with the county auditor and pay a fee for each parcel for the purpose of receiving copies of three designated tax documents: (1) the property tax statement, (2) the delinquent tax letter and notice, and (3) the notice of expiration of redemption. (M.S. 276.041)

Taxpayers of Record who are not the fee owners and Mortgagees who remit taxes for taxpayers are not required to file and pay fees as interested parties in order to receive copies of the three designated tax documents. They are on the county mailing list automatically as part of the regular property tax proceedings. An example of a taxpayer of record who is not the fee owner is a buyer under a contract for deed. (M.S. 276.041)

The county auditor is to maintain a record of the interested parties who submit their names and current addresses and pay the fees. The county auditor is to send a copy of the record of interested parties to the county treasurer.

INTERESTED PARTIES: DEFINITION

For purposes of this manual, the term, "interested parties," refers to those individuals or organizations which have a legal interest in a parcel of real property included in the delinquent tax list. The following individuals or organizations are included in the statutory definition of "interested parties." (M.S. 276.041)

1. FEE OWNERS

This refers to a property owner (fee owner) who holds the legal title to a parcel of real property with a warranty deed or quit claim deed but is not the taxpayer of record.

An example is a person who hold legal title to a property but has granted a life estate to the party in possession of the property. The party holding the life estate pays the property taxes directly to the county and receives the property tax mailings as the taxpayer of record.

Another example is a person who sells a property under a contract for deed. Until the contract is paid off, the seller holds the legal title, and the buyer usually pays the property taxes directly to the county and receives the property tax mailings as the taxpayer of record.

The property owner (fee owner) should receive a copy of the delinquent tax letter and notice under M.S. 279.091 as recommended by the Department of Revenue and must receive the notice of expiration of redemption under M.S. 281.23 without having to file as an interested party. However, the property owner must file as an interested party in order to receive a copy of the property tax statement under M.S. 276.04.

2. VENDEES

In most cases, the buyer (vendee) under a contract for deed is the taxpayer of record. Under the terms of most contracts, the buyer is required to pay the property taxes directly to the county auditor. As a result, the buyer receives the property tax mailings as the taxpayer of record.

However, if the contract requires the buyer to pay the property taxes to the property owner (vendor), the property owner would pay the taxes directly to the county auditor and would receive the property tax mailings as the taxpayer of record.

If the purchaser (vendee) wanted to keep track of the tax status of the property by receiving the three designated tax documents, the purchaser would have to file as an interested party.

3. MORTGAGEES

This refers to a financial lender who holds a mortgage deed on a parcel of real property as security for a loan. Under the terms of the mortgage contract, the mortgagee is not paying the tax out of the mortgagor's escrow account. Instead, the mortgagor is paying the tax directly to the county and is receiving the property tax mailings as the taxpayer of record.

In this case, the mortgagee will have to file as an interested party if the mortgagee wants to receive the three designated tax documents from the county relating to the property held as security.

4. LIENHOLDERS

This refers to all other parties who hold a lien on a parcel of real property under any legal contract. Similar to the mortgagee listed above, this type of lienholder is not the taxpayer of record.

The party who has given the lien as security for fulfilling a contract with the lienholder is paying the tax directly to the county and is receiving the property tax mailings as the taxpayer of record.

Similar to the mortgagee listed above, the lienholder will have to file as an interested party in order to be informed about the tax status of the lienhold property. Examples are a mechanics lien and a home equity mortgage lien.

5. ESCROW AGENTS

The 1991 Minnesota Legislature added "escrow agents" to the list of parties who may file a request with the county auditor, pay the $15.00 fee, and receive copies of the three tax notices for parcels of real property in which they have an interest.

As stated above, mortgagees who pay the mortgagor's property taxes directly to the county auditor are eligible to file as interested parties. Escrow agents who are mortgagees are already covered by this provision. The new addition only seems to assure that escrow agents who are not also mortgagees will be able to file as interested parties.

6. LESSEES

This refers to a party who has leased a parcel of real property from the property owner (lessor). Under the terms of the lease, the party who has leased the property (lessee) is paying the property taxes as part of the monthly payment to the property owner.

As a result, the property owner (lessor) is paying the property taxes directly to the county and is receiving the property tax mailings as the taxpayer of record.

If the lessee wants to receive information about the property tax status of the property, the lessee will have to file as an interested party.

INTERESTED PARTIES: FEES REQUIRED

The fee is $15.00 for each parcel of property for which an interested party wants to receive the three designated tax documents. (M.S. 276.041)

The $15.00 fee authorizes an interested party to receive the county mailings of the three designated tax documents for one parcel of property for a three-year period. After that, the interested party has to renew the application and submit $15.00 for each parcel for another three-year period.

As stated earlier in this Section 6170, taxpayers of record who are not the fee owners and mortgagees who remit taxes for taxpayers are not required to file as interested parties and pay the $15 fee in order to receive copies of the three designated tax documents. They are to receive them automatically as part of the regular property tax proceedings.

Property owners (fee owners) who are not the taxpayers of record have to file and pay the fee in order to receive copies of the property tax statement. However, they are to receive copies of the delinquent tax letter and notice and the notice of expiration of redemption automatically.

INTERESTED PARTIES: TAX DOCUMENTS RECEIVED

Interested parties are eligible to receive copies of the following three tax documents for each parcel of property for which they have filed an application and paid the $15.00 fee. (M.S. 241.041)

1. The property tax statement under M.S. 276.04.

2. The delinquent tax letter and notice under M.S. 279.091.

3. The notice of expiration of the redemption under M.S. 281.23.

REQUESTS FOR DELINQUENT TAX INFORMATION

Upon the request of any person, the county auditor is required to search the county tax records for any delinquent taxes on the parcel or parcels of land listed in the request. The county auditor must certify the results of the search for each parcel by showing the amount of delinquent tax. The results must be transmitted to the requesting party. The term, "tax," includes penalties, interest, fees, and costs related to the unpaid tax. (M.S. 385.42)

At the option of the county auditor, magnetic tape or other electronic media may be used to transmit the data requested or the search results. For this service, a fee may be charged in any amount established by the county board up to a maximum of $5.00 per parcel to recover the reasonable costs incurred to furnish the service.

NOTE: All "interested parties" who want to receive copies of the property tax statement, the delinquent tax letter and notice, and the notice of expiration of redemption must still comply with the provisions of M.S. 276.041.

BANKRUPTCY SECTION 6175

Upon the proper initiation of a bankruptcy proceeding, the bankruptcy court obtains exclusive jurisdiction over both the debtor and the debtor's property. The initiation of a bankruptcy proceeding also triggers an "automatic stay" that acts as a type of temporary injunction to prevent anyone, including a local unit of government, from taking actions against the debtor's property. In the case of property that is about to be placed on the delinquent tax list, the automatic stay technically does not prevent the property from being listed, nor does it prevent the list from being published. A delinquent tax notice may also be mailed. However, the county should not proceed with any further steps in the delinquency or forfeiture process. In particular, the delinquent taxes should not be taken to judgment unless the automatic stay is lifted. This means that the affected parcel should not be included on the list given to the local court administrator under M.S. 279.05.

Note: Because the delinquent tax notice states that the property is on a list that will be sent to the court administrator for additional proceedings, the county should not actually list the parcel on the normal delinquent list — although an informal notice that certain amounts are past due would be permitted. Caution should be exercised because actions taken in violation of the automatic stay can result in sanctions against the offending party.

There are several things that a bankruptcy proceeding does not affect. For instance, non-discriminatory local taxes can be imposed or assessed against taxable property during the pendency of a bankruptcy proceeding. (Refer to Section 6707 to see that delinquent property is not removed from the assessment roll until the expiration of the redemption period.) In addition, interest at the statutory rate continues to accrue on the unpaid taxes during the pendency of a bankruptcy proceeding. (See Section 6160 for the interest rate on delinquent property taxes.) Penalties for nonpayment may not, however, be imposed while the automatic stay is operative.

Since the bankruptcy court has exclusive jurisdiction over the property of the debtor during the bankruptcy proceeding, it is also possible for the debtor to contest the ad valorem property taxes on that property as a part of the bankruptcy proceeding. The bankruptcy court would handle such a determination much like our tax court determines the tax in an M.S. Chapter 278 tax petition proceeding, with a court judgment being issued at the conclusion for the redetermined property taxes.

Upon completion of the bankruptcy proceeding the forfeiture process is to be resumed from the point where it was stayed if there are unpaid delinquent property taxes remaining. Generally, the bankruptcy estate will end up paying all of the real property taxes that were levied against the property before, as well as during, the bankruptcy proceeding; including the applicable penalty and interest amounts described above. The real property taxes that were delinquent when the bankruptcy petition was filed, the real property taxes payable in the year the bankruptcy petition was filed, and the real property taxes payable in the following year, are generally paid at some point in a

BANKRUPTCY **SECTION 6175**
(Continued) (Page 2)

bankruptcy proceeding because payment of these taxes is secured under Minnesota law by a lien that will have attached to the affected real property before the bankruptcy petition was filed. In the normal bankruptcy estate, debts will be paid in the order of their priority, and secured debts will have a higher priority than unsecured debts. Furthermore, as between the secured debts, the real property tax lien generally has the highest priority. The net result is that the real property taxes related to assessment dates that occurred before the date of the bankruptcy petition, and the statutory interest amounts on those taxes, will generally end up being paid. The real property taxes related to assessment dates occurring after the date of the bankruptcy petition will also generally be paid, because they will be treated as administrative expenses of the bankruptcy estate.

When the county auditor receives notice, by any means, that a parcel is affected by a bankruptcy proceeding, the county auditor should do the following: (1) stop any collection activities, and treat the delinquent tax amount as a "suspended tax delinquency;" (2) obtain a copy of any order issued by the bankruptcy court; (3) make a record of any action taken with regard to the parcel, whether or not this action is taken pursuant to an order of the bankruptcy court; and, (4) after the bankruptcy proceeding is final, the county auditor should resume collection of any delinquent property taxes by following the steps and the timetables set out in the Minnesota Statutes.

It is not generally an absolute necessity for the county to file a formal or informal "proof of claim" for property taxes in a bankruptcy proceeding. This is because the "priority" considerations mentioned above are generally enough to ensure payment of the real property taxes. However, since some uncertainty is unavoidable whenever third parties become involved in the tax determination and collection process, the county should always give some thought to whether or not a formal "proof of claim" for property taxes should be submitted in any specific bankruptcy proceeding. The bankruptcy courts have historically protected local government interests, but a formal claim may enhance the protection of that interest, and will perhaps reduce the likelihood of any surprises.

SUMMARY: STAGE ONE SECTION 6180

DETERMINATION OF DELINQUENT TAXES

The first stage of the delinquent real property tax proceedings is finished once the following major actions have been taken to determine the delinquent taxes.

1. The county treasurer returns the property tax list for all real property taxes payable in the previous year to the county auditor.

2. The county auditor identifies and records the parcels of real property with unpaid taxes.

3. The county auditor prepares the delinquent tax list and notice of delinquent taxes and sends a copy of each to the administrator of the district court.

4. The administrator of the district court signs the notice of delinquent taxes and returns the signed notice and a copy of the delinquent tax list to the county auditor.

5. The county auditor prepares a delinquent tax letter for each property owner, taxpayer of record, and other interested parties whose names are on the delinquent tax list.

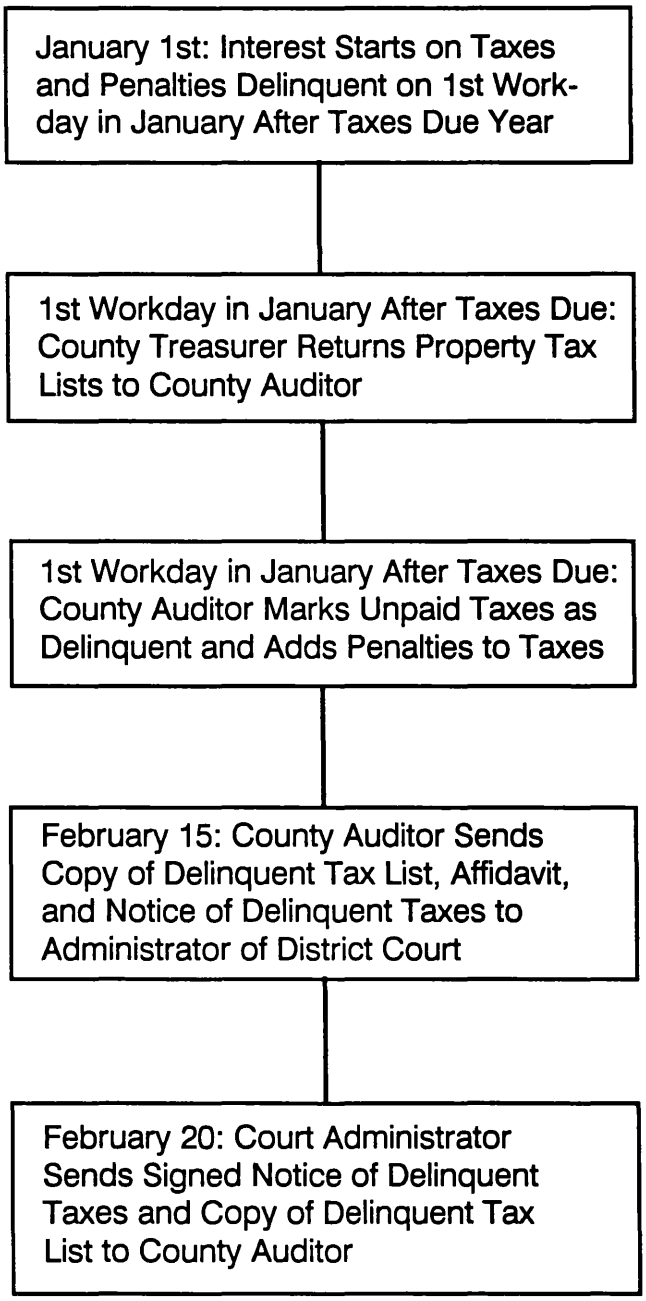
6. The county auditor adds interest to the delinquent taxes, penalties, and costs for each month they remain unpaid.

7. The county auditor keeps a record of those interested parties who have qualified to receive three designated property tax documents.

The second stage of the delinquent real property tax proceedings involves the official publication of the delinquent tax list and the notice of delinquent taxes and the mailing of the delinquent tax letter and notice. The detailed steps in the proceedings of the second stage are described in the following 6200 Series.

DETERMINATION OF DELINQUENT TAXES

The following flow chart graphically illustrates the major steps which must be taken to complete stage one of the delinquent real property tax proceedings.



SAMPLE CASE: STAGE ONE SECTION 6190

The following sample case is intended to dramatize the major steps which must be taken to complete stage one of the delinquent real property tax proceedings. The sample case consists of a fictional delinquent tax situation with fictional names, places, dates, and tax amounts.

In order to provide a sense of continuity, the same sample case with the same fictional delinquent tax situation and fictional names, places, dates, and tax amounts will be used in the first three Series in this manual. The only thing that will change is the stage of the property tax proceedings which is being dramatized.

The purpose of using the sample case is purely educational and is not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

SAMPLE CASE: THE SVOBODA'S APPLEWOOD LOT

Timothy and Peggy Svoboda lived in a modest house in Claybourne, Iowa. Each summer, they vacationed at a small resort on Beaver Lake near Applewood, Minnesota. Applewood is located in Spruce County about 20 miles from the county seat at Greenbriar.

Several years ago, the Svoboda's bought a vacant lot in Applewood with the intention of building a retirement home there. The lot is located at 742 Franklin Street in the Oak Hill Subdivision.

Audrey Trudeau, the Spruce County Treasurer, sent the Svoboda's a property tax statement for the vacant lot each year. The tax averaged between $400 and $500 a year. The Svoboda's always managed to save enough during the year to pay the taxes on time.

In January, 1983, Timothy Svoboda died after a long battle with cancer. After Timothy's death, Peggy Svoboda was forced to sell their house in Claybourne to pay the remaining medical bills. With only a meager income, she decided to move to California and share a modest retirement apartment with her sister.

When the payable 1983 property tax statement for the Applewood lot arrived in the mail, Peggy Svoboda quickly put it aside. Facing financial problems and wanting to forget the lost retirement dream, Peggy Svoboda chose to avoid paying the $425.90 tax on the Applewood lot.

On January 2, 1984, Audrey Trudeau sent the payable 1983 county property tax lists to Nicholas Archer, the Spruce County Auditor.

SAMPLE CASE: STAGE ONE **SECTION 6190**
(Continued) **(Page 2)**

Cory Patchen, the Spruce County Deputy Auditor, worked with Nick Archer's office staff to compare the county's payable 1983 property tax lists with the set of payable 1983 property tax statements. When they came to Peggy Svoboda's Applewood lot, they marked the unpaid $425.90 tax as delinquent.

The auditor's staff also added $59.63 to Peggy Svoboda's unpaid tax. This was the total penalty due on the unpaid tax during 1983 based on the maximum rate of 14% for nonhomestead property.

As a result, a total of $485.53 in tax and penalties remaining unpaid on Peggy Svoboda's Appleton lot became officially delinquent on January 2, 1984.

As soon as the unpaid taxes and penalties were marked in the payable 1983 property tax lists, Nick Archer's office staff prepared the county's 1984 delinquent tax list. It contained the following information for Peggy Svoboda's Appleton lot:

1. Names of Owners, Taxpayers, and Interested Parties:

   Mrs. Peggy Svoboda
   1534 Ridgeway Drive, Apartment # 24
   Seashore, California 24897

2. Description of Property:

   02-0142-0026, Oak Hill Subdivision,
   East 50 Feet of Lot 5 & West 25 Feet
   of Lot 6, Block 6

3. Tax Year: 1983

4. Total Tax and Penalties: $485.53

When the 1984 delinquent tax list and the notice of delinquent taxes were finished, Nick Archer signed the affidavit which his office staff had prepared and dated February 15, 1984. The affidavit was needed to certify the authenticity of the delinquent tax list. Corey Patchen countersigned the affidavit.

A copy of the county's 1984 delinquent tax list, the signed affidavit, and the notice of delinquent taxes were delivered to Thornton Longstreet's office in the Spruce County Courthouse by the February 15, 1984 deadline. Thornton Longstreet is the Administrator of the District Court.

As soon as they were received, Thornton Longstreet reviewed the documents and signed the county's 1984 notice of delinquent taxes. On February 20, 1984, Thornton's office staff delivered the signed notice of delinquent taxes and a copy of the 1984 delinquent tax list to Nick Archer's office in the Spruce County Courthouse.

Once they had the documents back from Thornton Longstreet's office, Corey Patchen had Nick Archer's office staff prepare a delinquent tax letter for each party included on the delinquent tax list.

At this point, the auditor's office staff was ready for the second stage of the delinquent tax proceedings: (1) publishing the delinquent tax list and the notice of delinquent taxes in the Greenbriar Weekly Journal, and (2) mailing each delinquent tax letter along with a copy of the notice of delinquent taxes.

One of the mailings would be going to Peggy Svoboda out in California.

TABLE OF CONTENTS

STAGE TWO: PUBLICATION

SERIES 6200

SECTION HEADING	SECTION NUMBER
Introduction: Stage Two - Publication	6205
Bids for Publication: January	6210
Designation of Newspaper: January	6220
Auditor's Tasks before Publication	6230
Deadline for Publication: March 20	6240
Conditions for Republication	6250
Affidavit of Publication	6255
Payment of Costs for Publication	6260
Deadline for Mailing: March 20	6265
Affidavit of Mailing	6270
Announcement Confirms Court's Authority	6272
Costs of Publication, Mailing, and Judgment	6275
Summary: Stage Two - Publication	6280
Flow Chart: Stage Two - Publication	6285
Sample Case: Stage Two - Publication	6290

INTRODUCTION: STAGE TWO - PUBLICATION SECTION 6205

When the delinquent taxes have been identified and listed along with the penalties, the second stage of the delinquent real property tax proceedings begins. The second stage involves the public and private announcement of the delinquent taxes and penalties.

The public announcement is handled by publishing the notice of delinquent taxes and the delinquent tax list in a newspaper designated by the county board.

The private announcement is handled by mailing a personalized delinquent tax letter and a copy of the notice of delinquent taxes to each party on the delinquent tax list.

In this Series 6200, the term, "publication," is used to refer to both the public announcement in the newspaper and the private announcement through the mailing.

The following major actions must be performed in order to complete stage two of the delinquent real property tax proceedings.

1. Publishers of legal newspapers submit written offers to publish the notice of delinquent taxes and the delinquent tax list to the county auditor.

2. The county board reviews the written offers and designates one of the newspapers to publish the notice of delinquent taxes and the delinquent tax list.

3. The county auditor delivers a copy of the notice of delinquent taxes and the delinquent tax list to the publisher of the designated newspaper.

4. The publisher of the designated newspaper delivers proofs of the proposed publication of the notice of delinquent taxes and the delinquent tax list to the county auditor.

5. The county auditor reviews the proofs, makes any necessary corrections, and returns the corrected proofs to the publisher of the designated newspaper.

6. The county auditor ensures that the notice of delinquent taxes and the delinquent tax list are published once in each of two consecutive weeks in the designated newspaper and that the first publication is on or before March 20.

7. The publisher of the designated newspaper mails a copy of the newspaper containing the publication of the notice of delinquent taxes and the delinquent tax list to the county auditor.

8. The county auditor examines the newspaper publication of the notice of delinquent taxes and the delinquent tax list and directs the publisher to republish the notice and list for another two weeks if there are any errors.

INTRODUCTION: STAGE TWO - PUBLICATION SECTION 6205
(Continued) (Page 2)

9. The publisher of the designated newspaper delivers three copies of each number of the newspaper containing the notice of delinquent taxes and the delinquent tax list and an affidavit certifying the publication to the administrator of the district court.

10. The publisher of the designated newspaper delivers to the county auditor a certificate obtained from the county attorney or the state attorney general furnishing proof that the publication was legal.

11. The county auditor issues a warrant to the publisher of the designated newspaper to pay the costs of publishing the notice of delinquent taxes and the delinquent tax list.

12. The county auditor, on or before March 20, mails a personalized delinquent tax letter along with a copy of the notice of delinquent taxes to each property owner, taxpayer of record, and other interested party whose names are on the delinquent tax list .

13. The county auditor delivers an affidavit certifying the mailing to the administrator of the district court.

14. The county auditor charges a service fee on each parcel of real property included in the delinquent tax list to offset the county costs of preparing, publishing, and mailing the delinquent tax documents as well as the costs of entering the court judgment itself.

15. The county auditor adds the service fee to the delinquent tax, penalties, and accrued interest remaining unpaid on each parcel of real property included in the delinquent tax list.

NOTE: The service fee is referred to in this manual as the "county costs" or the "costs."

The details of what the county officials and the newspaper publisher are required to do in order to announce the delinquent taxes publicly and privately are summarized in Sections 6210 through 6275.

A summary of the tasks required in stage two along with a transition to stage three is included in Section 6280.

Section 6285 contains a flow chart which graphically illustrates the actions which must be taken to complete stage two of the delinquent real property tax proceedings.

A sample case which dramatizes the actions in stage two is contained in Section 6290. The sample case consists of a fictional delinquent tax situation with fictional names, places, dates, and tax amounts.

In order to provide a sense of continuity, the same sample case with the same fictional delinquent tax situation and fictional names, places, dates, and tax amounts will be used in the first three Series in this manual. The only thing that will change is the stage of the property tax proceedings which is being dramatized.

The purpose of using the sample case is purely educational and not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

Note: For purposes of clarity and convenience, the phrase, "delinquent tax amount," will be used in Series 6200 to mean the sum of the amounts listed below.

1. Delinquent taxes

2. Special assessments (if any)

3. Penalties

4. Costs

5. Interest

The terms, "tax" or "taxes," will be used to include the delinquent real property tax and any special assessments.

BIDS FOR PUBLICATION: JANUARY SECTION 6210

The second stage of the delinquent tax proceedings which involves the official public announcement of the delinquent taxes begins about two months before the actual publication takes place. The major actions which are required to complete the early steps in the publication process are outlined below. (M.S. 279.07; 279.08)

APPLICATIONS TAKEN FROM PUBLISHERS

First of all, any publisher of a legal newspaper may file with the county auditor a written offer to publish the notice of delinquent taxes and the delinquent tax list. (M.S. 279.07)

APPLICATIONS ACCEPTED UNTIL DESIGNATION

Secondly, the county board may receive written offers to publish the notice of delinquent taxes and the delinquent tax list at any time before the actual designation of a newspaper at the county board's annual meeting in January. (M.S. 279.07)

BIDS MUST INCLUDE PUBLICATION COSTS

The written offer submitted by each publisher is to include the cost for publication of the notice of delinquent taxes and the delinquent tax list. (M.S. 279.07)

DESIGNATION OF NEWSPAPER: JANUARY SECTION 6220

At their annual meeting in January, the county board is to open, examine, and consider all written offers to publish the notice of delinquent taxes and the delinquent tax list which have been filed with the county auditor. The county board is to select the newspaper from one of the bidders. (M.S. 279.08)

CRITERIA FOR SELECTION OF NEWSPAPER

The county board is to select the designated newspaper based on the following criteria established by law. (M.S. 279.08)

1. The right of publication must go to the lowest bidder as long as the other criteria listed below are met.

2. The county board may reject any bid in order to protect the public interest.

3. In counties with a population of 450,000 or more, the right of publication must go to a daily newspaper with a general circulation in the county if it submits the lowest bid.

4. If no daily newspaper submits the lowest bid, the right of publication may go to a weekly newspaper with general circulation in the county.

5. If there is no legal newspaper in the county, the right of publication must go to any newspaper in the judicial district with circulation in the county.

DESIGNATION BY COUNTY BOARD RESOLUTION

The designation of a newspaper for publication of the notice of delinquent taxes and the delinquent tax list must be finalized by a resolution of the county board. (M.S. 279.08)

A copy of the resolution must be certified by the county auditor and filed with the administrator of the district court.

The county board resolution of designation is to follow the substance of the form of the Spruce County example listed below.

RESOLUTION OF DESIGNATION
BY THE SPRUCE COUNTY BOARD

Resolved, that the Greenbriar Weekly Journal is hereby designated by the county board of Spruce County as the newspaper in which the notice and list of real property taxes and penalties becoming delinquent on January 2, 1984, must be published.

Dated: January 6, 1984

Certified by: Nicholas B. Archer
Nicholas B. Archer
Spruce County Auditor

ALTERNATIVE DESIGNATION BY COUNTY AUDITOR

If the designation process is not completed by the county board or the required bond is not given by the newspaper, the county auditor must designate a newspaper for publication in writing and file a copy of the written designation with the district court administrator. (M.S. 279.08)

AUDITOR'S TASKS BEFORE PUBLICATION SECTION 6230

The county auditor is responsible for two major tasks which are to be completed before the notice of delinquent taxes and the delinquent tax list can be published in the designated newspaper. The two major tasks are outlined below. (M.S. 279.09; 279.10)

TASK #1: NOTICE + LIST SENT TO PUBLISHER

At least 20 days before the first publication but not later than March 1st, the county auditor is to deliver a copy of the notice of delinquent taxes and the delinquent tax list to the publisher of the designated newspaper. (M.S. 279.09)

TASK #2: CORRECTED PROOFS RETURNED TO PUBLISHER

At least 5 days before the first publication but not later than March 15th, the publisher of the designated newspaper is to deliver proofs of the proposed publication of the notice of delinquent taxes and the delinquent tax list to the county auditor. (M.S. 279.10)

As soon as possible after receiving the proofs from the publisher, the county auditor is to review the proofs, make any necessary corrections, and return the corrected proofs to the publisher.

DEADLINE FOR PUBLICATION: MARCH 20 SECTION 6240

The county auditor is responsible for ensuring that the notice of delinquent taxes and the delinquent tax list are actually published in the designated newspaper and that the following two major requirements for publication have been met. (M.S. 279.09)

NOTE: See Sections 6130 and 6150 for detailed information about the content and the format to use for the published notice of delinquent taxes and the delinquent tax list.

PUBLICATION REQUIREMENT #1: NUMBER OF TIMES

The county auditor is responsible for ensuring that the signed notice of delinquent taxes and the delinquent tax list are published once in each of two consecutive weeks in the designated newspaper. (M.S. 279.09)

PUBLICATION REQUIREMENT #2: MARCH 20 DEADLINE

The county auditor is responsible for ensuring that the first publication of the notice of delinquent taxes and the delinquent tax list in the designated newspaper is on or before March 20. (M.S. 279.09)

MAILING: MARCH 20 DEADLINE

Please note that March 20 is the same deadline for the publication of the notice of delinquent taxes and the delinquent tax list and for the mailing of the personalized delinquent tax letters along with the notice of delinquent taxes. (See Section 6265 for more detailed information about the mailing requirements.)

CONDITIONS FOR REPUBLICATION SECTION 6250

On the first day of publication, the publisher is to mail a copy of the newspaper containing the publication of the notice of delinquent taxes and the delinquent tax list to the county auditor. (M.S. 279.10)

As soon as possible after receiving a copy of the newspaper, the county auditor is to examine the published notice of delinquent taxes and the delinquent tax list for any errors.

CORRECTION OF ERRORS FOUND WITHIN 10 DAYS OF PUBLICATION

If any errors are discovered in the published notice of delinquent taxes and the delinquent tax list within 10 days after the last publication, the county auditor is to direct the publisher to republish the corrected notice and list for another two weeks. (M.S. 279.10)

PAYMENT IF PUBLISHER NOT RESPONSIBLE FOR ERRORS

If the publisher was responsible for the errors in the published notice of delinquent taxes and the delinquent tax list, the publisher is not to be paid for the republication. If the errors were not the fault of the publisher, the publisher is to be paid the same fee for the republication as for the original publication. (M.S. 279.10)

AFFIDAVIT OF PUBLICATION SECTION 6255

The publisher is responsible for two major tasks which are to be completed immediately after publication of the notice of delinquent taxes and the delinquent tax list. The two major tasks are outlined below. (M.S. 279.13)

TASK #1: NEWSPAPER SENT TO COURT ADMINISTRATOR

Immediately after publication, the publisher is responsible for having three copies of each number of the designated newspaper containing the notice of delinquent taxes and the delinquent tax list delivered to the administrator of the district court. (M.S. 279.13)

TASK #2: AFFIDAVIT SENT TO COURT ADMINISTRATOR

Immediately after publication, the publisher is responsible for having an affidavit of the publication of the notice of delinquent taxes and the delinquent tax list delivered to the administrator of the district court. (M.S. 279.13)

The affidavit is to include a statement of the days the notice of delinquent taxes and the delinquent tax list were run in the designated newspaper.

The publisher's affidavit is to follow the substance of the form of the Spruce County example listed below.

The affidavit of the publication of the notice of delinquent taxes and the delinquent tax list which the publisher is to have delivered to the administrator of the district court is to follow the substance of the form of the Spruce County example listed below. (M.S. 279.13)

AFFIDAVIT OF PUBLICATION **SECTION 6255**
(Continued) **(Page 2)**

AFFIDAVIT OF PUBLICATION

State of Minnesota

Spruce County

Harold W. Hoffman, being first duly sworn, deposes and says that he is the publisher of the Greenbriar Weekly Journal, in which was printed the notice and list of real estate taxes and penalties becoming delinquent on January 2, 1984; that the notice and list were duly printed and published in the newspaper on each of the following days: On Thursday, the 15th day of March, 1984, and Thursday, the 22nd day of March, 1984; and that each of the days on which the notice and list were so published was the usual and regular day of the issuance and publication of the newspaper.

Signed: Harold W. Hoffman
Harold W. Hoffman
Publisher

(SEAL)

Subscribed and sworn to before me this 26th day of March, 1984.

Sandra A. Fallon
Notary Public - Minnesota
Spruce County

PAYMENT OF COSTS FOR PUBLICATION SECTION 6260

The county auditor is authorized to pay the publisher for the costs of publishing the notice of delinquent taxes and the delinquent tax list. (M.S. 279.12)

The total amount paid by the county auditor is not to exceed the total amount stipulated in the bid for publication which was accepted by the county board.

CERTIFICATE OF LEGAL PUBLICATION

Before issuing a warrant to pay for the costs of publishing the notice of delinquent taxes and the delinquent tax list, the county auditor is to receive from the publisher a certificate obtained from the county attorney. The certificate from the county attorney furnishes proof that the publication was legal. (M.S. 279.12)

If the county auditor issues a warrant for the publication costs without receiving a certificate, the county auditor is personally liable for the amount paid.

If the publisher cannot obtain a certificate from the county attorney, the publisher may submit a certificate from the state attorney general as a substitute.

Once a certificate from either the county attorney or the state attorney general has been received, the county auditor is to issue a warrant to pay the costs of publishing the notice and the list. (M.S. 279.12)

PAYMENT OF COSTS FOR PUBLICATION SECTION 6260
(Continued) **(Page 2)**

The delinquent tax laws do not contain a suggested form to use for the certificate of legal publication. The county auditor may suggest that the county attorney follow the substance of the form of the Spruce County example listed below.

COUNTY ATTORNEY'S CERTIFICATE OF PUBLICATION

State of Minnesota

Spruce County Date: April 5, 1984

I, Clayton T. Powers, the duly elected, qualified, and acting County Attorney of the County of Spruce, and State of Minnesota, do hereby certify that the publication of the notice and list of real estate taxes and penalties becoming delinquent on January 2, 1984, which said publication was made on the 15th and 22nd days of March, 1984, in the Greenbriar Weekly Journal, the newspaper therefore duly designated and made according to law.

Signed: Clayton T. Powers
Clayton T. Powers
County Attorney of Spruce County
State of Minnesota

DEADLINE FOR MAILING: MARCH 20 SECTION 6265

On or before March 20, the county auditor is to have a personalized delinquent tax letter and a copy of the notice of delinquent taxes mailed to all property owners, taxpayers of record, and interested parties on the delinquent tax list. (M.S. 279.091)

Note: See Section 6155 for detailed information about the content and the format to use for the personalized delinquent tax letter. See Section 6150 for information about the notice of delinquent taxes.

QUESTION: WHO IS TO RECEIVE MAILINGS?

The Department of Revenue recommends that the personalized delinquent tax letter be mailed along with a copy of the notice of delinquent taxes to all parties included on the delinquent tax list for each parcel. This potentially means the property owners, taxpayers of record, and other interested parties who have filed under M.S. 276.041.

See Section 6155 for more detailed information about what parties are to receive the mailing of the personalized delinquent tax letter and a copy of the notice of delinquent taxes and the reasons why.

QUESTION: ARE MAILINGS REQUIRED FOR LATER LEGAL ACTION?

The answer is, no. Failure to mail the notice of delinquent taxes and the delinquent tax letter does not affect the validity of any subsequent court judgment and forfeiture of the property to the state. (M.S. 279.091)

PUBLICATION: DEADLINE MARCH 20

Please note that March 20 is the same deadline for the publication of the notice of delinquent taxes and the delinquent tax list and for the mailing of the personalized delinquent tax letters along with the notices of delinquent taxes.

See Section 6240 for more detailed information about the publication requirements.

AFFIDAVIT OF MAILING SECTION 6270

As soon as possible after the personalized delinquent tax letters and the copies of the notice of delinquent taxes have been mailed, the county auditor is to send to the administrator of the district court an affidavit certifying the mailing. (M.S. 279.131)

The affidavit certifying the mailing is to follow the substance of the form of the Spruce County example listed below.

AFFIDAVIT OF MAILING

State of Minnesota

Spruce County

Nicholas B. Archer, being the county auditor of Spruce County, being duly sworn, on oath, deposes and says that on the 16th day of March, 1984, he mailed the delinquent tax letters and copies of the notice of delinquent taxes and penalties becoming delinquent in Spruce County on January 2, 1984, to those parties named in the delinquent tax list by placing a personalized letter with the pertinent portion of the delinquent tax list and a true and correct copy of the notice in an envelope addressed to each party shown in said list and depositing the same with postage prepaid in the U.S. Mails at Greenbriar, Minnesota.

Signed: Nicholas B. Archer
Nicholas B. Archer (SEAL)
Spruce County Auditor

Subscribed and sworn to before me this 19th day of March, 1984.

Sandra A. Fallon
Sandra A. Fallon
Notary Public - Minnesota
Spruce County

ANNOUNCEMENT CONFIRMS COURT'S AUTHORITY SECTION 6272

The publication and the mailing serve as the official notice to the property owners, taxpayers of record, and interested parties of the following three facts: (1) the delinquent taxes, (2) the right of appeal, and (3) the subsequent actions which must be taken in order to avoid forfeiture of the properties. (M.S. 279.14)

The publication and the mailing also confirm the court's authority to enforce the tax lien against each parcel of property listed on the delinquent tax list. They confirm the legality of the assessment, the tax levy, and the total delinquent tax amount due. In short, they confirm everything needed to allow the parcels of property to be forfeited and sold if the total delinquent tax amount is not paid within the authorized time periods.

The court's authority to enforce a tax lien is not adversely affected by any error committed while administering the delinquent tax laws (except for the discovery that the parcel is exempt or the tax on the parcel has already been paid). This includes the following types of errors which are enumerated in M.S. 279.14.

1. Any mistake in the tax proceedings completed before the filing of the delinquent tax list with the district court administrator, including the assessment and levy of the taxes.

2. Any mistake in the preparation of the delinquent tax list which was filed with the district court administrator, including entering the incorrect amount of the tax.

3. Any mistake in designating the newspaper for publishing the delinquent tax list.

4. Any mistake in copying the delinquent tax list for publication.

5. Any mistake in publishing or mailing the delinquent tax list.

6. Any mistake in charging the taxes to the name of a person other than the rightful owner.

See Series 6300 for information about the right to appeal the delinquent taxes and the court judgment brought against each parcel of property on the delinquent tax list.

COSTS OF PUBLICATION, MAILING, AND JUDGMENT SECTION 6275

The county auditor is responsible for imposing a service fee on each parcel of real property included in the delinquent tax list. The service fees are referred to as "county costs" or "costs" in this delinquent tax manual. (M.S. 279.092)

SERVICE FEES: $10 PER PARCEL MINIMUM

The county auditor is to charge a service fee of at least $10 on each parcel of real property included in the delinquent tax list unless the county board determines that a higher amount is needed to cover the county costs listed below. (M.S. 279.092)

SERVICE FEES: PURPOSE

The service fees which the county auditor imposes on the parcels of real property included in the delinquent tax list are to be used to offset the county costs outlined below. (M.S. 279.092)

1. Preparing the delinquent tax list, the notice of delinquent taxes, and the delinquent tax letter.

2. Publishing the delinquent tax list and the notice of delinquent taxes.

3. Mailing the delinquent tax letters and the notices of delinquent taxes.

4. Entering the court judgment against the delinquent taxes and penalties.

Note: These are costs which are incurred by both the county auditor's office and the office of the district court administrator.

SERVICE FEES: COUNTY GENERAL REVENUE FUND

The service fees which the county auditor imposes on the parcels of real property included in the delinquent tax list are to be deposited in the county general revenue fund. (M.S. 279.092)

See Section 6465 for more detailed information about the distribution of delinquent taxes, special assessments (if any), penalties, and costs after they are collected.

SERVICE FEES: LIEN ON PROPERTY

To paraphrase the language of the statute, any service fee (county cost) which is imposed on a parcel of real property included in the delinquent tax list constitutes a lien on the property and is to be collected in the same manner as any real property taxes under M.S. 272.31. (M.S. 279.092)

In practice, this means that the county auditor is to add the service fee (county cost) to the delinquent tax, special assessments (if any), penalties, and interest remaining unpaid on each parcel of real property included in the delinquent tax list.

The delinquent tax, special assessments (if any), penalties, interest, and the service fee (county cost) constitute the total delinquent tax amount which must be paid before any parcel can be removed from the delinquent tax list.

ABATEMENT OF SERVICE FEES

See Section 6120, page 3, for information about the county's authority to reduce or abate the service fees (county costs) for administering the delinquent taxes. The authorization is contained in M.S. 375.192, Subd. 2.

SUMMARY: STAGE TWO SECTION 6280

PUBLICATION OF DELINQUENT TAXES

The second stage of the delinquent real property tax proceedings--the public and private announcement of the delinquent taxes-- is finished once the following major actions have been taken:

1. Publishers of legal newspapers submit written offers to the county auditor to publish the notice of delinquent taxes and the delinquent tax list .

2. The county board reviews the written offers and designates one of the newspapers to publish the notice of delinquent taxes and the delinquent tax list.

3. The county auditor delivers a copy of the notice of delinquent taxes and the delinquent tax list to the publisher of the designated newspaper.

4. The publisher of the designated newspaper delivers proofs of the proposed publication of the notice of delinquent taxes and the delinquent tax list to the county auditor.

5. The county auditor reviews the proofs, makes any necessary corrections, and returns the corrected proofs to the publisher of the designated newspaper.

6. The county auditor ensures that the notice of delinquent taxes and the delinquent tax list are published once in each of two consecutive weeks in the designated newspaper and that the first publication is on or before March 20.

7. The publisher of the designated newspaper mails a copy of the newspaper containing the publication of the notice of delinquent taxes and the delinquent tax list to the county auditor.

8. The county auditor examines the newspaper publication of the notice of delinquent taxes and the delinquent tax list and directs the publisher to republish the notice and list for another two weeks if there are any errors.

9. The publisher of the designated newspaper delivers three copies of each number of the newspaper containing the notice of delinquent taxes and the delinquent tax list and an affidavit certifying the publication to the administrator of the district court.

10. The publisher of the designated newspaper delivers to the county auditor a certificate obtained from the county attorney or the state attorney general furnishing proof that the publication was legal.

SUMMARY: STAGE TWO **SECTION 6280**
(Continued) **(Page 2)**

11. The county auditor issues a warrant to the publisher of the designated newspaper to pay the costs of publishing the notice of delinquent taxes and the delinquent tax list.

12. The county auditor, on or before March 20, mails a delinquent tax letter along with a copy of the notice of delinquent taxes to all property owners, taxpayers of record, and other interested parties whose names are on the delinquent tax list.

13. The county auditor delivers an affidavit certifying the mailing to the administrator of the district court.

14. The county auditor charges a service fee on each parcel of real property included in the delinquent tax list to offset the county costs of preparing, publishing, and mailing the delinquent tax documents as well as the costs of entering the court judgment itself.

15. The county auditor adds the service fees (referred to as "county costs" in this manual) to the delinquent tax, penalties, and accrued interest remaining unpaid on each parcel of real property included in the delinquent tax list.

The public and private announcement of the delinquent taxes functions as a legal service of notice to the property owners, taxpayers of record, and other interested parties. After this official notice, the court acquires full and complete legal jurisdiction over the parcels of real property on the delinquent tax list. (M.S. 279.14)

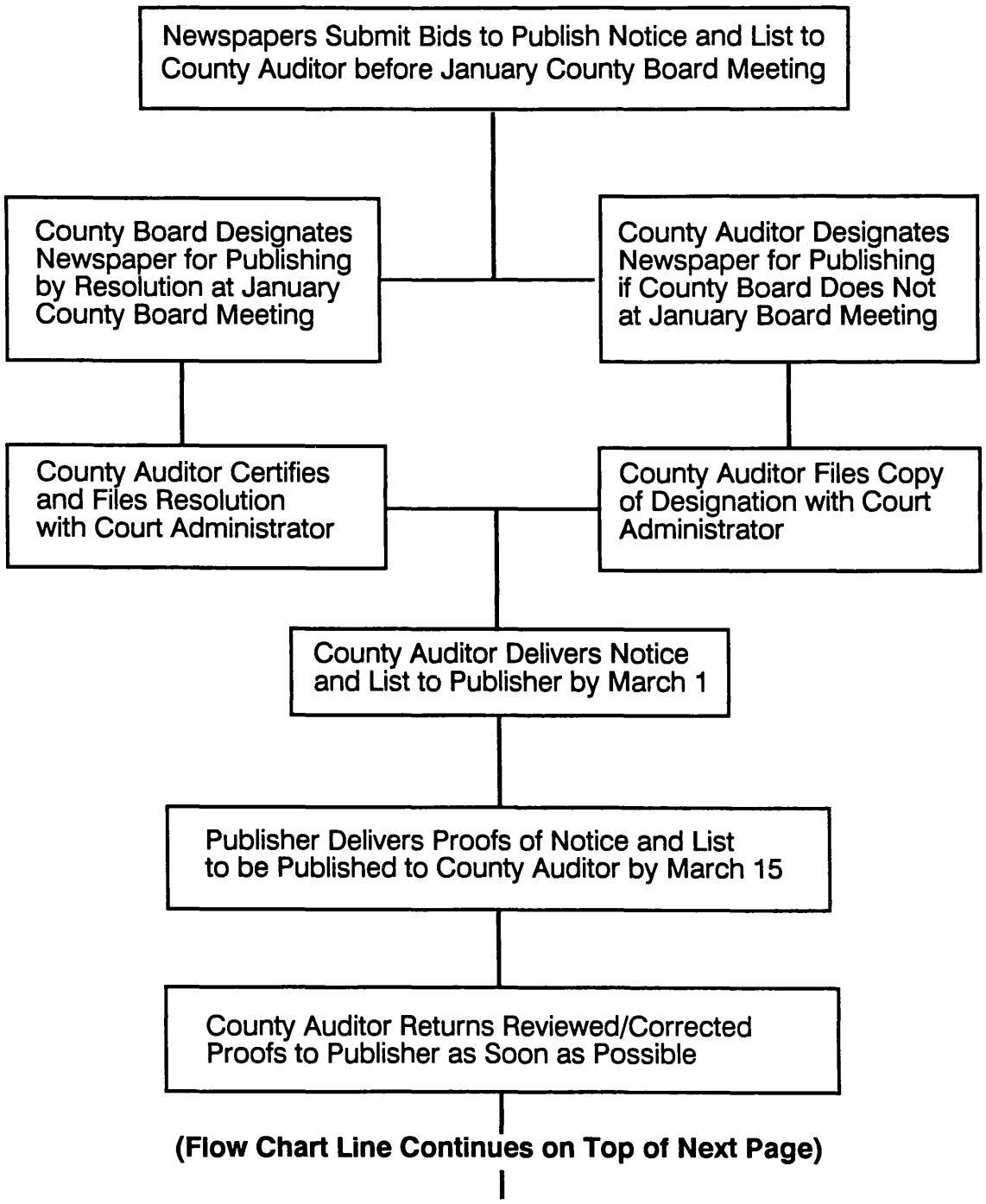
The legal jurisdiction obtained by completing the second stage of the delinquent real property tax proceedings grants the court the right to carry out the third stage if the delinquent tax amount remains unpaid.

The third stage of the delinquent real property tax proceedings involves the court action of entering judgment against the parcels of real property on the delinquent tax list. The third stage is covered in the following 6300 Series.

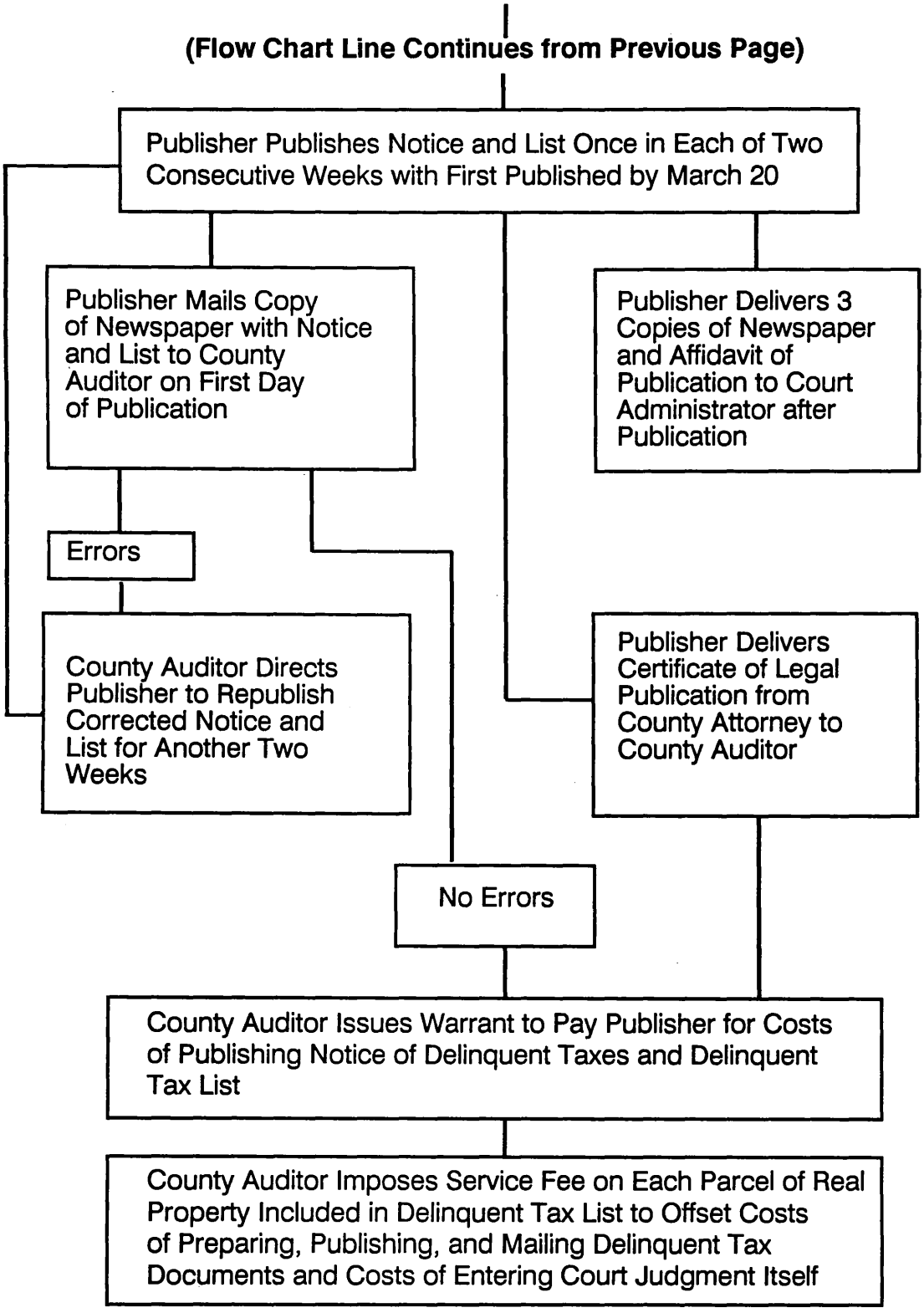
FLOW CHART: STAGE TWO SECTION 6285

PUBLICATION OF THE NOTICE AND LIST

The major steps which must be taken to publish the notice of delinquent taxes and the delinquent tax list in the designated newspaper are graphically illustrated in the following flow chart.

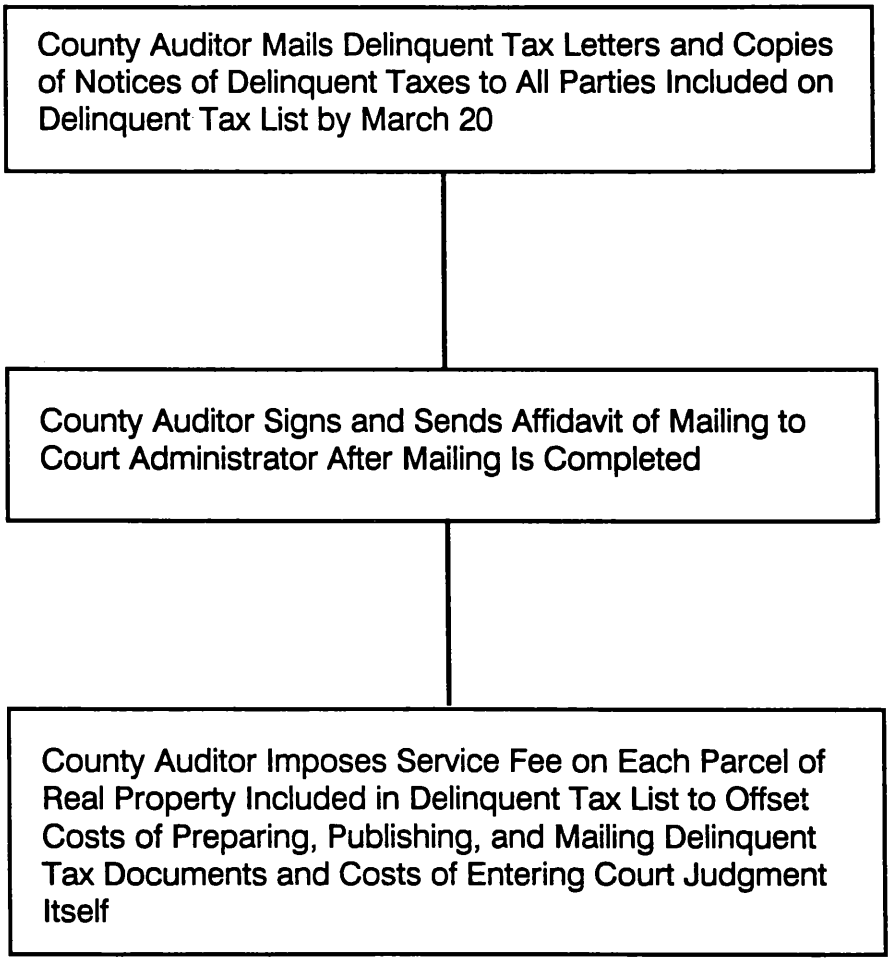


FLOW CHART: STAGE TWO **SECTION 6285**
(Continued) **(Page 2)**



MAILING OF THE LETTER AND NOTICE

The major steps which must be taken to mail out the delinquent tax letters and the copies of the notices of delinquent taxes are graphically illustrated in the following flow chart.



SAMPLE CASE: STAGE TWO SECTION 6290

The following sample case is intended to dramatize the major steps which must be taken to complete stage two of the delinquent real property tax proceedings.

In order to provide a sense of continuity, the same sample case with the same fictional delinquent tax situation and fictional names, places, dates, and tax amounts will be used in the first three Series in this manual. The only thing that will change is the stage of the property tax proceedings which is being dramatized.

The purpose of using the sample case is purely educational and is not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

SAMPLE CASE: THE SVOBODA'S APPLEWOOD LOT

At their January 3, 1984 meeting at the courthouse, the Spruce County Board reviewed the written bids for publishing the 1984 notice of delinquent taxes and the delinquent tax list. One daily and two weekly newspaper publishers had mailed their written bids to the Board before the January meeting.

As it turned out, Harold W. Hoffman, publisher of the Greenbriar Weekly Journal, submitted the lowest bid of the three. The Greenbriar Weekly Journal, located at 415 Main Street in downtown Greenbriar, also met the other requirements for designation. So the Board passed a resolution giving the publishing rights to Harold Hoffman's newspaper.

Nicholas Archer, the Spruce County Auditor, had his courthouse staff prepare the form for the Resolution of Designation by the Spruce County Board on Thursday, January 5, 1984. After he signed the Resolution and dated it January 6, 1984, one of Nick Archer's staff members delivered a copy to Thornton Longstreet, Administrator of the District Court. Thornton Longstreet's office was on the 2nd floor of the courthouse.

After he received the 1984 notice of delinquent taxes along with a copy of the 1984 delinquent tax list from Thornton Longstreet's office on Tuesday, February 21, 1984, Nick Archer reminded his deputy auditor, Cory Patchen, about getting the notice and list ready to be sent over to the Greenbriar Weekly Journal before the Thursday, March 1, 1984 deadline.

Corey Patchen worked with the staff to get the 1984 delinquent tax notice and list ready by Friday, February 24, 1984. When they were finished, Corey Patchen had a staff member hand deliver the notice and list from the courthouse to the home of the Greenbriar Weekly Journal at 415 Main Street in downtown Greenbriar on Monday, February 27, 1984 (three workdays before the March 1 deadline).

SAMPLE CASE: STAGE TWO **SECTION 6290**
(Continued) **(Page 2)**

Harold Hoffman's newspaper staff had the proofs of the 1984 delinquent tax notice and list ready by Friday, March 2, 1984. That same day, one of the members of Harold Hoffman's newspaper staff hand delivered a copy of the proofs to Corey Patchen's office in the courthouse (well before the March 15 deadline).

Right away Monday morning, March 5, 1984, Corey Patchen took the proofs into Nick Archer's office, and they checked the proofs carefully for any errors. Everything was correct. So they had the proofs returned by hand to the Greenbriar Weekly Journal building on Main Street that same afternoon.

While the proofs were being delivered, Nick Archer called Harold Hoffman to find out for sure if the first publication of the 1984 notice and list would be in the Greenbriar Weekly Journal before the March 20, 1984 deadline.

Harold Hoffman told Nick Archer that it was too late to make the Thursday, March 8, 1984 edition. However, he assured Nick that the first publication would be in the Thursday, March 15, 1984 edition and the second publication would be in the Thursday, March 22, 1984 edition.

On Thursday, March 15, 1984, Harold Hoffman had a member of his newspaper staff hand deliver a copy of that week's Greenbriar Weekly Journal containing the 1984 delinquent tax notice and list to Nick Archer's office in the courthouse. Nick and Corey Patchen checked it over and found no errors. They were satisfied that there was no reason to require a republication.

On Monday, March 26, 1984, Harold Hoffman signed the Affidavit of Publication which his newspaper staff had prepared earlier. The Affidavit certified that the 1984 delinquent tax notice and list had been published in the Greenbriar Weekly Journal on Thursday, March 15, 1984 and on Thursday, March 22, 1984.

After the Affidavit of Publication had been notarized by Sandra Fallon whose office was in the same block as the Journal building, a member of the newspaper staff hand delivered the Affidavit along with three copies of each of the two editions of the Greenbriar Weekly Journal to Thornton Longstreet's district court office in the courthouse on Wednesday, March 28, 1984.

A few days later, Harold Hoffman called Clayton Powers, the Spruce County Attorney, at his courthouse office. He told the County Attorney that he needed a Certificate of Legal Publication from him in order to get paid for publishing the 1984 delinquent tax notice and list. Clayton Powers assured him that it would be done right away.

SAMPLE CASE: STAGE TWO **SECTION 6290**
(Continued) **(Page 3)**

As they do every year, the Spruce County Attorney's staff prepared the Certificate. This year the Certificate verified that the Greenbriar Weekly Journal had been official designated as the newspaper for publication. It also verified that the notice and list had been published as legally required. Clayton Powers signed the Certificate and dated it April 5, 1984. One of his staff members delivered the Certificate to Harold Hoffman's office on Main Street the next day.

After he reviewed the Certificate of Legal Publication on Monday, April 9, 1984, Harold Hoffman had a member of his newspaper staff file a copy of the Certificate in their office. Another staff member delivered the original Certificate to Nick Archer's office at the courthouse.

Upon receipt of the Certificate of Legal Publication, Nick Archer immediately told one of his staff members to prepare a county warrant to pay the Greenbriar Weekly Journal for the costs of publishing the 1984 delinquent tax notice and list. Nick signed the warrant, and it was mailed to Harold Hoffman on Wednesday, April 11, 1984.

At the same time that they were preparing for the publication of the 1984 delinquent tax notice and list in the Greenbriar Weekly Journal, Nick Archer's staff was also getting ready to meet the March 20, 1984 deadline for mailing the delinquent tax letters and the copies of the notice of delinquent taxes.

By Wednesday, February 29, 1984, Nick Archer's staff prepared a personalized letter for each of the property owners, taxpayers of record, and other interested parties on the delinquent tax list. The following delinquent tax data was entered by computer on each party's letter: (1) the name and address, (2) the legal description of the property, and (3) a breakout of the delinquent tax amount due through February, 1984.

By Tuesday, March 13, 1984, Nick Archer's staff stuffed the envelopes with the delinquent tax letters so the names and addresses showed through the envelope windows. A copy of the notice of delinquent taxes was also added to the envelopes.

After the envelopes containing the delinquent tax letters and copies of the notice of delinquent taxes were sealed and stamped, they were picked up by the Greenbriar Post Office on Friday, March 16, 1984 (two workdays before the March 20 deadline).

Right away on Monday morning, March 19, 1984, Nick Archer had one of this staff members prepare the Affidavit of Mailing. That same afternoon, Nick signed the Affidavit, and Sandra Fallon notarized it.

SAMPLE CASE: STAGE TWO **SECTION 6290**
(Continued) **(Page 4)**

The next morning, March 20, 1984, one of Nick Archer's staff members hand delivered the Affidavit of Mailing up to Thornton Longstreet's office on the 2nd floor of the courthouse.

With the publication in the Greenbriar Weekly Journal on Thursday, March 15, 1984 and on Thursday, March 22, 1984, and with the mailing on Friday, March 16, 1984, the two major actions of the second stage of the delinquent tax proceedings were completed.

The 1984 delinquent tax list which was published in the Greenbriar Weekly Journal contained an entry for the delinquent tax amount for Peggy Svoboda's lot located at 742 Franklin Street in Applewood, Minnesota. Living way out in California, Peggy Svoboda was not aware of this entry because she did not have a subscription to the Greenbriar Weekly Journal.

However, on Tuesday, March 20, 1984, Peggy Svoboda did receive a letter from Nick Archer's office as part of the Friday, March 16, 1984, general mailing of the 1984 delinquent tax letters and notices of delinquent taxes.

When she opened the envelope and began to read the letter and notice, Peggy Svoboda became aware for the first time of the consequences of not having paid the 1983 property tax on her Applewood lot.

If Peggy Svoboda was understanding the letter and notice correctly, it appeared that she had three years to pay the delinquent tax amount due on the Applewood lot before she would lose her title to the property.

Of course, the longer Peggy Svoboda waited to pay the delinquent tax amount due, the larger the delinquent tax amount would be.

She understood that additional county costs may be added to the delinquent tax amount if she did not pay the amount due by the end of February, 1984. Besides that, additional interest would be added each month after February, 1984 until she paid off the total amount due.

With the sense of still having time to pay and still wanting to forget the lost dream of building a retirement home on the Applewood lot, Peggy Svoboda chose to ignore the warning in the delinquent tax letter and notice of delinquent taxes mailed to her from Nick Archer's Greenbriar office.

TABLE OF CONTENTS

SECTION HEADING	SECTION NUMBER
Introduction: Stage Three - Judgment	6305
Objections to Delinquent Taxes	6310
Tax Judgment by Court Administrator	6320
Tax Judgment by Court	6330
Interest Rate for Tax Judgments By Court	6335
Suggested Format for Tax Judgment	6340
Copy of Tax Judgment to County Auditor	6350
Conditions for Canceling Tax Judgment	6360
Recording Payments Before/After Tax Judgment	6365
Distribution of Delinquent Tax Amount	6370
Tax Judgment Sale: 2nd Monday in May	6375
Summary: Stage Three - Judgment	6380
Flow Chart: Stage Three - Judgment	6385
Sample Case: Stage Three - Judgment	6390

INTRODUCTION: STAGE THREE- JUDGMENT SECTION 6305

Once the delinquent real property taxes have been determined in stage one and announced in stage two, the third stage of the delinquent real property tax proceedings starts. The third stage covers the court judgment on the parcels of real property with delinquent taxes and the subsequent "bid in for the state" on the 2nd Monday in May.

The third stage of the delinquent real property tax proceedings is finished when the following key actions have been performed.

1. Written objections to the delinquent real property taxes and/or penalties have been filed by the property owners, taxpayers of record, and/or interested parties included on the delinquent tax list.

2. The administrator of the district court has entered tax judgment against all parcels of real property for which no objections have been filed.

3. The district court has heard the case for each objection to delinquent real property taxes and/or penalties and rendered a tax judgment against each parcel of real property on which the objection was denied.

4. The administrator of the district court and the county auditor record each tax judgment in their respective copies of the "Tax Judgment Book" or in the data base of their computers.

5. Each year on the 2nd Monday in May, all parcels of real property under tax judgment in the current year are "bid in for the state" by the county auditor.

An outline summary and explanation of these key actions to complete the third stage of the delinquent tax proceedings is presented in Sections 6310 through 6375.

A summary of the main tasks required in stage three along with a transition to stage four can be found in Section 6380.

A flow chart which graphically shows the primary steps which must be taken to complete stage three of the delinquent real property tax proceedings is contained in Section 6385.

A sample case which dramatizes the actions in stage three is contained in Section 6390. The sample case consists of a fictional delinquent tax situation with fictional names, places, dates, and tax amounts.

In order to provide a sense of continuity, the same sample case with the same fictional delinquent tax situation and fictional names, places, dates, and tax amounts will be used in the first three Series in this manual. The only thing that will change is the stage of the property tax proceedings which is being dramatized.

The purpose of using the sample case is purely educational and not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

Note: For purposes of clarity and convenience, the phrase, "delinquent tax amount," will be used in Series 6300 to mean the sum of the amounts listed below.

1. Delinquent taxes
2. Special assessments (if any)
3. Penalties
4. Costs
5. Interest

The terms, "tax" or "taxes," will be used to include the delinquent real property tax and any special assessments.

OBJECTION TO DELINQUENT TAXES SECTION 6310

The first phase of stage three of the deliquent real property tax proceedings takes place within a 20-day window after the second publication of the notice of delinquent taxes and the delinquent tax list.

This first phase involves the right of any party with a legal interest in any parcel of real property included in the delinquent tax list to file an objection.

The primary actions which are required to complete the first phase of stage three are outlined below.

DEADLINE: WITHIN 20 DAYS OF LAST PUBLICATION OF NOTICE

A written objection against the delinquent real property taxes and/or penalties is to be filed within 20 days after the date of the last publication of the notice of delinquent taxes and the delinquent tax list. (M.S. 279.15)

FILERS: OWNERS, TAXPAYERS, AND INTERESTED PARTIES

The parties who may file a written objection to the delinquent real property taxes and/or penalties are the property owner, the taxpayer of record, and any other party with a legal interest in the parcel of property. (M.S. 279.15)

This means that the same parties whose names are on the delinquent tax list and who are authorized to receive a delinquent tax letter and a copy of the notice of delinquent taxes through the mail have the right to file this written objection.

But it also means that anyone else with a legal interest in a parcel of property on the delinquent tax list who is not the property owner or the taxpayer of record and who did not file and pay the fee to be on the county's official record of interested parties under M.S. 276.041 may submit this written objection.

FILING OFFICE: COURT ADMINISTRATOR

A written objection to the delinquent real property taxes and/or penalties is to be filed with the administrator of the district court. (M.S. 279.15)

FAILURE TO FILE: LOSS OF DEFENSE

If no written objection is filed within the 20-day period after the date of the last publication of the notice of delinquent taxes and the delinquent tax list, the property owner, taxpayer of record, and any other party with a legal interest in a parcel of property lose all defenses against the delinquent taxes and/or penalties with the following two exceptions. (M.S. 279.16; 297.22)

1. Proof that the property taxes were paid.

2. Proof that the property is exempt from property taxation.

TAX JUDGMENT BY COURT ADMINISTRATOR SECTION 6320

As the second phase of stage three of the delinquent tax proceedings, the tax judgment against each parcel of real property with a delinquent tax amount occurs in one of two ways: (1) the administrator of the district court enters a tax judgment in the name of the court, or (2) the district court renders a tax judgment itself.

The primary requirements and conditions for the completion of a tax judgment by the administrator of the district court are outlined below. The tax judgment by the district court itself is covered in Section 6330.

COURT ADMINISTRATOR: CASES WITH NO OBJECTIONS

The administrator of the district court is responsible for entering a tax judgment against any parcel of real property with a delinquent tax amount for which no written objection has been filed by the property owner, taxpayer of recond, or any other party with a legal interest in the property. This action occurs without a court case. (M.S. 279.16)

DEADLINE FOR JUDGMENTS: AFTER 20 DAYS

The administrator of the district court is to enter a tax judgment after 20 days have passed since the filing of the affidavit of publication (see Section 6255) or the affidavit of mailing (see Section 6270) by the county auditor, whichever is later. (M.S. 279.16)

RECORD OF TAX JUDGMENT: "TAX JUDGMENT BOOK"

The administrator of the district court is to enter a tax judgment in the "Tax Judgment Book" along with those tax judgments rendered by the district court itself. A tax judgment is to be written on the left-hand pages of the book. The right-hand pages are to be left blank for recording the future disposition of the delinquent taxes and penalties. The entries are to be certified by the court administrator's signature. (M.S. 279.16)

NOTE: In practice, few counties continue to maintain tax judgment books by writing entries into them. Instead, payments and other notations are entered into the data base of a computer to reflect the status of the delinquent tax amount for a particular parcel. In effect, the data base has superseded the tax judgment book in most counties as the medium for record keeping.

ADMINISTRATOR'S TAX JUDGMENT: LIEN

A tax judgment entered by the administrator of the district court consitutes a perpetual lien against the parcel of real property in the delinquent tax list in the same manner that a tax judgment rendered by the district court itself does. (M.S. 279.16)

Although technically a lien exists against the parcel of real property from January 2nd of the assessment and levy year (M.S. 272.31), the due process clause of the United States Consitution requires that all administrative actions must be subject to judicial review at some point in the proceedings.

The tax judgment process satisfies the requirement for that review before the lien can be enforced.

ADMINISTRATOR'S TAX JUDGMENT: IN REM

A tax judgment entered by the administrator of the district court is an in rem legal action. It attaches only to the parcel of real property: land, structures, standing timber, and minerals. In other words, a tax judgment is against the title to the property regardless of who owns it and not against a specific person.

SUGGESTED FORM OF ADMINISTRATOR'S TAX JUDGMENT

A tax judgment entered by the administrator of the district court is to be substantially in the same format used by the district court itself. (M.S. 279.16)

The suggested format for the tax judgment document is outlined in Section 6340.

TAX JUDGMENT BY COURT SECTION 6330

As stated on page one of Section 6320, there are two ways that a tax judgment against a parcel of real property with a delinquent tax amount can occur: (1) the administrator of the district court enters a tax judgment in the name of the court, or (2) the district court renders a tax judgment after a hearing.

The primary requirements and conditions for the completion of a tax judgment by the district court are outlined below. The tax judgment by the administrator of the district court is covered in Section 6320.

DISTRICT COURT: CASES WITH OBJECTIONS

The district court is responsible for deciding whether or not to render a tax judgment against any parcel of real property with a delinquent tax amount for which a written objection has been filed by the property owner, taxpayer of record, or any other party with a legal interest in the property. This action occurs with a court case.

All written objections to delinquent taxes and penalties filed with the court administrator are to be brought to trial at the current or next general or special term of the district court in the county. (M.S. 279.17)

COURT RULING: UPHOLD WRITTEN OBJECTION

If the district court rules in favor of the written objection by the property owner, taxpayer of record, or any other party with a legal interest in the property, the court's decision will order the cancellation of all or a portion of the delinquent tax amount. It will also order the removal of the canceled amount from the delinquent tax list and the delinquent tax letter. (M.S. 279.17)

COURT RULING: UPHOLD TAXES AND PENALTIES

If the district court rules against the written objection by a property owner, taxpayer of record, or any other party with a legal interest in the property, a tax judgment will be rendered against the parcel of real property for the delinquent tax amount. (M.S. 279.17)

Whether or not the tax is sustained in full as levied, the tax judgment is to include any interest that has accrued on the delinquent tax for failure to pay the tax or any part of the tax as outlined in Section 6160.

TAX JUDGMENT BY COURT **SECTION 6330**
(Continued) **(Page 2)**

If the tax is reduced, no penalty is to be included in the tax judgment because of the failure to pay the reduced tax prior to entry of judgment.

After the tax judgment is entered, the amount of the delinquent tax and penalties that are sustained is subject along with the costs to interest at the rate provided in M.S. 549.09. See Section 6335 for a detailed explanation of the interest rate that applies to tax judgments by court action.

The tax judgment is subject to late penalty according to law. However, some counties have adopted policies to waive the penalty if the newly entered tax judgment is promptly paid after a billing.

RECORD OF TAX JUDGMENT: "TAX JUDGMENT BOOK"

The administrator of the district court is to record a tax judgment rendered by the district court itself in the "Tax Judgment Book" along with those tax judgments entered by the court administrator in the name of the court. (M.S. 279.16)

A tax judgment is to be written on the left-hand pages of the book. The right-hand pages are to be left blank for recording the future disposition of the delinquent taxes and penalties. The entries are to be certified by the court administrator's signature.

Note: **In practice, few counties continue to maintain tax judgment books by writing entries into them. Instead, payments and other notations are entered into the data base of a computer to reflect the status of the delinquent tax amount for a particular parcel. In effect, the data base has superseded the tax judgment book in most counties as the medium for record keeping.**

SUGGESTED FORM OF COURT'S TAX JUDGMENT

A tax judgment rendered by the district court is to be substantially in the same form used by the court administrator. (M.S. 279.16)

The suggested form for the tax judgment is outlined in Section 6340.

TAX JUDGMENT BY COURT **SECTION 6330**
(Continued) (Page 3)

COURT'S TAX JUDGMENT: LIEN

A tax judgment rendered by the district court after a hearing perfects the perpetual tax lien against the parcel of real property in the delinquent tax list in the same manner that a default tax judgment entered by the court administrator does. (M.S. 279.16)

Although the property tax lien attaches to the parcel of real property from January 2nd of the assessment and levy year (M.S. 272.31), the due process clause of the United States Constitution requires that all governmental property seizures must be subject to judicial review at some point in the proceedings.

The tax judgment process satisfies the requirement for that review before the lien can be enforced.

COURT'S TAX JUDGMENT: IN REM

A tax judgment is an in rem legal action. It attaches only to the parcel of real property: land, structures, standing timber, and minerals. In other words, the tax judgment is against the title to the property regardless of who owns it and not against a specific person.

COURT'S TAX JUDGMENT: SUBJECT TO APPEAL

The district court's ruling against the written objections to delinquent taxes and/or penalties by property owners, taxpayers of record, or any other party with a legal interest in the property is subject to appeal and review as in other civil cases. (M.S. 279.21)

INTEREST RATE FOR TAX JUDGMENTS BY COURT SECTION 6335

The interest rate to use for court judgments arising out of petitions for review is the floating rate based on the secondary market yield on one-year United States treasury bills, determined under M.S. 549.09. See Section 6160 for the schedule of floating interest rates. (The source of the interest rate to use for Chapter 278 property tax judgments was decided by the Minnesota Supreme Court in the case of Arcadia Development Corp. v. Hennepin, March 3, 1995.) (M.S. 278.08)

The interest rate for court judgments applies as follows:

1. **If the tax is sustained in full, interest on the unpaid part of the tax, including any penalties accrued;**

2. **If the tax is increased, interest on the unpaid part of the tax as originally assessed, including any penalties accrued;**

3. **If the tax is reduced, interest on the difference between the tax as recomputed and the amount previously paid; and**

4. **If the petitioner has overpaid the amount of tax determined or stipulated to be due, interest on the overpayment from the date of the filing of the petition for review or from the date of the payment of the tax, whichever is later, until the date of issuance of the refund warrant. For this purpose, an "overpayment" occurs on the date when the cumulative total of the payments made by the taxpayer for the taxes payable year exceed the final total tax amount determined for that taxes payable year. Also for this purpose, taxpayer payments are allocated first to any penalty imposed due to late payment of installments, then to the tax due.**

Interest for court judgments is determined on a year-by-year basis. For example, if in 1999 a court judgment is rendered on a case involving payable 1997 property taxes, and the judgment sustains the taxes in full, the unpaid part of the tax would be subject to 12 months of interest at the judgment interest rate that applied for 1998 plus interest from January 1, 1999 to the date of payment at the judgment interest rate that applies for 1999.

SUGGESTED FORMAT FOR TAX JUDGMENT SECTION 6340

The suggested format for a tax judgment entered by the administrator of the district court or rendered by the district court itself is outlined below. (M.S. 279.16)

NOTE: When the format is used for tax judgments rendered by the district court itself, the clause beginning with "...no objections having been filed..." would have to be replaced with a reference to judgment being made after objections were filed and a court trial was held.

The tax judgment document is to follow the substance of the form of the Spruce County example listed below.

NOTICE OF TAX JUDGMENT

State of Minnesota District Court

Spruce County 5th Judicial District

In the matter of the proceedings to enforce payment of the taxes on real estate remaining delinquent on January 2, 1984, for the county of Spruce, state of Minnesota.

A list of taxes on real property, delinquent on January 2, 1984, for said county of Spruce, having been duly filed in the office of the administrator of this court, and the notice and list required by law having been duly published and mailed as required by law, and more than 20 days having elapsed since the last publication of the notice and list, and no objections having been filed by any person, company, or corporation to taxes upon any of the parcels of land hereinafter described, it is hereby adjudged that each parcel of land hereinafter described is liable for taxes, penalties, and costs to the amount set opposite the same, as follows:

SUGGESTED FORMAT FOR TAX JUDGMENT **SECTION 6340**
(Continued) **(Page 2)**

Description	Parcel Number	Amount
CITY OF GREENBRIAR		
Towers Subdivision, Lot 2 & Lot 3, Block 5	08-0325-0001	$83.65
Crystal Addition, Lots 16, 17, & West 40 Feet of Lot 18, Block 4	08-0711-0034	$2,376.10

The amount of taxes, penalties, and costs to which, as hereinbefore stated, each of such parcels of land is liable, is hereby declared a lien upon such parcel of land as against the estate, right, title, interest, claim, or lien, of whatever nature, in law or equity, of every person, company, or corporation; and it is adjudged that, unless the amount to which each of such parcels is liable be paid, each of such parcels be sold, as provided by law, to satisfy the amount to which it is liable.

Thornton J. Longstreet

Thornton J. Longstreet
District Court Administrator
5th Judicial District
Spruce County

District Court Seal

Date: April 16, 1984

COPY OF TAX JUDGMENT TO COUNTY AUDITOR SECTION 6350

The administrator of the district court is to deliver to the county auditor a certified copy of each tax judgment entered by the court administrator in the name of the court or rendered by the district court itself. (M.S. 279.23)

COPY OF TAX JUDGMENTS: AUDITOR'S "TAX JUDGMENT BOOK"

The certified copy of each tax judgment is to be included in a book provided by the county auditor. In a sense, the book serves as the county auditor's version of the court administrator's "Tax Judgment Book" (see Section 6320).

The certified copy of each tax judgment is to be entered in the county auditor's "Tax Judgment Book" in the same format used in the court administrator's master copy . Each judgment is to be written on the left-hand pages of the book. The right-hand pages are to be left blank for recording the future disposition of the delinquent taxes. The entries are to be certified by the court administrator's signature. (M.S. 279.23)

NOTE: In practice, few counties continue to maintain tax judgment books by writing entries into them. Instead, payments and other notations are entered into the data base of a computer to reflect the status of the delinquent tax amount for a particular parcel. In effect, the data base has superseded the tax judgment book in most counties as the medium for record keeping.

CONDITIONS FOR CANCELING TAX JUDGMENT SECTION 6360

There are only two conditions under which the district court may vacate or rescind a tax judgment entered by the administrator of the district court or rendered by the district court itself. The two conditions are outlined below. (M.S. 279.22)

CONDITION #1: TAXES AND PENALTIES WERE PAID BEFORE JUDGMENT

If it is discovered after the tax judgment that payment of the delinquent taxes and penalties was made before the date of the tax judgment, the district court may vacate the tax judgment.

Any property owner, taxpayer of record, or any other party with a legal interest in the property may apply to the district court to have the tax judgment reviewed for the above reason. The district court must receive proof of payment from the county auditor or county attorney before the tax judgment can be vacated. (M.S. 279.22)

CONDITION #2: PROPERTY IS EXEMPT FROM TAXES

If the parcel of real property under tax judgment is later found to be exempt from property taxes, the court may rescind the tax judgment.

Any property owner, taxpayer of record, or any other party with a legal interest in the property may apply to the district court to have the tax judgment reviewed for the above reason. The district court must receive proof of the exemption from the county auditor or county attorney before the tax judgment can be rescinded. (M.S. 279.22)

RECORDING PAYMENTS BEFORE/AFTER TAX JUDGMENT SECTION 6365

Payment of any delinquent tax amount due is to be handled differently by the county officials depending on whether the payment is made before or after the tax judgment has been entered by the administrator of the district court or rendered by the court itself. (M.S. 279.25)

METHODS OF RECORDING PAYMENT BEFORE TAX JUDGMENT

If payment is made after the delinquent tax list has been filed with the administrator of the district court but before the tax judgment has been entered, the county auditor must record the payment and immediately certify the payment to the court administrator. (M.S. 279.25)

The court administrator is to record the payment in the delinquent tax list. All tax judgment proceedings pending against the parcel of property are to be canceled.

METHODS OF RECORDING PAYMENT AFTER TAX JUDGMENT

If payment is made after the tax judgment has been entered, the county auditor must record the payment and immediately certify the payment to the court administrator. (M.S. 279.25)

The court administrator is to record the satisfaction of the tax judgment in the "Tax Judgment Book" on the right-hand page opposite the description of the parcel of real property or in the data base of their computers. The tax judgment proceedings pending against the parcel of property are to be canceled.

LEGAL TENDER: U.S. CURRENCY, CHECK, OR MONEY ORDER

The 1992 Minnesota Legislature required that all delinquent taxes, special assessments, penalties, interest, and costs must be paid with United States currency or by check or money order drawn on a bank or other financial institution located in the United States. (M.S. 279.025)

This requirement is effective for payments beginning August 1, 1992.

DISTRIBUTION OF DELINQUENT TAX AMOUNT SECTION 6370

When the delinquent tax amount is paid anytime after the unpaid taxes and penalties become delinquent and before the expiration of the period of redemption, the taxes, special assessments (if any), penalties, interest, and costs are to be apportioned and distributed to the local governments according to the following provisions.

DELINQUENT TAXES

The DELINQUENT TAXES are to be apportioned to the appropriate local units of government (1) according to the tax rates that were set for the year or years when the delinquent taxes were levied, or (2) on the basis of the tax rates for the current taxes payable year if they are not significantly different from the tax rates that existed for the year or years when the delinquent taxes were levied. They are to be distributed according to the regular schedule for settlement and distribution of current property taxes. (M.S. 276.09 through 276.111)

For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers.

SPECIAL ASSESSMENTS

The SPECIAL ASSESSMENTS are to be apportioned to the local government that levied them and requested that they be collected on the property tax statement. They are to be distributed according to the regular schedule for settlement and distribution of current property taxes. (M.S. 276.09 through 276.111)

For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers.

DISTRIBUTION OF DELINQUENT TAX AMOUNT SECTION 6370
(Continued)

PENALTIES AND INTEREST

The current method of apportioning the PENALTIES and INTEREST collected on real and personal property taxes and special assessments that are paid late or are paid after they become delinquent is outlined below. (M.S. 276.131)

1. **All penalties and interest on SPECIAL ASSESSMENTS against real or personal property are to be apportioned to the city or township in which the property is located.**

   Note: Because the counties and not the townships levy the ditch assessments or fees, the penalties and interest on ditch assessments or fees are to be apportioned to the counties in which the property is located and not to the townships. The amount received by a county for this purpose is to be deposited in the county ditch fund.

   See Section 6160 for more information concerning the interest rate for unpaid drainage ditch costs.

2. **50% of all PENALTIES collected on REAL AND PERSONAL PROPERTY TAXES is to be apportioned to the county in which the property is located, and the other 50% is to be apportioned to all of the school districts in the county in proportion to each school district's taxable net tax capacity within the county in the prior levy year, as provided in M.S. 127A.34.**

   Note: Cities, special taxing districts, and tax increment financing districts are not authorized to receive any portion of the penalties collected on real and personal property taxes.

The penalties are to be distributed according to the regular schedule for settlement and distribution of current property taxes. For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers. (M.S. 276.09 through 276.111)

DISTRIBUTION OF DELINQUENT TAX AMOUNT **SECTION 6370**
(Continued) (Page 3)

3. **Effective for INTEREST collected on REAL AND PERSONAL PROPERTY TAXES after June 30, 1999, the following apportionment is to be made:**

   (a) **In the case of interest on taxes that have been delinquent for a period of one year or less, 50% is to be apportioned to the county in which the property is located, and the other 50% is to be apportioned to all of the school districts in the county in proportion to each school district's taxable net tax capacity within the county in the prior levy year, as provided in M.S. 127A.34.**

   (b) **In the case of interest on taxes that have been delinquent for a period of more than one year, 50% is to be apportioned to all of the school districts in the county in proportion to each school district's taxable net tax capacity within the county in the prior levy year, as provided in M.S. 127A.34, and the remaining 50% is to be apportioned between the county and the city or town where the property is located. The apportionment between the city or town and the county is to be based on their net tax capacity local tax rates for the taxes payable year in which the interest is collected. The share for the city or town is equal to its net tax capacity local tax rate as a proportion of the sum of the net tax capacity local tax rates for the city or town and the county. The county gets the balance remaining after the city or town share.**

   Interest on real and personal property taxes collected on or before June 30, 1999 should be distributed in accordance with previous law.

   Note: **Special taxing districts and tax increment financing districts are not authorized to receive any portion of the interest collected on real and personal property taxes.**

   The interest is to be distributed according to the regular schedule for settlement and distribution of current property taxes. For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers. (M.S. 276.09 through 276.111)

COUNTY COSTS

All of the county costs collected on real and personal property taxes and special assessments that are paid late or are paid after they become delinquent are to be distributed to the county in which the property is located. (M.S. 276.131)

DISTRIBUTION OF DELINQUENT TAX AMOUNT SECTION 6370
(Continued) **(Page 4)**

The costs are to be distributed according to the regular schedule for settlement and distribution of current property taxes. For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers. (M.S. 276.09 through 276.111)

SPECIAL CASE: TIF DISTRICTS

A tax increment financing (TIF) district that qualifies to receive current year tax increments is to share in tax delinquencies the same as the taxing districts. TIF districts receive a share of the taxes actually collected, not the amount extended. When delinquent taxes are collected from a parcel located in a TIF district, the TIF district is to receive a share of the delinquent tax payment. The portion that a TIF district receives is based on its regular tax settlement percentage. (M.S. 469.176, Subd. 1(h))

A portion of the delinquent increment parcel taxes collected after a TIF district has gone out of existence are to be paid to the TIF authority if the delinquency caused outstanding bonds or contractual obligations to be paid by sources other than tax increment or to go unpaid. The TIF district portion is based on the district's regular tax settlement percentage in the year of the delinquency. The TIF authority is to provide the county auditor with the information that is needed to make the delinquent tax settlement.

Delinquent increment parcel taxes collected after a TIF district has gone out of existence and where there is no required payment to be made to the TIF district are to be distributed to all taxing districts including special taxing districts. Regular tax settlement percentages are to be used to make this distribution.

TAX JUDGMENT SALE: 2ND MONDAY IN MAY SECTION 6375

The third and final phase of stage three of the delinquent tax proceedings takes place each year on the 2nd Monday in May. On that date, each parcel of real property against which a tax judgment has been recorded and remains unsatisfied for the unpaid taxes of the preceding year is "bid in for the state" by the county auditor. (M.S. 280.01)

The county auditor is to "bid in for the state" each parcel of real property at the total dollar amount of the delinquent tax, penalties, costs, and accrued interest due and unpaid up to the 2nd Monday in May. (M.S. 280.01)

The 2nd Monday in May is also the date when the 3-year and 5-year periods of redemption begin. See Section 6410 for information about the periods of redemption.

BID IN FOR THE STATE: DEFINITION

"Bid in for the state" does not mean that the state takes over legal ownership of each parcel of property on the 2nd Monday in May. The title to each parcel of property actually remains in the name of the owner of record in the office of the county recorder.

"Bid in for the state" does mean that the state obtains a future vested interest in each parcel of property subject only to the rights of redemption.

The term "future vested interest" means that, if the aggregate of delinquent taxes, special assessments (if any), penalties, costs, and accrued interest is not paid within the standard period of redemption or the time period allowed under a confession of judgment (see Series 6400 through 6600), the state will enforce the property tax lien on each parcel of real property.

Under this enforcement action, the legal title to each parcel of real property will be forfeited to the state in trust for the local taxing districts. The county auditor, acting for the state, will try to sell each parcel of property. The revenue from the sale is to be distributed to the local taxing districts in lieu of the unpaid property taxes (see Series 6700). (M.S. 280.41; 281.18; 281.25)

BID IN FOR THE STATE: HISTORICAL BACKGROUND

Before 1974, each parcel of real property subject to tax judgment was actually offered for sale on the 2nd Monday in May at a public auction called a "tax judgment sale." The county auditor posted or published a notice of the tax judgment sale. The parcels were sold to the third party who paid the total dollar amount of the delinquent taxes, penalties, and costs and bid the lowest interest rate on the total dollar amount below the interest rate set by law.

