



# **Delinquent Tax and Tax Forfeiture Manual**

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# Chapter 1: Introduction

## Overview

The “Red Book” is a manual prepared and maintained, with county input, by the