Each purchaser was given a "certificate of sale" by the county auditor. If the delinquent tax amount including the lower interest rate bid by the purchaser were not paid by the property owner, taxpayer of record, or any other party with a legal interest in the property before the period of redemption expired, the "certificate of sale" gave the purchaser absolute title to the parcel of real property.

Also before 1974, each parcel of real property that was not purchased at the sale was "bid in for the state." The county auditor was authorized to assign the state's interest in a parcel of real property "bid in for the state" to a third party. The third party paid the total dollar amount of the delinquent taxes, penalties, costs, and accrued interest for a "certificate of assignment."

The purchaser of the assignment assumed the county auditor's responsibility for all notifications to the property owner, taxpayer of record, and any other party with a legal interest in the property during the period of redemption. If the period of redemption expired before the delinquent tax amounts were paid by the property owner, taxpayer of record, or any other party with a legal interest in the property, the certificate of assignment gave the third party the title to the parcel of property.

Beginning in 1974, all of the parcels of real property subject to tax judgment have been "bid in for the state" (see definition on page one of Section 6375) and retained by the state during the period of redemption. No parcels of real property subject to tax judgment have been sold at public auction on the 2nd Monday in May and no certificates of sale have been issued by the county auditor since 1973. No certificates of assignment have been issued since 1971. However, terminology that has been used for years dies hard. Therefore, the terms "tax judgment sale" and "sale" are still used to refer to the paper-work action of bidding in for the state. (M.S. 280.001; 280.43)

BID IN FOR THE STATE: ACTIONS REQUIRED

The county auditor and the administrator of the district court are responsible for completing the paper work for the "tax judgment sale;" i.e., the "bid in for the state."

The county auditor starts the process by entering the words "bid in for the state" opposite the description of each parcel sold on the right-hand page of the copy of the "Tax Judgment Book." The book is then delivered to the court administrator.

The court administrator continues the paper work by entering the same phrase on the right-hand pages of the master copy of the "Tax Judgment Book." The court administrator completes the tax judgment sale by returning the copy of the "Tax Judgment Book" to the county auditor. (M.S. 280.07)

NOTE: In practice, few counties continue to maintain tax judgment books by writing entries into them. Instead, payments and other notations are entered into the data base of a computer to reflect the status of the delinquent tax amount for a particular parcel. In effect, the data base has superseded the tax judgment book in most counties as the medium for record keeping.

BID IN FOR THE STATE: ACTIONS NOT REQUIRED

As a result of the changes made by the 1973 legislature, the county auditor is no longer required or allowed to complete the following tasks.

1. Notices of the tax judgment sale are not to be posted or published by the county auditor after 1973. (M.S. 280.001; 280.01)

2. Certificates of sale are not to be issued on the 2nd Monday in May by the county auditor after 1973. (M.S. 280.001)

3. Certificates assigning the state's rights to properties "bid in for the state" are not to be issued by the county auditor after January 1, 1972. (M.S. 280.11)

BID IN FOR THE STATE: TAXES LEVIED

The taxes for subsequent years are to be levied on each parcel of real property even though it has been "bid in for the state." (M.S. 280.10)

If they are not paid when due and become delinquent, the taxes for subsequent years on each parcel of real property along with the penalties are to be added to the aggregate of delinquent taxes, penalties, costs, and accrued interest due under the "tax judgment sale."

BID IN FOR THE STATE: INCORRECT NAME

The use of any name other than the true owner of record in describing the ownership of a parcel of real property in the "tax judgment sale" has no effect on the validity of the "tax judgment sale." (M.S. 280.06)

SUMMARY: STAGE THREE SECTION 6380

JUDGMENT ON DELINQUENT TAXES

The third stage of the delinquent real property tax proceedings is completed once the following major actions have been taken:

1. Written objections to the delinquent real property taxes and/or penalties have been filed by the property owners, taxpayers of record, and/or any other party with a legal interest in the property.

2. The administrator of the district court has entered tax judgment against all parcels of real property for which no objections have been filed.

3. The district court has heard the case for each objection to delinquent real property taxes and/or penalties and rendered a tax judgment against each parcel of real property on which the objection was denied.

4. The administrator of the district court and the county auditor record each tax judgment in their respective copies of the "Tax Judgment Book" or in the data base of their computers.

5. Each year on the 2nd Monday in May, all parcels of real property under tax judgment in the current year are "bid in for the state" by the county auditor.

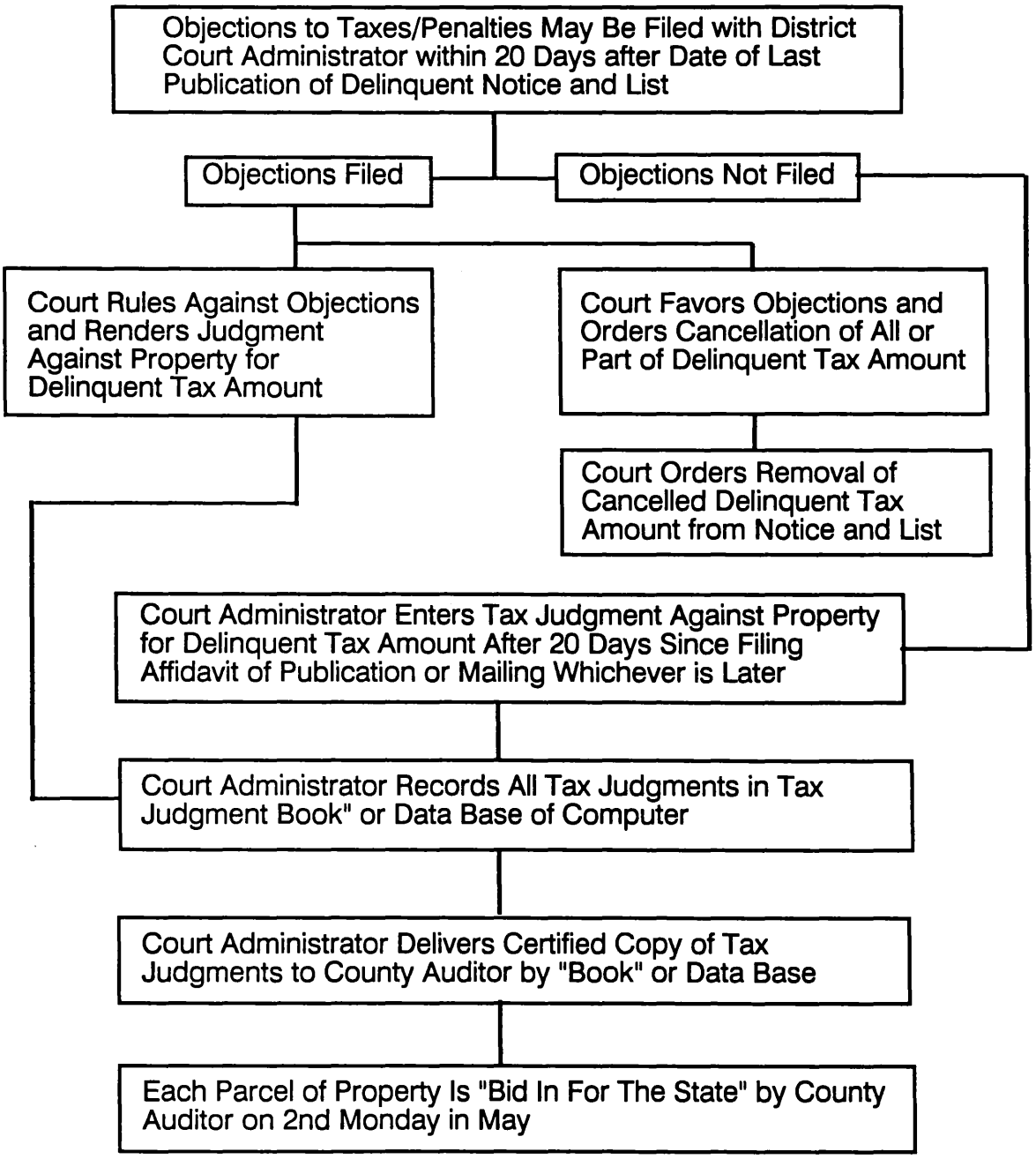
After stage three, the state retains a future vested interest in the parcels of property "bid in for the state." If the delinquent tax amounts are not paid within the time periods allowed, the title to the property will be forfeited to the state in trust for the local taxing jurisdictions.

The fourth stage of the delinquent tax proceedings involves the two major ways that property owners, taxpayers of record, and any other party with a legal interest in the property can redeem a parcel of real property before it is forfeited to the state. The standard period of redemption granted under the tax judgment plan is explained in Series 6400. The alternative plan for redeeming property-- "confession of judgment"-- is covered in Series 6500.

FLOW CHART: STAGE THREE SECTION 6385

JUDGMENT ON DELINQUENT TAXES

A graphic illustration of the major steps which must be taken to complete the third stage of the delinquent real property tax proceedings is presented in the following flow chart.



SAMPLE CASE: STAGE THREE SECTION 6390

The following sample case is intended to dramatize the major steps which must be taken to complete stage three of the delinquent real property tax proceedings. The sample case is a continuation of the same fictional delinquent tax situation with the same fictional names, places, dates, and tax amounts used in the samples cases for stages one and two.

The purpose of using the sample case is purely educational and is not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

SAMPLE CASE: THE SVOBODA'S APPLEWOOD LOT

After receiving the delinquent tax letter and notice of delinquent taxes for her Applewood lot on March 20, 1984, Peggy Svoboda mentioned her tax problem in a letter to Arthur and Bernice Knutson back in Minnesota.

The Knutson's own the small resort on Beaver Lake near Applewood, Minnesota, where Peggy Svoboda and her late husband, Timothy, vacationed each summer. The two couples had become close friends over the years.

Arthur and Bernice Knutson were convinced that the tax on Peggy Svoboda's Applewood lot was too high. Arthur wrote to Peggy suggesting that she mail a letter to Thornton Longstreet, Administrator of the District Court, and object to the high tax on her lot. He explained that she had until Wednesday, April 11, 1984, to get the letter to Thornton Longstreet's office in the Spruce County Courthouse.

When Peggy Svoboda wrote back saying she felt uneasy about objecting to the tax, Arthur and Bernice Knutson decided to call her long distance. Arthur told her that he would handle everything. He would have his lawyer write the letter and mail it to Peggy for her signature. He would also have his lawyer handle the case in district court. Peggy resisted, but Arthur and Bernice finally convinced her to accept their help.

The official letter was drafted by the Knutson's lawyer, sent out to California for Peggy Svoboda's signature, and finally mailed to Thornton Longstreet's office in the Spruce County Courthouse on Monday, April 9, 1984, two days before the deadline.

All of the written objections to delinquent taxes and penalties filed with Thornton Longstreet by Wednesday, April 11, 1984, were brought to trial at the current term of the district court in Spruce County. Peggy Svoboda's objection was heard on Tuesday, April 24, 1984.

SAMPLE CASE: STAGE THREE SECTION 6390
(Continued) (Page 2)

Unfortunately, the district court ruled against her objection. As a result, the court rendered a tax judgment against Peggy Svoboda's Applewood lot for $510.40. The total tax judgment was made up of the following individual amounts: (1) $425.90 for the tax, (2) $59.63 for the penalties, (3) $10 for the county costs, and (4) $14.87 for the interest from January through April, 1984. The interest was at 9% per year or 0.75% per month.

On Thursday, April 26, 1984, the office staff of the district court entered the delinquent tax amounts in the computer data base for each parcel with a tax judgment entered by Thornton Longstreet or rendered by the district court itself. The latter included the $510.40 tax judgment by the court on Peggy Svoboda's Applewood lot.

In addition, the district court's office staff prepared the tax judgment document which also contained the $510.40 tax judgment by the court on Peggy Svoboda's Applewood lot. Thornton Longstreet signed it on Friday, April 27, 1984.

On Monday, April 30, 1984, Thornton Longstreet's office staff copied the 1984 tax judgment data from the master disk to a blank disk. When it was labelled and certified, one of the office staff hand carried the disk downstairs to the county auditor's office in the Spruce County Courthouse. Nick Archer's staff filed the disk for future use.

The next time Nick Archer's staff used the disk was on Monday, May 14, 1984. On that date, each parcel of real property with an unpaid 1984 tax judgment was "bid in for the state." To complete the action, Nick Archer's staff added the date and the symbol for the words "bid in for the state" in the appropriate column for each parcel on the file containing the 1984 tax judgment data.

When all of the dates and symbols were added, Nick Archer's staff made a copy of the disk with all of the parcels "bid in for the state." On Wednesday, May 16, 1984, one of the staff members hand carried the copy of the updated disk upstairs to the office of the district court in the Spruce County Courthouse.

As soon as the district court's ruling was known back on Tuesday, April 24, 1984, Arthur and Bernice Knutson called Peggy Svoboda to tell her about the decision.

Peggy was disappointed, but not surprised. She thanked her long-time friends for trying to help her. She told them that she would make a decision later about paying or not paying the $510.40 tax judgment on her Applewood lot.

Arthur and Bernice Knutson reminded her that she had three years to pay the tax judgment before losing her title to the Applewood lot. Of course, the longer she waited, the more interest she would have to pay.

STAGE THREE **SECTION 6390**
(Continued) **(Page 3)**

Peggy Svoboda thanked her friends again for their concern. But she was just not ready to face the issue yet.

TABLE OF CONTENTS

STAGE FOUR: REDEMPTION

SERIES 6400

SECTION HEADING	SECTION NUMBER
Introduction: 1st Half of Stage Four - Redemption	6405
Redemption under Tax Judgment Plan	6410
Methods of Payment for Redemption	6420
Conditions for Partial Redemption	6430
Administration of Partial Redemption	6440
Administration of Full Redemption	6450
Redemption upon Owner's Death	6455
Delinquent Tax Paid in Inverse Order	6460
Distribution of Delinquent Tax Amount	6465
Voluntary Conveyance in Lieu of Forfeiture	6470
Attachment of Rents	6475
Attachment of Crops	6480
Summary: 1st Half of Stage Four - Redemption	6485
Flow Chart: 1st Half of Stage Four - Redemption	6490
Sample Case: 1st Half of Stage Four - Redemption	6495

INTRODUCTION: 1ST HALF OF STAGE FOUR SECTION 6405

The fourth stage of the delinquent real property tax proceedings focuses on the two major methods of paying off a delinquent tax amount before the property is forfeited to the state.

The first half of stage four concentrates on the method of payment called "redemption." It is summarized below and explained in more detail in the rest of Series 6400.

The second half of stage four deals with the other method of payment called "confession of judgment." It is summarized below and explained in more detail in Series 6500.

METHOD #1: REDEMPTION UNDER THE TAX JUDGMENT PLAN

The method of payment called "redemption" is directly related to the tax judgment which is covered in Series 6300. Although the delinquent tax amount may be paid anytime after it is determined in January, the provisions for payment called "redemption" are authorized for payments made after the property is "bid in for the state."

Under this method, the parcel of real property under tax judgment may be "redeemed" by paying off the delinquent tax amount in a single, lump-sum payment or in one-year lump sums. This means that the party "redeeming" the property may choose to pay off the delinquent tax amount for all years combined in a single lump sum. Or if the taxes are delinquent for two or more years, the party "redeeming" the property may choose instead to pay off one-year's delinquent amount at a time.

Regardless of how the payments are made, the property under tax judgment can be "redeemed" only if the delinquent tax amount is paid in full within a specified number of years from the time that the property was "bid in for the state." This is called the "period of redemption."

METHOD #2: CONFESSION OF JUDGMENT

The second method of paying off a delinquent tax amount before the property is forfeited to the state is called a "confession of judgment." This method of payment functions as an alternative to the tax judgment plan.

With a "confession of judgment," the delinquent tax amount due on a parcel of property for one or more years is combined under a new contract. The party "confessing judgment" agrees to pay the total contract amount in equal, annual installments for a specified number of years.

An eligible party may "confess judgment" anytime between the determination of delinquent taxes in January and the expiration of the period of redemption under the tax judgment plan.

In this Series 6400, the major tasks which are to be completed to "redeem" a parcel of property under the tax judgment plan and complete the first half of stage four of the delinquent real property tax proceedings are outlined and explained in Sections 6410 through 6480.

Section 6485 contains a summary of these major tasks along with a transition to stage five.

A flow chart which graphically shows the primary steps which must be taken to complete the first half of stage four of the delinquent real property tax proceedings can be found in Section 6490.

A sample case which dramatizes the actions in the 1st half of stage four is contained in Section 6495.

INTRODUCTION: 1ST HALF OF STAGE FOUR SECTION 6405
(Continued) **(Page 3)**

The sample case uses a new fictional delinquent tax situation with new fictional names, places, dates, and tax amounts which are not used in any other Series in the manual. This unique sample case begins with the unpaid tax and penalties becoming delinquent and ends with the delinquent tax amount being paid during the standard period of redemption.

The purpose of using the sample case is purely educational and not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

Note: For purposes of clarity and convenience, the phrase, "delinquent tax amount," will be used in Series 6400 to mean the sum of the amounts listed below.

1. Delinquent taxes
2. Special assessments (if any)
3. Penalties
4. Costs
5. Interest

The terms, "tax" or "taxes," will be used to include the delinquent real property tax and any special assessments.

REDEMPTION UNDER TAX JUDGMENT PLAN SECTION 6410

The payment of the delinquent tax amount after a parcel of real property is "bid in for the state" is specifically referred to as "redeeming" the property or the "redemption" of the property. A parcel of real property is "bid in for the state" on the 2nd Monday in May of the year when the unpaid taxes become delinquent (See Section 6375). (M.S. 281.01; 281.16-19)

The "redemption" of a parcel of real property means that the delinquent tax amount is paid off in full before the property is forfeited to the state. In other words, "to redeem" the property means to remove the tax judgment lien on the property and to avoid the impending loss of the property for failure to pay the delinquent tax amount.

REDEMPTION: ELIGIBLE PARTIES

In general, any party who claims to hold an interest in a parcel of real property that has been "bid in for the state" may redeem the parcel within the time and in the manner provided under M.S. 281. (M.S. 281.01)

In practice, any party who claims to hold an interest in a parcel of real property that has been "bid in for the state" includes the property owner, the taxpayer of record, and any other party with a legal interest in the property.

The latter group includes lienholders who are not the taxpayers of record. Example #1: a mortgagee who does not pay taxes from the mortgagor's escrow account. Example #2: a contractor holding a mechanic's lien.

REDEMPTION: LIENHOLDER'S RIGHTS

When a lienholder redeems a parcel of real property by paying the delinquent tax amount due, the money paid becomes an additional lien on the property in the name of the lienholder who redeemed. For example, a mortgagee who redeems may add the amount paid to the unpaid balance of the mortgage debt and collect it with interest according to the terms of the mortgage. (M.S. 272.44)

REDEMPTION: TIME PERIODS

The length of time given to pay off the delinquent tax amount due on a parcel of real property is called the "period of redemption." In most cases, the period of redemption is either 3 years or 5 years from the time the property is "bid in for the state" on the 2nd Monday in May of the year in which the taxes become delinquent. The length of time depends on the classification and the location of the parcel of property. (M.S. 281.17)

FIVE-YEAR PERIOD OF REDEMPTION

The 5-year period of redemption applies to (1) all classes of property located outside the boundaries of a city and (2) all of the classes of property listed below when they are located within the boundaries of a city. (M.S. 281.17).

Class 1a:	**RESIDENTIAL HOMESTEAD (Non-Farm Homes)**	**M.S. 273.13, Subd. 22(a)**
Class 1b:	**BLIND/PARAPLEGIC/VETERAN/ DISABLED HOMESTEAD**	**M.S. 273.13, Subd. 22(b)**
Class 1c:	**RESORTS/OWNER HOMESTEAD ("Ma and Pa Resorts") (Operated 250 Days or Less)**	**M.S. 273.13, Subd. 22(c)**
Class 2a:	**AGRICULTURAL HOMESTEAD (Farm Homes, Including Land and Buildings)**	**M.S. 273.13, Subd. 23(a)**
Class 4c(1):	**RESORTS/NON-HOMESTEAD; PRIVATE CABINS (Resorts Must Be Operated 250 Days or Less)**	**M.S. 273.13, Subd. 25(c)(5)**

REDEMPTION UNDER TAX JUDGMENT PLAN **SECTION 6410**
(Continued) (Page 3)

THREE-YEAR PERIOD OF REDEMPTION

All classes of property located within the boundaries of a city are limited to the 3-year period of redemption except those five classes of property listed above which are eligible for the 5-year period of redemption. (M.S. 281.17)

The major classes of property that are limited to the 3-year period of redemption when located within the boundaries of a city are listed below.

Class 1d:	**MIGRANT HOUSING**	**M.S. 273.13, Subd. 22(d)**
Class 2b:	**NON-HOMESTEAD AGRICULTURAL LAND**	**M.S. 273.13, Subd. 23(b)**
Class 2b:	**TIMBERLANDS**	**M.S. 273.13, Subd. 23(b)**
Class 3a:	**COMMERCIAL-INDUSTRIAL AND PUBLIC UTILITY**	**M.S. 273.13, Subd. 24(a)**
Class 3b:	**EMPLOYMENT PROPERTY (Enterprise Zones)**	**M.S. 273.13, Subd. 24(b)**
Class 4a:	**RENTAL HOUSING, 4 OR MORE UNITS (Including Private for-Profit Hospitals)**	**M.S. 273.13, Subd. 25(a)**
Class 4bb:	**RESIDENTIAL NON-HOMESTEAD SINGLE UNIT**	**M.S. 273.13, Subd. 25(c)**
Class 4b(1):	**RESIDENTIAL NON-HOMESTEAD (1 to 3 Units That Does Not Qualify for Class 4bb)**	**M.S. 273.13, Subd. 25(b)(1)**
Class 4b(2):	**UNCLASSIFIED MANUFACTURED HOMES**	**M.S. 273.13, Subd. 25(b)(2)**
Class 4c:	**Properties which qualified or could have qualified as 4c for 1998, but do not qualify as 4d for 1999, structures only**	**M.S. 273.127, Subd. 3**

REDEMPTION UNDER TAX JUDGMENT PLAN SECTION 6410
(Continued) (Page 4)

Class 4c:	Land for properties classified as class 4 in 1998 which do not qualify as 4d in 1999	M.S. 273.13, Subd. 25, clauses (a), (b)(1), and (c)
Class 4c(1):	SEASONAL RECREATIONAL RESIDENTIAL	M.S. 273.13, Subd. 25(d)(1)
Class 4c(2):	QUALIFYING GOLF COURSES	M.S. 273.13, Subd. 25(d)(2)
Class 4c(3):	NONPROFIT COMMUNITY SERVICE ORGANIZATION	M.S. 273.13, Subd. 25(d)(3)
Class 4c(4):	POST-SECONDARY STUDENT HOUSING	M.S. 273.13, Subd. 25(d)(4)
Class 4c(5):	MANUFACTURED HOME PARKS	M.S. 273.13, Subd. 25(d)(5)
Class 4c(6):	METRO NONPROFIT RECREATIONAL PROPERTY	M.S. 273.13, Subd. 25(d)(6)
Class 4d:	Properties that qualified or could have qualified as 4d for 1998, but do not qualify for the new 4d class for 1999, structures only	M.S. 273.127, Subd. 4
Class 4d:	QUALIFYING 4D PROPERTIES, LAND AND BUILDINGS (Includes single unit and qualifying portions of multi-unit buildings)	M.S. 273.13, Subd. 25(e)
Class 4e:	RESIDENTIAL PORTION OF CERTAIN CONVERTED WAREHOUSES	M.S. 273.13, Subd. 25(f)
Class 5(1):	PUBLIC UTILITY MACHINERY	(M.S. 273.13, Subd. 31(1)
Class 5(2):	UNMINED IRON ORE	(M.S. 273.13, Subd. 31(2)

REDEMPTION UNDER TAX JUDGMENT PLAN **SECTION 6410**
(Continued) **(Page 5)**

Class 5(2):	**LOW-RECOVERY IRON ORE**	**(M.S. 273.13, Subd. 31(2)**
Class 5(3):	**ALL OTHER PROPERTY NOT INCLUDED IN ANY OTHER CLASS**	**(M.S. 273.13, Subd. 31(3)**

EXCEPTIONS TO THE STANDARD PERIODS OF REDEMPTION

The following delinquent tax situations are exceptions to the standard 3-year and 5-year periods of redemption.

1. MINNEAPOLIS AND ST. PAUL TARGETED NEIGHBORHOODS

In a Minneapolis or St. Paul targeted neighborhood as defined in Laws 1987, Chapter 386, Article 6, Section 4, homestead property is restricted to a three-year period of redemption instead of the standard 5 years. All other classes of property in a targeted neighborhood are limited to a one-year period of redemption instead of the standard 3 years. (M.S. 281.17)

An exemption from the restrictive one-year period of redemption was granted by the 1992 Minnesota Legislature to certain nonhomestead properties located in the Loring Park targeted neighborhood. If they meet the criteria listed below, the nonhomestead properties are eligible for the standard 3-year period of redemption.

a) **The property's period of redemption must begin between July 1, 1991, and June 30, 1996, in order for it to be eligible for the standard 3-year period of redemption.**

b) **A notice of lis pendens must have been served on the property in order for it to be eligible for the standard 3-year period of redemption. The term, lis pendens, means pending a lawsuit.**

2. "THE 25% TAX TEST"

Regardless of where it is located, Class 2b: non-homestead agricultural property (M.S. 273.13, Subd. 23(b)) is restricted to a 2-year period of redemption when a person owns one or more parcels of real property with delinquent taxes and the delinquent taxes equal more than 25% of the prior year's school district levy. (M.S. 281.17)

3. MIXED MUNICIPAL SOLID WASTE DISPOSAL FACILITY

A special period of redemption applies for all real property constituting a mixed municipal solid waste facility that is a qualified facility under M.S. 115B.39, Subd. 1. The special period of redemption for this type of property is one year from the date of the sale to the state of Minnesota. (M.S. 281.17)

The phrase, "the date of the sale to the state of Minnesota" refers to the 2nd Monday in May of the year in which the unpaid real property taxes on the parcel become delinquent. This is the date when all properties with delinquent taxes are "bid in for the state" and the period of redemption begins. (See Section 6375.)

4. ABANDONED PROPERTY

A 5-week redemption period for certain abandoned properties may be ordered by a district court. This provision may apply any time after the property has been "bid in for the state" and before the notice of expiration of redemption has been given. It may apply to any taxable property located within a city, including property classified as homestead property at the time that it was bid in for the state. It may also apply to taxable property located within a town if the property is located within the area of operation for a county HRA. (M. S. 281.173)

Under this provision, (a) a city, (b) the HRA, EDA, or port authority of a city, or (c) the HRA of a county may commence an action to reduce the period of redemption by the filing of a complaint in district court. The complaint must name as defendants (1) the record fee owners, or the owner's personal representative, or the owner's heirs as determined by a court of competent jurisdiction, (2) contract for deed purchasers, (3) mortgagees, (4) assigns of any of the above, (5) the taxpayers of record, (6) the Internal Revenue Service of the United States and the Minnesota Department of Revenue if tax liens against the owners or contract for deed purchasers have been recorded or filed, and (7) any other person that the plaintiff determines should be made a party. The complaint must allege that (1) the property is abandoned, (2) the property has been "bid in for the State," and (3) notice of the expiration of the period of redemption has not been given. The complaint must request an order reducing the redemption period to 5 weeks.

After the filing of the complaint, the district court must issue a summons commanding the person or persons named in the complaint to appear before the court. The appearance date must not be less than 15 nor more than 25 days from the date of the summons.

REDEMPTION UNDER TAX JUDGMENT PLAN **SECTION 6410**
(Continued) (Page 7)

The summons and complaint must be served at least seven days before the appearance date in the manner provided for service of a summons and complaint in a civil action in district court, and must be posted in a conspicuous place on the property. If a defendant cannot be found in the state, and an affidavit to that effect is filed with the court, the summons and complaint may be served by sending a copy by certified mail to the defendant's last known address, if any, at least ten days prior to the appearance date. If personal or certified mail service cannot be made on a defendant, and an affidavit to that effect is filed with the court, the posting on the property is deemed sufficient with respect to that defendant. Service on the United States of America must be made in accordance with applicable federal law.

If at the court hearing evidence is presented supporting the allegations in the complaint and no appearance is made by defendants to oppose the complaint, the district court must enter an order reducing the redemption period to five weeks. The order must contain specific findings of abandonment and must contain a legal description of the property.

An affidavit by the sheriff or deputy sheriff, building inspector, zoning administrator, housing official, or other municipal or county official having jurisdiction over the property, stating that the property is not lawfully occupied and further setting forth any of the following supporting facts, is prima facie evidence of abandonment:

1. **windows or entrances to the property are boarded up or closed off, or multiple window panes are broken and unrepaired;**

2. **doors to the property are smashed through, broken off, unhinged, or continuously unlocked;**

3. **gas, electric, or water service to the property has been terminated;**

4. **rubbish, trash, or debris has accumulated on the property;**

5. **the police or sheriff's office has received at least two reports of trespassers on the property, or of vandalism or other illegal acts being committed on the property; or**

6. **the property is deteriorating and is either below or in immediate danger of falling below minimum community standards for public safety and sanitation.**

The court may consider an affidavit from any other person having personal knowledge which states facts supporting the complaint. Written statements of the owner, the owner's personal representative or assigns, including documents of conveyance, which indicate a clear intent to abandon the property, are conclusive evidence of abandonment. In the absence of affidavits or written statements, or if rebuttal evidence is offered by the defendant or a party lawfully claiming an interest through the defendant, the court may consider any competent evidence, including oral testimony, concerning any allegations in the complaint.

Within ten days after the order is entered, a certified copy of the order must be filed with the county recorder or registrar of titles, and with the county auditor.

If the property is not redeemed within 5 weeks of the date of entry of the order, the county auditor must execute a certificate of forfeiture.

This provision applies only to property that was bid into the state in 1996 or subsequent years.

5. VACANT PROPERTY

A 5-week redemption period for certain vacant properties may be ordered by a district court. This provision may apply any time after the property has been "bid in for the state" and before the notice of expiration of redemption has been given. (M. S. 281.174)

Only vacant properties located within cities that meet the following criteria may be subject to this five-week redemption period:

1. **the property is located within a targeted neighborhood revitalization program under M.S. 469.201;**

2. **no structures are located on the land;**

3. **the property is classified as residential; and**

4. **a residential structure existed on the land within the last five years.**

REDEMPTION UNDER TAX JUDGMENT PLAN **SECTION 6410**
(Continued) (Page 9)

Note: **The definition of "city" in M.S. 469.201 includes cities of the first class (Duluth, Minneapolis, and St. Paul). It also includes cities of the second class (cities over 20,000 but not more than 100,000 inhabitants) designated as economically depressed areas by the United States Department of Commerce. Therefore, this five-month redemption period may apply only to certain residential property located within this small group of cities.**

Under this provision, a city (or its HRA, EDA, or port authority) may commence an action to reduce the period of redemption by the filing of a complaint in district court. The complaint must name as defendants (1) the record fee owners, or the owner's personal representative, or the owner's heirs as determined by a court of competent jurisdiction, (2) contract for deed purchasers, (3) mortgagees, (4) assigns of any of the above, (5) the taxpayers of record, (6) the Internal Revenue Service of the United States and the Minnesota Department of Revenue if tax liens against the owners or contract for deed purchasers have been recorded or filed, and (7) any other person that the plaintiff determines should be made a party. The complaint must allege that (1) the property is vacant, (2) the property has been "bid in for the State," and (3) notice of the expiration of the period of redemption has not been given. The complaint must request an order reducing the redemption period to 5 weeks.

After the filing of the complaint, the district court must issue a summons commanding the person or persons named in the complaint to appear before the court. The appearance date must not be less than 15 nor more than 25 days from the date of the summons, except that when the United States of America is a party, the date must be set in accordance with applicable federal law.

The summons and complaint must be served at least seven days before the appearance date in the manner provided for service of a summons and complaint in a civil action in district court, and must be posted in a conspicuous place on the property. If a defendant cannot be found in the state, and an affidavit to that effect is filed with the court, the summons and complaint may be served by sending a copy by certified mail to the defendant's last known address, if any, at least ten days prior to the appearance date. If personal or certified mail service cannot be made on a defendant, and an affidavit to that effect is filed with the court, the posting on the property is deemed sufficient with respect to that defendant.

If at the court hearing evidence is presented supporting the allegations in the complaint and no appearance is made by defendants to oppose the complaint, the district court must enter an order reducing the redemption period to five weeks. The order must contain a legal description of the property.

An affidavit from any person having personal knowledge about the property may be filed stating facts supporting any allegations in the complaint. In the absence of affidavits or written statements, or if rebuttal evidence is offered by the defendant or a party lawfully claiming an interest through the defendant, the court may consider any competent evidence, including oral testimony, concerning any allegations in the complaint.

Within ten days after the order is entered, a certified copy of the order must be filed with the county recorder or registrar of titles, and with the county auditor.

If the property is not redeemed within 5 weeks of the date of entry of the order, the county auditor must execute a certificate of forfeiture.

This provision applies only to property that was bid into the state in 1996 or subsequent years.

REDEMPTION: EFFECT OF CHANGES IN LOCAL UNIT OF GOVERNMENT

The location of the property on the day that it was "bid in for the state," along with the property's classification, is used to determine the period of redemption for the property. Subsequent boundary changes or change in form of government do not affect the redemption period for a parcel of property bid in for the state. These changes include annexation, detachment, merger, consolidation, incorporation, and dissolution. For example, if a property classified as commercial was located in a township at the time that it was bid in for the state, its period of redemption would remain 5 years from the 2nd Monday in May of the year that it was bid in for the state, even if the property is included in an area that is subsequently annexed by a city. The period of redemption for this property would also remain 5 years even if the township in which it is located subsequently incorporated into a city. On the other hand, if a property classified as commercial was located in a city at the time that it was bid in for the state, its period of redemption would remain 3 years from the 2nd Monday in May of the year that it was bid in for the state, even if the property is included in an area that is subsequently detached from the city and returned to the township.

REDEMPTION: CLASSIFICATION YEAR

In addition to the location, the property classification on January 2 of the assessment year that was used to levy the taxes on which the court judgment was entered determines the length of the period of redemption. Any change in the classification of the property after the first delinquent year does not affect the length of the period of redemption.

For example, let's assume that a taxpayer owns a house in a city. The house is assessed as Class 1a, residential homestead property on January 2, 1996. The taxpayer does not pay the taxes that are due in calendar year 1997. The payable 1997 taxes go delinquent in January, 1998.

In the fall of 1997, the taxpayer moves out of the house and rents it to another family. On January 2, 1998, the county assessor reclassifies the house as Class 4bb, residential non-homestead single unit property. The county auditor uses this new classification to levy the payable 1999 taxes on the house.

Because the payable 1997 taxes were based on the residential homestead classification, the taxpayer is given 5 years from the 2nd Monday in May, 1998, to pay the delinquent taxes before the house is forfeited. The new classification as residential non-homestead has no effect on the period of redemption for the delinquent payable 1997 taxes.

Let's say the payable 1998 and 1999 taxes are also not paid and are added to the court judgment against the delinquent payable 1997 taxes. The payable 1998 taxes were based on the residential homestead classification and are eligible for the 5-year period of redemption. The payable 1999 taxes were based on the residential non-homestead classification and, if taken alone, would be restricted to the 3-year period of redemption.

Question: Does the period of redemption have to be changed from 5 years to 3 three years because of the change in classification for the payable 1999 taxes? Answer: No, the period of redemption continues to be based on the classification that was set for the payable 1997 taxes.

REDEMPTION UNDER TAX JUDGMENT PLAN SECTION 6410
(Continued) **(Page 12)**

CHART: 5-YEAR AND 3-YEAR PERIODS OF REDEMPTION

Period of Redemption	Property Located Outside Cities	Property Located Within Cities
5 Years	All	Residential Homesteads Blind/Paraplegic/Veteran/ Disabled Homesteads Resorts/Owner Homestead ("Ma and Pa Resorts") Agricultural Homesteads Resorts/Non-Homestead (Also Private Cabins)
3 Years	None	All except the above 5 types of property

Note: **See the earlier pages of Section 6410 for information about the classifications and statutory references for the properties that are shown in the above chart.**

METHODS OF PAYMENT FOR REDEMPTION SECTION 6420

Anytime during the 3-year or 5-year period of redemption under the tax judgment plan, the property owner, taxpayer of record, or any other party with a legal interest in the property may redeem a parcel of property by paying to the county treasurer the total delinquent tax amount. (M.S. 281.02; 281.03)

DEFINITION: TOTAL DELINQUENT TAX AMOUNT

For the purpose of redemption, the total delinquent tax amount is equal to the sum of the following items listed below.

1. The unpaid real property taxes.
2. The unpaid special assessments (if any).
3. The penalties imposed on the unpaid real property taxes and special assessments (if any) during the year when the taxes were due.
4. The total interest accrued on the delinquent taxes, penalties, and county costs up through the time of payment.
5. The county costs for administering the delinquent tax laws.

LEGAL TENDER: U.S. CURRENCY, CHECK, OR MONEY ORDER

The 1992 Minnesota Legislature required that all delinquent taxes, special assessments, penalties, interest, and costs must be paid with United States currency or by check or money order drawn on a bank or other financial institution located in the United States. (M.S. 279.025)

The requirement is effective for payments beginning August 1, 1992.

REDEMPTION: TWO METHODS OF PAYMENT

Under the tax judgment plan for redeeming property, it has been the administrative policy of the counties for years to allow the property owner, taxpayer of record, or any other party with a legal interest in the property to pay the total delinquent tax amount due in one of the two ways listed below.

1. METHOD #1: SINGLE PAYMENT OF TOTAL DELINQUENT TAX AMOUNT

Under the first method of payment, the total delinquent tax amount is to be paid in a single lump sum. The single lump sum is to be equal to the total delinquent amount due for all years combined.

Payment of the total delinquent tax amount in a single lump sum before the period of redemption expires will cancel the delinquent tax proceedings, and the tax lien will be removed from the property.

2. METHOD #2: EACH YEAR'S DELINQUENT TAX AMOUNT PAID SEPARATELY

Under the second method of payment, if the taxes are delinquent for two or more years, the property owner, taxpayer of record, or any other party with a legal interest in the property may pay the amount due for each of the delinquent years in separate lump sums.

When the amount due for each of the delinquent year is paid in full before the period of redemption expires, the delinquent tax proceedings will be cancelled, and the tax lien will be removed from the property.

However, If just one year's delinquent tax amount remains unpaid when the period of redemption expires, the property owner's legal title to the property will be forfeited to the state in trust for the taxing districts.

CONDITIONS FOR PARTIAL REDEMPTION SECTION 6430

Certain parties who hold a legal interest in a specific part or an undivided share of a whole parcel of real property which is under tax judgment are eligible for the partial-payment plan. (M.S. 281.06 to 281.11)

Under the partial-payment plan, these parties may be allowed to redeem the specific part or undivided share in which they hold a legal interest by paying the fractional portion of the total delinquent amount attributable to their part or share of the whole parcel of property.

PARTIAL REDEMPTION: ELIGIBILITY

In general, certain parties who hold a legal interest in a part or a share of a whole parcel of real property which is under tax judgment are eligible for the partial-redemption plan.

The types of partial ownership which are eligible for a partial redemption by the county auditor are listed below.

1. An undivided part of a parcel. (M.S. 281.06)

2. An undivided share of a parcel. (M.S. 281.07)

3. A specific part of a parcel. (M.S. 281.08)

4. A specific part of an undivided part of a parcel. (M.S. 281.09)

NOTE: Mortgagees or Lessees who by law or contract are required or entitled to pay taxes to protect their right, title, interest, claim, or lien on a part of a whole parcel under tax judgment are eligible for the partial-redemption plan. (M.S. 281.11)

ADMINISTRATION OF PARTIAL REDEMPTION SECTION 6440

To complete a partial redemption, the county auditor and county treasurer must perform the following administrative tasks. (M.S. 281.10; 281.11)

TASK #1: AUDITOR'S DATE TO SET PARTIAL REDEMPTION

When an eligible party applies for a partial redemption, the county auditor selects a date and a time when the auditor will officially determine the portion of the delinquent tax amount which is to be paid to complete a partial redemption. (M.S. 281.10; 281.11)

The determination of the partial redemption amount usually takes place in the county auditor's office in the county courthouse.

TASK #2: AUDITOR'S NOTICE OF PARTIAL REDEMPTION

After the date, time, and place have been selected to set the amount of the partial redemption, the county auditor is to have a notice of the intention to determine a partial redemption mailed to all known parties with a legal interest in the parcel of property or have a notice delivered at their residences or places of business. (M.S. 281.10; 281.11)

If this cannot be done, the county auditor is to publish the notice of the intention to determine a partial redemption once in each of two consecutive weeks in the official county newspaper. The last publication is to be not less than 10 days nor more than 20 days before the date set to determine the partial redemption amount.

NOTE: The county auditor can require that the party requesting a partial redemption prepay the costs for mailing, delivering, and/or publishing the notice of intention of partial redemption.

ADMINISTRATION OF PARTIAL REDEMPTION SECTION 6440
(Continued) (Page 2)

In designing the notice of intention of partial redemption, the county auditor is to follow the substance of the form of the Spruce County example listed below.

NOTICE OF INTENTION OF PARTIAL REDEMPTION

State of Minnesota Spruce County

Notice is hereby given that a request has been presented to the Spruce County Auditor for a partial redemption of taxes entered into judgment in the name of John William Smithson on the parcel of real property legally described as SE1/4 SE1/4 Sec. 10, T143 R35 in accordance with Minnesota Statutes 281.10.

Notice is further given that the determination of the amount to be paid for the partial redemption will be made in the office of the Spruce County Auditor, Spruce County Courthouse, 234 West Broadway, Greenbriar, Minnesota, on Thursday, June 13, 1991at 4:30 P.M.

Witness my hand and official seal at Greenbriar, Minnesota, on May 29, 1991.

Nicholas B. Archer (SEAL)
Nicholas B. Archer
Spruce County Auditor

TASK #3: AUDITOR'S CALCULATION OF PARTIAL REDEMPTION

Not less than 10 days nor more than 20 days after the notice of intention of partial redemption is mailed, delivered, or published (whichever is later), the county auditor is to determine the amount required to be paid for the partial redemption. (M.S. 281.10; 281.11)

For all of the types of partial ownership listed in Section 6430 which are eligible for the partial-redemption plan, the amount required to be paid for the partial redemption is based on the same ratio of the delinquent tax amount due on the whole parcel of property as the ratio of the tax capacity of the redeemed portion is to the tax capacity of the whole parcel of property.

NOTE: The county auditor's decision about the amount required to be paid for the partial redemption is final.

A Spruce County example of the written record of the county auditor's determination of the amount of partial redemption is presented on the next two pages.

AUDITOR'S DETERMINATION OF PARTIAL REDEMPTION

June 13, 1991 Judgment of 1991

Name of Owner: John William Smithson

Description: SE1/4 SE1/4 Sec. 10, T143 R35

Pursuant to duly served and published notice given under provisions of M.S. 281.10 and 281.11, at 4:30 P.M. in the Spruce County Auditor's office, Spruce County Courthouse, 234 West Broadway, Greenbriar, Minnesota, the County Auditor of Spruce County announced his proposal to determine the proportion of taxes to be assessed against the following described parts of parcel SE1/4 SE1/4 Sec. 10, T143 R35:

1. Kenneth A. Murphy S1/2SE1/4SE1/4 Sec. 10 T143 R35

2. John William Smithson N1/2SE1/4SE1/4 Sec. 10 T143 R35

The only interested party appearing at this time was Kenneth A. Murphy who voiced no objection to the following division of taxes:

NOTE: The remainder of the Spruce County example of the written record of the county auditor's determination of the amount of partial redemption is continued on the next page.

Delinquent taxes for the tax years 1989 and 1990 on the parcel under tax judgment plus penalties, costs, and accrued interest to date amount to $1,235.85. It is the decision of the County Auditor that the division be as follows:

1. Kenneth A. Murphy	S1/2SE1/4SE1/4 Sec. 10 T143 R35	$ 494.34
2. John William Smithson	N1/2SE1/4SE1/4 T143 R35	$741.51

At this time, Kenneth A. Murphy paid the amount of $494.34 which was received on Receipt No. 11023 for payment in full for the part described as S1/2SE1/4SE1/4 Sec. 10 T143 R35.

Delinquent taxes, penalties, costs, and accrued interest on the remaining part described as N1/2SE1/4SE1/4 Sec. 10 T143 R35 remain unpaid as of this date in the amount of $741.51.

Witness my hand and official seal at Greenbriar, Minnesota, on June 13, 1991.

Nicholas B. Archer (SEAL)
Nicholas B. Archer
Spruce County Auditor

TASK #4: TREASURER'S RECORDING OF PARTIAL REDEMPTION

When the certified amount required for partial redemption is paid at the county treasurer's office, the county treasurer is to complete the following tasks: (M.S. 281.11)

1. Give a receipt to the taxpayer for the amount paid for partial redemption.

2. Enter the name of the taxpayer making the payment for the partial redemption and the legal description of the parcel of property on the delinquent tax list.

   NOTE: Although the county treasurer is given the above task under M.S. 281.11, the county auditor will probably perform the task in actual practice because the delinquent tax list is in the hands of the county auditor at this time.

3. Report the transaction to the county auditor.

TASK #5: AUDITOR EXEMPTS PARTIAL REDEMPTION FROM FORFEITURE

Once the first four tasks have been completed, the county auditor is to exempt the portion of the whole parcel which was redeemed from all future delinquent tax proceedings and possible forfeiture. (M.S. 281.11)

However, the county auditor is to continue all future delinquent tax proceedings and possible forfeiture against the portion of the whole parcel for which the deliquent tax amount has not been paid. The portion of the whole parcel for which the delinquent tax amount has not been paid must be treated as if it were listed as a separate parcel. (M.S. 281.10; 281.11)

ADMINISTRATION OF FULL REDEMPTION SECTION 6450

In order to complete a full redemption, the county auditor and county treasurer are responsible for performing the following administrative tasks. (M.S. 281.03)

Note: Although this section refers specifically to redemption payments, these same administrative tasks are to be performed when the delinquent tax amount is paid before a parcel of real property has been "bid in for the state."

TASK #1: AUDITOR CERTIFIES DELINQUENT TAX AMOUNT

The county auditor is responsible for certifying the delinquent tax amount which must be paid in order to redeem a parcel of real property. (M.S. 281.03)

In practice, this means that the county auditor is the final authority for determining the total delinquent tax amount which a property owner, taxpayer of record, or any other party with a legal interest in the property must pay at any given time in order to redeem a parcel of real property.

The delinquent tax amount is the sum of the following: (1) the unpaid tax, (2) the penalties, (3) the county costs, and (4) the total interest accrued up through the time of payment.

TASK #2: TREASURER RECEIVES PAYMENT

The property owner, taxpayer of record, or any other party with a legal interest in the property is required to pay the certified delinquent tax amount to the county treasurer in order to redeem a parcel of real property. (M.S. 281.02)

The delinquent tax amounts are deposited with the current taxes and distributed according to the provisions of M.S. 276.131. See Section 6465 for more information about the distribution.

TASK #3: AUDITOR ISSUES RECEIPT

After the certified delinquent tax amount is paid to the county treasurer, the county auditor is responsible for making out a master receipt for the payment along with two duplicates. (M.S. 281.03)

NOTE: Historically, the county auditor's receipt has been referred to as the "Auditor's Certificate of Redemption." The title to M.S. 281.03 still reads, "Auditor's Certificate." Currently, most counties issue receipts as proof of payment for redemption.

The master receipt should contain at least the delinquent tax information listed below.

1. The date when the payment was made to redeem the property.

2. The name and address of the party who redeemed the property.

3. The amount of the payment to redeem the property.

4. A description of the parcel of real property being redeemed.

5. A statement to the effect that the delinquent tax amount has been paid in full.

6. The signature of the county official making out the receipt.

The master receipt is to be given to the party who redeemed the property. One of the duplicate receipts is to be filed in the county auditor's office. The other duplicate receipt is to be sent to the county treasurer's office and filed there.

TASK #4: AUDITOR RECORDS PAYMENT

After the receipts for payment have been issued and filed, the county auditor is responsible for entering the word "redeemed" opposite the description of the appropriate parcel in the copy of the "Tax Judgment Book." (M.S. 281.03; 280.07)

Note: In practice, few counties continue to maintain tax judgment books by writing entries into them. Instead, payments and other notations are entered into the data base of a computer to reflect the status of the delinquent tax amount for a particular parcel. In effect, the data base has superseded the tax judgment book in most counties as the medium for record keeping.

REDEMPTION: CANCELLATION OF COURT JUDGMENT

The completion of the recording of the redemption in the county auditor's "Tax Judgment Book" or computer data base serves to cancel the delinquent tax proceedings and to annul the court judgment against the property. (M.S. 281.03)

In practice, this means that the period of redemption for paying the delinquent tax amount is cancelled and the parcel of real property is removed from the delinquent tax list. The delinquent tax proceedings leading up to the forfeiture of the property are stopped before the act of forfeiture can actually take place.

Technically, the county auditor is to notify the administrator of the district court so that the court judgment against the parcel of real property can also be cancelled in district court files. This is when the court judgment is officially annulled.

REDEMPTION: REMOVAL OF TAX LIEN ON TITLE

The county auditor's master receipt of payment which is given to the property owner, taxpayer of record, or other interested party who redeems a parcel of real property does not function as a deed conveying the legal title to the property.

The property owner (fee owner) retains the legal title to the property during the period of redemption with the warranty deed or quit claim deed on record in the county recorder's office. The property owner's legal interest in the property is limited by the amount of the delinquent tax lien on the property.

After the tax judgment and during the period of redemption, the state holds a future vested interest in the parcel of property subject to redemption. When the property owner, taxpayer of record, or other interested pary redeems the property, the county auditor's master receipt serves as proof that the delinquent tax amount has been paid.

As a result, the delinquent tax proceedings as well as the state's future vested interest in the property are cancelled. The property owner (fee owner), regardless of who pays the delinquent tax amount, continues to hold the legal title to the property with the warranty deed or quit claim deed on record before the tax judgment.

In summary, the redemption of a parcel of real property serves only to clear the existing legal title of the tax lien. Whoever held the legal title to the property before the tax judgment continues to hold the legal title after the redemption regardless of who paid the bill.

REDEMPTION: LIENHOLDER'S CLAIM AGAINST THE PROPERTY

Any party who holds a lien against a parcel of real property with delinquent taxes may protect its equitable interest in the property by paying the delinquent tax amount before the period of redemption expires. (M.S. 272.44)

If a lienholder chooses to redeem the property, the total amount paid becomes an additional lien on the property in the name of the lienholder who redeemed. The total amount paid is added to the unpaid balance of the original lien and is collectible with interest according to the terms of the original lien.

For example, let's say a property owner takes out a loan for $35,000 and gives the lender a mortgage on real property worth $90,000 as security. The property owner fails to pay one year's property taxes which go delinquent. Attempting to avoid mortgage foreclosure and tax forfeiture, the lender and property owner work out the following agreement. The lender redeems the property by paying the total delinquent tax amount of $1,638. The lender adds that amount to the property owner's mortgage debt. The property owner pays back the amount to the lender with higher monthly mortgage payments.

REDEMPTION: AUDITOR CERTIFIES LESS THAN REQUIRED AMOUNT

If the delinquent tax amount certified by the county auditor and received in payment for redemption is less than the actual total delinquent tax amount, the payment of less than required by law does not invalidate the redemption. (M.S. 281.03)

In other words, the property owner, taxpayer of record, or any other party with a legal interest in the property who has paid the delinquent tax amount certified by the county auditor cannot be forced to pay more later because the county auditor made an error in calculating the required amount.

REDEMPTION UPON OWNER'S DEATH SECTION 6455

When the property owner (fee owner) dies during the period of redemption, the personal representative or any party interested in the owner's estate as heir, devisee, legatee, or creditor, may file for redemption until the period of redemption expires. (M.S. 281.05)

OWNER'S DEATH: DOCUMENTATION REQUIRED

If the filing for redemption is made by a personal representative, the county auditor is to receive copies of the official letters issued by the court under the Uniform Probate Code--M.S. 524. (M.S. 281.05)

If the filing for redemption is made by another party with a legal interest in the property, the county auditor is to receive an affidavit stating the legal basis for the party's right to redeem the parcel of property.

AUDITOR'S CERTIFICATE: CONTENTS

Once the claim by a personal representative or an interested party has been verified and payment has been made to the county treasurer, the county auditor is responsible for making and delivering to the claimant a certificate containing the following information: (M.S. 281.05)

1. The name of the person redeeming.

2. A statement of the legal basis for the claim.

3. The total amount paid for redeeming.

4. A description of the property redeemed.

5. The date of the tax judgment sale.

6. The levy year of the delinquent taxes.

AUDITOR'S CERTIFICATE: CANCELS TAX JUDGMENT

The county auditor's certificate which is given to a personal representative or interested party who redeems the parcel of property upon the owner's death serves to annul the "tax judgment sale" and cancel the delinquent tax proceedings. (M.S. 281.05)

AUDITOR'S CERTIFICATE: DOES NOT CONVEY TITLE:

The county auditor's certificate does not convey legal ownership of the parcel of property to the estate of the deceased owner when a personal representative redeems the parcel of property in the name of the deceased's estate. (M.S. 281.03; 281.05)

The property owner retains title to the property during the period of redemption. When the owner dies during the period of redemption, the title to the parcel of property becomes part of the estate of the deceased to be distributed by the personal representative according to the orders of the probate court.

The state still holds a future vested interest in the parcel of property subject to redemption. When the personal representative redeems the parcel of property, the auditor's certificate serves as proof that the total delinquent tax amount has been paid.

With the auditor's certificate on record, the personal representative may then distribute the property with a title free of the tax lien to the beneficiary according to the orders of the probate court.

In summary, it is the order of the probate court administered by the personal representative which conveys the title of the property and not the auditor's certificate of redemption.

AUDITOR'S CERTIFICATE: CLAIM ON THE ESTATE

If a creditor with a legal interest in the property, such as a mortgagee, redeems a parcel of property after the death of the owner instead of the personal representative, the total amount paid for the redemption plus interest constitutes a valid legal claim by the creditor against the estate of the deceased. (M.S. 281.05)

DELINQUENT TAX PAID IN INVERSE ORDER SECTION 6460

Whenever taxes are delinquent for two or more years and the property owner, taxpayer of record, or any other party with a legal interest in the property chooses to pay off each year's amount separately, the county auditor is to credit each year's payment in the inverse order of delinquency. (M.S. 280.39)

INVERSE ORDER

TAXES DELINQUENT LAST ARE PAID OFF FIRST

TAXES DELINQUENT FIRST ARE PAID OFF LAST

Under the inverse-order rule, the first payment is to be applied to the delinquent tax amount due for the taxes payable year immediately preceding the current year. Any additional payments would be for each preceding taxes payable year until the total delinquent amounts due for all years are paid in full. (M.S. 280.39)

EXAMPLE: INVERSE ORDER FOR 1996, 1997, AND 1998 TAXES

Lets assume that property taxes are delinquent and under tax judgment for the taxes payable years 1996, 1997, and 1998.

If the property owner, taxpayer of record, or any other party with a legal interest in the property chooses to pay the delinquent tax amount due for one of the years, the county auditor is to credit that first payment to the year 1998.

The next one year payment made by the property owner, taxpayer of record, or any other party with a legal interest in the property is to be credited to the year 1997.

The delinquent tax amount for payable 1996, being the first to become delinquent, would be the last to be credited.

DELINQUENT TAX PAID IN INVERSE ORDER SECTION 6460
(Continued)

INVERSE ORDER: NO EFFECT ON STATE'S LIEN

The payment of only one year's delinquent tax amount applied in inverse order does not affect the state's lien on the parcel of property for the remaining unpaid delinquent tax amounts for the other years. (M.S. 280.39; 281.18)

If the period of redemption expires before the remaining unpaid delinquent tax amounts for the other years are paid, the parcel of property will still be forfeited to the state.

INVERSE ORDER: LEGISLATIVE PURPOSE

First, the payment of delinquent taxes in inverse order prohibits the property owner, taxpayer of record, or any other party with a legal interest in the property from paying the delinquent taxes for the earliest year and then continuing to carry subsequent years' delinquent taxes to infinity without ever having the period of redemption expire.

Second, the tax judgment is entered for the first year's delinquent taxes. If the property owner, taxpayer of record, or any other party with a legal interest in the property were permitted to pay off the delinquent taxes for the earliest year before paying the delinquent taxes for the subsequent years, there would be no tax judgment to allow enforcement of the tax lien on the subsequent years' delinquent taxes.

DISTRIBUTION OF DELINQUENT TAX AMOUNT SECTION 6465

When the delinquent tax amount is paid anytime after the unpaid taxes and penalties become delinquent and before the expiration of the period of redemption, the taxes, special assessments (if any), penalties, interest, and costs are to be apportioned and distributed to the local governments according to the following provisions.

DELINQUENT TAXES

The DELINQUENT TAXES are to be apportioned to the appropriate local units of government (1) according to the tax rates that were set for the year or years when the delinquent taxes were levied, or (2) on the basis of the tax rates for the current taxes payable year if they are not significantly different from the tax rates that existed for the year or years when the delinquent taxes were levied. They are to be distributed according to the regular schedule for settlement and distribution of current property taxes. (M.S. 276.09 through 276.111)

For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers.

SPECIAL ASSESSMENTS

The SPECIAL ASSESSMENTS are to be apportioned to the local government that levied them and requested that they be collected on the property tax statement. They are to be distributed according to the regular schedule for settlement and distribution of current property taxes. (M.S. 276.09 through 276.111)

For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers.

DISTRIBUTION OF DELINQUENT TAX AMOUNT SECTION 6465
(Continued)

PENALTIES AND INTEREST

The current method of apportioning the PENALTIES and INTEREST collected on real and personal property taxes and special assessments that are paid late or are paid after they become delinquent is outlined below. (M.S. 276.131)

1. **All penalties and interest on SPECIAL ASSESSMENTS against real or personal property are to be apportioned to the city or township in which the property is located.**

   Note: Because the counties and not the townships levy the ditch assessments or fees, the penalties and interest on ditch assessments or fees are to be apportioned to the counties in which the property is located and not to the townships. The amount received by a county for this purpose is to be deposited in the county ditch fund.

   See Section 6160 for more information concerning the interest rate for unpaid drainage ditch costs.

2. **50% of all PENALTIES collected on REAL AND PERSONAL PROPERTY TAXES is to be apportioned to the county in which the property is located, and the other 50% is to be apportioned to all of the school districts in the county in proportion to each school district's taxable net tax capacity within the county in the prior levy year, as provided in M.S. 127A.34.**

   Note: Cities, special taxing districts, and tax increment financing districts are not authorized to receive any portion of the penalties collected on real and personal property taxes.

The penalties are to be distributed according to the regular schedule for settlement and distribution of current property taxes. For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers. (M.S. 276.09 through 276.111)

DISTRIBUTION OF DELINQUENT TAX AMOUNT SECTION 6465
(Continued)

3. **Effective for INTEREST collected on REAL AND PERSONAL PROPERTY TAXES after June 30, 1999, the following apportionment is to be made:**

   (a) **In the case of interest on taxes that have been delinquent for a period of one year or less, 50% is to be apportioned to the county in which the property is located, and the other 50% is to be apportioned to all of the school districts in the county in proportion to each school district's taxable net tax capacity within the county in the prior levy year, as provided in M.S. 127A.34.**

   (b) **In the case of interest on taxes that have been delinquent for a period of more than one year, 50% is to be apportioned to all of the school districts in the county in proportion to each school district's taxable net tax capacity within the county in the prior levy year, as provided in M.S. 127A.34, and the remaining 50% is to be apportioned between the county and the city or town where the property is located. The apportionment between the city or town and the county is to be based on their net tax capacity local tax rates for the taxes payable year in which the interest is collected. The share for the city or town is equal to its net tax capacity local tax rate as a proportion of the sum of the net tax capacity local tax rates for the city or town and the county. The county gets the balance remaining after the city or town share.**

   Interest on real and personal property taxes collected on or before June 30, 1999 should be distributed in accordance with previous law.

   Note: **Special taxing districts and tax increment financing districts are not authorized to receive any portion of the interest collected on real and personal property taxes.**

   The interest is to be distributed according to the regular schedule for settlement and distribution of current property taxes. For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers. (M.S. 276.09 through 276.111)

COUNTY COSTS

All of the county costs collected on real and personal property taxes and special assessments that are paid late or are paid after they become delinquent are to be distributed to the county in which the property is located. (M.S. 276.131)

DISTRIBUTION OF DELINQUENT TAX AMOUNT SECTION 6465
(Continued) **(Page 4)**

The costs are to be distributed according to the regular schedule for settlement and distribution of current property taxes. For more detailed information about this regular schedule, please refer to the Department of Revenue's calendar of the property tax due dates, the settlement dates, and the distribution dates for the upcoming taxes payable year. This calendar is mailed in the fall of each year to all county auditors and treasurers. (M.S. 276.09 through 276.111)

SPECIAL CASE: TIF DISTRICTS

A tax increment financing (TIF) district that qualifies to receive current year tax increments is to share in tax delinquencies the same as the taxing districts. TIF districts receive a share of the taxes actually collected, not the amount extended. When delinquent taxes are collected from a parcel located in a TIF district, the TIF district is to receive a share of the delinquent tax payment. The portion that a TIF district receives is based on its regular tax settlement percentage. (M.S. 469.176, Subd. 1(h))

A portion of the delinquent increment parcel taxes collected after a TIF district has gone out of existence are to be paid to the TIF authority if the delinquency caused outstanding bonds or contractual obligations to be paid by sources other than tax increment or to go unpaid. The TIF district portion is based on the district's regular tax settlement percentage in the year of the delinquency. The TIF authority is to provide the county auditor with the information that is needed to make the delinquent tax settlement.

Delinquent increment parcel taxes collected after a TIF district has gone out of existence and where there is no required payment to be made to the TIF district are to be distributed to all taxing districts including special taxing districts. Regular tax settlement percentages are to be used to make this distribution.

VOLUNTARY CONVEYANCE IN LIEU OF FORFEITURE SECTION 6470

The county board may accept the voluntary conveyance of legal ownership of the parcel of real property from the owner to the state anytime during the period of redemption. If the owner has no intention of redeeming the parcel of real property, the owner may choose to do this rather than wait for the period of redemption to expire. (M.S. 280.385, Subd. 1)

VOLUNTARY CONVEYANCE: CONDITIONS REQUIRED

The county board may accept the voluntary conveyance of the parcel of real property in lieu of tax forfeiture only if the following conditions are met. (M.S. 280.385, Subd. 1)

1. The county attorney determines that the owner has a good title to the parcel of real property.

2. The county attorney determines that the parcel of real property is free and clear of all encumbrances except the property tax lien.

3. The city council or the town board in which the parcel of real property is located has consented to the voluntary conveyance of the parcel to the state in lieu of tax forfeiture.

VOLUNTARY CONVEYANCE: LEGAL TITLE TO THE STATE

Any parcel of real property voluntarily conveyed to the state in lieu of tax forfeiture is to be treated by the county auditor in the same way as any other parcel of real property acquired through forfeiture. (M.S. 280.385, Subd. 2; 281.18)

This means that the state holds legal title to the parcel of real property as trustee for the taxing districts. Once the title has been conveyed, the county auditor can sell the parcel at a tax-forfeiture sale for the basic sale price set by the county board.

VOLUNTARY CONVEYANCE: CANCELLATION OF TAXES

The county auditor is to cancel the delinquent tax amount due on the parcel of real property as of the date of the voluntary conveyance. (M.S. 280.385, Subd. 3)

The county auditor is not to assess any current year taxes on the parcel of real property while the title is being held by the state and until the parcel is sold at a tax forfeiture sale and placed back on the tax rolls.

VOLUNTARY CONVEYANCE: CAUSE FOR REINSTATEMENT OF TAXES

If for any reason the title to the parcel of real property is found to be invalid or any encumbrance is later uncovered, the county auditor is responsible for completing all of the following tasks. (M.S. 280.385, Subd. 3)

1. Reinstate all delinquent taxes, penalties, costs, and accrued interest due and cancelled as of the date of the voluntary conveyance.

2. Add to the total delinquent tax amount all interest which would have accrued from the date of the voluntary conveyance to the date of the cancellation of the transaction .

3. Assess the current taxes due on the parcel of property from the date of the voluntary conveyance to the date of the cancellation of the transaction.

4. Reinstate the delinquent tax proceedings under the tax judgment as if the voluntary conveyance had never taken place.

VOLUNTARY CONVEYANCE: NAME OF GRANTEE

If a voluntary conveyance is completed, the name of the grantee should be listed on the conveyance document as "The State of Minnesota, as Trustee, for the Taxing Sub-divisions."

VOLUNTARY CONVEYANCE: STATUTORY REFERENCE

If a voluntary conveyance is completed, the conveyance document should contain a reference to the fact that the voluntary conveyance is authorized pursuant to Minnesota Statutes 280.385.

ATTACHMENT OF RENTS SECTION 6475

The county is authorized to attach any rents payable to the owner for a parcel of real property "bid in for the state" until the parcel is redeemed or the period of redemption expires. The revenue collected from attaching the rents is to be used as installment payments on the delinquent tax amount due on the parcel of real property. (M.S. 280.38)

NOTE: See Section 6375 of Series 6300 for a detailed definition and explanation of the concept "bid in for the state."

The following four administrative tasks are to be completed in sequence when a parcel of real property "bid in for the state" is being rented out and the county chooses to attach the rents.

TASK #1: COUNTY AUDITOR'S AFFIDAVIT

The county auditor is to deliver an affidavit to the administrator of the district court. The affidavit is to contain the information listed below. (M.S. 280.38)

1. A description of the parcel of property "bid in for the state."

2. The name and address of the party who is paying the rent.

3. The dollar amount of the rent.

TASK #2: DISTRICT COURT ORDER

The district court is to issue a court order to attach the rents paid on the parcel of real property "bid in for the state." (M.S. 280.38)

TASK #3: COURT ADMINISTRATOR'S WRIT

The administrator of the district court is to issue a writ of attachment, directing the county sheriff to collect a specified amount of the rents. (M.S. 280.38)

TASK #4: COUNTY SHERIFF'S COLLECTION

The county sheriff is to serve the writ of attachment, collect the rents as they come due, and pay the amount received to the county treasurer. (M.S. 280.38)

ATTACHMENT OF RENTS: NOTICE FOR CHANGES IN LEASE

No modification of the lease between the owner and the renter can be made while the rents are being attached without a 5-day notice given to the county auditor and approval being given by the district court. (M.S. 280.38)

ATTACHMENT OF RENTS: COUNTY POWERS WHEN LEASING

The county board is granted the following powers related to the leasing of a parcel of real property "bid in for the state" to a third party. (M.S. 280.38)

1. Grant additional clerical staff to the county auditor.

2. Institute court action to evict tenants and to collect unpaid rents.

ATTACHMENT OF RENTS: LEASING BY COUNTY

When the lease on any parcel of real property "bid in for the state" expires or the property is vacated by the renter after the sheriff begins to collect the rents, the county auditor is authorized to lease the parcel to a third party. (M.S. 280.38)

The action by the county auditor to lease the parcel of real property "bid in for the state" to a third party is subject to approval by the district court.

The county auditor is to give the owner a 5-day notice of the county's intention to lease the parcel of real property "bid in for the state" to a third party.

The rents under the county lease are to be collected by the county sheriff and paid to the county treasurer as in the above case of a writ of attachment.

ATTACHMENT OF RENTS: CREDITED IN INVERSE ORDER

The rents collected by the county sheriff and paid to the county treasurer are to be credited in the inverse order of delinquency. The taxes which became delinquent last are the first to be credited as paid by the rents collected. (M.S. 280.40)

See Section 6460 for a more detailed explanation of the rule of inverse order.

ATTACHMENT OF RENTS: FORFEITURE RIGHTS RETAINED

A parcel of real property "bid in for the state" and under court order for attachment of rents remains subject to tax forfeiture unless all deliquent tax amounts described in the writ of attachment are paid before the period of redemption expires. (M.S. 280.38)

ATTACHMENT OF CROPS SECTION 6480

The county is authorized to attach the crops being grown on a parcel of unplatted real property "bid in for the state" or rent the parcel for cropping until it is redeemed or the period of redemption expires. The revenue collected from attaching the crops is to be used as installment payments on the delinquent tax amount due on the parcel of real property. (M.S. 280.38)

NOTE: See Section 6375 of Series 6300 for a detailed definition and explanation of the concept "bid in for the state."

There are three different situations under which the county is authorized to attach crops or collect rents from a parcel of unplatted real property "bid in for the state." The three situations are outlined below.

SITUATION #1: SHARECROPPING BY TENANTS

When a parcel of unplatted real property "bid in for the state" is sharecropped by a tenant under an agreement with the owner, the county is authorized to attach and collect the owner's share of the crops until the parcel is redeemed or the period of redemption expires. (M.S. 280.38)

SITUATION #2: CROPPING BY OWNER OR TRESPASSER

If a parcel of unplatted real property "bid in for the state" is being cropped by the owner or a trespasser, the county has the right to attach and collect all of the crops produced on the land unless the occupant proves to the district court's satisfaction that the cropping was not a willful trespass. In that case, the district court may rule to retain the owner's share of the crops and release the excess to the occupant. (M.S. 280.38)

SITUATION #3: COUNTY LEASING

The county auditor is authorized to lease a parcel of unplatted real property "bid in for the state" which is not currently under a lease agreement with the owner to a third party. The lease cannot extend for more than one crop season. (M.S. 280.38)

The following administrative tasks are to be completed by the county auditor when leasing a parcel of unplatted real property "bid in for the state."

1. The county auditor is to apply to the district court for authorization to lease a parcel of unplatted real property "bid in for the state."

2. The county auditor is to notify the owner about the application to the district court at least 10 days before the application is to be made.

3. The county auditor is to execute the lease under the terms set by the district court. The terms are to include the amount of rent to be paid and to be applied to the delinquent tax amount.

ATTACHMENT OF CROPS: COUNTY POWERS WHEN LEASING

The county board is granted the following powers related to the leasing of a parcel of unplatted real property "bid in for the state" to a third party. (M.S. 280.38)

1. Grant additional clerical staff to the county auditor.

2. Institute court action to evict tenants and to collect unpaid rents.

ATTACHMENT OF CROPS: CREDITED IN INVERSE ORDER

The revenue derived from the sale of attached crops and from rents on a parcel of unplatted real property "bid in for the state" is to be credited in the inverse order of delinquency. The taxes which became delinquent last are the first to be credited as paid by the rents collected. (M.S. 280.40)

See Section 6460 for a more detailed explanation of the rule of inverse order.

ATTACHMENT OF CROPS: FORFEITURE RIGHTS RETAINED

A parcel of unplatted real property "bid in for the state" and under court order for attachment of crops or rents remains subject to tax forfeiture unless all deliquent tax amounts described in the writ of attachment are paid before the period of redemption expires. (M.S. 280.38)

SUMMARY: 1ST HALF OF STAGE FOUR SECTION 6485

REDEMPTION OF PROPERTY

The two major methods of paying off a delinquent tax amount before the property is forfeited to the state are covered in stage four of the delinquent real property tax proceedings.

The first half of stage four focuses on the method of payment called "redemption." The major actions which are part of the provisions for "redeeming" a parcel of property under tax judgment are summarized below.

1. The property owner, taxpayer of record, or any other party with a legal interest in the property redeems a parcel of real property by paying off the delinquent tax amount due before the period of redemption expires.

2. Upon the owner's death, the personal representative or a party with a legal interest in the property redeems the parcel of property by paying off the delinquent tax amount due before the period of redemption expires.

3. Parties with a legal interest in a specific part or an undivided share of a whole parcel of real property redeem their part or share by paying the same ratio of the delinquent tax amount due as the ratio of the tax capacity of the portion of the parcel is to the tax capacity of the whole parcel.

4. The county auditor issues a receipt to the party redeeming the parcel of real property or a portion of the parcel and records the redemption in the copy of the "Tax Judgment Book" or in the county's computer data base.

5. During the period of redemption, the owner of a parcel of property conveys legal ownership of the parcel to the state in lieu of tax forfeiture.

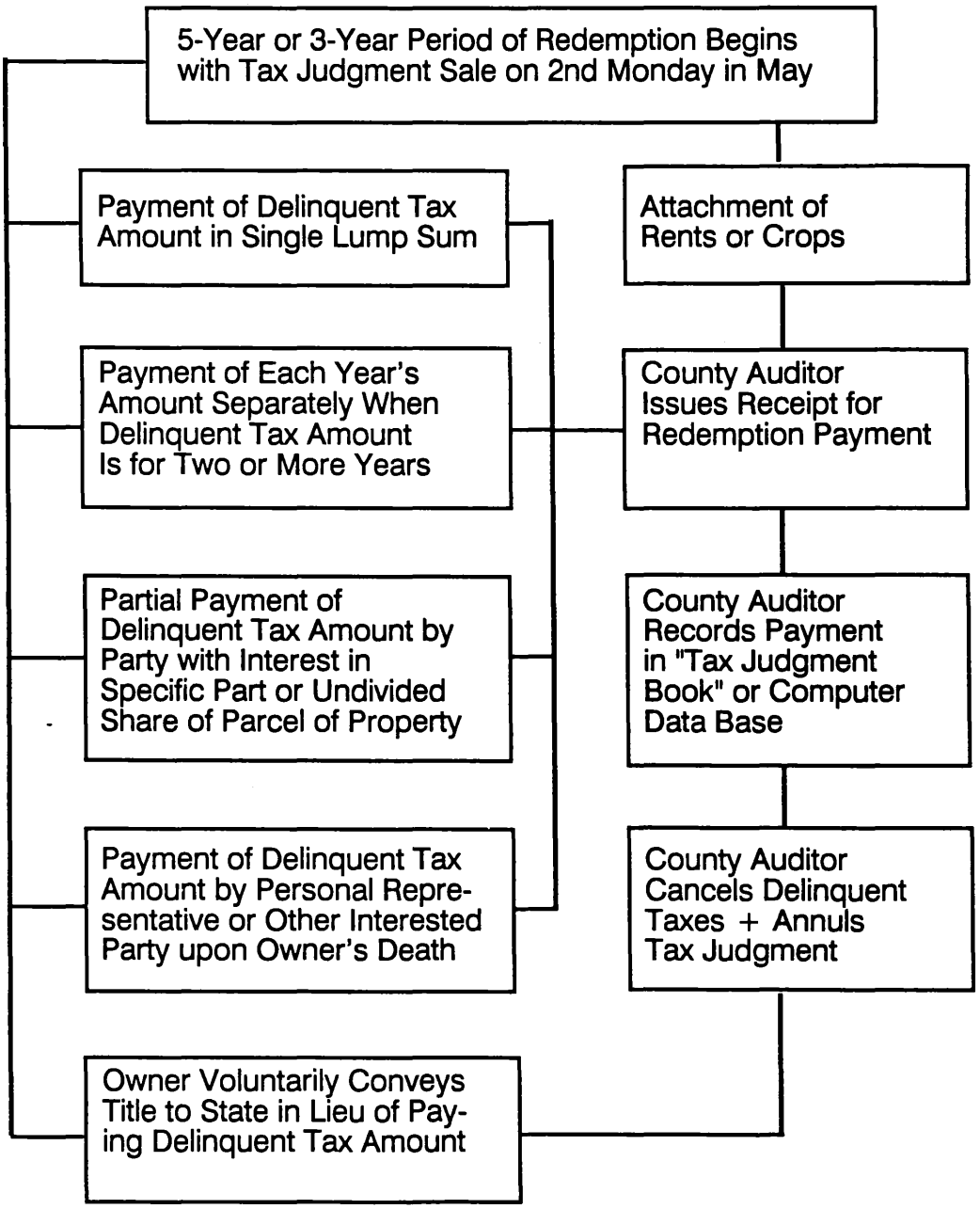
6. During the period of redemption, the county auditor attaches the rents on a parcel of real property or the crops grown on a parcel of unplatted real property.

The second half of stage four covers the other method of payment of a delinquent tax amount before the property is forfeited to the state. This second method which is an alternative to the tax judgment plan is called a "confession of judgment." It is explained next in Series 6500.

FLOW CHART: 1ST HALF OF STAGE FOUR SECTION 6490

REDEMPTION OF PROPERTY

The following flow chart graphically shows the main steps which must be taken to complete the first half of stage four of the delinquent real property tax proceedings.



SAMPLE CASE: 1ST HALF OF STAGE FOUR SECTION 6495

The following sample case is intended to dramatize the major steps which must be taken to complete the 1st half of stage four of the delinquent real property tax proceedings.

The sample case uses a new fictional delinquent tax situation with new fictional names, places, dates, and tax amounts which are not used in any other Series in the manual. This unique sample case begins with the unpaid tax and penalties becoming delinquent and ends with the delinquent tax amount being paid during the standard period of redemption.

The purpose of using the sample case is purely educational and is not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

SAMPLE CASE: THE NARVESON'S "EIGHTY"

Erik and Kristen Narveson own a 360-acre farm in Willow Creek Township. The farm is located about four miles south of Greenbriar, Minnesota. The mailing address is Rural Route #1, Box #195G.

In the fall of 1981, the Narveson's bought an 80-acre piece of open land to put in more corn for silage. The "eighty" was located about two miles from their home place. They paid $510 an acre, or $40,800, for the "eighty."

Everything seemed to go smoothly from 1982 through the fall of 1983. However, when the Narveson's reviewed their budget in the winter of 1983-84, they realized that they had a severe cash flow problem. They were forced to pay off the most important bills first with the cash available. The others had to wait.

When they received the two payable 1984 property tax statements from Audrey Trudeau, the Spruce County Treasurer, the Narveson's found enough extra cash to pay the tax on the 360-acre parcel when it came due. But they decided to let the $594.32 tax on the eighty-acre parcel go until later.

On January 2, 1985, Nicholas Archer, the Spruce County Auditor, entered the sum of the unpaid tax ($594.32) and the penalties ($59.43) in the county's 1985 delinquent tax list. The total amount listed as delinquent on the Narveson's "eighty" was $653.75.

Nick Archer's office staff mailed a 1985 delinquent tax letter along with a copy of the delinquent tax notice to the Narveson's on Tuesday, March 5, 1985. The owner of the Greenbriar Weekly Journal, Harold Hoffman, had the Spruce County 1985 notice of delinquent taxes and the delinquent tax list published on March 14 and March 21, 1985. The Narveson's "eighty" was in the published delinquent tax list.

Thornton J. Longstreet, Administrator of the District Court, entered a tax judgment against the Narveson's "eighty" on Thursday, April 25, 1985. The tax judgment was for a total dollar amount of $683.66. This was the sum of the unpaid tax ($594.32), the penalties ($59.43), the county costs ($10.00), and the interest accrued at an annual rate of 9% from January through April, 1985 ($19.91).

On May 13, 1985, Nick Archer's office staff completed the paper work for the "tax judgment sale." The Narveson's "eighty" was "bid in for the state" for a total dollar amount of $688.64. This was the sum of the unpaid tax ($594.32), the penalties ($59.43), the county costs ($10.00), and the interest accrued at an annual rate of 9% from January through May, 1985 ($24.89).

Because the "eighty" was classified as farm homestead property, the Narveson's had five years to redeem the parcel, or until May 14, 1990, before it would be forfeited to the state. Although they were not aware of it then, the Narveson's also had the option to confess judgment under the 10-year plan anytime during that five-year period of redemption.

The Narveson's cash flow situation began to improve in the fall of 1985. A year later, there was enough extra cash to pay the delinquent tax amount. So on Monday, November 10, 1986, the Narveson's drove to the county seat to see Nick Archer and redeem the "eighty."

While the Narveson's waited, Cory Patchen, the Deputy Auditor, had the office staff calculate the total delinquent tax amount required to redeem the "eighty." The total came to $772.19. This was the sum of the unpaid tax ($594.32), the penalties ($59.43), the county costs ($10.00), and the interest accrued at an annual rate of 9% from January through December, 1985 ($59.74) and at 8% from January through November, 1986 ($48.70).

Kristen Narveson wrote a check for $772.19 and gave it to Cory Patchen. The office staff prepared a receipt for the payment, and Cory Patchen had Nick Archer sign it. After two duplicate copies were made, the master receipt was given to the Narveson's, and they left the office.

SAMPLE CASE: 1ST HALF OF STAGE FOUR SECTION 6495
(Continued) (Page 3)

The auditor's staff completed the redemption process by performing the following tasks. First, one of the copies of the Narveson's receipt was delivered to Audrey Trudeau's office to be filed there. Second, the other copy of the receipt was filed in the auditor's office. Third, an entry was made in the computer file for delinquent taxes to show the amount paid and to indicate that the "eighty" had been redeemed.

Finally, the paper work was completed in both Nick Archer's office and Thornton Longstreet's office to cancel the delinquent tax proceedings and annul the tax judgment against the Narveson's "eighty."

With the completion of these tasks, the warranty deed to the Narveson's "eighty" was now free and clear of any delinquent real property tax lien.

TABLE OF CONTENTS

SECTION HEADING	SECTION NUMBER
Introduction: 2nd Half of Stage Four – Confession	6505
10-Year Plan: Eligibility	6510
10-Year Plan: Confession Agreement	6520
10-Year Plan: Recording of Confession	6530
10-Year Plan: Administering Installments	6540
10-Year Plan: Default on Payments	6550
5-Year Plan: Eligibility	6555
5-Year Plan: Special Conditions	6560
Properties Not Eligible for Confession	6562
Interest Rates	6565
Calculation of Installments and Interest	6570
Suggested Format for Confessing Judgment	6575

TABLE OF CONTENTS

SECTION HEADING (Continued) — SECTION NUMBER (Page 2)

Notice of December 31 Payment 6576

Notice of Default of Payment 6577

Administrative Fees 6580

Eligibility for Property Tax Refund 6582

Summary: 2nd Half of Stage Four – Confession 6585

Flow Chart: 2nd Half of Stage Four – Confession 6590

Sample Case: 2nd Half of Stage Four – Confession 6595

INTRODUCTION: 2ND HALF OF STAGE FOUR SECTION 6505

As stated in Section 6405, the fourth stage of the delinquent real property tax proceedings focuses on the two major methods of paying off the delinquent tax amount before the property is forfeited to the state.

The first half of stage four concentrates on the method of payment called "redemption." It is summarized in Section 6405 and explained in more detail in the remainder of Series 6400.

The second half of stage four deals with the other method of payment called "confession of judgment." The major components and requirements of a "confession of judgment" are outlined below. (M.S. 279.37, Subd. 1-10)

1. The property owner and/or taxpayer is eligible to pay off the delinquent tax amount due on a parcel of real property by "confessing judgment."

2. A "confession of judgment" may be offered anytime after delinquent taxes are determined and prior to the expiration of the period of redemption or tax forfeiture.

3. The property owner and/or taxpayer who chooses this plan accepts the validity of the total delinquent tax amount due on the parcel of real property for all taxes payable years.

4. The property owner and/or taxpayer who chooses this plan agrees to combine the total delinquent tax amount due on a parcel of real property for all past years into a single total sum.

5. The property owner and/or taxpayer who chooses this plan agrees to pay the single total sum under either a 5-year or a 10-year installment plan which replaces the 3-year or 5-year periods of redemption set up under the original tax judgment.

6. The property owner and/or taxpayer who chooses this plan agrees to pay each year's current tax on the parcel of real property before it becomes delinquent.

INTRODUCTION: 2ND HALF OF STAGE FOUR SECTION 6505
(Continued) (Page 2)

7. A "confession of judgment" is a substitute for the original tax judgment against the parcel of real property. It provides an alternative way of fulfilling the conditions of the original tax judgment.

8. The property owner and/or taxpayer is not allowed to make more than two "confessions of judgment" for the delinquent tax amount on the same parcel of real property.

9. The "confession of judgment" becomes void, the original tax judgment is reinstated for the unpaid balance, and the delinquent tax proceedings leading up to tax forfeiture of the parcel are reactivated if there is a default on any of the terms of the contract.

10. Once the conditions of the "confession of judgment" are satisfied by paying the installments, the tax judgment is cancelled and the property owner regains title to the parcel of real property free and clear of the delinquent tax lien.

In this Series 6500, the main tasks which are to be performed in order to fulfill the terms of a "confession of judgment" and complete the second half of stage four of the delinquent real property tax proceedings are outlined and explained in Sections 6510 through 6580.

The above summary of these major tasks is repeated and a transition to stage five is presented in Section 6585.

Section 6590 contains a flow chart which graphically illustrates the actions which must be taken to complete the second half of stage four of the delinquent real property tax proceedings.

Section 6595 contains a sample case which dramatizes the actions in the 2nd half of stage four.

In order to provide a sense of continuity, the same sample case with the same fictional delinquent tax situation and fictional names, places, dates, and tax amounts will be used in the last three Series in this manual. The only thing that will change is the stage of the property tax proceedings which is being dramatized.

INTRODUCTION: 2ND HALF OF STAGE FOUR SECTION 6505
(Continued) **(Page 3)**

The purpose of using the sample case is purely educational and not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

Note: For purposes of clarity and convenience, the phrase, "delinquent tax amount," will be used in Series 6500 to mean the sum of the amounts listed below.

1. Delinquent taxes
2. Special assessments (if any)
3. Penalties
4. Costs
5. Interest

The terms, "tax" or "taxes," will be used to include the delinquent real property tax and any special assessments.

10-YEAR PLAN: ELIGIBILITY SECTION 6510

A confession of judgment under the standard 10-year plan may be offered as an alternative method of paying off the total delinquent tax amount due on an eligible parcel of real property. It may be offered anytime after the delinquent taxes are determined in January and prior to the expiration of the period of redemption and tax forfeiture. (M.S. 279.37, Subd. 1-10)

Note: The county auditor and county board must accept an eligible written offer to confess judgment on an eligible parcel of property. The legal right to confess judgment does not require the approval of the county auditor or county board. (M.S. 279.37, Subd. 3-5)

10-YEAR PLAN: ELIGIBLE PARTIES

The legal right to confess judgment is restricted to the following parties: (1) the property owner (fee owner), or (2) "any person to whom the right to pay taxes has been given by statute, mortgage, or other agreement." (M.S. 279.37, Subd. 2)

One example of the second group of eligible parties is a lender (mortgagee) under a mortgage agreement. The borrower (property owner and mortgagor) is required to pay the property taxes on the parcel which is given as security for repayment of the loan. If the borrower fails to pay the taxes, the terms of the mortgage give the lender the right to pay them. Therefore, if the taxes become delinquent, the lender also has the right to confess judgment.

Another example of the second group is a buyer (vendee) under a contract for deed. Under the contract agreement, the seller (vendor) is the property owner. The buyer is allowed to possess and use the property and is responsible for paying the taxes under the terms of the contract. Therefore, if the taxes become delinquent, the buyer also has the right to confess judgment.

A party holding a life estate is another example of the second group of eligible parties. The party who grants the life estate is the property owner (fee owner). The holder of the life estate has possession and use of the property and is responsible for paying the taxes under the terms of the life estate agreement. Therefore, if the taxes become delinquent, the holder of the life estate has the right to confess judgment.

10-YEAR PLAN: ELIGIBILITY **SECTION 6510**
(Continued) (Page 2)

For practical purposes, this manual will refer to the "property owner and/or taxpayer" as the parties who are eligible to confess judgment. Any other party with a legal interest in the property who does not have the statutory or contractual right to pay the real property taxes is not authorized to confess judgment. An example is someone who has an easement right over a parcel of property.

10-YEAR PLAN: ELIGIBLE PROPERTY

The property owner and/or taxpayer may submit a written offer to pay the total delinquent tax amount under a 10-year confession of judgment for all classifications of real property which are listed below. These classifications are effective beginning with taxes payable in 1999. (M.S. 279.37, Subd. 1)

Class 1a:	**RESIDENTIAL HOMESTEAD (Non-Farm Homes)**	**M.S. 273.13, Subd. 22(a)**
Class 1b:	**BLIND/PARAPLEGIC/VETERAN/ DISABLED HOMESTEAD**	**M.S. 273.13, Subd. 22(b)**
Class 1c:	**RESORTS/OWNER HOMESTEAD ("Ma and Pa Resorts") (Operated 250 Days or Less)**	**M.S. 273.13, Subd. 22(c)**
Class 1d:	**MIGRANT HOUSING**	**M.S. 273.13, Subd. 22(d)**
Class 2a:	**AGRICULTURAL HOMESTEAD (Farm Homes, Including Land and Buildings)**	**M.S. 273.13, Subd. 23(a)**
Class 2b:	**NON-HOMESTEAD AGRICULTURAL LAND**	**M.S. 273.13, Subd. 23(b)**
Class 2b:	**TIMBERLANDS**	**M.S. 273.13, Subd. 23(b)**
Class 4a:	**RENTAL HOUSING, 4 OR MORE UNITS (Including Private for-Profit Hospitals)**	**M.S. 273.13, Subd. 25(a)**

10-YEAR PLAN: ELIGIBILITY **SECTION 6510**
(Continued) (Page 3)

Class 4bb:	RESIDENTIAL NON-HOMESTEAD SINGLE UNIT	M.S. 273.13, Subd. 25(c)
Class 4b(1):	RESIDENTIAL NON-HOMESTEAD (1 to 3 Units That Does Not Qualify for Class 4bb)	M.S. 273.13, Subd. 25(b)(1)
Class 4b(2):	UNCLASSIFIED MANUFACTURED HOMES	M.S. 273.13, Subd. 25(b)(2)
Class 4c:	Properties which qualified or could have qualified as 4c for 1998, but do not qualify as 4d for 1999, structures only	M.S. 273.127, Subd. 3
Class 4c:	Land for properties classified as class 4 in 1998 which do not qualify as 4d in 1999	M.S. 273.13, Subd. 25, clauses (a), (b)(1), and (c)
Class 4c(1):	SEASONAL RECREATIONAL RESIDENTIAL	M.S. 273.13, Subd. 25(d)(1)
Class 4c(2):	QUALIFYING GOLF COURSES	M.S. 273.13, Subd. 25(d)(2)
Class 4c(3):	NONPROFIT COMMUNITY SERVICE ORGANIZATION	M.S. 273.13, Subd. 25(d)(3)
Class 4c(4):	POST-SECONDARY STUDENT HOUSING	M.S. 273.13, Subd. 25(d)(4)
Class 4c(5):	MANUFACTURED HOME PARKS	M.S. 273.13, Subd. 25(d)(5)
Class 4c(6):	METRO NONPROFIT RECREATIONAL PROPERTY	M.S. 273.13, Subd. 25(d)(6)
Class 4d:	Properties that qualified or could have qualified as 4d for 1998, but do not qualify for the new 4d class for 1999, structures only	M.S. 273.127, Subd. 4

10-YEAR PLAN: ELIGIBILITY **SECTION 6510**
(Continued) **(Page 4)**

Class 4d:	**QUALIFYING 4D PROPERTIES, LAND AND BUILDINGS (Includes single unit and qualifying portions of multi-unit buildings)**	**M.S. 273.13, Subd. 25(e)**
Class 4e:	**RESIDENTIAL PORTION OF CERTAIN CONVERTED WAREHOUSES**	**M.S. 273.13, Subd. 25(f)**

10-YEAR PLAN: MARKET VALUE CUT-OFF FOR ELIGIBILITY

The delinquent tax amount on the entire parcel of real property is eligible for the 10-year confession of judgment if 25% or more of the estimated market value of the parcel is assessed under a classification eligible for the 10-year plan. (M.S. 279.37, Subd. 1)

For example, let's assume there is a department store with two second-story apartments. The parcel has a split classification. The store has a market value of $100,000 and is assessed as Class 3a, industrial-commercial. The two apartments have a market value of $35,000 and are assessed as Class 4b(1), residential non-homestead (1-3 units that does not qualify as Class 4bb). The tax on the parcel is $5,000 based on the total market value of $135,000.

If the taxes became delinquent, the property owner would be eligible to pay the $5,000 delinquent tax plus penalty, costs, and any accrued interest under a 10-year confession of judgment. This is true because the market value of the two apartments which are eligible for the 10-year plan is equal to more than 25% of the total market value ($35,000/$135,000 = 25.9%).

10-YEAR PLAN: UNIMPROVED LAND

Until assessment year 1992, taxes payable in 1993, unimproved land which was not in agricultural or timber use or part of a commercial-industrial activity was assessed under Class 5 as "vacant land."

The 1991 Minnesota Legislature repealed the "vacant land" classification. In its place, unimproved land ("vacant land") was to be assessed according to the highest and best use permitted under local zoning ordinances beginning with assessment year 1992, taxes payable in 1993.

The question arose-- should these lands be eligible for confession of judgment? The 1992 Minnesota Legislature answered the question by allowing delinquent taxes on unimproved land to be composed into a 10-year confession of judgment only if the two conditions outlined below are met. (M.S. 279.37, Subd. 1)

1. The unimproved land must have been classified as homestead, agricultural, or timberland in the calendar year prior to the year in which the confession of judgment is offered and signed.

2. The taxes which are offered to be paid under a confession of judgment must have become delinquent after December 31, 1991.

The 1994 legislature added the following restriction to the above authorization. If an eligible taxpayer has unpaid taxes which became delinquent before and after December 31, 1991, the taxpayer may confess judgment, but the taxes which became delinquent before January 1, 1992 must also be combined under the confession. The restriction is designed to preserve the tax judgments and the enforcement of the tax liens in some multiple-year delinquent tax cases. (Laws 1994, Chapter 416, Article 1, Section 64)

For example, let's say that a taxpayer owns a parcel of unimproved land which is now classified as agricultural. The taxpayer fails to pay the taxes due in 1990, and they become delinquent in 1991. A court judgment is entered against the parcel in 1991 to allow the tax lien to be enforced. The taxpayer also fails to pay the taxes due in 1991, and they become delinquent in 1992. There is no new tax judgment entered against the parcel for the 1992 delinquent taxes. Instead, the 1992 delinquent taxes are added to the tax judgment against the 1991 delinquent taxes.

Before the 1994 restriction, the taxpayer could confess judgment on the delinquent 1992 taxes and pay off the delinquent 1991 taxes in cash. When the delinquent 1991 taxes are paid, the tax judgment against the parcel is released. If the taxpayer defaults on the confession of judgment for the 1992 taxes and it is canceled, there is no tax judgment against the parcel to fall back on. In other words, there is no way to enforce the tax lien against the parcel for the delinquent 1992 taxes without obtaining another tax judgment.

Under the 1994 restriction, the taxpayer cannot confess judgment on the delinquent 1992 taxes and pay off the delinquent 1991 taxes in cash. The taxpayer must combine the delinquent 1991 and 1992 taxes into one confession of judgment. Consequently, if there is a default, the tax judgment is still there to enforce the tax lien against both year's taxes.

10-YEAR PLAN: CLASSIFICATION YEAR

The assessor's classification of the property for the year prior to the year of the confession of judgment is the one which is to be used to determine whether or not the property owner and/or taxpayer is eligible for the 10-year plan.

For example, let's assume that the taxes payable in 1984 on vacant land go delinquent in 1985. (At that time, delinquent taxes on vacant land could not be paid under a confession of judgment.) In 1986, the owner builds a house valued at about $50,000 on the land. The assessor classifies the property as residential homestead on January 2, 1987. In 1988, the owner offers to confess judgment. The taxpayer is eligible for the 10-year plan based on the 1987 residential homestead classification.

Note: If 25% or more of the estimated market value of a parcel of real property is assessed in a classification eligible for the 10-year plan, the entire delinquent tax amount qualifies for the 10-year plan. (M.S. 279.37, Subd. 1)

10-YEAR PLAN: NUMBER OF CONFESSIONS ALLOWED

Following a default of a first confession of judgment, the property owner and/or taxpayer may offer a second confession of judgment on the unpaid balance of the first defaulted confession. The statute does make it clear that not more than two confessions of judgment may be offered for the same taxes on the same parcel of real property. (M.S. 279.37, Subd. 10)

The second confession does not have to be offered by the same party who offered the first one. For example, a first confession made by the property owner may be canceled for failure to make the payments. An eligible mortgagee may step in and offer to pay the balance of the delinquent taxes under a second confession of judgment.

The conditions, requirements, and procedures for setting up and administering the second confession of judgment are the same as those for the first confession.

Note: Similar to the first confession, a second confession of judgment does not require the approval of the county auditor or the county board.

10-YEAR PLAN: CONFESSION AGREEMENT SECTION 6520

The property owner and/or taxpayer begins the process by filing a request to confess judgment with the county auditor. (M.S. 279.37, Subd. 2)

The county auditor determines the eligibility of the party proposing to confess judgment and the eligibility of the parcel of real property for the 10-year plan. The county auditor's staff prepares the written contract for the confession of judgment, and the property owner and/or taxpayer signs it.

By signing the contract, the property owner and/or taxpayer agrees to the following conditions of the confession of judgment under the 10-year plan. (M.S. 279.37, Subd. 2)

1. **To waive all legal rights to challenge the assessment and levy of the taxes and the administration of the delinquent tax laws up to the time of the confession.**

2. **To accept the validity of the total delinquent tax amount due (taxes, special assessments, penalties, costs, and interest accrued up to the time of the confession) on the parcel of real property for all taxes payable years.**

3. **To agree to have the total delinquent tax amount due combined into a confession of judgment and to fulfill the terms of the confession of judgment contract.**

4. **To pay immediately to the county auditor a down payment equal to 10% of the total delinquent tax amount combined into the confession of judgment.**

5. **To direct court judgment to be entered for the remaining 90% of the total delinquent tax amount combined into the confession of judgment.**

6. **To pay the remaining 90% of the total delinquent tax amount combined into the confession of judgment in nine, equal, annual installments with interest on or before December 31 of each year following the year of the confession of judgment.**

7. **To waive all requirements for a notice of default on any installment or interest due in the future under the court judgment.**

8. **To pay all current taxes on the same parcel of real property each year before they become delinquent.**

10-YEAR PLAN: CONFESSION AGREEMENT SECTION 6520

Note: The county auditor and county board must accept an eligible written offer to confess judgment on an eligible parcel of property. The legal right to confess judgment does not require the approval of the county auditor or county board. (M.S. 279.37, Subd. 3-5)

LEGAL TENDER: U.S. CURRENCY, CHECK, OR MONEY ORDER

All delinquent taxes, penalties, interest, and costs must be paid with United States currency or by check or money order drawn on a bank or other financial institution located in the United States. (M.S. 279.025)

This requirement applies to the down payment and the installment payments made under a confession of judgment.

PAYMENT OF CURRENT YEAR TAXES AND PENALTY

Effective beginning September 1, 1999, the property owner and/or taxpayer must pay all current year taxes and penalty due at the time the confession of judgment is entered. This payment must be made at the same time that the 10% down payment is made. The confession of judgment cannot be effective without this payment. (M.S. 279.37, Subd. 2)

Note: Effective beginning September 1, 1999, a confession of judgment under the 5-year plan is also subject to this requirement.

10-YEAR PLAN: RECORDING OF CONFESSION SECTION 6530

Once the contract under the 10-year plan is signed and the down payment is received, the county auditor, the county treasurer, and the administrator of the district court are responsible for performing the following major tasks. (M.S. 279.37, Subd. 3-7)

COUNTY AUDITOR'S TASKS

1. The county auditor notifies the county board of the offer by the property owner or taxpayer to confess judgment under the 10-year plan. However, the county board does not have to approve the confession of judgment.

2. The county auditor records the offer by the property owner or taxpayer to confess judgment under the 10-year plan in the "Tax Judgment Book" or in the computer data base.

3. The county auditor delivers a copy of the offer by the property owner or taxpayer to confess judgment under the 10-year plan and a copy of the installment contract to the administrator of the district court.

4. The county auditor credits the 10% down payment under the 10-year confession of judgment as a partial release of the new tax judgment and distributes the amount in inverse order to the delinquent taxes. (See Section 6460 for more information about the rule of inverse order.

5. The county auditor delivers the 10% down payment under the 10-year confession of judgment to the county treasurer.

COUNTY TREASURER'S TASKS

The county treasurer records the 10% down payment under the 10-year confession of judgment, makes out a receipt for the amount, and sends a copy of the receipt to the administrator of the district court.

This same practice is also to be followed with the receipt of each annual installment payment.

COURT ADMINISTRATOR'S TASKS

1. The court administrator enters a new tax judgment for the delinquent tax amount combined under the 10-year confession of judgment minus the 10% down payment.

2. The court administrator records the 10% down payment in the "Tax Judgment Book" or the computer data base.

This same practice is also to be followed with the receipt of each annual installment payment.

10-YEAR PLAN: ADMINISTERING INSTALLMENTS SECTION 6540

Once the contract and the down payment have been recorded, the county auditor is to perform the following tasks to administer the receipt of the annual installment payments under the 10-year confession of judgment. (M.S. 279.37, Subd. 6-7)

AUDITOR'S NOTICE OF DECEMBER 31 DEADLINE

By November 30 of each year following the year when the confession of judgment was signed, the county auditor is to mail a notice to each property owner or taxpayer who has confessed judgment under the 10-year plan. (M.S. 279.37, Subd. 6)

The two major purposes of the county auditor's annual notice are listed below.

1. To remind the property owner or taxpayer who confessed judgment that the next annual installment is due by December 31 of that year.

2. To list the total amount of the annual installment which is due by December 31 of that year.

AUDITOR'S RECORDING OF INSTALLMENT PAYMENTS

The county auditor is to record each annual installment payment received from each property owner or taxpayer who has confessed judgment under the 10-year plan and deliver the amounts to the county treasurer.

Under the terms of the 10-year confession of judgment, each annual installment must equal 10% of the total delinquent tax amount combined under the confession of judgment plus interest.

AUDITOR'S CREDITING OF INSTALLMENT PAYMENTS

The county auditor is to credit each annual installment payment as partial or full release of the new tax judgment under the 10-year confession of judgment and show the year that the tax judgment was entered.

NOTE: The annual installment payments under the 10-year confession of judgment are not to apply to any specific years's delinquent tax amount.

AUDITOR'S DISTRIBUTION OF INSTALLMENT PAYMENTS

The county auditor is to distribute the receipts from the annual installment payments in inverse order to the chronological order in which the delinquent taxes were levied. See Section 6460 for more information about the rule of inverse order.

All penalties, interest, and costs which are collected as part of the annual installment payments are to be distributed to the local taxing districts by the county auditor according to the provisions of M.S. 276.131. See Section 6465 for information about this method of distribution.

10-YEAR PLAN: DEFAULT ON PAYMENTS SECTION 6550

If the property owner or taxpayer who has confessed judgment fails to meet any of the terms of the contract, the county auditor is to complete the following tasks to administer the default of a 10-year confession of judgment. A default usually means a failure to pay an annual installment or the current taxes by the deadline. (M.S. 279.37, Subd. 6, 9)

NOTICE OF 60-DAY GRACE PERIOD

If an annual installment is not paid by the December 31 deadline, the county auditor is to send a notice by certified mail to the property owner or taxpayer who made the confession of judgment under the 10-year plan. The notice is to be sent to the last known address of the property owner or taxpayer without regard to the county or state of the person's residency. (M.S. 279.37, Subd. 6)

The purpose of the notice is to remind the property owner or taxpayer who made the 10-year confession of judgment that the parcel of real property will be subject to the tax forfeiture laws if the overdue payment is not received within 60 days after the past December 31 deadline.

Since the property owner or taxpayer has also agreed under the 10-year confession of judgment to pay the current property tax before it becomes delinquent, the county auditor's notice may also include a reference to default if the current tax remains unpaid at the end of the year.

The county auditor is to file a certificate in the auditor's office as proof of the mailing. Failure to send or receive a notice does not postpone any required payment or excuse any default under the 10-year confession of judgment.

Note: If the final annual installment on the total delinquent tax amount combined under the 10-year confession of judgment is paid on or before the December 31 deadline but without the payment of the current year's tax, the confession may be satisfied immediately after payment even though the current tax in the final year remains unpaid. However, if the final annual installment is not paid until after the December 31 deadline, and the current taxes for the final year of the confession remain unpaid, the confession cannot be satisfied until the now delinquent current taxes have been paid.

REINSTATEMENT OF ORIGINAL TAX JUDGMENT UPON DEFAULT

When the property owner or taxpayer who confessed judgment fails to comply with the terms of a 10-year confession of judgment, the following official actions are taken against the parcel of real property under tax judgment. (M.S. 279.37, Subd. 9)

1. **The 10-year confession of judgment is canceled.**

2. **The new tax judgment under the 10-year confession of judgment is canceled.**

3. **The delinquent real property tax proceedings revert back to the date when the parcel of real property was or would have been "bid in for the state" on the 2nd Monday in May of the year when the first year's unpaid taxes and penalties became delinquent.**

4. **If the default takes place during the time when the original period of redemption would still have been in effect, the original period of redemption continues as it would have if there had never been a confession of judgment.**

5. **If the default takes place after the time when the original period of redemption would have already expired, tax forfeiture proceedings are started immediately by mailing out a notice of the expiration of the period of redemption.**

   Question: If a notice of the expiration of redemption was published, mailed, and served before the confession was signed and then a default occurred, does another notice have to be published, mailed, and served after the confession is canceled?

   Answer: Yes. The confession of judgment annulled the first notice. There could be new lienholders and interested parties who need to be notified about the impending forfeiture.

Note: See Series 6600 for information about the expiration of the period of redemption.

EXAMPLE #1: REINSTATEMENT TO PERIOD OF REDEMPTION

This example illustrates the first situation where the default of a confession takes place during the time when the original period of redemption would still have been in effect and the original period of redemption continues as it would have if there had never been a confession of judgment.

Lets assume that the payable 1982 tax on a residential homestead property was not paid that year. The unpaid tax and penalties were declared delinquent on January 3, 1983. A tax judgment was entered against the property, and the property was "bid in for the state" for the delinquent tax amount on May 9, 1983.

The property owner, taxpayer of record, or any other party with a legal interest in the residential homestead property had five years, or until May 9, 1988, to redeem the property.

Lets assume that a 10-year confession of judgment was signed on July 21, 1983 and the 10% down payment was paid. However, the first annual installment was not paid by December 31, 1984. No payment was made after the notices were given. The confession was declared in default and cancelled on March 21, 1985.

The delinquent tax proceedings reverted back to May 9, 1983, when the property was "bid in for the state." The original tax judgment was reinstated on the unpaid balance of the delinquent tax amount owed under the 10-year confession of judgment.

On March 21, 1985, when the confession of judgment was cancelled, the original tax judgment would have been at the end of the second year of the 5-year period of redemption. Therefore, the period of redemption continues from that point as if the confession of judgment had never been signed.

EXAMPLE #2: REINSTATEMENT TO TAX FORFEITURE

This example illustrates the second situation where the default of a confession takes place after the time when the original period of redemption would have already expired and the tax forfeiture proceedings are started by mailing out a notice of the expiration of the period of redemption.

Lets assume that the payable 1982 tax on a residential homestead property was not paid that year. The unpaid tax and penalties were declared delinquent on January 3, 1983. A tax judgment was entered against the property, and the property was "bid in for the state" for the delinquent tax amount on May 9, 1983.

The property owner, taxpayer of record, or any other party with a legal interest in the residential homestead property had five years, or until May 9, 1988, to redeem the property.

Lets assume that a 10-year confession of judgment was signed on July 21, 1983 and the 10% down payment was paid. The annual installments were paid through December 31, 1987. However, the annual installment due by December 31, 1988, was not paid. No payment was made after the notices were given. The confession was declared in default and cancelled on March 21, 1989.

The delinquent tax proceedings reverted back to May 9, 1983, when the property was "bid in for the state." The original tax judgment was reinstated on the unpaid balance of the delinquent tax amount owed under the 10-year confession of judgment.

On March 21, 1989, when the confession of judgment was cancelled, the 5-year period of redemption under the original tax judgment would have already expired. It would have extended only through May 9, 1988. Therefore, the tax forfeiture proceedings are started immediately by mailing out a notice of the expiration of the period of redemption.

DEFAULT: 2ND CONFESSION ALLOWED

As stated in Section 6510, the property owner and/or taxpayer may offer a second confession of judgment on the unpaid balance of a first confession of judgment which was defaulted. (M.S. 279.37, Subd. 10)

Similar to the first confession, a second confession does not require the approval of the county auditor or the county board.

The statute does make it clear that not more than two confessions of judgment may be offered affecting the same taxes or any portion thereof.

The conditions, requirements, and procedures for setting up and administering the second confession of judgment are the same as those for the first confession.

5-YEAR PLAN: ELIGIBILITY SECTION 6555

Certain properties which do not qualify for the 10-year confession of judgment may qualify for a 5-year confession of judgment. The 5-year plan may be requested anytime after the taxes become delinquent in January and prior to the expiration of the period of redemption or tax forfeiture. (M.S. 279.37, Subd. 1a)

Note: The county is not given the authority to accept or reject the request for a confession of judgment. If the party and the property are eligible, the county must grant the confession of judgment. (M.S. 279.37, Subd. 1a)

5-YEAR PLAN: ELIGIBLE PARTIES

The same parties who are eligible to confess judgment under the 10-year plan are also eligible to confess judgment under the 5-year plan. The eligible parties are the property owner and/or the taxpayer. See page one of Section 6510 for more detailed information about which parties are eligible to confess judgment and which ones are not eligible. (M.S. 279.37, Subd. 2)

5-YEAR PLAN: ELIGIBLE PROPERTY

Effective beginning September 1, 1999, the property owner and/or taxpayer may submit a written offer to pay the total delinquent tax amount under a 5-year confession of judgment for the properties listed below which have a total estimated market value of $200,000 or less. If the properties listed below have an estimated market value of $200,001 or more, they are not eligible for the 5-year confession of judgment. Previously, eligible property was required to have a total estimated market value of less than $200,000 in order to qualify for a confession of judgment. (M.S. 279.37, Subd. 1a)

1.	CLASS 3A:	COMMERCIAL-INDUSTRIAL (Total Market Value of $200,000 or Less)	(M.S. 273.13, Subd. 24(a))
2.	CLASS 3A:	PUBLIC UTILITY (Total Market Value of $200,000 or Less)	(M.S. 273.13, Subd. 24(a))

Note: The assessor's classification of the parcel of property for the year prior to the year of the confession of judgment is the one which is used to determine whether or not the taxpayer is eligible for the 5-year plan.

5-YEAR PLAN: UNIMPROVED LAND

Until assessment year 1992, taxes payable in 1993, unimproved land which was not in agricultural or timber use or part of a commercial-industrial activity was assessed under Class 5 as "vacant land." Property taxes on "Vacant land " could not be paid under a confession of judgment.

The 1991 Minnesota Legislature repealed the "vacant land" classification. In its place, unimproved land ("vacant land") is to be assessed according to the highest and best use permitted under local zoning ordinances beginning with assessment year 1992, taxes payable in 1993.

The question arose-- should these lands be eligible for confession of judgment? The 1992 Minnesota Legislature answered the question by allowing delinquent taxes on unimproved land to be composed into a 5-year confession of judgment only if the three conditions outlined below are met. (M.S. 279.37, Subd. 1)

1. **The unimproved land must have been assessed as Class 3a, commercial-industrial or public utility property, in the calendar year prior to the year in which the confession of judgment is offered.**

2. **The unimproved land which was classified as commercial-industrial or public utility in the calendar year prior to the year in which the confession of judgment is offered must have an estimated market value of $200,000 or less.**

3. **The taxes which are offered to be paid under a 5-year confession of judgment must have become delinquent after December 31, 1991.**

5-YEAR PLAN: MARKET VALUE CUT-OFF FOR ELIGIBILITY

The delinquent tax amount on a parcel of real property is eligible for the 5-year confession of judgment if 25% or more of the estimated market value of the parcel is assessed under a classification eligible for the 5-year plan. (M.S. 279.37, Subd. 1- 1a)

For example, let's assume there is a grocery store with one upstairs apartment which is rented. The parcel has a split classification. The store has an estimated market value of $74,000 and is assessed as Class 3a, commercial-industrial property. The upstairs apartment has an estimated market value of $22,000 and is assessed as Class 4bb, residential non-homestead single unit. The tax on the parcel is $3,200 based on the total estimated market value of $96,000.

The property owner fails to pay the tax when due. The $3,200 tax plus penalty becomes delinquent the following January. Question: Is the property owner authorized to confess judgment?

In general, the classification of the upstairs apartment is eligible for the 10-year confession of judgment. However, in this specific case, the upstairs apartment is not eligible for the 10-year plan because its estimated market value is not 25% or more of the total estimated market value of the parcel ($22,000/$96,000 = 22.9%).

Although not eligible for the 10-year plan, the property owner is authorized to confess judgment for the total delinquent tax amount under the 5-year plan. This is true for the reasons outlined below.

1. **The grocery store is assessed as Class 3a, commercial-industrial property.**

2. **The estimated market value of the grocery store is less than $200,001 ($74,000).**

3. **The estimated market value of the grocery store is 25% or more of the total estimated market value of the parcel ($74,000/$96,000 = 77.1%).**

5-YEAR PLAN: SPECIAL CONDITIONS SECTION 6560

A confession of judgment under the 5-year plan is to be administered the same way as a 10-year confession of judgment with the following exceptions: the property eligibility requirement, the time period, the down payment, the number of annual installment payments, and the interest rate for confessions entered into before January 1, 1991. (M.S. 279.37, Subd. 1a)

The difference in the property eligibility requirement between the two plans is explained in Section 6555. The difference between the interest rates for confessions entered into before January 1, 1991, is explained in Sections 6160 and 6570.

The differences in the time period, the down payment, the number of annual installment payments, and the property eligibility requirement between the two plans are outlined in the table below.

	10-YEAR PLAN	5-YEAR PLAN
Time Period Allowed	10 Years from Date Confession Was Signed and Sealed	5 Years from Date Confession Was Signed and Sealed
Amount of Down Payment	10% of Delinquent Tax Amount Due under Confession of Judgment	20% of Delinquent Tax Amount Due under Confession of Judgment Plus 100% of All Delinquent and Current Special Assessments
Number of Installments	9 Equal Annual Payments of 10% of Delinquent Tax Amount	4 Equal Annual Payments of 20% of Delinquent Tax Amount
Property Eligibility Requirement	All Property Except C/I, Public Utility, Employment Property, Public Utility Machinery, Unmined Iron Ore, Low Recovery Iron Ore	C/I and Public Utility Property with an Estimated Market Value of $200,000 or Less

PROPERTIES NOT ELIGIBLE FOR CONFESSION SECTION 6562

The classes of real property outlined below are NOT eligible for either the 10-year or 5-year confession of judgment. In other words, the property owner and/or taxpayer may not offer to pay the total delinquent tax amount due on these classes of real property under any type of confession of judgment. (M.S. 279.37, Subd. 1)

The total delinquent tax amount due on the classes of real property outlined below remains subject to the original tax judgment entered by the administrator of the district court or the court itself. The total delinquent tax amount must be paid within the 3-year or 5-year period of redemption authorized under the original tax judgment. If not paid within the designated time period, the property will forfeit to the state in the name of the taxing districts.

1.	CLASS 3A:	COMMERCIAL-INDUSTRIAL (Total Market Value Over $200,000)	(M.S. 273.13, Subd. 24(a))
2.	CLASS 3A:	PUBLIC UTILITY (Total Market Value Over $200,000)	(M.S. 273.13, Subd. 24(a))
3.	CLASS 3B:	EMPLOYMENT PROPERTY (Enterprise Zones)	(M.S. 273.13, Subd. 24(b))
4.	CLASS 5:	PUBLIC UTILITY MACHINERY	(M.S. 273.13, Subd. 31(1)
5.	CLASS 5:	UNMINED IRON ORE	(M.S. 273.13, Subd. 31(2)
6.	CLASS 5:	LOW-RECOVERY IRON ORE	(M.S. 273.13, Subd. 31(2)
7.	CLASS 5:	ALL OTHER PROPERTY NOT INCLUDED IN ANY OTHER CLASS	(M.S. 273.13, Subd. 31(3)

SPECIAL EXCLUSION FOR THE CITIES OF MINNEAPOLIS AND ST. PAUL

Effective beginning September 1, 1999, within the cities of Minneapolis and St. Paul, property that has been reclassified from class 4bb to 4b under M.S. 273.1319 is <u>not</u> eligible for a confession of judgment. (M.S. 279.37, Subd. 1)

PROPERTIES NOT ELIGIBLE FOR CONFESSION SECTION 6562

(Continued) (Page 2)

Under M.S. 273.1319, if the city determines that a residential rental property classified as class 4bb is not in compliance with the city's applicable rental licensing requirements and housing codes, the city must notify the property owner of the noncompliance. If the noncompliance is not corrected within the allowable 60-day time period, the city must notify the assessor that the property is out of compliance and is no longer eligible for the class 4bb classification. The assessor must then reclassify the property for the current assessment year as class 4b property, and notify the property owner of the reclassification.

INTEREST RATES SECTION 6565

Under both the 10-year and 5-year confessions of judgment, an annual interest rate is to be charged on the unpaid balance of the total delinquent tax amount combined under the confession of judgment. (M.S. 279.37, Subd. 1a, 2)

The annual interest rates which apply to 10-year and 5-year confessions of judgment signed before and after January 1, 1991, are outlined below.

INTEREST RATES: BEFORE JANUARY 1, 1991

There are two different interest rates to use for confessions of judgment signed before January 1, 1991-- one for the 10-year plan and another for the 5-year plan.

These interest rates which are explained below are to be used for all installment payments made on confessions of judgment signed before January 1, 1991. This includes installments made before and after January 1, 1991, when the confession of judgment was signed before January 1, 1991.

1. INTEREST RATES: 10-YEAR CONFESSION OF JUDGMENT

The interest rate to use for 10-year confessions of judgment signed before January 1, 1991, is the same as that for any delinquent tax amount due under an original tax judgment plan entered before that date. (M.S. 279.37, Subd. 2)

For 10-year confessions of judgment signed before July 1, 1982, the interest rate is 6%. For 10-year confessions of judgment signed on July 1, 1982, through December 31, 1990, the interest rate is determined according to M.S. 549.09; i.e., the floating interest rate based on the secondary market yield on one-year U.S. Treasury bills. See Section 6160 for more detailed information about this interest rate.

2. INTEREST RATES: 5-YEAR CONFESSION OF JUDGMENT

From the time the modified plan was put into effect, the interest rate for 5-year confessions of judgment has been different from that used for other delinquent real property tax purposes. (M.S. 279.37, Subd. 1a)

The interest rate for a 5-year confession of judgment has always been the higher interest rate determined under M.S. 270.75, Subd. 5; i.e., the adjusted prime rate charged by banks. See Section 6160 for more detailed information about this interest rate.

INTEREST RATES: BEGINNING JANUARY 1, 1991

Beginning January 1, 1991, there are no longer two different interest rates to use for 10-year and 5-year confessions of judgment. Instead, there is one interest rate for both plans.

As a result of action taken by the 1990 legislature, the interest rate for both 10-year and 5-year confessions of judgment signed on or after January 1, 1991, is to be the higher rate determined under M.S. 270.75, Subd. 5; i.e., the adjusted prime rate charged by banks. This is the same rate used for 5-year confessions of judgment signed before January 1, 1991. (M.S. 279.37, Subd. 1a)

The change means that the interest rate determined according to M.S. 549.09; i.e., the floating interest rate based on the secondary market yield on one-year U.S. Treasury bills, is no longer to be used for 10-year confessions of judgment signed on or after January 1, 1991.

See Section 6160 for more detailed information about this change in interest rates.

CALCULATION OF INSTALLMENTS AND INTEREST SECTION 6570

For both the 10-year and the 5-year plans, the interest accrues on the unpaid balance of the delinquent tax amount combined under the confession of judgment from the date when the confession was signed until the installments are all paid. (M.S. 279.37, Subd. 1a and 2)

STEP #1 CALCULATION OF DELINQUENT TAX AMOUNT

The first step which involves the calculation of interest is the determination of the total delinquent tax amount which is to be combined under the confession of judgment.

Once eligibility for a confession is validated, the county auditor is to calculate the total interest which has accrued on the unpaid balance of the delinquent taxes, penalties, and costs from January 1 of the year when the unpaid taxes were declared delinquent through the month in which the confession of judgment is signed. (See Section 6160 for detailed information about which interest rates to use for this purpose.)

The county auditor is to add the total accrued interest to the unpaid balance of the delinquent taxes, penalties, and costs. This is the total delinquent amount which is then combined under the confession of judgment

STEP #2: INTEREST FOR 1ST INSTALLMENT

The second step which involves the calculation of interest is the determination of the interest to be paid as part of the first installment.

The county auditor is to calculate the total interest which has accrued under the confession of judgment from the month after the confession was signed through December 31 of the year following the year when the the confession was signed.

The total interest amount which is calculated from the month after the confession was signed through December 31 of the year following the year when the the confession was signed is to be paid as part of the first installment. (See Section 6160 for detailed information about which interest rates to use for this purpose.)

REMINDER: The first installment is due on or before December 31 of the year following the year in which the confession of judgment was signed.

STEP #3: INTEREST FOR REMAINING INSTALLMENTS

The third step which involves the calculation of interest is the determination of the interest to be paid as part of the installments remaining after the first installment has been paid.

The county auditor is to calculate the total interest which has accrued under the confession of judgment for the calendar year which relates to each installment after the first installment has been paid. (See Section 6160 for detailed information about which interest rates to use for this purpose.)

This total interest amount which has been calculated for each calendar year is to be paid as part of each remaining installment after the first installment has been paid.

Reminder: The remaining installments are due on or before December 31 of each year following the year in which the first installment has been paid.

EXAMPLE: CALCULATION OF INTEREST UNDER 10-YEAR PLAN

1.	Total Payable 1983 Property Taxes Due	$ 1,000.00
2.	Total Penalty: January 3, 1984 @ 10%	$ 100.00
3.	Publication Cost	$ 10.00
4.	Base for Interest (Lines 1 + 2 + 3)	$ 1,110.00
5.	1st Delinquent Year: Interest on 12/31/84 @9% Per Annum, Accumulated Monthly @ 0.75% for 12 Months (Line 4 X 9%)	$ 99.90
6.	2nd Delinquent Year: Interest on 12/31/85 @ 9% Per Annum, Accumulated Monthly @ 0.75% for 12 Months (Line 4 X 9%)	$ 99.90

(((10-YEAR CONFESSION OF JUDGMENT: SIGNED JULY 8, 1986)))

7.	3rd Delinquent Year: Interest on 7/8/86 @ 8% Per Annum, Accumulated Monthly @ 0.667% for 7 Months (Line 4 X 4.669%)	$ 51.83

CALCULATION OF INSTALLMENTS AND INTEREST **SECTION 6570**
(Continued) **(Page 3)**

8. Total of Delinquent Taxes, Penalties, Costs, and Accrued Interest Combined under 10-Year Confession of Judgment (Lines 4 + 5 + 6 + 7)	$ 1,361.63
9. Down Payment: Paid 7/1/86 (Line 8 X 10%)	$ 136.16
10. Remaining Balance after Down Payment (Line 8 - Line 9)	$ 1,225.47
11. Interest on Remaining Balance on 12/31/87: 8% Per Annum, 0.667% Monthly for 17 Months, 8/1/86 through 12/31/87 (Line 10 X 11.339%)	$ 138.96
12. Remaining Balance Plus Interest on 12/31/87 (Line 10 + Line 11)	$ 1,364.43
13. 1st Installment Paid on or before 12/31/87 (Line 11 + 10% of Line 8)	$ 275.12
14. Remaining Balance after 1st Installment (Line 12 - Line 13)	$ 1,089.31
15. Interest on Remaining Balance on 12/31/88: 8% Per Annum, 0.667% Monthly for 12 Months, 1/1/88 through 12/31/88 (Line 14 X 8%)	$ 87.14
16. Remaining Balance Plus Interest on 12/31/88 (Line 14 + Line 15)	$ 1,176.45
17. 2nd Installment Paid on or before 12/31/88 (Line 15 + 10% of Line 8)	$ 223.30
18. Remaining Balance after 2nd Installment (Line 16 - Line 17)	$ 953.15

NOTE: Actual calculation of the installments would also include the addition for the county's administrative fee. See Section 6580 for more detailed information about the fee. (M.S. 279.37, Subd. 8)

(((CONTINUATION OF EXAMPLE SHOWING CALCULATION OF INTEREST)))

The same steps used above in the example 10-year confession of judgment should be continued in order to calculate the installments for the remaining seven years of the contract.

Remember to calculate the interest for each remaining year in the example 10-year confession of judgment according to the annual rate of interest determined under M.S. 549.09. (See Section 6160 for more detailed information about what interest rates to use for each installment under a confession of judgment which is signed before or after January 1, 1991.)

EXAMPLE: CALCULATION OF INTEREST UNDER 5-YEAR PLAN

The same calculation steps should be used for 5-year confessions of judgment except for the five components listed below.

1. The property eligibility requirement.

2. The number of years the contract runs.

3. The percentage of the total deliquent tax amount required as a down payment.

4. The number of annual installment payments.

5. The annual rate of interest.

These five components are more restrictive under the 5-year plan than they are under the 10-year plan. See Sections 6555 and 6560 for more information about these five components. (M.S. 279.37, Subd. 1a)

SUGGESTED FORMAT FOR CONFESSING JUDGMENT SECTION 6575

The suggested format presented below is an adaptation of the statutory format contained in M.S. 279.37, Subd. 2. It includes the conditions required for 10-year confessions of judgment. The same format can be used for the 5-year plan except for changes in the time period, the amount of down payment, and the number of annual installments. (M.S. 279.37, Subd. 2)

CONFESSION OF JUDGMENT FOR DELINQUENT REAL ESTATE TAXES

State of Minnesota District Court

Spruce County 5th Judicial District

TO THE ADMINISTRATOR OF THE DISTRICT COURT OF SPRUCE COUNTY:

I, Howard C. Houston, owner of the following described parcel of real property located in Spruce County,

Minnesota, to-wit:

Parcel ID #: 08-123-32-43-0076

Municipality: City of Applewood

Description: Towers Subd., Lot 3 & Lot 4, Block 7

upon which there are delinquent taxes for the taxespayable year 1987

and prior years as follows:

Year	Tax	Penalty	Interest*	Cost	Total
1987	$876.35	$87.64	$38.56	$10	$1,012.55
			Confession Fee:		$1.00
			Grand Total:		$1,013.55

*Interest Figured From: 01/01/88 Through: 06/30/88

SUGGESTED FORMAT FOR CONFESSING JUDGMENT SECTION 6575
(Continued) (Page 2)

(Continuation of Confession of Judgment Format)

do hereby offer to confess judgment under M.S. 279.37 in the sum of $1,013.55 and waive all irregularities in the tax proceedings affecting such taxes and any defense or objections which I may have thereto, and direct judgment to be entered for the amount hereby confessed less the sum of $101.36 hereby tendered, being one-tenth of the amount of said delinquent taxes, penalties, interest, costs, and confession of judgment fee.

I agree to pay the balance of such judgment in nine, equal, annual installments with interest at the rate provided in M.S. 279.03 and payable annually on the installments remaining unpaid. Each annual installment is to be paid on or before December 31 of each year following the year in which this judgment is confessed.

I also agree to pay current taxes on said parcel each year before they become delinquent or within thirty days after final judgment in proceedings to contest such taxes under M.S. 278.01 to 278.13, inclusive.

NOTARY OR DEPUTY
ACKNOWLEDGEMENT REQUIRED

Howard C. Houston
(Owner)

Dated: June 16, 1988

256 Sandstone Street
Greenbriar, MN 56323
(612) 567-8915

NOTE: This part of the suggested format for a confession of judgment is to be completed by the county auditor. The sections which are underlined may be entered by computer for each separate confession of judgment.

The purpose of the following three documents is to certify the authenticity of the confession of judgment and to enter the new judgment under the confession of judgment as an alternative to the original tax judgment.

These three documents can be copied on the back of the same sheet of paper which contains the major document on the front side, or they can be handled separately.

SUGGESTED FORMAT FOR CONFESSING JUDGMENT SECTION 6575
(Continued) **(Page 3)**

(Continuation of Certification + Judgment Documents)

CERTIFICATE OF COUNTY AUDITOR

I hereby certify that the foregoing confession of judgment contains a true and correct statement of the delinquent taxes, penalties, interest, costs, and fees against the parcel of real property therein described.

Dated: June 16, 1988

Nicholas B. Archer
Spruce County Auditor

Notary- Spruce County

(Seal)

Cory L. Patchen
Spruce County Deputy

TAX JUDGMENT UNDER CONFESSION OF JUDGMENT

Pursuant to the terms of the foregoing confession of judgment, tax judgment is hereby entered for the sum of $912.19 .

Dated: June 19, 1988

(Seal)

Thornton J. Longstreet
District Court Administrator
5th Judicial District

CERTIFICATE OF DISTRICT COURT ADMINISTRATOR

I hereby certify that the foregoing is a true and correct copy of the original tax judgment on file in my office.

Dated: June 19, 1988

(Seal)

Thornton J. Longstreet
District Court Administrator
5th Judicial District

NOTICE OF DECEMBER 31 PAYMENT SECTION 6576

M.S. 279.37 does not contain a suggested format for the billing notice which must be sent by November 30 each year to the taxpayer who has confessed judgment. The sample notice presented below may be used by the county auditor to design the county's own billing notice.

NOTICE OF CONFESSION OF JUDGMENT PAYMENT

State of Minnesota
County of Spruce

Date of Notice: November 27, 1989

Howard C. Houston
256 Sandstone Street
Greenbriar, MN 56323

Property ID#: 08-123-32-43-0076
Contract #: 123-456
Payment Due: December 31, 1989
Total Due: $ 174.34

This is to remind you that your annual installment payment under your confession o judgment contract is due on or before the date listed above.

A breakout of the total amount due is listed below.

1. **Principal**	$	101.36
2. **Interest**	$	72.98
3. **Total Due**	$	174.34

If you fail to pay the annual installment by the due date, you will be in default of th terms and conditions of your confession of judgment contract. You will also be i default of your contract if you fail to pay the current year's property taxes on or befor the above due date.

Make your check or money order payable to the Spruce County Treasurer. Mail you payment to the address listed below. Put your property identification number an confession of judgment contract number on your check or money order.

Nicholas B Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, Minnesota 56323
(234) 567-8910

NOTICE OF DEFAULT OF PAYMENT SECTION 6577

M.S. 279.37 does not contain a suggested format for the notice of default on a confession of judgment. The sample notice presented below may be used by the county auditor to design the county's own notice of default.

NOTICE OF DEFAULT ON CONFESSION OF JUDGMENT

State of Minnesota
County of Spruce

Date of Notice: January 9, 1990

Howard C. Houston
256 Sandstone Street
Greenbriar, MN 56323

Property ID#: 08-123-32-43-0076
Contract #: 123-456
Payment Due: December 31, 1989
Total Due: $ 174.34

This is to notify you that you are in default of the terms and conditions of your confession of judgment because you have failed to pay the annual installment listed above by the due date listed above.

If you fail to pay the annual installment listed above within sixty (60) calendar days after the above due date, the county will take the following actions against you: (1) the confession of judgment contract will be canceled pursuant to Minnesota Statutes, Section 279.37; (2) the original tax judgment will be reinstated against your property for the unpaid balance of the confession of judgment contract; and (3) your property will be subject to forfeiture pursuant to Minnesota Statutes, Chapter 281.

Failure to send or receive this notice will no postpone any payment or excuse any default under the confession of judgment. Proof of mailing will be made by the certificate of the auditor filed in the auditor's office.

Make your check or money order payable to the Spruce County Treasurer. Mail your payment to the address listed below. Put your property identification number and confession of judgment contract number on your check or money order.

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, Minnesota 56323
(234) 567-8910

The property owner or taxpayer who confesses judgment is responsible for paying the amount of fees needed to offset the county's and the district court's costs of administering a confession of judgment. (M.S. 279.37, Subd. 8)

COUNTY ADMINISTRATIVE FEE

The county board has the authority to determine the administrative fee needed to pay the county costs of processing the confession of judgment and mailing out notices about paying the installments under the confession of judgment. (M.S. 279.37, Subd. 8)

The amount of the county administrative fee which is set by the county board is to be charged equally on all confessions of judgment signed in the county until the county board changes the amount of the fee.

The county auditor is to include the county administrative fee with the other components of the delinquent tax amount which are combined under the confession of judgment. As a result, the property owner or taxpayer will pay the county administrative fee to the county auditor as part of the down payment and the installment payments. (M.S. 279.37, Subd. 8)

The amount of the county administrative fee should be combined with the district court administrative fee and listed on a separate line in the confession of judgment document. See the suggested format contained in Section 6575.

The county administrative fee is to be retained by the county and credited to the county general revenue fund.

DISTRICT COURT ADMINISTRATIVE FEE

The county board also has the authority to set the amount of the district court administrative fee. The purpose of this administrative fee is to offset the district court costs for the entry of the judgment and for the entry of each full or partial release of the judgment. (M.S. 279.37, Subd. 8)

The amount of the district court administrative fee which is set by the county board is to be charged equally on all confessions of judgment signed in the county until the county board changes the amount of the fee.

The county auditor is to include the district court administrative fee with the other components of the delinquent tax amount which are combined under the confession of judgment. As a result, the property owner or taxpayer will pay the district court administrative fee to the county auditor as part of the down payment and the installment payments. (M.S. 279.37, Subd. 8)

The amount of the district court administrative fee should be combined with the county administrative fee listed on a separate line in the confession of judgment document. See the suggested format contained in Section 6575. The county auditor is to forward the district court administrative fees to the administrator of the district court.

The 1994 Minnesota Legislature clarified that the fees paid to the district court administrator for entry of each confession of judgment and each full or partial release of a confession of judgment are to be determined under M.S. 279.37, Subd. 8 and not under M.S. 357.021. The clarification was accomplished by adding the following sentence to M.S. 279.37, Subd. 8 : "The fees paid to the court administrator under this section are in lieu of the fees provided for in section 357.021."

ELIGIBILITY FOR PROPERTY TAX REFUND SECTION 6582

Taxpayers who are paying their delinquent real property taxes under a confession of judgment are eligible to receive a property tax refund as long as they qualify under M.S. 290A. (M.S. 290A.10)

Each claimant who files a claim for a property tax refund with the Department of Revenue (DOR) is required to include a copy of the claimant's property tax statement. If there are delinquent taxes on the parcel, there should be an "X" in the box on line #1 of the property tax statement. This indicates that the taxpayer is not eligible for a property tax refund, and the DOR will not process the claim. If there is no "X" in the box, there are no delinquent taxes on the parcel, and the claimant is eligible for a refund.

When a taxpayer is paying delinquent taxes under a confession of judgment, the county treasurer must not place an "X" in the box on line #1 of the property tax statement. In the words of M.S. 290A.10, "Taxes included in a confession of judgment under section 279.37 shall not constitute delinquent taxes as long as the claimant is current on the payments required to be made under section 279.37."

SUMMARY: 2ND HALF OF STAGE FOUR SECTION 6585

CONFESSION OF JUDGMENT

As stated in Section 6405 and 6505, the two major methods of paying off the delinquent tax amount before the property is forfeited to the state make up the fourth stage of the delinquent real property tax proceedings.

The first half of stage four focuses on the method of payment called "redemption." It is summarized in Section 6405 and explained in more detail in the rest of Series 6400.

The second half of stage four concentrates on the other method of payment called "confession of judgment." It is outlined and explained in detail in Series 6500.

The major components and requirements of a "confession of judgment" are summarized below.

1. The property owner and/or taxpayer is eligible to pay off the delinquent tax amount due on a parcel of real property by "confessing judgment."

2. A "confession of judgment" may be offered anytime after delinquent taxes are determined and prior to the expiration of the period of redemption or tax forfeiture.

3. The property owner and/or taxpayer who chooses this plan accepts the validity of the total delinquent tax amount due on the parcel of real property for all taxes payable years.

4. The property owner and/or taxpayer who chooses this plan agrees to combine the total delinquent tax amount due on a parcel of real property for all past years into a single total sum.

5. The property owner and/or taxpayer who chooses this plan agrees to pay the single total sum under either a 5-year or a 10-year installment plan which replaces the 3-year or 5-year periods of redemption set up under the original tax judgment.

6. The property owner and/or taxpayer who chooses this plan agrees to pay each year's current tax on the parcel of real property before it becomes delinquent.

SUMMARY: 2ND HALF OF STAGE FOUR SECTION 6585
(Continued) (Page 2)

7. A "confession of judgment" is a substitute for the original tax judgment against the parcel of real property. It provides an alternative way of fulfilling the conditions of the original tax judgment.

8. The property owner and/or taxpayer is not allowed to make more than two "confessions of judgment" for the delinquent tax amount on the same parcel of real property.

9. The "confession of judgment" becomes void, the original tax judgment is reinstated for the unpaid balance, and the delinquent tax proceedings leading up to tax forfeiture of the parcel are reactivated if there is a default on any of the terms of the contract.

10. Once the conditions of the "confession of judgment" are satisfied by paying the installments, the tax judgment is cancelled and the property owner regains title to the parcel of real property free and clear of the delinquent tax lien.

If the property owner, taxpayer of record, or any other party with a legal interest in the property pays off the delinquent tax amount during the redemption period, the delinquent tax proceedings are over.

Likewise, if the property owner or taxpayer pays off the delinquent tax amount combined under a 10-year or 5-year confession of judgment, the delinquent tax proceedings are over.

In either of the above cases, the tax judgment is cancelled, and the property owner regains title to the parcel of property free and clear of any real property tax lien.

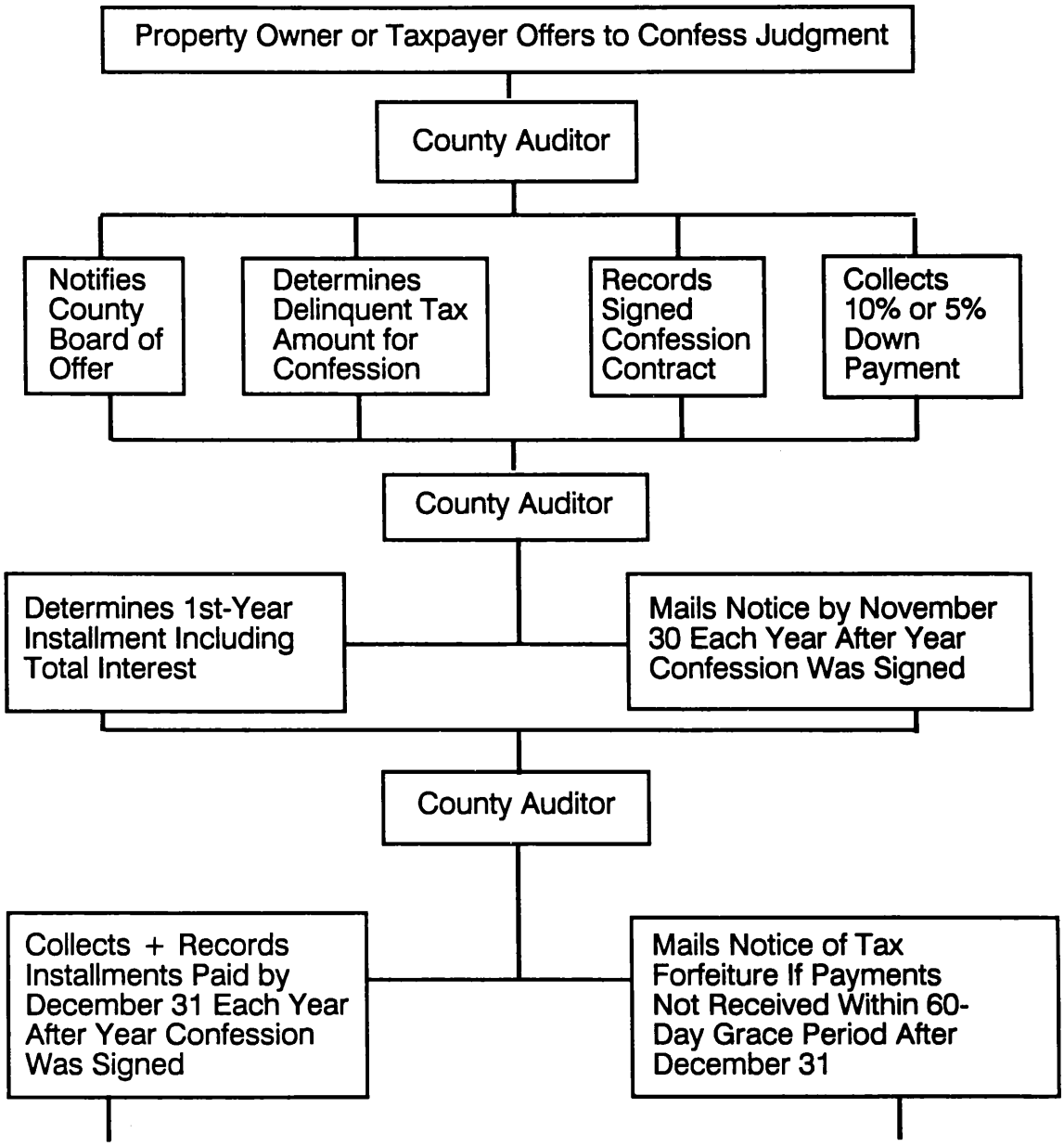
However, if the property owner, taxpayer of record, or any other party does not pay off the delinquent tax amount during the redemption period or if the property owner or taxpayer fails to meet the terms of a confession of judgment, the fifth stage of the delinquent tax proceedings is necessary.

The fifth stage of the delinquent tax proceedings involves the notice of the expiration of the period of redemption and the impending tax forfeiture. Stage five is covered in the 6600 Series.

FLOW CHART: 2ND HALF OF STAGE FOUR SECTION 6590

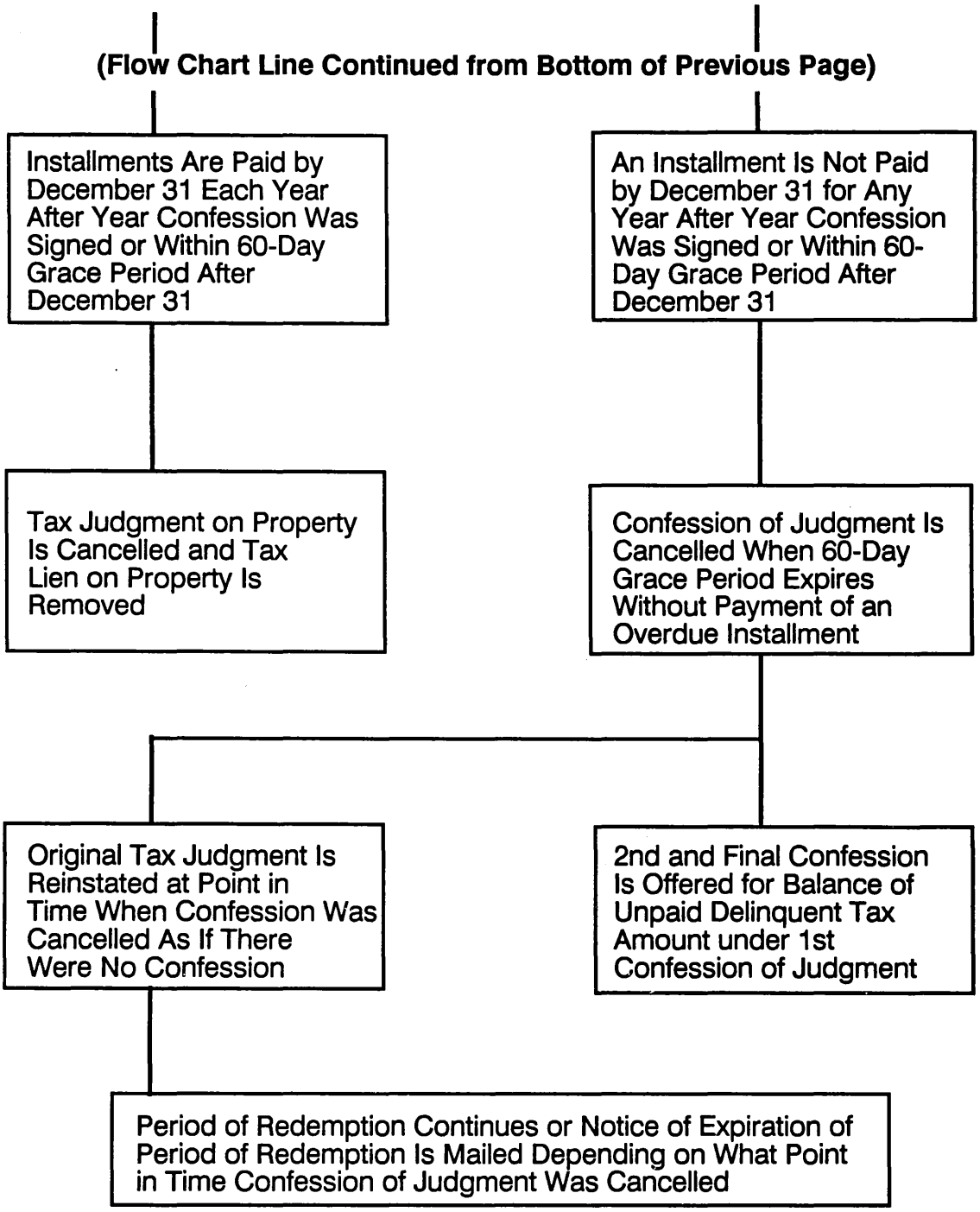
CONFESSION OF JUDGMENT

The major steps which must be taken to complete the second half of stage four of the delinquent real property tax proceedings are graphically illustrated in the following flow chart.



(Flow Chart Line Continues on Top of Next Page)

FLOW CHART: 2ND HALF OF STAGE FOUR **SECTION 6590**
(Continued) **(Page 2)**



SAMPLE CASE: 2ND HALF OF STAGE FOUR SECTION 6595

The following sample case is intended to dramatize the major steps which must be taken to complete stage four of the delinquent real property tax proceedings.

In order to provide a sense of continuity, the same sample case with the same ficitional delinquent tax situation and fictional names, places, dates, and tax amounts will be used in the last three Series of this manual. The only thing that will change is the stage of the property tax proceedings which is being dramatized.

The purpose of using the sample case is purely educational and is not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

SAMPLE CASE: CORELLI'S ITALIAN VILLAGE

Anthony V. Corelli lives at 313 Franklin Street in Applewood, Minnesota. Mr. Corelli owns and operates a small, take-out restaurant called The Italian Village. The restaurant is located at 816 Hawthorne Avenue in Applewood .

On January 2, 1985, the restaurant was classified in the Spruce County tax lists as commercial-industrial property with an estimated market value of $37,000. Audrey Trudeau, the Spruce County Treasurer, sent Mr. Corelli a property tax statement for the restaurant for payable 1986. The total tax was $942.67.

Business at The Italian Village was slack during most of 1985 and 1986. So Mr. Corelli did not pay the property taxes on the restaurant when they came due in 1986. As a result, on January 2, 1987, Nicholas Archer, the Spruce County Auditor, entered the sum of the unpaid tax ($942.67) and the penalties ($131.97) in the county's 1987 delinquent tax list. The total amount listed as delinquent was $1,074.64.

Nick Archer's office staff mailed a delinquent tax letter along with a copy of the delinquent tax notice to Mr. Corelli on Wednesday, March 4, 1987. Harold Hoffman, owner of the Greenbriar Weekly Journal, published the Spruce County 1987 Delinquent tax notice and list on March 12 and March 19, 1987. The published delinquent tax list contained an entry for The Italian Village.

Thornton J. Longstreet, Administrator of the District Court, entered a tax judgment against The Italian Village on Wednesday, April 22, 1987. The tax judgment was for a total dollar amount of $1,113.57. This was the sum of the unpaid tax ($942.67), the penalties ($131.97), the county costs ($10.00), and the interest accrued at an annual rate of 8% from January through April, 1987 ($28.93).

SAMPLE CASE: 2ND HALF OF STAGE FOUR SECTION 6595
(Continued) (Page 2)

On May 11, 1987, Nick Archer's office staff completed the paper work for the "tax judgment sale." Mr. Corelli's restaurant was "bid in for the state" for a total dollar amount of $1,120.80. This was the sum of the unpaid tax ($942.67), the penalties ($131.97), the county costs ($10.00), and the interest accrued at an annual rate of 8% from January through May, 1987 ($36.16).

Because the restaurant was classified as commercial-industrial property, Mr. Corelli had three years to redeem his restaurant, or until May 11, 1990, before it would be forfeited to the state. Although he did not know it then, Mr. Corelli also had the option to confess judgment under the 5-year plan anytime during that three-year period of redemption.

By the summer of 1987, business at The Italian Village began to improve somewhat. Mr. Corelli decided to pay the current 1987 taxes and the delinquent 1986 tax amount and try to keep the restaurant in operation. He called Nick Archer and found out that he could pay off the delinquent tax amount under a 5-year installment plan called a "confession of judgment."

On Tuesday, December 15, 1987, Mr. Corelli mailed a letter to Nick Archer officially offering to confess judgment under the 5-year plan. As soon as they received the letter, Nick Archer's office staff started to prepare the 5-year confession of judgment contract.

First, they entered Anthony V. Corelli's name and address as the property owner who was confessing judgment, the parcel identification number, the city of Applewood, and the legal description of the property.

Next, they entered the total delinquent tax amount of $1,171.41 owed under the 5-year confession of judgment. A breakout of the $1,171.41 was listed as follows: (1) tax, $942.67; (2) penalties, $131.97; (3) costs, $10.00; (4) interest, $86.77: and (5) confession fee, $1.00. The footnote was also completed to show that interest was figured at an annual rate of 8% from January, 1987, through December, 1987.

Finally, they entered $234.28 as the 20% down payment required under the terms of the 5-year contract. This meant that the new tax judgment would be for $937.13 (the total $1,171.41 owed under the confession minus the $234.28 down payment).

On Friday, December 18, 1987, Mr. Corelli came in to Nick Archer's office to complete the confession of judgment under the 5-year plan. After they went over the terms of the contract, Mr. Corelli signed the document and gave Nick Archer a certified check for the $234.28 down payment.

Before Mr. Corelli left the office, Nick Archer checked again to be sure that he understood the payment requirements under the contract. Nick reminded him that he had to pay $234.28 plus interest at an annual rate of 8% before December 31 of each year from 1988 through 1991. Nick also reminded him that he had to pay the current taxes on the restaurant each year before they became delinquent.

As a final reminder, Nick warned Mr. Corelli that, if any one of the anuual installments and/or the current year's taxes were not paid as required under the contract, the 5-year confession of judgment would be cancelled and the tax forfeiture proceedings would be reinstated under the original tax judgment. Mr. Corelli assured the auditor that he understood the terms of the contract and fully intended to comply with them.

The following week, Nick Archer's office staff completed the usual administrative tasks to record Mr. Corelli's confession of judgment. First, they prepared the short document for Nick Archer to certify the authenticity of Mr. Corelli's confession of judgment. It was signed by both Nick Archer and Cory Patchen, the Deputy Auditor, and dated and sealed on Tuesday, December 22, 1987.

Next, the auditor's office staff recorded the transaction in the computer data base. They credited the down payment as a partial release of the judgment. They delivered the down payment to the county treasurer's office. And they delivered a copy of the contract to Thornton Longstreet's office.

When Mr. Corelli's certified check arrived in the treasurer's office, Audrey Trudeau had her office staff record the down payment and make out a receipt for the $234.28. They also delivered a copy of the receipt to Thornton Longstreet's office.

After receiving the documents from the auditor's and treasurer's offices, Thornton Longstreet completed two tasks. One, he entered a new tax judgment for $937.13 against Mr. Corelli's restaurant (the total $1,171.41 owed under the confession minus the $234.28 down payment). Second, he had his office staff record the 20% down payment in their computer data base.

No further action needed to be taken on Mr. Corelli's 5-year confession of judgment until November of 1988. At that time, Nick Archer's office staff prepared the auditor's notices to remind property owners and taxpayers to pay their annual, confession of judgment installments before December 31, 1988.

On Monday, November 21, 1988, Nick Archer's office staff mailed out the auditor's notices. Mr. Corelli's notice reminded him that he was to pay $309.25 by December 31, 1988, as the first installment under his 5-year confession of judgment.

The $309.25 first installment was the sum of $234.28 (20% of the total delinquent tax amount combined under the confession of judgment) and $74.97 (interest accrued at an annual rate of 8% from January through December, 1988).

Unfortunately, the improvement in Mr. Corelli's restaurant business was short-lived. By the fall of 1988, The Italian Village was empty most of the time, and Mr. Corelli seriously began to think about closing the restaurant.

When he received the auditor's notice on Wednesday, November 23, 1988, Mr. Corelli did not have enough cash to pay the installment. As a result, he reluctantly decided to let the confession of judgment default. This was even more unfortunate because Mr. Corelli had diligently paid the first and second half of the 1988 taxes due on The Italian Village.

Not having received payment by December 31, 1988, Nick Archer sent a second notice to Mr. Corelli by certified mail on Tuesday, January 10, 1989. The notice warned Mr. Corelli that his restaurant would be subject to tax forfeiture again if the overdue payment of $309.25 was not received by March 1, 1989 (the end of the 60-day grace period following the December 31, 1988 deadline).

When there was still no payment by March 1, 1989, Nick Archer cancelled Mr. Corelli's 5-year confession of judgment and the new tax judgment. In their place, Nick reinstated the original tax judgment on the restaurant property for the amount of the unpaid balance owed under the 5-year confession of judgment-- $1,030.89. The cancellations and the reinstatement were effective on Monday, March 6, 1989

The $1,030.89 reinstated delinquent tax amount was determined by subtracting the 20% down payment ($234.28) from the total amount combined under the confession of judgment ($1,171.41) and adding the interest accrued on the unpaid balance ($937.13) from January, 1988 through March, 1989 at an annual rate of 8%)

On Monday, March 6, 1989, when the cancellations and the reinstatement were effective, the original tax judgment on Mr. Corelli's restaurant would have been at the end of the second year of the 3-year period of redemption. Therefore, the period of redemption continued from that point as if the 5-year confession of judgment had never been signed.

If he were able to get The Italian Village back on its feet financially, Mr. Corelli would have until May 11, 1990, to pay the delinquent tax amount of $1,030.89 before his restaurant would be forfeited to the state.

TABLE OF CONTENTS

SECTION HEADING	SECTION NUMBER
Introduction: Stage Five - Expiration of Redemption	6610
Notice of Expiration: General Information	6620
Notice of Expiration: Posting	6630
Notice of Expiration: Publishing	6640
Notice of Expiration: Mailing	6645
Notice of Expiration: Service	6650
Notice of Expiration: 60-Day Grace Period	6655
Notice of Expiration: County Costs	6660
Certificate of Forfeiture: General	6665
Certificate of Forfeiture: Suggested Format	6670
Application for Cancellation of Forfeiture	6675
Certificate of Cancellation: General	6676
Certificate of Cancellation: Suggested Format	6677
Tax Action Following Cancellation	6678
Summary: Stage Five - Expiration of Redemption	6680
Flow Chart: Stage Five - Expiration of Redemption	6685
Sample Case: Stage Five - Expiration of Redemption	6690

INTRODUCTION: STAGE FIVE – EXPIRATION SECTION 6610

When the period of redemption under the original tax judgment is about to expire, the fifth stage of the delinquent tax proceedings begins. The fifth stage involves two major parts: (1) a notification of the expiration of the period of redemption, and (2) the actual forfeiture of the property to the state. (M.S. 281.23, Subd. 1-9)

AUDITOR'S NOTICE OF EXPIRATION OF REDEMPTION

Before the period of redemption expires, the county auditor is required to give one last warning about the impending tax forfeiture to the property owner (fee owner), the taxpayer of record, and any interested party under M.S. 276.041. The county auditor's "notice of expiration of redemption" is to follow a general format, contain certain information, be posted, be published, be mailed, and be delivered by the county sheriff. (M.S. 281.23, Subd. 1-8)

After receiving this final warning, the property owner, the taxpayer of record, and any interested party under M.S. 276.041 may redeem the parcel of property up to the day before the period of redemption expires and forfeiture takes place. The property owner or taxpayer of record may also confess Judgment up to this same time.

AUDITOR'S CERTIFICATE OF FORFEITURE

If the property owner (fee owner), the taxpayer, or any interested party under M.S. 276.041 fails to pay the delinquent tax amount before the period of redemption expires, the property automatically forfeits to the state in trust for the local taxing districts. As soon as possible after the expiration of the period of redemption, the county auditor is to execute a "certificate of forfeiture." (M.S. 281.23, Subd. 9; 281.25)

After it is filed in the county recorder's office, the county auditor's certificate of forfeiture serves as prima facie evidence of the facts stated in the document. This means that the recorded document is written proof that the county auditor has correctly completed the statutory actions required before the property can be forfeited to the state in trust for the local taxing districts. In order to prove otherwise, the facts must be successfully contested in court.

Note: **See Section 6170 for information about "interested parties" as defined under M.S. 276.041.**

EXACT DATE OF FORFEITURE

A parcel of real property forfeits to the state on the later of the date when the three-year or five-year period of redemption expires (the second Monday in May) or 60 days after the service of the notice of expiration of redemption by the county sheriff or other assigned adult person.

The date when the certificate of forfeiture is recorded is not the date when the forfeiture takes place. The executing and recording of the certificate of forfeiture take place after the property has actually forfeited to the state as explained in the above paragraph. The recording of the certificate of forfeiture "perfects" the forfeiture by making it public record to all the world.

* * * * * * * * * * * * *

The details about the county auditor's notice of expiration of redemption, certificate of forfeiture, and the tax forfeiture itself are presented in Sections 6620 through 6679.

A summary of the major tasks and conditions required to complete stage five of the delinquent real property tax proceedings along with a transition to stage six can be found in Section 6680.

A flow chart that graphically illustrates the actions that must be taken to complete stage five is contained in Section 6685.

A sample case that dramatizes the actions in stage five is presented in Section 6690.

INTRODUCTION: STAGE FIVE - EXPIRATION SECTION 6610
(Continued) **(Page 3)**

In order to provide a sense of continuity, the same sample case with the same fictional delinquent tax situation and fictional names, places, dates, and tax amounts will be used in the last three Series in this manual. The only thing that will change is the stage of the property tax proceedings which is being dramatized.

The purpose of using the sample case is purely educational and not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

Note: For purposes of clarity and convenience, the phrase, "delinquent tax amount," will be used in Series 6600 to mean the sum of the amounts listed below.

1. Delinquent taxes
2. Special assessments (if any)
3. Penalties
4. Costs
5. Interest

The terms, "tax" or "taxes," will be used to include the delinquent real property tax and any special assessments.

NOTICE OF EXPIRATION: GENERAL INFORMATION SECTION 6620

The Minnesota Legislature has provided four methods of notifying the holders of an interest in a parcel of real property with delinquent taxes that their redemption rights are about to expire. (M.S. 281.23, Subd. 2-6)

FOUR METHODS OF NOTIFICATION: COMPREHENSIVE PLAN

The four methods of notification provide a comprehensive plan for reaching all of the parties with an interest in a property about to forfeit. The posting and publication are intended primarily for mortgagees and other lienholders. The mailing is targeted mainly for fee owners and taxpayers. And the personal service of the notice is specifically for occupants. No one method is intended to notify all of the parties. Together, the four methods are designed to reach them all. (Hamborg vs. Hennepin County, No. C4-92-2338, April 13, 1993)

As far as the notice of expiration is concerned, any forfeiture to the state in trust for the local taxing districts for failure to pay delinquent taxes is valid as long as the county has substantially complied with the four methods of notification required under M.S. 281.23, Subd. 2-6.

DEADLINE FOR NOTICE: 120 DAYS BEFORE EXPIRATION

The county auditor is to begin to process the notice of expiration of redemption anytime within 120 calendar days before the 3-year or 5-year periods of redemption expire. This means that the notice process cannot be started before that time. (M.S. 281.23, Subd. 1; M.S. 281.14)

For example, let's assume that the payable 1994 taxes on a farm homestead became delinquent on the 1st business day in January of 1995. The property was "bid in for the state" on the 2nd Monday in May of 1995 (May 8). The 3-year period of redemption began on that same date and will expire on May 11, 1998.

If the delinquent tax amount remains unpaid, the county auditor must begin to process the notice of expiration of redemption anytime within 120 calendar days before May 11, 1998. 120 calendar days before May 11, 1998 takes us back to January 10, 1998. This is the earliest day that the county auditor can begin to process the notice of expiration of redemption.

Note: A delay in giving notice by the county auditor does not affect the legal validity of the notice.

See Section 6630 and Section 6635 for information about the form and content of the notice of expiration for posting and publishing. See Section 6640 and Section 6650 for information about the form and content of the notices for mailing and personal service by the county sheriff or other assigned adult person.

PARCELS THAT MAY BE LISTED ON THE NOTICE

Effective beginning September 1, 1999, the posted and published notice of expiration of redemption may include parcels of real property bid in at different tax judgment sales, but the included parcels must have a common year for expiration of redemption. A separate notice of expiration of redemption may be made for any parcel of real property found to be omitted from the main notice. Previously, only parcels of real property bid in for the state at the same tax judgment sale (and having the same period of redemption) could be on the notice. (M.S. 281.23, Subd. 2)

The county auditor is to use a single, generic notice of expiration of redemption for both posting and publishing. Specific notices for each parcel may be prepared for mailing and personal service by the county sheriff or other assigned adult person. (M.S. 281.23, Subd. 2-6)

See Section 6630 and Section 6635 for information about the form and content of the single, generic notice of expiration for posting and publishing. See Section 6640 and Section 6650 for information about the form and content of the specific notices for mailing and personal service by the county sheriff or other assigned adult person.

NOTICE OF EXPIRATION: POSTING SECTION 6630

The county auditor's first task is to prepare and post the notice of expiration of redemption. (M.S. 281.23, Subd. 2 and 4)

Posting the notice is one of the four methods of announcing the impending expiration of redemption and forfeiture. The other three are the publishing, mailing, and personal service of the notice. All four methods provide a comprehensive plan for reaching all of the holders of an interest in the property with delinquent taxes.

POSTED NOTICE: LOCATION

The county auditor is to post the generic notice of expiration of redemption in the auditor's office for public inspection. The generic notice should be posted on the official bulletin board where other tax notices are routinely posted. (M.S. 281.23, Subd. 2)

POSTED NOTICE: TIME PERIOD

The county auditor is to assure that the generic notice of expiration of redemption is posted before the date of the first publication and remains posted until at least one week after the date of the last publication of the notice. (M.S. 281.23, Subd. 2 and 4)

POSTED NOTICE: CONTENT

Effective beginning September 1, 1999, the following basic information is to be included in the county auditor's generic notice of expiration of redemption. (M.S. 281.23, Subd. 2)

1. **The tax parcel identification numbers (PID's)**
2. **The legal descriptions of the parcels**
3. **The names + current filed addresses of the property owners (fee owners)***
4. **The names + current filed addresses of the taxpayers of record if they are not the fee owners***

NOTICE OF EXPIRATION: POSTING SECTION 6630
(Continued) (Page 2)

5. **The names + current filed addresses of the interested parties who have filed under M.S. 276.041***

6. **The total delinquent tax amount required to redeem the parcels as of the date of the notice**

7. **A statement that the listed parcels are subject to forfeiture because of the nonpayment of delinquent property taxes, special assessments, penalties, interest, and costs levied on the parcels; and that the period of redemption will expire the later of (1) 60 days after service of the notice of expiration of redemption on all persons who have an interest in the parcels or (2) the second Monday in May**

8. **The statement: "FAILURE TO REDEEM THE LANDS PRIOR TO THE EXPIRATION OF REDEMPTION WILL RESULT IN THE LOSS OF THE LAND AND FORFEITURE TO THE STATE OF MINNESOTA."**

***Note: M.S. 281.23, Subd. 2 indicates that the county auditor has the option of including or not including the current filed addresses along with the names. This is consistent with the same option granted for including addresses on the delinquent tax list.**

POSTED NOTICE: SUGGESTED FORMAT

The suggested format for the auditor's posted notice of expiration of redemption, which is presented on the following pages, is an adaptation of the generic notice contained in M.S. 281.23, Subd. 2. The statutory format is to be followed in substance, not in strict detail. This revised notice is effective beginning September 1, 1999.

The counties should use the suggested format to develop their own generic notice of expiration of redemption for posting. Of course, the counties own posted generic notice must contain the basic information required in the statute and listed above.

NOTICE OF EXPIRATION: POSTING **SECTION 6630**
(Continued) (Page 3)

NOTICE OF EXPIRATION OF REDEMPTION

State of Minnesota Nicholas B. Archer

County of Spruce County Auditor

TO: ALL PERSONS WITH A LEGAL INTEREST IN THE PARCELS OF REAL PROPERTY DESCRIBED IN THE FOLLOWING NOTICE

You are hereby notified that the parcels of real property described below and located in Spruce County, Minnesota, are subject to forfeiture to the state of Minnesota because of the nonpayment of delinquent property taxes, special assessments, penalties, interest, and costs levied on those parcels. The time for redemption from forfeiture expires if a redemption is not made by the later of (1) 60 days after service of this notice on all persons having an interest in the parcels or (2) May 8, 2000.

The following information is listed below: the names of the property owners, taxpayers, and interested parties who have filed their addresses under M.S. 276.041; the addresses of the parties at the election of the county auditor; the legal description and parcel identification number of each parcel; and the amount necessary to redeem a parcel as of the date listed below.

Names/Addresses	PID and Description	Amount Due
Frederick Zale R.R. #2, Box #17 Applewood, MN 57252 Farmer's State Bank 764 Main Street Applewood, MN 57252	02-0458-0009 Twp 119, Range 39 Section 18, NW 1/4 & N 1/2 of SW 1/4, 240 Acres	$872.64
Bernice Lowry 237 Cherry Lane Greenbriar, MN 56323	08-0416-0023 McMillan Subdivision Lot 1, Block 7	$634.12

NOTICE OF EXPIRATION: POSTING SECTION 6630
(Continued) **(Page 4)**

(CONTINUATION OF SUGGESTED FORMAT FOR NOTICE OF EXPIRATION)

FAILURE TO REDEEM THE LANDS PRIOR TO THE EXPIRATION OF REDEMPTION WILL RESULT IN THE LOSS OF THE LAND AND FORFEITURE TO THE STATE OF MINNESOTA.

The amounts listed above must be paid to redeem if paid on or before February 29, 2000. Please contact the Spruce County Auditor's Office to verify the amount due if paid after February 29, 2000.

Inquiries about the delinquent tax proceedings described above can be made to the Spruce County Auditor at the address listed below.

Witness my hand and official seal this 2nd day of February, 2000.

(COUNTY SEAL)

_____

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, Minnesota 56323
Telephone: (234) 567-8910

POSTED NOTICE: AFFIDAVIT OF POSTING

After the generic notice of expiration of redemption has been posted, the county auditor is to prepare and sign an affidavit of posting and file it in the auditor's office. A copy of the posted notice should be attached to the affidavit. (M.S. 281.23, Subd. 2)

The affidavit will serve as prima facie evidence of the posting of the generic notice. This means that the affidavit is written proof that the county auditor has correctly completed the posting of the generic notice of expiration of redemption as required under M.S. 281.23, Subd. 2. In order to prove otherwise, the facts must be successfully contested in court.

NOTICE OF EXPIRATION: POSTING **SECTION 6630**
(Continued) (Page 5)

M.S. 281.23, Subd. 2 is silent about the form and content of the auditor's affidavit of posting. A suggested form is presented below. Use the suggested form to develop your own county affidavit of posting.

AUDITOR'S AFFIDAVIT OF POSTING

State of Minnesota **County of Spruce**

Nicholas B. Archer, being duly sworn, on oath says; that he is the Auditor of Spruce County, Minnesota; that on the 2nd day of February, 2000, he posted the Notice of Expiration of Redemption hereto attached in the Auditor's office for Spruce County, Minnesota, subject to public inspection, and that said Notice remained so posted until at least one week after the date of the last publication of the notice required by law to be published.

This affidavit pertains to the list of real property in the county of Spruce for which a Notice of Expiration of Redemption will be published in the Greenbriar Weekly Journal on February 8 and February 15, 2000.

_____ **(COUNTY SEAL)**
Nicholas B. Archer, Auditor

Subscribed and sworn to before me
this 22nd day of February, 2000.

_____ **(NOTARY SEAL)**
Notary Public, Spruce County, Minnesota

Note: A copy of the notice of expiration of redemption that was posted must be attached to the auditor's affidavit of posting and filed in the county auditor's office.

NOTICE OF EXPIRATION: PUBLISHING SECTION 6640

As soon as possible after the posting, the county auditor is to complete the tasks outlined below as part of the requirement to publish the notice of expiration of redemption. The generic notice of expiration of redemption which is used for the posting must also be used for the publishing. See Section 6630 for information about the generic posted notice. (M.S. 281.23, Subd. 3-4)

Publishing the notice is one of the four methods of announcing the impending expiration of redemption and forfeiture. The other three are the posting, mailing, and personal service of the notice. Together, they provide a comprehensive plan for warning all of the parties that they run the risk of losing their interests in the property if the delinquent taxes are not paid within the deadline.

PUBLISHED NOTICE: COUNTY NEWSPAPER

The county auditor is to have the generic notice of expiration of redemption published in the official county newspaper. An official newspaper is one which is qualified as a legal newspaper under M.S. 331A.02, 331A.07, and other applicable laws. (M.S. 281.23, Subd. 3)

This should be the same newspaper which the county board has designated as the official newspaper for publishing other tax notices, including the delinquent tax notice and list under M.S. 279.09.

PUBLISHED NOTICE: TIME PERIOD

The statute requires the county auditor is to have the generic notice of expiration of redemption published for two successive weeks. The statute is silent about how many times per week the notice must be published. (M.S. 281.23, Subd. 3)

In the absence of any statutory requirement or other legal guideline, the Department of Revenue recommends that the county auditor publish the generic notice of expiration of redemption once in each of two consecutive weeks as is required for publishing the delinquent tax notice and list under M.S. 279.09. It appears that this is what the county auditors have historically been doing.

PUBLISHED NOTICE: FORM AND CONTENT

The county auditor is to publish the same notice of expiration of redemption which is prescribed in M.S. 281.23, Subd. 2. This is the generic notice which is to be posted in the county auditor's office. See Section 6630 for information about the posted notice and the suggested format. (M.S. 281.23, Subd. 3)

PUBLISHED NOTICE: AFFIDAVIT OF PUBLICATION

After the generic notice of expiration of redemption has been published, the county auditor is to obtain a signed affidavit of publication from the publisher of the newspaper and file it in the county auditor's office. A copy of the published notice should be cut from the newspaper in which it was published and attached to the affidavit. (M.S. 281.23, Subd. 4)

The affidavit of publication will serve as prima facie evidence of the publication of the notice. This means that the affidavit is written proof that the county auditor has correctly completed the publication of the generic notice of expiration of redemption as required under M.S. 281.23, Subd. 3-4. In order to prove otherwise, the facts must be successfully contested in court.

M.S. 281.23, Subd. 4 is silent about the form and content of the affidavit of publication. A suggested form is presented on the following page. Use the suggested form to develop your own county affidavit of publication.

NOTICE OF EXPIRATION: PUBLISHING **SECTION 6640**
(Continued) **(Page 3)**

AFFIDAVIT OF PUBLISHING

State of Minnesota County of Spruce

Harold W. Hoffman, being duly sworn on oath says (s)he is and during all times herein stated has been the publisher or printer in charge of the newspaper known as the
Greenbriar Weekly Journal
and has full knowledge of the facts herein stated as follows:

(A) The newspaper has complied with all the requirements constituting qualifications as a legal newspaper, as provided by Minnesota Statutes 331A.02, 331A.07, and other applicable laws, as amended.

(B) He further states on oath that the printed
Notice of Expiration of Redemption
hereto attached as a part hereof was cut from the columns of said newspaper, and was printed and published therein in the English language; that it was first so published on February 8, 1990 for one time(s). The subsequent date(s) of publication being as follows:
February 15, 1990.

and that the following is a printed copy of the lower case alphabet from A to Z, both inclusive, and is hereby acknowledged as being the size and kind of type used in the
composition and publication of said notice, to wit:
abcdefghijklmnopqrstuvwxyz

Harold W. Hoffman
Publisher's or Printer's Signature

Subscribed and sworn to before me
this 22 day of February, 1990.

Anthony L. Butler
Notary Public, Spruce County, Minnesota

NOTICE OF EXPIRATION: MAILING SECTION 6645

After the first publication, the county auditor is to mail the notice of expiration of redemption. The major requirements and forms for completing the mailing are outlined below. (M.S. 281.23, Subd. 5)

Mailing the notice is one of the four methods of announcing the impending expiration of redemption and forfeiture. The other three are the posting, publishing, and personal service of the notice. All four methods constitute a comprehensive plan for giving the parties one last chance to protect their interests before the property forfeits to the state.

MAILED NOTICE: RECEIVERS REQUIRED BY STATUTE

The county auditor is required by statute to mail a copy of the notice of expiration of redemption to all property owners (fee owners), taxpayers who are not fee owners, and any interested parties who have filed under M.S. 276.041. These are the parties whose names must be listed on the notice of expiration of redemption. (M.S. 281.23, Subd. 5)

In practice, this means that a separate notice must be mailed to each party who is listed on the notice as having an interest in a parcel of property. If the fee owner is on the notice, a separate notice must be mailed to the fee owner. If the taxpayer who is not the fee owner is on the notice, a separate notice must be mailed to the taxpayer. And if any interested parties who filed under M.S. 276.041 are on the notice, a separate notice must be mailed to each of them.

MAILED NOTICE: EXTRA RECEIVERS

Although not required by statute, some county auditors mail a copy of the notice of expiration of redemption to other lienholders who have not filed under M.S. 276.041, but have recorded their liens in the county recorder's office. Examples are non-tax liens (mortgages and mechanic's liens), state tax liens, and federal tax liens.

Information about these extra lienholders can be found in the county recorder's office in the tract index for non-tax lienholders, the state tax lien book, and the federal tax lien book. The mailing addresses may have to come from the county's copy of the lien document itself, other county records, or local telephone directories.

By mailing a notice to these extra lienholders, the county auditor can improve the chances that all parties with a lien interest in a parcel will find out about the impending forfeiture and may be more likely to come forward and redeem their interests in the parcel before the forfeiture. This could help reduce lien problems when the parcel is sold or conveyed.

MAILED NOTICES: TYPE OF MAILING

The county auditor is to send the notices by certified mail with return receipts requested. The return receipts must be filed in the county auditor's office. (M.S. 281.23, Subd. 5)

MAILED NOTICE: RECEIPT NOT REQUIRED

Failure to receive the notice of expiration of redemption by certified mail does not serve to void the forfeiture of the property to the state. If the county auditor mails the notice by certified mail to each of the parties and files the return receipt in the county auditor's office, the mailing requirements under M.S. 281.23, Subd. 5 have been satisfied regardless of whether or not each party actually receives the notice.

This provision of M.S. 281.23, Subd. 5 was confirmed by the Minnesota Court of Appeals, Franklin vs. Hennepin County, No. C2-91-2182, June 9, 1992. In the words of the court:

> *As to certified mail, the county mailed the notice to appellant at the business address he had provided for mailing of tax statements. The evidence indicated that although the mailman tried three times to deliver the letter, it was returned as unclaimed and was placed in the. auditor's file on the property. Minn Stat. 281.23, subd. 5, specifically provides that 'failure to receive the notice shall not operate to postpone or excuse any default.' Thus, the requirement of mailed notice was satisfied.*

The basic premise behind this statutory provision which was confirmed by the court ruling is that the property owner (fee owner), the taxpayer, and the interested parties who have filed under M.S. 276.041 are responsible for providing the county auditor with a current mailing address for property tax purposes. If one of these parties does not receive the mailed notice because the address used was not current, the responsibility lies with the party not the county auditor.

This premise can also be defended because the Minnesota Legislature has provided four methods of announcing the expiration of the period of redemption. If one of the parties does not receive the notice by mail, the party may still be forewarned by the posted, published, or personally served notice.

MAILED NOTICE: FORM AND CONTENT

M.S. 281.23, Subd. 5 is silent on the subject of the form and content of the mailed notice of expiration of redemption. In the absence of any statutory guidelines, the Department of Revenue recommends that the county auditor prepare a separate notice for each of the parcels of property which are listed on the generic notice which was posted and published. This separate notice for each parcel may be called a "parcel-specific notice." (M.S. 281.23, Subd. 5)

A parcel-specific notice should contain the same basic information as the generic notice which was posted and published with two major exceptions.

1. A parcel-specific notice should contain the names, property identification number (PID), and legal description of only one of the parcels listed on the generic notice.

2. All references to the parcel on a parcel-specific notice should be singular not plural as they are on the generic notice.

A parcel-specific notice should be mailed to each of the parties listed as having an interest in the parcel of property described on the parcel-specific notice.

Let's use the sample generic notice of expiration of redemption which is presented in Section 6630 to describe how to prepare the parcel-specific notices for mailing. The sample generic notice lists the names and addresses, the property identification number (PID) and legal description, and the delinquent tax amount for two parcels of property.

The first parcel is a 240-acre farm outside of Applewood, Minnesota. Frederick Zale and the Farmer's State Bank of Applewood are listed as having an interest in this parcel of property. The second parcel is a home in Greenbriar, Minnesota. Bernice Lowry is listed as the only party with an interest in this parcel of property.

Working with this example, the county auditor would prepare a parcel-specific notice of expiration of redemption for the first parcel. One copy of this notice would be mailed to Frederick Zale. Another copy would be mailed to the Farmer's State Bank. If the county auditor finds any other lienholders who are listed in the county recorder's office for this first parcel, a copy of the parcel-specific notice may also be mailed to them.

The county auditor should follow the same procedure for each parcel of property that is listed on the generic notice of expiration of redemption that was posted and published.

Suggested forms for the parcel-specific notices of expiration of redemption are presented on the following pages. The suggested forms are based on the above example.

The counties should use the suggested forms to develop their own parcel-specific notices of expiration of redemption for mailing. Of course, the counties own mailed notices must contain the basic information required in the statute and listed in Section 6630.

MAILED NOTICE: ADDRESSES FOR STATE/FEDERAL TAX LIENS

If the county auditor chooses to mail a parcel-specific notice of expiration of redemption to the state government or the federal government when a state or federal tax lien is discovered on the property, the notice should be mailed to the addresses listed below. The county auditor should contact the state or federal government to discuss their specific requirements and procedures before starting to mail notices to them.

1. **STATE TAX LIENS**

   Minnesota Department of Revenue
   Collection Division
   Collection Enforcement Section
   P.O. Box 64447
   St. Paul, MN 55164-0447
   (651) 296-1940

2. **FEDERAL TAX LIENS**

   Internal Revenue Service
   Special Procedures Branch
   316 North Robert Street
   STOP 5700
   St. Paul, MN 55101
   (651) 312-7973 (Jim Eliason)

NOTICE OF EXPIRATION: MAILING **SECTION 6645**
(Continued) **(Page 6)**

NOTICE OF EXPIRATION OF REDEMPTION

State of Minnesota **Nicholas B. Archer**

County of Spruce **County Auditor**

TO: ALL PERSONS WITH A LEGAL INTEREST IN THE PARCEL OF REAL PROPERTY DESCRIBED IN THE FOLLOWING NOTICE

You are hereby notified that the parcel of real property described below and located in Spruce County, Minnesota, was bid in for the state on May 13, 1985, at the tax judgment sale of land for delinquent taxes for the year 1984.

The following information is listed below: the names of the property owners, taxpayers, and interested parties who have filed their addresses under M.S. 276.041; the addresses of the parties at the election of the county auditor; the legal description and parcel identification number of the parcel; and the amount necessary to redeem the parcel as of the date listed below.

Names/Addresses	PID and Description	Amount Due
Frederick Zale R.R. #2, Box #17 Applewood, MN 557252 Farmer's State Bank 764 Main Street Applewood, MN 57252	02-0458-0009 Twp 119, Range 39 Section 18, NW 1/4 N 1/2 of SW 1/4, 240 Acres	$872.64

NOTICE OF EXPIRATION: MAILING SECTION 6645
Continued) (Page 7)

The time for redemption of the parcel of real property listed above from the tax judgment sale will expire 60 days after service of this notice and the filing of proof thereof| in the county auditor's office, or May 14, 1990 whichever is later. The redemption must be made in the county auditor's office.

FAILURE TO REDEEM SUCH LANDS PRIOR TO THE EXPIRATION OF REDEMPTION WILL RESULT IN THE LOSS OF THE LAND AND FORFEITURE OF SAID LAND TO THE STATE OF MINNESOTA.

The amounts listed above must be paid to redeem if paid on or before February 28, 1990. Please contact the Spruce County Auditor's Office to verify the amount due if paid after February 28, 1990.

Inquiries about the delinquent tax proceedings described above can be made to the Spruce County Auditor at the address listed below.

Witness my hand and official seal this 12th day of February, 1990

Nicholas B. Archer

OFFICIAL SEAL

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, Minnesota 56323
Telephone: (234) 567-8910

NOTICE OF EXPIRATION OF REDEMPTION

State of Minnesota Nicholas B. Archer

County of Spruce County Auditor

TO: ALL PERSONS WITH A LEGAL INTEREST IN THE PARCEL OF REAL PROPERTY DESCRIBED IN THE FOLLOWING NOTICE

You are hereby notified that the parcel of real property described below and located in Spruce County, Minnesota, was bid in for the state on May 13, 1985, , at the tax judgment sale of land for delinquent taxes for the year 1984 .

The following information is listed below: the names of the property owners, taxpayers, and interested parties who have filed their addresses under M.S. 276.041; the addresses of the parties at the election of the county auditor; the legal description and parcel identification number of the parcel; and the amount necessary to redeem the parcel as of the date listed below.

Name/Addresses	PID and Description	Amount Due
Bernice Lowry 237 Cherry Lane Greenbriar, MN 56323	08-0416-0023 McMillan Subdivision Lot 1, Block 7	$ 634.12

NOTICE OF EXPIRATION: MAILING **SECTION 6645**
Continued) **(Page 9)**

The time for redemption of the parcel of real propertylisted above from the tax judgment sale will expire 60 daysafter service of this notice and the filing of proof thereof in the county auditor's office, or May 14, 1990 whichever is later. The redemption must be made in the county auditor's office.

FAILURE TO REDEEM SUCH LANDS PRIOR TO THE EXPIRATION OF REDEMPTION WILL RESULT IN THE LOSS OF THE LAND ANDFORFEITURE OF SAID LAND TO THE STATE OF MINNESOTA.

The amounts listed above must be paid to redeem if paid on or before February 28, 1990. Please contact the Spruce County Auditor's Office to verify the amount due if paid after February 28, 1990.

Inquiries about the delinquent tax proceedings described above can be made to the Spruce County Auditor at the address listed below.

Witness my hand and official seal this 12th day of February, 1990.

Nicholas B. Archer

OFFICIAL SEAL

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, Minnesota 56323
Telephone: (234) 567-8910

MAILED NOTICE: AFFIDAVIT OF MAILING

After the parcel-specific notices have been mailed, the county auditor is to prepare and sign an affidavit of mailing. The affidavit of mailing must be filed in the county auditor's office. (M.S. 281.23, Subd. 5)

The affidavit will serve as prima facie evidence of the mailing of the notice. This means that the affidavit is written proof that the county auditor has correctly completed the mailing of the notices of expiration of redemption as required under M.S. 281.23, Subd. 5. In order to prove otherwise, the facts must be successfully contested in court. (M.S. 281.23, Subd. 5)

M.S. 281.23, Subd. 5 is silent about the form and content of the auditor's affidavit of mailing. A suggested form is presented on the following page. Use the suggested form to develop your own county affidavit of mailing.

NOTICE OF EXPIRATION: MAILING **SECTION 6645**
Continued) **(Page 11)**

AUDITOR'S AFFIDAVIT OF MAILING

State of Minnesota County of Spruce

Nicholas B. Archer, being duly sworn, on oath says that as the Auditor of Spruce County, Minnesota, he caused copies of the Notice of Expiration of Redemption, as published in the Greenbriar Weekly Journal on February 8 and 15, 1990 , to be mailed to all real property fee owners, taxpayers of record who are not fee owners, parties having an interest of record in the office of the Spruce County Recorder, and those parties who have filed their names and addresses with the Auditor of Spruce County, Minnesota, pursuant to Minnesota Statutes, Section 276.041.

These Notices of Expiration of Redemption were sent pursuant to Minnesota Statutes, Section 281.23, Subd. 5, and were sent by certified mail, return receipt requested, on February 12, 1990.

Nicholas B. Archer

Nicholas B. Archer, Auditor (Official Seal)

Subscribed and sworn to before me
this 22 day of February , 1990.

Sharon Roberts

Notary Public, Spruce County, Minnesota

NOTICE OF EXPIRATION: SERVICE SECTION 6650

In addition to the posting, publishing, and mailing by the county auditor, the notice of expiration of redemption is to be personally served before the comprehensive announcement of the impending forfeiture is completed. This service is to be made by either the county sheriff's office or by any other person not less than 18 years of age who has been assigned to do the job. (M.S. 281.23, Subd. 6)

TASK #1: AUDITOR DELIVERS COPIES OF NOTICE TO SHERIFF OR OTHER PERSON ASSIGNED TO DO THE SERVICE

The Department of Revenue recommends that the county auditor deliver to the county sheriff or other adult person assigned to do the service a copy of each parcel-specific notice that was prepared for mailing instead of copies of the generic published notice as required under M.S. 281.23, Subd. 6. In this way, the county sheriff or other assigned person will have a separate document to serve for each parcel and will be able to keep clearer records of whether a parcel was occupied and served or was vacant and not served.

TASK #2: SERVICE OF NOTICES TO OCCUPANTS

Within 30 days after receiving the parcel-specific notices from the county auditor, the county sheriff or other assigned person is to determine whether or not the parcels of real property listed on each notice are actually occupied and serve a copy of the notice to "the person in possession of each parcel found to be an occupied parcel." The parcel-specific notices are to be served in the same manner prescribed for serving a summons in a civil action. (M.S. 281.23, Subd. 6)

Effective beginning September 1, 1999, if the county sheriff or other assigned person serving the notice has made at least two attempts to serve the notice of expiration of redemption, one between the weekday hours of 8:00 a.m. and 5:00 p.m. and the other on a different day and different time period, the sheriff or other assigned person may accomplish the service by posting a copy of the notice on a conspicuous location on the parcel.

The statutory requirement that the county sheriff or other assigned person serve the parcel-specific notices within 30 days after receiving them is directory and not mandatory. This means that the county sheriff or other assigned person should make every effort to serve the notices within 30 days. However, if the notices are not served within 30 days because of inadvertence, neglect, or excusable delay, the forfeiture proceedings will not be delayed or declared void. (Op.Atty.Gen., 1936, No. 379, p. 440)

NOTICE OF EXPIRATION: SERVICE **SECTION 6650**
(Continued) (Page 2)

The statutory phrase, "the person in possession of each parcel found to be so occupied," does not mean that all parties who live on or occupy the premises must receive personal notice. In fact, the service of a notice to occupants does not need to include the owner when the owner is one of the occupants. Two recent court cases have ruled on this issue.

1. **CASE #1: FRANKLIN VS. HENNEPIN COUNTY - TWO DUPLEXES**

   Two duplexes in Minneapolis were about to forfeit to the state for failure to pay the property taxes. The Hennepin County Sheriff served a notice of expiration on one occupant of each duplex. The other occupants were not served notice. One of the owner's reasons for challenging the forfeiture was that at least one person in each unit of each duplex should have been served under M.S. 281.23, Subd. 6. The Minnesota Court of Appeals ruled in favor of the county. (Franklin vs. Hennepin County, No. C2-91-2182, June 9, 1992)

2. **CASE #2: HAMBORG VS. HENNEPIN COUNTY - MULTIPLE OCCUPANTS**

   Taxes on an office building in Minneapolis had not been paid for several years. Before the property forfeited, the Hennepin County Sheriff served a notice of expiration on two occupants who leased office space in the building. The other occupants who leased offices and the owner who occupied an office in the building did not receive personal notice from the Sheriff. The owner contended that the county's failure to serve notice on all occupants, especially the owner, invalidated the forfeiture. The Minnesota Court of Appeals ruled in favor of the county. (Hamborg vs. Hennepin County, No. C4-92-2338, April 13, 1993)

The rulings in the two court cases are based on the premise that the Minnesota Legislature has provided four methods of notifying the holders of an interest in a parcel of property about to forfeit. The mailing is targeted mainly for fee owners and taxpayers. The personal service of the notice is specifically for occupants. The posting and publication methods reach all interested parties. No one method is intended to notify all parties with an interest in the property. Together, the four methods provide a comprehensive plan for reaching them all.

In summary, any forfeiture of a parcel of property to the state in trust for the local taxing districts for failure to pay delinquent real property taxes is valid as long as the county has substantially complied with the notification requirements of M.S. 281.23.

TASK #3: AFFIDAVIT OF SERVICE ON OCCUPANTS

The county sheriff or other assigned person is to submit to the county auditor an affidavit of service on occupants for each parcel-specific notice that was served on the person in possession of each parcel found to be occupied. A copy of the respective parcel-specific notice should be attach to the sheriff's or other assigned person's affidavit. The affidavits along with their respective notices must be filed in the county auditor's office. (M.S. 281.23, Subd. 6)

The affidavits of service, along with the affidavits of vacancy and affidavits of posting that are outlined below, will serve as prima facie evidence of the facts stated on the documents. This means that the affidavits are written proof that the county sheriff or other assigned person has correctly completed the service of the notice of expiration of redemption as required under M.S. 281.23, Subd. 6. In order to prove otherwise, the facts must be successfully contested in court.

M.S. 281.23, Subd. 6 is silent about the form and content of the affidavit of service on occupants. A suggested form is presented at the end of this Section 6650. Use the suggested form to develop the affidavit of service for your county.

The content of the suggested form is based on the sample parcel-specific notices for mailing which are presented in Section 6645.

TASK #4: AFFIDAVIT OF VACANCY

The county sheriff or other assigned person is also to submit to the county auditor an affidavit of vacancy for each parcel where the parcel-specific notice could not be served because the parcel was vacant and unoccupied. A copy of the respective parcel-specific notice should be attach to the affidavit. The affidavits along with their respective notices must be filed in the county auditor's office. (M.S. 281.23, Subd. 6)

The affidavits of vacancy, along with the affidavits of service on occupants and the affidavits of posting, will serve as prima facie evidence of the facts stated on the documents. This means that the affidavits are written proof that the county sheriff or other assigned person has correctly completed the service of the notice of expiration of redemption as required under M.S. 281.23, Subd. 6. In order to prove otherwise, the facts must be successfully contested in court.

M.S. 281.23, Subd. 6 is silent about the form and content of the affidavit of vacancy. A suggested form is presented at the end of this Section 6650. Use the suggested form to develop the affidavit of vacancy for your county.

The content of the suggested form is based on the sample parcel-specific notices for mailing which are presented in Section 6645.

TASK #5: AFFIDAVIT OF POSTING

The county sheriff or other assigned person is also to submit to the county auditor an affidavit of posting for each parcel where the parcel-specific notice could not be served even though the parcel was found to be an occupied parcel. A copy of the respective parcel-specific notice should be attach to the affidavit. The affidavits along with their respective notices must be filed in the county auditor's office. (M.S. 281.23, Subd. 6)

The affidavits of posting, along with the affidavits of service on occupants and the affidavits of vacancy, will serve as prima facie evidence of the facts stated on the documents. This means that the affidavits are written proof that the county sheriff or other assigned person has correctly completed the service of the notice of expiration of redemption as required under M.S. 281.23, Subd. 6. In order to prove otherwise, the facts must be successfully contested in court.

M.S. 281.23, Subd. 6 is silent about the form and content of the affidavit of posting. A suggested form is presented at the end of this Section 6650. Use the suggested form to develop the affidavit of posting for your county.

The content of the suggested form is based on the sample parcel-specific notices for mailing which are presented in Section 6645.

NOTICE OF EXPIRATION: SERVICE **SECTION 6650**
(Continued) (Page 5)

AFFIDAVIT OF SERVICE ON OCCUPANTS

State of Minnesota County of Spruce

I HEREBY CERTIFY AND RETURN, That on the 12th day of March 1998, I visited the land described in the Notice of Expiration of Redemption, hereto attached, situated in the Township of Archway, Spruce County, Minnesota, and found then and there in actual occupation and possession of the land described in said Notice Frederick Zale. I further certify and return that on the said 13th day of March, 1998, in the County and State aforesaid, I served said Notice of Expiration of Redemption, hereto attached, upon the said Frederick Zale, occupant at Rural route #2, Box #17, Applewood, Minnesota, personally by then and there handing and leaving with him a true and correct copy thereof.

Service Fee	$	20.00
Copy	$	
Travel	$	3.50
Total	$	23.50

William R. Jankowski
Sheriff, Spruce County

By: _____ Date: March 16, 1998
(Deputy Sheriff)

NOTICE OF EXPIRATION: SERVICE **SECTION 6650**
(Continued) (Page 6)

AFFIDAVIT OF VACANCY

State of Minnesota **County of Spruce**

I HEREBY CERTIFY AND RETURN, That on the 13th day of March 1998, I visited the land described in the Notice of Expiration of Redemption, hereto attached, situated in the City of Greenbriar, Spruce County, Minnesota, and found no one then and there in actual occupation or possession of the land described in said Notice of Expiration of Redemption, or any part thereof, and that the said land is now wholly vacant and unoccupied.

Service Fee	**$**	**20.00**
Copy	**$**	
Travel	**$**	**2.15**
Total	**$**	**22.15**

William R. Jankowski
Sheriff, Spruce County

By: _____ **Date:** **March 16, 1998**
(Deputy Sheriff)

NOTICE OF EXPIRATION: SERVICE **SECTION 6650**
(Continued) (Page 7)

AFFIDAVIT OF POSTING

State of Minnesota **County of Spruce**

I HEREBY CERTIFY AND RETURN, That on the 13th day of March 2000, between the hours of 8:00 a.m. and 5:00 p.m., I visited the land described in the Notice of Expiration of Redemption, hereto attached, situated in the Township of Archway, Spruce County, Minnesota, and made an unsuccessful attempt to serve the Notice of Expiration of Redemption upon the occupants of the land described in said Notice. I further certify and return that on the 15th day of March, 2000, after the hours of 5:00 p.m., I again visited the land described in the attached Notice, and made another unsuccessful attempt to serve the Notice of Expiration of Redemption upon the occupants of the land described in the Notice. I thereupon posted a copy of the Notice of Expiration of Redemption on a conspicuous location on the parcel.

Service Fee	**$**	**20.00**
Copy	**$**	
Travel	**$**	**7.00**
Total	**$**	**27.00**

William R. Jankowski
Sheriff, Spruce County

By: _____ **Date:** March 17, 2000
(Deputy Sheriff)

NOTICE OF EXPIRATION: 60-DAY GRACE PERIOD SECTION 6655

The 3-year or 5-year periods of redemption for all parcels of property included in the notice expire 60 days after proof of completion of the following actions has been filed in the county auditor's office: (1) posting of the notice, (2) publishing of the notice, (3) mailing of the notices, and (4) serving of the notices. (M.S. 281.23, Subd. 7)

KEY POINT: 60-DAY GRACE PERIOD

The key point to remember is that the 60-day grace period can extend the 3-year and 5-year periods of redemption but it cannot reduce them. The reasons why the 60-day grace deadline can extend but not reduce the standard periods of redemption are explained below.

1. 60-DAY GRACE PERIOD: NO EFFECT ON THE PERIOD OF REDEMPTION

On one hand, let's assume that the county auditor prepares the notice 120 days before the expiration of the period of redemption. Working quickly, the county auditor gets everything done and delivers the notices to the county sheriff or other assigned adult person in two weeks. The county sheriff or other assigned person serves the notices and returns the report to the county auditor within the 30-day period.

In this case, the 60-day grace period would mean that the time for redeeming would end about 2 weeks before the 3-year or 5-year periods of redemption would expire. Does this mean that the property owners, taxpayers, and interested parties under M.S. 276.041 have less than 3 years or 5 years to redeem?

The answer is-- no. The property owners, taxpayers, and interested parties are guaranteed the full 3 years or 5 years to redeem the parcel of real property. The intention of the 60-day grace period is not to reduce the 3-year or 5-year periods of redemption. In this case, the 60-day grace period would have no effect on the length of the redemption period.

2. 60-DAY GRACE PERIOD: EXTENSION OF REDEMPTION PERIOD

On the other hand, let's assume that the county auditor prepares the notice 120 days before the expiration of the period of redemption. However, the county auditor takes 6 weeks to get the notices to the county sheriff or other assigned adult person. The county sheriff or other assigned person, in turn, takes another 6 weeks to serve the notices and get the report back to the county auditor.

In this case, the 60-day grace period would mean that the time period for redeeming would end about 30 days after the 3-year or 5-year periods of redemption would expire. Does this mean that the property owner, taxpayers, or interested parties under M.S. 276.041 have more than the 3 years or 5 years to redeem?

The answer to the question is-- yes. The intention of the law is to extend the 3 years or 5 years for redemption, if necessary, in order to guarantee that the property owners, taxpayers, or interested parties under M.S. 276.041 have at least 60 days to redeem after the notices are given and proof of the action is filed in the county auditor's office.

SUMMARY OF BASIC PRINCIPLE

THE 60-DAY GRACE PERIOD CAN EXTEND BUT NOT REDUCE THE 3-YEAR OR 5-YEAR PERIODS OF REDEMPTION

NOTICE OF EXPIRATION: COUNTY COSTS SECTION 6660

The county is required to pay the costs of processing the notice of expiration of redemption as the posting, publishing, mailing, and serving are being performed. Until July 1, 1992, the county had to absorb these costs itself. There was no authorization to recover the costs. (M.S. 281.23, Subd. 8)

The 1992 Minnesota Legislature remedied this situation. The county may now recover the costs of processing the notice of expiration of redemption. This authority is effective for costs incurred after June 30, 1992. (M.S. 281.23, Subd. 8)

LIST OF RECOVERABLE COUNTY COSTS

The county costs of processing the notice of expiration of redemption which may be recovered are outlined below.

1. The cost of posting the notice. (M.S. 281.23, Subd. 2)
2. The cost of publishing the notice. (M.S. 281.23, Subd. 3)
3. The cost of mailing the notices. (M.S. 281.23, Subd. 5)
4. The cost of serving the notices. (M.S. 281.23, Subd. 6)

METHOD OF RECOVERING COSTS DURING PERIOD OF REDEMPTION

The county auditor may add the costs of processing the notice of expiration of redemption to the total delinquent tax amount required to be paid to redeem a parcel of property. The total delinquent tax amount would then equal the sum of the taxes, special assessments (if any), penalties, interest, and costs of administering the delinquent tax laws, including the costs of processing the notice of expiration. (M.S. 281.23, Subd. 8)

Any party who pays the total delinquent tax amount to redeem the property before the period of redemption expires would be automatically paying the costs of processing the notice of expiration if the county had chosen to add the costs to that amount.

All of the county costs which are collected as part of the total delinquent tax amount paid for a redemption are to be distributed to the county under M.S. 276.131. As part of this distribution, the county would receive the costs of processing the notice of expiration if the county had chosen to add the costs to the total delinquent tax amount.

See Section 6410 and 6465 for information about the redemption period and the method of distribution of the delinquent tax amount, respectively.

METHOD OF RECOVERING COSTS DURING REPURCHASE

With the county board's approval, any eligible party may repurchase tax-forfeited land which was classified as homestead property anytime before it is conveyed or sold. Tax-forfeited land which is classified as non-homestead property may be repurchased within one year after the forfeiture with the county board's approval.

The county auditor may add the costs of processing the notice of expiration of redemption to the repurchase price. Any party who pays the repurchase price would be automatically paying the costs of processing the notice of expiration if the county had chosen to add the costs to that amount. (M.S. 281.23, Subd. 8)

According to M.S. 282.291, payments received for the repurchase of tax-forfeited land are to be deposited in the forfeited tax sale fund. This requirement is interpreted by the counties in different ways. Some counties interpret it broadly and deposit in the fund the total receipts collected from a repurchase. This includes the basic repurchase price and all of the extra costs from a repurchase. This usually includes the basic price and the state deed fee. The other extra costs are usually handled by the county recorder.

Other counties take a more narrow interpretation and deposit in the fund only part of the total receipts collected from a repurchase. Any party who pays the repurchase price would be automatically paying the costs of processing the notice of expiration if the county had chosen to add the costs to that amount. (M.S. 281.23, Subd. 8)

In either case, the county is authorized to retain the costs of processing the notice of expiration which was included in the repurchase price.

Note: See Series 6770 for more information about the repurchase of tax-forfeited land.

HISTORY OF M.S. 281.23, Subd. 8

From an examination of the history of M.S. 281.23, Subd. 8, in Volume 18A of Minnesota Statutes Annotated, it appears that before 1983 the costs of posting and publishing the notice of expiration of redemption were to be absorbed by the county. The costs of mailing and serving the notice were to be added on a pro rata basis to the delinquent tax amount required to redeem each parcel of property.

The 1983 Minnesota Legislature amended M.S. 281.23, Subd. 8, requiring all of the costs of posting, publishing, mailing, and serving the notice to be absorbed by the county. None of the costs were to be added to the total amount required to redeem the properties.

The county continued absorbing the costs of processing the notice until the 1992 Minnesota Legislature changed M.S. 281.23, Subd. 8, as outlined in this Section 6660.

CERTIFICATE OF FORFEITURE: GENERAL SECTION 6665

The property is forfeited to the state in trust for the local taxing districts on the later of the date when the period of redemption expires or 60 days after the last announcement of the expiration of redemption. The last announcement usually means the service of the notice of expiration of redemption by the county sheriff or other assigned adult person. (M.S. 281.23, Subd. 9)

As soon as possible after forfeiture, the county auditor is to execute a "certificate of forfeiture" and record it in the county recorder's office or in the office of the registrar of titles if the parcel is registered land.

Note: A statutory precedent for using the name, "certificate of forfeiture," can be found in M.S. 279.33, 279.34, and 284.28, Subd. 2, 5, and 6.

CERTIFICATE OF FORFEITURE: TWO-FOLD PURPOSE

The county auditor's certificate of forfeiture serves two major purposes: (M.S. 281.23, Subd. 9)

1. **The county auditor's certificate of forfeiture serves as prima facie evidence of the facts stated in the document. This means that the recorded document is written proof that the county auditor has correctly completed the statutory actions required before the property can be forfeited to the state in trust for the local taxing districts. In order to prove otherwise, the facts must be successfully contested in court.**

   Note: Failure to execute and record a certificate of forfeiture does not affect the time when the period of redemption expires and the property forfeits to the state.

2. **The county auditor's certificate of forfeiture serves as written proof that the title to the parcel of real property described on the certificate is vested in the state in trust for the local taxing districts.**

   Note: Failure to execute and record a certificate of forfeiture does not affect the validity of the state's title to the property.

CERTIFICATE OF FORFEITURE: REQUIRED INFORMATION

M.S. 281.23, Subd. 9, stipulates that the basic information outlined below must be included on the county auditor's certificate of forfeiture.

1. **A legal description of the parcel of real property that has forfeited to the state.**

2. **The time and place of the "tax judgment sale" at which the parcel of real property was "bid in for the state" and the period of redemption began.**

3. **A statement declaring that the redemption period for the parcel of real property has expired "after notice given as provided by law."**

4. **A statement declaring that the "absolute title" to the property has been vested in the state of Minnesota.**

In addition to the above required information, the county auditor may also include any other information that will help identify the delinquent tax proceedings that led up to the tax forfeiture.

CERTIFICATE OF FORFEITURE: RECORDING ABSTRACT PROPERTY

The county auditor's certificate of forfeiture for abstract property is to be recorded in the office of the county recorder.

The original certificate of forfeiture for abstract property must be filed in the county auditor's office. (M.S. 281.23, Subd. 9)

CERTIFICATE OF FORFEITURE: RECORDING REGISTERED PROPERTY

The county auditor's certificate of forfeiture for all registered property is to be filed in the office of the registrar of titles. (M.S. 281.23, Subd. 9)

A duplicate copy of the certificate of forfeiture is to be filed in the office of the county auditor.

CERTIFICATE OF FORFEITURE: PROPERTY IN BANKRUPTCY

The county auditor should not forfeit any tax delinquent real property which is included in the estate of a pending United States bankruptcy proceeding. This applies to all bankruptcy proceedings not just reorganizations.

See Section 6130 for more detailed information on payment of delinquent taxes on a parcel of real property under a bankruptcy order.

CERTIFICATE OF FORFEITURE: SUGGESTED FORMAT SECTION 6670

The following format represents one way that the county auditor's certificate of forfeiture can be organized to present the information required under M.S. 281.23, Subd. 9. The statute does not provide a suggested format.

COUNTY AUDITOR'S CERTIFICATE OF FORFEITURE

State of Minnesota County of Spruce

I, Nicholas B. Archer, Spruce County Auditor, certify pursuant to Minnesota Statutes, Section 281.23, Subdivision 9, that the parcel of real property situated in Spruce County and described below was bid in for and sold to the State of Minnesota on the second Monday of May, 1985, after judgment was entered in the District Court in Spruce County on April 18, 1985, in the proceedings to enforce the payment of delinquent property taxes payable in the year 1984.

I further certify that the time for redemption of the parcel of real property described below has expired after notice given pursuant to Minnesota Statutes, Section 281.23, Subdivisions 2, 3, 5, and 6, and filing of proof thereof in the office of the county auditor, and that absolute title to the parcel has vested in the State of Minnesota, in trust for the respective taxing districts.

CITY OF APPLEWOOD
02-0135-0014, Oak Hill Subdivision
Lot 2 West 30 Feet of Lot 3, Block 4

Witness my hand and official seal on July 26, 1990

Nicholas B. Archer (County Seal)

Nicholas B. Archer
Spruce County Auditor

SUGGESTED FORMAT: ONE CERTIFICATE FOR EACH PARCEL

The suggested format for the county auditor's certificate of forfeiture which is presented on the previous page is for one parcel of real property. If this plan were followed, the county auditor would prepare a separate certificate for each parcel which has forfeited at the same time.

The advantage of this plan is that one document can be recorded in the county recorder's office or filed in the office of the registrar of titles for each parcel. An argument can be made that this makes for a cleaner set of records. For future reference, there is only one document to review for each parcel. There is no chance of confusing one legal description with another or missing one legal description while scanning several legal descriptions on the same document.

SUGGESTED FORMAT: ONE CERTIFICATE FOR ALL PARCELS

As an alternative, the county auditor may choose to prepare only one certificate for all of the parcels of abstract real property which forfeited at the same time. With this plan, the one certificate would refer to "parcels" instead of "parcel" and would include a legal description for each of the parcels which forfeited at the same time.

The advantage of this plan is that the county auditor's office staff only has to prepare one document for each of the parcel of abstract real property. The one document would be recorded in the county recorder's office and would serve as the title of record for all of the parcels of abstract real property.

This plan cannot be used for registered property. A separate certificate of forfeiture must be prepared for each parcel of registered property which forfeits to the state.

APPLICATION FOR CANCELLATION OF FORFEITURE SECTION 6675

When a forfeiture is proven to be in error, the certificate of forfeiture must be canceled, the forfeiture must be revoked, the title must be returned to the former owner, and the property must be placed on the county's list of delinquent taxes once again. (M.S. 279.33; 279.34)

The auditor's certificate of forfeiture is prima facie evidence of the facts stated in the document. If the county does not agree that an error has been made, the former owner will have to successfully contest the forfeiture in court in order to reverse the county's actions.

The conditions and the procedures for the cancellation of a certificate of forfeiture and the revocation of the erroneous tax forfeiture itself are outlined below. The outline assumes that the county agrees that the forfeiture was in error.

AUTHORIZED REASONS FOR CANCELLATION

The three types of tax situations that are the only authorized reasons for canceling a certificate of forfeiture and revoking the erroneous tax forfeiture itself are outlined below. (M.S. 279.33)

1. **TYPE #1: EXEMPTION BASED ON UNITED STATES LAWS**

   In this case, it is discovered that a parcel of real property listed on the certificate of forfeiture was actually exempt from taxation under the laws of the United States in the year upon which the supposed tax forfeiture was based. This means the year in which the delinquent taxes were assessed on the property.

2. **TYPE #2: EXEMPTION BASED ON STATE OR LOCAL GOVT OWNERSHIP**

   This refers to a situation where it is discovered that a parcel of real property listed on the certificate of forfeiture was actually owned by the state of Minnesota, a state department or agency, or a political subdivision of the state at the time the supposed forfeiture took place. This refers to the time when the period of redemption expired.

3. TYPE #3: COUNTY ADMINISTRATIVE ERROR

In this situation, a cancellation of a tax forfeiture is authorized anytime before the parcel is conveyed to a third party when it is proven that a parcel of real property listed on the certificate of forfeiture was forfeited because of an error in the administration of the delinquent tax or tax-forfeiture proceedings.

The county may acknowledge an error voluntarily and initiate the cancellation of the tax forfeiture. Or, the county may be forced to cancel the tax forfeiture by a court order if the former owner successfully contests the forfeiture in court.

APPLICATION FOR CANCELLATION BY OWNER OR AUDITOR

The property owner (fee owner) at the time of the tax forfeiture or anyone who is authorized to act in the owner's behalf may file an application for cancellation of forfeiture with the county auditor anytime before the parcel is conveyed to a third party. (M.S. 279.34)

The county auditor is also authorized to complete the application for cancellation of forfeiture instead of the owner when the county auditor is the one who discovers the reason for the cancellation.

The application is to include a written statement presenting the facts of the case and providing evidence that the tax forfeiture was erroneous for one of the authorized reasons outlined above.

The applicant is to use the official PT Form 90 provided by the Property Tax Division of the Department of Revenue. The form is called, "Application for Cancellation of Forfeiture." The form is to be filled out front and back, dated, and signed by the appropriate individuals.

Call the Property Tax Division of the Department of Revenue at (651) 296-0394 for information and copies of the PT Form 90.

APPROVAL OF APPLICATION FOR CANCELLATION BY COUNTY BOARD

If it is received anytime before the parcel is conveyed to a third party, the application for cancellation of forfeiture is to be reviewed by the county board. If the county board approves the application, the county board is to pass a resolution recommending that the cancellation be granted. (M.S. 279.34)

On the application form, the county auditor and the clerk of the county board are to certify that the county board approved the cancellation of forfeiture by resolution for the reason(s) stated on the application. The county auditor is to send the completed form to the Property Tax Division of the Department of Revenue at the address listed on the bottom of the form.

Note: If the county auditor has already applied for a state deed or the state deed has already been received but not recorded, the PT Form 90 should contain a request to cancel the application for state deed or the state deed itself should be returned with the PT Form 90.

APPROVAL OF CANCELLATION BY DEPARTMENT OF REVENUE

When the completed application form has been received from the county auditor, the Property Tax Division of the Department of Revenue is to review the facts of the case and determine if the tax forfeiture was in error. (M.S. 279.34)

Depending on whether the application is approved or disapproved, the Director of the Property Tax Division, acting for the Commissioner of Revenue, dates and signs either the Acceptance or Rejection section on the back of the official application form which was sent in for review.

The Property Tax Division keeps the master copy of the application form for its records. A duplicate copy of the application form is sent to the county auditor.

1. CANCELLATION REJECTED BY DEPARTMENT OF REVENUE

By signing the Rejection section of the form, the Director of the Property Tax Division, acting for the Commissioner of Revenue, directs the county auditor to stop action to cancel the tax forfeiture of the parcel or parcels described on the application.

The county auditor's certificate of forfeiture is to remain on record, the forfeiture is to stand, and the title to the property is to remain in the name of the state in trust for the local taxing districts.

2. CANCELLATION ACCEPTED BY DEPARTMENT OF REVENUE

By signing the Acceptance section of the form, the Property Tax Division, acting for the Department of Revenue, directs the county auditor to cancel the certificate of forfeiture relating to the property or properties described on the application.

The county auditor is also directed to file a certificate of cancellation with the county recorder's office or the office of the registrar of titles.

CANCELLATION ONLY BEFORE PROPERTY IS CONVEYED

Although M.S. 279.33 and 279.34 are silent on this issue, the Department of Revenue recommends that a forfeiture should be canceled only up until the date when the parcel is conveyed to a third party.

The phrase, "conveyed to a third party," refers to the date when the state deed which was issued in the name of the third party is recorded in the office of the county recorder. Before that date, a forfeiture may be canceled, following the procedures outlined in the previous subsections.

After a parcel is conveyed, the forfeiture should not be canceled unless the parcel should have been exempt from taxation under the laws of the United States or because it was actually owned by the state of Minnesota, a state agency, or a political subdivision.

The Department of Revenue's rationale for this recommendation is that neither the county nor the state of Minnesota has any legal interest in the parcel which would give it the authority to cancel the forfeiture and take back the title to the parcel after the parcel is conveyed, except for federal, state, or local government owned land.

When it is proven after the parcel is conveyed that the forfeiture was in error, the parties with a legal interest in the parcel before the forfeiture will have to go to court to try to recover their financial losses or the title to the property. This may be possible under the provisions of M.S. 284 which contains the "3% assurance account." See Section 6767 for a brief summary of the "3% assurance account" and the purpose of M.S. 284.

CERTIFICATE OF CANCELLATION: GENERAL SECTION 6676

As soon as possible after receiving the application for cancellation of forfeiture from the Property Tax Division of the Department of Revenue approving the cancellation, the county auditor is to fill out and sign a "certificate of cancellation." (M.S. 279.34)

The certificate of cancellation is to be recorded in the same county office where the certificate of forfeiture is on record; i.e., the county recorder's office or the office of the registrar of titles.

CERTIFICATE OF CANCELLATION: REQUIRED INFORMATION

The certificate of cancellation is to include at least the basic information outlined below. (M.S. 279.34)

1. The legal description of the parcel of real property which was erroneously forfeited. The legal description should be identical to the one listed on the certificate of forfeiture which is being canceled.

2. A reference to the recording of the certificate of forfeiture. This should include the date of the recording, the place of the recording, and the name of the party who requested the recording.

3. A summary of the proceedings followed to obtain approval of the cancellation of the forfeiture. This should include the reason(s) for the cancellation, the review and approval by the county auditor and county board, and the review and approval by the Property Tax Division, acting for the Department of Revenue.

4. A statement to the effect that the certificate of forfeiture is canceled and the tax forfeiture itself is voided.

5. The name and signature of the county auditor and the date when the certificate of cancellation was signed.

CERTIFICATE OF CANCELLATION: RESTORES ORIGINAL TITLE

The recording of the certificate of cancellation serves to annul the county auditor's certificate of forfeiture and the erroneous forfeiture of the property to the state in trust for the local taxing districts.

Once the certificate of cancellation is recorded, the title to the property which was erroneously forfeited is automatically returned to the former owner (fee owner). The title rests with the former owner's deed of record which was on file in the county recorder's office or in the office of the registrar of titles before the erroneous tax forfeiture and is still there after the annulment of the tax forfeiture.

CERTIFICATE OF CANCELLATION: SUGGESTED FORMAT SECTION 6677

There is no format for the county auditor's certificate of cancellation which is required or suggested in M.S. 279.33 or 279.34. Once again, this leaves the administrators of the delinquent tax and tax-forfeiture laws with the task of developing their own format.

Based on a limited survey, it appears that the county auditors are choosing to use an old Department of Taxation format for the certificate of cancellation. This old Department of Taxation Form No. 91 dates back to 1945. Form No. 91 is currently not available from the Department of Revenue.

Although it references Minnesota Statues 1945 and the language is archaic, the basic format is still valid and functional. Therefore, the county auditors may choose to continue to use the old certificate of cancellation in its original form or in some updated form which meets their current needs.

As an alternative, the Property Tax Division, acting for the Department of Revenue, has decided to design a new suggested format for the certificate of cancellation. It follows the suggested format used for the certificate of forfeiture.

Some of the county auditors may choose to adopt some version of this new format for use in their counties.

The suggested format is presented on page two of this Section 6677.

CERTIFICATE OF CANCELLATION: SUGGESTED FORMAT SECTION 6677
(Continued) (Page 2)

COUNTY AUDITOR'S CERTIFICATE OF CANCELLATION

State of Minnesota County of Spruce

I, Nicholas B. Archer, Spruce County Auditor, certify that, on July 26, 1990, I executed, pursuant to Minnesota Statutes, Section 281.23, Subdivision 9, a certificate of forfeiture perfecting the conveyance of the parcel of real property described below to the State of Minnesota in trust for the appropriate taxing districts and the said certificate was recorded in the office of the county recorder on July 26, 1990.

I further certify that, on October 18, 1990 the Department of Revenue ordered the cancellation of the above forfeiture pursuant to an application for cancellation of forfeiture made under Minnesota Statutes 279.33 and 279.34 and approved by the county auditor and county board of Spruce County and by the Department of Revenue.

Therefore, I certify that, pursuant to Minnesota Statutes, Section 279.34, the above certificate of forfeiture is canceled and the above act of conveyance of the parcel of real property described below to the State of Minnesota in trust for the respective taxing districts is voided for the reasons stated in the application for cancellation of forfeiture on file in the office of the county auditor.

CITY OF APPLEWOOD
02-0135-0014, Oak Hill Subdivision
Lot 2 West 30 Feet of Lot 3, Block 4

Witness my hand and official seal on October 23, 1990

Nicholas B. Archer

(County Seal)

Nicholas B. Archer
Spruce County Auditor

TAX ACTION FOLLOWING CANCELLATION SECTION 6678

After an erroneous tax forfeiture is canceled, the county auditor is required to perform one or the other of the tax actions outlined below in order to complete the cancellation of the erroneous tax forfeiture and restore the property to the rightful tax status it had, or should have had, before the forfeiture. (M.S. 279.34)

TAX ACTION #1: CANCELLATION OF FORFEITURE FOR EXEMPT PROPERTY

If the tax forfeiture was voided because of an exemption, the county auditor would not have to do anything with the taxes, penalties, interest, and costs and original court judgment that were canceled at the time of the forfeiture. Because the property was found to be owned by an exempt party before the forfeiture, the taxes should not have been assessed and levied in the first place. Nor should the court judgment have been entered.

Therefore, the cancellation of court judgment and the total amount due at the tax forfeiture stands with one exception. If the amount canceled included special assessments, the county auditor could reinstate them if the exempt party is responsible for paying special assessments. If not, the special assessments would be canceled along with the tax amounts.

As a final act, the county auditor is to have the property removed from the tax-forfeiture list and placed on the tax-exempt list.

TAX ACTION #2: CANCELLATION OF FORFEITURE FOR OTHER ERRORS

If the forfeiture was voided because of an error other than tax exemption, the county auditor is to return the property to the county tax rolls. The tax judgment and the total delinquent tax amount must be restored at the point when the cancellation of forfeiture takes place.

The delinquent tax amount, along with the current taxes and penalties, if any, that were canceled at the forfeiture must be reinstated. In addition, all taxes and special assessments that would have been levied between the date of the forfeiture and the date of the cancellation of forfeiture must be levied as in the case of taxes on omitted property (M.S. 273.02).

TAX ACTION FOLLOWING CANCELLATION SECTION 6678
(Continued)

The total of all these taxes, special assessments, penalties, costs, and interest constitute the new delinquent tax amount that must be paid in order to redeem the property and prevent another forfeiture.

The county auditor must begin the delinquent tax proceedings again at the point where the error was committed. The erroneous action must be repeated correctly, and all of the actions required under the delinquent tax laws after that point must be correctly repeated as if they had not been performed earlier.

Note: If the error occurred in any one of the actions required to announce the expiration of the period of redemption under M.S. 281.23, the county auditor must repeat all of the actions; i.e., posting, publishing, mailing, and serving the notice of expiration.

SUMMARY: STAGE FIVE SECTION 6680

EXPIRATION OF REDEMPTION

With the completion of the fifth stage of the delinquent real property tax proceedings, all efforts to provide an opportunity for the property owner, the taxpayer of record, or any other party with a legal interest in the property to pay off the delinquent tax amount due on a parcel of property and avoid forfeiture have been exhausted.

The major steps of the fifth stage of the delinquent real property tax proceedings that are explained in detail in Series 6600 are outlined below.

1. **The county auditor prepares the notice of expiration of redemption within 120 days before the 3-year or 5-year periods of redemption expire.**

2. **The county auditor posts a copy of the notice in the auditor's office for public inspection.**

3. **The county auditor has the notice published in the official county newspaper for two successive weeks.**

4. **The county auditor sends a copy of the notice by certified mail to all of the property owners, taxpayers, and interested parties whose names are listed on the notice.**

5. **The county auditor provides the county sheriff or other designated adult person with copies of the notice that was published in the official county newspaper.**

6. **The county sheriff or other designated adult person serves copies of the notice to all "persons in possession" of the parcels of real property listed on the notice.**

7. **The county sheriff or other designated adult person submits a report to the county auditor listing the notices served and the parcels found vacant.**

SUMMARY: STAGE FIVE **SECTION 6680**
(Continued) **(Page 2)**

8. **The county auditor executes a certificate of forfeiture after the period of redemption expires.**

9. **The county auditor records the certificate of forfeiture in the county recorder's or registrar of title's office.**

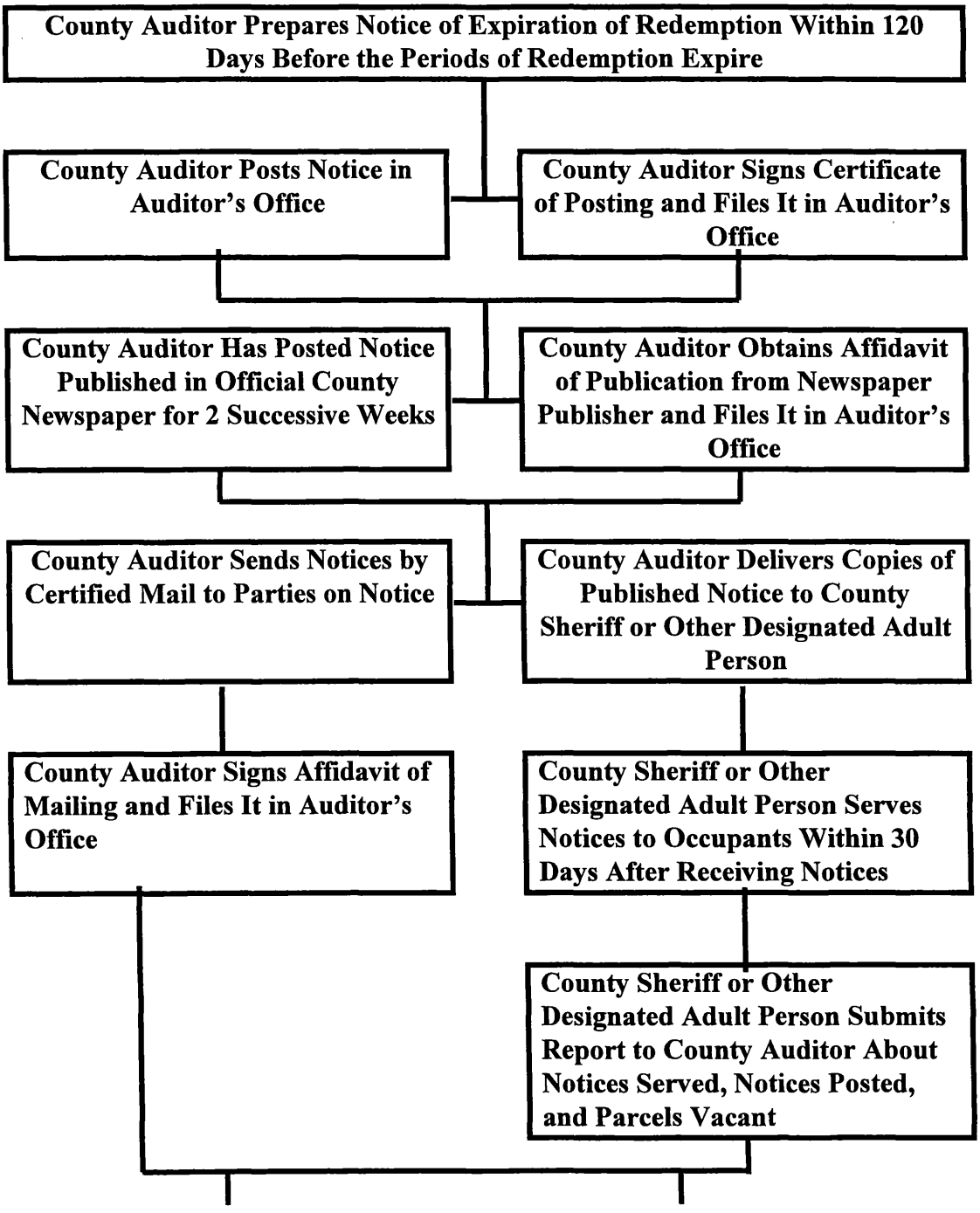
10. **If an error is detected, the property owner or county auditor, the county board, and the Department of Revenue complete the required actions to cancel the erroneous forfeiture.**

The end result of stage five is the forfeiture of the unredeemed parcels of real property to the state in trust for the local taxing districts. The county auditor will attempt to do one of two things with each parcel of forfeited property: (1) sell the forfeited parcels in order to obtain some or all of the delinquent taxes long overdue and place the property back on the tax rolls, or (2) convey the forfeited parcels to a governmental unit or agency to be used for a public purpose.

The basic procedures for handling the tax-forfeited property make up the sixth and final stage of the delinquent real property tax proceedings. These procedures are outlined and explained in Series 6600A: Repurchase and 6700: Tax Forfeiture.

FLOW CHART: STAGE FIVE SECTION 6685

A graphic illustration of the major steps which must be taken to complete the fifth stage of the delinquent real property tax proceedings is presented in the following flow chart.



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FLOW CHART: STAGE FIVE **SECTION 6685**
(Continued) **(Page 2)**

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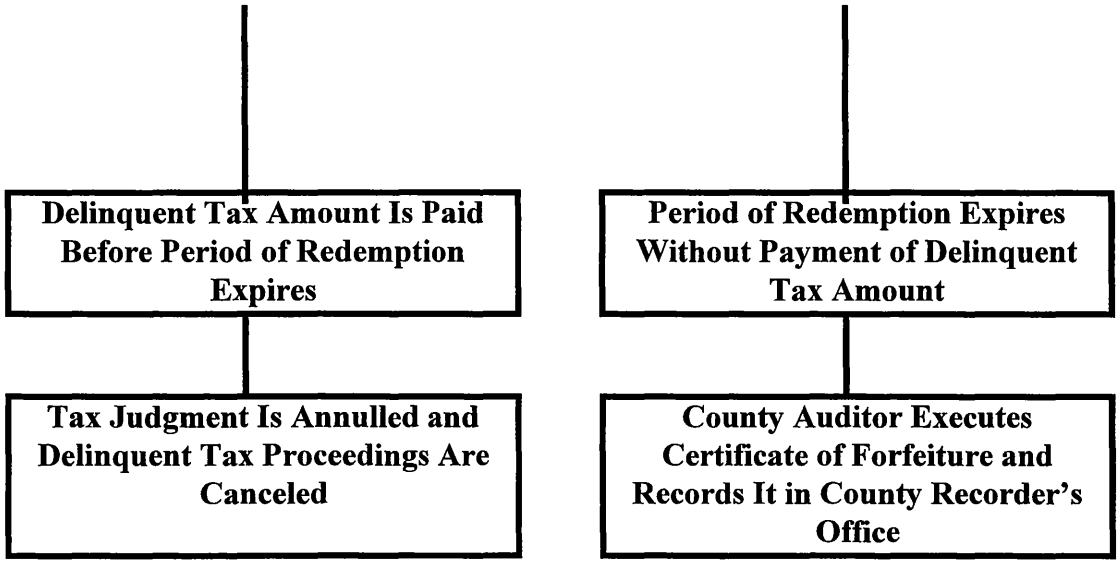


SAMPLE CASE: STAGE FIVE SECTION 6690

The following sample case is intended to dramatize the major steps which must be taken to complete stage five of the delinquent real property tax proceedings.

In order to provide a sense of continuity, the same sample case with the same fictional delinquent tax situation and fictional names, places, dates, and tax amounts will be used in the last three Series in this manual. The only thing that will change is the stage of the property tax proceedings which is being dramatized.

The purpose of using the sample case is purely educational and is not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

SAMPLE CASE: CORELLI'S ITALIAN VILLAGE

On Monday, November 20, 1989, Anthony V. Corelli permanently closed the Italian Village in Applewood. With no income from the restaurant, no savings, no credit, and no job, Mr. Corelli had almost no chance to pay the delinquent tax amount due and redeem his restaurant property before the period of redemption expired on May 12, 1990.

On Wednesday, January 17, 1990, Nicholas Archer, Spruce County Auditor, had his office staff begin to process the notice of expiration of redemption for those properties whose periods of redemption were scheduled to expire on May 12, 1990.

The notice of expiration contained Mr. Corelli's name and the address where he was living with his brother, the legal description of the property where The Italian Village was located, and the total delinquent tax amount required to redeem the property if paid on or before February 28, 1990-- $1,104.80.

The $1,104.80 redemption price was the sum of the unpaid balance of the cancelled 5-year confession of judgment ($1,030.89), the interest accrued at an annual rate of 8% from April through December, 1989 ($61.85), and the interest accrued at an annual rate of 7% from January through February, 1990 ($12.06).

When the notice of expiration of redemption was completed, Cory Patchen, Deputy Spruce County Auditor, brought it to Nick Archer, and he signed it on Tuesday, January 23, 1990.

Cory Patchen made sure that a copy of the notice of expiration of redemption was posted on the major bulletin board in the auditor's courthouse office for public inspection. Cory reminded the office staff to leave the notice on the bulletin board until at least one week after the date of the last publication of the notice.

The Deputy Auditor also had the office staff prepare a certificate of the posting. It was dated for Thursday, January 25, 1990, and signed by Nick Archer on that same day. The office staff filed the certificate to serve as proof of the posting of the notice of expiration of redemption.

The next day, Friday, January 26, 1990, Nick Archer called Harold Hoffman, publisher of the Greenbriar Weekly Journal, to find out when the notice of expiration of redemption could be published. Harold Hoffman assured Nick that the notice could be published on two successive Thursdays-- February 8 and February 15, 1990.

Nick Archer agreed to the publication dates. Before he hung up, Nick told Harold Hoffman that one of his staff members would deliver a copy of the notice of expiration of redemption to the Greenbriar newspaper office that same afternoon. Nick also reminded Harold Hoffman to send him a signed affidavit of publication after the last publication of the notice.

On Monday, February 5, 1990, Cory Patchen had the office staff begin the process of mailing the notices of expiration of redemption. They prepared copies of the notice and addressed envelopes to each of the property owners, taxpayers, and interested parties whose names were listed on the notice.

One of the envelopes was addressed to Mr. Anthony V. Corelli who was sharing apartment #252 with his brother at the Eagle Ridge Manor on 743 Westwood Avenue in Applewood. Cory Patchen had Mr. Corelli's notice mailed there because he knew that The Italian Village was closed.

When the envelopes with the notices were ready, one of the staff members delivered them to the Greenbriar post office on Thursday, February 8, 1990. The staff member instructed the post office to send the notices by certified mail and requested that the return receipts be delivered to the courthouse as soon as they were received.

Back at the auditor's office, Cory Patchen had the office staff prepare an affidavit of the mailing. Nick Archer signed it on Monday, February 12, 1990. The office staff filed the affidavit to serve as proof of the mailing of the notice of expiration of redemption.

After the last publication of the notice on Thursday, February 15, 1990, Cory Patchen had the office staff prepare copies of the published notice of expiration of redemption for the Spruce County Sheriff, William R. Jankowski. On Tuesday, February 20, 1990, the notices were delivered to Sheriff Jankowski's office in the courthouse.

On Wednesday, March 1, 1990, Sheriff Jankowski had his deputy, Rodney L. Neuberger, begin to serve the notices of expiration of redemption to all of the persons occupying the parcels of real property listed on the notice. Because he knew that The Italian Village was vacant, Deputy Neuberger delivered the notice to Mr. Corelli at his brother's Eagle Ridge Manor apartment in Applewood on Tuesday, March 13, 1990.

After Deputy Neuberger completed his visits on Thursday, March 29, 1990, Sheriff Jankowski's office staff prepared a report with a list of the notices served and the parcels found vacant. When it was ready, one of the staff members delivered the report to Nick Archer's office in the courthouse on Tuesday, April 3, 1990. The auditor's staff filed the report as proof of the service of the notices of expiration of redemption.

When he read his notice, Mr. Corelli saw that the time for redemption of his restaurant would expire 60 days after service of the notice or May 12, 1990, whichever was later. In his case, the 60-day grace period which extended through May 21, 1990, was later. So the period of redemption for The Italian Village would expire on Tuesday, May 22, 1990.

The exact date of expiration was not important anyway. Mr. Corelli had already accepted the loss of his restaurant. He had no choice. He had no way to get the cash to pay the delinquent tax amount, and no one wanted to buy the restaurant property. When the time for redemption expired, The Italian Village would be lost to the state.

On Tuesday, May 22, 1990, Nick Archer directed his office staff to prepare a certificate of forfeiture for Mr. Corelli's restaurant. The certificate of forfeiture contained the name: Anthony V. Corelli; the address: Apartment #252, Eagle Ridge Manor, 743 Westwood Avenue, Applewood, Minnesota, 57252; and the legal description of The Italian Village property.

The auditor's staff dated the certificate of forfeiture for Thursday, May 24, 1990, and had Nick Archer sign it. One of the staff members made a copy of the certificate of forfeiture and filed it in their office. The certificate itself was delivered to the Spruce County Recorder, Nancy Levinson.

When Nancy Levinson's office staff recorded the certificate of forfeiture, the title to the restaurant property formerly owned by Mr. Corelli passed to the state in trust for the local taxing districts.

TABLE OF CONTENTS

SECTION HEADING	SECTION NUMBER
Introduction: Stage Six - Tax Forfeiture	6705
Delegation of County Board Duties to Auditor	6706
Removal from Tax Rolls	6707
Liens and Other Encumbrances	6710
Classification of Tax-Forfeited Land	6715
Approval of Classification and Sale	6717
Appraisal of Tax-Forfeited Land	6720
Exchanging Tax-Forfeited Land	6722
Improvements to Tax-Forfeited Land	6725
Timber Sales	6726
Leasing Tax-Forfeited Land	6727
Easements on Tax-Forfeited Land	6730
Govt Acquisition: Overview	6732
Govt Acquisition: Public Use	6733
Govt Acquisition: Private Sale	6734
Govt Acquisition: Special Cases	6735
Land Restricted or Withheld from Sale	6737
Hazardous Waste on Tax-Forfeited Land	6740
Notice of Public Sales	6745

TABLE OF CONTENTS

SECTION HEADING **SECTION NUMBER**
(Continued) **(Page 2)**

Conduct of Public Sales **6747**

Public Sale by Contract for Deed **6750**

Cancellation of Contract for Deed **6752**

State Deed for Tax-Forfeited Land **6755**

Private Sale to Adjacent Owners **6757**

Forfeited Tax Sale Fund **6760**

Distribution of Net Revenue **6765**

Three Percent Surcharge **6767**

Repurchase of Tax-Forfeited Land **6770**

Back on the Tax Lists **6775**

Summary: Stage Six - Tax Forfeiture **6780**

Flow Chart: Stage Six - Tax Forfeiture **6785**

Sample Case: Stage Six -Tax Forfeiture **6790**

INTRODUCTION: STAGE SIX - TAX FORFEITURE SECTION 6705

The sixth and final stage of the delinquent real property tax proceedings brings the long, complex process to an end.

Before the sixth stage begins, the parcels of real property with unpaid delinquent taxes have been forfeited to the state. The titles to the forfeited parcels of real property are being held by the state in trust for the local taxing districts. The disposition of the forfeited parcels is the responsibility of the county auditor or county land commissioner and the county board.

When the sixth stage is completed, the parcels of tax-forfeited land will have been either returned to the property tax roles or put to a public use or purpose. In either case, the cycle will have been completed: from taxable status, to delinquent status, to tax forfeiture, and back to taxable status or public use or purpose.

The major tasks which the county board and county auditor are required to perform, or in some cases may perform, in order to complete the sixth and final stage are outlined below.

1. The county auditor removes from the tax lists the parcels which have forfeited to the state in the name of the local taxing districts.

2. The county auditor cancels all real property tax and special assessment liens on the parcels of tax-forfeited land.

3. The county board has the parcels of tax-forfeited land classified, approved for sale, and appraised.

4. The county auditor makes improvements and grants leases and easements on tax-forfeited land when appropriate.

5. The county auditor conveys a parcel of tax-forfeited land to a political subdivision free of charge for a public use, sells a parcel to a political subdivision or state agency for a public purpose, sells a parcel to a third party at a public or private sale, or reconveys a parcel to the former owner under a repurchase agreement.

6. Upon application by the county, the Department of Revenue issues a state deed to the grantee, purchaser, or repurchaser of a parcel of tax-forfeited land.

7. The county auditor deposits all revenues from the tax-forfeited land into a forfeited tax sale fund and distributes the net revenue annually to the local taxing districts.

8. The county auditor returns the parcels which were sold to a third party at a tax-forfeited land sale or repurchased by the former owner to the property tax lists.

An outline summary and explanation of these key actions is presented in Sections 6707 through 6775.

A summary of stage six along with a review of the long, complex process leading up to stage six can be found in Section 6780.

Section 6785 contains a flow chart which graphically shows the primary steps which are to be taken to complete a major part of stage six-- the sale of tax-forfeited land at public auction or to adjacent land owners.

A sample case which dramatizes the major steps which must be taken to complete a key part of stage six-- the public sale of tax-forfeited land-- is contained in Section 6790.

INTRODUCTION: STAGE SIX - TAX FORFEITURE SECTION 6705
(Continued) **(Page 3)**

The sample case is a continuation of the same fictional delinquent tax situation used in the sample cases for the second half of stage four (confession of judgment) and stage five (expiration of redemption and forfeiture).

The purpose of using the sample case is purely educational and not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

For purposes of clarity and convenience, the phrase, "delinquent tax amount," will be used in Series 6700 to mean the sum of the amounts listed below.

1. Delinquent taxes
2. Special assessments (if any)
3. Penalties
4. Costs
5. Interest

The terms, "tax" or "taxes," will be used to include the delinquent real property tax and any special assessments.

Note: In the counties which do not have a land commissioner, the county auditor is responsible for administering the tax-forfeited land statutes. If a county has a land commissioner, the administration of the tax-forfeited land statutes is the responsibility of the land commissioner's office. For the sake of brevity, the term, "county auditor," will be used in Series 6700 to refer to the tasks which must be performed by either the county auditor or the county land commissioner.

DELEGATION OF COUNTY BOARD POWERS TO AUDITOR SECTION 6706

The county board may delegate to the county auditor any of its authority, powers, or responsibilities under M.S. Chapter 282. The county board may prescribe the conditions for any such delegation and may revoke the delegation without good cause or prior notice. However, if the county auditor holds elective office, any such delegation is subject to the county auditor's consent. (M.S. 282.135)

The authorities, powers, and duties that may be delegated by the county board to the county auditor include, but are not limited to:

1. **The classification of tax-forfeited land as conservation or nonconservation property. (M.S. 282.01, Subd. 1)**

2. **The determination of the appraised value for the sale of tax-forfeited land. (M.S. 282.01, Subd. 3)**

3. **The determination of the terms of the sale of tax-forfeited land. (M.S. 282.01. Subds. 4-5; 282.02)**

4. **The sale of tax-forfeited land at public auction. (M.S. 282.01, Subds. 4, 7, 7a)**

5. **The initiation of legal proceedings to cancel contracts for the purchase or repurchase of tax-forfeited land that are in default. (M.S. 282.01, Subd. 5)**

6. **The authorization to reinstate canceled contracts for the purchase or repurchase of tax-forfeited land. (M.S. 282.341)**

7. **The authorization to approve or disapprove the repurchase of tax-forfeited land by the former owner or other eligible party. (M.S. 282.241 to 282.324; 282.012)**

Note: In spite of the authorization to delegate authority, powers, and responsibilities to the county auditor, the county board still retains the authority to appoint a land commissioner to perform the duties as directed by the county board under M.S. 282.13.

REMOVAL FROM TAX ROLLS SECTION 6707

Any parcel of real property that forfeits to the state on or before December 31 in an assessment year for failure to pay the delinquent tax amount must be removed from the county assessment rolls for that same assessment year. (M.S. 272.02, Subd. 4; M.S. 274.175)

In other words, each parcel of tax-forfeited land is to be removed from the county assessment rolls immediately after the forfeiture regardless of when the forfeiture takes place during the calendar year.

The removal of tax-forfeited land from the county assessment rolls any time during the calendar year means that no tax will be levied on the property for the next taxes payable year or for any taxes payable year thereafter until the property is repurchased by the former owner or sold to a taxable third party.

DEFINITION OF "PARCEL" FOR CONDOMINIUM APARTMENTS

Each condominium apartment and its percentage of undivided interest in the common areas and facilities are deemed to be a separate parcel of real property, and are subject to separate assessment and taxation. This means that when a condominium apartment forfeits for non-payment of property taxes, its percentage of undivided interest in the common elements also forfeits. The common elements in and of themselves do not forfeit, except in those rare instances where the association has maintained ownership of some common elements and did not pay the tax on them. (M.S. 515.22)

EXCEPTION TO JULY 1 CUTOFF DATE

M.S. 274.175 requires that all assessment values that are recorded by the county assessor or county auditor for real and personal property are to be finalized on July 1 of the assessment year. No changes in the assessment values may be made after July 1 except for the specific changes authorized under M.S. 274.175.

One of the authorized exceptions under M.S. 274.175 is for property that forfeits to the state for failure to pay real property taxes.

RATIONALE FOR EXCEPTION

There is one major reason for allowing tax-forfeited land to be removed from the county assessment rolls after the July 1 cutoff date. If a forfeiture occurs after July 1 and the parcel is not removed from the county assessment rolls, the county auditor would have to levy taxes on the parcel for the following taxes payable year.

Levying taxes on the forfeited parcel for the following taxes payable year would be unreasonable and impractical because there would be no one to pay the taxes. The state holds the title to the parcel in the name of the local taxing districts. It would be a waste of time to send a tax statement to the state because the state is exempt from property taxes.

Therefore, the exception is needed to avoid an unreasonable and impractical tax situation.

LIENS AND ENCUMBRANCES SECTION 6710

When a parcel of real property under tax judgment is forfeited to the state, one of the first questions that arises is-- what happens to any existing liens and encumbrances? The answer to this question is given in the outline of the major types of liens and encumbrances presented below.

REAL PROPERTY TAX + SPECIAL ASSESSMENT LIENS

After tax forfeiture, the county auditor is to cancel all of the following real property taxes and special assessments due and remaining unpaid on each parcel: (M.S. 282.07)

1. **Delinquent real property taxes, penalties, costs, and accrued interest for all years under tax judgment.**

2. **Real property taxes due in the current year along with any penalties for late payment.**

3. **All special assessment levied before the tax-forfeiture and scheduled to be paid in past years, the current year, or in future years along with any penalties, costs, and accrued interest.**

As a result of the above cancellations, the state is able to issue a state deed for the parcel of tax-forfeited land free and clear of any real property tax and special assessment liens.

Note: After a parcel of tax-forfeited land is returned to private ownership, a municipality may make a reassessment, a new assessment, or a service charge against the parcel in order to recover the amount of any special assessments which were canceled at the time of forfeiture and were not reimbursed through the distribution of the net revenue from the tax-forfeited land sale. (M.S. 429.071, Subd. 4; 435.23; 444.076)

Note: When new improvements are assessed against a parcel after forfeiture but before the sale, the municipality is to certify the amount of the special assessment to the county auditor. The county auditor is to add the amount of the special assessment to the appraised value to determine the basic sale price of the parcel. (M.S. 282.01, Subd. 3)

The amount of these special assessments levied after the forfeiture and collected as part of the basic sale price are paid first when the net revenues from the sale are distributed. See Section 6765 for more detailed information about the distribution of the net revenues from a tax-forfeited sale.

FEDERAL AND STATE INCOME TAX LIENS

A parcel of real property that has forfeited to the state may be subject to a federal and/or state income tax lien. If the Internal Revenue Service (IRS) or the Minnesota Department of Revenue received a copy of the "Notice of Expiration of Redemption" and failed to redeem the property, it may be possible to remove the federal or state income tax lien before the property is sold or repurchased. Presently, the IRS or the Department of Revenue must respond within 120 days after receiving notice in order to prevent cancellation of the income tax lien. If the county does not give the IRS or the Department of Revenue a copy of the "Notice of Expiration of Redemption," the income tax lien is not canceled.

It is suggested that the county use one of the following three options when selling a parcel of tax-forfeited property that is subject to a federal income tax lien:

1. **Send a "Notice of Expiration of Redemption" to the IRS. If the IRS does not respond within 120 days, the property can be sold without a federal lien attached. (But only if the IRS consents, because the state "Notice of Expiration of Redemption" does <u>not</u> satisfy the notice requirements of federal law as found in § 7425(b) and (c) of the Internal Revenue Code.)**

2. **Set the appraised value of the parcel high enough to cover the federal lien, sell the property, pay off the federal lien, and issue a state deed clear of the federal lien.**

3. **Sell the property subject to the federal lien and let the buyer be responsible for paying the federal lien. Under this option, the appraised value would have to be low enough to attract a buyer.**

Under option #2, if the property is repurchased the price must be high enough to cover both the federal lien and the sum of the real property taxes, special assessments, penalties, costs, and interest which must be reinstated as well as the computed property taxes not levied.

The three options above would similarly apply to a parcel of tax-forfeited property that is subject to a state income tax lien of the Minnesota Department of Revenue, except that there is <u>no</u> requirement in state law to notify the Minnesota Department of Revenue in order to have the real property tax forfeiture cancel a lien for state-administered taxes.

PERSONAL PROPERTY TAX LIENS

The county auditor is not authorized to cancel a personal property tax judgment entered against the owner of a parcel of real property that has forfeited. A personal property tax lien is not within the jurisdiction of the real property tax laws that the county auditor is responsible for administering.

Personal property tax judgments or liens are legally referred to as in personam. This means that the judgment or lien follows the person and not the real property.

For example, if the former owner repurchases a parcel of tax-forfeited land, the state deed conveyed is subject to any existing personal property tax lien. In this case, the lien is following the former owner's person who regains title to the real property.

On the other hand, if a third party purchases a parcel of tax-forfeited land, the state deed conveyed is not subject to any personal property tax lien. In this case, the lien still follows the former owner's person who no longer holds title to the real property. The third party gets the title to the tax-forfeited land free and clear of any personal property tax lien.

MORTGAGE LIENS

The legal status of a mortgage lien before and after tax forfeiture is dependent upon several key principles and whether or not several major actions have been performed. These major situations are outlined and explained below.

1. LEGAL STATUS OF MORTGAGE LIENS BEFORE FORFEITURE

Under a mortgage contract where the property taxes are not paid by the mortgagee through an escrow account, the mortgagor (property owner) is usually responsible for paying the property taxes when due. If the taxes are not paid, the mortgagor is in default of the mortgage contract.

In the above situation, the mortgagee may pay the unpaid taxes and foreclose on the property. The title would then be free and clear of any real property tax lien and mortgage lien. The mortgagee would recover the unpaid mortgage debt and the taxes paid when the property is "purchased" at a sheriff's mortgage foreclosure sale and sold to a third party.

On the other hand, the mortgagee may choose to pay the delinquent tax amount itself and not foreclose on the mortgage. In this case, the mortgagor would retain the title to the property free and clear of any real property tax lien. But the title would still be subject to the mortgage lien. In practice, the mortgagee probably would not use this method because of the legal actions required to recover the payment of the delinquent tax amount.

The above situations also apply to the unpaid taxes on any parcel of real property that is subject to a lien or encumbrance similar to a mortgage lien; e.g., a contract for deed or a lease agreement.

2. LEGAL STATUS OF MORTGAGE LIENS AFTER FORFEITURE

The legal status of a mortgage lien after tax forfeiture is not as clear as it is before tax forfeiture. The legal status seems to hinge on two key points: (1) the recording of the mortgagee's lien interest in the county recorder's office, and (2) the mailing and/or serving of the auditor's certificate of expiration of redemption to the mortgagee.

For example, if the auditor's certificate of expiration of redemption has been mailed and/or served to a mortgagee who has recorded its interest in the county recorder's office, the mortgage lien would be forfeited along with the property owner's title when the period of redemption expires. In this case, the county auditor would be authorized to cancel the mortgage lien.

However, if the auditor's certificate of expiration of redemption has not been mailed and/or served to a mortgagee who has recorded its interest in the county recorder's office, it is unclear whether or not a buyer after forfeiture would have to assume a title subject to the mortgage lien.

In Mennonite Board of Missions vs. Adams, 103 S. Ct. 2706 (1983), the United State Supreme Court ruled that the mortgagee's interest did not forfeit under Indiana statute. To be safe, county auditors in Minnesota should consider advising all buyers that property purchased at a tax-forfeited land sale may not be free and clear of mortgage-like liens and encumbrances under the above situation.

EASEMENT RIGHT-OF-WAYS

The county auditor does not have the authority to cancel an easement right-of-way that was granted on a parcel of land before tax forfeiture. .

An easement right-of-way is a permanent legal interest attached to the land. The party who was granted the easement retains the right-of-way over the land regardless of who holds title to the land.

Therefore, the forfeiture of the land to the state does not affect the easement right-of-way. When the tax-forfeited land is sold or conveyed by the county auditor, the state deed given to the purchaser continues to be subject to the easement right-of-way. (Minnesota Supreme Court, Alvin vs. Johnson, 1954, 241 Minn., 257, 63, N.W., 2d, 22)

ENVIRONMENTAL LIENS

See pages 4 and 5 of Section 6740 for information about environmental liens that may be filed on tax-forfeited land by the Pollution Control Agency (PCA) or the Department of Agriculture (DOA).

An environmental lien is one of the methods that the PCA or the DOA may use to recover the costs of response actions taken on tax-forfeited land.

COVENANTS

When a condominium apartment forfeits for non-payment of property taxes, the covenants that go with the apartment also forfeit. However, the county is not bound by them. For example, the county can sell the apartment to the highest bidder without the pre-approval of the association of apartment owners. On the other hand, the purchaser likely will be bound by the covenants.

CLASSIFICATION OF TAX FORFEITED LAND SECTION 6715

Before anything else can be done with a parcel of tax-forfeited land, the county board is to classify the parcel as "conservation land" or "nonconservation land." The classification should take place within a reasonable time after the forfeiture. (M.S. 282.01, Subd. 1; Op.Atty.Gen., 425-C, 6/3/55)

CRITERIA FOR CLASSIFICATION

The county board is to use the following criteria to decide whether to classify a parcel of tax-forfeited land as "conservation land" or as "nonconservation land." (M.S. 282.01, Subd. 1)

1. The present use of all parcels of property adjacent to the tax-forfeited land.

2. The potential productivity of the soil which is part of the tax-forfeited land.

3. The character of any forests or other vegetation growing on the tax-forfeited land.

4. The existing and potential accessibility of the tax-forfeited land to established roads, schools, and other public services.

5. The suitability or desirability of the tax-forfeited land for particular uses.

GOALS OF CLASSIFICATION

The classification of a parcel of tax-forfeited land as "conservation land" or "nonconservation land" is intended to achieve the following set of goals. (M.S. 282.01, Subd. 1)

1. To encourage the most economical and efficient use of the property for transportation, roads, water supply, drainage, sanitation, education, and recreation.

2. To reduce local and state governmental expenses.

3. To conserve and develop the state's natural resources.

4. To encourage both agricultural and nonagricultural economic development in the areas of the state best suited for each.

INFORMATION USED FOR CLASSIFICATION

In making the classification, the county board is authorized to use any information made available by any office or department of the federal, state, or local government, or by any other person or agency possessing pertinent information at the time the classification is made. (M.S. 282.01, Subd. 1)

AUTHORITY FOR RECLASSIFICATION

The county board may reclassify any parcel of tax-forfeited land at any time in order to enhance the sale of the parcel. Exception: Tax-forfeited land classified as "conservation land" and held by the state free of any trust for the local taxing districts may not be reclassified. (M.S. 282.01, Subd. 1)

Any reclassification of a parcel of tax-forfeited land is to be approved by the DNR and the city or town in which the property is located in the same manner that the original classification had to be approved.

THREE CONSOLIDATED CONSERVATION AREAS: HISTORICAL NOTE

Before 1984, all tax-forfeited land located in three consolidated conservation areas in the state had to be administered in a special way. The three consolidated conservation areas are listed below.

1. The Red Lake Game Preserve established in Lake of the Woods, Beltrami, and Koochiching Counties under M.S. 84A.01 to 84A.11.

2. The conservation areas set up in Aitkin, Roseau, and Mahnomen Counties under M.S. 84A.20 to 84A.30.

3. The conservation areas designated in Marshall County under M.S. 84A.31 to 84A.42.

CLASSIFICATION OF TAX FORFEITED LAND SECTION 6715
(Continued) **(Page 3)**

Before 1984, the title to tax-forfeited land located in one of these three areas passed to the state free of any trust for the taxing districts. The tax-forfeited land was managed by the Department of Natural Resources (DNR). The county auditor was required to classify each parcel as "agricultural" or "nonagricultural." The parcels classified as "nonagricultural" were reserved and managed by the DNR. (M.S. 282.06; 282.14)

The Minnesota Legislature passed a law in 1984 which settled the issue. The law requires that the title to land which is located in one of the three areas and is forfeited on or after May 3, 1984 is to pass to the state in trust for the taxing districts. (M.S. 84A.57)

Under the 1984 law, the county auditor is authorized to handle them in the same way as other lands located outside of the three areas; i.e., classify them as "conservation" or "nonconservation," appraise them, and dispense them according to the provisions of M.S. 282.01 to 282.13. (M.S. 84A.57)

Note: Because the provisions of M.S. 282.14 to 282.226 apply only to land which is located in the three conservation areas and was forfeited before May 3, 1984, the provisions are not covered in this manual.

Source: Philip J. Olfelt, Assistant Attorney General, Natural Resources Division, 1990

MUNICIPAL APPROVAL OF CLASSIFICATION + SALE

The classification, reclassification, or sale of any parcel of tax-forfeited land which is located within the boundaries of any city or any township with taxable values in excess of $20,000 is to be approved by the city council or the township board in which the parcel is located. (M.S. 282.01, Subd. 1)

The approval of the classification, reclassification, or sale is to follow the receipt of a written request for approval from the county board to the city council or township board in which the parcel of tax-forfeited land is located.

The city council or township board has 90 days from receipt of the written request for approval to notify the county board of its approval or disapproval of the classification.

If no response is received within the 90-day period, the county board is authorized to act as if the city council or township board had approved the classification, reclassification, or sale.

NOTE: If a city council or township board chooses to acquire any parcel of tax-forfeited land which is being classified by the county board and is located within its boundaries, the city council or township board may file a written application with the county board to withhold the parcel from public sale.

If the application is filed within 90 days of receipt of the county board's request for approval of classification, the county board is required to withhold the parcel from public sale for one year. (M.S. 282.01, Subd. 1)

See Section 6735 for more detailed information about the acquisition of tax-forfeited land by governmental subdivisions.

In the absence of a statutory format, the following format is suggested for the letter which is to be mailed to the city or township, requesting approval of the classification and sale of a parcel of tax-forfeited land.

CLASSIFICATION OF TAX-FORFEITED LAND SECTION 6715
(Continued) (Page 6)

SPRUCE COUNTY AUDITOR'S OFFICE
Spruce County Courthouse
234 West Broadway
Greenbriar, MN 56323

September 19, 1990

Wanda L. Granger, Clerk
City of Applewood
286 Main Street
Applewood, MN 57252

Dear Ms. Granger:

Enclosed is a classification listing of non-conservation land located in your city. The parcels described in the listing forfeited to the State of Minnesota for non-payment of property taxes.

As required under M.S. 282.01, we request that you approve the parcel(s) for public auction or auction to adjacent owners or request a conveyance to your city for public use.

We require a certified copy of the City Council Resolution authorizing any action taken. If you request that a parcel be conveyed to your city, you must also complete the form "Application by a Governmental Subdivision for Conveyance of Tax-Forfeited Land" and mail it to this office.

Only new special assessments which were levied after the forfeiture need be certified to this office. The remaining balance of any assessments levied before the forfeiture will be picked up automatically.

Please be advised that if the City Council fails to respond within ninety (90) days of the date of this letter, the sale will be deemed to be approved.

If you have any questions, please feel free to contact me at (234) 567-8910.

Sincerely,

Nicholas B. Archer

Nicholas B. Archer
Spruce County Auditor

AUTHORITY FOR RECLASSIFICATION

The county board may reclassify any parcel of tax-forfeited land at any time in order to enhance the sale of the parcel.

Exception: Tax-forfeited land classified as "conservation land" and held by the state free of any trust for the local taxing districts may not be reclassified. (M.S. 282.01, Subd. 1)

The county board is to review the parcels of tax-forfeited land classified or reclassified as non-conservation land for possible conveyance to a governmental unit or sale at a public auction or a private auction to adjacent landowners only.

Even with county board approval, the parcels cannot be conveyed or sold until approval of the classification or reclassification and sale has been obtained from the Department of Natural Resources (DNR) and the city or town in which the parcels are located.

DNR APPROVAL OF CLASSIFICATION + SALE

According to the DNR, all parcels of tax-forfeited land which a county has classified or reclassified as "nonconservation land" and intends to convey or sell must be reviewed and approved by the DNR.

This means that the county auditor cannot convey or sell a parcel of tax-forfeited land classified as non-conservation to a governmental unit upon request until the parcel has been included on the list sent to the DNR, reviewed by the DNR, and approved for conveyance or sale.

It also means that no parcel of tax-forfeited land classified as non-conservation can be sold by the county auditor at a private auction to adjacent landowners or at a public auction until the parcel has been included on the list sent to the DNR, reviewed by the DNR, and approved for conveyance or sale.

In order to obtain the DNR's approval as quickly as possible, each county is required to submitted the following documents.

1. A complete list of each parcel of tax-forfeited land which has been classified or reclassified as "nonconservation land" and is to be conveyed to a governmental subdivision or sold at a private or public auction.

2. A county board resolution certifying that the parcels on the list do not need to be withheld from sale under M.S. 85.012; 92.461; 282.01, Subd. 8; and 282.018; or any other statutes, and requesting approval of the conveyance or sale of the parcels on the list.

3. A narrative that summarizes the review process and conclusions used by the county to select the parcels for conveyance or sale under M.S. 282.01, Subd. 1.

For more information about the above requirements, write to the Real Estate Management Bureau, Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota, 55155-4030; or call (612) 296-4097.

See Section 6737 for more information about withholding tax-forfeited land from conveyance or sale.

The DNR mailed to all counties a suggested format for the resolution which is to be submitted to the DNR. An adaptation of that suggested format is presented below.

SPRUCE COUNTY BOARD RESOLUTION NO. 462

WHEREAS, The County Board of Commissioners of the County of Spruce, State of Minnesota, desires to offer for sale certain parcels of land that have forfeited to the State of Minnesota for non-payment of taxes, and

WHEREAS, Said parcels of land have been viewed by the County Board of Commissioners and have been classified as non-conservation lands as provided for in Minnesota Statutes 282.01.

NOW, THEREFORE, BE IT RESOLVED That the Spruce County Board of Commissioners hereby certify that all parcels of land on the attached list have been viewed and comply with the provisions of Minnesota Statutes 85.012, 92.461, 282.01, Subd. 8, and 282.018, and other statutes that require the withholding of tax-forfeited lands from sale.

BE IT FURTHER RESOLVED That the Spruce County Board of Commissioners hereby request approval from the Minnesota Department of Natural Resources for the sale of said lands.

The question was on the adoption of the resolution, and there were 5 YEAS and 0 NAYS as follows:

COUNTY OF SPRUCE BOARD OF COUNTY COMMISSIONERS	YEA	NAY	OTHER
William R. Gorman	X		
Tracy M. Motzko	X		
Benjamin Rossiter	X		
Milton A. Fisher	X		
Jayson F. Williams	X		

ATTEST: Marilyn C. Bardot Date: June 20, 1990
Marilyn C. Bardot
Clerk of the County Board

MUNICIPAL APPROVAL OF CLASSIFICATION + SALE

The classification or reclassification and conveyance or sale of any parcel of tax-forfeited land must be approved by the city in which the property is located. If the parcel is located in a township instead of a city, the county board must obtain approval from the township if the township's total taxable value exceeds $20,000. (M.S. 282.01, Subd. 1)

This means that the county auditor cannot convey or sell a parcel of tax-forfeited land to a governmental unit upon request until the city or township in which the property is located has given its approval.

It also means that no parcel of tax-forfeited land can be sold by the county auditor at a private auction to adjacent landowners or at a public auction until approval from the city or town in which the property is located has been received.

The approval of the classification or reclassification and conveyance or sale is to follow the receipt of a written request for approval from the county board to the city council or township board in which the property is located.

The city council or township board has 90 days from receipt of the written request for approval to respond to the county board in one of the following ways: (1) approval of a public sale, (2) approval of a private sale to adjacent landowners, (3) disapproval of any conveyance or sale to anyone, or (4) request for conveyance to the city or town itself.

If no response is received within the 90-day period, the county board is authorized to act as if the city council or township board had approved the classification or reclassification and conveyance or sale.

Note: The county board is required to obtain the approval of the city or township for the classification and sale of tax-forfeited land. It is not required to obtain approval of the basic sale price. (Op.Atty.Gen., 412a-8, 7/11/66)

MUNICIPAL ACQUISITION OF TAX-FORFEITED LAND

If it decides that it may want to acquire one or more parcels on the tax-forfeited list received from the county board, the city council or town board may send a letter back to the county board requesting that the parcel or parcels be withheld from sale. (M.S. 282.01, Subd. 1)

If the letter from the city council or town board is mailed within the 90-day grace period, the county board is required to withhold the parcel or parcels from conveyance to any other governmental unit and from private or public sale for one year. Within that year, the city or town has the option to acquire the parcel or parcels privately without competition from anyone.

See Sections 6732 through 6735 for more detailed information about the different methods by which a governmental unit may acquire tax-forfeited land.

In the absence of a statutory format, the following format is suggested for the letter which is to be mailed to the city or township, requesting approval of the classification and sale of a parcel of tax-forfeited land.

SPRUCE COUNTY AUDITOR'S OFFICE
Spruce County Courthouse
234 West Broadway
Greenbriar, MN 56323

September 19, 1990

Wanda L. Granger, Clerk
City of Applewood
286 Main Street
Applewood, MN 57252

Dear Ms. Granger:

Enclosed is a classification listing of non-conservation land located in your city. The parcels described in the listing forfeited to the State of Minnesota for non-payment of property taxes.

As required under M.S. 282.01, we request that you approve the parcel(s) for public auction or auction to adjacent owners or request a conveyance to your city for public use.

We require a certified copy of the City Council Resolution authorizing any action taken. If you request that a parcel be conveyed to your city, you must also complete the form "Application by a Governmental Subdivision for Conveyance of Tax-Forfeited Land" and mail it to this office.

Special assessments which were levied before the forfeiture do not need to be certified to this office. They were canceled at forfeiture and will be paid from the sale price. Special assessments which are levied after the forfeiture should be certified to this office. They will be added to the appraised value and paid from the sale price.

Please be advised that, if the City Council fails to respond within ninety (90) days of the date of this letter, the sale will be deemed to be approved.

If you have any questions, please feel free to contact me at (234) 567-8910.

Sincerely,

Nicholas B. Archer

Nicholas B. Archer
Spruce County Auditor

APPRAISAL OF TAX-FORFEITED LAND SECTION 6720

After the classification and sale have been approved by the Department of Natural Resources (DNR) and the municipality, the county board is responsible for determining the major component of the basic sale price of each parcel of tax-forfeited land. The major component is referred to as the "appraised value." (M.S. 282.01, Subd. 3)

APPRAISAL: OFFICIAL SOURCE

The county board may perform the appraisal themselves, or they may use any other official source for appraisal that they choose.

In most cases, the county board would probably choose to use the county or city assessor's office. In some cases, the appraisal is performed by the land commissioner. This is usually done individually or in cooperation with one or more of the county commissioners.

APPRAISAL: THE VALUE SET BY THE COUNTY BOARD

In general, the term "appraised value" refers to the major component of the basic sale price of a parcel of tax-forfeited land which is determined by the county board.

In practice, the county board has the responsibility and authority to set an appraised value which is realistic for the sale of a parcel of tax-forfeited land. This means that the appraised value set by the county board should be an amount which potential buyers at a tax-forfeited land sale are likely to pay.

In some cases, the appraised value may be equal to the fair market value of the parcel. The term, "fair market value," means the arm's-length sale price of the parcel as set by an appraiser. In these cases, the property would likely be in good condition and be valuable to the members of the community.

In other cases, the property may be run down and not have much use to anyone in the community. In these cases, the county board may choose to set the appraised value lower than the fair market value of the parcel in order to improve the chances of selling the property.

APPRAISAL: SPECIAL ASSESSMENTS LEVIED AFTER FORFEITURE

When the cost of new improvements is assessed against a parcel of real property after forfeiture, the clerk of the municipality may certify the amount of the special assessment to the county auditor. (M.S. 282.01, Subd. 3)

NOTE: This procedure only applies to a special assessment which was levied after a parcel has forfeited and before it has been sold. It does not apply to a special assessment which was levied before forfeiture and cancelled at forfeiture. See Section 6710 for more detailed information about both types of special assessments.

The county auditor is to add the amount of the certified special assessment to the appraised value of the parcel. The amount of the certified special assessment is to be listed as a separate item along with the county board's appraised value.

The amount of these special assessments levied after the forfeiture and collected as part of the sale price are to be paid first when the net revenues from the sale are distributed. See Section 6765 for more detailed information about the distribution of the net revenues from the forfeited tax sale fund.

APPRAISAL: COSTS OF HAZARDOUS WASTE

The costs of response actions taken by the Pollution Control Agency (PCA) or the Department of Agriculture (DOA) to control hazardous waste on tax-forfeited land and certified to the county auditor are to be added to the appraised value by the county auditor. (M.S. 282.019, Subd. 5)

See Section 6740 for more detailed information about the payment of hazardous-waste cleanup on tax-forfeited land.

APPRAISAL: BASIC SALE PRICE

The final goal of the appraisal process is to set the basic sale price at which a parcel of tax-forfeited land may be sold at a tax-forfeited land sale or may be conveyed to a governmental subdivision or state agency. (M.S. 282.01, Subd. 3)

The major component of the basic sale price that is specifically determined by the county board is the appraised value of the parcel of tax-forfeited land. No parcel of tax-forfeited land can be sold for less than the appraised value.

In some cases, the basic sale price may be more than the appraised value determined by the county board. If the county auditor were required to add the extra costs outlined and explained above, the basic sale price would be the sum of the following components: (1) the appraised value, (2) the amount of the new special assessments, and/or (3) the costs of the hazardous-waste response actions.

APPRAISAL: DNR APPROVAL FOR TIMBER SALES

When a parcel of tax-forfeited land contains standing timber, the land and the timber are to be appraised separately. (M.S. 282.01, Subd. 3)

No parcel of tax-forfeited land containing standing timber may be sold until both the appraised value of the timber and the sale of the property have been approved by the Department of Natural Resources (DNR).

The decision of the DNR, approving or disapproving the sale of a parcel of tax-forfeited land containing standing timber, is to be in writing and is to state the reasons for the decision. The county board is authorized to appeal the DNR's decision. See Section 6726 for more information concerning timber sales.

Note: The county board should consider the timber value of a parcel of tax-forfeited land when determining the appraised value component of the parcel's basic sale price. However, it is not required that the county board's appraised value for the sale of the property equal the sum of the separate appraised values of land and timber mentioned above.

APPRAISAL: AUTHORITY FOR REAPPRAISALS

The county board may order the reappraisal of a parcel of tax-forfeited land at any time for the purpose of enhancing the sale of the parcel. (M.S. 282.01, Subd. 3)

However, if the county board does reappraise a parcel of tax-forfeited land that failed to sell at a public auction, the parcel is to be advertised again and offered at a public sale of tax-forfeited land in the future. This process may be repeated as often as required to sell the parcel and get it back on the property tax rolls. (M.S. 282.01, Subd. 7)

EXCHANGING TAX-FORFEITED LAND SECTION 6722

All tax-forfeited land which is held in trust for the local taxing districts and held under the control of the county board for classification, appraisal, and sale may be exchanged for other property located within the county.

The exchange of tax-forfeited land is controlled by the provisions of M.S. 94.344. These are the general provisions for all Class B land exchanges in the state. An outline of these provisions, as they related to the exchange of tax-forfeited land, is presented below.

1. Tax-forfeited land may be swapped for any public or private land located in the same county in Minnesota. (M.S. 94.344, Subd. 1)

2. Tax-forfeited land may not be given in an exchange if either of the following conditions exists: (a) it has not been classified for sale, or (b) it is located in a district or zone with use-restrictions which will prevent the private owner from using the land for any use for which the land is otherwise suitable. (M.S. 94.344, Subd. 2)

3. The proposal for a tax-forfeited land exchange may come from two sources. The county board may by resolution direct the county auditor to make a proposal for exchange to a landowner. Or any landowner may make a proposal for exchange to the county board by submitting a proposal to the county auditor. Forms for such proposals are available from the Department of Natural Resources. (M.S. 94.344, Subd. 8)

4. The county board must determine the value of the tax-forfeited land subject to the approval of the DNR and the Land Exchange Board during the application process as mentioned in item #13 below. (M.S. 94.344, Subd. 3)

5. The tax-forfeited land may be worth less than the private land, but only if the private landowner agrees to waive the difference in value. (M.S. 94.344, Subd. 5)

6. The tax-forfeited land may be worth more than the private land, but only if the private landowner agrees to pay the difference in value to the county. The amount of the difference may be paid in a lump-sum cash payment or in installments. (M.S. 94.344, Subd. 6)

7. If the county accepts installments, the county must issue a certificate of sale, and the installment agreement must be subject to the same provisions as the sale of tax-forfeited land under installments with one exception. The county may set up a different time schedule for making the payments. (M.S. 94.344, Subd. 6)

8. The proceeds from the payment of the difference in value must be distributed according to the same schedule as the proceeds from the sale of tax-forfeited land. (M.S. 94.344, Subd. 6)

9. The Department of Revenue (DOR) will not issue a state deed to the tax-forfeited land until all installments are paid. The issuance of the state deed must follow the same procedures as for the issuance of any other state deed for the sale of tax-forfeited land. (M.S. 94.344, Subd. 6)

10. The mineral rights in the tax-forfeited land must be reserved to the state just as if the tax-forfeited land were being sold at public auction. The tax-forfeited land may also carry with it any other written restrictions, reservations, and easements which the county board may decide is necessary. The private land may also be burdened by its owner. These restrictions will not prevent the exchange. They will only be important to the question of the value of the exchanged lands. (M.S. 94.344, Subd. 6)

11. The county attorney must examine and approve the title to the private land before it can be accepted in exchange. (M.S. 94.344, Subd. 9)

12. The county board must hold a public hearing before giving final approval by resolution to the exchange. At least two weeks before the hearing, the county auditor must post a notice of the hearing in the auditor's office. The notice must contain a description of the lands being proposed for exchange. (M.S. 94.344, Subd. 9)

14. After approval of the exchange by the DNR and the Land Exchange Board, the DNR must direct the Department of Revenue (DOR) to issue a state deed for the tax-forfeited land being traded away. The DOR will not issue the state deed until after the county auditor certifies that full payment has been made and the deed to the private land has been received. Then the state deed will be issued in the name of the party of the exchange and sent to the county auditor. The county auditor must record the state deed and the deed to the private land before giving the state deed to the party of the exchange. (M.S. 94.344, Subd. 10)

15. After an exchange has been completed, the county board may pay the local taxing districts where the tax-forfeited land was located a fair reimbursement for the lost land. This reimbursement must be made from the forfeited tax sale funds accruing to the local taxing districts in which the private land lies. The amount of the compensation is to be fixed by the county board, but may not be more than the local taxing districts would have received if the tax-forfeited land had been sold for the appraised value at a public auction. The private land must be held in trust for the local taxing districts in which it is located and become subject to all laws relating to tax-forfeited land. (M.S. 94.344, Subd. 11)

Note: For more information about the exchange of tax-forfeited land, please contact the Department of Natural Resources.

Mike Miller, Exchange Coordinator
Real Estate Management Bureau
Department of Natural Resources
(651) 296-0237

IMPROVEMENTS TO TAX-FORFEITED LAND SECTION 6725

Until a parcel of tax-forfeited land is dispensed, the county auditor may make any improvements or repairs to the property that are approved by the county board. (M.S. 282.04, Subd. 2; 282.01, Subd. 3)

The county auditor may also take any action approved by the county board to preserve or protect the condition of the tax-forfeited land or any adjoining property. Effective beginning January 1, 2000, such action may include maintenance.

Note: The expense of any actions taken to improve, repair, preserve, or protect the condition of the tax-forfeited land or any adjoining property are to be paid from the forfeited tax sale fund. See Section 6760 for more information about the forfeited tax sale fund. (M.S. 282.04, Subd. 2)

IMPROVEMENTS: BUILDINGS LOCATED ON THE LAND

With the approval of the county board, the county auditor is authorized to take the following actions pertaining to any buildings located on a parcel of tax-forfeited land. (M.S. 282.04, Subd. 2)

1. **Make repairs and improvements that are necessary for the operation, use, preservation, and safety of the buildings.**

2. **Effective beginning January 1, 2000, provide for maintenance of buildings and structures.**

3. **Insure the buildings against loss or damage resulting from fire or windstorm.**

4. **Purchase workers' compensation insurance to cover workers in and around the buildings who are employed by the county.**

5. **Insure the county against claims for injuries to persons or property because of the management, use, or operation of the buildings.**

6. **Contract for the demolition of any buildings that have been condemned by the state fire marshal under M.S. 299F.10 and for the sale of salvaged materials. The net proceeds from the sale of salvaged materials are to be deposited in the forfeited tax sale fund.**

7. **Contract for the demolition of any buildings that the county board determines are reducing the taxable values of property in the neighborhood because of age, dilapidated condition, or excessive size. The demolition may also be done to improve the chances of selling the parcel of tax-forfeited land.**

IMPROVEMENTS: GRADING OF THE LAND

With the approval of the county board, the county auditor may contract for the grading of a parcel of tax-forfeited land located in an urban area. The term "grading" refers to the action of leveling or smoothing out the surface of the land. (M.S. 282.04, Subd. 2)

When the grading of a parcel of tax-forfeited land is needed to protect and preserve the property of an adjoining owner, the owner may submit a written request for the county to complete the grading. If the county board determines that the grading will enhance the value of the tax-forfeited land in relation to the cost, the county board may approve the grading.

IMPROVEMENTS: SUBDIVIDING OR GROUPING PARCELS

When classifying, appraising, or selling tax-forfeited land, the county board may by resolution subdivide a parcel into smaller units or group several parcels into one larger unit. The subdividing or grouping is to be done only to enhance the sale of the tax-forfeited land. (M.S. 282.01, Subd. 3)

1. **SUBDIVIDING/GROUPING: BEFORE CLASSIFICATION + APPRAISAL**

   If the subdividing or grouping is done before the tax-forfeited land in its original form has been classified and appraised, each of the smaller units or larger units is to be classified and appraised separately for the first time before being offered for sale.

2. **SUBDIVIDING/GROUPING: AFTER CLASSIFICATION + APPRAISAL**

   If the subdividing or grouping is done after the tax-forfeited land in its original form has been classified and appraised, each of the smaller units or larger units may be reappraised and sold without being reclassified.

IMPROVEMENTS: SOURCE OF REVENUE

As stated earlier, the expense of any actions taken by the county auditor with the approval of the county board to improve, repair, preserve, or protect the condition of any tax-forfeited land or any adjoining property are to be paid from the forfeited tax sale fund. (M.S. 282.04, Subd. 2)

The question arises-- how does a county pay for the above costs when there is not enough money in the forfeited tax sale fund? The State Auditor's Office suggested that the county could make an advance from one of the other county fund balances to the forfeited tax sale fund to pay for the costs. An advance could become a permanent transfer if the forfeited tax sale fund never has enough money to pay back the advance. This would be a decision made by the county.

The State Auditor's Office suggested the following order of priority for obtaining revenue to make improvements to tax-forfeited land.

1. **1st Priority: The money should be taken first from the local taxing district's accounts in the forfeited tax sale fund.**

2. **2nd Priority: If more money is needed for the improvements, it should be taken from the general fund balance in the forfeited tax sale fund.**

3. **3rd Priority: If there is not enough money in the forfeited tax sale fund, the money may be advanced from another county fund.**

It was suggested that the county discuss each proposal for an advance with the State Auditor's Office before actually making the advance. Call the State Auditor's Office at (651) 296-2551 and ask to speak with Tom Karlson, Audit Manager, or Bernadine (Dino) Howard, General Counsel.

SALE OF ABANDONED PERSONAL PROPERTY

Sometimes, the former owner will vacate a parcel of real property when it forfeits without removing the personal property located on the real property. It is only the real property that forfeits for failure to pay real property taxes. Until 1994, the county auditor did not have jurisdiction over the abandoned personal property. So, it remained unclear what to do with it.

The 1994 Minnesota Legislature clarified the issue by authorizing the county auditor to seize and sell any personal property abandoned on tax-forfeited land. The seizure and sale of the abandoned personal property must be completed before the sale of the tax-forfeited land itself. (M.S. 282.04, Subd. 2)

The county board must approve by resolution the seizure and sale of any abandoned personal property on tax-forfeited land. The county board may approve the seizure and sale either under the provisions governing landlords (M.S. 566) or under the provisions for abandoned property on any public premises (M.S. 345).

The county auditor and the county board may want to consult with the county attorney about which provisions to use and how to work out the legal procedures and forms for completing the seizure and sale.

The net proceeds from the sale of abandoned personal property must be deposited in the forfeited tax sale fund. They must be distributed according to the apportionment plan prescribed in M.S. 282.08 and outlined in Section 6765 of this Manual.

TIMBER SALES SECTION 6726

Before a parcel of tax-forfeited land is conveyed or sold, and with the approval of the Department of Natural Resources, the county auditor may sell timber that is located on the land. The minimum sale price is the appraised value of the timber as determined by the county board. No timber may be removed from the parcel or from a cutting block until the price has been paid in full and in cash. (M.S. 282.04, Subd. 1)

The timber may be sold to the highest bidder after not less than one week's published notice in an official newspaper within the county. Any timber offered at the public sale and not sold may thereafter be sold at a private sale by the county auditor at not less than the appraised value of the timber. Small amounts of timber not exceeding $3,000 in appraised value may be sold for not less than the appraised value at a private sale to individuals without first publishing notice of the sale or calling for bids.

Payment of the full sale price must be made in cash at the time of the timber sale, except that in the case of oral or sealed bid auction sales the down payment may be no less than 15% of the appraised value, with the balance to be paid prior to entry. In the case of auction sales that are partitioned with predetermined cutting blocks, the down payment is 15% of the appraised price of the entire timber sale which may be held until the satisfactory completion of the sale or applied in whole or in part to the final cutting block. The value of each separate cutting block must be paid in full before any cutting may begin in that block.

The forestry practices to be followed in the cutting of the timber must be approved by the Department of Natural Resources. With the permission of the county administrator the purchaser may enter unpaid blocks and cut necessary timber incidental to developing logging roads as may be needed to log other blocks provided that no timber may be removed from an unpaid block until separately scaled and paid for.

The revenue from timber sales is one of the "net proceeds from the sale or rental of any parcel of tax-forfeited land, or from the sale of any products therefrom" that may be apportioned to the taxing districts under M.S. 282.08. See Section 6765 for more information on the distribution of net revenue from the county's forfeited tax sale fund to the taxing districts.

LEASING TAX-FORFEITED LAND SECTION 6727

Before it is conveyed or sold, the county auditor may lease a parcel of tax-forfeited land for a designated purpose. Depending upon the type of land to be leased, the county auditor needs the approval of the county board, the approval of the Department of Natural Resources (DNR), or the approval of both the county board and the DNR.

STANDARD 10-YEAR LEASES FOR GENERAL PURPOSES

With the approval of the county board, the county auditor may lease tax-forfeited land to any individual, corporation, or political subdivision for up to 10 years for any temporary purpose, including those purposes that are specifically listed in the statute. The approval of the DNR is not required. This leasing authority will be referred to as the "standard 10-year lease." (M.S. 282.04, Subd. 1(d))

The price and the terms of the standard, 10-year lease are to be set by the county board. The leases are to be granted at a public auction unless the lease is for $1,500 or less per year or to a political subdivision of the state. Leases that are for $1,500 or less per year or are to a political subdivision may be granted privately.

All revenues from the lease of tax-forfeited land under the standard 10-year lease are to be deposited in the forfeited tax sale fund. See Section 6760 for more information about the forfeited tax sale fund.

When the leased tax-forfeited land is sold, the property is to remain subject to the lease for not more than one year from the signing of the lease. Any rent paid by the lessee after the one-year grace period is to be refunded from the forfeited tax sale fund upon a claim by the lessee.

SPECIAL 10-YEAR LEASE FOR STOCKPILED IRON-BEARING MATERIAL

With the approval of the county board and the DNR, the county auditor may grant leases for up to 10 years to individuals, corporations, or political subdivisions for the purpose of taking and removing stockpiled iron-bearing material from tax-forfeited land for road construction and other purposes. (M.S. 282.04, Subd. 1(e))

Under this authorization, the county auditor must first determine that the material is needed and suitable for use in the construction or maintenance of a road, tailings basin, dike, dam, bank fill, or other works on public or private property, and that the use would be in the best interests of the public.

The request for approval sent to the DNR is deemed approved unless the DNR notifies the county auditor of its disapproval within six months of receiving the request.

SPECIAL 15-YEAR LEASE FOR MINING DEPOSITS

With the approval of the county board and the DNR, the county auditor may grant leases as well as permits and licenses for the depositing of stripping, lean ores, tailings, or waste products from mines or ore milling plants on tax-forfeited land. (M.S. 282.04, Subd. 1(f))

The price and the conditions of the lease are to be set by the county board. The county board is also to determine the length of the lease for any time up to 15 years.

All revenues from the lease of tax-forfeited property under the special 15-year lease for mining deposits are to be deposited in the forfeited tax sale fund. See Section 6760 for more information about the forfeited tax sale fund.

SPECIAL 25-YEAR LEASE FOR PEAT REMOVAL

With the approval of the county board, the county auditor may grant leases for the removal of peat from tax-forfeited land without first offering it at public sale. (M.S. 282.04, Subd. 1(h))

The price and the conditions of the lease are to be set by the county board. The county board is also to determine the length of the lease for any time up to 25 years.

Before 1993, the county had to obtain approval from the DNR for all peat leases regardless of the number of acres involved. The 1993 Minnesota Legislature authorized the county to grant these leases without DNR approval if the lease covers less than 320 acres. The county still has to get DNR approval when the lease covers 320 acres or more. This allows the counties to complete small lease agreements without having to wait for DNR's approval.

Before a special lease for peat removal can be granted, the county auditor is to hold a public hearing on the proposed leasing. The county auditor is to post a notice in the courthouse at least 20 days before the hearing. The county auditor is also to have a notice printed in a legal newspaper in the county at least 10 days before the hearing.

All revenues from the lease of tax-forfeited property under the special 25-year lease for peat removal are to be deposited in the forfeited tax sale fund. See Section 6760 for more information about the forfeited tax sale fund.

SPECIAL 1-YEAR LEASE FOR LAND WITH BUILDINGS

Within a period of two years immediately following the date of forfeiture, the county auditor may lease tax-forfeited land on which buildings or structures are located. (M.S. 282.04, Subd. 1a)

The lease may be granted without advertising for bids. As an exception to the provisions of the standard 10-year lease, the tax-forfeited land with buildings may be leased for no more than one year regardless of the amount of the consideration received for the lease.

The price and the conditions of the lease are to be set by the county auditor. With the approval of the county board, the county auditor may enter into a management contract without bids for the operation, use, or preservation of the property and the safety of the public.

For example, let's say that an occupied apartment building forfeits to the state. The county may choose to manage the apartment building and let the occupants continue to live in the apartment. A new lease agreement would have to be drafted and signed by the county and the occupants. The county would collect the rents and manage the apartment building while making every effort to sell it within the next year.

If the apartment building does not sell within one year, the county would be able to extend the lease agreement because the intention of the statute is to maintain the use of the property and preserve the property and the safety of the public.

All revenues from the lease of tax-forfeited land under the special 1-year lease for land with buildings are to be deposited in the forfeited tax sale fund. See Section 6760 for more information about the forfeited tax sale fund. (M.S. 282.09, Subd. 1)

LEASING OF CONSERVATION LAND UNDER COUNTY CONTROL

With the approval of the county board, the county auditor may lease tax-forfeited land classified as "conservation land" that remains under the control of the county board. (M.S. 282.01, Subd. 2)

The price for the lease, the terms of the lease, and the time period of the lease are to be set by the county board.

All revenue from the leasing of conservation land under county control is to be deposited in the forfeited tax sale fund. See Section 6760 for more information about the forfeited tax sale fund. (M.S. 282.09, Subd. 1)

LEASING OF SURFACE LAND CONTAINING MINERALS

With the approval of the DNR, the county auditor may lease the surface of tax-forfeited land that has been withheld from sale because it contains minerals and is under the jurisdiction of the Department of Natural Resources (DNR). (M.S. 282.01, Subd. 8)

The leasing of the surface land is subject to any conditions set up by the DNR for disposal and use for mining purposes. Any lease may be canceled for mining purposes on a three-month written notice from the DNR to the county auditor.

All revenue from the leasing of surface land containing minerals is to be deposited in the forfeited tax sale fund. See Section 6760 for more detailed information about the forfeited tax sale fund. (M.S. 282.09, Subd. 1)

TAXATION OF LEASED TAX-FORFEITED LAND

When tax-forfeited land is leased to an individual, association, or corporation, a tax is to be imposed for the privilege of using or possessing this property. The tax is to be assessed and collected as a personal property tax. The tax does not become a lien against the property. (M.S. 272.01, Subd. 1; 273.19)

EASEMENTS ON TAX FORFEITED LAND SECTION 6730

Before it is conveyed or sold, the county auditor and the Department of Revenue (DOR) with the recommendation of the county board may grant easement rights to certain types of tax-forfeited land for specified purposes. The types of easements which the county auditor and the DOR are authorized to grant are outlined below.

COUNTY AUDITOR: STANDARD EASEMENTS FOR UTILITIES OR ROADS

With the approval of the county board, the county auditor may grant easement rights on tax-forfeited land for the following standard purposes for utilities and roads. (M.S. 282.04, Subd. 4)

1. Telephone, telegraph, and electric power lines.

2. Sewer and water lines.

3. Pipe lines for gas, liquids, or solids in suspension.

4. Highways, railroads, and recreational trails.

The price for the easement, the conditions of the easement, and the time period of the easement are to be set by the county board.

Any easement granted may be canceled by county board resolution for the following two reasons: (1) any default of the conditions of the easement, and (2) any time the easement conflicts with any public use of the property.

The county auditor is required to give the holder of the easement on tax-forfeited land a 90-day written notice of the cancellation. The holder of the easement may be granted additional time in order to vacate the premises.

If the tax-forfeited land is eventually sold, the sale must be subject to the easement rights granted before the sale. The easement may be canceled after the sale for the same reasons and in the same way it may be canceled before the sale.

All revenues from the granting of the easement rights are to be deposited in the forfeited tax sale fund. See Section 6760 for more information about the forfeited tax sale fund. (M.S. 282.09, Subd. 1)

SPECIAL EASEMENTS TO THE STATE AND U.S.A.

Acting on behalf of the state, the county auditor is authorized to grant temporary or permanent easement rights on tax-forfeited land under the administration of the county to the state of Minnesota or to the United States for the following purposes. (M.S. 282.017)

1. Highways, roads, and trails.

2. Flowage for development of fish and game resources.

3. Flowage for stream protection and flood control.

The county board has the responsibility of setting the price for the easement, the conditions of the easement, and time period of the easement. The county board has the right to cancel an easement if it is not used for the intended purpose.

DEPT. OF REVENUE: EASEMENTS ON LAND BORDERING WATER

With the recommendation of the county board, the Department of Revenue (DOR) is authorized to grant permanent easement rights to the Department of Natural Resources (DNR) for tax-forfeited land bordering on lakes and streams. (M.S. 282.37)

The county auditor must submit to the DOR an application letter which includes the following information: (1) the legal description of the parcel, (2) a detailed description of the purpose for the DNR easement, (3) a detailed description of the exact area of the parcel which is to be subject to the DNR easement.

A copy of the county board resolution recommending the granting of the easement to the DNR must be enclosed with the application letter.

The application letter and the copy of the resolution must be mailed to the Property Tax Division of the DOR. After reviewing the application materials, the Property Tax Division may prepare a state easement deed and mail it to the county auditor.

The county auditor must have the state easement deed recorded in the county recorder's office before forwarding it to the DNR.

For more information about the easements, please contact the Property Tax Division of the DOR at (612) 296-0394 and the Real Estate Management Bureau of the DNR at (612) 296-0639.

CONSERVATION EASEMENTS

NOTE: See Section 6737 for detailed information about the requirement that tax-forfeited land which contains marginal land or wetlands is to be withheld from sale or restricted by a conservation easement.

GOVT ACQUISITION: OVERVIEW SECTION 6732

After it has been classified, approved for sale, and appraised, any parcel of tax-forfeited land may be acquired by a governmental subdivision or state agency. The written request for the acquisition must be received before the parcel is repurchased or sold at a private or public auction. (M.S. 282.01, Subd. 1-1f)

A governmental subdivision may acquire a parcel of tax-forfeited land free of charge for an "authorized public use." The governmental subdivision may retain ownership as long as the parcel is used for the authorized public use. If it is not used as authorized, the title reverts to the state. This method of acquisition is outlined and explained in Section 6733.

The following two cases are exceptions to the method of acquiring tax-forfeited land free of charge for an authorized public use: (1) parcels located in a targeted neighborhood, and (2) parcels acquired for a purpose authorized under M.S. 469. These two cases are outlined and explained in Section 6735.

A governmental subdivision or state agency may purchase a parcel of tax-forfeited land for an "authorized public purpose." After the county board has approved the sale and the state deed has been recorded, the governmental subdivision or state agency may use the parcel for any authorized public purpose without the title reverting to the state. Section 6734 covers this method of acquisition.

Note: The difference between an "authorized public use" and an "authorized public purpose" will be explained in Sections 6733 and 6734.

RATIONALE FOR GOVT. ACQUISITION

At first glance, it appears that this provision is not serving the public interest. When a governmental subdivision or state agency exercises this option, the parcel of tax-forfeited land is removed from the property tax rolls because of the government exemption. As a result, the parcel will not generate its fair share of property taxes for its taxing districts. The owners of the other parcels in the taxing districts may have to pay higher taxes.

The problem is alleviated by requiring the governmental subdivision or state agency to use the parcel for an authorized public use or purpose. The reasoning is that the general public will benefit as much or more from the governmental use or purpose of the parcel as they would have from the parcel being on the tax rolls.

In order to justify the rationale, a governmental subdivision or state agency should carefully review its proposed public use or purpose before requesting to acquire a parcel of tax-forfeited land. It is also important that the county board carefully review each proposed public use or purpose before approving any conveyance or sale.

FIRST PRIORITY FOR THE CITY OR TOWNSHIP

The city or township where a parcel of tax-forfeited land is located has the first option to acquire the parcel (as long as the classification and conveyance of the parcel in general has been approved by the DNR). The requirements and procedures for exercising this first option are outlined below. (M.S. 282.01, Subd. 1)

As soon as possible after the forfeiture, the county auditor must send a letter to the city or township requesting approval of the classification and sale of the parcel. Effective beginning September 1, 1999, the city or township has 60 days from the date of the county's letter to approve or disapprove the classification and sale of the parcel. Failure to respond within the 60 days serves as an approval. Previously the city or township had 90 days within which to approve or disapprove the classification and sale of the parcel.

Effective beginning September 1, 1999, if within the 60-day grace period the city or township informs the county board in writing that it wants to acquire the parcel, the county board is required to withhold the parcel from conveyance or sale to anyone else for six months. During that time, the city or township has the first option to acquire the parcel without competition from anyone. Previously, the county board was required to withhold the parcel from conveyance or sale to anyone else for one year.

If the written application is filed within the 60-day grace period, the right of first priority for the city or township must be enforced for the six-month period. If the county conveys or sells the parcel to another party after the application has been received and before the six-month period expires, the conveyance or sale must be canceled if the city or township still wishes to exercise its right of first priority.

Anytime during the six-month period, the city or township may acquire the parcel in one of the following ways: (1) free of charge as long as it continues to be used for the authorized public use, or (2) payment of the appraised value for an authorized public purpose. See Section 6733 and 6734 for more information about these two methods of government acquisition.

Effective September 1, 1999, a city or township must pay the maintenance costs incurred by the county during the six-month period while the property is withheld from public sale, provided that the property is not offered for public sale after the six-month period.

GOVERNMENT ACQUISITION AFTER CITY OR TOWNSHIP FIRST OPTION

After the right of first priority has expired without the city or township acquiring a parcel of tax-forfeited land, any governmental subdivision or state agency may acquire the parcel before it is repurchased or sold at a private or public auction. The city or township that had first priority may also exercise this second option. (M.S. 282.01, Subd. 1a)

In more specific terms, this second option may be exercised only if the conditions outlined below have been met.

1. **The Department of Natural Resources (DNR) approved the classification and sale of the parcel in general.**

2. **The city or township approved the classification and sale of the parcel in general.**

3. **The city or town did not request the county to withhold the parcel from sale for six months.**

4. **If it did request the county to withhold the parcel from sale, the city or township did not exercise its right of first priority to acquire the parcel during the six-month period.**

5. **The parcel has not been repurchased or sold at a private or public auction.**

When the above conditions are met, a governmental subdivision or state agency may acquire a parcel of tax-forfeited land in the ways that are outlined in Sections 6733 and 6734.

DECISION: TWO OR MORE REQUESTS

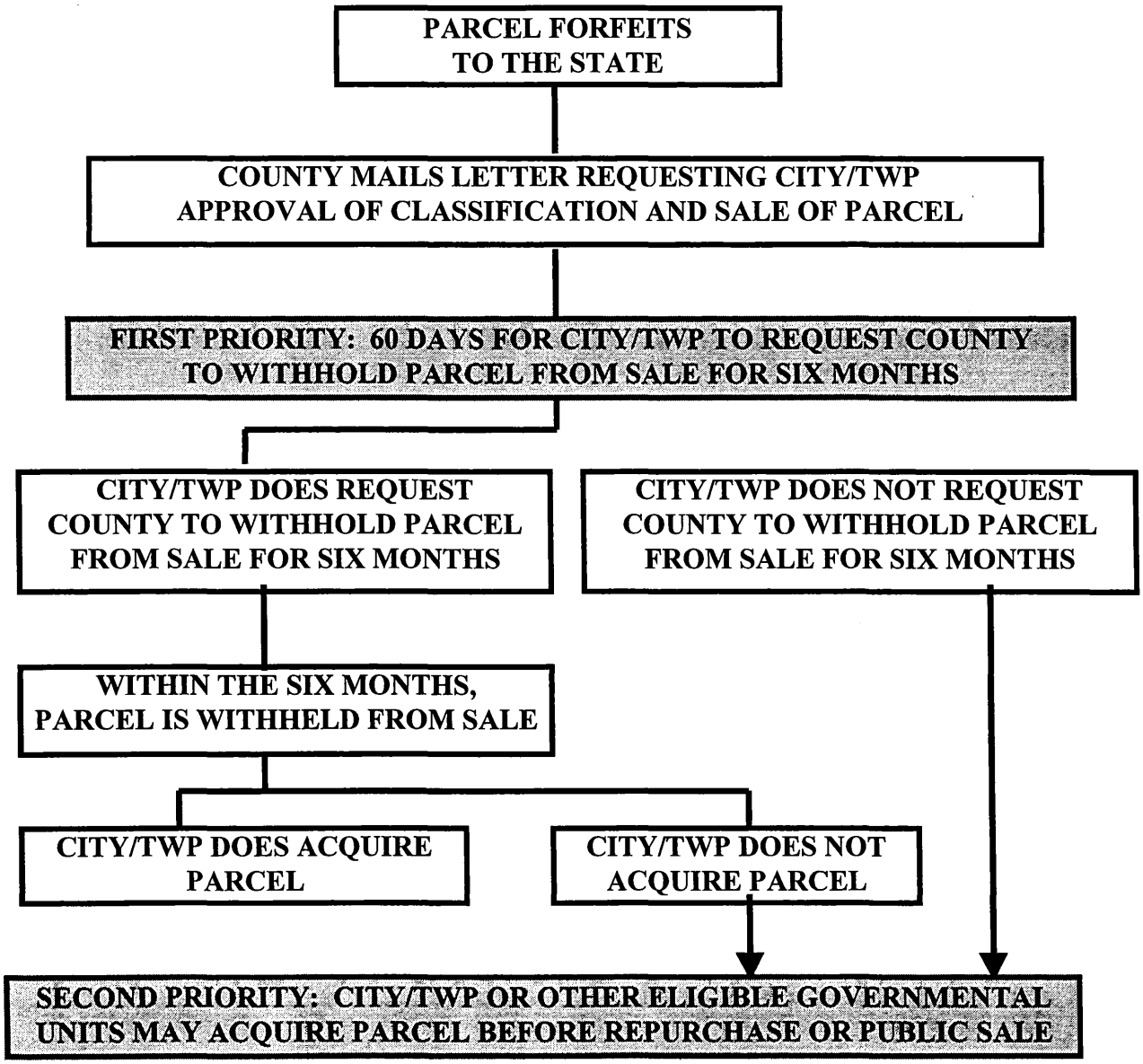
It is possible for more than one governmental subdivision or state agency to submit an application for the same parcel of tax-forfeited land. When this happens, the county board must decide which application, if any, to accept. The county board may delegate to the county auditor the responsibility of reviewing the applications and recommending which one to accept.

The county board's decision should be based on the public interest. The parcel should be conveyed to the governmental subdivision or state agency that will put the land to the best public use. The "best public use" must be defined by the county board.

The above decision-making process should also be followed when a parcel of tax-forfeited land is requested by a governmental subdivision or state agency at the same time that the former owner or another party with the legal right requests to repurchase the parcel.

GOVT ACQUISITION: OVERVIEW **SECTION 6732**
(Continued) **(Page 5)**

Effective beginning September 1, 1999, the following flow chart graphically illustrates the priority steps in the government acquisition of a parcel of tax-forfeited land.



GOVT. ACQUISITION: PUBLIC USE SECTION 6733

With the recommendation of the county board, the Department of Revenue (DOR) may privately convey any parcel of tax-forfeited land to a governmental subdivision for an "authorized public use." The written request for the conveyance must be received before the parcel has been repurchased or sold at a private or public auction. (M.S. 282.01, Subd. 1a)

Under this method of acquisition, the governmental subdivision is not required to pay for the parcel. However, if the governmental subdivision fails to use, or does not continue to use, the parcel for the "authorized public use," the title will revert to the state. The county auditor will return the parcel to the county's list of tax-forfeited land.

See Section 6732 for an explanation of how the city or township in which the parcel is located has first priority under this method of acquisition. Once this first priority expires, other governmental subdivisions (including the city or township) may acquire a parcel by this method.

DEFINITION: "GOVERNMENTAL SUBDIVISION"

The right to acquire a parcel of tax-forfeited land free of charge for an "authorized public use" is granted only to a governmental subdivision. The term, "governmental subdivision," is not defined in the statute. (M.S. 282.01, Subd. 1a)

The Department of Revenue (DOR) recommends that the term, "governmental subdivision," be defined in the same way as the term, "political subdivision," is defined for property tax purposes. This definition includes the following local taxing districts: counties, cities, townships, school districts, and special taxing districts.

The special taxing districts which are most likely to acquire tax-forfeited land free of charge for an authorized public use include the following: (1) housing and redevelopment authorities (HRA's), (2) economic development authorities (EDA's), and (3) port authorities.

DEFINITION: "AUTHORIZED PUBLIC USE"

A governmental subdivision may acquire a parcel of tax-forfeited land free of charge for an authorized public use. There is no definition of the term, "authorized public use," in the statute. (M.S. 282.01, Subd. 1a)

The Department of Revenue (DOR) recommends the following two-part definition. Any public use proposed by a governmental subdivision would have to qualify under both parts of the definition before a conveyance could be approved.

1. DEFINITION #1: PURPOSE AUTHORIZED BY STATUTE, LAW, OR CHARTER

A governmental subdivision should not be allowed to acquire tax-forfeited land free of charge for any purpose which is not authorized by statute, law, or local charter. This includes all authorized purposes for acquiring property whether it is to be used by a select group of people or by the general public.

For example, let's say that a school district wants to acquire a parcel of tax-forfeited land free of charge for the purpose of excavating sand and gravel for resale. The request should be disapproved because there is no legal authorization for a school district to benefit financially from the excavation of sand and gravel.

On the other hand, a county could acquire the same parcel of tax-forfeited land free of charge if the county proposed to use the sand and gravel for county road construction and maintenance. A county is authorized to acquire property for this purpose.

DEFINITION #2: PARCEL MUST BE AVAILABLE TO THE GENERAL PUBLIC OR ELSE THE PUBLIC PURPOSE MUST DIRECTLY BENEFIT THE GENERAL PUBLIC

A public purpose that is authorized by statute, law, or local charter must allow the general public to use the parcel of tax-forfeited land or else directly benefit the general public in order to qualify as an authorized public use. If only a select group of people would have access to the parcel, or if just a few select individuals would receive direct benefit from the public purpose, the governmental subdivision should not be allowed to acquire the parcel free of charge. They should be required to purchase the parcel instead.

For example, let's assume that a city wants to acquire a parcel of tax-forfeited land free of charge to build a parking lot next to the city's municipal garage. The parking lot is to be used exclusively by city employees. The proposed purpose qualifies under definition #1 because a city is authorized to acquire property for an employee parking lot.

However, the city's request should be denied because the authorized public purpose does not qualify under definition #2. The parking lot will not be available to the general public. If it wants the parcel for the employee parking lot, the city should be required to purchase it.

On the other hand, the city's request for the same parcel free of charge could be approved if the parcel were to be used for a municipal parking lot. In this case, both Definition #1 and Definition #2 would be satisfied: the city is authorized to acquire property for a municipal parking lot, and the parking lot would be available to the general public.

Examples of authorized public uses which have been approved by the DOR in the past are (1) parks and recreation areas; (2) municipal parking lots; (3) roads, streets, and highways; (4) drainage areas; (5) walking and biking trails; (5) fire stations and town halls, and (6) public improvements (for example, storm sewers) benefiting either the entire population of a city or particular neighborhoods of a city. "Particular neighborhoods" has been deemed general enough to meet the test of "public use."

COUNTY BOARD APPROVAL OF GOVT. ACQUISITION

The county board is responsible for approving or denying each request from a governmental subdivision to acquire tax-forfeited land free of charge for an authorized public use. The county board's decision must be confirmed by resolution. (M.S. 282.01, Subd. 1a)

In making each decision, the county board should ask at least the three questions outlined below. The first two questions are directly related to the two-part definition of the term, "authorized public use," explained in the above subsection. If all three of the questions can be answered in the affirmative, the county board may decide to approve the request.

1. **Question #1: Is the proposed purpose authorized by statute, law, or local charter?**

2. **Question #2: Does the proposed purpose qualify as an authorized public use?**

3. **Question #3: Will the proposed purpose serve the public interest as much or more than having the parcel back on the tax rolls?**

When approval is granted, the county board must recommend that the Department of Revenue (DOR) issue a state deed ("use deed") in the name of the governmental subdivision. This is done on the official application form discussed in a later subsection.

RULE OF REVERSION

A governmental subdivision may retain the title to a parcel of tax-forfeited land acquired free of charge as long as the parcel continues to be used for the authorized public use listed in the state deed ("use deed"). If the parcel is not used as authorized, the title must be reconveyed to the state. This restriction on the title can be referred to as the "rule of reversion." (M.S. 282.01, Subd. 1c-1e)

The rule of reversion also applies when only a part of the parcel is being used for the authorized public use. In this case, the governmental subdivision may retain the title to the part that continues to be used as authorized. However, the title to the part that is not being used as authorized must be reconveyed to the state.

The reconveyance of the title to the state must take place in one of the two ways outlined below.

VOLUNTARY RECONVEYANCE BY GOVT. SUBDIVISION

When a whole parcel or part of a parcel of tax-forfeited land is not being used for the authorized public use, the governing body of the governmental subdivision must voluntarily direct its officers to reconvey the property to the state. The officers must immediately execute and deliver a reconveyance deed to the state. (M.S. 282.01, Subd. 1d)

The first step is to obtain a copy of the appropriate deed form from the county auditor or the Property Tax Division of the Department of Revenue (DOR). Form 975 is to be used for the reconveyance of a whole parcel. Form 976 is for reconveyance of a part of a parcel. Call (651) 296-0394 for more information about the forms and the reconveyance process.

The reconveyance deed must be completed and signed by the officers of the governmental subdivision and stamped with the official seal. The information and the signatures must be validated by the signature and seal of a notary public.

The completed reconveyance deed must be mailed to the Property Tax Division. If approval is granted, the Property Tax Division will keep a copy of the reconveyance deed for its records and mail the original document to the county auditor. The county auditor must record the original reconveyance deed in the county recorder's office.

After the recording, the county auditor must return the parcel to the county's list of tax-forfeited land. The regular tax-forfeiture procedures can then be completed to make the parcel eligible once again for acquisition by a governmental subdivision or state agency or for sale at a private or public auction. In fact, the governmental subdivision that reconveyed the parcel to the state may request to acquire the parcel again free of charge or by paying for it.

STATE ENFORCED RECONVEYANCE

If the governmental subdivision does not voluntarily complete the reconveyance, the Department of Revenue (DOR), acting for the state, must enforce the rule of reversion. (M.S. 282.01, Subd. 1e)

The DOR cannot enforce a reconveyance until (1) five years have passed since the date of the conveyance if the parcel was never put to the authorized public use, or (2) five years have passed since the date when the authorized public use was discontinued. This means that a governmental subdivision may hold title to the parcel for at least 5 years even though it is not being put to the authorized public use during that time.

To complete its enforcement role, the Property Tax Division, acting for the DOR, has adopted the following procedure to monitor the use of the parcels. Each year in January, a letter is mailed to each governmental subdivision that acquired parcels six years ago. The mailing also includes a list of the parcels. Going back 6 years assures that at least 5 years have passed since the parcels were conveyed.

The cover letter requests the governmental subdivision to perform the following tasks: (1) inspect each parcel on the list, (2) indicate next to each parcel on the list how it is being used and whether or not that is the authorized public use, and (3) return the completed list to the Property Tax Division by a fixed deadline.

After reviewing the returned list, the Property Tax Division sends the governmental subdivision a blank reconveyance deed for each parcel that has not been used for the authorized public use in the last five years. The governmental subdivision must complete the form and mail it to the Property Tax Division by a fixed deadline.

If the governmental subdivision does not comply, the DOR is required to execute a written declaration of reversion. A notice of the reversion and a copy of the declaration are to be sent by certified mail to the chief officer of the governmental subdivision. The DOR is to maintain on file the master copy of the declaration along with verified proof of the certified mailing.

The governmental subdivision has up to 30 days after the certified mailing to file an appeal with the district court. If there is no appeal or if the court rules in favor of the reversion, the DOR is to file a certified copy of the declaration of reversion and proof of service with the county recorder. Similar to a voluntary reconveyance, the title is back in the name of the state, and the parcel can be returned to the county's list of tax-forfeited land.

COST OF GOVT. ACQUISITION

When an application is approved, the Department of Revenue (DOR) will issue a state deed ("use deed") in the name of the governmental subdivision free of charge. (M.S. 282.01, Subd. 1a)

The issuance of the state deed "free of charge" means that the governmental subdivision does not have to pay the following costs which are charged when the parcel is sold at a private or public auction: (1) the basic sale price, (2) the state deed fee, and (3) the 3% surcharge. See Sections 6745, 6747, and 6767 for information about these three costs.

The governmental subdivision does have to pay the following costs in order to record the state deed ("use deed"): (1) the state deed tax, (2) the county recording fee, and (3) the agricultural conservation fee (if the county is enrolled in the program). See Section 6747 for information about these three costs.

STATE DEED ("USE DEED") FOR GOVT. ACQUISITION

The state deed which is issued by the Department of Revenue (DOR) for this method of acquisition is commonly called a "use deed." A "use deed" contains two clauses that distinguish it from other state deeds. One states the authorized public use, and the other declares that the title is restricted by the authorized public use. This means that the title will revert to the state if the parcel does not continue to be used for the authorized public use. (M.S. 282.01, Subd. 1c)

There are two variations of the standard "use deed." One is for conveyances to targeted neighborhoods. The other is for conveyances to cities and special taxing districts that acquire a parcel of tax-forfeited land for an economic development or redevelopment purpose authorized under M.S. Chapter 469. These two variations on the standard "use deed" are explained in Section 6735.

APPLICATION FOR CONVEYANCE FOR A PUBLIC USE

All applications for conveyance of tax-forfeited land to a governmental subdivision free of charge for an authorized public use must be made with the official Form 962 prescribed by the Department of Revenue (DOR). The form is to be completed by the governmental subdivision, the county auditor, and the county board. (M.S. 282.01, Subd. 1a)

As a first step, the governmental subdivision must obtain a copy of Form 962 from the county auditor, complete the required information on the front page of the form, sign the back page of the form and have the signature notarized, and forward it to the county auditor.

The following information must be entered by the governmental subdivision on the front page of the Form 962: (1) the name and address of the governmental subdivision, (2) the date that the requested property was forfeited to the state, (3) the legal description of the property, (4) a detailed explanation of the proposed public use, and (5) a statement of the need for the property.

The authorized representative of the governmental subdivision making the application must sign on the back side of the Form 962, and the signature must be notarized. A notary public's signature and seal is required in order to validate the information entered by the governmental subdivision.

The county auditor begins the second step in the application process by presenting the governmental subdivision's request to the county board. Approval by the county board is completed by resolution. The board may approve several requests on one resolution.

The resolution should contain the following information: (1) a statement approving the conveyance, (2) the names of the governmental subdivisions, (3) the identification number (PID) of each parcel, (4) a summary of the authorized public use for each parcel, (5) the names of each board member with an indication of how each one voted, and (6) the date and signature of the clerk of the county board.

The completion of the remaining sections on the front and back sides of the Form 962 is the third step in the application process. At the bottom of the front page the county auditor must indicate whether or not there are wells on the property. A section in the middle of the back page requires an authorized representative of the county board to: (1) indicate the county board's recommendation (acceptance or rejection of the application), and (2) to sign for the county board. In the next section on the back side, the county auditor (or land commissioner if the county has a land commissioner) must certify that all of the steps required by statute to prepare a parcel of tax-forfeited land for a conveyance for an authorized public use have been taken care of.

The final step in the application process is for the county auditor to mail the completed Form 962 to the Property Tax Division of the DOR. The following documents must accompany the application form: (1) a copy of the county board resolution approving the conveyance, and (2) a copy of the checklist (Wetland Certification Form) certifying whether or not the state deed must contain a restrictive covenant prohibiting the parcel from being placed in a state-funded wetland program.

The Property Tax Division, acting for the DOR, will review the information on the form and either approve or disapprove the conveyance. If the conveyance is approved, the Property Tax Division will execute a state deed ("use deed") in the name of the governmental subdivision and mail it to the county auditor. The county auditor is to have the deed recorded before forwarding it to the governmental subdivision.

A master copy of the application form which can be duplicated by the county can be obtained from the Property Tax Division. Contact the Property Tax Division at (651) 296-0394 for more information about the form and the application process.

APPLICATION TO CHANGE THE AUTHORIZED PUBLIC USE

A governmental subdivision is allowed to request a change in the authorized public use that was originally approved by the county board and the Department of Revenue (DOR) and stated in the state deed ("use deed"). By doing this, the governmental subdivision can use the parcel for another authorized public use and still retain the title to the parcel. (M.S. 282.01, Subd. 1c)

All applications for approval of a new authorized public use must be made with the official Form 961 prescribed by the DOR. The form is similar to the Form 962 that is used to apply for the conveyance of tax-forfeited land by "use deed." The Form 961 requires the following additional information: (1) a description of the intended public use for which the property was previously conveyed, and (2) a description of the new public use for the property that is being requested.

Contact the Property Tax Division at (651) 296-0394 for information about the form and the application process.

GOVT. ACQUISITION: PRIVATE SALE SECTION 6734

The county board may privately sell any parcel of tax-forfeited land to a governmental subdivision or state agency for any authorized public purpose. A written request to buy a parcel must be received by the county before the parcel has been repurchased or sold at a private or public auction. (M.S. 282.01, Subd. 1a)

NOTE: The sale to a governmental subdivision or state agency does not have to be approved by the Department of Revenue (DOR).

Under this method of acquisition, the governmental subdivision or state agency is required to pay not less than the value of the property as determined by the county board plus the other costs which would be charged to any other purchaser. After the sale, the parcel may be used for any authorized public purpose. The rule of reversion does not apply to the purchase of tax-forfeited land by a governmental subdivision or state agency.

See Section 6732 for an explanation of how the city or township where the parcel is located has first priority to purchase it. Once this first priority expires, any governmental subdivision (including the city or township) or any state agency may purchase the parcel.

DEFINITION: "GOVERNMENTAL SUBDIVISION"

A governmental subdivision may request to purchase a parcel of tax-forfeited land or to acquire it free of charge with a "use deed." The latter method of acquisition is explained in Section 6733. The statutes do not define the term, "governmental subdivision," for the purpose of either purchasing tax-forfeited land or acquiring it free of charge with a "use deed." (M.S. 282.01, Subd. 1a)

The Department of Revenue (DOR) recommends that the term, "governmental subdivision," be defined for the purpose of purchasing tax-forfeited land in the same way that it is for the purpose of acquiring tax-forfeited land free of charge with a "use deed."

This definition includes the following local taxing districts: counties, cities, townships, school districts, and special taxing districts.

Examples of the special taxing districts which are most likely to purchase tax-forfeited land include, but are not limited to, the following: (1) housing and redevelopment authorities (HRA's), (2) economic development authorities (EDA's), and (3) port authorities.

DEFINITION: "STATE AGENCY"

A state agency may request to purchase a parcel of tax-forfeited land even though it is not eligible to acquire tax-forfeited land free of charge with a "use deed." There is no definition of the term, "state agency," in the statute. (M.S. 282.01, Subd. 1a)

The Department of Revenue (DOR) recommends that the term, "state agency," be defined in three ways. The first definition includes those organizations officially called state agencies. Examples of these types of state agencies are the Minnesota Housing Finance Agency and the Minnesota Pollution Control Agency.

Secondly, the term, "state agency," should also be defined to include the Minnesota state departments. The state departments which are most likely to purchase tax-forfeited land are (1) the Department of Administration, (2) the Department of Agriculture, (3) the Department of Education, (4) the Department of Natural Resources, (5) the Department of Trade and Economic Development, and (6) the Department of Transportation.

Finally, the Office of the Attorney General has ruled that the following organizations are to be defined as "state agencies" for the purpose of purchasing tax-forfeited land: (1) the Minnesota State Agricultural Society, (2) the University of Minnesota Board of Regents, and (3) the Minneapolis-St. Paul Metropolitan Airports Commission. (Minnesota Statutes Annotated, Vol. 18A, Section 282.01, Notes on Decisions)

DEFINITION: "AUTHORIZED PUBLIC PURPOSE"

The county board may sell a parcel of tax-forfeited land to a governmental subdivision or state agency for an authorized public purpose. For a governmental subdivision, the language reads: "...for any public purpose for which the subdivision is authorized to acquire property." For a state agency, the exact words are "...for an authorized use." (M.S. 282.01, Subd. 1a)

This means that the only restriction on the sale of tax-forfeited land to a governmental subdivision or state agency is that the parcel must be used for a purpose authorized by statute, law, or local charter. This definition of the term, "authorized public purpose," is the same as the first part of the definition used in Section 6733 for acquiring tax-forfeited land free of charge; i.e., Definition #1.

The purpose for buying tax-forfeited land does not have to qualify under Definition #2 used in Section 6733. The parcel does not have to be available to the general public as it does if it is acquired free of charge. Access to the parcel may be limited to a select group of people as long as the purpose is authorized by statute, law, or local charter.

Let's use the example from Section 6733 to illustrate this point. A city wants to acquire a parcel of tax-forfeited land to build a parking lot next to the city's municipal garage. The parking lot is to be used exclusively by the city employees who work at the garage.

In Section 6733, the proposed purpose qualified because a city is authorized to acquire property for an employee parking lot. However, the request to acquire the parcel free of charge had to be denied because an employee parking lot does not qualify as an authorized public use. For the request to be accepted, the parking lot would have had to be available to the general public.

The sale of the parcel to the city for the same purpose would not be disapproved. If it pays for the parcel, the city can use it for an employee parking lot. The general public does not have to have access to it.

COUNTY BOARD APPROVAL OF GOVT. PURCHASES

The county board may sell a parcel of tax-forfeited land to a governmental subdivision or state agency for an authorized public purpose. The verb, "may," indicates that the county board is responsible for approving or denying each purchase request. (M.S. 282.01, Subd. 1a)

In order to make a decision, the county board has the right to require the governmental subdivision or state agency to submit a written application containing at least the following information: (1) a description of the proposed public purpose for which the parcel will be used, and (2) a citation for the statute, law, or charter provision which authorizes it to acquire property for the proposed public purpose.

Before ruling on a sale, the county board may want to ask the following questions: (1) Is the proposed purpose authorized by statute, law, or local charter?, and (2) Will the proposed purpose serve the public interest as much or more than having the parcel back on the tax rolls? If both questions can be answered in the affirmative, the county board may choose to approve the request. Approvals should be confirmed by resolution.

When a request is approved and the sale is completed, the county board must request a state deed from the Department of Revenue (DOR) in the name of the governmental subdivision or state agency. This is done on the official application form discussed later. Upon receipt of the application form, the DOR will mail the state deed to the county auditor. The application does not have to be approved by the DOR.

Note: The amount of effort put into the enforcement of the authorized public purpose before the sale must be decided by each county board.

If a governmental subdivision or state agency requests to purchase a parcel of tax-forfeited land and the county board approves the sale without examining the proposed purpose, the county board may have to assume some degree of legal responsibility if the purpose turns out to be unauthorized.

NO RULE OF REVERSION FOR GOVT. PURCHASES

The rule of reversion (M.S. 282.01, Subd. 1c-1e) does not apply to the purchase of a parcel of tax-forfeited land by a governmental subdivision or state agency.

Once the sale has been approved by the county board and the state deed has been recorded, the title does not have to be reconveyed to the state regardless of what the governmental subdivision or state agency does with the parcel.

See Section 6733 for a detailed explanation of the rule of reversion as it applies to a governmental subdivision's acquisition of tax-forfeited land free of charge with a "use deed." (M.S. 282.01, Subd. 1c-1e)

COST OF GOVT. PURCHASE

A governmental subdivision or state agency is required to pay not less than the value of the property as determined by the county board plus the other costs that would be charged to any other purchaser. In most cases, the value of the property will be the same as the basic sale price which other purchasers must pay. The county board makes the final decision after negotiating with the governmental subdivision or state agency. The county board may accept an amount offered that is greater than the basic sale price. (M.S. 282.01, Subd. 1a)

The specific costs that must be paid by a governmental subdivision or state agency to purchase a parcel of tax-forfeited land are outlined below. The list assumes that the basic sale price is paid.

1. **The Basic Sale Price** **(See Section 6745)**
2. **The State Deed Fee** **(See Section 6747)**
3. **The 3% Surcharge** **(See Section 6767)**
4. **The State Deed Tax** **(See Section 6747)**

5. **The County Recording Fee** **(See Section 6747)**

6. **The Agricultural Conservation Fee** **(See Section 6747)**

Note: A state deed cannot be recorded or delivered to the purchaser until all of the above costs have been paid. In order to avoid problems after the deed is issued, the county auditor should not apply for the state deed until the governmental subdivision or state agency has paid all of the above costs.

HANDLING RECEIPTS FOR GOVT. PURCHASES

See Section 6760 for detailed information about how to handle the money received from the sale of tax-forfeited land to governmental subdivisions or state agencies.

STATE DEED FOR GOVT. PURCHASES

The Department of Revenue (DOR) will issue a state deed ("purchase deed") in the name of the governmental subdivision or state agency when both of the actions outlined below have been completed. (M.S. 282.01, Subd. 6)

1. **The governmental subdivision or state agency has paid the value of the property as determined by the county board and the other costs to complete the sale.**

2. **The county auditor has submitted the official application form (PT FORM 80) to the Property Tax Division of the DOR.**

The format of the state deed which is issued in the name of a governmental subdivision or state agency is the same state deed format ("purchase deed") which is used for all sales of tax-forfeited land.

See Section 6755 for more information about this state deed.

APPLICATION FOR STATE DEED FOR GOVT. PURCHASES

Unlike the "use deed" covered in Section 6733, the governmental subdivision or state agency does not need the approval of the Department of Revenue (DOR) to purchase a parcel of tax-forfeited land. The purchase request must be made directly to the county auditor and must be approved by the county board.

In order to make a decision, the county board may want the application form to contain at least the following information: (1) a description of the proposed public purpose for which the parcel is intended to be used, and (2) a citation for the statute, law, or charter provision that authorizes the governmental subdivision or state agency to acquire property for the proposed public purpose.

The county auditor must present the application to the county board for approval. Approval of the proposed public purpose and the sale should be done by resolution. If the sale is approved, the county auditor must contact the governmental subdivision or state agency and complete the sale.

When all of the costs are paid, the county auditor must apply to the Property Tax Division of the DOR for a state deed ("purchase deed") in the name of the governmental subdivision or state agency. The DOR is not responsible for approving or disapproving the application for purchase.

All applications must be made with the official PT Form 80, "Auditor's Application For State Deed For Purchase of Tax-Forfeited Land." This is the same application form used by the county auditor for sales of tax-forfeited land to non-government purchasers at a private or public auction.

The upper half of the application form must include the following information: (1) the purchaser's name and address, (2) the date of the forfeiture, (3) the date of the sale, (4) the date when the basic sale price was paid in full, (5) the amount of the basic sale price, and (6) the legal description of the property.

GOVT ACQUISITION: PRIVATE SALE SECTION 6734
(Continued) **(Page 8)**

On the lower half of the application form, the appropriate boxes must be checked to indicate (1) the type of ownership, (2) whether the deed is a correction or a replacement, and (3) whether there are any wells on the property. The last section is for the county auditor to certify to the truth and accuracy of the information on the form and to request the state deed ("purchase deed") by signing and dating the form.

The application form must be accompanied by a copy of the checklist certifying whether or not the state deed ("purchase deed") must contain a restrictive covenant prohibiting the parcel from being placed in a state-funded wetland program.

The county auditor must submit the completed application form to the Property Tax Division. Within approximately two weeks after receiving the application form, the Property Tax Division will execute a state deed ("purchase deed") in the name of the governmental subdivision or state agency and mail it to the county auditor.

The county auditor must have the state deed ("purchase deed") recorded before forwarding it to the governmental subdivision or state agency.

A copy of the application form can be obtained from the Property Tax Division. This form can be duplicated by the county for future use. Contact the Property Tax Division at (651) 296-0394 for more information about the form and the application process.

GOVT ACQUISITION: SPECIAL CASES SECTION 6735

There are two special cases that are exceptions to the method of acquiring tax-forfeited land free of charge for an authorized public use as explained in Section 6733. The two special cases are (1) parcels used for economic development and redevelopment purposes under M.S. 469, and (2) parcels in targeted neighborhoods used for economic redevelopment purposes.

The unique conditions and requirements that apply only to these two special cases are outlined below.

CASE #1: ECONOMIC DEVELOPMENT AND REDEVELOPMENT UNDER M.S. 469

Housing and redevelopment authorities (HRA's), economic development authorities (EDA's), port authorities, and cities who acquire tax-forfeited land free of charge for an authorized public use are exempt from the rule of reversion under certain conditions. (M.S. 282.01, Subd. 1d)

The same procedures that are required by any other governmental subdivision to apply for and receive a state deed ("use deed") to a parcel of tax-forfeited land free of charge for an authorized public use must be completed under special case #1. These procedures are explained in Section 6733.

However, the state deed ("use deed") which the Department of Revenue (DOR) issues in the name of the HRA, EDA, port authority, or city grants an exemption from the rule of reversion if the parcel is conveyed to another party as part of an economic development or redevelopment project under M.S. 469. This means that the conveyance to another party may be made without the title reverting to the state.

To qualify for the exemption, an HRA, EDA, port authority, or city must file a certificate of termination of reversion with the county recorder's office or the registrar of titles as soon as the parcel has been conveyed. The certificate should contain the information outlined below.

1. **The name of the HRA, EDA, port authority, or city.**

2. **The date when the governmental subdivision approved the conveyance.**

3. A legal description of the parcel of tax-forfeited land that was acquired free of charge for an authorized public use.

4. The number of the state deed ("use deed") issued by the DOR.

5. The name of the party to whom the parcel was conveyed and the date of conveyance.

6. A statement to the effect that the rule of reversion terminates upon the recording of the certificate of termination of reversion.

7. The signature and title of one or more of the governmental subdivision's major officers.

8. The signature and seal of a notary public.

The rule of reversion is waived upon the recording of the certificate of termination of reversion. No vote of the people is required for this type of conveyance as authorized under M.S. 469.

The DOR has designed a sample form of the certificate of termination of reversion. A master copy of the application form which can be duplicated by the county can be obtained from the Property Tax Division. Call (651) 296-0394 for more information about the form.

CASE #2: ECONOMIC REDEVELOPMENT IN TARGETED NEIGHBORHOODS

Any political subdivision may acquire a parcel of tax-forfeited land located in a targeted neighborhood as defined under M.S. 469.201, Subd. 10. The parcel may be acquired free of charge for an authorized public use. (M.S. 282.01, Subd. 1b)

The term, "political subdivision," should be defined to include the following governmental subdivisions or local taxing districts: (a) counties, (b) cities, (c) townships, (d) school districts, and (e) special taxing districts. Economic development authorities (EDA's), housing redevelopment authorities (HRA's), and port authorities are examples of special taxing districts.

The same requirements for acquiring any parcel of tax-forfeited land free of charge for an authorized public use (as explained in Section 6733) must be met in order to acquire tax-forfeited land in a targeted neighborhood except for the following special requirements.

1. **DEFINITION OF "PUBLIC USE:" IMPROVE ECONOMIC AND TAXABLE VALUE**

   A political subdivision may acquire a parcel of tax-forfeited land in a targeted neighborhood for "the redevelopment of land as productive taxable property." This means that a parcel can be acquired only if the intention is to upgrade its economic and taxable value to the community. A parcel cannot be acquired if it is to be used for any tax-exempt purpose.

2. **APPLICATION: METRO AREA VS. GREATER MINNESOTA**

   The application form for acquiring tax-forfeited land located in a targeted neighborhood within the seven-county metropolitan area must be sent to both the Department of Revenue (DOR) and to the county board.

   For acquiring tax-forfeited land located in a targeted neighborhood in Greater Minnesota, the application form must be sent only to the DOR along with the county board's recommendation.

   In both cases, the application form which is sent to the DOR must be the standard Form 962 that is used for all other requests for tax-forfeited land free of charge for an authorized public use. (See Section 6733)

   The completed application form must be mailed to the Property Tax Division of the DOR. It must be accompanied by a copy of the political subdivision's resolution stating the proposed public use and certifying that the parcel is needed for "the redevelopment of the land as productive taxable property."

   Call the Property Tax Division at (651) 296-0394 for more information about the application procedures and the Form 962.

3. STATE DEED: CONVEYANCE IS REQUIRED IN METROPOLITAN AREA

The Department of Revenue (DOR) is required to convey by state deed ("use deed") any parcel of tax-forfeited land located in any targeted neighborhood in the seven-county metropolitan area to any political subdivision that submits an application to the DOR and the county board.

4. STATE DEED: CONVEYANCE IS OPTIONAL IN GREATER MINNESOTA

Upon the recommendation of the county board, the Department of Revenue (DOR) may choose to convey by state deed ("use deed") any parcel of tax-forfeited land located in any targeted neighborhood in Greater Minnesota to any political subdivision which submits an application to the DOR with the county board's recommendation.

5. STATE DEED: TITLE VS. RULE OF REVERSION

The state deed ("use deed") which is issued to a political subdivision for a parcel of tax-forfeited land located in a targeted neighborhood does contain the clause with the rule of reversion in effect. This means that the parcel must continue to be used for the authorized public use that is needed for "the redevelopment of land as productive taxable property." If that is not done, the title reverts to the state.

However, if the political subdivision is a housing and redevelopment authority (HRA), an economic development authority (EDA), a port authority, or a city, the political subdivision has the same power to negate the rule of reversion as it does for the acquisition of tax-forfeited land outside of a targeted neighborhood.

To qualify for the exemption, an HRA, an EDA, a port authority, or a city must file a certificate of termination of reversion with the county recorder's office or registrar of titles. See Case #1 earlier in this Section 6735 for more information about this certificate.

In contrast, if the political subdivision acquiring tax-forfeited land in a target neighborhood is not an HRA, an EDA, a port authority, or a city, the rule of reversion cannot be revoked. In practice, this would be academic because most tax-forfeited land in a targeted neighborhood is acquired by an HRA, an EDA, a port authority, or a city.

SPECIAL CASE: TARGETED NEIGHBORHOOD

Upon the recommendation of the county board, any political subdivision may apply to the Department of Revenue (DOR) for a state deed to any parcel of tax-forfeited land (except mineral rights) located in a targeted neighborhood as defined under M.S. 469.201, Subd. 10. Under this method of acquisition, the political subdivision is not required to pay the basic sale price for the tax-forfeited land. (M.S. 282.01, Subd. 1b)

1. DEFINITION: "POLITICAL SUBDIVISION"

The term, "political subdivision," which is not defined in M.S. 282.01, should be defined to include the following governmental subdivisions or local taxing districts: (a) counties, (b) cities, (c) townships, (d) school districts, and (e) special taxing districts. Economic development authorities (EDA's), housing redevelopment authorities (HRA's), and port authorities are examples of special taxing districts.

2. APPLICATION: METRO AREA + GREATER MINNESOTA

The application for tax-forfeited land located in any targeted neighborhood in the state is to contain the following information and document: (a) a legal description of the parcel, (b) a statement of the use to be made of the parcel, (c) a statement of the need for this particular parcel, and (c) a copy of a resolution certifying that the conveyance is needed for the redevelopment of the land as productive taxable property.

For tax-forfeited land located in any targeted neighborhood in the seven-county metropolitan area, the application is to be sent to the Department of Revenue (DOR) and to the county board.

For tax-forfeited land located in any targeted neighborhood in Greater Minnesota, the application is to be sent to the DOR along with the county board's recommendation.

3. STATE DEED: CONVEYANCE REQUIRED IN METRO AREA

The Department of Revenue (DOR) is required to convey by state deed any parcel of tax-forfeited land (except mineral rights) located in any targeted neighborhood in the seven-county metropolitan area to any political subdivision which submits an application to the DOR and the county board.

4. STATE DEED: CONVEYANCE OPTIONAL IN GREATER MINNESOTA

Upon the recommendation of the county board, the Department of Revenue (DOR) may choose to convey by state deed any parcel of tax-forfeited land (except mineral rights) located in any targeted neighborhood in Greater Minnesota to any political subdivision which submits an application to the DOR.

5. STATE DEED: PAYMENT OF EXTRA COSTS BUT NOT BASIC SALE PRICE

The Department of Revenue (DOR) will issue a state deed for a parcel of tax-forfeited land located in a targeted neighborhood to a political subdivision without requiring that the basic sale price for the tax-forfeited land be paid. (M.S. 282.01, Subd. 1a)

However, the political subdivision is required to pay the state deed tax and the other extra costs which must be paid to record a state deed. See Section 6747 for more information about the extra costs and fees.

6. STATE DEED: TITLE VS. RULE OF REVERSION

The state deed which is issued to a political subdivision for a parcel of tax-forfeited land located in a targeted neighborhood does contain the clause with the rule of reversion in effect.

However, if the political subdivision is a housing and redevelopment authority (HRA), an economic development authority (EDA), a port authority, or a city, the political subdivision has the same power to negate the rule of reversion as it does for the acquisition of tax-forfeited land outside of a targeted neighborhood.

To qualify for the exemption, an HRA, an EDA, a port authority, or a city is to file a certificate of conveyance with the county recorder's office or registrar of titles. The certificate is to state that the political subdivision has conveyed the parcel of acquired tax-forfeited land and that the conveyance is authorized under M.S. 469.

Upon the filing of a certificate of conveyance, the rule of reversion is to be waived. No vote of the people is required for this type of conveyance.

See pages 3 through 5 of this Section 6735 for more detailed information about the rule of reversion and the exemption for an HRA, an EDA, a port authority, or a city.

In contrast, if the political subdivision acquiring tax-forfeited land in a targeted neighborhood is not an HRA, an EDA, a port authority, or a city, the rule of reversion cannot be revoked. In most cases, this would be academic because most tax-forfeited land in a targeted neighborhood is acquired by an HRA, an EDA, a port authority, or a city.

LAND RESTRICTED OR WITHHELD FROM SALE SECTION 6737

Certain types of tax-forfeited land must be withheld from sale or conveyance or may be sold or conveyed only under specified restrictions.

The Department of Natural Resources (DNR) requires all counties to certify that the parcels on the lists of tax-forfeited land submitted to the DNR for approval are not the types of tax-forfeited land which are to be withheld from sale or conveyance. See Series 6717 for more information about the DNR requirements.

Some of the major types of tax-forfeited land which are to be withheld from sale or conveyance or sold or conveyed only with specified restrictions are outlined below along with the principles and rules for withholding or restricting them.

TYPE #1: CONSERVATION LAND MANAGED BY COUNTY BOARD

Tax-forfeited land which is held by the state in trust for the taxing districts and is classified by the county board as conservation land may be handled by the county board in anyone of the following ways. (M.S. 282.01, Subd. 2)

1. It may be sold privately to a governmental subdivision of the state.

2. It may be declared suitable for timber production and sold to a private party for timber production pursuant to M.S. 282.011.

3. It may be conveyed privately to the Department of Natural Resources (DNR) for conservation purposes. (See Type #2 below)

4. It may be leased or the timber or hay may be sold.

5. It may be reclassified as nonconservation land and sold or conveyed as authorized under M.S. 282.

TYPE #2: CONSERVATION LAND MANAGED BY DNR

By resolution, the county board may declare that certain parcels of tax-forfeited land which are held by the state in trust for the taxing districts and are classified as conservation land must be devoted to conservation purposes. In this case, the county board would forward the resolution to the Department of Natural Resources (DNR). (M.S. 282.01, Subd. 2)

If it decides that the parcels can be managed and developed for conservation purposes, the DNR must issue a certificate describing and accepting the parcels in the name of the state. The certificate must be sent to the county auditor who must record the transfer of the parcels in the county property tax lists and file it with the county recorder's office.

The title to the parcels of "conservation land" accepted by the DNR must be held in the name of the state free from any interest for the taxing districts. In short, the property is withheld from sale and will not be returned to the property tax rolls of the county in which it is located.

These parcels of conservation land are to be managed and developed by the DNR for any public conservation or recreational purpose including the following: (1) forestry, (2) water conservation (3) flood control, (4) parks, (5) game refuges, (6) controlled game management areas, and (7) public shooting grounds.

Upon application, the DNR may convey any parcel of these conservation lands to a governmental subdivision whose boundaries surround or are adjacent to the parcel for an authorized public purpose. The DNR will issue a deed to the governmental subdivision upon receipt of an application and a resolution.

The governmental subdivision's resolution must be passed by a majority vote of all the members of the governing body. The resolution must contain a description of the authorized public purpose. The governing body may retain title to the parcel as long as it continues to use the parcel for the authorized public purpose.

TYPE #3: MINERALS RESERVED BY THE STATE

All minerals and mineral rights are reserved in the name of the state when a parcel of tax-forfeited land is sold or conveyed. (M.S. 282.12; 282.20; 282.225)

This restriction applies to the following tax-forfeited land situations: (1) all sales or conveyances of tax-forfeited land classified as non-conservation and conservation land, (2) all sales or conveyances of tax-forfeited land to private individuals or organizations, and (3) all sales or conveyances of tax-forfeited land to governmental subdivisions or state agencies.

This restriction does not apply to the repurchase of tax-forfeited land. The state deed issued to a repurchaser does not contain a clause reserving the minerals and mineral rights in the name of the state. (Op.Atty.Gen., 1942, No. 318, p. 453; Op.Atty.Gen., 425-C-13, September 26, 1951)

Sand and gravel which are ordinarily used for road construction and concrete work in the building industry are not defined as minerals or mineral rights for purposes of this restriction on tax-forfeited land. Op.Atty.Gen., 311-J, August 13, 1946)

TYPE #4: LAND LOCATED ON PUBLIC WATERS

All tax-forfeited land "...which borders on or is adjacent to meandered lakes and other public waters and watercourses, and the live timber growing or being thereon..." must be withheld from sale. (M.S. 282.018, Subd. 1) The term, " meandered," means to follow a winding and turning course. The term, "public waters," includes (but is not limited to) lakes, rivers, and creeks.

In this Section 6737, this type of tax-forfeited land will be referred as "located on public waters."

According to the Department of Natural Resources (DNR), the phrase, "withheld from sale," means that tax-forfeited land located on public waters cannot be conveyed to a governmental subdivision free of charge for an authorized public use, sold to a governmental subdivision or state agency for a public purpose, or sold at a public or private auction. However, it may be repurchased.

M.S. 282.018 authorizes the following exceptions to the above requirement that tax-forfeited land located on public waters must be withheld from sale.

1. SALE OF LIVE TIMBER

The county which has jurisdiction over the live timber which is growing on tax-forfeited land located on public waters may sell the timber for cutting and removal under the rules and conditions provided by law. (M.S. 282.018, Subd. 1(a))

2. RESERVATION OF PUBLIC ROAD WAYS

The county which has jurisdiction over the tax-forfeited land located on public waters is required to reserve a strip of land two rods in width for public travel. (M.S. 282.018, Subd. 1(b))

These public road ways are to begin at the high water mark and run parallel with the shore line. A wider strip may be reserved where the confirmation and conditions of the shoreline require it.

3. SALE OF LAND WITH 50 FEET OR LESS OF WATERFRONT

The county which has jurisdiction over the tax-forfeited land located on public waters may sell or convey the land if the land has 50 feet or less of waterfront and the sale or conveyance would be in the public interest. The land cannot be sold or conveyed without the approval of the Department of Natural Resources (DNR). (M.S. 282.018, Subd. 1(c))

4. SALE OF LAND BY LEGISLATIVE APPROVAL

The county that has jurisdiction over the tax-forfeited land located on public waters may ask the Minnesota Legislature to pass a special law authorizing the sale or conveyance of a specific parcel of tax-forfeited land located on public water that otherwise must be withheld from sale or conveyance. (M.S. 282.018, Subd. 1(d))

The county must submit its proposal for the sale or conveyance to the Department of Natural Resources (DNR). The DNR must review the proposal, evaluate the land, and make recommendations to the legislature about the proposed sale or conveyance. In order to give the DNR time to complete their work, the proposal should be submitted early in the year before the legislative session begins. Contact Stephanie Warne, Sales Coordinator, Real Estate Management Bureau at (651) 296-0639 for information about submitting proposals.

The DNR's recommendations may include the following: (1) a sale to a private party, (2) a public sale, (3) a conveyance to the DNR for a public purpose, or (4) a cooperative management agreement with, or transfer to, another unit of government.

When a special law is passed by the legislature, the county should conduct the sale of the tax-forfeited land according to the sale provisions for all tax-forfeited land in M.S. 282 except for those provisions that may be superseded by the special law itself.

After the sale has been completed and the total costs have been collected, the county should apply for a state deed from the Property Tax Division of the Department of Revenue (DOR) in the same way as for other sales of tax-forfeited land unless the special law prescribes otherwise.

TYPE #5: RESTRICTION ON MARGINAL LANDS + WETLANDS

All nonforested marginal land and wetlands that are located on unplatted tax-forfeited land must be withheld from sale as provided in M.S. 103F.535 unless both of the conditions listed below are met. This requirement is effective for all unplatted tax-forfeited land sales, transfers, and exchanges after August 1, 1991. (M.S. 282.018, Subd. 2)

1. CONDITION #1: NOTICE TO PROSPECTIVE PURCHASERS

As a first condition for sale, the county auditor must provide a notice of the existence of the nonforested marginal land or wetlands to prospective purchasers of the affected tax-forfeited land. The Department of Revenue (DOR) recommends that the county auditor do this in the published notice of sale and also in the packet of informational materials that is usually distributed at the time of sale.

The following language has been approved and should be used for the notice: "The deed(s) for this (these) parcel(s) will contain a restrictive covenant which will prohibit enrollment of the land in a state funded program providing compensation for conservation of marginal land or wetlands."

This notice should not be included when advertising platted lands for sale because they are exempt from this requirement and will not have the covenant on their deeds. When advertising both platted and non-platted lands for sale, it would be advisable to differentiate between the two types so that prospective purchasers will have no doubt as to which land will have a restrictive covenant on its deed and which will not.

2. CONDITION #2: RESTRICTIVE COVENANT ON STATE DEED

As the second condition for sale, the state deed from the Department of Revenue (DOR) must contain a restrictive covenant that prevents enrollment of the land in a state-funded program for conservation of marginal land or wetlands.

The restrictive covenant must be on all deeds for tax-forfeited land except (a) deeds for platted property, and (b) deeds issued to correct errors in legal descriptions or errors made by grantees on original deeds that did not require the restrictive covenant.

In order for the DOR to know whether or not a state deed must contain a restrictive covenant, the county auditor must submit a completed "Wetland Certification Form" to the DOR for each deed requested. Please staple the completed "Wetland Certification Form" to the application for the state deed.

If the legal description for the tax-forfeited land is lengthy, the county auditor may complete the Form by typing "per attached certificate" in the appropriate space for the legal description. If this is done, the additional paper that contains the lengthy legal description should also be stapled to the application form for the state deed.

Call the Property Tax Division, DOR, at (651) 296-0394 for a blank copy of the "Wetland Certification Form." The county auditor should make copies of the Form for future use.

Contact the Board of Water and Soil Resources at (651) 296-3767 for answers to questions about what constitutes marginal land or wetlands, how marginal land or wetlands are to be delineated, or any similar questions.

See Section 6755 for information about the relationship of the conservation easement restriction and the issuance of state deeds.

TYPE #6: RESTRICTION FOR WELL CERTIFICATES

The law regarding the disclosure of wells is designed to protect the health and general welfare of the citizens of Minnesota by protecting the state's groundwater. (M.S. 103I.001-103I.715)

As one method of protection, the law stipulates that the seller of real property located in the state must disclose in writing to the buyer the status and location of all wells located on the property. The disclosure is to be on a "Well Disclosure Certificate" that must be signed by the seller at the closing of the sale. (M.S. 103I.235, Subd. 1(a)(b))

The law stipulates further that no conveyance document for which a certificate of real estate value is required or a deed or contract for deed from a governmental body may be recorded in the office of the county recorder or registrar of title unless a "Well Disclosure Certificate" is filed with the conveyance document. (M.S. 103I.235, Subd. 1(d))

1. WELL CERTIFICATION: GENERAL PROCEDURES AND FORMS

The Department of Revenue (DOR) has interpreted the requirement for a "Well Disclosure Certificate" to mean that no state deed can be issued for platted or unplatted tax-forfeited land unless the deed contains a clause about the existence or non-existence of wells on the property. The county auditor must provide the DOR with the information that is needed to complete this requirement. This requirement is effective for all tax-forfeited land that is sold, transferred, or exchanged after July 1, 1991.

On the application form for a state deed, the county auditor must certify whether or not there are any wells on the property. Based on the auditor's certification, the DOR will include a clause in the state deed, stating that the property either does or does not have wells on it. The statement will be qualified by adding that the state of Minnesota is relying on the auditor's certification. Therefore, it is very important that the auditor's certification be accurate.

After receipt of a state deed for tax-forfeited land that has one or more wells on it, the county auditor must file a completed "Well Disclosure Certificate" in the county recorder's office along with the state deed. The county recorder must forward the Certificate to the Department of Health. If there are no wells on the property, the county auditor may file the state deed without a "Well Disclosure Certificate." The county recorder must stamp "No Wells" on the state deed before recording it.

2. WELL CERTIFICATION: CONTRACT FOR DEED SALES

The 1991 Minnesota Legislature made a change in the law that requires the purchaser to complete a "Well Disclosure Certificate" when buying property under a contract for deed. This was done because the purchaser may have dug one or more wells on the property while occupying and using the property during the course of the contract. (M.S. 103I.235, Subd. 1(d)(e)(f)(g))

When the contract is paid off, the purchaser must file a completed "Well Disclosure Certificate" if there are wells on the property. If there are no wells, the purchaser has the option of filing a completed Certificate or placing a statement on the deed itself. The Department of Revenue (DOR) has determined that these new provisions apply to installment sales of tax-forfeited land.

After consulting with county auditors and others, the DOR has decided that it would be in the best interest of everyone concerned not to allow the purchaser to either write or attach statements to the state deed. Therefore, the DOR has devised the procedures outlined below for issuing state deeds when tax-forfeited land is purchased under a contract for deed.

a) **All installment purchasers must complete a "Well Disclosure Certificate." The Certificate must be completed at the time the purchaser makes the last payment under the contract for deed.**

b) **If there are wells on the property, the "Well Disclosure Certificate" must be completed with all of the required information. If there are no wells, the Certificate must show the purchaser's name, the property location, and the statement, "No Wells On Property."**

c) **The county auditor must use the information on the purchaser's "Well Disclosure Certificate" to indicate on the application form for the state deed whether or not there are wells on the property. The application form should then be sent to the DOR. The completed "Well Disclosure Certificate" should be kept by the county auditor for use in recording the state deed.**

d) **After receipt of the county auditor's application form, the DOR will prepare the state deed and send it to the county auditor. This step in the process is the same as for all state deeds for tax-forfeited land.**

e) **Upon receipt of the state deed, the county auditor must file the "Well Disclosure Certificate" along with the state deed in the county recorder's office. If the Certificate states that there are wells, the county recorder must forward the Certificate to the Department of Health. If the Certificate states that there are no wells, the county recorder must stamp "No Wells" on the state deed. The "Well Disclosure Certificate" must be returned to the county auditor to be filed with the application form for the state deed. Then, if any dispute arises over the existence of wells on the property during the six-year liability period, the county will have the purchaser's signed "Well Disclosure Certificate" to prove that the purchaser knew of no wells on the property.**

Remember: This procedure applies only to installment purchases. In the case of cash sales, the purchaser is not required to file a "Well Disclosure Certificate."

Note: For more information about "Well Disclosure Certificates," contact the source listed below.

Mike Convery
Well Management Section
Environmental Health Division
Minnesota Department of Health
(651) 215-0818

TYPE #7: LAND FORFEITED IN 3 CONSERVATION AREAS BEFORE 1984

All land located within three consolidated conservation areas that was forfeited to the state and classified as "nonagricultural" before May 3, 1984 is not to be sold at public or private sale, conveyed to any local government or state agency, or leased for any purpose. (M.S. 282.06; 282.14; 282.22; 84A.57)

The title to the above tax-forfeited land is to remain in the name of the state. The property is to be managed by the Department of Natural Resources (DNR).

All land within these three areas which was forfeited to the state and classified as "agricultural" before May 3, 1984 may be sold by the county auditor only with the approval of the DNR. (M.S. 282.06; 282.14; 84A.57)

All land within these three areas which was forfeited to the state on or after May 3, 1984 is to be classified and handled by the county board similar to other properties located outside of the three areas. (M.S. 84A.57)

The three consolidated conservation areas are listed below.

1. The Red Lake Game Preserve established in Lake of the Woods, Beltrami, and Koochiching Counties under M.S. 84A.01 to 84A.11.

2. The conservation areas set up in Aitkin, Roseau, and Mahomen Counties under M.S. 84A.20 to 84A.30.

3. The conservation areas designated in Marshall County under M.S. 84A.31 to 84A.42.

Note: See Section 6715 for more information about these three consolidated conservation areas and the tax-forfeited land sale laws.

HAZARDOUS WASTE ON TAX-FORFEITED LAND SECTION 6740

The 1990 legislature defined the legal responsibility of the state, an agency of the state, and a political subdivision for contamination of tax-forfeited lands under the Environmental Response and Liability Act-- M.S. 115B.01 to 115B.24, the Petroleum Tank Release Cleanup Act-- M.S. 115C.01 to 115C.10, and the Pollution Control Agency (PCA) statute-- M.S. 116.

In general, state and local governmental organizations are not responsible for the release of contaminates solely because they hold title to tax-forfeited land. Nor can they be held responsible solely because of actions taken to mangage or sell tax-forfeited land.

However, these governmental organizations are not released from liability for release of hazardous substances if they are engaged in the daily operation of a facility or tank located on tax-forfeited land. (M.S. 115B.02, Subd. 11; 115B.03, Subd. 4; 115C.02, Subd. 8; 115C.021, Subd. 3; 116.49, Subd. 1a)

A more detailed outline and explanation of the legal responsibilities is presented below.

MANAGEMENT OF HAZARDOUS WASTE ON TAX-FORFEITED LAND

This section covers the procedures which a county or the Department of Natural Resources (DNR) is to follow for the management of tax-forfeited land when there is a release or threatened release of a hazardous substance, pollutant, contaminant, or petroleum on the land.

1. NOTIFY PCA: SUPERFUND SITES

The county auditor is to file an affidavit with the Pollution Control Agency (PCA) as required for all Superfund Sites under M.S. 115B.16, Subd. 2. This requirement applies only to tax-forfeited land which has been placed on the permanent list of priorities under M.S. 115B.17, Subd. 13.

2. NOTIFY PCA: STORAGE TANKS

The county auditor is to file a notification or affidavit with the PCA as required under M.S. 116.48 for tax-forfeited land with an underground or aboveground storage tank. This is also to be done upon the sale of tax-forfeited land which contains a storage tank or where there is a release from a tank for which no corrective action has been taken. (M.S. 282.0195, Subd. 1-2)

MANAGEMENT OF TAX-FORFEITED LAND + POLLUTION CONTROL

This section deals with the three general requirements for a county or the Department of Natural Resources (DNR) to manage tax-forfeited land subject to hazardous substance or petroleum release. (M.S. 282.019, Subd. 1-2)

1. The county or DNR is to cooperate with the Pollution Control Agency (PCA) or the Department of Agriculture (DOA) so that the required response actions may be carried out on the property.

2. The county or DNR is to refrain from action which would significantly contribute to any release or threatened release.

3. The county or DNR is to notify the PCA or the DOA in advance of any actions needed to mangage the land which may affect the investigation of or response to any release or threatened release. The direction of the PCA is to be followed when taking any actions.

The above requirements also apply to any person managing the land under a lease or other similar arrangement with the county or the DNR.

SALE OF TAX-FORFEITED LAND WITH HAZARDOUS WASTE

This section focuses on the procedures which a county is to follow for the sale of tax-forfeited land when there is a release or threatened release of a hazardous substance, pollutant, contaminant, or petroleum on the land.

1. SALE OF TAX-FORFEITED LAND + POLLUTION CONTROL

With the approval of the county board, the county auditor is to complete the following requirements. (M.S. 282.019, Subd. 3)

a. File the affidavit with the Pollution Control Agency (PCA) which is required for all superfund and storage tank sites.

b. Establish the conditions on the sale of the land to assure that the buyer and any successors willgrant access to the land to the PCA for any pollution control actions needed.

c. Establish the conditions on the sale of the land to assure that the buyer and any successors will use the land in a way to protect the public health and the environment and comply with all federal and state laws.

d. The county board is authorized to establish other pollution control requirements which are to be met before tax-forfeited land may be sold.

2. ALTERNATIVE METHODS OF SALE + POLLUTION CONTROL

Tax-forfeited land may be sold by other than public auction if the county board determines that another method of sale will encourage response actions and return the land to the tax rolls. The following conditions are to be met. (M.S. 282.019, Subd. 4)

a. The county auditor is to give at least 30 days written notice of the sale to the PCA and to all owners of the adjoining land.

b. The sale may be restricted to the owners of the adjoining land.

c. The land may not be sold for less than its basic sale price unless the purchaser agrees to implement response actions approved by the PCA and shows that the basic sale price does not reflect the estimated costs of the response actions.

d. The notice of the sale is to include the amount of an environmental lien or the estimated expenses for cleanup or response actions.

PAYMENT FOR WASTE CLEANUP ON TAX-FORFEITED LAND

This section covers the two methods for the Pollution Control Agency (PCA) to recover the costs of response actions taken on tax-forfeited land. (M.S. 282.019, Subd. 5)

1. ENVIRONMENTAL LIENS

Before or at the time of the tax forfeiture, the PCA or the Department of Agriculture (DOA) may file an environmental lien under M.S. 514.672 to recover the costs of response actions. The PCA or the DOA is to provide a copy of the environmental lien to the county assessor.

A sale of the land after the tax forfeiture does not discharge or free it from an environmental lien.

NOTE: The county board may request release or reduction of the environmental lien if the county board determines that the lien will prohibit the return of the tax-forfeited land to the tax rolls.

2. EXPENSES ADDED TO BASIC SALE PRICE

If no environmental lien was filed before or at the time of the tax forfeiture, the PCA or the DOA is to certify to the county any expenses incurred for response actions.

Prior to the sale, the county board is to compare the PCA expenses and the value added to the parcel by the response actions.

The county board may increase the basic sale price of the land by adding the expenses as a separate item to the appraised value of the land.

NOTE: All of the above rules and regulation which must be met in order for a state or local governmental organization to fulfill its legal responsibility for hazardous waste on tax-forfeited land are effective on May 5, 1990.

SPECIAL CASE: DELINQUENT HAZARDOUS PROPERTY PENALTY

A city, as part of the targeted neighborhood program, may assess a penalty of up to 1% of the market value of any real property that the city determines to be hazardous under M.S. 463.15, Subd. 3. (M.S. 469.206)

If the property owner has not paid the penalty or fixed the property within 90 days after receiving notice of the penalty, the penalty becomes delinquent and is increased by 25% for each 60 days the penalty is not paid and the property remains hazardous.

A penalty that is delinquent is to be considered a delinquent property tax and is subject to the delinquent real property tax laws; i.e., M.S. 279 through M.S. 282.

LANDFILL CLEANUP PROGRAM: NO EXCLUSION FOR TAX-FORFEITED LAND

The 1994 Minnesota Legislature authorized the owner or operator of a qualified facility to apply to the Minnesota Pollution Control Agency (MPCA) for exclusion from the Landfill cleanup Program under M.S. 115B.39, 115B.40, 115B.41, 115B.412, and 115B.43. Applications must be received by the MPCA by February 1, 1995. (M.S. 115B.405, Subd. 1)

There is one exception: The owner or operator of a qualified facility that is subject to a federal cleanup order or that includes any portion that is tax-forfeited may not apply for exclusion under the above statutes. (M.S. 115B.405, Subd. 1)

For information about the Landfill Cleanup Program, contact the Minnesota Pollution Control Agency, Ground Water and Solid Waste Division, at (651) 296-7927.

NOTICE OF PUBLIC SALE SECTION 6745

After approval of the classification and sale by the Department of Natural Resources (DNR) and the municipality and after the appraisal of the parcels, the county board and the county auditor are to complete several major tasks intended to announce a public tax-forfeited land sale. (M.S. 282.02)

The major tasks are outlined and explained below. Several examples of the forms that are used to complete some of the tasks are included at the end of this Section 6745.

Note: Tax-forfeited property that previously failed to sell at a public auction and which has been reappraised by the county board is to be advertised again and offered again at a tax-forfeited land sale. See Section 6720 for more information concerning reappraisals.

COUNTY AUDITOR: PREPARATION OF LIST FOR PUBLIC SALE

As a first step, the county board is required to file with the county auditor the list of tax-forfeited land that is to be sold at public auction. (M.S. 282.02)

In practice, the county auditor usually prepares the list of tax-forfeited land and submits it to the county board for review and approval before the final list is officially filed with the county auditor. The county auditor may also prepare a letter requesting approval of the sale and submit it with the list.

The list of tax-forfeited land that is to be approved for sale should include at least the following information.

1. **A DESCRIPTION OF EACH PARCEL OF TAX-FORFEITED LAND**

   The term, "description," is not defined in the tax-forfeited land statute (M.S. 282.02). In the fullest meaning of the term, a description of each parcel would include all of the following components: (a) the name of the property owner, (b) the mailing address, (c) the legal description, and (d) the property identification number (PID).

   In practice, some counties include only two components of the complete description: the name of the city or township where each parcel is located and the legal description of each parcel. Other counties include three components: the name of the city or township, the mailing address, and the PID. Because there is no statutory requirement, each county may choose which components of the complete description are best for its purposes.

The example format for the list, which is included at the end of this Section 6745, has two columns for the description: one for the name of the city or township and the mailing address, and another one for the PID.

2. THE BASIC SALE PRICE OF EACH PARCEL OF TAX-FORFEITED LAND

Along with a description, the county's list of tax-forfeited land should also include the basic sale price for each parcel on the list. The components of the basic sale price are outlined below.

The first component is the appraised value that is determined by the county board. As explained in Section 6720, the appraised value is the major component of the basic sale price of the parcel. With the exception of some parcels with hazardous waste costs, the basic sale price would be no less than the appraised value. The county's list of tax-forfeited land should contain at least a column for the appraised value of each parcel on the list.

The second component is any new special assessment that was levied on a parcel after the forfeiture and certified to the county auditor before the sale. As explained in Section 6720, the county auditor is required to add the cost of these new special assessments to the appraised value to determine the basic sale price of the parcel.

The third component is the cost of any response action taken by the Pollution Control Agency (PCA) or the Department of Agriculture (DOA) to control hazardous waste on a parcel and certified to the county auditor. As explained in Section 6720, the county auditor may add these costs to the appraised value to determine the basic sale price of the parcel.

The county could show these components of the basic sale price in several ways. A separate column and column heading could be used for each component: one for the appraised value, one for the new special assessments, one for the costs of hazardous-waste actions, and one for the basic sale price that would equal the sum of all the others.

The county could also use only one column. Under the single column, the appraised value could be listed first. When they apply, the amounts for each of the extra costs could be added under the appraised value with line entries to identify them. The sum of all the components could be listed last with a line entry to identify it as the basic sale price for the parcel.

The example of the list that is included at the end of this Section 6745 uses the single-column format. This format requires fewer columns and would take up less space in the newspaper when published.

3. SPECIAL ASSESSMENTS CANCELED AT FORFEITURE

Along with the description and the basic sale price, the county's list of tax-forfeited land should also contain a separate column for any old special assessments that were levied on a parcel before forfeiture and canceled at forfeiture.

Unlike the new special assessments discussed above, these old, canceled special assessments are not to be added to the appraised value. Instead, they are to be paid out of the distribution of the net revenue from the sale of the parcel as explained in Section 6765.

As explained in Sections 6710 and 6720, the municipality has the authority to recover any amount of these old, canceled special assessments that are not paid through the distribution. (M.S. 429.071, Subd. 4; 435.23; and 444.076)

The example format for the list that is included at the end of this Section 6745 shows these old, canceled special assessments in a separate column to the right of the column for the components of the basic sale price.

COUNTY AUDITOR: PREPARATION OF TERMS FOR PUBLIC SALE

Along with a notice of the public sale, the county auditor is required to publish a copy of the resolution of the county board fixing the terms of the public sale, if other than for cash only. (M.S. 282.02)

In practice, the county auditor prepares the terms of the public sale and submits it to the county board along with the list of tax-forfeited land for review and approval before the final terms can be published by the county auditor.

In addition, the phrase, "terms of the public sale," is defined broadly to include the major conditions for the public sale, in general, instead of just the conditions for purchasing under an installment plan.

The following list contains the types of information that may be included in the broader definition of the "terms of a public sale."

1. **The time and place of the public sale.**

2. **The key section of the county board's resolution approving the public sale.**

3. **The sale of the parcels for cash only or for both cash and by installments.**

4. **The extra costs to be paid by the purchaser in addition to the basic sale price.**

5. **A warning that special assessments canceled at forfeiture may be reassessed by the municipality after the sale.**

6. **The conditions and restrictions that must be placed upon the sale of the parcels of tax-forfeited land; e.g., liens, easements, leases, and building and zoning ordinances.**

7. **The fact that the state deed given after full payment has been made for the purchase of tax-forfeited land is a quitclaim deed which has the characteristics of a patent from the State of Minnesota.**

8. **The address and telephone number of the place where additional information about the sale of tax-forfeited land may be obtained.**

An example of a document containing the major terms of a public sale of tax-forfeited land is included at the end of this Section 6745.

COUNTY BOARD: APPROVAL OF PUBLIC SALE BY RESOLUTION

After receiving the documents from the county auditor, the county board is to approve the public sale of each parcel of tax-forfeited land on the list and the terms of the public sale by formal, written resolution. (M.S. 282.02)

When finished, the county board is to submit to the county auditor a signed copy of the resolution, a copy of the list of tax-forfeited land approved for sale, and the official terms for the public sale.

An example of a county board's signed resolution approving the list of parcels for public sale and the terms of the sale is included at the end of this Section 6745.

COUNTY AUDITOR: PUBLICATION OF NOTICE OF SALE

As stated earlier, the county auditor is required to have a notice of the public sale and a copy of the resolution of the county board fixing the terms of the public sale published in the official county newspaper. (M.S. 282.02)

The notice of the public sale and a copy of the resolution are to be published once a week for two consecutive weeks in the official newspaper of the county. The last publication must be at least 10 days before the day when the public sale begins.

The term, "notice" is not defined in the tax-forfeited land statute (M.S. 282.02). Historically, each county has decided what types of information should make up the content of its published notice of the public sale.

The following list contains the major documents and their contents that a county could use as the official publication of a tax-forfeited land sale.

1. **A NOTICE OF THE PUBLIC SALE OF TAX-FORFEITED LAND**

   This refers to a sentence-paragraph document that contains at least the following information: the time and place of the sale, a quotation from the county board resolution approving the sale, and some of the key terms and conditions of the sale.

   An example of the format and content of a notice of the public sale is included at the end of this Section 6745.

2. **THE LIST OF PARCELS OF TAX-FORFEITED LAND TO BE SOLD**

   This refers to the official list of the parcels of tax-forfeited land that was prepared by the county auditor and approved by the county board. It is the list that is outlined and explained earlier in this Section 6745.

   As stated earlier, an example of the format of the list of parcels of tax-forfeited land can be found at the end of this Section 6745.

3. **THE TERMS OF THE PUBLIC SALE OF TAX-FORFEITED LAND**

   This refers to a separate, sentence-paragraph document that contains the terms for a tax-forfeited land sale in the county. A complete list of the types of information that make up the terms of a tax-forfeited land sale is presented earlier in this Section 6745.

In practice, a county may choose to publish the complete list of terms of a tax-forfeited land sale in its county along with the sentence-paragraph notice and the list of parcels. Or a county may wish to publish only part of the complete list and make a copy of the complete list of the sale terms available in the county auditor's office.

A form containing a list of terms for a public sale that are in part or in full to be published with the sentence-paragraph notice and the list of tax-forfeited land is included at the end of this Section 6745.

COUNTY AUDITOR: MAILING OF NOTICE OF SALE

The county auditor is also required to mail a notice of the tax-forfeited land sale to the owners of all of the parcels of real property adjoining the parcels of tax-forfeited land to be sold. This refers to all owners whose land directly borders any parcel on the sale notice. (M.S. 282.02)

For mailing purposes, the term "owner" is to be defined as the taxpayer as currently listed in the county auditor's property tax records. (M.S. 282.02)

The tax-forfeited land statute (M.S. 282.02) does not specify what kind of notice to send to the property owners. As a result, some counties choose to mail copies of the published documents and highlight the parcels on the list that relate to each party receiving the notice. Other counties design a separate notice to be mailed to the designated property owners.

An example of a design for a separate notice to be mailed to the specified property owners can be found at the end of this Section 6745.

The following format is suggested for the county auditor's letter requesting county board approval of the public sale of tax-forfeited land.

REQUEST FOR COUNTY BOARD ACTION

SUBJECT: Classification as non-conservation land, approval of basic sale prices, and authorization of public sale of tax-forfeited land listed on List of Tax-Forfeited Land # 435 on April 14, 1999.

BACKGROUND: M.S. 282.01 provides for the classification, appraisal, and sale of land becoming the property of the State of Minnesota for nonpayment of real property taxes. The parcels on List of Tax-Forfeited Land # 435 either forfeited to the State in 1998 for nonpayment of 1992 homestead or 1994 non-homestead taxes, or were canceled contracts for purchases or repurchases or confessions of judgment in 1998. All parcels were released by the cities and townships for public sale.

Thirty (30) days before the sale of tax-forfeited land by public auction, notice of sale will be published. In addition, notice of sale will be mailed to all owners of land adjoining each parcel to be sold. Appraisals were made by the Spruce County Assessor's Department. All parcels listed on the List of Tax-Forfeited Land # 435 are non-waterfront land.

The sale is scheduled for 10:00 A.M., Wednesday, April 14, 1999. The sale will be held at the Spruce County Courthouse, 234 West Broadway, Greenbriar, Minnesota.

Date: January 19, 1999

Nicholas B. Archer
Spruce County Auditor

NOTICE OF PUBLIC SALE **SECTION 6745**
(Continued) **(Page 8)**

The following format is suggested for the county board resolution approving the public sale of tax-forfeited land.

SPRUCE COUNTY BOARD RESOLUTION NO. 127 .

BE IT RESOLVED, that all parcels of tax-forfeited land listed on List of Tax-Forfeited Land #435 be classified as nonconservation land; that the basic sale price of each parcel on List of Tax-Forfeited Land # 435, that is on file with the Clerk of the County Board, be approved and authorization for a public sale of this land be granted, pursuant to M.S. 282.01; that the sale will be held at 10:00 A.M., Wednesday, April 14, 1999, by the Spruce County Auditor at the Spruce County Courthouse, for not less than the basic sale price; and that all sales shall be full payment or on the terms set forth on List of Tax-Forfeited Land #435.

The question was on the adoption of the resolution, and there were 5 YEAS and 0 NAYS as follows:

COUNTY OF SPRUCE BOARD OF COUNTY COMMISSIONERS	YEA	NAY	OTHER
William R. Gorman	X		
Tracy M. Motzko	X		
Benjamin Rossiter	X		
Milton A. Fisher	X		
Jayson F. Williams	X		

ATTEST: _____ **Date: January 19, 1999**
Marilyn C. Bardot
Clerk of the County Board

NOTICE OF PUBLIC SALE **SECTION 6745**
(Continued) **(Page 9)**

The following format is suggested for the county auditor's sentence-paragraph notice that is to be published with the list of tax-forfeited land and the terms of the public sale.

NOTICE OF PUBLIC SALE OF TAX-FORFEITED LANDS

NOTICE IS HEREBY GIVEN That the parcels of land described in List of Tax-Forfeited Land #435 that is contained herein shall be sold to the highest bidder at public sale. The sale will be governed by the provisions of M.S. 282.01 and by the resolution of the Spruce County Board of Commissioners authorizing such sale. The resolution reads as follows:

BE IT RESOLVED, That all parcels of tax-forfeited land listed on List of Tax-Forfeited Land #435 be classified as nonconservation land; that the basic sale price of each parcel on List of Tax-Forfeited Land #435, that is on file with the Clerk of the County Board, be approved and authorization for a public sale of this land be granted, pursuant to M.S. 282.01; that the sale will be held at 10:00 A.M., Wednesday, April 14, 1999, by the Spruce County Auditor at the Spruce County Courthouse, for not less than the basic sale price; and that all sales shall be full payment or on the terms set forth on List of Tax-Forfeited Land #435.

BE IT FURTHER RESOLVED, That the conditions and terms of the public sale shall be as described in the list contained here-in and approved by the Spruce County Board of Commissioners.

Information about the sale of tax-forfeited land in Spruce County can be obtained at the office of the County Auditor, Spruce County Courthouse, 234 West Broadway, Greenbriar, Minnesota, 56323. Telephone: (234) 567-8910.

Given under my hand and official seal at Greenbriar, Minnesota, this 26th day of February, 1999.

(COUNTY SEAL)

Nicholas B. Archer
Spruce County Auditor

NOTICE OF PUBLIC SALE **SECTION 6745**
(Continued) **(Page 10)**

The following format is suggested for the List of Tax-Forfeited Land to be approved by the county board and published with the sentence-paragraph notice and terms of the public sale.

LIST OF TAX-FORFEITED LAND #435 FOR PUBLIC SALE			
MUNICIPALITY/ ADDRESS	**PID**	**VALUE**	**ASSESSMENTS BEFORE FORFEITURE**
CITY OF APPLEWOOD			
563 Franklin St. **Specials After Forfeiture:** **Basic Sale Price:**	**02-0135-0014**	**$ 55,000.00** **+ 213.63** **$ 55,213.63**	**$ 248.89**
CITY OF GREENBRIAR			
154 Sandstone St. **Specials After Forfeiture:** **Basic Sale Price:**	**08-0325-0001**	**$ 62,675.00** **+ 197.22** **$ 62,872.22**	**$ 224.16**
TOWN OF WILLOW CREEK			
Rural Route #3. **Greenbriar, MN** **Basic Sale Price:**	**04-0034-0038**	**$ 276,800.00** **$ 276,800.00**	**$ 1,113.49**
Rural Route #1. **Greenbriar, MN** **Specials After Forfeiture:** **Costs of Hazardous Waste:** **Basic Sale Price:**	**04-0087-0013**	**$ 210,500.00** **+ 124.63** **+ 398.00** **$ 211,022.63**	**$ 980.11**

NOTICE OF PUBLIC SALE **SECTION 6745**
(Continued) **(Page 11)**

The following form contains a list of terms for a public sale that are in part or in full to be published with the sentence-paragraph notice and list of tax-forfeited land.

TERMS FOR THE SALE OF TAX-FORFEITED LAND IN SPRUCE COUNTY

Public Sales: Basic Sale Price

All parcels are offered at public auction and sold to the highest bidder. The minimum bid acceptable is the basic sale price that is shown on the list of tax-forfeited land. The basic sale price is equal to the appraised value or the appraised value plus any extra charges for special assessments levied after forfeiture and for hazardous waste control.

Extra Fees and Costs: In Addition to the Basic Sale Price

A 3% surcharge for the state assurance account will be collected at the time of the sale. The following extra fees will be collected when the basic sale price is paid in full: a state deed fee of $25, a deed filing fee of $19.50, and a state deed tax of $1.65 per $500 of the basic sale price or a fraction thereof.

Payment Terms: Cash or Contract

Sale of $150 or less	**Full Payment at sale.**
Sale of $151 to $1,500	**20% down or $150, whichever is more; balance in 5 equal, annual installments.**
Sale of $1,501 or more	**10% down; balance in 10 equal, annual installments.**

Contract Sales: Installments and Interest

Installments and interest on all deferred payments are due on the anniversary date of the purchase. The entire unpaid balance of the basic sale price and the accrued interest may be paid any time before the final installment becomes due. The annual interest rate is computed per M.S. 270.75, Subd. 5. (10% for 1999, but subject to change each year.)

Contracts may be canceled by the County Board for the following reasons: (1) failure to pay an installment and interest when due, and (2) failure to pay current taxes during the time of the contract.

Special Assessments: Levied Before and After Forfeiture

The balance of any special assessments that were levied before forfeiture and canceled at forfeiture and that exceed the amount of the basic sale price may be reassessed by the municipality. These special assessments are shown on the list of tax-forfeited land under the column entitled "Assessments Before Forfeiture."

Any special assessments that were levied after forfeiture and certified to the county auditor have been added to the appraised value and must be paid by the purchaser as part of the basic sale price. These special assessments are shown on the list of tax-forfeited land with a special line entitled "Specials After Forfeiture."

Conditions: Restrictions on the Use of the Properties

Sales are subject to the following restrictions on the use of the properties:

(1) existing leases,
(2) easements obtained by a governmental subdivision or state agency for a public purpose,
(3) building codes and zoning laws,
(4) all sales are final with no refunds or exchanges allowed, and
(5) the appraised value does not represent a basis for future taxes.

Private Sales: Parcels Not Sold at Public Auction

Any parcel not sold at a public sale may be purchased after the public sale by paying the basic sale price. The basic sale price cannot be changed until the parcel is reappraised, republished, and again offered at a later public sale.

Title: Proof of Ownership

The buyer will receive a receipt at the time of the sale. The Department of Revenue will issue a state quitclaim deed after full payment is made. A state deed has the characteristics of a patent from the State of Minnesota.

NOTICE OF PUBLIC SALE **SECTION 6745**
(Continued) (Page 13)

The following format is suggested for the county auditor's notice of public sale of tax-forfeited land that is to be mailed to all owners of real property adjoining the parcels to be sold.

NOTICE OF PUBLIC SALE OF TAX-FORFEITED LANDS

You are hereby notified that a public sale of tax-forfeited lands located in Spruce County and adjoining your property will be held at the Spruce County Courthouse, 234 West Broadway, Greenbriar, Minnesota 56323.

A copy of the list of lands to be sold and the terms of the sale may be obtained from the Spruce County Auditor's Office.

DATE & TIME OF SALE: 10:00 A.M., Wednesday, April 14, 1999

PID OF SALE PROPERTY: 02-0135-0014

_____ Date: February 26, 1999

Nicholas B. Archer
Spruce County Auditor

(COUNTY SEAL)

CONDUCT OF PUBLIC SALES SECTION 6747

After obtaining the county board's approval and announcing the sale, the county auditor is responsible for conducting the public tax-forfeited land sale. (M.S. 282.01, Subd. 4 and Subd. 7)

The major requirements and conditions for the conduct of a public tax-forfeited land sale are outlined below.

PUBLIC SALE: ELIGIBLE PURCHASERS

Any individual or organization is eligible to bid on and purchase a parcel of tax-forfeited land at a public sale with the exceptions outlined below.

1. **None of the following individuals (either personally or as an agent or attorney for any other person) may bid on and purchase a parcel of tax-forfeited land unless the parcel was owned by the individual before forfeiture: (a) county auditors, (b) county treasurers, (c) district court administrators, (d) county assessors or supervisors of assessments, (e) land commissioners or assistant land commissioners for tax-forfeited lands, or (f) any deputies or employees of any of the above individuals. (M.S. 282.016)**

   However, any of the above county officials who own land adjacent to one or more parcels of tax-forfeited land being offered at a private sale for adjacent landowners only under the provisions of M.S. 282.01, Subd. 7a may bid on such property at the private sale. See Section 6757 for more information regarding private sales to adjacent landowners.

2. **Effective beginning September 1, 1999, no one who is eligible to repurchase a parcel of tax-forfeited land under M.S. 282.241 (nonconservation land) or M.S. 282.012 (conservation land) may purchase that same parcel of property at a private or public sale for less than (a) the sum of all taxes, special assessments, penalties, and costs due at the time of forfeiture, as computed under M.S. 282.251, plus (b) any special assessments for improvements certified as of the date of sale. Previously, the minimum purchase price for such person was the total delinquent tax amount as determined under M.S. 282.251. (M.S. 282.01, Subd. 7)**

PUBLIC SALE: LOCATION

In all of the counties except Koochiching and St. Louis, the county auditor is to conduct all public tax-forfeited land sales at the county seat as specifically required by statute. (M.S. 282.01, Subd. 4)

CONDUCT OF PUBLIC SALES **SECTION 6747**
(Continued)

In St. Louis and Koochiching Counties, the county auditor may conduct the public tax-forfeited land sales in any county facility located within the county.

PUBLIC SALE: NUMBER + TIME

The county board is responsible for determining the date and time for the beginning of a public tax-forfeited land sale. In practice, the county board usually approves by resolution the date and time recommended by the county auditor. (M.S. 282.01, Subd. 7)

A county will normally hold an annual, public tax-forfeited land sale as determined by the county board. However, the county board is authorized to approve a special public tax-forfeited land sale at anytime in addition to the annual sale. (Op. Atty. Gen., November 29, 1961, 412a-8)

PUBLIC SALE: BASIC SALE PRICE

The county auditor is required to offer each parcel of tax-forfeited land for bids at the public sale. However, no parcel may be sold for less than its basic sale price. (M.S. 282.01, Subd. 4 and Subd. 7)

In most cases, the basic sale price of a parcel is equal to its appraised value. However, if the county auditor is required to add the cost of special assessments that were levied and certified after forfeiture and/or the cost of hazardous waste control to the appraised value, the basic sale price of the parcel will be the sum of the appraised value and these two costs. (See Sections 6710 and 6720 for information about the special assessments and Section 6740 for information about hazardous waste control.)

PUBLIC SALE: EXTRA COSTS

There are several extra costs that must be paid for the purchase of a parcel of tax-forfeited land and for the recording of the state deed to that land. These extra costs must be paid by the purchaser in addition to the basic sale price for the parcel.

As a general rule, the purchaser is required to pay the extra costs when the basic sale price of a parcel is paid in full. For cash purchases, the extra costs have to be paid along with the basic sale price at the time of the sale. For contract sales, the extra costs have to be paid no later than at the time of the final installment payment.

Exception to the general rule: The 3% surcharge must be paid by the purchaser at the time of the sale for both cash and contract purchases.

The extra costs which must be paid by the purchaser in addition to the basic sale price are outlined below.

1. 3% SURCHARGE: COURT JUDGMENTS AGAINST THE STATE

The purchaser is required to pay a 3% surcharge on the basic sale price of each parcel of tax-forfeited land. The county auditor must collect the 3% surcharge at the time of the sale regardless of whether the sale is for cash or under a contract. (M.S. 284.28, Subd. 8) (See Section 6767 for more detailed information about the 3% surcharge.)

Note: There are two types of state deeds which are exempt from the 3% surcharge: (a) state deeds which are issued for the repurchase of tax-forfeited land, and (b) state deeds ("use deeds") which are issued for the conveyance of tax-forfeited land free of charge to a governmental subdivision for a public use.

2. STATE DEED TAX: $1.65 PER EACH $500 OF BASIC SALE PRICE

The purchaser is required to pay the state deed tax on the basic sale price of each parcel of tax-forfeited land. The state deed tax must be paid by the purchaser before a state deed will be issued. (M.S. 287.21, Subd. 1 and Subd. 4)

The state deed tax is equal to $1.65 for each $500, or increment of $500, of the basic sale price of a parcel of the tax-forfeited land. The extra costs and the interest paid under a contract purchase are not subject to the state deed tax.

For example, let's assume that a parcel of tax-forfeited land was purchased for a basic sale price of $25,350. The basis of the state deed tax would be $25,500 (the $350 would be rounded up to $500). The state deed tax would be $84.15 ($25,500 divided by 500 multiplied by $1.65).

Note: The state deed tax must be paid for all types of state deeds. There are no exceptions.

3. STATE DEED FEE: $25.00 PER DEED

The purchaser is required to pay a $25.00 fee for the state deed to each parcel of tax-forfeited land. The fee must be paid by the purchaser before a state deed may be issued. (M.S. 282.014) (See Section 6755 for more detailed information about the state deed and the state deed fee.)

In January, the county auditor is required to send the total amount of money collected for the state deed fees during the previous year to the Property Tax Division of the Department of Revenue. For information about this procedure, contact Diane Rogge at (612) 296-0394.

Note: All state deeds ("use" deeds) which are issued for the conveyance of tax-forfeited land free of charge to a governmental subdivision for a public use are exempt from the state deed fee.

4. COUNTY DEED RECORDING FEE: $19.50 MINIMUM PER DEED

The purchaser is required to pay $19.50 to offset the county recorder's cost of indexing and recording the state deed to a parcel of tax-forfeited land. The total $19.50 fee is the sum of the $15.00 standard fee (M.S. 357.18, Subd. 1) and the $4.50 surcharge (M.S. 357.18, Subd. 3).

The amount of the county deed recording fee does change frequently. Therefore, the county auditor may want to check M.S. 357.18, Subd. 1 and 3 periodically to verify that the total recording fee is still $19.50. If it has been changed, please line out the $19.50 numbers here and insert the new amount in their place.

5. AGRICULTURAL CONSERVATION FEE: $5.00 PER DEED

The purchaser is required to pay a $5.00 agricultural conservation fee ("ag fee") on the recording of each state deed to tax-forfeited land located in the seven county metropolitan area, a county which has created exclusive agricultural zones under M.S. 40A, or a county which is an agricultural land preservation pilot county under M.S. 40A. (M.S. 40A.152, Subd. 1)

Contact the Agricultural Planning & Development Division, Minnesota Department of Agriculture, for information about which counties in Greater Minnesota are part of the agricultural land preservation program and are responsible for collecting the $5 "ag fee." Telephone: (612) 296-5226 or 296-7686.

PUBLIC SALE: COUNTY ADMINISTRATIVE COSTS

The county costs of administering a tax-forfeited land sale may be reimbursed from the gross revenues in the county forfeited tax sale fund. See Section 6760 for information about the county forfeited tax sale fund.

PUBLIC SALE: PROCEDURES FOR THE SALE

On the first day of the public sale, the county auditor must offer the parcels for bids in the same order that the parcels appear on the list of tax-forfeited land which was published in the county newspaper. The auction must continue for as many hours or days as is required for each parcel to be offered for bids one time. (M.S. 282.01, Subd. 7)

The county board is not authorized to employ a private auctioneer to sell tax-forfeited land at a public auction. (Op.Atty.Gen., 8/1/56)

After the public auction, the county auditor must sell any unsold parcel privately to any eligible party who is willing to pay the basic sale price. This may be done from the county auditor's office. Each unsold parcel must remain available for private sale at the basic sale price until the county board reappraises it or withdraws it from the public sale list.

If the county board does reappraise or withdraw an unsold parcel from the public sale list, the parcel cannot be sold privately. The county auditor must repeat the procedures for offering the parcel at a later public sale. The legal description and the revised basic sale price of the parcel must be published in the county newspaper, and the parcel must be auctioned off to the highest bidder who is willing to pay at least the revised basic sale price. Only after the parcel fails to sell at the public auction can it be sold privately at the revised basic sale price.

The title to each parcel of tax-forfeited land which is not offered for public sale or is not sold at the public sale is to remain in the name of the state in trust for the local taxing districts. Under the supervision of the county board, each unsold parcel may be used for a public purpose until it is sold.

PUBLIC SALE: PARCELS ADDED TO PUBLIC SALE LIST

The county auditor may add the following parcels of tax-forfeited land to the public sale list which has been approved by the county board and sell them at any time after their legal descriptions and basic sale prices have been published without getting the county board's approval for the sale of each new parcel. (M.S. 282.01, Subd. 7)

1. Parcels forfeited and classified as "nonconservation land" since the beginning of the public sale.

2. Parcels of "conservation land" which were reclassified as "nonconservation land" since the beginning of the public sale.

3. Parcels of "nonconservation land" which were reappraised since the beginning of the public sale.

4. Parcels of "nonconservation land" inadvertently omitted from the original public sale list.

Note: After adding a parcel to the original public sale list and publishing its legal description and basic sale price, the county auditor must first offer the parcel for public sale to the highest bidder before it can be sold privately at the basic sale price.

PUBLIC SALE: METHOD OF PAYMENT

The county auditor must sell each parcel of tax-forfeited land for cash unless the county board by resolution has authorized the county auditor to sell the parcels under a contract for deed and established the terms of the contract sales. (M.S. 282.01, Subd. 4).

See Section 6745 for information about the preparation of terms for a public sale and a sample form for the publication of the terms.

All cash payments and all installment payments of the basic sale price must be deposited in the forfeited tax sale fund and distributed with the other net revenues. See Section 6760 for information about the forfeited tax sale fund.

PUBLIC SALE: PROOF OF PURCHASE

The county auditor is to issue a certificate of purchase or a receipt to the purchaser of a parcel of tax-forfeited land at the time of the sale. (M.S. 282.01, Subd. 4 and Subd. 5)

For cash sales, the certificate of purchase or receipt is given in exchange for the full payment of the basic sale price of the parcel and the extra costs. The county auditor is able to request a state deed in the purchaser's name right away.

For contract sales, the certificate of purchase or receipt is issued along with the written contract agreement. Once the final installment of the basic sale price of the parcel is paid along with the extra costs, the county auditor is able to request a state deed in the name of the purchaser. (See Section 6750 for information about the terms and conditions for sales by contract for deed.)

PUBLIC SALE: TIME OF POSSESSION

The purchaser of any parcel of tax-forfeited land is authorized to take immediate possession of the property. This is true whether the purchaser paid cash or bought under a contract for deed. (M.S. 282.01, Subd. 4)

There is one exception to the right of immediate possession. If the county auditor has leased the parcel before the public sale, the purchaser's right of possession is subject to the terms of the lease. (See Section 6727 for more detailed information about the cancellation of a lease granted by the county auditor.)

PUBLIC SALE: FORFEITED TAX SALE FUND

The basic sale price of a parcel of tax-forfeited land is to be deposited in the county's forfeited tax sale fund. The extra costs may be deposited in the fund if it is the county's policy. (M.S. 282.09, Subd. 1)

See Section 6760 for more detailed information about the county's forfeited tax sale fund.

PUBLIC SALE: LIMITATIONS ON SALE

The county board has the authority to attach the following limitations to the public sale of any parcel of tax-forfeited land. (M.S. 282.03)

1. The county board may limit the use of a parcel of tax-forfeited land to be sold at a public sale.

2. The county board may limit the amount of public money that may be used to improve a parcel of tax-forfeited land to be sold at a public sale. This is intended to safeguard against the sale and occupancy of the parcels unduly burdening the public treasury.

In addition to these limitations which may be imposed by the county board, the statutes forbid the removal of any timber or timber products from a parcel of tax-forfeited land which is sold at a public sale until an amount equal to the appraised or apportioned value of the timber or timber products is paid to the county. (M.S. 282.01, Subd. 4)

PUBLIC SALE BY SEALED BIDS: ANOKA COUNTY

The 1994 Minnesota Legislature authorized Anoka County to sell tax-forfeited land by sealed bids. The announcement of the sale must comply with M.S. 282.02 except for the special provisions outlined below. (Laws 1994, Chapter 413; coded as M.S. 282.01, Subd. 7b)

1. The last publication of the notice must be at least 30 days before the date of the sale instead of 10 days as required under M.S. 282.02 for public auctions.

2. Prospective bidders may file their names and addresses with the county auditor. The county auditor must mail a notice to each party on the list when there is to be a sale by sealed bids. The prospective bidders must renew their filing every two years. There is no provision for this with public auctions.

3. All bids must be sealed when they are received and must be opened in public at the hour stated in the notice.

4. The tax-forfeited land must be sold to the highest bidder, but not for less than the appraised value determined by the county board. This is the same as for public auctions if the term, "appraised value," is intended to mean the same as the term, "basic sale price," which is used earlier in this Section 6747.

5. All of the bids and documents relating to a sale must be kept in a permanent file for 10 years from the date of the sale and must be open to the public. There is no provision for this with public auctions.

Selling tax-forfeited land by sealed bids is an alternative to the traditional method of sale by public auction as authorized under M.S. 282.01, Subd. 4 and 7. As a result of the new law, Anoka County has the option of conducting a tax-forfeited land sale by public auction or sealed bids.

There is a precedent for selling tax-forfeited land by sealed bids. M.S. 282.01, Subd. 7a authorizes the county auditor to sell certain parcels of tax-forfeited land at a private sale to adjacent landowners only. These private sales may be conducted by sealed bids or any other method chosen by the county auditor.

Laws 1994, Chapter 413, was to be effective the day after written approval by the board of commissioners of Anoka County is filed with the Secretary of State under the provisions of M.S. 645.021. The Anoka County board filed approval on April 17, 1994. Therefore, Anoka County may begin to offer tax-forfeited land for sale by sealed bids on April 18, 1994.

PUBLIC SALE BY CONTRACT FOR DEED SECTION 6750

When authorized by county board resolution, the county auditor is required to offer each parcel of tax-forfeited land for sale by contract for deed. (M.S. 282.01, Subd. 4-5)

The resolution adopted by the county board is to contain the terms and conditions for all purchases by contract. The county auditor is to provide the purchaser with a contract for deed that contains the terms of the installment purchase. The statutes refer to the contract for deed document as a "certificate" (M.S. 282.01, Subd. 5-6)

CONTRACT FOR DEED: DOWN PAYMENT + INSTALLMENTS + EXTRA COSTS

Effective beginning September 1, 1999, the county board has two options for contract sales. Under the first option, the purchaser is required to pay at least 10% of the basic sale price at the time of purchase. The unpaid balance is to be paid in no more than ten, equal, annual installments plus interest. The county board may resolve to sell tax-forfeited land under a contract for deed with less than ten, equal, annual installments plus interest. However, the down payment still must be at least 10% of the basic sale price. This is the only option available prior to September 1, 1999. (M.S. 282.01, Subd. 4)

Under the second option available beginning September 1, 1999, the payments must be made in accordance with county board policy, but the contract term must be for not more than ten years. Under this option, the county board may require monthly installments or a lesser number of installments each year. In no event may the county board require more than twelve installments annually.

Here is an example of how a county could establish by county board resolution the terms for the down payment and installments under contract for deed sales.

1. **Basic sale price of $300 or less: Full payment at sale.**

2. **Basic sale price of $301 to $4,000: 20% down or $300 whichever is greater, balance in five (5) annual installments.**

3. **Basic sale price of $4,001 or more: 10% down, balance in ten (10) annual installments.**

4. **All parcels with buildings: 20% down or $300 whichever is greater, balance in ten (10) annual installments.**

5. **Option for parcels with a basic sale price of $20,000 or more: 20% down, balance due in monthly installments over a ten-year period.**

See Section 6747 for detailed information about when the extra costs must be paid under a contract for deed sale.

CONTRACT FOR DEED: DEADLINE FOR ANNUAL INSTALLMENT PAYMENTS

The statutes are silent on the deadline for paying each annual installment under a contract for deed sale providing for annual installments. In the absence of any statutory requirement, the counties would have the authority to choose one or the other of the methods outlined below. The method should be established by county board resolution, should be listed in the terms of the sale, and should be listed in the contract for deed itself.

1. OPTION #1: DEADLINE ON ANNIVERSARY DATE OF THE CONTRACT

A county may choose the contract for deed sale of private property as the model for determining the deadline. This means that the installment payments would be due each year on the anniversary date when the contract for deed was signed. The first annual installment would be due on the anniversary date of the year after the contract was signed.

For example, let's say that a parcel of tax-forfeited land was sold under a ten-year contract for deed providing that the remaining balance after the down payment be paid in annual installments. After paying the 10% down payment, the buyer signed the contract on October 1, 1999. The first annual installment payment will be due on October 1, 2000, and the remaining annual installments will be due on October 1 of each of the succeeding nine years.

2. OPTION #2: DEADLINE ON DECEMBER 31 OF EACH YEAR

The county may use the confession of judgment as the model for determining the deadline. In this case, the installment payments for all contract for deed sales would be due on December 31 regardless of when each contract was signed during the year. The first annual installment would be due on December 31 of the year after the contract was signed.

Let's assume the above example where a parcel of tax-forfeited land was sold under a ten-year contract for deed providing that the remaining balance after the down payment be paid in annual installments. After paying the 10% down payment, the buyer signed the contract on October 1, 1999. The first annual installment payment will be due on December 31, 2000, and the remaining annual installments will be due on December 31 of each of the succeeding nine years.

CONTRACT FOR DEED: NOTICE OF INSTALLMENT PAYMENTS

The statutes do not require the county auditor to notify the contract buyer each year when the annual installments are due. However, it is in the best interest of the county to send out a notice. The goal is to have the buyer pay each installment on time and avoid a default of the contract. The cost of sending a notice is cheaper than having to go through the process of cancelling a contract, putting the property back on the list of tax-forfeited land, and trying to sell it again.

If the county chooses to notify the buyer, the notices should be sent out at least 30 days before the annual installment is due. This would mean the notice should be mailed no later than 30 days before the anniversay date each year if the anniversary date is used as the deadline for the installment payments. The notice should be mailed on or before November 30 if the county has adopted December 31 as the deadline for all installment payments.

CONTRACT FOR DEED: FORFEITED TAX SALE FUND

The county auditor should deposit the money from the annual installment payments (the basic sale price and interest) in the county's forfeited tax sale fund. The extra costs paid with the final installment may be deposited in the fund if that is the county's policy. See Section 6760 for more detailed information about the forfeited tax sale fund.

CONTRACT FOR DEED: CURRENT TAXES

In addition to the annual installment payments, the buyer is required to pay each year's current real property taxes on the parcel during the life of the contract. Each year's current property taxes must be paid before they become delinquent. If not, the buyer will be in default of the terms of the contract, and the contract will be cancelled. (M.S. 282.01, Subd. 5)

CONTRACT FOR DEED: INTEREST RATES

All sales of tax-forfeited land under a contract for deed are subject to interest. The interest charged is not a fixed rate which is set for all installment years at the time of the purchase. Instead, it is a variable rate which is open to change for each installment payment during the years of the contract. This is similar to the way interest is handled for a confession of judgment.

1. CONTRACT SALES BEFORE 1991: FLOATING INTEREST RATE

For all contract sales from July 1, 1982 through December 31, 1990, the unpaid balance of the basic sale price is subject to an annual rate of interest computed according to M.S. 549.09. This is the floating rate based on the yield on one-year U.S. Treasury bills. This interest rate is subject to change each year as provided in M.S. 549.09. (M.S. 282.01, Subd. 4)

For example, let's say that a contract for the purchase of tax-forfeited land was signed on August 12, 1985, the downpayment of 10% was paid, and the balance was due in ten, equal, annual installments ending in 1995. The amount of interest charged for each of the installments must be based on the floating rate even though the installment payments will extend beyond December 31, 1990. The use of the floating rate is locked in for the life of the contract. The amount of interest charged for each installment year will change if the floating rate for a given year changes.

See Section 6160 for more information about the floating rate and an example of how to calculate the interest rate on the unpaid balance of the basic sale price for each installment payment.

2. CONTRACT SALES AFTER 1990: PRIME INTEREST RATE

For all contract sales on or after January 1, 1991, the unpaid balance of the basic sale price is subject to an annual rate of interest computed according to M.S. 270.75, Subd. 5. This is the adjusted prime rate charged by banks on bank-to-business loans. This interest rate is subject to change each year as provided in M.S. 279.03, Subd. 1a. (M.S. 282.01, Subd. 4)

For example, let's assume that a contract for the purchase of tax-forfeited land was signed on September 9, 1994, the downpayment of 10% was paid, and the balance is due in ten, equal, annual installments ending in 2004. The amount of interest charged for each of the installments must be based on the adjusted prime rate. The use of the adjusted prime rate is locked in for the life of the contract. The amount of interest charged for each installment year will change if the adjusted prime rate for a given year changes.

See Section 6160 for more information about of the adjusted prime rate and an example of how to calculate the interest rate on the unpaid balance of the basic sale price for each installment payment.

CONTRACT FOR DEED: RECORDING

The 1983 Minnesota Legislature enacted a law which requires that all contracts for deed which are executed on or after January 1, 1984 must be recorded within six months of the execution date. They also imposed a penalty on all contracts for deed not recorded within the six-month period. The penalty was equal to 0.15% of the contract debt (15 cents per $100). (M.S. 507.235, Subd. 1-2 and 5)

The 1988 Minnesota Legislature made several major changes in M.S. 507.235. First, the deadline was cut from six months to four months. The buyer (vendee) was made legally responsible for meeting the recording deadline. Second, the penalty was increased from 0.15% to 2.0% of the contract debt (15 cents to $2.00 per $100).

The 1988 Minnesota Legislature also set up a new method of enforcing the recording and the penalty. When it is found out that a contract for deed has not been recorded within the deadline, the county attorney may mail a written notice to the buyer. The notice should contain the information outlined below.

1. The buyer has 14 days from the receipt of the notice to record the contract for deed.

2. If not recorded within the deadline, the county attorney may take legal action against the buyer to compel the recording and to impose the penalty.

3. If not recorded within the deadline, the county attorney may also take legal action to compel disclosure of information to prosecute the buyer under a misdemeanor charge, and/or to place a lien on the property.

A contract for deed for the sale of tax-forfeited land is subject to the recording requirements and penalty under M.S. 507.235, Subd. 1-2 and 5. The county auditor may require the buyer to record the contract for deed by completing the actions outlined above.

Instead of relying on the provisions of M.S. 507.235, some counties may wish to establish a policy by which the county auditor records the contract for deed for the sale of tax-forfeited land before the contract is given to the buyer. In this case, the county may have to absorb the cost of recording the contract. At this time, there is no statutory authorization to force the buyer to pay the fee for recording the contract for deed.

CONTRACT FOR DEED: SATISFACTION

A contract is satisfied when the purchaser has completed the terms of the contract which includes the following major actions: (1) payment of all installments with interest when due, (2) payment of all extra costs, and (3) payment of each year's current taxes before they become delinquent.

When the contract is satisfied, the county auditor submits an application for the state deed to the Property Tax Division of the Department of Revenue. The Property Tax Division fills out the state deed and forwards it to the county auditor. The county auditor has the state deed recorded and then gives it to the purchaser.

CONTRACT FOR DEED: SAMPLE FORMS

M.S. 282.01, Subd. 4-5 do not prescribe any forms for the contract for deed document or the notice of the annual installment payments. The sample forms which are presented at the end of this Section 6750 may be used by the counties to develop their own forms.

The sample form for the contract for deed is called the "Contract for Purchase of Tax-Forfeited Lands." Each county may use whatever title it prefers.

The sample form for the contract for deed is for a rundown house on a small lot in the mythical city of Applewood. The buyer paid the basic sale price of $5,200. The terms of the sale require a 20% down payment ($1,040). The balance ($4,160) must be paid in ten annual installments of $416 plus interest based on the adjusted prime rate. The final annual installment must include the $416 plus interest and the extra costs for obtaining and recording the state deed.

The sample form assumes that the county has chosen the anniversary date (August 12) as the deadline for the annual installment payments. If the county chooses to use December 31 as the deadline for the annual installment payments, the language in the sample form must be changed appropriately.

The sample form for the notice of the annual installment payments is designed as a formal notice. If a county wants the notice to appear less formal, it may design it to be printed as a letter on the county's official letter-head paper.

CONTRACT FOR PURCHASE OF TAX-FORFEITED LAND

State of Minnesota
County of Spruce

Contract Number: 123-456

I, Nicholas B. Archer, County Auditor of the County of Spruce, State of Minnesota, do hereby certify that the following described land lying and being in the County of Spruce, State of Minnesota, to-wit:

08-0325-0001, Towers Subdivision
Lot 2, Block 5
City of Applewood

excepting and reserving to the State of Minnesota, all minerals and mineral rights in and to said land, having been duly offered for sale as tax-forfeited land under Minnesota Statutes, Section 282.01, was on the 10 day of August, 1994, purchased by:

William F. & Wanda C. Bromberg
763 Washington St.
Applewood
Minnesota 57252

on the following terms and conditions, to-wit:

1. The State of Minnesota, upon performance by the purchaser of all conditions and terms as hereinafter set forth, agrees to convey said land to said purchaser, his or her heirs and assigns, by conveyance in fee, which shall have the force and effect of a patent from the State of Minnesota. Purchaser has paid a 3% assurance fee in the amount of $ 156.00.

PUBLIC SALE BY CONTRACT FOR DEED SECTION 6750
(Continued) **(Page 9)**

2. **Said purchaser shall pay to the State of Minnesota at the Office of the County Treasurer of said county the sum of $5,200 as the purchase price of said land in the manner and at the times following, to-wit: at the time of purchase, the following amount, receipt of which is hereby acknowledged, to-wit: $1,040, which includes $0.00, the value of the timber and timber products standing on said land, and $1,040, the initial payment on the remainder of the purchase price of said land, and the balance of $4,160 in ten equal annual installments of $416, the first of which shall be payable on or before the 12th day of August, 1995, and the remaining payments on or before the 12th day of August each year thereafter, with interest as provided in Minnesota Statutes, Section 282.01, Subd. 4, on the unpaid balance each year until all of such purchase price shall have been paid, with the privilege of paying the full amount of said purchase price, with accrued interest, if any, at any time.**

3. **The purchaser agrees at his or her own expense to keep the buildings on said land at all times insured by a reliable insurance company or companies, to be approved by the State of Minnesota, against loss by fire for at least the sum of the taxable market value, and against loss by windstorm for at least the sum of the taxable market value, payable to the State of Minnesota at the office of County Treasurer of said county as its interests may appear by reason of this contract.**

4. **Said land shall be subject to the provisions of any existing valid lease or easement made on behalf of the State of Minnesota.**

5. **Said purchaser shall pay all current taxes upon said land before they become delinquent.**

6. **The failure of the purchaser or any person claiming under him or her to pay any of the deferred installments with interest, or the current taxes, or to comply with any conditions that may have been stipulated in the notice of sale at which said land was offered for sale or in this contract shall constitute default and the sale will be subject to cancellation pursuant to Minnesota Statutes, Sections 282.01, Subd. 5; 282.40; and 559.21.**

7. **This contract is subject to all of the provisions of Minnesota Statutes, Section 282.01 and of any other applicable laws, and all pertinent provisions thereof are made a part hereof as though set out in full herein.**

PUBLIC SALE BY CONTRACT FOR DEED **SECTION 6750**
(Continued) **(Page 10)**

8. **If any tax-forfeited land of which there is a substandard structure is offered at an auction, the purchaser, as a condition of sale, shall present and file a certificate of code compliance with the County Auditor of said county within one year after the date of purchase from the county.**

9. **No structure, minerals, sand, gravel, topsoil, or peat shall be removed nor shall any timber or timber products be cut and removed from the said land until the purchase price has been paid in full; provided, however, that this shall not be construed as prohibiting the removal of such sand, gravel, topsoil, subsoil, or peat as may be incidental to the erection of structures on such purchased lands or to the grading of such land whenever such removal or grading shall result in enhancing the value thereof.**

Given under my hand and seal of office at the Spruce County Courthouse, Greenbriar, State of Minnesota, this 12th day of August, 1994.

Signature of Buyer(s): _____

_____

_____

_____

_____

Nicholas B. Archer
Spruce County Auditor **(COUNTY SEAL)**

2. Said purchaser shall pay to the State of Minnesota at the Office of the County Treasurer of said county the sum of $ 5,200 as the purchase price of said land in the manner and at the times following, to-wit: at the time of purchase, the following amount, receipt of which is hereby acknowledged, to-wit: $ 1,040 , which includes $ 0.00 , the value of the timber and timber products standing on said land, and $ 1,040 , the initial payment on the remainder of the purchase price of said land, and the balance of $ 4,160 in 10 equal annual installments of $ 416 , the first of which shall be payable on or before the 12 day of August , 1995, and the remaining payments on or before the 12 day of August each year thereafter, with interest as provided in Section 282.01, Subd. 4 on the unpaid balance each year until all of such purchase price shall have been paid, with the privilege of paying the full amount of said purchase price, with accrued interest, if any, at any time.

3. The purchaser agrees at his or her own expense to keep the buildings on said land at all times insured by a reliable insurance company or companies, to be approved by the State of Minnesota, against loss by fire for at least the sum of the taxable market value, and against loss by windstorm for at least the sum of the taxable market value, payable to the State of Minnesota at the office of County Treasurer of said county as its interests may appear by reason of this contract.

4. Said land shall be subject to the provisions of any existing valid lease or easement made in behalf of the State of Minnesota.

5. Said purchaser shall pay all current taxes upon said land before they become delinquent.

6. The failure of the purchaser or any person claiming under him or her to pay any of the deferred installments with interest, or the current taxes, or to comply with any conditions that may have been stipulated in the notice of sale at which said land was offered for sale or in this contract shall constitute default and the sale will be subject to cancellation pursuant to Minnesota Statutes, Sections 282.01, Subd. 5; 282.40; and 559.21.

7. This contract is subject to all of the provisions of Minnesota Statutes, Section 282.01 and of any other applicable laws, and all pertinent provisions thereof are made a part hereof as though set out in full herein.

8. If any tax-forfeited land of which there is a substandard structure is offered at an auction, the purchaser, as a condition of sale, shall present and file a certificate of code compliance with the County Auditor of said county within one year after the date of purchase from the county.

9. No structure, minerals, sand, gravel, topsoil, or peat shall be removed, nor shall any timber or timber products be cut and removed from the said land until the purchase price has been paid in full; provided, however, that this shall not be construed as prohibiting the removal of such sand, gravel, topsoil, subsoil, or peat as may be incidental to the erection of structures on such purchased lands or to the grading of such land whenever such removal or grading shall result in enhancing the value thereof.

Given under my hand and seal of office at the Spruce County Courthouse, Greenbriar, MN, State of Minnesota, this 12 day of August , 1994.

Nicholas B. Archer (OFFICIAL SEAL)

Nicholas B. Archer
Spruce County Auditor

NOTICE OF CONTRACT INSTALLMENT DUE FOR PURCHASE OF TAX-FORFEITED LAND

State of Minnesota
County of Spruce

Date of Notice: July 6, 1995

William F. & Wanda C. Bromberg
763 Washington Street
Applewood, MN 57252

Property ID#: 012-578-803
Contract #: 123-456
Payment Due: August 12, 1995
Total Due: $ 832.00

This is to remind you that your annual installment payment for the purchase of the tax-forfeited land identified above is due on or before the payment due date listed above.

A breakout of the total amount due this year is listed below. The final installment payment will include the extra costs for obtaining and recording the state deed to the tax-forfeited land purchased under the contract. The extra costs may also include an agricultural conservation fee if your county is enrolled in the state program. The extra costs must be paid before a state deed will be issued.

TOTAL AMOUNT DUE THIS YEAR:

Principal	Interest	Extra Costs	Total
$ 416.00	$ 416.00	$ 0.00	$ 832.00

If you fail to pay the annual installment by the due date, you will be in default of the terms and conditions of your contract agreement as described in clause number six (6) of the contract.

If the contract remains in default, the county will cancel the contract sale under the terms of Minnesota Statutes, Sections 282.01, Subdivision 5; 282.40; and 559.21; and all costs, attorney's fees, and other amounts payable by the purchaser as a result of the cancellation must be paid to the county.

Make your check or money order payable to the Spruce County Treasurer. Mail your payment to the address listed below. Put your property identification number and contract number on your check or money order.

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, Minnesota 56323
(234) 567-8910

PRELIMINARY NOTICE OF CANCELLATION OF CONTRACT FOR DEED

Spruce County Auditor's Office
Spruce County Courthouse
234 West Broadway
Greenbriar, MN 56323

Raymond & Esther Cologne
Rural Route #3, Box #12
Greenbriar, MN 56323
04-0034-0038

December 28, 1990

According to the terms of your contract agreement to purchase a parcel of tax-forfeited land, if the annual contract installments are not paid by the contract anniversary date and/or the current year taxes are not paid as of December 31st, the contract would be subject to cancellation. Our records indicate that your 1990 installment and/or 1990 taxes are still unpaid.

If full payment of the amount is not received in our office by January 9, 1991, this account will be subject to cancellation procedures, and costs of publication and sheriff's service and other fees and charges will accrue.

Since the amount needed to redeem your contract is subject to change, please contact the Spruce County Auditor's Office at (234) 567-8910 for the correct amount needed to redeem.

NOTE: The entry in the underlined section of the preliminary notice may be added by the computer from the county's taxpayer address file.

The following format is suggested for the notice of impending cancellation which is to be published, served by the sheriff, and possibly mailed to contract holders.

NOTICE OF CANCELLATION OF CONTRACT FOR DEED

TO: Raymond & Esther Cologne February 5, 1990

YOU ARE NOTIFIED:

1. Default has occurred in the Auditor's Certificate of Purchase of Tax-Forfeited Lands, Contract #4317, dated August 2, 1989, and filed for record August 4, 1989, as Document #1287, in the office of the County Recorder of Spruce County, Minnesota, in which Nicholas B. Archer, Spruce County Auditor, acting on behalf of the state of Minnesota sold to Raymond & Esther Cologne, the real property in Spruce County, Minnesota, described as follows: Twp 120, Range 37, Section 22, Northwest 1/4 & North 1/2 of Southwest 1/4, 240 Acres, PID #04-0034-0038 according to the recorded plat thereof.

2. Property was purchased at a public auction on July 31, 1989, under the terms of contract sales approved by resolution of the Spruce County Board of Commissioners.

3. The default is as follows: The 1990 installment which was due on the anniversary date of the contract, August 2, 1990, has not been paid.

4. The Auditor's Office has received authorization from the Spruce County Board of Commissioners to cancel defaulted tax-forfeited land contracts as listed on Cancellation List #683 by Resolution #12-927, adopted December 10, 1990.

5. The County Auditor has begun proceedings under M.S. 559.21 to cancel your contract for deed for the reason or reasons specified in paragraph #4 above. The contract will be cancelled on May 9, 1991, unless, before that date, you pay the total amount due on the date when paid or you secure from a county or district court an order that cancellation of the contract be suspended until all your claims or defenses are finally disposed of by trial, hearing, or settlement. Your action must specifically state those facts and grounds that demonstrate your claims or defenses.

   If you do not pay the total amount due or secure a court order before May 9, 1991, you will lose all the money paid under the contract, lose your right to possess the property, you may lose your right to assert any claims and defenses, and you will be evicted. If you have any questions about this notice, contact an attorney immediately.

   A breakout of the total amount due if paid by February 28, 1991, is listed below

(a) 1990 Contract Installment Due	$ 490.45
(b) 1990 Real Property Taxes Due	$ 0.00
(c) Cost of Sheriff's Service	$ 20.00
(d) Cost of Publication	$ 0.00
(e) County Attorney Fees	$ 10.00
(f) 2% of Amount in Default	$ 9.81
(g) Total Due If Paid By 2/28/91	$ 530.26

6. YOU MAY BE ELIGIBLE FOR AN EXTENSION OF THE TIME PRIOR TO TERMINATION UNDER M.S. 583.01 TO 583.12.

7. The name, address, and telephone number of the county auditor who is authorized to accept payment is listed below. Since the amounts stated above are subject to increase, please contact the county auditor's office at (234) 567-8910 for the exact amount required to redeem your contract and any further information concerning the impending cancellation of your contract.

Nicholas B. Archer

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, MN 56323

NOTE: OPTION TO COMPLETE CANCELLATION PROCEDURES ONCE A YEAR

A county may choose to complete the major procedures for the cancellation of contracts in default once a year. This means that the county auditor would keep a running record of all contracts which are defaulted during a calendar year. At the end of the calendar year, the county auditor would begin the cancellation procedures for all of the contracts which defaulted during the year by submitting the complete list to the county board for approval.

The dates used in the cancellation forms presented above illustrate this method of cancelling contracts in default once a year.

Failure of the contract holder (buyer) to comply with the terms and conditions of a contract for deed for the purchase of tax-forfeited land constitutes a default of the contract. When a contract is in default, the state may, by order of the county board, declare the contract canceled, take possession of the property, and proceed to resell or convey the property in the same manner as any other tax-forfeited land. (M.S. 282.01, Subd. 5; M.S. 280.40)

Because a cancellation is a complex and expensive process, the county auditor, acting for the county board, should try to persuade the contract holder to correct whatever deficiency caused the default before canceling the contract. If the contract holder refuses to comply, the county auditor, acting for the county board, must have the contract canceled.

CONTRACT FOR DEED: REASONS FOR DEFAULT

A contract for deed is declared to be in default for any one of the major reasons listed below. (M.S. 282.01, Subd. 5; M.S. 282.40)

1. Failure to pay any installment with interest when it is due.

2. Failure to pay any year's current tax before they become delinquent.

3. Failure to comply with any other condition of the contract.

CONTRACT FOR DEED: CANCELLATION PROCEDURES

When a default occurs, the county board, auditor, and sheriff are required to take action to cancel the contract. The major cancellation procedures which are supposed to be used are those provided in M.S. 559.21 for the cancellation of all contracts of sale in Minnesota. (M.S. 282.01, Subd. 5; 282.40)

The first two procedures which are outlined below are not required in M.S. 559.21. However, they are important preliminary actions which are required to obtain official approval to complete the major procedures leading up to the possible cancellation.

The cancellation procedures which are provided in M.S. 559.21 are more detailed and complex than what is actually needed for the cancellation of a contract agreement to purchase a parcel of tax-forfeited land. Therefore, a simpler, condensed version of the procedures provided in M.S. 559.21 is presented below as an alternative. Of course, each county is free to set up its own version of the required procedures.

1. COUNTY AUDITOR: REQUEST COUNTY BOARD APPROVAL

As the first step of the preliminary action, the county auditor is to request the approval of the county board to cancel all contracts for deed which are in default. The written request should be accompanied by a list of the contracts which are in default and are to be canceled. (M.S. 282.01, Subd. 5)

The written request should include the following information: (1) a description of each contract which is in default, (2) the reason for each default, (3) the amount of the unpaid installments, (4) the actions which are to be taken to notify each contract holder of the impending cancellation pursuant to M.S. 559.21, and (5) the date when the contracts are scheduled to be canceled.

2. COUNTY BOARD: APPROVAL OF CANCELLATION BY RESOLUTION

As the second step of the preliminary action, the county board is to pass a resolution approving the cancellation of each contract for deed which is in default. The resolution should authorize the county auditor to cancel each contract on the list according to the provisions of M.S. 282.01, Subd. 5 and M.S. 282.40, and according to the procedures prescribed in M.S. 559.21.

3. COUNTY AUDITOR: PRELIMINARY CANCELLATION NOTICE

After the cancellation process has been approved by the county board, the county auditor with the approval of the county board may mail a short notice of impending cancellation to each of the contract holders. This preliminary mailing is an extra courtesy to the contract holders and is not required by statute.

The preliminary notice should inform the contract holder that one or more of the terms of the contract has not been met. In most cases, this would probably mean that an installment payment was over due.

The notice should also warn the contract holder that, if the reason for default is not corrected by the stated date, the contract will be subject to cancellation, and additional costs of publication and service by the county sheriff will accrue. The "stated date" is not the time when the contract will be canceled. It is the date after which the major cancellation procedures will be put into action.

The notice should also list the address of the county auditor's office where the total amount needed to redeem the contract may be obtained and paid.

An example of a preliminary notice of impending cancellation which may be mailed to all contract holders is included at the end of this Section 6752.

4. COUNTY AUDITOR: OBTAIN PUBLICATION DATES + FEE

The county auditor is responsible for contacting the publisher to determine the dates for publication of the notices of impending cancellation and to obtain the fee for the publication. (M.S. 559.21)

It is suggested that the county auditor publish only those notices for parcels without buildings. It is assumed that the contract holder is not occupying a parcel without buildings. As a result, it would be difficult to impossible for the county sheriff to serve a notice to the contract holder. Therefore, a published notice would be sufficient to announce the impending cancellation of these types of contracts.

The notice of impending cancellation for parcels without buildings is to be published in the county's official newspaper for three successive weeks. The first date of publication is important because it is the starting point for determining the cancellation date for contracts on parcels without buildings.

Note: The first date of publication should be coordinated with the date when the county sheriff is to pick up the notices so that the cancellation dates for the published notices and served notices will be as close together as possible.

The publication fee is one of the extra costs which each contract holder for a parcel without buildings is required to pay to redeem a contract.

5. COUNTY AUDITOR: OBTAIN SHERIFF'S PICKUP DATE + FEE

The county auditor is responsible for contacting the county sheriff's office to determine the date when the sheriff will pick up the notices of impending cancellation and to obtain the fee for service of the notices. (M.S. 559.21)

It is suggested that the county sheriff serve only those notices for parcels with buildings. It is assumed that the contract holder is occupying a parcel with buildings. As a result, it is easy for the county sheriff to serve a notice to the contract holder. Therefore, a notice should be served by the sheriff in these cases and need not be published.

The date when the county sheriff will pick up the notices is important because it is the starting point for determining the cancellation date for contracts on parcels with buildings. The sheriff's pick-up date should be coordinated with the date of the first publication so that the cancellation dates for the published notices and served notices will be as close together as possible.

The county sheriff's service fee is one of the extra costs which each contract holder for a parcel with buildings is required to pay to redeem a contract.

6. COUNTY AUDITOR: DETERMINATION OF CANCELLATION DATES

Once the county sheriff's pick-up date and the publication dates are known, the county auditor is able to calculate the calendar date when the time period for redeeming the contracts under default expires and the contracts are canceled. (M.S. 559.21)

Under M.S. 559.21, the redemption period for a contract is based on a combination of when the contract was signed and what percentage of the basic sale price was paid before default. The redemption periods vary from 30 days to 90 days. To simplify the situation, it is suggested that the counties give all contracts a redemption period of 90 days.

Under the standard 90-day redemption period, the cancellation date for contracts on parcels without buildings would be 90 days after the date of the first publication of the notice. The cancellation date for contracts on parcels with buildings would be 90 days after the date when the county sheriff picks up the notices to be served.

7. COUNTY AUDITOR: PREPARATION OF CANCELLATION NOTICES

When the previous tasks have been completed, the county auditor is responsible for preparing the notices of cancellation which will be published in the newspaper, served by the county sheriff, and possibly mailed through the post office. (M.S. 559.21)

The content of all of the notices of cancellation are to be the same except for the date of cancellation. See the subsection immediately above for a summary of how the cancellation dates are calculated and what dates should be used for published notices and served notices.

The notice of impending cancellation is to contain the following information and parameters as required by M.S. 559.21, Subd. 3: (a) all of the information required in M.S. 559.21, including what must be paid to redeem a contract; (b) the name, address, and telephone number of the seller or the seller's attorney who is authorized to receive payments; (c) a statement authorizing the person named to receive payments; (d) 12-point or larger underlined upper-case type for served and mailed notices; and (e) 8-point type for published notices.

M.S. 559.21, Subd. 3, also contains a suggested format for the notice of impending cancellation which illustrates the required information and parameters.

An example of a notice of cancellation which can be published, served, and mailed is included at the end of this Section 6752.

Note: If the county chooses to mail notices to all contract holders, the county auditor should make an extra set of the notices which are to be published in the newspaper and served by the county sheriff. The extra set of both types of notices may be used for the mailing.

8. COUNTY AUDITOR: DELIVERY OF NOTICES TO NEWSPAPER

The county auditor is responsible for delivering the cancellation notices for parcels without buildings to the office of the official county newspaper for publication. The notices should be delivered with enough time for the publisher to get the notices in the newspaper on the date which was set for the first week's printing.

9. COUNTY SHERIFF: PICK UP + SERVE CANCELLATION NOTICES

On the date scheduled earlier, the county sheriff is responsible for picking up the notices for parcels with buildings and having them served on the contract holders.

The county sheriff should file with the county auditor's office a list of those notices successfully served to the contract holders and those which could not be served.

10. COUNTY AUDITOR: MAILING CANCELLATION NOTICES

Neither the tax-forfeited land statute nor M.S. 559.29 requires the county to mail copies of the notices of impending cancellation to the contract holders. Each county appears to be free to make that decision itself.

However, there are two reasons why a county may want to choose to mail the notices. First, if a contract holder on a parcel without buildings does not have a subscription to the official county newspaper, the contract holder will probably not be reached with the published notice. Second, if a contract holder on a parcel with buildings cannot be found, the contract holder will not be reached by the county sheriff's served notice.

In the above situations, a mailing is the only way that the county auditor could reach the contract holders with the required information about the impending cancellation.

If a mailing is to be done, the county auditor should use the extra set of notices made from those to be published and served. The mailing date should be coordinated with the date of the first publication and the date when the county sheriff picks up the notices so that the cancellation dates will be as close together as possible.

CONTRACT FOR DEED: ACTION REQUIRED TO AVOID CANCELLATION

In order to avoid cancellation of a contract agreement to purchase tax-forfeited land, the contract holder is required to fulfill the terms of the contract which were the cause of the default. This action to redeem a contract in default is to be completed before the cancellation date shown in the published, served, and/or mailed notices. (M.S. 559.21)

The specific actions which are required to redeem a contract and avoid cancellation are outlined below. All of the actions which are required refer to any failure to comply with the terms of a contract through the date that the compliance actions are performed or the cancellation date.

1. The fulfillment of all unfulfilled terms of the contract which do not involve payments of money.

2. The payment of all installments and interest which were not paid when due.

3. The payment of all real property taxes which were not paid before they became delinquent.

4. The payment of a pro-rata share of the costs of publication or service of the notices of impending cancellation.

5. The payment of county attorney's fees actually expended or incurred as part of the impending cancellation procedures.

6. The payment of 2% of the amount in default at the time of the service of the notice of impending cancellation if the contract was executed after July 31, 1985.

CONTRACT FOR DEED: CANCELLATION FOR DEFAULT

After the 90-day redemption period expires and a contract for deed is canceled because of default, the county auditor is to complete the following tasks: (M.S. 282.01, Subd. 5; M.S. 282.40)

1. Return the title to the parcel of real property to the state in trust for the taxing districts. This is done by completing a cancellation of contract for deed form and filing it for recording in the county recorder's office.

2. Cancel all delinquent and current year taxes and all delinquent and current year special assessments which were imposed on the parcel of real property after the contract for deed was signed.

3. Remove the parcel of real property from the county property tax lists.

4. Begin the procedures for reselling or leasing the parcel of real property.

Note: These are basically the same tasks which the county auditor performs for any parcel of real property when the time period for paying delinquent taxes expires and the parcel is forfeited to the state.

CONTRACT FOR DEED: REINSTATEMENT AFTER CANCELLATION

After cancellation of a contract and before the parcel is resold, the former contract holder may request to have the contract reinstated. The conditions for a reinstatement of a canceled contract agreement are outlined and explained below. (M.S. 282.341, Subd. 1)

If 50% or more of the basic sale price was paid before the cancellation, the former contract holder may request the reinstatement of a contract for deed. In this case, the former contract holder's request is to be granted without the approval of the county board.

If less than 50% of the basic sale price was paid before the cancellation, the former contract holder may still request the reinstatement of a contract for deed. However, in this case, the former contract holder's request can be granted only with the approval of the county board.

In order to have a contract for deed reinstated, the former contract holder is to pay all of the following amounts to the county auditor when they are applicable. Some of these payments are the same as those which would have been required if the contract holder had redeemed the contract before it was canceled. (M.S. 282.341, Subd. 1; 559.21)

1. All delinquent installments with interest which were due under the contract for deed at the time of the cancellation.

2. All installments with interest which would have accrued if the contract for deed had not been canceled.

3. All unpaid real property taxes, penalties, costs, and accrued interest up to the time of the cancellation.

4. All real property taxes and special assessments that would have been assessed, levied, and payable between the date of the cancellation and the date of the reinstatement.

5. The payment of a pro-rata share of the costs of publication or service of the notices of impending cancellation.

6. The payment of county attorney's fees actually expended or incurred as part of the impending cancellation procedures.

7. The payment of 2% of the amount in default at the time of the service of the notice of impending cancellation if the contract was executed after July 31, 1985.

When the total amount required for reinstatement is paid, the county auditor is to record the reinstatement of the contract for deed. The county auditor is to transfer the total amount paid to the county treasurer. (M.S. 282.341, Subd. 2)

If the reinstatement is completed after January 2, the county auditor is to levy taxes on the parcel payable in the year in which the reinstatement is made as in the case of taxes on omitted property (M.S. 273.02). (M.S. 282.341, Subd. 2)

Note: Within the above statutory conditions, a purchaser may request and/or the county board may approve the reinstatement of a canceled contract for deed an indefinite number of times. This may be done until the terms of the contract are fulfilled or the parcel is resold or conveyed to a third-party.

The following format is suggested for the preliminary notice of cancellation which may be mailed to all contract holders.

PRELIMINARY NOTICE OF CANCELLATION OF CONTRACT FOR DEED

Spruce County Auditor's Office
Spruce County Courthouse
234 West Broadway
Greenbriar, MN 56323

Raymond & Esther Cologne
Rural Route #3, Box #12
Greenbriar, MN 56323
04-0034-0038

Date: December 28, 1990

According to the terms of your contract agreement to purchase a parcel of tax-forfeited land, if the annual contract installments are not paid by the contract anniversary date and/or the current year taxes are not paid as of December 31st, the contract would be subject to cancellation.

Our records indicate that your 1990 installment and/or 1990 taxes are still unpaid.

If full payment of the amount is not received in our office by January 9, 1991, this account will be subject to cancellation procedures, and costs of publication and sheriff's service and other fees and charges will accrue.

Since the amount needed to redeem your contract is subject to change, please contact the Spruce County Auditor's Office at (234) 567-8910 for the correct amount needed to redeem.

The following format is suggested for the notice of impending cancellation which is to be published, served by the sheriff, and possibly mailed to contract holders.

NOTICE OF CANCELLATION OF CONTRACT FOR DEED

TO: Raymond & Esther Cologne Date: February 5, 1991

YOU ARE NOTIFIED:

1. Default has occurred in the Contract for Purchase of Tax-Forfeited Land, Contract #4317, dated August 2, 1989, and filed for record August 4, 1989, as Document #1287, in the office of the County Recorder of Spruce County, Minnesota, in which Nicholas B. Archer, Spruce County Auditor, acting on behalf of the state of Minnesota sold to Raymond & Esther Cologne, the real property in Spruce County, Minnesota, described as follows: Twp 120, Range 37, Section 22, Northwest 1/4 North 1/2 of Southwest 1/4, 240 Acres, PID #04-0034-0038 according to the recorded plat thereof.

2. Property was purchased at a public auction on July 31,1989, under the terms of contract sales approved by resolution of the Spruce County Board of Commissioners.

3. The default is as follows: The 1990 installment which was due on the anniversary date of the contract, August 2, 1990, has not been paid.

4. The Auditor's Office has received authorization from the Spruce County Board of Commissioners to cancel defaulted tax-forfeited land contracts as listed on Cancellation List #683 by Resolution #12-927, adopted December 10, 1990.

CANCELLATION OF CONTRACT FOR DEED **SECTION 6752**
(Continued) (Page 13)

5. **The County Auditor has begun proceedings under M.S. 559.21 to cancel your contract for deed for the reason or reasons specified in paragraph #3 above. The contract will be canceled on May 9, 1991, unless, before that time, you pay the total amount due on the date when paid or you secure from a county or district court an order that cancellation of the contract be suspended until all your claims or defenses are finally disposed of by trial, hearing, or settlement. Your action must specifically state those facts and grounds that demonstrate your claims or defenses.**

If you do not pay the total amount due or secure a court order before May 9, 1991, you will lose all the money paid under the contract, lose your right to possess the property, you may lose your right to assert any claims and defenses, and you will be evicted. If you have any questions about this notice, contact an attorney immediately

A breakout of the total amount due if paid by February 28, 1991, is listed below:

(a) Contract Installment Due	**$**	**490.45**
(b) Real Property Taxes Due	**$**	**0.00**
(c) Cost of Sheriff's Service	**$**	**20.00**
(d) Cost of Publication	**$**	**0.00**
(e) County Attorney Fees	**$**	**0.00**
(f) 2% of Amount in Default	**$**	**9.81**
(g) Total Due If Paid by February 28, 1991	**$**	**530.26**

CANCELLATION OF CONTRACT FOR DEED **SECTION 6752**
(Continued) (Page 14)

The name, address, and telephone number of the county auditor who is authorized to accept payment is listed below. Since the amounts stated above are subject to increase, please contact the county auditor's office at (234) 567-8919 for the exact amount required to redeem your contract and any further information concerning the impending cancellation of your contract.

_____

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, MN 56323

OPTION TO COMPLETE CANCELLATION PROCEDURES ONCE A YEAR

A county may choose to complete the major procedures for the cancellation of contracts in default once a year. This means that the county auditor would keep a running record of all contracts that are defaulted during a calendar year. At the end of the calendar year, the county auditor would begin the cancellation procedures for all of the contracts that defaulted during the year by submitting the complete list to the county board for approval.

The dates used in the cancellation forms presented above illustrate this method of canceling contracts in default once a year.

The following format is suggested for the "Auditor's Affidavit Of Failure To Comply With Notice Of Cancellation Of Contract For Deed" which is to be recorded with a copy of the notice and proof of service of the notice.

AUDITOR'S AFFIDAVIT OF FAILURE TO COMPLY WITH NOTICE OF CANCELLATION OF CONTRACT FOR DEED

State of Minnesota County of Spruce

Description of Subject Property:

PID #04-0034-0038, NE 1/4 and N 1/2 of the SE 1/4 of Section 22, T. 120, R. 37, 240 Acres.

Nicholas B. Archer, being duly sworn, on oath says: that I am the County Auditor who prepared the notice as agent for the Seller to cancel the defaulted contract for purchase of tax-forfeited land in accordance with M.S. 282.01, Subd. 5 and M.S. 282.40 and M.S. 559.21;

That more than ninety (90) days have elapsed since the service of the notice on Raymond & Esther Cologne, to whom it is directed;

That Raymond & Esther Cologne, Rural Route #3, Box #12, Greenbriar, Minnesota 56323, have not complied with the terms of the notice; that the default set forth in the notice still continues; that no portion of the overdue payments of principal and interest under the contract described in the notice has been paid;

That the purchasers signed a waiver of defense of partial payment on May 10, 1991, nor attorney's fees of $10, nor costs of service of $20.

Further, I make this affidavit for the purpose of terminating the contract and recording the notice, the proof of the service of the notice and the proof of failure to comply with the terms of the notice.

Nicholas B. Archer

Nicholas B. Archer
Spruce County Auditor

Date of Signature: May 23, 1991

STATE DEED FOR TAX-FORFEITED LAND SECTION 6755

The county auditor is to work directly with the Property Tax Division of the Department of Revenue in order to obtain a state deed for various purposes relating to the sale or conveyance of tax-forfeited land that is under the jurisdiction of the county board. (M.S. 282.01, Subd. 6)

In most cases, a state deed is issued by the Property Tax Division within two weeks after the receipt of an application form from the county auditor. The person in the Property Tax Division who is responsible for issuing state deeds is the State Deeds Clerk. The direct telephone number for the State Deeds Clerk is (651) 296-0394.

STATE DEED FOR PURCHASE OF TAX-FORFEITED LAND

The state deed for the purchase of tax-forfeited land is informally referred to as a state "purchase" deed. This type of state deed is issued to any party who acquires tax-forfeited land at a public or private sale by paying at least the appraised value as determined by the county board. This includes the following types of sales: private sales to governmental subdivisions or state agencies, sales to private parties at a public auction, or private sales to adjacent landowners only.

A state "purchase" deed is issued for the sale of tax-forfeited land for either cash or under a contract for deed. When the basic sale price and the extra costs are paid in full at the time of the sale, the county auditor may apply for the deed immediately. Under a contract sale, the county auditor must wait until the final annual installment and the extra costs are paid before applying for the deed.

The major tasks outlined below must be completed in order for a purchaser to obtain legal ownership with a state "purchase" deed.

1. COUNTY AUDITOR: MAILS APPLICATION TO PROPERTY TAX DIVISION

After the basic sale price and the extra costs have been paid, the county auditor must complete the "Auditor's Application For State Deed For Purchase of Tax-Forfeited Land" (PT Form 80). A PT Form 80 must be completed for each purchase and mailed to the Property Tax Division of the Department of Revenue. A completed PT Form 80 must not be submitted until the basic sale price and the extra costs have been paid in full.

The county auditor should obtain a master copy of the PT Form 80 from the Property Tax Division and duplicate it for use in requesting each state "purchase" deed.

2. DEPARTMENT OF REVENUE: ISSUES STATE "PURCHASE" DEEDS

After receipt of a completed PT Form 80, the Property Tax Division must execute a state "purchase" deed in the name of the purchaser. The Property Tax Division, acting for the Department of Revenue, does not have the authority or the responsibility to approve or disapprove the sale of tax-forfeited land as approved by the county board. The completed deed is signed by the Director of the Property Tax Division, acting for the Commissioner of Revenue, and the deed is mailed to the county auditor.

3. COUNTY AUDITOR: RECORDS AND DELIVERS STATE "PURCHASE" DEEDS

The county auditor must have each state "purchase" deed recorded in the county recorder's office before delivering the deed to the purchaser. This requirement assures that the deed will be recorded. This can be done because the county auditor has already collected the extra costs for recording the deed from the purchaser before the application for the deed was submitted.

STATE DEED FOR CONVEYANCE OF TAX-FORFEITED LAND

Instead of buying tax-forfeited land and receiving a state "purchase" deed, a governmental subdivision may acquire tax-forfeited land free of charge for an authorized public use. The state deed for this type of conveyance is informally referred to as a state "use" deed.

In general, a state "use" deed must contain a clause that restricts the use of the property to the authorized public use that was stipulated in the application form and approved by the county board. It also contains a clause that directs the title to the property to be reconveyed to the state if the property is not used for the authorized public use. This is referred to as the "rule of reversion." There is an exception to the "rule of reversion" for certain economic development or rehabilitation projects under M.S. 469.

3. **Each parcel not sold at the private sale may be purchased after the sale by any adjacent landowner who pays the basic sale price. The parcel cannot be sold to anyone who is not an adjacent landowner. The basic sale price cannot be changed unless the parcel is reappraised, republished, and offered for sale again to adjacent landowners.**

SALE TO ADJACENT OWNERS: ELIGIBILITY OF COUNTY OFFICIALS |

Until 1992, M.S. 282.016 allowed a county official to purchase tax-forfeited land only if the county official owned the parcel before the forfeiture. An outline of this provision and a definition of "county officials" is contained in Section 6747.

The 1992 legislature added another situation when a county official may purchase tax-forfeited land. M.S. 282.016 was amended to allow a county official who owns an adjacent parcel to purchase tax-forfeited land at a private sale for adjacent landowners only. In other words, a county official must own one of the adjacent parcels in order to purchase tax-forfeited land at a private sale for adjacent landowners only.

This 1992 legislative authorization is effective for sales after June 30, 1992.

SALE TO ADJACENT OWNERS: SUBJECT TO PUBLIC SALE CONDITIONS

In addition to the above special conditions and tasks, all of the procedures, rules, and conditions controlling a public sale of tax-forfeited land for cash or by contract for deed also apply to a private sale to adjacent land owners, except that a published notice is not required for a private sale to adjacent land owners. (M.S. 282.01, Subd. 7a)

Note: See the appropriate Sections dealing with public sales for an outline and explanation of these procedures, rules, and conditions, especially Sections 6745, 6747, 6750, 6752, and 6755.

At the same time the Form is mailed, the applicant must also send a check for the $25 state deed fee to the Department of Revenue. The procedures and forms for doing this are the same as for the county auditor to submit the revenue from the state deed fees annually to the Department of Revenue. The procedures and forms are outlined later in this Section 6755.

After approving the application and receiving verification that the $25 state deed fee has been paid, the Property Tax Division, acting for the Department of Revenue, will issue a replacement state deed in the name of the applicant. The Property Tax Division will send the replacement state deed to the county auditor. After collecting the extra costs from the applicant, the county auditor must record the deed before delivering it to the applicant.

The recording of the replacement state deed conveys ownership of the tax-forfeited land to the party named on the deed in the same manner that the original state deed would have if it had not been lost or destroyed.

STATE DEED: OTHER PURPOSES AND RESTRICTIONS

Acting for the Department of Revenue, the Property Tax Division receives applications and issues state deeds for other purposes besides the sale of tax-forfeited land, the conveyance of tax-forfeited land free of charge for an authorized public use, and the replacement of a lost or destroyed deed which are outlined above.

Two of the other purposes for issuing state deeds are the repurchase of tax-forfeited land (Section 6770) and the exchange of tax-forfeited land for property in private ownership (Section 6722).

Upon the recommendation of the county board, the Property Tax Division may also grant permanent easement rights on tax-forfeited land bordering on lakes and streams to the state of Minnesota. The easements are to be held in the name of the Department of Natural Resources. (Section 6730)

There are two major restrictions which must be acknowledged when applying for and issuing state deeds: restrictive covenants and well disclosure certificates. (Section 6737)

A state deed may also be restricted by certain liens and encumbrances which existed on the property before forfeiture and may remain on the property after forfeiture. (Section 6710)

STATE DEED: HISTORICAL RECORDS

The Property Tax Division of the Department of Revenue keeps records of all state deeds issued for the sale and conveyance of tax-forfeited land in the state. The historical records go back as far as 1915.

The state deed records are open to the public. Anyone may contact Diane Rogge, Property Tax Division, (612) 296-0394, for information about the state deeds. Or they may come to the Property Tax Division and review the records in person.

STATE DEED: MINERALS/MINERAL RIGHTS RESERVED

The state deed to a parcel of tax-forfeited land conveys ownership of the property with one important exception. All minerals and mineral rights relating to the property are reserved by the state. (M.S. 282.12; 282.20; 282.225)

All minerals and mineral rights relating to the property continue to be reserved by the state regardless of how many times the property is sold and resold in the future. This means that any subsequent purchaser of the property holds title to the property without ownership of the minerals or the mineral rights.

The repurchase of tax-forfeited land is a special case. If the mineral rights have not been reserved by the state in the past, the title which the repurchaser receives does include the mineral rights. However, if the mineral rights have been reserved by the state in the past, the title which the repurchaser receives does not include the mineral rights.

STATE DEED: $25 FEE

All state deeds for tax-forfeited land are subject to a $25 state deed fee with two exceptions: (1) state "use" deeds issued to governmental subdivisions which acquire tax-forfeited land free of charge for an authorized public use are exempt from the fee, and (2) state deeds for land exchanges between the Department of Natural Resources and a private property owner are exempt from the fee. (M.S. 282.014)

The $25 state deed fee must be paid before a state deed will be issued by the Property Tax Division of the Department of Revenue. The $25 state deed fee is used to offset the cost of issuing the state deed.

The county auditor must collect the $25 state deed fee when the basic sale price of a parcel is paid in full. For cash purchases, the $25 state deed fee must be collected along with the basic sale price at the time of the sale. For contract sales, the $25 state deed fee must be collected with the final installment payment.

By February 1 each year, the Property Tax Division mails a billing letter to each county wherein state deeds subject to the $25 state deed fee were issued in the previous year. The billing letter shows the total number of these state deeds and the total amount of all the fees that must be paid by the county auditor. A copy of each billing letter is delivered to the Department of Revenue Cashier. (M.S. 282.09, Subd. 1)

By March 1 each year, the county auditor must send the total amount of money collected for the state deed fees during the previous calendar year to the Department of Revenue. The check must be made out to the Commissioner of Revenue. The check along with a copy of the billing letter must be mailed to the Department of Revenue at the address listed on the billing letter.

Each county's letter is opened by the Department of Revenue Mail Room. The check and the copy of the billing letter are forwarded to the Department of Revenue Cashier who processes the check. The money is deposited in the state treasury as part of the state general fund.

The Cashier sends the copy of the billing letter to the Property Tax Division with the amount of the county's payment marked on the letter. The Property Tax Division records the county's payment as the final stage of the process.

For more information about the processing of the $25 state deed fees, call the State Deeds Clerk, Property Tax Division, at (651) 296-0394.

STATE DEED: EXTRA COSTS

In addition to the $25 state deed fee, there are several other extra costs which must be paid along with the basic sale price of a parcel of tax-forfeited land before a state deed can be requested by the county auditor, issued by the Property Tax Division of the Department of Revenue, recorded by the county auditor, and delivered to the purchaser.

See Section 6747 for detailed information about the extra costs that must be paid for the purchase or acquisition of tax-forfeited land.

PRIVATE SALE TO ADJACENT OWNERS SECTION 6757

The county auditor is authorized to sell certain parcels of tax-forfeited land at a private sale for adjacent land owners only. This type of private sale requires the approval of the city or township in which the parcel is located. (M.S. 282.01, Subd. 7a)

SALE TO ADJACENT OWNERS: THREE REQUIREMENTS

In order to hold a private sale for adjacent land owners, the county auditor must determine that the following conditions exist or have been met.

1. The county auditor determines that the parcel of tax-forfeited land cannot be improved because it does not comply with local ordinances regarding minimum area, shape, frontage or access. In short, this means that the owner would not be allowed to construct buildings on the parcel.

   Example #1: The city ordinance requires a minimum frontage between the street and house before a house can be built on any lot. The parcel cannot meet that minimum frontage requirement. Therefore, only owners of the land adjacent to the parcel would be interested in adding it to their property.

   Example #2: A small parcel of pasture land is land locked. There is no road to it or any way of getting a road to it. Therefore, only owners of the land next to the parcel would be interested in adding it to their property.

   Example #3: A large parcel of timberland is located in an unorganized township. The land is not used now, and there are no access roads now. However, someone (a lumber company) could build access roads and use the land. Therefore, the parcel may not be sold privately to the adjacent landowners only. It must be offered at a public sale.

2. The county auditor determines that the private sale of the above type of tax-forfeited land will encourage the city or township to approve the sale and allow it to be returned to the tax lists.

3. The county auditor determines that the highest and best use of the land can be achieved by adding it to an adjoining parcel.

SALE TO ADJACENT OWNERS: SPECIAL CONDITIONS

The sale of tax-forfeited land to adjacent landowners only is subject to the special conditions outlined below. (M.S. 282.01, Subd. 7a)

1. The city or town in which the parcel is located may recommend to the county board conditions to be imposed on the sale.

2. The sale of the parcel must be subject to any conditions imposed by the county board under M.S. 282.03. This includes limiting the use of the land, limiting the amount of public money spent for the benefit of the land, and safeguarding against the sale and occupancy of the land unduly burdening the public treasury.

SALE TO ADJACENT OWNERS: SPECIAL TASKS

The special tasks which must be performed by the county auditor in order to conduct a private sale to adjacent landowners are outlined below. (M.S. 282.01, Subd. 7a)

1. The county auditor must mail a written notice of the date, time, and location of the private sale to all adjacent land owners at least 30 days before the date of the sale.

2. The county auditor may conduct the private sale by accepting sealed bids from adjacent landowners only. A method of sale other than sealed bids may be chosen by the county auditor.

   Suggestion: If the county uses sealed bids and two or more bids are similar, the county auditor may call the parties in and resolve the tie with open bidding.

3. Each parcel not sold at the private sale may be purchased after the sale by any adjacent landowner who pays the basic sale price. The parcel cannot be sold to anyone who is not an adjacent landowner. The basic sale price cannot be changed unless the parcel is reappraised, republished, and offered for sale again to adjacent landowners.

SALE TO ADJACENT OWNERS: ELIGIBILITY OF COUNTY OFFICIALS

Until 1992, M.S. 282.016 allowed a county official to purchase tax-forfeited land only if the county official owned the parcel before the forfeiture. An outline of this provision and a definition of "county officials" is contained in Section 6747.

The 1992 Minnesota Legislature added another situation when a county official may purchase tax-forfeited land. M.S. 282.016 was amended to allow a county official who owns an adjacent parcel to purchase tax-forfeited land at a private sale for adjacent landowners only. In other words, a county official must own one of the adjacent parcels in order to purchase tax-forfeited land at a private sale for adjacent landowners only.

This 1992 legislative authorization is effective for sales after June 30, 1992.

SALE TO ADJACENT OWNERS: SUBJECT TO PUBLIC SALE CONDITIONS

In addition to the above special conditions and tasks, all of the procedures, rules, and conditions controlling a public sale of tax-forfeited land for cash or by contract for deed also apply to a private sale to adjacent land owners. (M.S. 282.01, Subd. 7a)

Note: See the appropriate Sections dealing with public sales for an outline and explanation of these procedures, rules, and conditions, especially Sections 6745, 6747, 6750, 6752, and 6755.

FORFEITED TAX SALE FUND SECTION 6760

Each county is required to set up a fund called the "forfeited tax sale fund." The source of the gross revenue for the fund, the expenditures that are to be charged against the fund, and the method for the annual distribution of the net revenues from the fund are outlined below. (M.S. 282.09, Subd. 1-2; 282.291)

THE FUND: SOURCE OF GROSS REVENUE

According to M.S. 282.09, Subd. 1, "The county auditor and county treasurer shall place all money received through the operation of sections 282.01 to 282.13 in a fund to be known as the forfeited tax sale fund...."

M.S. 282.291 also requires the county treasurer to deposit the revenues from the repurchase of tax-forfeited land, excluding the state deed fee, in the county forfeited tax sale fund.

These statutory requirements are interpreted by the counties in different ways. Some counties interpret them broadly and deposit in the fund the total revenues collected from the sale, conveyance, leasing, granting of easements, or repurchase of tax-forfeited land, as well as the revenues collected from timber sales. This includes the basic price for the transaction, the interest from a contract sale or repurchase, and all of the extra costs (excluding the state deed fee for repurchases).

Other counties take a more narrow interpretation and deposit in the fund only part of the total revenues collected from the above transactions. This usually includes the basic price, the interest, and only two of the extra costs: the 3% surcharge and the state deed fee (excluding the state deed fee for repurchases). The other extra costs that are required for the recording of the state deed are usually handled by the county recorder.

In either case, the total amount that a county deposits in its forfeited tax sale fund constitutes the "gross revenue" in the fund.

THE FUND: AUTHORIZED EXPENDITURES

In most cases, there are two types of expenditures that are to be taken out of the gross revenue in the county's forfeited tax sale fund. The two types of expenditures are outlined below.

1. EXPENDITURE #1: EXTRA COSTS DEPOSITED IN THE FUND

One type of expenditure is the extra costs that are collected as part of the sale, conveyance, or repurchase of tax-forfeited land and deposited in the fund.

The extra costs may include all or some of the following: (1) the 3% surcharge, (2) the state deed fee (excluding the state deed fee collected from the repurchase of tax-forfeited land), (3) the state deed tax, (4) the county deed filing fees, and (5) the agricultural conservation fees. See Section 6747 for more information about the extra costs.

The total of each of the extra costs that are deposited in the fund is to be periodically transferred to the appropriate county or state fund.

2. EXPENDITURE #2: COUNTY ADMINISTRATIVE EXPENSES

The other type of expenditure is the county costs for the administration of the sale, conveyance, leasing, granting of easements, and repurchase of tax-forfeited land.

Some of the specific county administrative costs that are authorized by statute to be deducted from the gross revenue in the county's forfeited tax sale fund are listed below. (M.S. 282.09, Subd. 1-2)

a) Per diem, mileage, and other necessary expenses to be paid to the members of the county board.

b) Compensation to be paid to a land commissioner and assistants as determined by the county board.

c) $0.50 for the issuance of each certificate of sale, contract for deed, and lease to be paid to the county auditor. If there is no land commissioner, up to $300 in annual compensation also to be paid to the county auditor.

d) Compensation to be paid to clerical help needed by the county auditor or the land commissioner as determined by the county board.

e) Fees charged by the Department of Revenue (DOR) in addition to the $25 state deed fee provided under M.S. 282.014.

f) Disbursements from the fund for repairs, refundments, expenses for legal actions to quiet title, or any other purpose that affects specific parcels. Effective beginning January 1, 2000, these disbursements will no longer be charged to the account of the taxing districts interested in the parcel.

SPECIAL PROVISIONS FOR STATE DEED FEES COLLECTED

M.S. 282.09 provides that the state deed fee collected from the sale of tax-forfeited property is to be deposited in the forfeited tax sale fund. M.S. 282.36 provides that the state deed fee collected from the repurchase of tax-forfeited property is to be deposited in a "special fund" of the county.

Each year in January, the Property Tax Division of the Department of Revenue sends a billing to each county in which tax-forfeited property was purchased or repurchased in the preceding year. The billing shows the number of state deeds issued during the preceding year, and the total amount of deed fees to be remitted by the county to the state. The amounts for purchases and repurchases are shown separately.

The county auditor is to pay the county's bill on or before March 1 of the year in which the billing is received. The payment is to be made by warrant made out to the Commissioner of Revenue. When received by the state, the money is deposited in the state's general fund.

SOURCE OF MONEY WHEN EXPENSES EXCEED FUND BALANCE

The question arises-- how does a county pay for the above costs when there is not enough money in the forfeited tax sale fund? The State Auditor's Office suggested that the county could make an advance from one of the other county fund balances to the forfeited tax sale fund to pay for the costs. An advance could become a permanent transfer if the forfeited tax sale fund never has enough money to pay back the advance. This would be a decision made by the county.

The State Auditor's Office suggests the following order of priority for obtaining revenue to pay for the above costs.

1. **1st Priority: The money should be taken first from the local taxing district's accounts in the forfeited tax sale fund.**

2. **2nd Priority: If more money is needed for the improvements, it should be taken from the general fund balance in the forfeited tax sale fund.**

3. **3rd Priority: If there is not enough money in the forfeited tax sale fund, the money may be advanced from another county fund.**

It is suggested that the county discuss each proposal for an advance with the State Auditor's Office before actually making the advance. Call the State Auditor's Office at (651) 296-2551 and ask to speak with Tom Karlson, Senior Audit Review, or David Kinney, Assistant Legal Counsel.

THE FUND: DISTRIBUTION OF NET REVENUE

The county auditor and county treasurer are to make an annual settlement and distribution of the net revenue in the county's forfeited tax sale fund as part of the regular May settlement of property tax receipts. (M.S. 282.09, Subd. 1)

The "net revenue" is equal to the gross revenue for the calendar year minus the total of the two types of expenditures for the calendar year. In other words, the "net revenue" that is to be distributed to the local taxing districts is the amount of the money in the fund left over after subtracting the extra costs that were deposited and the county administrative costs.

See Section 6765 for a detailed outline and explanation of how the distribution of the net revenues in the county's forfeited tax sale fund is to be apportioned among the local taxing districts.

DISTRIBUTION OF NET REVENUE SECTION 6765

The county auditor is to make an annual settlement and distribution of the net revenue in the county's forfeited tax sale fund as part of the regular May settlement of property tax receipts. (M.S. 282.09, Subd. 1)

See Section 6760 for an explanation of the county's forfeited tax sale fund including a definition of "net revenue."

Note: Effective for net proceeds received after May 25, 1999, any distribution received by a municipality from the county's forfeited tax sale fund may be used for any lawful municipal purpose. Previously, distributions from the forfeited tax sale fund to a municipality had to be used first to retire any outstanding public indebtedness. (M.S. 282.05)

The county auditor is to distribute the net revenue in the county's forfeited tax sale fund to the local taxing districts according to the following apportionment plan. (M.S. 282.08)

STEP #1: SPECIAL ASSESSMENTS LEVIED AFTER FORFEITURE

The county auditor is to reimburse each municipality for any special assessments that were levied on a parcel after the forfeiture, certified to the county auditor before the sale, and added to the appraised value of the parcel. (M.S. 282.08(1))

Because they were added to the appraised value, the amount of these new special assessments was part of the basic sale price that was paid by the purchaser and deposited in the fund. As such, the amount of these new special assessments is part of the net revenue to be distributed by the county auditor.

Note: The total amount of this first distribution cannot exceed the cost of the new special assessments that were certified to the county auditor by the clerk of the municipality.

STEP #2: CONTROL OF HAZARDOUS WASTE

From any remaining balance, the county auditor is to pay either the Minnesota Pollution Control Agency (PCA) or the Minnesota Department of Agriculture (DOA) for the costs of response actions that were taken after the forfeiture of the parcel and added to the appraised value of the parcel. (M.S. 282.08(2))

Because they were added to the appraised value, the costs of controlling hazardous waste were part of the basic sale price that was paid by the purchaser. As such, they are part of the net revenue in the county's forfeited tax sale fund to be distributed by the county auditor.

Note: The total amount of this second distribution cannot exceed the costs for the response actions that were certified by the PCA or the DOA.

STEP #3: SPECIAL ASSESSMENTS LEVIED BEFORE FORFEITURE

From any remaining balance, the county auditor is to reimburse each municipality for the amount of any special assessments levied on a parcel before forfeiture and canceled at forfeiture. This includes all special assessments scheduled to be paid in past years, the current year, or in future years. See Section 6710 for more detailed information about the cancellation of special assessments at forfeiture. (M.S. 282.08(3))

Note: After a tax-forfeited land sale, a municipality has the authority to make a reassessment to obtain the amount of any special assessments that were canceled at forfeiture and not reimbursed by the distribution of the net revenues of the sale. (M.S. 429.071, Subd. 4; 435.23, 444.06)

STEP #4: TIMBER DEVELOPMENT

From any remaining balance in the county's forfeited tax sale fund, the county board may set aside up to 30% for timber development on tax-forfeited land and dedicated memorial forests. The amount set aside is to be used only on projects approved by the Department of Natural Resources (DNR). (M.S. 282.08(4)(a))

In any county that sets aside funds for timber development, the Commission of Iron Range Resources may assist in the project upon the request of the county board. The assistance may be in the form of matching funds or any other authorized method of financing. (M.S. 282.38, Subd. 1)

If the funds set aside for timber development are not enough for the project, the county board may also levy a tax on the real and personal property in the county to be used for the project. (M.S. 282.38, Subd. 2)

STEP #5: COUNTY PARKS OR RECREATION AREAS

From any remaining balance in the county's forfeited tax sale fund, the county board may annually set aside up to 20% for the acquisition and maintenance of county parks or recreational areas as defined in M.S. 398.31 to 398.36. The county board is to supervise the expenditure of the moneys set aside. (M.S. 282.08(4)(b))

STEP #6: OPTION ONE - COUNTY + CITY/TOWNSHIP + SCHOOLS

If a county board does not set aside funds for timber development or county parks or recreational areas, the county auditor is to apportion any remaining balance in the county's forfeited tax sale fund in the following way. (M.S. 282.08(4)(c))

1. COUNTY 40%
2. CITY OR TOWNSHIP 20%
3. SCHOOL DISTRICT 40%

STEP #6: OPTION TWO - COUNTY + CITY/TOWNSHIP + SCHOOLS

If a county board does set aside funds for timber development or county parks or recreational areas, the county auditor is to apportion any remaining balance in the county's forfeited tax sale fund in the following way. (M.S. 282.08(4)(c))

1. COUNTY 40%
2. CITY OR ORGANIZED TOWNSHIP 20%
   (or)
   UNORGANIZED TOWNSHIP. 20%
   (administered by county board)
3. SCHOOL DISTRICT 40%

THREE PERCENT SURCHARGE SECTION 6767

At the time of the sale of a parcel of tax-forfeited land, the county auditor is to collect from the purchaser an amount equal to 3% of the basic sale price of the parcel. The basic sale price is the sum of the appraised value as determined by the county board plus any special assessments levied and certified after the forfeiture and any costs for hazard waste control. (M.S. 284.28, Subd. 8)

CONVEYANCES SUBJECT TO THE THREE PERCENT SURCHARGE

The types of conveyances of tax-forfeited land that are subject to the three percent surcharge are listed below. These types of conveyances are subject to the three percent surcharge because they are, by definition, "sales."

1. **All sales of tax-forfeited land at a public auction for cash or under a contract for deed.**

2. **All private sales of tax-forfeited land to adjacent landowners only for cash or under a contract for deed.**

3. **All private sales of tax-forfeited land to a governmental subdivision or state agency.**

4. **All sales of tax-forfeited land over the counter after they have been offered for public or private sale.**

Note: The county auditor must collect the three percent surcharge at the time of the sale regardless of whether the sale is for cash or under a contract for deed.

CONVEYANCES EXEMPT FROM THE THREE PERCENT SURCHARGE

The types of conveyances of tax-forfeited land that are exempt from the three percent surcharge are listed below. These types of conveyances are exempt from the three percent surcharge because they are not, by definition, "sales."

1. **All conveyances of tax-forfeited land to a governmental subdivision free of charge for an authorized public use with a state ("use") deed.**

2. **All repurchases of tax-forfeited land by the former owner; the former owner's heirs, devisees, or representatives; or any party to whom the right to pay the taxes has been given by statute, mortgage, or other legal agreement.**

3. **Land exchanges.**

THREE PERCENT SURCHARGE SENT TO STATE TREASURER

The total amount collected from the 3% surcharge is to be sent every three months to the Accounting Division of the State Treasurer's Office. (M.S. 284.28, Subd. 8)

Before July 1, 1989, the money from the 3% surcharge was to be deposited in the state treasury and credited to the "real estate assurance account." The 1989 legislature eliminated the real estate assurance account. Beginning on July 1, 1989, the money is to be deposited in the state treasury and credited to the general fund.

According to the Accounting Division, the county auditor is to send a check for the total amount collected under the 3% surcharge on a quarterly basis. The check is to be made out to the "Minnesota State Treasurer." The standard form prescribed by the Accounting Division is to be completed and submitted with the check.

For informal accounting purposes, the Accounting Division is continuing to use the name, "real estate assurance account," for the revenues from the 3% surcharge. This name is also used on the standard prescribed form. The county auditor may choose to do the same thing for the county's records.

The mailing address and the telephone number for the Accounting Division of the State Treasurer's Office are listed below.

State Treasurer's Office
Accounting Division
303 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
(651) 296-9623

PURPOSE OF THE THREE PERCENT SURCHARGE

The purpose of the 3% surcharge is to help pay claims ordered against the state by the district courts. In these cases, the district courts rule that taxpayers have been unjustly deprived of their land or have incurred financial loses because of errors in the tax forfeiture and sale of their land. The amount of money granted to the taxpayers is taken from the state general fund where the revenues from the three percent surcharge are deposited. (M.S. 284.28, Subd. 8)

REPURCHASE OF TAX-FORFEITED LAND SECTION 6770

Before being sold or conveyed, certain types of tax-forfeited land may be repurchased. An eligible party must submit a written application to the county board. The county board has the authority and responsibility to approve or disapprove each application separately. No blanket resolution authorizing repurchases may be adopted by the county board. (Op.Atty.Gen., 425c-13, June 25, 1947)

The types of tax-forfeited land which are eligible for repurchase, the parties who are authorized to repurchase, and the major terms, conditions, and forms of a repurchase agreement are outlined below.

REPURCHASE: ELIGIBLE TAX-FORFEITED LAND

The provisions of M.S. 282.241 to 282.324 apply to the repurchase of tax-forfeited land classified as "nonconservation land." The provisions for repurchasing tax-forfeited land classified as "conservation land" are contained in M.S. 282.012. (Ops. Atty. Gen.: November 2, 1955, 425-c-13; January 2, 1963, 425-c)

One of the major differences between the two provisions is the cost of repurchase. For "nonconservation land," the cost of repurchase is equal to the total delinquent tax amount as determined under M.S. 282.251. For "conservation land," the cost of repurchase is equal to the greater of the total delinquent tax amount as determined under M.S. 282.251 or the appraised value as determined by the county board for the sale of the parcel.

Except for those restrictions outlined in the next subsection, all tax-forfeited land classified as "nonconservation" and "conservation" is eligible for repurchase. The Department of Natural Resources has stated that this includes tax-forfeited land bordering on public water. Although this type of property must be withheld from sale or conveyance under M.S. 282.018, it can be repurchased.

Section 6770 presents an outline and explanation of the provisions for repurchasing "nonconservation land." See M.S. 282.012 for the special provisions which control the repurchase of "conservation land." Before allowing a repurchase of "conservation land," the county auditor should contact the Department of Natural Resources at (651) 296-0639 or 296-0625 for advice.

REPURCHASE: RESTRICTIONS ON NONCONSERVATION LAND

All parcels of tax-forfeited land classified as "nonconservation land" are eligible for repurchase with the following exceptions or restrictions.

1. **Parcels sold to a third-party at a public sale or a private sale for cash or under a contract for deed may not be repurchased. The county board by resolution may determine when the "sale" of a parcel is confirmed and after which a written application for repurchase will not be considered. It could be the date when the county board by resolution approved the sale or conveyance of the parcel. It could be a specific number of days before the date of the sale or conveyance. Or it could be the date of the sale or conveyance. (M.S. 282.241)**

2. **Parcels sold or conveyed to a governmental subdivision or a state agency may not be repurchased. A repurchase should have priority until a governmental subdivision or state agency has applied in writing to acquire the parcel and has actually been granted approval by county board resolution. (M.S. 282.311)**

3. **Parcels withheld from sale because the county board decides that the parcels may be acquired by the state or a municipal subdivision for a public purpose may not be repurchased. (M.S. 282.322)**

   If no action has been taken to acquire the parcels within one year, the county board is to withdraw the restriction on the repurchase. The property owners or authorized taxpayers may repurchase the parcels within one year after the restriction on the sale is lifted by the county board or until the parcels are sold or conveyed.

4. **Parcels held under mineral prospecting permits or lease may not be repurchased. (M.S. 282.241)**

5. **Parcels against which condemnation proceedings have been started by the United States, the state of Minnesota, or any political subdivision may not be repurchased. (M.S. 282.241)**

6. **Parcels located within the boundaries of the state capitol area may not be repurchased. (M.S. 282.323)**

7. **State deeds issued for the repurchase of tax-forfeited land are subject to the requirement for restrictive covenants for marginal lands and wetlands and well disclosure certificates. See Section 6737 for detailed information about these two restrictions.**

REPURCHASE: ELIGIBLE PARTIES

According to M.S. 282.241, the privilege of repurchasing a parcel of tax-forfeited land classified as "nonconservation land" is limited to the parties listed below.

1. **The property owner at the time of forfeiture. This usually refers to the party who holds the legal title to the property with a warranty deed on record in the county recorder's office or holds the title to registered land on record in the registrar of titles office. In most cases, this party is also the taxpayer of record.**

2. **The property owner's heirs, devisees, or representatives. This refers to the parties who hold a legal interest in the property of a former owner who is deceased or the personal representative who is appointed by a Probate Court.**

3. **Any party to whom the right to pay the property taxes on the parcel has been given by statute, mortgage, or other legal agreement.**

   Example #1: A mortgagee (lender) who has taken a mortgage on the parcel as security for repayment of a debt.

   Example #2: The buyer under a contract for deed who is listed in the county tax rolls as the taxpayer of record.

Any other party with a legal interest in the property who does not have the statutory or contractual right to pay the property taxes is not authorized to repurchase.

For the sake of brevity, Section 6770 will refer to the "property owner or taxpayer" as the parties who are eligible to repurchase a parcel of tax-forfeited land.

REPURCHASE: TIME PERIOD

The time period for the repurchase of tax-forfeited land is different for parcels which were classified as non-homestead property on the date of forfeiture than it is for parcels which were classified as homestead property on the date of forfeiture. (M.S. 282.241)

1. TIME PERIOD FOR NON-HOMESTEAD PROPERTY: ONE YEAR FROM FORFEITURE

Any eligible parcel of tax-forfeited land which was classified as non-homestead property on the date of forfeiture may be repurchased anytime within one year from the date of forfeiture, providing it has not already been sold or conveyed by the county.

The county is not required to wait one year before selling or conveying a parcel of tax-forfeited land. The county may sell or convey a parcel anytime during the one-year window of time for repurchasing. If the parcel is sold or conveyed, the privilege of repurchasing automatically ends at the time of the sale or conveyance even though the one year has not ended.

2. TIME PERIOD FOR HOMESTEAD PROPERTY: UNTIL SOLD OR CONVEYED

Any eligible parcel of tax-forfeited land which was classified as homestead property on the date of forfeiture may be repurchased anytime before it is sold or conveyed by the county.

The county is not required to give the property owner or taxpayer a certain amount of time to repurchase before selling or conveying a parcel of tax-forfeited land. The county may sell or convey a parcel anytime after the forfeiture. If the parcel is sold or conveyed, the privilege of repurchasing automatically ends at the time of the sale or conveyance.

Note: The county board by resolution should establish when a "sale" or "conveyance" officially takes place. This will be the time after which no written application for repurchase will be considered. It could be the date when the county board by resolution approved the sale or conveyance of the parcel. It could be a specific number of days before the date of the sale or conveyance. Or it could be the date of the sale or conveyance.

REPURCHASE: COUNTY BOARD APPROVAL

The property owner or taxpayer does not have a right to repurchase. The property owner or taxpayer has the privilege of submitting a written application to the county board, requesting to repurchase a parcel of tax-forfeited land. The county board by resolution has the authority and responsibility to approve or disapprove any written request for repurchase. This is in contrast to a redemption which is the right of the property owner or taxpayer. (M.S. 282.241; Op.Atty.Gen., 425c-13, April 6, 1977)

The county board's approval is to be given only if at least one of the following conditions is determined to be true.

1. **The county board is to determine that undue hardship or injustice resulting from the tax forfeiture will be corrected by the repurchase.**

2. **The county board is to determine that the repurchase will best serve the public interest.**

REPURCHASE: IMPOSE CONDITIONS LIMITING USE

Effective beginning September 1, 1999, the county auditor, with county board approval, may impose conditions on the repurchase of a parcel of tax-forfeited land, limiting the use of the parcel. Such conditions may include, but are not limited to, environmental remediation action plan restrictions or covenants, or easements for lines or equipment for telephone, telegraph, electric power, or telecommunications. (M.S. 282.261, Subd. 5)

REPURCHASE: REINSTATE CANCELLED SPECIAL ASSESSMENTS

As part of a repurchase, the county auditor is to reinstate all delinquent special assessments which were cancelled at the time of the forfeiture as part of the total delinquent tax amount. (M.S. 282.251)

The cancelled special assessments which must be reinstated include all special assessments levied before the forfeiture and scheduled to be paid in past years, the current year, or in future years along with the portion of the penalties, costs, and accrued interest attributable to those cancelled special assessments.

See Section 6710 for more information about the special assessments which are cancelled at the forfeiture.

REPURCHASE: COMPUTE SPECIAL ASSESSMENTS NOT LEVIED

As part of a repurchase, the county auditor is to compute all special assessments which would have been levied and assessed on a parcel between the date of the forfeiture and the date of repurchase and would have been payable prior to the calendar year when the repurchase is approved. (M.S. 282.251)

REPURCHASE: REINSTATE CANCELLED TAXES

As part of a repurchase, the county auditor is to reinstate all real property taxes which were cancelled at the time of the forfeiture as part of the total delinquent tax amount. (M.S. 282.251)

The cancelled taxes which must be reinstated include all delinquent real property taxes and the portion of the penalties, costs, and accrued interest attributable to the taxes. The cancelled taxes also include the current taxes and any penalties due in the calendar year of the forfeiture.

See Section 6710 for more information about the real property taxes, penalties, costs, and interest which are cancelled at forfeiture.

REPURCHASE: COMPUTE TAXES NOT LEVIED

As part of a repurchase, the county auditor is to compute the total amount of real property taxes which would have been assessed and levied on the parcel and the penalties, costs, and interest which would have accrued on those taxes for the taxes payable year following the year of the forfeiture and for all subsequent taxes payable years through the year of repurchase.

3. MAINTENANCE COSTS FOR TAX-FORFEITED PROPERTY

Effective beginning January 1, 2000, the person seeking to repurchase a parcel of real property must pay all of the maintenance costs incurred by the county auditor during the time that the property was tax-forfeited. (M.S. 282.241)

4. COUNTY SERVICE FEE: AMOUNT SET BY COUNTY BOARD

The county auditor may collect a service fee from each repurchaser to pay for the costs of handling repurchase contracts approved after July 1, 1985. The county board has the authority to set the amount of the fee. Effective beginning September 1, 1999, the fee is to be paid at the time of application for repurchase and credited to the county general revenue fund. Prior to September 1, 1999, the fee is to be paid at the time of the repurchase and credited to the county general revenue fund. The fee does not apply to cash repurchases. (M.S. 282.261, Subd. 4)

5. COUNTY DEED RECORDING FEE: $19.50 PER DEED

The repurchaser is required to pay $19.50 to offset the county recorder's cost of recording and indexing the state deed to a parcel of tax-forfeited land. The total $19.50 fee is the sum of the $15.00 standard fee (M.S. 357.18, Subd. 1) and the $4.50 surcharge (M.S. 357.18, Subd. 3).

The amount of the county deed recording fee does change frequently. Therefore, the county auditor may want to check M.S. 357.18, Subd. 1 and 3 periodically to verify that the total recording fee is still $19.50. If it has been changed, please line out the $19.50 numbers here and insert the new amount in their place.

6. AGRICULTURAL CONSERVATION FEE: $5.00 PER DEED

The repurchaser is required to pay a $5.00 agricultural conservation fee ("$5 ag fee") on the recording of each state deed to tax-forfeited land located in the seven county metropolitan area, in a county which has created exclusive agricultural zones under M.S. 40A, and in a county which is an agricultural land preservation pilot county under M.S. 40A. (M.S. 40A.152, Subd. 1)

Contact the Agricultural Planning & Development Division, Minnesota Department of Agriculture, for information about which counties in Greater Minnesota are part of the agricultural land preservation program and are responsible for collecting the $5 ag fee." Telephone: (651) 296-5226 or 296-7686.

REPURCHASE: NO 3% SURCHARGE

The repurchaser is not required to pay the 3% surcharge on the repurchase price of each parcel of tax-forfeited land. (M.S. 284.28, Subd. 8)

The 3% surcharge is to be imposed only on the basic sale price of tax-forfeited land which is purchased at a public or private tax-forfeited land sale. For purposes of administering the 3% surcharge, a "repurchase" is not a sale, and the "repurchaser" is not a buyer. Therefore, the 3% surcharge does not have to be paid on a repurchase.

See Section 6767 for more detailed information about the 3% surcharge.

REPURCHASE: AUDITOR'S RECEIPT

The county auditor is to issue a receipt to the repurchaser of a parcel of tax-forfeited land at the time of the repurchase. (M.S. 282.301)

For cash repurchases, the auditor's receipt is given in exchange for the full payment of the repurchase price and the extra costs. The county auditor is able to request a state deed in the repurchaser's name right away.

For repurchases under an installment plan, the auditor's receipt is issued along with the written contract for deed agreement at the time of the repurchase. Once the final installment is paid along with the extra costs, the county auditor is able to request a state deed in the name of the repurchaser.

REPURCHASE: 10-YEAR INSTALLMENT PLAN

A parcel of tax-forfeited land classified as "nonconservation land" may be repurchased by contract for deed under the standard 10-year installment plan. A sample form for the repurchase contract for deed is presented at the end of this Section 6770. (M.S. 282.261, Subd. 1)

Note: If the county board determines that a repurchase by contract is unnecessary and not in the public interest, the county board may require that the basic repurchase price and the extra costs be paid in full at the time of the repurchase. (M.S. 282.241)

The major conditions and terms for the repurchase of a parcel of tax-forfeited land under the standard 10-year installment plan are outlined and explained below.

1. 10-YEAR PLAN: 10% DOWN PAYMENT + 10 INSTALLMENTS

Under the 10-year installment plan, the repurchaser is to pay not less than 10% of the basic repurchase price at the time of the repurchase. The unpaid balance of the basic repurchase price is to be paid in not more than ten, equal, annual installments plus interest. (M.S. 282.261, Subd. 1-2)

The interest rates for repurchases under a contract for deed are the same as those for purchases under a contract for deed. See Section 6160 and 6750 for more detailed information about the interest rates. (M.S. 282.261, Subd. 2)

Note: The repurchaser has the privilege of paying off the deferred installments in full at any time without penalty.

2. DEADLINE FOR PAYING INSTALLMENTS: DECEMBER 31

The first installment of principal and interest is due by December 31 of the year following the year when the repurchase agreement is signed. The remaining installments are due on December 31 of each subsequent year until the basic repurchase price and the extra costs are paid in full. (M.S. 282.261, Subd. 1)

3. NOTICE OF INSTALLMENTS DUE: NOVEMBER 30

The county auditor is responsible for notifying the repurchaser by mail before each annual installment is due. The notice is to be mailed not later than November 30 of each year in which a payment is due by December 31. Failure to send or receive a notice does not excuse late payments and does not excuse any default of the contract. A sample form for the notice of annual installments is presented at the end of this Section 6770. (M.S. 282.271)

4. INSTALLMENTS: COUNTY TREASURER + FORFEITED TAX SALE FUND

All of the payments under a 10-year contract for deed are to be made to the county treasurer. The county treasurer is to deposit the money from the annual installment payments (the basic repurchase price and interest) in the forfeited tax sale fund. The extra costs paid with the final installment may be deposited in the fund if that is the county's policy. See Section 6760 for more information about the forfeited tax sale fund. (M.S. 282.291)

5. CURRENT TAXES: PAYMENT REQUIRED BEFORE DELINQUENT

In order to avoid a default of the repurchase contract, the repurchaser is also required to pay the current real property taxes on the parcel before they become delinquent. This is to be done each year during the life of the contract for deed and until the basic repurchase price and extra costs are paid in full. (M.S. 282.261, Subd. 1)

REPURCHASE: 4-YEAR INSTALLMENT PLAN

By resolution, the county board may decide to set up an alternative 4-year installment plan for the repurchase of tax-forfeited land classified as nonhomestead property. (M.S. 282.261, Subd. 3)

"Nonhomestead property" means all property except that which is classified for property tax purposes as homestead property at the time that the repurchase application is approved.

1. ALTERNATIVE 4-YEAR PLAN: TWO BASIC REQUIREMENTS

When approved by county board resolution, the alternative 4-year plan is to remain in force in the county for at least one year. It must be applied uniformly to the repurchase of all nonhomestead tax-forfeited land in the county.

2. ALTERNATIVE 4-YEAR PLAN: 20% DOWN PAYMENT + 4 INSTALLMENTS

The alternative 4-year plan requires a minimum down payment of 20% of the repurchase price. The balance must be paid in not more than four, equal, annual installments plus interest. The final installment must include payment of any extra costs which have not been paid earlier.

3. ALTERNATIVE 4-YEAR PLAN: OTHER TERMS + FORMS SAME AS 10-YEAR PLAN

The other terms and conditions of the alternative 4-year plan are the same as that of the standard 10-year plan outlined above. With only minor changes, the sample contract for repurchase of tax-forfeited land which is presented on page 24 of this Section 6770 may be used for the repurchase of tax-forfeited land under the alternative 4-year plan.

REPURCHASE: CANCELLATION + REINSTATEMENT OF CONTRACT

The procedures for completing the following actions are the same for a defaulted repurchase contract for deed as they are for a defaulted purchase contract for deed: (1) notice of impending cancellation of the contract, (2) redeeming a defaulted contract, (3) cancelling a defaulted contract which was not redeemed, and (4) reinstating a cancelled contract. (M.S. 282.301)

See Section 6752 for a detailed outline and explanation of the procedures for completing the cancellation and reinstatement of a purchase contract for deed. These same procedures should be followed for cancelling and reinstating a repurchase contract for deed.

With only minor changes, the sample forms presented in Section 6752 may also be used for cancelling and reinstating a repurchase contract for deed.

REPURCHASE: ACTIONS PROHIBITED BEFORE FULL PAYMENT

Until the basic repurchase price and the required extra costs are paid in full, the repurchaser of a parcel of tax-forfeited land classified as "nonconservation land" is not allowed to remove any structure, minerals, sand, gravel, topsoil, subsoil, or peat from the property. (M.S. 282.321)

The repurchaser is also not allowed to cut or remove any timber or timber products from the property.

Exception: The repurchaser is allowed to remove sand, gravel, topsoil, subsoil, or peat for the purpose of constructing buildings on the land or grading of the land. To be allowed, the removal and the grading must increase the value of the land.

REPURCHASE: STATE "REPURCHASE" DEED

The state deed for the repurchase of tax-forfeited land is informally referred to as a state "repurchase" deed. A state "repurchase" deed is issued for the repurchase of tax-forfeited land for either cash or under a contract for deed. When the basic repurchase price and the extra costs are paid in full at the time of the repurchase, the county auditor may apply for the deed immediately. Under a contract repurchase, the county auditor must wait until the final annual installment and the extra costs are paid before applying for the deed. (M.S. 282.301)

Note: M.S. 282.301 refers to the state "repurchase" deed as "...a quitclaim deed from the state, to be executed by the commissioner of revenue."

The major tasks outlined below must be completed in order for a repurchaser to obtain legal ownership with a state "repurchase" deed.

1. COUNTY AUDITOR: MAILS APPLICATION TO PROPERTY TAX DIVISION

After the basic repurchase price and the extra costs have been paid, the county auditor must complete the "Auditor's Application For State Deed For Repurchase Of Tax-Forfeited Land" (PT Form 87). A PT Form 87 must be completed for each repurchase and mailed to the Property Tax Division of the Department of Revenue. A completed PT Form 87 must not be submitted until the basic repurchase price and the extra costs have been paid in full.

The county auditor should obtain a master copy of the PT Form 87 from the Property Tax Division and duplicate it for use in requesting each state "repurchase" deed or for generating forms with the county's computer. Contact the Property Tax Division at (651) 296-0394 for information about the application procedures and copies of the Form.

2. DEPARTMENT OF REVENUE: ISSUES STATE "REPURCHASE" DEEDS

After receipt of a completed PT Form 87, the Property Tax Division must execute a state "repurchase" deed. The Property Tax Division, acting for the Department of Revenue, does not have the authority or the responsibility to approve or disapprove the repurchase of tax-forfeited land as approved by the county board. The completed deed is signed by the Director of the Property Tax Division, acting for the Commissioner of Revenue, and the deed is mailed to the county auditor.

3. COUNTY AUDITOR: RECORDS AND DELIVERS STATE "REPURCHASE" DEEDS

The county auditor must have each state "repurchase" deed recorded in the county recorder's office before delivering the deed. This requirement assures that the deed will be recorded. This can be done because the county auditor has already collected the extra costs for recording the deed from the repurchaser before the application for the deed was submitted.

REPURCHASE: STATE DEED ISSUED IN WHOSE NAME?

Although the title passes to the state at forfeiture, M.S. 282 makes it clear that the responsibility of administering most tax-forfeited land is in the hands of the counties. As an exception, the Department of Revenue is given the responsibility of issuing the state deeds. But even here, the county board must approve or disapprove the sale, conveyance, or repurchase of tax-forfeited land before the Department of Revenue gets involved.

As part of their general responsibility, the county board is required to review each application for a repurchase separately and approve or disapprove each application based on the facts in each case. No blanket resolution authorizing repurchases may be adopted by the county board. This is different from the sale or conveyance of tax-forfeited land where the county board can establish a broad set of terms which apply to all sales or conveyances in the county. (M.S. 282.241; Op.Atty.Gen., 425c-13, June 25, 1947)

The Department of Revenue is of the opinion that the county board's responsibility may not end with the approval or disapproval of each application for repurchase. The Department of Revenue believes that the county board may also be responsible for determining who among the eligible repurchasers should receive the title to the repurchased tax-forfeited land. That decision should also be based on the facts in each case.

In light of the above opinion, the Department of Revenue recommends that the counties consider the procedures outlined below to process each application for repurchase and determine who is to receive the title with the state "repurchase" deed.

1. Upon receipt of each application for repurchase, the county may examine the records to find out who is eligible to repurchase the parcel of tax-forfeited land listed in the application.

   The former owner or any heirs, successors, or assigns may be found in the county recorder's office or the office of the registrar of titles. Parties with a right to pay taxes may be found in the county recorder's indexes or the record of interested parties who have filed under M.S. 276.041.

   This is basically the same process the county follows in order to determine who is to receive the mailing of the notice of expiration of redemption.

2. If the examination does not uncover any other eligible repurchasers, the county may proceed to approve or disapprove the application. If approved, the county may request the state "repurchase" deed in the name of the applicant after the basic repurchase price and extra costs are paid in full.

3. If the examination does uncover other eligible repurchasers, the county may notify each of them in writing about the application for repurchase. This can be done with the same information which was used to give notice of expiration of redemption. They may be told to resolve their interests, decide who among them is to receive the title to the property, and certify in writing the results of their decision to the county auditor within a stated deadline.

4. If the eligible repurchasers resolve their interests and certify in writing who is to receive the title, the county may proceed to approve or disapprove the application. If approved, the county may request the state "repurchase" deed in the name of the party designated by the eligible repurchasers after the basic repurchase price and extra costs are paid in full.

5. If the deadline passes without a written certification from the eligible repurchasers, the county may exercise one of several options: (a) disapprove the repurchase because of the potential hardship caused to the other eligible repurchasers, (b) disapprove the repurchase because court action by the eligible repurchasers which may involve the county would not be in the best public interest, (c) approve the repurchase and request the state "repurchase" deed in the names of all the eligible repurchasers who can quiet title later, or (d) approve the repurchase and request the state "repurchase" deed in the name of the applicant.

This process will mean additional work and expense for the county. However, the additional work seems justified in light of the Department of Revenue's opinion that the statutes intend each application for repurchase to be handled separately based on the facts in each case. The expenses may be added to the county's general costs of administering tax-forfeited land and can be reimbursed from the gross revenue in the forfeited tax sale fund. (See Section 6760)

A sample notice which may be mailed to each of the eligible repurchasers is presented on the next two pages of this Section 6770. The sample notice may be used as a guideline for each county to draft its own notice.

NOTICE OF APPLICATION FOR REPURCHASE

State of Minnesota Date: October 6, 1994

County of Spruce

To Eligible Repurchasers:

This is to notify you that an application for the repurchase of a parcel of tax-forfeited land, pursuant to Minnesota Statutes, Section 282.241, has been received in my office. The name and address of the applicant, the applicant's legal interest in the property, and the legal description of the parcel are listed below.

Raymond & Esther Cologne
Rural Route #3, Box #12
Greenbriar, MN 56323
Property Owner

PID #04-0034-0038
NE 1/4 and the N 1/2 of
the SE 1/4 of Section 22,
T. 120, R. 37, 240 Acres

My office has determined that the following parties, in addition to the applicant, are also eligible to repurchase the parcel of tax-forfeited land legally described above:

George W. Foster
Rural Route #3, Box #15
Greenbriar, MN 56323
Contract for Deed Buyer

Applewood State Bank
289 Central Aveneue
Applewood, MN 57252
Mortgagee

The county board has the authority and responsibility, pursuant to the above statute, to approve or disapprove each application for repurchase and to determine from among the eligible repurchasers who should receive title to the repurchased property with the state deed.

Before the above decisions are made, the county board requests that the eligible repurchasers listed above resolve their respective legal interests in the parcel of tax-forfeited land, legally described above, and designate who among them is to receive the title to the repurchased property with the state deed, if a repurchase is approved.

The decision of the eligible repurchasers must be certified in writing and submitted to my office at the address listed below within 30 days after the date of this Notice. The letter must be signed by all the eligible repurchasers, and the signatures must be verified by a notary public.

If the eligible repurchasers resolve their interests and, within the 30-day deadline, certify in writing who is to receive the title, the county may proceed to approve or disapprove the application. If the repurchase is approved, the county may request the state deed in the name of the party designated by the eligible repurchasers after the basic repurchase price and extra costs are paid in full.

If the 30-day deadline passes without a written certification from the eligible repurchasers, the county has at least the following options: (1) disapprove the repurchase because of the potential hardship caused to the other eligible repurchasers, (2) disapprove the repurchase because court action by the eligible repurchasers which may involve the county would not be in the best public interest, (3) approve the repurchase and request the state deed in the names of all the eligible repurchasers who can quiet title later, or (4) approve the repurchase in the name of the original applicant.

Nicholas B. Archer

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, Minnesota 56323
Telephone: (234) 567-8910

REPURCHASE: TITLE SUBJECT TO RESTRICTIONS

When tax-forfeited land is repurchased, the title remains subject to any lease, easement, or other encumbrance granted by the county or the state after the date of forfeiture and before the date of repurchase. (M.S. 282.241; 282.281)

If the mineral rights have not been reserved by the state in the past, the title which the repurchaser receives does include the mineral rights. The mineral rights are reserved by the state when tax-forfeited land is sold or conveyed to an outside third party but not when it is repurchased.

However, if the mineral rights have been reserved by the state in the past, the title which the repurchaser receives does not include the mineral rights. In fact, once the mineral rights are reserved in the name of the state, they remain that way forever or until the state sells the rights.

Similar to other state deeds, a state "repurchase" deed is subject to the following two restrictions: (1) a restrictive covenant for tax-forfeited land containing non-forested marginal lands and wetlands, and (2) a well disclosure certificate. See Section 6737 for information about these two restrictions.

See Section 6710 for information about liens and encumbrances which exist on the property before it is forfeited and may or may not have to be assumed by the repurchaser.

REPURCHASE: FORFEITED TAX SALE FUND

The basic repurchase price and the interest paid under a contract repurchase are to be deposited in the county's forfeited tax sale fund. (M.S. 282.291)

The extra costs which are collected may be deposited in the fund if it is the county's policy. However, the state deed fee for a repurchase is to be deposited in a "special fund" of the county rather than in the county's forfeited tax sale fund.

See Section 6760 for information about the forfeited tax sale fund.

REPURCHASE: MINIMUM BID AT TAX-FORFEITED LAND SALE

Any party who could have repurchased a parcel of tax-forfeited land must pay at least the "basic repurchase price" in order to buy the same parcel at a private or public tax-forfeited land sale. (M.S. 282.01, Subd. 7)

The "basic repurchase price" is the sum of (1) all of the delinquent real property taxes, penalties, interest, and costs that were canceled at the time of forfeiture as well as the current taxes and penalties due in the calendar year of the forfeiture that were also canceled, plus (2) the total amount of property taxes which would have been levied on the parcel and the penalties, costs, and interest which would have accrued on those taxes for the taxes payable year following the year of the forfeiture and for all subsequent taxes payable years through the year that the parcel is repurchased.

Note: See an earlier subsection of this Section 6770 for more information on the "basic repurchase price" for repurchasing a parcel of tax-forfeited land.

REPURCHASE: SAMPLE FORMS

M.S. 282.241 through 282.324 do not prescribe any forms for the repurchase of tax-forfeited land by contract for deed or the notice of the annual installment payments. The sample forms which are presented here at the end of Section 6770 may be used by the counties to develop their own forms.

The sample form for the contract for deed is called the "Contract for Repurchase of Tax-Forfeited Land." Each county may use whatever title it prefers.

The sample form for the contract for deed is for a rundown house on a small lot in the mythical city of Applewood. The total repurchase price is $5,200. The terms of the repurchase contract require a 20% down payment ($1,040). The balance ($4,160) must be paid in ten annual installments of $416 plus interest based on the adjusted prime rate. The final annual installment must include the $416 plus interest and the extra costs for obtaining and recording the state deed. The anniversary date for the annual installment payments is December 31 as required by statute.

The sample form for the notice of the annual installment payments is designed as a formal notice. If a county wants the notice to appear less formal, it may design it to be printed as a letter on the county's official letter-head paper.

CONTRACT FOR REPURCHASE OF TAX-FORFEITED LAND

State of Minnesota
County of Spruce

Contract Number: 123-456

I, Nicholas B. Archer, County Auditor of the County of Spruce, State of Minnesota, do hereby certify that the following described land lying and being in the County of Spruce, State of Minnesota, to-wit:

08-0325-0001, Towers Subdivision
Lot 2, Block 5
City of Applewood

having forfeited to the state of Minnesota pursuant to Minnesota Statutes, Chapter 281, was on the 10th day of August, 1994, repurchased pursuant to Minnesota Statutes, Sections 282.241 to 282.324 by:

Shirley Harriston
154 Sandstone Street
Greenbriar
Minnesota 57252

on the following terms and conditions, to-wit:

1. The State of Minnesota, upon performance by the repurchaser of all conditions and terms as hereinafter set forth, agrees to convey said land to said repurchaser, his or her heirs and assigns, by quitclaim deed.

REPURCHASE OF TAX-FORFEITED LAND **SECTION 6770**
(Continued) (Page 25)

2. Said repurchaser shall pay to the State of Minnesota at the Office of the County Treasurer of said county the sum of $ 5,200 as the repurchase price of said land in the manner and at the times following, to-wit: at the time of repurchase, the following amount, receipt of which is hereby acknowledged, to-wit: $ 1,040, the initial payment on the remainder of the repurchase price of said land, and the balance of $ 4,160 in 10 equal annual installments of $ 416, the first of which shall be payable on or before the 31st day of December, 1995, and the remaining payments on or before the 31st day of December each year thereafter, with interest as provided in Section 282.01, Subd. 4, on the unpaid balance each year until all of such repurchase price shall have been paid, with the privilege of paying the full amount of said repurchase price, with accrued interest, if any, at any time.

3. The repurchaser agrees at his or her own expense to keep the buildings on said land at all times insured by a reliable insurance company or companies, to be approved by the State of Minnesota, against loss by fire for at least the sum of the taxable market value, and against loss by windstorm for at least the sum of the taxable market value, payable to the State of Minnesota at the office of the County Treasurer of said county as its interests may appear by reason of this certificate.

4. Said land shall be subject to the provisions of any existing valid lease or easement made on behalf of the State of Minnesota.

5. Said repurchaser shall pay all current taxes upon said land before they become delinquent.

6. The failure of the repurchaser or any person claiming under him or her to pay any of the deferred installments with interest, or the current taxes, or to comply with any terms or conditions of this contract shall constitute default and the repurchase will be subject to cancellation pursuant to Minnesota Statutes, Sections 282.241 to 282.324; and 559.21.

REPURCHASE OF TAX-FORFEITED LAND **SECTION 6770**
(Continued) (Page 26)

7. **This contract is subject to all of the provisions of Minnesota Statutes, Sections 282.241 to 282.324 and of any other applicable laws, and all pertinent provisions thereof are made a part hereof as though set out in full herein.**

8. **If any tax-forfeited land of which there is a substandard structure is offered at repurchase, the repurchaser, as a condition of repurchase, shall present and file a certificate of code compliance with the County Auditor of said county within one year after the date of repurchase from the county.**

9. **No structure, minerals, sand, gravel, topsoil, or peat shall be removed, nor shall any timber or timber products be cut and removed from the said land until the repurchase price has been paid in full; provided, however, that this shall not be construed as prohibiting the removal of such sand, gravel, topsoil, subsoil, or peat as may be incidental to the erection of structures on such repurchased lands or to the grading of such land whenever such removal or grading shall result in enhancing the value thereof.**

Given under my hand and seal of office at the Spruce County Courthouse, Greenbriar, MN, State of Minnesota, this 12 day of August, 1994.

_____

_____

_____
(Signature of Repurchaser(s))

_____ **(COUNTY SEAL)**
Nicholas B. Archer
Spruce County Auditor

NOTICE OF CONTRACT INSTALLMENT DUE
FOR REPURCHASE OF TAX-FORFEITED LAND

State of Minnesota
County of Spruce

Date of Notice: July 6, 1995

Shirley Harriston
154 Sandstone Street
Greenbriar
Minnesota 57252

Property ID#: 08-0325-0001
Contract #: 123-456
Payment Due: December 31, 1995
Total Due: $ 832.00

This is to remind you that your annual installment payment for the repurchase of the tax-forfeited land identified above is due on or before the payment due date listed above.

A breakout of the total amount due this year is listed below. The final installment payment will include the extra costs for obtaining and recording the state deed to the tax-forfeited land repurchased under the contract. The extra costs may also include an agricultural conservation fee if your county is enrolled in the state program. The extra costs must be paid before a state deed will be issued.

TOTAL AMOUNT DUE THIS YEAR:

Principal	Interest	Extra Costs	Total
$ 416.00	$ 416.00	$ 0.00	$ 832.00

If you fail to pay the annual installment by the due date, you will be in default of the terms and conditions of your contract agreement as described in clause number six (6) of the contract.

If the contract remains in default, the county will cancel the contract repurchase under the terms of Minnesota Statutes, Sections 282.241 to 282.324; and 559.21; and all costs, attorney's fees, and other amounts payable by the repurchaser as a result of the cancellation must be paid to the county.

Make your check or money order payable to the Spruce County Treasurer. Mail your payment to the address listed below. Put your property identification number and contract number on your check or money order.

Nicholas B. Archer
Spruce County Auditor
Spruce County Courthouse
234 West Broadway
Greenbriar, Minnesota 56323
(234) 567-8910

BACK ON THE TAX ROLLS SECTION 6775

Any parcel of tax-forfeited land which is sold to a taxable party or repurchased by a taxable party on or before December 31 in an assessment year must be returned to the county assessment rolls for that same assessment year. (M.S. 274.175; M.S. 272.02, Subd. 4)

In other words, each parcel of tax-forfeited land is to be returned to the county assessment rolls immediately after the sale or repurchase regardless of when the sale or repurchase takes place during the calendar year. This must be done regardless of whether the sale or repurchase is for cash or under a contract for deed.

The return of tax-forfeited land to the county assessment rolls any time during the calendar year means that taxes will be levied on the property for the next taxes payable year and for any taxes payable year thereafter as long as the property is owned by a taxable party.

Note: This provision was enacted by the 1993 legislature. It is effective for sales and repurchases of tax-forfeited land occurring on or after January 1, 1994.

EXCEPTION TO JULY 1 CUTOFF DATE

M.S. 274.175 requires that all assessment values which are recorded by the county assessor or county auditor for real and personal property are to be finalized on July 1 of the assessment year. No changes in the assessment values may be made after July 1 except for the specific changes authorized under M.S. 274.175.

One of the authorized exceptions under M.S. 274.175 is for property which is added to the assessment rolls under M.S. 272.02, Subd. 4. The 1993 legislature added a new clause to M.S. 272.02, Subd. 4, which establishes December 31 as the cut-off date for returning tax-forfeited land to the current assessments rolls after it is sold or repurchased. This makes sales and repurchases of tax-forfeited land an exception to the July 1 cut-off date under M.S. 274.175.

RATIONALE FOR EXCEPTION

There is one major reason for allowing tax-forfeited land to be returned to the county assessment rolls after the July 1 cutoff date. If a sale or repurchase occurs after July 1 and the parcel is not returned to the county assessment rolls, the county auditor would not be able to levy taxes on the parcel for the following taxes payable year.

Letting the party who buys or repurchases a parcel of tax-forfeited land get by without paying taxes on the parcel the year after the sale or repurchase is unreasonable and unwarranted. It is not fair to the other taxpayers in the same local taxing districts to continue the exemption for the year after the sale or repurchase. The buyer or repurchaser holds title to the property during that year and should pay taxes on the property.

Therefore, the exception is needed to avoid an unreasonable and unwarranted tax-exempt situation.

TIF DISTRICT: VALUE AFTER TAX SALE OR REPURCHASE

The 1993 legislature established the method of determining the original tax capacity of tax-forfeited land which is located in a TIF district when the land is sold or repurchased and returned to the tax rolls. (M.S. 469.177, Subd. 1)

The new rule: If a parcel is improved after certification of the TIF district and if the parcel forfeits later for failure to pay real property taxes, the original tax capacity for the parcel after it is sold or repurchased and back on the tax rolls is the value which was certified when the district was created. It is not the value at the time the property became taxable after the sale or repurchase.

The new rule is effective July 1, 1993, and applies to all districts regardless of when the request for certification was made, including certification before August 1, 1979.

SUMMARY: STAGE SIX - TAX FORFEITURE SECTION 6780

TAX-FORFEITED LAND

When the sixth and final stage of the delinquent real property tax proceedings comes to an end, the major purpose of the long, complex process has been achieved. The following is a review of the process, beginning with stage one and ending with stage six.

1. STAGE ONE: DETERMINATION OF DELINQUENT TAXES

In stage one, all unpaid real property taxes are identified and declared to be delinquent. The county auditor makes up a delinquent tax list and a notice of delinquent taxes. A copy of each is sent to the district court administrator. The court administrator signs the notice and sends it back to the county auditor along with the list. (Series 6100)

2. STAGE TWO: PUBLICATION OF DELINQUENT TAXES

In stage two, the steps required to announce the delinquent taxes and the impending court judgment are taken. The county auditor has the list and notice published in the designated newspaper. The county auditor mails a personalized delinquent tax letter along with a copy of the notice to each party on the delinquent tax list. (Series 6200)

3. STAGE THREE: JUDGMENT AGAINST PARCELS WITH DELINQUENT TAXES

In stage three, a court judgment is declared against all parcels with delinquent taxes. The parcels are "bid in for the state." The state obtains a future vested interest in each parcel subject only to the rights of redemption. (Series 6300)

4. STAGE FOUR: REDEMPTION OF PARCELS WITH DELINQUENT TAXES

In stage four, the taxpayers are given two methods by which to remove the property tax lien on their properties before they are forfeited to the state: a 3-year or 5-year standard period of redemption or a confession of judgment. (Series 6400 and 6500)

5. STAGE FIVE: EXPIRATION OF REDEMPTION AND TAX FORFEITURE

In stage five, the time periods allowed for redemption or confession of judgment expire. The titles to the properties with unpaid taxes are forfeited to the state in trust for the local taxing districts. (Series 6600)

6. STAGE SIX: CONVEYANCE OF TAX-FORFEITED LAND

Finally, with the completion of stage six, the tax-forfeited land which was held by the state in trust for the local taxing districts has been returned to the public or private sector of the community.

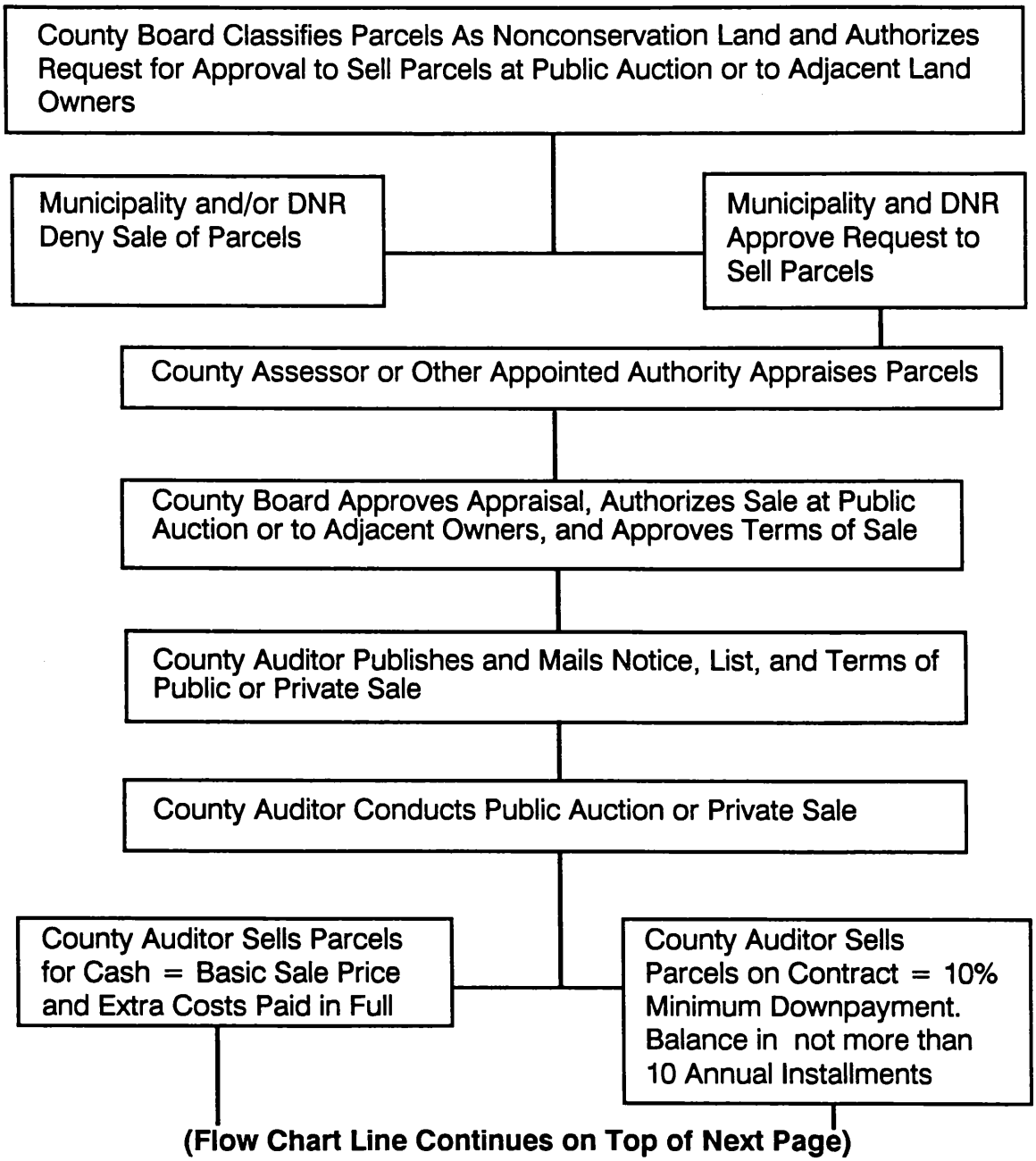
On one hand, if the tax-forfeited land has been conveyed to a governmental subdivision or a state agency, the local taxing districts will not receive any of the lost revenue because of delinquent taxes. Instead, the community will benefit indirectly from the public use of the tax-forfeited land.

On the other hand, if the tax-forfeited land has been sold to a third party or repurchased by the former owner, the local taxing districts will receive at least a portion of the lost tax revenue from the distribution of the basic sale or repurchase price. In addition, the parcel will be returned to the tax lists and begin once again to pay for its share of the public services financed by real property taxes.

In either case, the six-stage cycle is completed: from taxable status, to delinquent status, to tax forfeiture, and back to taxable status or public use.

TAX-FORFEITED LAND: PUBLIC OR PRIVATE SALES

The following flow chart graphically illustrates the major steps which must be taken to complete a major part of the sixth stage of the delinquent real property tax proceedings--the sale of tax-forfeited land at public auction or to adjacent land owners.



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FLOW CHART: STAGE SIX **SECTION 6785**
Continued) **(Page 2)**

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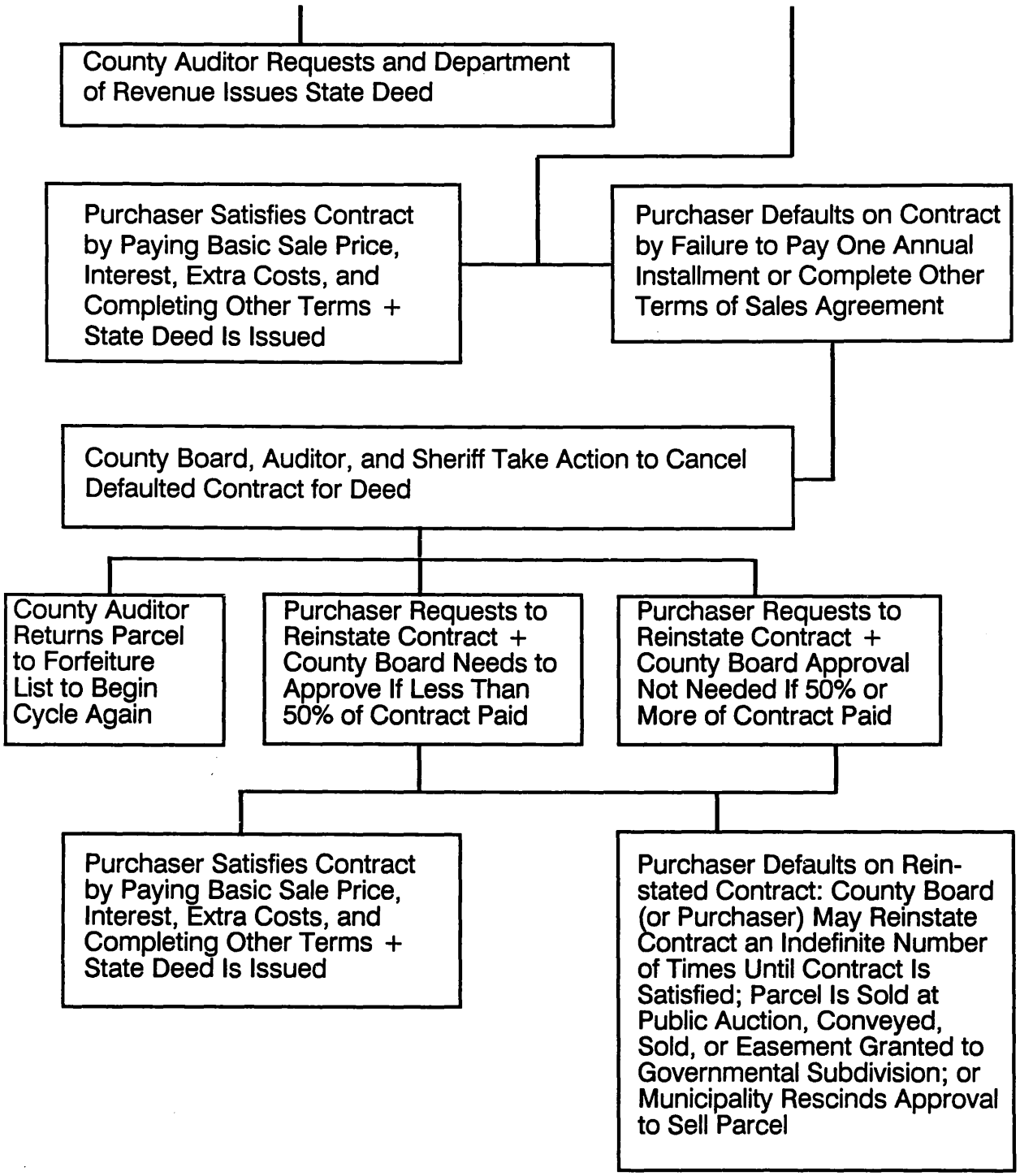

SAMPLE CASE: STAGE SIX SECTION 6790

The following sample case is intended to dramatize the major steps which must be taken to complete a key part of stage six of the delinquent real property tax proceedings-- the public sale of tax-forfeited land.

The sample case is a continuation of the same fictional delinquent tax situation with the same fictional names, places, dates, and tax amounts used in the sample cases for the second half of stage four (confession of judgment) and stage five (expiration of redemption and forfeiture).

The purpose of using the sample case is purely educational and is not intended to criticize or embarrass any individuals or groups. Any connection between the fictitious names and places and any real persons or places is purely coincidental.

SAMPLE CASE: CORELLI'S ITALIAN VILLAGE

On Tuesday, May 22, 1990, Nick Archer, Spruce County Auditor, had his office staff cancel the unpaid delinquent tax amounts and special assessments for all of the parcels of real property which had recently forfeited to the state. One of the parcels was Anthony V. Corelli's restaurant property located in Applewood, Minnesota.

After the cancellation, Nick Archer's office staff prepared a list of tax-forfeited land. Nick worked on the list with Robert B. Dalton, Spruce County Assessor, to determine which parcels should be withheld from sale and which parcels could be classified as "non-conservation land" and sold at a public auction.

Nick Archer presented the list of tax-forfeited land to the Spruce County Board at their meeting on June 4, 1990. After careful review with Nick Archer, the County Board approved the classification and sale of the tax-forfeited parcels. The approved list included Mr. Corelli's Italian Village property.

Before announcing the sale, the County Board had to get the list of tax-forfeited land approved by the Department of Natural Resources (DNR). To do this, the County Board passed the resolution required by the DNR. The County Board Clerk, Marilyn Bardot, signed the resolution and mailed it to the DNR along with the other required documents on Wednesday, June 6, 1990.

SAMPLE CASE: STAGE SIX **SECTION 6790**
(Continued) **(Page 2)**

The County Board also had to get the classification and sale of each parcel approved by the appropriate local municipality. To do this, the County Board authorized Nick Archer to prepare the standard letters. The letter requesting approval for the classification and sale of Mr. Corelli's restaurant property was addressed to the Applewood City Clerk, Wanda L. Granger. Nick Archer signed the letter on Friday, June 8, 1990, and it was mailed the same day with the other letters.

By Thursday, July 12, 1990, Nick Archer's office had received approval for the list from the DNR and the appropriate municipalities. This included approval for Mr. Corelli's restaurant property from the city of Applewood. Nick Archer met with Robert Dalton the next day to set the basic sale price for each parcel on the list. They finished the job by Tuesday, July 24, 1990.

Robert Dalton decided to set the appraised value of Mr. Corelli's restaurant property at $37,000 which was the estimated market value of the property for tax purposes. Because there were no cancelled special assessments or hazardous waste cleanup costs involved, the basic sale price of Mr. Corelli's restaurant property was the same as the appraised value-- $37,000.

On Thursday, July 26, 1990, Nick Archer had his office staff prepare the standard letter to the County Board. At the same time, Nick had his people prepare the List of Tax-Forfeited Land #440 and the terms of the public sale. The letter requested the Board's approval of the basic sale prices, the terms of the sale, and the public sale itself. The sale was scheduled for Wednesday, September 19, 1990, at 10:00 A.M. in the Board Room in the Courthouse.

Nick Archer took copies of the three documents to the County Board meeting on Monday, August 6, 1990. After reviewing them, the Board unanimously passed a resolution approving all aspects of the sale. The next day, Marilyn Bardot prepared and signed Resolution #134. She delivered a copy of the Resolution, the List, and the terms of the sale to Nick Archer's Office.

On Wednesday, August 8, 1990, Nick Archer told Cory Patchen, Deputy Auditor, to have the office staff prepare the Notice of Public Sale of Tax-Forfeited Land. The Notice along with the List of Tax-Forfeited Land #440 and the terms of the sale were to be published in the Greenbriar Weekly Journal.

That same morning, Nick called Harold Hoffman to set up the dates for publishing the announcement of the public sale. Nick reminded Mr. Hoffman that the publication had to be in the newspaper for two consecutive weeks. The last publication had to be at least ten days before the public sale on September 19, 1990.

SAMPLE CASE: STAGE SIX **SECTION 6790**
(Continued) **(Page 3)**

Mr. Hoffman told Nick that he could have the announcement published on August 23 and August 30, 1990. The August 30th publication would be twenty calendar days before the public sale date. Nick told Mr. Hoffman to go ahead. When he hung up the phone, Nick directed his office staff to deliver a copy of the Notice and the other documents to the newspaper office in downtown Greenbriar as soon as they finished preparing them.

On Friday, August 10, 1990, after the documents had been delivered to the newspaper, Nick Archer told Cory Patchen to have the office staff begin the research to find the owners of the properties adjoining or within 300 feet of any parcel on the List of Tax-Forfeited Land #440.

The office staff found the names of four parties who owned the land next to Mr. Corelli's restaurant property. Mr. and Mrs. William L. Parrish owned the lot to the north; the Jaspers Development Corporation owned the land to the east; Willa A. Cartwright owned the furniture store to the west; and Richard W. Wang owned the vacant lot across the highway to the south.

On Thursday, August 23, 1990, the date of the first publication of the Notice in the newspaper, Cory Patchen's office staff mailed a notice of the tax-forfeited land sale to all of the adjoining property owners including the four who owned the land next to Mr. Corelli's Italian Village.

By 10:00 A.M. on Wednesday, September 19, 1990, sixteen people were gathered in the Board Room in the Courthouse for the start of the tax-forfeited land sale. Nick Archer offered each parcel for public bids in the same order that they appeared on the List of Tax-Forfeited Land #440.

When the Corelli restaurant property came up for sale, Bradley Eilers, representing the Jaspers Development Corporation (JDC), bid the basic sale price of $37,000. There were no other bids, so Nick Archer sold the parcel to the JDC for that amount.

After his bid was accepted, Bradley Eilers went over to the counter where Cory Patchen and Nancy Levinson, Spruce County Recorder, were closing the sales. Cory told Mr. Eilers that the total cost was $38,272.10. This was the sum of the following items: (1) the basic sale price of $37,000, (2) a 3% surcharge of $1,110, (3) a state deed tax of $122.10, (4) a state deed fee of $25, (5) a county deed filing fee of $10, and (5) an agricultural conservation fee of $5.

Cory Patchen told Mr. Eilers that the total cost would be split into two parts. Mr. Eilers would have to pay Cory $38,135 which was the sum of the basic sale price, the 3% surcharge, and the state deed fee. The $38,135 would be deposited in the Spruce County forfeited tax sale fund.

As the second part of the total cost, Mr. Eilers would have to pay Nancy Levinson $137.10 which was the sum of the state deed tax, the county deed filing fee, and the agricultural conservation fee. Nancy would collect these amounts separately and handle them as she does all other payments required to record a deed in her office.

Mr. Eilers wrote two checks on the JDC account. He gave one to Cory Patchen and the other to Nancy Levinson. Cory and Nancy filled out separate receipts and gave them to Mr. Eilers. Cory told Mr. Eilers that he would receive an official Auditor's Certificate of Purchase and a copy of the state deed by mail later. The original state deed would be recorded by the county.

By Monday, September 24, 1990, all of the information about the tax-forfeited land sale had been recorded in the county computer system. Cory Patchen completed the paper work for depositing his portion of the receipts from the sale in the Spruce County forfeited tax sale fund. They would be distributed later to the appropriate local taxing districts and state departments.

That same Monday afternoon, Nick Archer's office staff began to prepare the forms to request a state deed to each of the parcels of tax-forfeited land sold for cash. The forms were finished by Wednesday, September 26, 1990, and mailed off to the Department of Revenue the next day.

Next, Nick Archer had his office staff return the parcels which had been purchased at the tax-forfeited land sale to the property tax rolls. They also delivered a list of the parcels to the County Assessor's Office so that Robert Dalton's staff could add them to the January 2, 1991 property tax assessment.

When the state deeds arrived from the Department of Revenue on Thursday, October 25, 1990, Nick Archer's office staff stamped each one certifying that the extra costs had been paid. They made a copy of each state deed and delivered the master copies to Nancy Levinson's office for recording. The next afternoon, they mailed the copies of the state deeds to the appropriate purchasers.

When Nancy Levinson's office staff recorded the state deed to the property formerly owned by Anthony V. Corelli, the ownership officially passed to the Jaspers Development Corporation (JDC).

SAMPLE CASE: STAGE SIX **SECTION 6790**
(Continued) **(Page 5)**

At that point, the delinquent tax proceedings relating to the Corelli restaurant property were completed.

The cycle began with Mr. Corelli's payable 1986 taxes becoming delinquent in January, 1987. In December, 1987, Mr. Corelli signed a confession of judgment. The contract was cancelled because the December, 1988 installment was not paid.

Mr. Corelli's Italian Village forfeited to the state in May, 1990. In September, 1990, the Jaspers Development Corporation bought the property at the Spruce County tax-forfeited land sale.

When the property was returned to the tax rolls, the cycle was completed.

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800

The following calendar provides a chronological outline of the major steps in the delinquent real property tax proceedings beginning with the determination of the delinquent tax amount and ending with the parcels back on the tax lists or used for a public purpose.

The major steps for the administration of a confession of judgment, which is a substitute for the 3-year and 5-year periods of redemption, are included at the end of this calendar.

The calendar contains the exact time deadline for completion of a task when it is designated in the statutes. If there is no designated time deadline, the calendar indicates that the task is to be performed chronologically after the completion of the previous task.

THE DELINQUENT REAL PROPERTY TAX PROCEEDINGS

JANUARY (1st Workday)	**The county auditor determines DELINQUENT TAXES from the previous year's tax list from the County Treasurer. At this point, "delinquent taxes" equals the sum of the previous year's unpaid taxes, special assessments (if any), and penalties. (M.S. 279.02; Sections 6110, 6120)**
JANUARY 1	**INTEREST begins to accrue on the delinquent taxes. The annual adjusted prime rate is prorated monthly on the unpaid delinquent taxes. (M.S. 279.03; Section 6160)**
JANUARY (Before Meeting)	**The county board accepts BIDS FOR PUBLICATION of the delinquent tax list and notice of delinquent taxes. (M.S. 279.07, 279.08; Section 6210)**
JANUARY (At Meeting)	**The county board designates the NEWSPAPER for the publication of the delinquent tax list and notice of delinquent taxes. (M.S. 279.08; Section 6220)**
FEBRUARY 15	**The county auditor files the DELINQUENT TAX LIST, AUDITOR'S AFFIDAVIT, and NOTICE OF DELINQUENT TAXES with the district court administrator. (M.S. 279.05; Sections 6130, 6140, 6150)**

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800
(Continued)

FEBRUARY 20	**The district court administrator returns the DELINQUENT TAX LIST and SIGNED NOTICE OF DELINQUENT TAXES to the county auditor within 5 days after receiving them. (M.S. 279.06, Section 6150)**
MARCH 1	**The county auditor delivers the DELINQUENT TAX LIST and NOTICE OF DELINQUENT TAXES to the publisher at least 20 days before the 1st publication, but not later than March 1. (M.S. 279.09; Section 6230)**
MARCH 15	**The publisher delivers PROOFS of the delinquent tax list and notice of delinquent taxes to the county auditor at least 5 days before the 1st publication, but not later than March 15. (M.S. 279.10; Section 6230)**
MARCH 20	**The county auditor assures that the FIRST PUBLICATION of the delinquent tax list and notice of delinquent taxes is on or before March 20. (M.S. 279.09; Section 6240)**
MARCH 20	**The PUBLISHER mails a copy of the NEWSPAPER containing the delinquent tax list and notice of delinquent taxes to the county auditor on the 1st day of publication. (M.S. 279.10; Section 6250)**
MARCH 20	**The county auditor mails a DELINQUENT TAX LETTER with a DELINQUENT TAX NOTICE to each property owner, taxpayer of record, and interested party whose names are on the delinquent tax list. (M.S. 279.091; Sections 6155, 6170, 6265)**
MARCH 20	**The county auditor delivers an AFFIDAVIT OF MAILING to the district court administrator. (M.S. 279.131; Section 6270)**
MARCH 27	**The county auditor assures that the SECOND PUBLICATION of the delinquent tax list and notice of delinquent taxes is one week after the first publication. (M.S. 279.09; Section 6240)**

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800

(Continued)

ASAP AFTER 2ND PUBLICATION (March 28)	**The publisher delivers an AFFIDAVIT OF PUBLISHING and 3 copies of the newspaper to the district court administrator. (M.S. 279.13; Section 6255)**
WITHIN 20 DAYS AFTER 2ND PUBLICATION (March 28-April 16)	**The property owner, taxpayer of record, or any interested party may FILE OBJECTION to the delinquent taxes or penalties with the district court administrator within 20 days after the 2nd publication. (M.S. 279.15; Section 6310)**
AFTER DEADLINE FOR FILING OBJECTIONS	**The district court administrator enters a TAX JUDGMENT against all parcels on the delinquent tax list for which no objections have been filed. Tax judgments may be entered by the district court after ruling on taxpayer objections. A tax judgment is the "judicial review" required to enforce the tax lien that attached to each parcel on January 2 of the assessment year. (M.S. 279.16, 279.17; Section 6320, 6330)**
ASAP AFTER TAX JUDGMENT IS ENTERED	**The district court administrator delivers a certified copy of the TAX JUDGMENT to the county auditor. (M.S. 279.23; Section 6350)**
MAY (2nd Monday)	**"TAX JUDGMENT SALE" -- Each parcel under tax judgment is "bid in for the state" and the 3-year or 5-year period of redemption begins. "Bid in for the state" means that the state holds a future vested interest in each parcel subject only to redemption. Each parcel will automatically forfeit to the state if the delinquent taxes are not paid before the 3-year or 5-year period of redemption expires. (M.S. 280.001, 280.01; Section 6375)**
3 YEARS OR 5-YEARS AFTER "TAX JUDGMENT SALE"	**Property owners, taxpayers of record, and interested parties have a 3-YEAR PERIOD OF REDEMPTION or a 5 YEAR PERIOD OF REDEMPTION to pay the delinquent taxes before the parcels forfeit. All property located outside a city has a 5-year period of redemption. All property located within a city has a 3-year period of redemption except for all homestead property, nonhomestead resorts, and private cabins which have a 5 year period of redemption. (M.S. 281.17; Series 6400)**

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800
(Continued) (Page 4)

WITHIN 120 DAYS BEFORE PERIOD OF REDEMPTION EXPIRES	**The county auditor prepares a NOTICE OF EXPIRATION OF REDEMPTION for all parcels whose 3-year or 5-year periods of redemption will expire on the upcoming 2nd Monday in May. (M.S. 281.23, Subd. 1; Section 6620)**
ASAP AFTER NOTICE OF EXPIRATION IS PREPARED	**The county auditor POSTS the notice of expiration of redemption in the county auditor's office. The county auditor files an AFFIDAVIT OF POSTING and a copy of the notice in the county auditor's office. (M.S. 281.23, Subd. 2-3; Section 6630)**
ASAP AFTER NOTICE OF EXPIRATION IS POSTED	**The county auditor has the notice of expiration of redemption PUBLISHED for 2 successive weeks in the official county newspaper. The county auditor also obtains an AFFIDAVIT OF PUBLISHING from the newspaper publisher and files it in the county auditor's office with a copy of the notice cut from the newspaper. (M.S. 281.23, Subd. 3-4; Section 6640)**
ASAP AFTER NOTICE OF EXPIRATION IS PUBLISHED	**The county auditor MAILS a copy of the notice of expiration of redemption by certified mail to each property owner, taxpayer of record, and interested party whose name is on the notice of expiration of redemption. The county auditor also files an AFFIDAVIT OF MAILING and a copy of the notice in the county auditor's office. (M.S. 281.23, Subd. 5; Section 6645)**
ASAP AFTER NOTICE OF EXPIRATION IS PUBLISHED	**The county auditor DELIVERS copies of the notice of expiration of redemption to the county sheriff or other designated adult person for service on the occupant of each parcel listed on the notice. The COUNTY SHERIFF OR OTHER DESIGNATED ADULT PERSON must make every effort to serve the notices within 30 days after receiving them. The county sheriff or other designated adult person submits a report to the county auditor for each notice served or posted, and each parcel found vacant. The report serves as an AFFIDAVIT of the county sheriff's or other designated adult person's service of the notices. (M.S. 281.23, Subd. 6; Section 6650)**

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800

(Continued) (Page 5)

EXPIRATION OF PERIOD OF REDEMPTION (Tax Forfeiture)	**The period of redemption EXPIRES on the later of (1) the date when the 3-year or 5-year period of redemption ends (the second Monday in May) or (2) 60 days after the county sheriff or other designated adult person serves the notice of expiration of redemption. When the period of redemption expires, each parcel with unpaid delinquent taxes automatically FORFEITS to the state. The state holds title to each parcel in trust for the local taxing districts. The county administers the tax-forfeited land. (M.S. 281.23, Subd. 7; Sections 6610, 6655)**
ASAP AFTER PERIOD OF REDEMPTION EXPIRES (Tax Forfeiture)	**The county auditor files an AUDITOR'S CERTIFICATE OF FORFEITURE in the county recorder's office or office of the registrar of titles and in the county auditor's office. The auditor's certificate of forfeiture is proof of the posting, publishing, mailing, and serving of the notice of expiration of redemption; the expiration of the period of redemption; and the forfeiture of the parcels to the state. However, failure to file an auditor's certificate of forfeiture does not affect the validity of the tax forfeiture itself. (M.S. 281.23, Subd. 9; Sections 6610, 6665)**
ASAP AFTER PERIOD OF REDEMPTION EXPIRES (Tax Forfeiture)	**The county auditor CANCELS all delinquent taxes, current taxes, and special assessments remaining unpaid on each forfeited parcel. The county auditor also REMOVES each forfeited parcel from the county assessment and tax rolls regardless of when the forfeiture takes place during the calendar year. (M.S. 272.02, Subd. 4; 282.07; Sections 6707, 6710)**

THE TAX FORFEITURE PROCEEDINGS

For purposes of this section, the term "county land commissioner" should be substituted for the term "county auditor" in the counties that have a land commission office. In the counties without a land commissioner, the county auditor is responsible for both delinquent taxes and tax-forfeited land. In the counties with a land commissioner, the

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800
(Continued) (Page 6)

county auditor handles delinquent taxes, and the land commissioner administers the tax-forfeited land. As of February 19, 1999, the following fifteen counties had a land commission office: Aitkin, Anoka, Becker, Beltrami, Carlton, Cass, Clearwater, Cook, Crow Wing, Hubbard, Itasca, Koochiching, Lake, Pine, and St. Louis.

AFTER PARCELS ARE REMOVED FROM COUNTY TAX ROLLS	The county board CLASSIFIES each forfeited parcel as conservation land" or "nonconservation land" and approves the SALE of the forfeited parcels classified as "nonconservation land." Each parcel is approved for sale by public auction or by private sale to adjacent landowners only. (M.S. 282.01, Subd. 1, 4, 7, 7a; Section 6715, 6747, 6757)
AFTER PARCELS ARE CLASSIFIED AND APPROVED FOR SALE BY COUNTY BOARD	The county board sends a letter to the CITY or TOWN requesting APPROVAL of the classification and sale of the parcels located in the city or town. The city or town has 60 days to approve or disapprove or REQUEST to purchase or obtain free of charge any parcel for itself. The parcels requested by the city or town must be held for six months and conveyed only to the city or town during that time. (M.S. 282.01, Subd. 1; Section 6717)
AFTER PARCELS ARE CLASSIFIED AND APPROVED FOR SALE BY COUNTY BOARD	The county board sends a list of the forfeited parcels, a copy of the board resolution approving the classification and sale of the parcels, and a narrative summarizing the board's review process to the Department of Natural Resources (DNR) for their APPROVAL. The county may sell or convey only those parcels approved by the DNR. There is no deadline for the DNR to complete the approval process. (M.S. 282.01, Subd. 1; Section 6717)
AFTER APPROVAL BY CITY OR TOWN AND DNR	The county board APPRAISES each forfeited parcel classified as "nonconservation land" and approved for sale. The APPRAISED VALUE plus any special assessments certified after the forfeiture and hazardous cleanup costs equal the minimum price (BASIC SALE PRICE) for which a parcel may be sold. (M.S. 281.01, Subd. 3; Section 6720, 6747)

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800

(Continued) (Page 7)

AFTER APPRAISAL, BUT BEFORE PUBLIC SALE OR REPURCHASE	**The county auditor SELLS a forfeited parcel to a POLITICAL SUBDIVISION or a STATE AGENCY with the county board's approval. The city or town has the first option if it earlier requested the parcel to be held for six months. The title is conveyed with a STATE "PURCHASE" DEED from the Department of Revenue. (M.S. 282.01, Subd. 1a; Sections 6732, 6734)**
AFTER APPRAISAL, BUT BEFORE PUBLIC SALE OR REPURCHASE	**The county auditor CONVEYS a forfeited parcel to a POLITICAL SUBDIVISION free of charge for an authorized public use. The conveyance must be APPROVED by the county board and Department of Revenue. The city or town has the first option if it earlier requested the parcel to be held for six months. The title is conveyed with a STATE "USE" DEED from the Department of Revenue. If the parcel is not put to the authorized public use, the title reverts to the state. This is called "the rule of reversion." (M.S. 282.01, Subd. 1a-1e; Section 6732, 6733)**
AFTER FORFEITURE, BUT BEFORE PUBLIC SALE OR CONVEYANCE	**The county board authorizes the former property owner, the former property owner's heirs, or any party to whom the right to pay the taxes has been given by statute, mortgage, or other agreement to REPURCHASE a forfeited parcel for cash or under an installment plan. The title is conveyed with a STATE "REPURCHASE" DEED from the Department of Revenue. (M.S. 282.241-282.324, 282.012, 282.301; Section 6770)**
AFTER APPROVAL OF SALE AND APPRAISAL	**The county auditor prepares a NOTICE OF PUBLIC SALE, a LIST OF TAX-FORFEITED LAND FOR SALE, and the TERMS FOR THE SALE OF TAX-FORFEITED LAND, and sets a date for the public sale. These are all presented to the County Board for approval by resolution. (M.S. 282.02; Section 6745)**
AFTER APPROVAL BY COUNTY BOARD	**The county auditor has the notice of public sale, the list of tax-forfeited land for sale, and the terms for the sale of tax- forfeited land PUBLISHED once a week for two successive weeks in the official county newspaper. The last publication must be not less than 10 days before the sale. (M.S. 282.02; Section 6745)**

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800

(Continued) (Page 8)

AFTER APPROVAL BY COUNTY BOARD	**The county auditor MAILS a notice of the public sale to all owners of property adjacent to the forfeited parcels on the list of tax-forfeited land for sale. "Owners" means the parties currently listed on the county tax rolls as the taxpayers for the adjacent properties. (M.S. 282.02; Section 6745)**
DATE SET BY COUNTY BOARD RESOLUTION	**The county auditor conducts the TAX-FORFEITED LAND SALE as a public auction or as a private sale to adjacent land owners only. Each parcel is sold to the highest bidder if the highest bid is at least the BASIC SALE PRICE. Any parcel not sold may be purchased privately in the county auditor's office for the basic sale price. Any parcel not sold that is withdrawn from sale, reclassified, or reappraised must be offered at public auction or to adjacent landowners again after repeating the above three steps. (M.S. 282.01, Subd. 3-7a; Section 6747)**
AT TAX-FORFEITED LAND SALE	**The county auditor collects the FULL PAYMENT (basic sale price and extra costs) and issues a certificate of purchase or RECEIPT to each cash purchaser. (M.S. 282.01, Subd. 4, 7; Section 6747)**
AT TAX-FORFEITED LAND SALE	**The county auditor collects a DOWN PAYMENT (at least 10% of the basic sale price) and issues a certificate of purchase or receipt and a written CONTRACT AGREEMENT to each installment purchaser. The balance must be paid in no more than ten, equal, annual installments. The extra costs must be paid with the final installment. As an option, the payments may be made in accordance with county board policy, which provides for monthly installments or a lesser number of installments, for a contract term not to exceed 10 years. (M.S. 282.01, Subd. 4-6; Section 6750, 6752)**
AFTER TAX-FORFEITED LAND SALE	**The county auditor deposits the revenues collected from the cash sales, the down payments, and the annual installment payments in the county FORFEITED TAX SALE FUND. (M.S. 282.09, Subd. 1-2; Section 6760)**

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800
(Continued)

AFTER TAX-FORFEITED LAND SALE	**The county auditor puts each parcel that is sold for cash or under an installment plan BACK ON THE TAX ROLLS immediately after the sale regardless of when the sale takes place during the calendar year. Each parcel is added to the assessment rolls for the year when the sale takes place and will be subject to taxes in the following year. (M.S. 274.175; 272.02, Subd. 4; Section 6775)**
AFTER RECEIVING PAYMENT IN FULL	**The county auditor submits an APPLICATION for a STATE "PURCHASE" DEED to the Property Tax Division of the Department of Revenue. The Property Tax Division prepares the state deed in the name of the purchaser and sends it to the county auditor. (M.S. 282.01, Subd. 6; Section 6755)**
AFTER RECEIVING STATE DEED	**The county auditor has the state "purchase" deed RECORDED in the office of the county recorder or registrar of titles. The county auditor then DELIVERS the state deed to the purchaser. (M.S. 282.01, Subd. 6; Section 6755)**
REGULAR TAX SETTLEMENT AND DISTRIBUTION	**The county auditor distributes the NET REVENUE in the county FORFEITED TAX SALE FUND in the following order of priority: (1) special assessments certified after the forfeiture, (2) hazardous cleanup costs, (3) special assessments certified before the forfeiture, (4) 30% for timber development (optional), and (5) 20% for county parks and recreation (optional). Any remaining balance is distributed 40% to the county, 20% to the city or town, and 40% to the school district. (M.S. 282.08; Section 6765)**

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800
(Continued)

ALTERNATIVE PAYMENT PLAN: CONFESSION OF JUDGMENT

ANY TIME PRIOR TO TAX FORFEITURE	**The property owner/taxpayer offers a CONFESSION OF JUDGMENT under the 10-year or 5-year installment plan (depending on the classification and market value of the property), agreeing to waive all legal rights to challenge the delinquent tax amount combined into the confession of judgment, agreeing to make an immediate down payment equal to 10% (or 20%) of the amount combined into the confession of judgment, agreeing to pay the remaining balance in 9 (or 4) equal, annual installments with interest on or before December 31 each year, and agreeing to pay all current taxes on the same parcel of property each year before they become delinquent. (M.S. 279.37, Subd. 1; Sections 6510, 6520, 6555, 6560)**
DATE OF CONFESSION OF JUDGMENT	**The property owner/taxpayer pays a DOWN PAYMENT to the county auditor under the confession of judgment equal to 10% or 20% of the amount combined into the confession of judgment, depending on whether it is a 10-year or a 5-year confession of judgment. The property owner/taxpayer pays all current year taxes and penalty due at the time that the confession of judgment is entered. (M.S. 279.37, Subd. 2; Sections 6520, 6560)**
NOVEMBER 30	**The county auditor sends a NOTICE to the property owner/taxpayer of the installment due by December 31 of each year following the year in which judgment was confessed. The notice also reminds the owner/taxpayer that he/she will be in default of the contract if the installment is not paid by the December 31 deadline or if the current taxes are not paid before they go delinquent. (M.S. 279.37, Subd. 2, 6; Section 6576)**
DECEMBER 31	**The property owner/taxpayer pays the annual INSTALLMENTS to the county auditor each year following the year in which judgment was confessed. (M.S. 279.37, Subd. 2, 6; Sections 6520, 6560)**

CALENDAR OF EVENTS: DELINQUENT REAL PROPERTY TAXES SERIES 6800
(Continued)

PAYMENT OF ALL INSTALLMENTS DUE	**The county auditor records each annual installment payment under the confession of judgment. After the last required installment has been paid, the tax judgment is cancelled and the property owner regains title to the property free and clear of the delinquent tax lien. M.S. 279.37, Subd. 5; Sections 6505, 6540, 6585)**
AFTER DECEMBER 31 (ASAP)	**The county auditor notifies the property owner/taxpayer by certified mail of the reinstatement of the tax forfeiture process if an OVERDUE INSTALLMENT is not received within 60 days after the December 31 deadline. The notice may also reference an unpaid current year tax as a reason for the reinstatement of the tax forfeiture process if the current taxes were not paid before they became delinquent. (M.S. 279.37, Subd. 2, 6; Sections 6550, 6577)**
AFTER 60 DAYS FROM DECEMBER 31	**The county auditor CANCELS the confession of judgment if an overdue installment has not been received. The parcel is returned to the step in the tax-forfeiture process that it was in at the time when the confession of judgment was signed. If at the present time the original period of redemption would still be running, the redemption period continues as if there had never been a confession of judgment. If the original period of redemption would have expired before the present time, the tax-forfeiture proceedings are to be started immediately by the posting/publishing/mailing and service of the notice of the expiration of the period of redemption. (M.S. 279.37, Subd. 2, 6; Section 6550)**

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900

TOPIC HEADING	SECTION NUMBER
3% surcharge, not on repurchase of tax-forfeited land	6770
3% surcharge, tax-forfeited land sale	6747/6767
Abandoned property	6410
Abatement, delinquent taxes, penalties, interest, costs	6120
Abatement, penalties; delegation of powers to county treasurer	6120
Affidavit of mailing, delinquent tax letter	6270
Affidavit of mailing, notice of delinquent taxes	6270
Affidavit of publication, delinquent tax list	6255
Affidavit of publication, notice of delinquent taxes	6255
Affidavit, auditor's; delinquent tax list	6140
Ag conservation fee, tax-forfeited land sale	6747
Anoka County, tax-forfeited land sales by sealed bids	6747
Apportion delinquent tax, multiple owners	6120
Appraisal, tax forfeiture; authority for reappraisal	6720
Appraisal, tax forfeiture; basic sale price of parcels	6720
Appraisal, tax forfeiture; DNR approves timber sales	6720
Appraisal, tax forfeiture; hazardous waste costs added	6720
Appraisal, tax forfeiture; set by county board	6720
Appraisal, tax forfeiture; special assessments added	6720
Attachment of crops	6480
Attachment of rents	6475
Back on tax rolls, tax-forfeited land	6775
Bankruptcy	6175
Bankruptcy, priority over delinquent taxes	6130
Basic repurchase price, tax-forfeited land	6770
Basic sale price, tax-forfeited land	6745/6747
Bid in for the state, current definition	6375
Bid in for the state, historical background	6375
Buildings on tax-forfeited land, improvements	6725
Calendar of events	6800
Cancellation of contract for deed, tax-forfeited land sale	6752
Cancellation, certificate of; general information	6676

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) (Page 2)

TOPIC HEADING	SECTION NUMBER
Cancellation, certificate of; suggested format	6677
Cancellation, certificate of; tax action following	6678
Certificate of assignment, historical background	6375
Certificate of cancellation, general information	6676
Certificate of cancellation, suggested format	6677
Certificate of cancellation, tax action following	6678
Certificate of forfeiture, application for cancellation	6675
Certificate of forfeiture, general information	6665
Certificate of forfeiture, prima facie evidence	6610
Certificate of forfeiture, suggested format	6670
Certificate of publication, county attorney	6260
Certificate of sale, historical background	6375
Classification, tax forfeiture; conservation areas	6715
Classification, tax forfeiture; DNR approval	6717
Classification, tax forfeiture; form for approval	6717
Classification, tax forfeiture; goals	6715
Classification, tax forfeiture; municipal approval	6717
Conduct of public sale, tax forfeiture	6747
Confession of judgment, 10-year; 60-day grace period	6550
Confession of judgment, 10-year; agreement	6520
Confession of judgment; 10-year; classification year	6510
Confession of judgment, 10-year; default	6550
Confession of judgment, 10-year; eligible parties	6510
Confession of judgment; 10-year; market value cutoff	6510
Confession of judgment; 10-year; payment of current taxes	6520
Confession of judgment; 10-year; unimproved land	6510
Confession of judgment, 5-year; eligibility	6555
Confession of judgment; 5-year; payment of current taxes	6520
Confession of judgment, 5-year; special conditions	6560
Confession of judgment, administering installments	6540/6570
Confession of judgment, administrative fees	6580
Confession of judgment, certificate of auditor	6575
Confession of judgment, certificate of court administrator	6575

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) (Page 3)

TOPIC HEADING	SECTION NUMBER
Confession of judgment, eligibility for property tax refund	6582
Confession of judgment, interest rate charged	6565
Confession of judgment, notice of December 31 payment	6576
Confession of judgment, notice of default of payment	6577
Confession of judgment, properties not eligible	6562
Confession of judgment, recording of contract	6530
Confession of judgment, second allowed	6510/6550
Confession of judgment, special exclusion; Minneapolis and St. Paul	6562
Confession of judgment, suggested format	6575
Conservation areas, tax forfeiture; classification	6715
Conservation land, withheld from tax sale	6737
Contract for deed, cancellation on repurchase	6770
Contract for deed, cancellation; tax sale	6752
Contract for deed, repurchase of tax-forfeited land	6770
Contract for deed, tax sale; default	6752
Contract for deed, tax sale; general	6750
Contract for deed, tax sale; satisfaction	6750
Costs of publication, mailing, and judgment	6275
Costs, abatement	6120
Costs, delinquent tax; method of distribution	6370/6465
County auditor or land commissioner, tax forfeiture	6705
County deed filing fee, tax-forfeited land sale	6747
Court judgments, interest rate for	6160/6335
Covenants for condominium apartments	6710
Crops, attachment of	6480
Delegation of penalty abatement powers to county treasurer	6120
Delegation of county board powers to county auditor	6706
Delinquent tax amount, defined	6105
Delinquent tax information, request for	6170
Delinquent tax letter, affidavit of mailing	6270
Delinquent tax letter, contents	6155
Delinquent tax letter, cost of mailing	6275

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900

(Continued) (Page 4)

TOPIC HEADING	SECTION NUMBER
Delinquent tax letter, deadline for mailing	6155/6265
Delinquent tax letter, parties mailed to	6265
Delinquent tax letter, required format	6155
Delinquent tax list, affidavit of publication	6255
Delinquent tax list, auditor's affidavit	6140
Delinquent tax list, bids for publication	6210
Delinquent tax list, certificate of publication	6260
Delinquent tax list, conditions for republication	6250
Delinquent tax list, contents	6130
Delinquent tax list, deadline for publication	6240
Delinquent tax list, designation of newspaper	6220
Delinquent tax list, effect of errors	6130
Delinquent tax list, parcels excluded	6130
Delinquent tax list, publication; auditor's tasks	6230
Delinquent tax list, publication; costs	6260/6275
Delinquent tax list, purpose	6130
Delinquent tax list, required format	6130
Delinquent tax list, sent to court administrator	6130
Delinquent tax, abatement	6120
Delinquent tax, apportion for multiple owners	6120
Delinquent tax, bankruptcy has priority	6130
Delinquent tax, cancellation of tax judgment	6360
Delinquent tax, copy of judgment to auditor	6350
Delinquent tax, cost of court judgment	6275
Delinquent tax, credited in inverse order	6460
Delinquent tax, date determined	6110
Delinquent tax, deadline for objections	6150/6310
Delinquent tax, judgment by court administrator	6320
Delinquent tax, judgment by district court	6330
Delinquent tax, judgment is "in rem"	6320/6330
Delinquent tax, judgment is lien on property	6320/6320

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900

(Continued) (Page 5)

TOPIC HEADING	SECTION NUMBER
Delinquent tax, method of distribution	6370/6465
Delinquent tax, parties eligible to object	6310
Delinquent tax, payment before tax judgment sale	6365
Delinquent tax, payment; attachment of crops	6480
Delinquent tax, payment; attachment of rents	6475
Delinquent tax, penalties; abatement	6120
Delinquent tax, penalties added	6120
Delinquent tax, suggested format for tax judgment	6340
Distribution, costs on delinquent tax	6370/6465
Distribution, delinquent tax	6370/6465
Distribution, interest on delinquent tax	6370/6465
Distribution, net revenues in forfeited tax sale fund	6765
Distribution, penalties	6370/6465
Easements, tax forfeiture	6710
Easements, tax forfeiture; conservation	6730
Easements, tax forfeiture; land bordering water	6730
Easements, tax forfeiture; to state and U.S.A	6730
Easements, tax forfeiture; utilities or roads	6730
Exchanging tax-forfeited land	6722
Expiration of redemption, 60-day grace period	6655
Expiration of redemption, comprehensive plan	6620
Expiration of redemption, content of notice	6620
Expiration of redemption, county costs of notice	6660
Expiration of redemption, deadline for processing	6620
Expiration of redemption, general information	6620
Expiration of redemption, mailing of notice	6645
Expiration of redemption, posting of notice	6630
Expiration of redemption, publishing of notice	6640
Expiration of redemption, serving of notice by sheriff or other adult	6650
Expiration of redemption, suggested format of notice	6630
Extra costs, purchase of tax-forfeited land	6747

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) **(Page 6)**

TOPIC HEADING	SECTION NUMBER
Extra costs, repurchase of tax-forfeited land	6770
Flow chart, 1st half of stage four; redemption of property	6490
Flow chart, 2nd half of stage four; confession of judgment	6590
Flow chart, determination of delinquent taxes	6185
Flow chart, expiration of redemption	6685
Flow chart, judgment on delinquent taxes	6385
Flow chart, mailing of letter and notice	6285
Flow chart, publication of notice and list	6285
Flow chart, tax-forfeited land	6785
Forfeited tax sale fund, authorized expenditures	6760
Forfeited tax sale fund, distribution of net revenue	6760/6765
Forfeited tax sale fund, repurchase	6770
Forfeited tax sale fund, source of gross revenue	6760
Forfeited tax sale fund, tax-forfeited land sales	6747
Forfeiture, certificate of; application for cancellation	6675
Forfeiture, certificate of; general information	6665
Forfeiture, certificate of; prima facie evidence	6610
Forfeiture, certificate of; suggested format	6670
Forfeiture, exact date	6610
Government acquisition, tax-forfeited land; overview	6732
Government acquisition, tax-forfeited land; private sale	6734
Government acquisition, tax-forfeited land; public use	6733
Government acquisition, tax-forfeited land; special cases	6735
Grading of tax-forfeited land, improvements	6725
Hazardous waste, delinquent penalty	6740
Hazardous waste, environmental lien	6740
Hazardous waste, management on tax-forfeited land	6740
Hazardous waste, tax-forfeited land sale	6740
Improvements to tax-forfeited land, buildings	6725
Improvements to tax-forfeited land, grading of land	6725
Improvements to tax-forfeited land, sale of abandoned property	6725

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900

(Continued) (Page 7)

TOPIC HEADING	SECTION NUMBER
Improvements to tax-forfeited land, source of revenue	6725
Improvements to tax-forfeited land, subdividing or grouping parcels	6725
In lieu of forfeiture, voluntary conveyance	6470
In rem, delinquent tax judgment	6320/6330
Interest, abatement	6120
Interest rate, confession of judgment	6565
Interest rate, court judgments	6160/6335
Interest rate, delinquent taxes	6160
Interest rate, sale of tax-forfeited land by contract	6750
Interest rate, unpaid drainage ditch costs	6750
Interest, delinquent tax; method of distribution	6370/6465
Interested parties, record of	6170
Inverse order, method of crediting tax payments	6460
Judgment, delinquent tax; cancellation	6360
Judgment, delinquent tax; copy to auditor	6350
Judgment, delinquent tax; cost	6275
Judgment, delinquent tax; court administrator	6320
Judgment, delinquent tax; district court	6330
Judgment, delinquent tax; lien on property	6320/6330
Judgment, delinquent tax; suggested format	6340
Land commissioner or county auditor, tax forfeiture	6705
Land on public water, withheld from tax sale	6737
Leasing, tax forfeiture; general purpose	6727
Leasing, tax forfeiture; land with buildings	6727
Leasing, tax forfeiture; mining deposits	6727
Leasing, tax forfeiture; peat removal	6727
Leasing, tax forfeiture; stockpiled iron-bearing material	6727
Leasing, tax forfeiture; taxation of leased tax-forfeited land	6727
Lien, delinquent tax judgment	6320/6330
Lien, income tax (state and federal); tax forfeiture	6710
Lien, mortgage; tax forfeiture	6710

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900

(Continued) (Page 8)

TOPIC HEADING	SECTION NUMBER
Lien, personal property and income tax; tax forfeiture	6710
Lien, real property tax and assessment; tax forfeiture	6710
Liens, environmental; tax forfeiture	6710
List of tax-forfeited land, public sale	6745
List of tax-forfeited land, suggested format	6745
Mailing, delinquent tax letter; cost	6275
Mailing, delinquent tax letter; deadline	6155/6265
Mailing, notice of expiration of redemption	6645
Mailing, notice of tax-forfeited land sale	6745
Maintenance of tax-forfeited land	6725
Marginal lands and wetlands, tax sale restricted	6737
Minerals, withheld from tax sale	6737
Multiple owners, apportion delinquent tax	6120
Notice of delinquent taxes, affidavit of mailing	6270
Notice of delinquent taxes, affidavit of publication	6255
Notice of delinquent taxes, bids for publication	6210
Notice of delinquent taxes, certificate of publication	6260
Notice of delinquent taxes, deadline for mailing	6155/6265
Notice of delinquent taxes, deadline for publication	6240
Notice of delinquent taxes, designation of newspaper	6220
Notice of delinquent taxes, parties mailed to	6265
Notice of delinquent taxes, prepare and sign	6150
Notice of delinquent taxes, publication; costs	6260/6275
Notice of delinquent taxes, publication; tasks	6230
Notice of delinquent taxes, republication	6250
Notice of delinquent taxes, required format	6150
Notice of expiration, 60-day grace period	6655
Notice of expiration, comprehensive plan	6620
Notice of expiration, county costs	6660
Notice of expiration, deadline for processing	6620
Notice of expiration, general information	6620
Notice of expiration, mailing	6645

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900

(Continued) (Page 9)

TOPIC HEADING	SECTION NUMBER
Notice of expiration, posting	6630
Notice of expiration, publishing	6640
Notice of expiration, serving by sheriff or other assigned adult person	6650
Notice of expiration, suggested format	6645
Notice of public sale, format to adjoining owners	6745
Notice of public sale, list of tax-forfeited land	6745
Notice of public sale, suggested format	6745
Objections to delinquent tax, deadline	6150/6310
Objections to delinquent tax, eligible parties	6310
Parcel, definition for condominium apartments	6707
Payment, delinquent tax; attachment of crops	6480
Payment, delinquent tax; attachment of rents	6475
Payment, delinquent tax; before tax judgment sale	6365
Penalties, abatement	6120
Penalties, added to delinquent taxes	6120
Penalties, auditor and treasurer liable	6120
Penalties, method of distribution	6370/6465
Private sale, government acquisition of tax-forfeited land	6734
Private tax sale, adjacent owners	6757
Property owner	6130
Property tax refund, eligibility with confession of judgment	6582
Public use, government acquisition of tax-forfeited land	6733
Publication, delinquent tax list; auditor's tasks	6230
Publication, delinquent tax list; bids	6210
Publication, delinquent tax list; costs	6260/6275
Publication, delinquent tax list; deadline	6240
Publication, delinquent tax list; newspaper	6220
Publication, notice of contract for deed cancellation	6752
Publication, notice of delinquent taxes; bids	6210
Publication, notice of delinquent taxes; costs	6260/6275
Publication, notice of delinquent taxes; deadline	6240

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) **(Page 10)**

TOPIC HEADING	SECTION NUMBER
Publication, notice of delinquent taxes; newspaper	6220
Publication, notice of delinquent taxes; tasks	6230
Publication, notice of expiration of redemption	6640
Publication, notice of tax-forfeited land sale	6745
Receipt, proof of purchase of tax-forfeited land	6747
Record of interested parties	6170
Redemption, 3-year; types of eligible properties	6410
Redemption, 5-year; types of eligible properties	6410
Redemption, 3-year and 5-year chart	6410
Redemption, 3-year and 5-year periods	6410
Redemption, abandoned property	6410
Redemption, administration of full	6450
Redemption, administration of partial	6430/6440
Redemption, administration upon owner's death	6455
Redemption, attachment of crops	6480
Redemption, attachment of rents	6475
Redemption, classification year	6410
Redemption, eligible parties	6410
Redemption, exceptions to 3-year and 5-year	6410
Redemption, methods of payment	6420
Redemption, period; effect of changes in local unit of government	6410
Redemption, tax judgment plan	6410
Redemption, vacant property	6410
Removal from tax rolls, tax forfeiture	6707
Rents, attachment of	6475
Republication, delinquent tax list	6250
Republication, notice of delinquent taxes	6250
Repurchase, 10-year contract for deed	6770
Repurchase, 4-year contract for deed	6770
Repurchase, basic repurchase price	6770
Repurchase, cancellation of contract for deed	6770

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) (Page 11)

TOPIC HEADING	SECTION NUMBER
Repurchase, canceled delinquent tax amount reinstated	6770
Repurchase, conditions limiting use	6770
Repurchase, county board approval required	6770
Repurchase, deadlines	6770
Repurchase, eligible parties	6770
Repurchase, eligible tax-forfeited land	6770
Repurchase, extra costs	6770
Repurchase, forfeited tax sale fund	6770
Repurchase, new delinquent tax amount calculated	6770
Repurchase, payment of maintenance costs	6770
Repurchase, receipt as proof of repurchase	6770
Repurchase, restrictions on nonconservation land	6770
Repurchase, special assessments reinstated	6770
Repurchase, state deed	6770
Repurchase, title subject to restrictions	6770
Restricted tax sale, marginal lands and wetlands	6737
Restricted tax sale, well certificates	6737
Rule of reversion, govt acquires tax-forfeited land for public use	6733/6734/6735
Sale of abandoned property, tax-forfeited land	6725
Sample case, 1st half of stage four; redemption of property	6495
Sample case, 2nd half of stage four; confession of judgment	6595
Sample case, determination of delinquent taxes	6190
Sample case, expiration of redemption	6690
Sample case, judgment on delinquent taxes	6390
Sample case, publication of delinquent taxes	6290
Sample case, tax-forfeited land	6790
Sealed bids, tax-forfeited land sales in Anoka County	6747
Severed mineral rights	6737
Source of revenue, improvements to tax-forfeited land	6725
Special assessments, canceled; tax sale	6745
Special assessments, reinstated for repurchase	6770
Special cases, government acquisition of tax-forfeited land	6735
State deed, cash purchase of tax-forfeited land	6755

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) (Page 12)

TOPIC HEADING	SECTION NUMBER
State deed, contract purchase of tax-forfeited land	6755
State deed, govt acquires tax-forfeited land for public use	6733
State deed, govt purchases tax-forfeited land for public purpose	6734
State deed, mineral rights reserved by state	6755
State deed, replacement of lost or destroyed	6755
State deed, repurchase of tax-forfeited land	6770
State deed fee, deposit	6760
State deed fee, tax-forfeited land sale	6747
Subdividing or grouping parcels of tax-forfeited land	6725
Summary, 1st half of stage four; redemption of property	6485
Summary, 2nd half of stage four; confession of judgment	6585
Summary, stage five; expiration of redemption	6680
Summary, stage one; determination of delinquent taxes	6180
Summary, stage six; tax forfeiture	6780
Summary, stage three; judgment on delinquent taxes	6380
Summary, stage two; publication of delinquent taxes	6280
Tax-forfeited land, exchanging of	6722
Tax-forfeited land, government acquisition; overview	6732
Tax-forfeited land, government acquisition; private sale	6734
Tax-forfeited land, government acquisition; public use	6733
Tax-forfeited land, government acquisition; special cases	6735
Tax forfeited land, improvements; buildings	6725
Tax forfeited land, improvements; grading of land	6725
Tax forfeited land, improvements; sale of abandoned property	6725
Tax forfeited land, improvements; source of revenue	6725
Tax forfeited land, improvements; subdividing or grouping parcels	6725
Tax forfeited land, maintenance	6725
Tax forfeiture, 3% surcharge	6747/6767
Tax forfeiture, ag conservation fee	6747
Tax forfeiture, appraisal; authority for reappraisal	6720
Tax forfeiture, appraisal; basic sale price of parcels	6720
Tax forfeiture, appraisal; DNR approves timber sales	6720

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) (Page 13)

TOPIC HEADING	SECTION NUMBER
Tax forfeiture, appraisal; hazardous waste costs added	6720
Tax forfeiture, appraisal; relation of timber value to basic sale price	6720
Tax forfeiture, appraisal; set by county board	6720
Tax forfeiture, appraisal; special assessments added	6720
Tax forfeiture, authority for reclassification	6715
Tax forfeiture, basic sale price	6745/6747
Tax forfeiture, board approval of public sale	6745
Tax-forfeiture, cancellation of contract for deed	6752
Tax forfeiture, canceled special assessments	6745
Tax forfeiture, classification; conservation areas	6715
Tax forfeiture, classification; DNR approval	6717
Tax forfeiture, classification; form for approval	6717
Tax forfeiture, classification; goals	6715
Tax forfeiture, classification; municipal approval	6717
Tax forfeiture, common elements for condominium apartments	6710
Tax forfeiture, conduct of public sale	6747
Tax forfeiture, contract for deed sales	6750
Tax forfeiture, county auditor or land commissioner	6705
Tax forfeiture, county deed filing fee	6747
Tax forfeiture, covenants for condominium apartments	6710
Tax forfeiture, default of contract for deed	6752
Tax forfeiture, delegation of county board powers to county auditor	6706
Tax forfeiture, easements	6710
Tax forfeiture, easements; conservation	6730
Tax forfeiture, easements; land bordering water	6730
Tax forfeiture, easements; to state and U.S.A.	6730
Tax forfeiture, easements; utilities or roads	6730
Tax forfeiture, environmental liens	6710
Tax-forfeiture, exchange of land	6722
Tax forfeiture, extra costs	6747
Tax forfeiture, forfeited tax sale fund	6747/6760

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) **(Page 14)**

TOPIC HEADING	SECTION NUMBER
Tax forfeiture, format for list of tax-forfeited land	6745
Tax forfeiture, format for notice of public sale	6745
Tax forfeiture, format for terms of public sale	6745
Tax forfeiture, government acquisition; overview	6732
Tax forfeiture, government acquisition; private sale	6734
Tax forfeiture, government acquisition; public use	6733
Tax forfeiture, government acquisition; special cases	6735
Tax forfeiture, hazardous waste management	6740
Tax forfeiture, improvements; buildings on land	6725
Tax forfeiture, improvements; grading of land	6725
Tax forfeiture, improvements; sale of abandoned property	6725
Tax forfeiture, improvements; source of revenue	6725
Tax forfeiture, improvements; subdividing or grouping parcels	6725
Tax forfeiture, income tax liens (federal and state)	6710
Tax forfeiture, interest rate on contract sales	6750
Tax forfeiture, land back on tax rolls	6775
Tax forfeiture, leasing; general purposes	6727
Tax forfeiture, leasing; land with buildings	6727
Tax forfeiture, leasing; mining deposits	6727
Tax forfeiture, leasing; peat removal	6727
Tax forfeiture, leasing; stockpiled iron-bearing material	6727
Tax forfeiture, leasing; taxation of leased tax-forfeited land	6727
Tax forfeiture, list of tax-forfeited land for sale	6745
Tax forfeiture, mailing of notice of public sale	6745
Tax forfeiture, mortgage liens	6710
Tax forfeiture, notice of public sale	6745
Tax forfeiture, personal property tax liens	6710
Tax forfeiture, private sale to adjacent owners	6757
Tax forfeiture, public sale by sealed bids; Anoka County	6747
Tax forfeiture, public sale procedures	6747
Tax forfeiture, publication of notice of public sale	6745

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900

(Continued) (Page 15)

TOPIC HEADING	SECTION NUMBER
Tax forfeiture, real property tax and assessment liens	6710
Tax forfeiture, receipt as proof of purchase	6747
Tax forfeiture, removal from tax rolls	6707
Tax forfeiture, replacement of state deed	6755
Tax forfeiture, repurchase agreement	6770
Tax forfeiture, satisfaction of contract for deed	6750
Tax forfeiture, state deed fee	6747
Tax forfeiture, state deed for cash purchase	6755
Tax forfeiture, state deed tax	6747
Tax forfeiture, terms of public sale	6745
Tax forfeiture, timber sales	6726
Tax forfeiture, voluntary conveyance in lieu of	6470
Tax judgment sale, current definition	6375
Tax judgment sale, historical background	6375
Tax judgment, delinquent tax; "in rem"	6320/6330
Tax judgment, delinquent tax; cancellation	6360
Tax judgment, delinquent tax; copy to auditor	6350
Tax judgment, delinquent tax; cost	6275
Tax judgment, delinquent tax; court administrator	6320
Tax judgment, delinquent tax; district court	6330
Tax judgment, delinquent tax; lien on property	6320/6330
Tax judgment, delinquent tax; suggested format	6340
Tax judgment, recording payments	6365
Tax lists, date returned to Auditor	6120
Tax rolls, removal after tax forfeiture	6707
Tax sale, 3% surcharge	6747/6767
Tax sale, ag conservation fee	6747
Tax sale, basic sale price	6745/6747
Tax sale, board approval of public sale	6745
Tax sale, cancellation of contract for deed	6752
Tax sale, canceled special assessments	6745

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) **(Page 16)**

TOPIC HEADING	SECTION NUMBER
Tax sale, conduct of public sale	6747
Tax sale, contract for deed sales	6750
Tax sale, county deed filing fee	6747
Tax sale, default of contract for deed	6752
Tax sale, DNR conservation land withheld	6737
Tax sale, extra costs	6747
Tax sale, forfeited tax sale fund	6747/6760
Tax sale, format for list of tax-forfeited land	6745
Tax sale, format for notice of public sale	6745
Tax sale, format for notice to adjoining owners	6745
Tax sale, format for terms of public sale	6745
Tax sale, interest rate on contract sales	6750
Tax sale, land back on tax rolls	6775
Tax sale, land located on public water withheld	6737
Tax sale, land with hazardous waste	6740
Tax sale, list of tax-forfeited land	6745
Tax sale, mailing of notice of public sale	6745
Tax sale, marginal lands and wetlands restricted	6737
Tax sale, minerals reserved by state withheld	6737
Tax sale, notice of public sale	6745
Tax sale, private sale to adjacent owners	6757
Tax sale, public sale procedures	6747
Tax sale, publication of notice of public sale	6745
Tax sale, receipt as proof of purchase	6747
Tax sale, replacement of state deed	6755
Tax sale, restriction for well certificates	6737
Tax sale, satisfaction of contract for deed	6750
Tax sale, sealed bids in Anoka County	6747
Tax sale, state deed fee	6747
Tax sale, state deed for cash purchase	6755
Tax sale, state deed for contract purchase	6755

INDEX: DELINQUENT REAL PROPERTY TAXES SERIES 6900
(Continued) **(Page 17)**

TOPIC HEADING	SECTION NUMBER
Tax sale, state deed tax	6747
Tax sale, terms	6745
Tax sale, time of possession	6747
Taxpayer of record	6130
Terms, suggested format for public sale	6745
Terms, tax-forfeited land sale	6745
Timber sales	6726
Time of possession, tax-forfeited land sale	6747
Unpaid drainage ditch costs, interest rate for	6160
Vacant property	6410
Voluntary conveyance, in lieu of forfeiture	6470
Well certificates, tax sale restriction	6737
Wetlands and marginal lands, tax sale restricted	6737
Withheld from tax sale, conservation land	6737
Withheld from tax sale, land on public water	6737
Withheld from tax sale, minerals reserved by state	6737

TABLE OF CONTENTS

DELINQUENT PERSONAL PROPERTY TAXES

SERIES HEADING	SERIES NUMBER
Introduction: Delinquent Personal Property Taxes	7000
Delinquent Dates and Penalties	7100
Objections to Taxes	7200
Delinquent Tax List	7300
Collection of Delinquent Taxes	7400
Revised Delinquent Tax List	7500
Citations to Delinquent Taxpayers	7600
Court Judgment Against Taxpayers	7700
Administrative Fees	7800
Distribution to Taxing Districts	7900
Calendar: Delinquent Personal Property Taxes	7900A
Delinquent Mobile Home Taxes	7900B
Index: Delinquent Personal Property Taxes	7900C

INTRODUCTION: DELINQUENT PERSONAL TAXES SERIES 7000

PART I: OVERVIEW

Similar to real property taxes, the delinquent personal property tax laws consist of a set of provisions for attempting to collect unpaid personal property taxes and for the subsequent confiscation of the taxpayer's personal and/or real property in lieu of the personal property taxes when they remain delinquent.

Unlike real property taxes, the term, "delinquent," applies to all of the steps in the collection of the unpaid personal property taxes from the time they are declared by law to be delinquent to the end when a court judgment is entered against the delinquent taxpayer.

With personal property taxes, there is no automatic forfeiture of the property on which the taxes are delinquent at the end of a designated time period. Personal property taxes are in personam (against the taxpayer) and not in rem (against the property) as real property taxes are.

With delinquent personal property taxes, the county sheriff is actively involved in the process of attempting to collect the unpaid taxes or seizing personal property from the taxpayer and selling it in lieu of the unpaid taxes.

If the county sheriff is unsuccessful, the court steps in and issues a "judgment" against the taxpayer. The court judgment can be a lien against the taxpayers's real property, personal property, wages, and/or bank accounts for an amount equal to the unpaid personal property tax amount.

The Minnesota legislature has established statutory provisions for the collection of three types of delinquent personal property taxes in the state.

The first type covers delinquent personal property taxes in general. Specifically, this means all delinquent personal property taxes except those levied on leased government-owned property and on manufactured homes. The major provisions for collecting these delinquent personal property taxes are contained in M.S. 277.

The second type covers all delinquent personal property taxes levied on leased government-owned property. The major provisions for collecting these delinquent personal property taxes are also contained in M.S. 277.

The third type covers all delinquent personal property taxes levied on manufactured homes. This includes those manufactured homes which are treated as personal property for taxation purposes. The special deadlines for collecting these delinquent personal property taxes are found in M.S. 277 and in M.S. 274.19.

PART II: ORGANIZATIONAL PLAN

The major provisions for collecting the first two types of delinquent personal property taxes are chronologically divided into nine sections. This includes all delinquent personal property taxes in general and those levied on leased government-owned property. Each section is identified with a Series Number. The Series Numbers run from 7100 through 7900.

Series 7100 covers the first major step in the proceedings: the delinquent dates and penalties. This section highlights the dates when both types of personal property taxes become delinquent and the interest penalty which is charged. It also includes a definition and several examples of the term, "leased government-owned property."

The second major step in the proceedings is covered in Series 7200: taxpayer objections to the taxes. This section summarizes the actions which a taxpayer may take to challenge the delinquent taxes in court. It also outlines the types of judgments that might be rendered by the court in response to a taxpayer's "petition for review."

Series 7300 covers the third major step in the proceedings: the delinquent tax list. This section focuses on the deadlines for the county treasurer to prepare the lists for both types of delinquent personal property taxes and file them with the court administrator. It also explains the legal purpose for filing the list with the court administrator.

The collection of the delinquent taxes is covered in Series 7400 as the fourth major step in the proceedings. The collection involves two major actions: (1) the court administrator issues warrants to the county sheriff, and (2) the sheriff serves the warrants to the taxpayers. The section also summarizes the two methods for the sheriff to collect the taxes and specifies the sheriff's liability in the collection process.

The fifth major step in the proceedings is covered in Series 7500: the revised delinquent tax list. This section presents the following deadlines for both types of delinquent taxes: (1) sheriff files list of uncollected taxes with court administrator, (2) court administrator sends sheriff's list to county treasurer, (3) county treasurer sends sheriff's list to county board, and (4) county auditor files revised list with court administrator.

INTRODUCTION: DELINQUENT PERSONAL TAXES SERIES 7000
(Continued) (Page 3)

Series 7600 covers the sixth major step in the proceedings: the citations against the taxpayers. This section highlights the date for the court administrator to issue citations against the delinquent taxpayers and deliver them to the sheriff. It also explains the methods for the sheriff to serve the citations to the taxpayers.

Series 7700 covers the seventh major step in the proceedings: the court judgment. This section explains the legal effect of a court judgment against the delinquent taxpayers. It includes the types of liens brought against the taxpayers property, the annual interest rate added to the delinquent tax amount under judgment, and the actions required to complete the satisfaction of a court judgment.

The administrative fees which are intended to reimburse the court administrator and the county sheriff for their collection costs are covered in Series 7800. This is the eighth major step in the proceedings. The administrative fees are to be paid by the taxpayers or added to the amount under court judgment.

The ninth major step in the proceedings is covered in Series 7900: the distribution to the taxing districts. This section outlines the methods for distributing the delinquent taxes, penalties, interest, and costs to the local taxing districts.

Series 7900A contains two calendars. Calendar #1 lists the statutory deadlines for collecting all delinquent personal property taxes except those levied on leased government-owned property and manufactured homes. Calendar #2 lists the deadlines for those delinquent taxes levied on leased government-owned property.

The major provisions for collecting the third type of delinquent personal property taxes are covered in Series 7900B. This includes all delinquent personal property taxes levied on manufactured homes. The section contains a definition of a "manufactured home," a list of conditions for a manufactured home to be treated as personal property, and a calendar of the special deadlines for collecting these delinquent taxes.

Series 7900C contains an index to the major topics of the delinquent personal property tax laws covered in this part of the manual. The major topics in the index are alphabetized and cross referenced.

The pages in each Series of this part of the manual are identified with a topic heading and the Series Number. For example, the first Series is identified with the heading, "Delinquent Dates and Penalties," and the Series reference, "Series 7100."

INTRODUCTION: DELINQUENT PERSONAL TAXES SERIES 7000
(Continued) **(Page 4)**

The pages of this part of the manual are not numbered consecutively from the beginning to the end. Instead, the pages within each Series are numbered consecutively. This is done so that one page or all of the pages in a Series can be revised and replaced without having to change the pagination of the whole manual.

Each page in this part of the manual has a footer. With this first edition, the footer includes only the month and year when the manual was finished-- April, 1991. Each time a revision is made in the future, the footer to the revised pages will show the number of the revision and the month and year of the revision.

As a final part of the organizational plan, color-coded, plastic dividers with labelled tabs are used to separate each of the Series in the manual. Blue-colored dividers are used for the second half of the manual which deals with delinquent personal property taxes. The blue-colored dividers are intended to help find a particular Series more quickly.

DELINQUENT DATES AND PENALTIES SERIES 7100

The first step in the delinquent personal property tax proceedings is to determine when the taxes become delinquent and what penalty to charge. (M.S. 277.01, Subd. 1)

There are two different sets of delinquent dates: one for personal property taxes in general; a second one for personal property taxes on leased government-owned property as defined under M.S. 272.01, Subd. 2 and M.S. 273.19. The penalty is the same for both types of delinquent personal property taxes.

DATES + PENALTIES: GENERAL APPLICATION

All personal property taxes except those on leased government-owned property are to be paid in full on or before May 15 or 20 days after the postmark date on the envelope containing the property tax statement. (M.S. 277.01, Subd. 1)

This means that all unpaid personal property taxes except those on leased government-owned property become delinquent on the later of May 16 or 21 days after the postmark date on the envelope containing the property tax statement.

Upon the date of delinquency, a penalty of 8% of the unpaid personal property tax is to be added. At that time, the total delinquent tax amount due is the sum of the unpaid personal property tax plus the 8% penalty.

DATES + PENALTIES: LEASED GOVERNMENT PROPERTY

The 1990 legislature authorized the payment of personal property taxes on leased government-owned property in two, equal installments due on or before the same dates as those for payment of real property taxes: May 15 for the 1st installment and October 15 for the 2nd installment. (M.S. 277.01, Subd. 1)

DELINQUENT DATES AND PENALTIES **SERIES 7100**
(Continued) **(Page 2)**

1. 1ST-HALF INSTALLMENT: UNPAID TAX DELINQUENT ON MAY 16

All 1st-half personal property taxes on leased government-owned property which remain unpaid become delinquent on the later of May 16 or 21 days after the postmark date on the envelope containing the property tax statement.

Upon the date of delinquency, a penalty of 8% of the 1st-half personal property tax which remains unpaid is to be added. At that time, the total delinquent tax amount due is the sum of the 1st-half personal property tax which remains unpaid plus the 8% penalty.

2. 2nd-HALF INSTALLMENT: UNPAID TAX DELINQUENT ON OCTOBER 16

All 2nd-half personal property taxes on leased government-owned property which remain unpaid become delinquent on the later of October 16 or 21 days after the postmark date on the envelope containing the property tax statement.

Upon the date of delinquency, a penalty of 8% of the 2nd-half personal property tax which remains unpaid is to be added. At that time, the total delinquent tax amount due is the sum of the 1st-half and 2nd-half personal property taxes which remain unpaid plus the 8% penalty on the total delinquent tax

DEFINITION: LEASED GOVERNMENT PROPERTY

A taxpayer who is allowed to pay personal property taxes in two installments is one who has leased tax-exempt property owned by a unit of government. The unit of government could be the federal government, the state of Minnesota, a county, a city or township, a port authority, or a housing and redevelopment authority (HRA).

EXAMPLES: ELIGIBLE FOR TWO-INSTALLMENT PLAN

Some of the more common examples which do qualify for the two-installment payment plan for personal property taxes are outlined below.

1. The personal property taxes on a cabin which is located on leased federal land are eligible.

2. The personal property taxes on an airport hanger which is located on leased land owned by a city are eligible.

3. The personal property taxes on a leasehold interest in a parcel of tax-exempt, state-owned land are eligible.

4. The personal property taxes on a building or structure which is located on leased land owned by a port authority are eligible.

EXAMPLES: INELIGIBLE FOR TWO-INSTALLMENT PLAN

The two examples which are outlined below do not qualify for the two-installment payment plan for personal property taxes.

1. The personal property taxes on buildings or structures which are located on leased land owned by a railroad are not eligible.

2. The personal property taxes on gas pipelines and electric utility transmission and distribution lines are not eligible.

SPECIAL CASE: MULTIPLE TAX STATEMENTS

By written resolution, a county board may grant the two-installment payment plan to a property owner who has multiple personal property tax statements with the aggregate taxes exceeding $50.00. (M.S. 277.01, Subd. 1)

OBJECTIONS TO TAXES SERIES 7200

Any person who claims that his or her personal property has been assessed or taxed incorrectly may petition the district court for a ruling on the validity of the assessment or the taxes. (M.S. 277.011, Subd. 1-10)

NOTE: When a petition is filed, the county treasurer is to write or stamp opposite the taxpayer's name on the tax list the notation: "Petition for review filed." The personal property tax under petition is to be excluded from the delinquent personal property tax list for the current year. (M.S. 277.011, Subd. 4)

The conditions and procedures for filing a petition of review and for handling a final court judgment are outlined below.

PETITION: ACCEPTABLE REASONS

The five situations which are outlined below are listed in the statutes as acceptable reasons for filing a petition of objection with the district court. (M.S. 277.011, Subd. 1)

1. The property was unfairly or unequally assessed.

2. The property was assessed at a value greater that its real or actual value.

3. The tax levied on the property is illegal.

4. The tax levied on the property has already been paid.

5. The property is exempt from the personal property tax.

PETITION: FORM AND RECIPIENTS

The petition for review does not have to be in any specific form. The petition is to identify clearly the items of personal property involved and explain explicitly the nature of the objection to the tax. (M.S. 277.011, Subd. 2)

The governmental officials who are to receive copies of the petition for review and the number of copies each official is to receive are outlined below.

1. The county auditor: two copies.

2. The county treasurer: one copy.

3. The county attorney: one copy.

4. The administrator of the district court: one copy.

As soon as possible after the filing, the county auditor is to send one copy of the petition for review to the city or township in which the personal property is located if the city or township employs its own certified assessor. (M.S. 277.011, Subd. 1)

NOTE: The district court may transfer the petition to the tax court for a ruling instead of rendering a judgment on the petition itself. (M.S. 277.011, Subd. 1)

PETITION: DEADLINE JULY 1

A petition of review is to be filed in the office of the administrator of the district court on or before July 1 of the year in which the taxes become payable. No petition of review will be accepted after July 1. (M.S. 277.011, Subd. 1)

PETITION: TAX EXCLUDED FROM DELINQUENT LIST

When a petition is filed, the county treasurer is to write or stamp opposite the taxpayer's name on the tax list the notation: "Petition for review filed." (M.S. 277.011, Subd. 4)

NOTE: The tax under petition is to be excluded from the delinquent personal property tax list for the current year.

PETITION: COURT HEARING

Each petition for review is to be heard by the district court during a general session if the court is in session at the time the petition is filed. (M.S. 277.011, Subd. 5)

If the district court is not in session, the petition for review is to be heard at the next general or special session of the court scheduled to take place within the county.

If no session of the district court is scheduled to be held within 30 days, the petition for review is to be brought to trial at any general session of the court appointed to be held within the judicial district upon a ten-day notice.

NOTE: A petition for review is to take precedence over all other business of the district court at the session where the petition is presented.

PETITION: AUTHORIZED PROSECUTING ATTORNEY

If the city or township in which the personal property is located employs its own assessor, the city or township attorney may prosecute the case upon a written notice to the county attorney and to the petitioner's attorney. The notices are to be given within 20 days after receiving the petition. (M.S. 277.011, Subd. 5)

If the city or township attorney does not give notice, the county attorney is to prosecute the case. The county board may hire any other attorney to assist the county attorney.

PETITION: COURT JUDGMENT

The district court will render one of the following judgments after hearing the arguments for and against the petition of review.

1. JUDGMENT AGAINST PETITIONER: TOTAL TAXES SUSTAINED

With this ruling, the district court judgment requires the petitioner to pay the total personal property taxes which were originally levied and remain unpaid. (M.S. 277.011, Subd. 6)

The petitioner is also required to pay all penalties, interest, and county costs which have accrued on the unpaid personal property taxes and remain unpaid. (M.S. 277.011, Subd. 7)

2. JUDGMENT AGAINST PETITIONER: TAXES INCREASED

With this ruling, the district court judgment requires the petitioner to pay a larger personal property tax than was originally levied. In other words, the petitioner is required to pay the sum of the tax originally levied and the extra amount of tax added by the court judgment. (M.S. 277.011, Subd. 7)

When the tax is increased, the petitioner is also required to pay the penalties, interest, and county costs which have accrued and remain unpaid on the original tax amount. However, no penalties, interest, or county costs have to be paid on the extra amount of tax added by the court judgment.

3. JUDGMENT FOR PETITIONER: TOTAL TAXES CANCELLED

With this ruling, the district court judgment does not require the petitioner to pay any of the total personal property taxes originally levied. Along with the tax, all penalties, interest, and county costs which have accrued on the unpaid tax are cancelled. (M.S. 277.011, Subd. 6-7)

In addition, the petitioner is to be reimbursed for any of the delinquent tax amount paid before the court ruling. (M.S. 277.011, Subd. 9)

4. JUDGMENT FOR PETITIONER: PARTIAL TAXES CANCELLED

With this ruling, the district court judgment requires the petitioner to pay a designated portion of the total personal property taxes levied. (M.S. 277.011, Subd. 6)

If the petitioner has already paid more than the designated portion, the court judgment will authorize a reimbursement. On the other hand, if the petitioner has already paid less than the designated portion, the court judgment will require the petitioner to pay the balance due.

No penalties, interest, or county costs are included in the court judgment because of the failure to pay the reduced tax prior to the judgment. However, the petitioner is required to pay any penalties, interest, or county costs due on any unpaid tax after the judgment. (M.S. 277.011, Subd. 7)

NOTE: The court judgment is final except for the right of review on appeal. (M.S. 277.011, Subd. 10)

PETITION: JUDGMENT ENTERED IN TAX LIST

A certified copy of the court judgment is to be sent to the county auditor and the county treasurer if the tax list is still in the county treasurer's possession. (M.S. 277.011, Subd. 8)

The county treasurer is to correct the tax list and assessment rolls according to the court judgment. The county treasurer is to write or stamp opposite the taxpayer's name the notation, "Judgment entered," and the date of the judgment.

PETITION: WARRANTS OR CERTIFICATES FOR REFUNDS

The county auditor has two options for paying the refunds which are required in a court judgment. (M.S. 277.011, Subd. 9)

1. OPTION #1: IMMEDIATE PAYMENT WITH A WARRANT

The county auditor may draw a warrant upon the county treasurer for the full amount of the refund. The amount of the warrant is to be charged to the taxing districts in proportion to the amount of their taxes included in the levy. The amount is to be deducted from the next distribution to the taxing districts.

2. OPTION #2: CERTIFICATE FOR LATER TAX CREDIT

With the petitioner's consent, the county auditor may issue a certificate for the amount of the refund. The petitioner may use the certificate to pay all or part of any tax due in the future for any local taxing district whose taxes were reduced by the court judgment. (M.S. 277.011, Subd. 9)

When the certificate is used, the amount of the certificate is to be charged to the taxing districts in proportion to the amount of their taxes included in the levy. The amount is to be deducted from the next distribution to the taxing districts.

PETITION: 50% DUE AFTER JULY 1

If there is no court ruling before July 1 of the year when the petition was filed, the petitioner is required to pay to the county treasurer 50% of the tax. (M.S. 277.011, Subd. 3)

To avoid payment, the petitioner is required to apply to the district court for permission to waive the 50%-payment requirement. At least 10 days before July 1, the petitioner is to give the county attorney and the county auditor a 10-day notice of the petitioner's intention to apply for a waiver.

The court may grant the full waiver or require the petitioner to pay an amount less than 50% of the tax. The court's decision is to be based on one or more of the following criteria.

1. The petition for review is given in good faith.

2. The property may be declared exempt from the tax or the tax may be reduced to less than 50% of the amount levied.

3. Payment of the 50% would cause a hardship on the petitioner.

DELINQUENT TAX LIST SERIES 7300

After the unpaid personal property taxes are identified, the county treasurer is responsible for preparing the official delinquent tax lists and filing them with the administrator of the district court. (M.S. 277.02)

LIST #1: PERSONAL PROPERTY TAXES IN GENERAL

This subsection covers the major conditions and procedures for preparing and handling the delinquent tax list for all unpaid personal property taxes except those levied on leased government-owned property.

1. DEADLINE: JUNE 15

Within 30 days of the later of May 15 or 20 days after the postmark date on the envelope containing the property tax statement, the county treasurer is to prepare the delinquent tax list for all unpaid personal property taxes except those on leased government-owned property. (M.S. 277.02)

2. CONTENT: TAXES INCLUDED ON THE LIST

This delinquent tax list prepared by the county treasurer is to include all delinquent personal property taxes (except those levied on leased government-owned property) which remain unpaid at the time the list is prepared. (M.S. 277.02)

NOTE: There is one exception to the above rule. Personal property taxes for which petitions for review by the district court have been filed are not to be included on the list.

See Series 7200 for more detailed information about the petitions for review by the district court.

3. PLACE OF RECORD: COURT ADMINISTRATOR

As soon as possible after preparing it, the county treasurer is to certify the delinquent tax list for all unpaid personal property taxes (except those levied on leased government-owned property) and file it with the administrator of the district court. (M.S. 277.02)

4. LEGAL STATUS: FILING LIST VALIDATES ASSESSMENT AND LEVY

The filing of the certified delinquent tax list for all unpaid personal property taxes (except those levied on leased government-owned property) with the administrator of the district court serves as evidence that all of the laws relating to the assessment and levy of the taxes have been complied with. (M.S. 277.02)

LIST #2: PERSONAL PROPERTY TAXES ON LEASED GOVT LAND

This subsection covers the major conditions and procedures for preparing and handling the delinquent tax list for all unpaid personal property taxes levied on leased government-owned property.

1. DEADLINE: NOVEMBER 15

On or before November 15, the county treasurer is to prepare the delinquent tax list for all unpaid personal property taxes levied on leased government-owned property which remain delinquent on October 16. (M.S. 277.02)

2. CONTENT: TAXES INCLUDED ON THE LIST

This delinquent tax list prepared by the county treasurer is to include all delinquent personal property taxes levied on leased government-owned property which remain unpaid at the time the list is prepared. (M.S. 277.02)

The county treasurer is not authorized to prepare a separate delinquent tax list for the unpaid 1st-half installments when they become delinquent on May 16. Instead, the unpaid 1st-half installments are to be carried over to the fall of the year when one delinquent tax list is to be prepared for both the 1st-half and 2nd-half installments which remain delinquent on October 16.

NOTE: There is one exception to the above rule. Personal property taxes for which petitions for review by the district court have been filed are not to be included on the list.

See Series 7200 for more detailed information about the petitions for review by the district court.

3. PLACE OF RECORD: COURT ADMINISTRATOR

As soon as possible after preparing it, the county treasurer is to certify the delinquent tax list for all unpaid personal property taxes levied on leased government-owned property and file it with the administrator of the district court. (M.S. 277.02)

4. LEGAL STATUS: FILING LIST VALIDATES ASSESSMENT AND LEVY

The filing of the certified delinquent tax list for all unpaid personal property tax levied on leased government-owned property with the administrator of the district court serves as evidence that all of the laws relating to the assessment and levy of the taxes have been complied with. (M.S. 277.02)

COLLECTION OF DELINQUENT TAXES SERIES 7400

After the delinquent tax lists have been filed with the district court administrator, the next step is the collection of the delinquent personal property taxes by the county sheriff. (M.S. 277.03)

The county sheriff is authorized to collect the unpaid personal property taxes in one of two ways: (1) obtain payment from the taxpayer in person, or (2) seize personal property from the taxpayer and sell it.

The major conditions and procedures for the collection of all delinquent personal property taxes (including those levied on leased government-owned property) and the seizure and sale of personal property are outlined below.

SHERIFF'S WARRANT: 10TH WORKDAY AFTER RECEIVING LIST

On the 10th workday after receiving the delinquent tax lists from the county treasurer, the administrator of the district court is to issue a warrant to the county sheriff. The warrant directs the county sheriff to collect the unpaid taxes and the 8% penalty due on each parcel included on each list of delinquent personal property taxes. (M.S. 277.03)

NOTE: The deadline for issuing the warrant to the county sheriff applies to both of the delinquent tax lists which are described in Series 7300 and outlined below.

1. The delinquent tax list for all personal property taxes (except those levied on leased government-owned property) which are due in full on or before May 15 and become delinquent on May 16.

2. The delinquent tax list for all personal property taxes levied on leased government-owned property of which one-half is due on or before May 15 and becomes delinquent on May 16 and the other half is due on or before October 15 and becomes delinquent on October 16.

COLLECTION METHOD #1: DIRECT PAYMENT

Under this method of collection, the county sheriff or a deputy is to go to the local address of each taxpayer on the delinquent personal property tax list and attempt to collect the unpaid taxes and the 8% penalty in person. (M.S. 277.03)

The delinquent personal property taxes and the 8% penalty which are collected personally by the county sheriff or a deputy are to be paid to the county treasurer. The county treasurer is to record the payments in the delinquent personal property tax list and add them to the taxes to be distributed to the appropriate taxing districts.

COLLECTION METHOD #2: SEIZURE AND SALE

If the delinquent personal property taxes cannot be collected in person, the county sheriff is authorized to seize as much of the taxpayer's personal property as will pay all or part of the following: (1) the delinquent taxes, (2) the 8% penalty, (3) the county costs, and (4) the amount of a fee set by the county board for the court administrator. (M.S. 277.03)

Immediately after seizing the property, the county sheriff is to give at least a 10-day notice of a proposed public sale of the property seized for taxes. The 10-day notice is to be given in the city or town where the property was seized. It is to contain a description of the property and the location and date of the public sale.

If the taxpayer does not pay the total delinquent amount within the 10-day period, the county sheriff is to offer the property at public sale as stated in the notice. The money received from the public sale is to be paid to the county treasurer in lieu of the delinquent taxes. (M.S. 277.03)

SHERIFF'S LIABILITY: NOTIFY LIENHOLDERS

All personal property taxes along with all penalties, interest, costs, and fees are a superior and perpetual lien to all other liens on the property except the vendor's interest in conditional sales contracts. (M.S. 272.50)

If the county sheriff seizes property to satisfy a personal property tax debt, the sheriff is required to mail a certified notice to all parties who hold a lien against the personal property. Lienholders may pay the personal property tax due and be entitled to a lien themselves.

SHERIFF'S LIABILITY: FAILURE TO PERFORM DUTIES

If the county sheriff refuses or neglects to collect any personal property taxes or return the list of delinquent personal property taxes to the district court administrator, the county sheriff may be held liable for the amount of uncollected taxes. (M.S. 277.12)

The amount of any uncollected personal property taxes for which the county sheriff is found liable is to be deducted from any bills presented by the sheriff's office to the county board.

REVISED DELINQUENT TAX LIST SERIES 7500

The next step in the proceedings is to revise the delinquent personal property tax lists to account for the taxes collected and not collected by the county sheriff. (M.S. 277.05; 277.06)

The major tasks which are to be performed by the county officials in order to produce the revised delinquent tax lists for the two types of personal property taxes are outlined below.

SHERIFF FILES LIST WITH DISTRICT COURT

By the deadlines listed below, the county sheriff is to return to the administrator of the district court each list of uncollected personal property taxes. (M.S. 277.05)

Each of the lists of uncollected personal property taxes is to contain the new address of any taxpayer who has moved and the date when the move took place.

Each of the lists of uncollected personal property taxes is to be accompanied by an affidavit certifying that the county sheriff or a deputy made every effort possible to collect the taxes or to seize personal property to be sold even though they were unsuccessful.

1. LIST FOR GENERAL TAXES: DEADLINE JULY 15

The deadline for the county sheriff to return to the administrator of the district court the list of all uncollected personal property taxes (except those levied on leased government-owned property) is 30 days after the date when the county treasurer prepares the list and files it with the court administrator. (M.S. 277.05)

This refers to those personal property taxes which are due in full on or before May 15 and become delinquent on May 16.

See Series 7300 for the date when the county treasurer prepares the delinquent tax list for these unpaid personal property taxes.

2. LIST FOR LEASED GOVT LAND: DEADLINE DECEMBER 15

The deadline for the county sheriff to return to the administrator of the district court the list of all uncollected personal property taxes levied on leased government-owned property is December 15. (M.S. 277.05)

This refers to those personal property taxes of which one half is due on or before May 15 and becomes delinquent on May 16 and the other half is due on or before October 15 and becomes delinquent on October 16.

See Series 7300 for the date when the county treasurer prepares the delinquent tax list for these unpaid personal property taxes.

SHERIFF FILES WARRANTS WITH DISTRICT COURT

Along with the list of uncollected taxes, the county sheriff is to return to the court administrator all of the warrants showing what was done at the taxpayer's premises to try to collect the taxes or seize the appropriate property. The administrator of the district court is to file and preserve the warrants. (M.S. 277.05)

COURT SENDS SHERIFF'S LIST TO TREASURER

By the deadlines listed below, the administrator of the district court is to send the county sheriff's lists of uncollected personal property taxes and the affidavits to the county treasurer. (M.S. 277.05)

1. LIST FOR GENERAL TAXES: DEADLINE JULY 25

The deadline for the court administrator to send the county sheriff's lists of all uncollected personal property taxes (except those levied on leased government-owned property) and the affidavits to the county treasurer is 10 days after the court administrator receives the lists from the county sheriff. (M.S. 277.05)

This refers to those personal property taxes which are due in full on or before May 15 and become delinquent on May 16.

See the above subsection of this Series 7500 for the date when the county sheriff is to file the lists of uncollected taxes with the court administrator.

2. LIST FOR LEASED GOVT LAND: DEADLINE DECEMBER 24

The deadline for the court administrator to send the county sheriff's lists of all uncollected personal property taxes levied on leased government-owned property to the county treasurer is December 24. (M.S. 277.05)

This refers to those personal property taxes of which one half is due on or before May 15 and becomes delinquent on May 16 and the other half is due on or before October 15 and becomes delinquent on October 16.

See Series 7300 for the date when the county treasurer prepares the delinquent tax list for these unpaid personal property taxes.

TREASURER ATTACHES CERTIFICATE TO SHERIFF'S LISTS

By comparing the sheriff's lists of uncollected personal property taxes with the tax duplicates, the county treasurer is to verify that all of the delinquent personal property taxes except those on the sheriff's lists have been paid. (M.S. 277.05)

The county treasurer is to attach to the sheriff's lists of uncollected personal property taxes a certificate stating this fact and itemizing the taxes that have been paid.

TREASURER SENDS LIST TO COUNTY BOARD

At the next board meeting, the county treasurer is to present the sheriff's list of uncollected personal property taxes, the sheriff's affidavit, and the treasurer's attached certificate to the county board. (M.S. 277.05)

The county board is to examine the sheriff's list of uncollected personal property taxes. The board may revise the list by cancelling any of the uncollected personal property taxes which the board believes can never be collected.

A copy of the revised list of delinquent personal property taxes and a separate list of the cancelled taxes is to be included in the records of the county board meeting and published as part of the board proceedings.

AUDITOR FILES REVISED LIST WITH COURT

By the deadlines listed below, the county auditor is to file a copy of the revised list of delinquent personal property taxes and affidavit with the administrator of the district court. (M.S. 277.06)

1. LIST FOR GENERAL TAXES: DEADLINE SEPTEMBER 5

The deadline for the county auditor to file with the court administrator a copy of the revised list of all delinquent personal property taxes (except those levied on leased government-owned property) and the affidavit is the earlier of September 5 or 10 days after the county board adjourns.

This refers to those personal property taxes which are due in full on or before May 15 and become delinquent on May 16. See the above subsection of this Series 7500 for the date when the county board meets to revise the sheriff's list of uncollected taxes.

2. LIST FOR LEASED GOVT LAND: DEADLINE FEBRUARY 15

The deadline for the county auditor to file with the court administrator a copy of the revised list of all delinquent personal property taxes levied on leased government-owned property and the affidavit is February 15. (M.S. 277.06)

This refers to those personal property taxes of which one half is due on or before May 15 and becomes delinquent on May 16 and the other half is due on or before October 15 and becomes delinquent on October 16. See Series 7300 for the date when the county treasurer prepares the delinquent tax list for these unpaid personal property taxes.

CITATIONS TO DELINQUENT TAXPAYERS SERIES 7600

After the revised delinquent tax lists have been filed with the administrator of the district court, the next step is to call the taxpayers who are named on the revised list before the district court. This is done by the issuance of court citations. (M.S. 277.06)

The process of issuing the court citations involves two stages: (1) the court administrator issues the citations and delivers them to the sheriff, and (2) the county sheriff serves the citations to the taxpayers.

The major conditions and procedures for the issuance and service of the citations are outlined below. They apply equally to the revised lists for personal property taxes in general and to the separate revised lists for personal property taxes levied on leased government-owned property.

COURT ISSUES CITATIONS: 10 DAYS AFTER RECEIPT OF LIST

Within 10 days after receiving the revised list of delinquent personal property taxes from the county auditor, the administrator of the district court is to issue a citation to each taxpayer who is named on the list. (M.S. 277.06)

The citations issued by the court adiministrator are to contain at least the following information.

1. The amount of the delinquent tax, the 8% penalty, and the administrative costs.

2. A statement that the taxpayer is to pay the delinquent tax, the 8% penalty, and the administrative costs within 30 days.

3. A statement that, if the delinquent tax, the 8% penalty, and the administrative costs are not paid within 30 days, the taxpayer is to appear before the district court on a day set by the court to show cause why the total delinquent tax amount should not be paid.

4. A statement that, if the taxpayer does not pay the total amount due or does not appear before the court to give cause why payment should not be made, the court is to direct judgment against the taxpayer for the total delinquent tax amount due.

NOTE: The date for the appearance of the taxpayers before the district court is to be set for no later than 30 days after the issuing of the court citations. (M.S. 277.06)

COURT DELIVERS CITATIONS TO COUNTY SHERIFF

The administrator of the district court is to deliver the court citations for delinquent personal property taxes to the county sheriff. (M.S. 277.06)

NOTE: Although the statutes do not specify a deadline, it is assumed that the citations should be delivered as soon as possible after the court administrator issues them.

SHERIFF SERVES CITATIONS TO TAXPAYERS

After receiving them from the court administrator, the county sheriff is responsible for having the court citations served to the taxpayers in person. (M.S. 277.06)

NOTE: Although the statutes do not specify a deadline, it is assumed that the court citations should be delivered as soon as possible after the county sheriff receives them. The taxpayers have only 30 days after the issuance of the citations to pay or challenge the delinquent tax amount before a court judgment is to be entered against them.

The major conditions and procedures for handling the court citations in unusual situations are outlined below.

1. CITATIONS SERVED TO NONRESIDENTS: PUBLICATION

When a court citation cannot be served in person because the taxpayer is not a resident of the state, the county sheriff may serve the citation by publication. (M.S. 277.08)

The publication is to be made in the same way that a publication is made against a non-resident in a civil suit. The sheriff should contact the county attorney for advice in these cases.

2. CITATIONS SERVED TO ASSIGNEES: NOT TAXPAYERS

The county sheriff is authorized to serve a court citation to the party to whom a trust estate or the residue of an estate has been assigned. (M.S. 277.07)

EXCEPTION: No citation can be served to a creditor when the assignment was made for the benefit of the creditor.

3. CITATIONS WHICH CANNOT BE SERVED: REPEAT THE PROCESS

When the county sheriff is unable to serve a court citation, the sheriff is to return the citation to the court administrator with a written verification of the unsuccessful attempt. (M.S. 277.06)

Upon the request of the county attorney, the court administrator is to issue another court citation containing the same conditions and requirements as the former one.

COURT JUDGMENT AGAINST TAXPAYERS SERIES 7700

After the court citations have been served and the 30-day grace period after issuance of the citations has expired without payment of the delinquent tax amount, the next step in the proceedings is for the district court to enter judgment against the delinquent taxpayers. (M.S. 277.06)

On the date set for the court hearing, the district court is to enter judgment against each taxpayer on the revised list of delinquent personal property taxes who has not paid the delinquent tax amount or who does not appear before the court to show cause why the delinquent tax amount should not be paid.

In general, the court judgment orders each delinquent taxpayer to pay the delinquent tax amount or face the legal consequences.

NOTE: The "delinquent tax amount" is equal to the sum of the unpaid taxes, the 8% penalty, and the administrative costs which are under court judgment. It also includes any interest which may have accrued on the sum of the taxes, penalty, and costs.

The legal consequences of failing to pay the delinquent tax amount under court judgment are outlined below.

COURT JUDGMENT: LIEN AGAINST REAL PROPERTY

Once the judgment is entered by the court, the delinquent tax amount becomes a lien against all real property owned by the taxpayer and located in the county where the court judgment is entered. (M.S. 277.14)

Personal property tax judgments may be entered in any other county in Minnesota and will also become liens against all the taxpayer's real property located in those counties.

NOTE: This lien on all real property is in addition to the lien against the personal property itself.

JUDGMENT: OTHER LIENS AGAINST TAXPAYER

Because the personal property tax is in personam (against the person), the taxpayer's wages, bank account, and certain other property may be seized to satisfy the court judgment against the delinquent tax amount.

Some counties also use the Revenue Recapture Act to seize state income tax refunds and real property tax refunds to apply against delinquent taxes on mobile homes which are classified and treated as personal property. (M.S. 270A)

JUDGMENT: INTEREST RATES

The delinquent tax amount (the sum of the delinquent taxes, the 8% penalty, and the administrative costs) which is under court judgment is subject to an annual rate of interest until paid. (M.S. 277.15)

The rate of interest is the same as that used for delinquent real property taxes. The various rates and when they are in effect are outlined below.

1. 6% rate: Through December 31, 1980.

2. Floating rate: January 1, 1981 through December 31, 1990.
   (M.S. 549.09)

3. Adjusted prime rate: Beginning January 1, 1991.
   (Maximum of 14%; minimum of 10%.) (M.S. 270.75, Subd. 5)

NOTE: See Section 6160 for more detailed information about the interest rates.

JUDGMENT: SATISFACTION

The major tasks which are to be performed by the county officials to handle the payment of the delinquent tax amount under court judgment and to satisfy the court judgment itself are outlined below. (M.S. 277.16)

The tasks apply equally to the payment of delinquent personal property taxes in general and to the payment of delinquent personal property taxes levied on leased government-owned property.

1. TASK #1: TREASURER CERTIFIES PAYMENT TO COURT ADMINISTRATOR

When the delinquent tax amount under court judgment is paid to the county treasurer, the treasurer is to certify the amount of the payment in writing to the administrator of the district court.

2. TASK #2: ADMINISTRATOR RECORDS PAYMENT IN TAX LIST

After receiving the certification from the county treasurer, the administrator of the district court is to record the amount of the payment in the revised list of delinquent personal property taxes.

The entry in the revised list is to include the date of payment and the number of the receipt given for payment.

3. TASK #3: ADMINISTRATOR RECORDS SATISFACTION

Finally, the administrator of the district court is to record the satisfaction of the court judgment on the district court docket.

ADMINISTRATIVE FEES SERIES 7800

The administrator of the district court and the county sheriff are authorized to receive special fees as reimbursement for the administrative costs of collecting the delinquent personal property taxes. (M.S. 277.10; 277.11)

The major provisions for the collection of the administrative fees are outlined below.

The major provisions apply equally to the administrative fees for the collection of delinquent personal property taxes in general and for the collection of delinquent personal property taxes levied on leased government-owned property.

FEES: COURT ADMINISTRATOR

The administrator of the district court is authorized to receive a fee to pay for the administrative costs of issuing the court citations and for entering the court judgments in cases not contested by the delinquent taxpayers. The amount of the fee is to be set by the county board. (M.S. 277.10)

The court administrator is also authorized to receive a fee to pay for the administrative costs of working with contested cases where court judgments are entered by the court itself. In these cases, the amount of the fee is the same as that allowed by law in any civil action.

The court administrator's fees are to be collected by the county sheriff along with the delinquent personal property taxes, the 8% penalty, and the county sheriff's fees. The sum of the above items is referred in this manual as the "delinquent tax amount."

Any of the court administrator's fees which are not collected by the county sheriff are to be made a part of the court judgment.

FEES: COUNTY SHERIFF

The county sheriff is authorized to receive a fee to pay for the administrative costs of collecting the delinquent personal property taxes and for seizing and selling personal property to pay for uncollected taxes. (M.S. 277.11)

The amount of the fee is the same as that allowed for making levy and sale of property for any civil judgment.

Any traveling fee for the county sheriff is to be computed from the county seat to the place of collection or seizure. If the traveling is done by a deputy, the fee is to be computed from the home of the deputy to the place of collection or seizure.

The county sheriff's fees are to be collected along with the delinquent personal property taxes, the 8% penalty, and the court administrator's fees. The sum of the above items is referred in this manual as the "delinquent tax amount."

If the county sheriff's fees are not collected by the sheriff, the fees are to be made a part of the court judgment.

DISTRIBUTION TO TAXING DISTRICTS SERIES 7900

When delinquent personal property taxes are collected, the county auditor and treasurer have the responsibility of settling and distributing the revenues to the local taxing districts.

There are two methods of settlement and distribution which should be followed by the counties. One method is for the delinquent personal property taxes themselves. The other method is for the penalties, interest, and costs.

The two methods of settlement and distribution apply equally to delinquent personal property taxes in general and to those levied on leased government-owned property.

The two methods of settlement and distribution are outlined below.

METHOD #1: DISTRIBUTION OF DELINQUENT TAXES

The Department of Revenue recommends that all receipts of delinquent personal property taxes themselves be settled and distributed to the local taxing districts at the same times and in the same manner provided for the current real and personal property taxes. (M.S. 276.09; 276.10; 276.11)

This settlement and distribution rule should apply to all receipts from actual collections of delinquent personal property taxes and receipts from seizure and sale of personal property in lieu of collections of delinquent taxes.

Please refer to the calendar of property tax due dates, settlement dates, and distribution dates prepared by the Local Government Services Division of the Department of Revenue and mailed to the counties each year. This calendar represents the Department's interpretation of the deadlines established in the above statutes.

METHOD #2: DISTRIBUTION OF PENALTIES, INTEREST, AND COSTS

The Department of Revenue recommends that the counties distribute the penalties, interest, and costs collected with the delinquent personal property taxes according to the provision for distributing penalties, interest, and costs collected with delinquent real property taxes. (M.S. 276.131)

Under the Department's interpretation of the provisions of the above statute, all penalties, interest, and costs should be distributed according to the following plan.

1. 50% of all PENALTIES and INTEREST to the county.

2. 50% of all PENALTIES and INTEREST to the school districts in accordance with the provisions of M.S. 124.10. Contact the Department of Education for more information about the method of distribution under M.S. 124.10.

   NOTE: There is no provision for a distribution of penalty and interest to a tax increment financing district or to the city in which a tax increment financing district is located.

3. 100% of all COSTS to the county.

   NOTE: The "costs" referred to above and in other parts of the manual are the same as the "fees" which are discussed in Series 7800. They should be distributed directly to the administrator of the district court and the county sheriff.

CALENDAR: DELINQUENT PERSONAL PROPERTY TAXES SERIES 7900A

There are two calendars listed below. Calendar #1 is for all delinquent personal property taxes except those levied on leased government-owned property and manufactured homes. Calendar #2 is for all delinquent personal property taxes levied on leased government-owned property.

Calendar #1 and Calendar #2 show the statutory deadlines for completing the major steps in the delinquent personal property tax proceedings beginning with the first step of determination and ending with the court judgment.

NOTE: A calendar with the special deadlines for collecting the delinquent personal property taxes on manufactured homes is included in Series 7900B.

CALENDAR #1: PERSONAL PROPERTY TAXES IN GENERAL

May 15 (Or 20 Days After Post-mark Date)	Last day to pay personal property taxes in full except those on leased government-owned land. (M.S. 277.01)
May 16 (Or 21 Days After Post-mark Date)	Unpaid personal property taxes due in full by May 15 become delinquent and 8% penalty accrues. (M.S. 277.01)
June 15 (Or 30 Days After Due Date)	County treasurer files list of delinquent taxes except those with petitions of review with administrator of district court. (M.S. 277.02)
End of June (10 Workdays After Treas. Files List With Court)	Court administrator issues warrants to county sheriff directing sheriff to collect delinquent taxes, penalties, and costs. (M.S. 277.03)

CALENDAR: DELINQUENT PERSONAL PROPERTY TAXES SERIES 7900A
(Continued) (Page 2)

July 1	Last day for taxpayers to file petitions of review with court administrator objecting to delinquent taxes. (M.S. 277.011)
July (1st-Half of Month)	County sheriff collects delinquent taxes or seizes and sells property in lieu of taxes. (M.S. 277.05)
July 15 (30 Days After Treasurer Files List With Court)	County sheriff files list of uncollected delinquent taxes with court administrator. (M.S. 277.05)
July 25 (Or 10 Days After Sheriff Files List)	Court administrator delivers sheriff's list of uncollected delinquent taxes to county treasurer. (M.S. 277.05)
August (Next Board Meeting)	County treasurer delivers sheriff's list of uncollected taxes and affidavit and treasurer's certificate to county board for review and revision. (M.S. 277.05)
September 5 (Or 10 Days After Board Meeting)	County auditor files copy of revised list of uncollected taxes with court administrator. (M.S. 277.06)

CALENDAR: DELINQUENT PERSONAL PROPERTY TAXES SERIES 7900A
(Continued) **(Page 3)**

September 15 (Or 10 Days After Receipt of List)	Court administrator issues a citation to each taxpayer on revised list of uncollected taxes and delivers citations to sheriff. (M.S. 277.06)
October 15 (Within 30 Days After Receipt of Citations)	County sheriff serves citations to delinquent taxpayers on revised list of uncollected taxes. Taxpayers have 30 days after issuance to pay, challenge taxes in court, or receive judgment against them for taxes. (M.S. 277.06)
October 16 (After 30-Day Grace Period Has Expired)	District court judgment is entered against each taxpayer on revised list of uncollected taxes who has not paid delinquent tax amount or challenged it in court. (M.S. 277.06)

CALENDAR #2: TAXES ON LEASED GOVERNMENT-OWNED LAND

May 15 (Or 20 Days After Post-mark Date)	Last day to pay 1st-half installment of personal property taxes on leased government-owned land. (M.S. 277.01)
May 16 (Or 21 Days After Post-mark Date)	Unpaid 1st-half installment of personal property taxes on leased government-owned land becomes delinquent and 8% penalty accrues. (M.S. 277.01)
July 1	Last day for taxpayers to file petitions of review with court administrator objecting to delinquent personal property taxes on leased government-owned land. (M.S. 277.011)
October 15	Last day to pay 2nd-half installment of personal property taxes on leased government-owned land. (M.S. 277.01)
October 16	Unpaid 2nd-half installment of personal property taxes on leased government-owned land becomes delinquent and 8% penalty accrues. (M.S. 277.01)
November 15	County treasurer files list of both 1st-half and 2nd-half delinquent personal property taxes on leased government-owned land with administrator of district court. (M.S. 277.02)

CALENDAR: DELINQUENT PERSONAL PROPERTY TAXES SERIES 7900A
(Continued)

End of November (10 Workdays After Treas. Files List With Court)	Court administrator issues warrants to county sheriff directing sheriff to collect delinquent personal property taxes, penalties, and costs on leased government-owned land. (M.S. 277.03)
December (1st-Half of Month)	County sheriff collects delinquent personal property taxes on leased government-owned land or seizes and sells property in lieu of taxes. (M.S. 277.05)
December 15	County sheriff files list of uncollected delinquent personal property taxes on leased government-owned land with court administrator. (M.S. 277.05)
December 24	Court administrator delivers sheriff's list of uncollected delinquent personal property taxes on leased government-owned land to county treasurer. (M.S. 277.05)
January (Next Board Meeting)	County treasurer delivers sheriff's list of uncollected delinquent personal property taxes on leased government-owned land and affidavit and treasurer's certificate to county board for review and revision. (M.S. 277.05)

CALENDAR: DELINQUENT PERSONAL PROPERTY TAXES SERIES 7900A
(Continued)

February 15 (Or 10 Days After Board	County auditor files copy of revised list of delinquent personal property taxes on leased government-owned land with court administrator. (M.S. 277.06)
February 25 (Or 10 Days After Receipt of List)	Court administrator issues a citation to each taxpayer on revised list of delinquent personal property taxes on leased government-owned land and delivers citations to sheriff. (M.S. 277.06)
March 25 (Within 30 Days After Receipt of Citations)	County sheriff serves citations to delinquent taxpayers on revised list of delinquent personal property taxes on leased government-owned land. Taxpayers have 30 days after issuance to pay, challenge taxes in court, or receive judgment against them for taxes. (M.S. 277.06)
March 26 (After 30-Day Grace Period Has Expired)	District court judgment is entered against each taxpayer on revised list of delinquent personal property taxes on leased government-owned land who has not paid delinquent tax amount or challenged it in court. (M.S. 277.06)

DELINQUENT MANUFACTURED HOME TAXES SERIES 7900B

Any unpaid personal property tax on a manufactured home which is treated as personal property is subject to the delinquent personal property tax laws summarized in Series 7100 through 7900 except for several deadlines.

A definition of a manufactured home used for taxation purposes, a list of criteria which qualify a manufactured home to be treated as personal property, and a calendar showing the special deadlines for the collection of delinquent personal property taxes on manufactured home are outlined below.

MANUFACTURED HOME: DEFINITION

A manufactured home is defined under M.S. 274.19, Subd. 8(a) as follows:

"...a manufactured home means a structure transportable in one or more sections, which is built on a permanent chasis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and contains the plumbing, heating, air-conditioning, and electrical systems therein, including any accessory structure which is an addition or supplement to the manufactured home and when installed, becomes a part of the manufactured home."

MANUFACTURED HOME: PERSONAL PROPERTY

A manufactured home which meets each of the criteria listed below is to be treated as personal property for taxation purposes. (M.S. 274.19, Subd. 8(c))

1. The owner of the manufactured home leases or rents the land on which the unit is located.*

2. The manufactured home is attached to the land by a permanent foundation, is installed according to the state manufactured home building code, or is attached to the land in a way comparable to other real property in the taxing district.

3. The mobile home is connected to public utilities, has a well and septic tank system, or is serviced by water and sewer facilities comparable to other real property in the taxing district.

*NOTE: The first criterion is the key factor in determining whether a manufactured home is to be treated as real or personal property. If the owner of the home holds title to the land on which it is located, the home is treated as real property. If the owner is leasing the land, the home is treated as personal property. The other two criteria are the same for homes treated as real and personal property.

MANUFACTURED HOME: INTEREST RATES

The delinquent tax amount (the sum of the delinquent taxes, the 8% penalty, and the administrative costs) which is under court judgment is subject to an annual rate of interest until paid. (M.S. 277.15)

The rate of interest is the same as that used for delinquent real and other personal property taxes. The various rates and when they are in effect are outlined below.

1. 6% rate: Through December 31, 1980.

2. Floating rate: January 1, 1981 through December 31, 1990.
   (M.S. 549.09)

3. Adjusted prime rate: Beginning January 1, 1991.
   (Maximum of 14%; minimum of 10%.) (M.S. 270.75, Subd. 5)

NOTE: See Section 6160 for more detailed information about the interest rates.

MANUFACTURED HOME: SPECIAL DEADLINES

To repeat, any unpaid personal property tax on a manufactured home which is treated as personal property is subject to the delinquent personal property tax laws summarized in Series 7100 through 7900 except for several deadlines.

The special deadlines for handling delinquent personal property taxes on manufactured homes which are treated as personal property are outlined below.

AUGUST 31	Last day for taxpayer to pay personal property taxes on manufactured homes without penalty. (M.S. 274.19, Subd. 3)
SEPTEMBER 1	All unpaid personal property taxes on manufactured homes become delinquent and 8% penalty accrues. (M.S. 274.19, Subd. 3)
SEPTEMBER 30	County treasurer prepares list of delinquent personal property taxes on manufactured homes and certifies list to administrator of district court who issues warrants to county sheriff for collection. (M.S. 274.19, Subd. 3)
DECEMBER 1	County sheriff files list of uncollected delinquent personal property taxes on manufactured homes with court administrator. (M.S. 277.05)
DECEMBER 10	Court administrator delivers sheriff's list of uncollected delinquent personal property taxes on manufactured homes to county treasurer. (M.S. 277.05)

DELINQUENT MANUFACTURED HOME TAXES (CONTINUED) SERIES 7900B (PAGE 5)

JANUARY (Next Board Meeting)	County treasurer delivers sheriff's list of uncollected delinquent personal property taxes on manufactured homes and affidavit and treasurer's certificate to county board for review and revision. (M.S. 277.05)
JANUARY 20	County auditor files copy of revised list of delinquent personal property taxes on manufactured homes with court administrator. (M.S. 277.06)
JANUARY 30 (Or 10 Days After Receipt of List)	Court administrator issues a citation to each taxpayer on revised list of delinquent personal property taxes on manufactured homes and delivers citations to sheriff. (M.S.) 277.06)
MARCH 1 (Within 30 Days After Receipt of Citations)	County sheriff serves citations to delinquent taxpayers on revised list of delinquent personal property taxes on manufactured homes. Taxpayers have 30 days after issuance to pay, challenge taxes in court, or receive judgment against them for taxes. (M.S. 277.06)
MARCH 2 (After 30-Day Grace Period Has Expired)	District court judgment is entered against each taxpayer on revised list of delinquent personal property taxes on manufactured homes who has not paid delinquent tax amount or challenged it in court. (M.S. 277.06) Interest begins to accrue on the amount under tax judgment. (M.S. 277.15)

Questions/Answers Regarding the Distribution of Interest on Delinquent Real/Personal Property Taxes
(Laws 1999, Chapter 243, Article 5, Section 26)

The new law provides that cities and towns will receive a share of the interest on certain delinquent real or personal property taxes that have been collected. The new law does **not** affect the distribution of interest on delinquent real or personal property taxes to school districts. School districts still receive 50% of the interest as under previous law. However, the remaining 50% of the interest is to be split between the county and the city or town in which the property is located, based on their net tax capacity local tax rates for the taxes payable year in which the interest was collected. The law change is effective for the interest on delinquent real and personal property taxes collected after June 30, 1999, provided that the taxes were delinquent for a period of more than one year.

Question #1: Payable 1997 property taxes that went delinquent January 2, 1998 are collected (along with penalties and interest) on June 30, 1999. Is the non-school share of the interest on these delinquent property taxes to be distributed under the new law?

Answer #1: No. These delinquent property taxes were collected (along with penalties and interest) prior to July 1, 1999, the effective date of the law change. Therefore, the non-school share of the interest is to be paid entirely to the county under the provisions of the previous law.

Question #2: Payable 1998 property taxes that went delinquent January 4, 1999 are collected (along with penalties and interest) on August 5, 1999. Is the non-school share of the interest on these delinquent property taxes to be distributed under the new law?

Answer #2: No. These property taxes were delinquent for less than one year. Only the interest on taxes that have been delinquent for more than one year may be distributed under the provisions of the new law. Therefore, the non-school share of the interest is to be paid entirely to the county, the same as under the provisions of the previous law.

Question #3: Payable 1997 property taxes that went delinquent January 2, 1998 are collected (along with penalties and interest) on August 5, 1999. Is the non-school share of the interest on these delinquent property taxes to be distributed under the new law?

Answer #3: Yes. These property taxes were delinquent for more than one year **and** were collected after June 30, 1999. The city or town in which the property is located is to receive a share of the 50% non-school portion of the interest.

Question #4: Payable 1997 property taxes that went delinquent January 2, 1998 are collected (along with penalties and interest) on August 5, 1999. Which net tax capacity local tax rates are to be used to determine the apportionment of the non-school share of the interest?

Answer #4: The payable 1999 net tax capacity local tax rates of the county and of the city or town in which the property is located are to be used to make this apportionment. Under the new law the rates for the year of **collection** are to be used. You do not use the rates for the year in which the taxes were levied or the rates for the year in which the taxes became delinquent for the purpose of this distribution. Also, you do not use the market value local tax rates (if any) to make this distribution. Only the net tax capacity local tax rates are to be used.

Example

1. Interest on delinquent real or personal property taxes delinquent for more than one year, and collected after June 30, 1999	$	1,000.00
2. School district share (1 x 50%)	$	500.00
3. Non-school share (1 – 2)	$	500.00
4. Net tax capacity local tax rates for the year of collection		
a. County		40.000%
b. City or town		30.000%
c. Total (a + b)		70.000%
5. City/town share of interest (3 x b/c)	$	214.29
6. County share of interest (3 – 5)	$	285.71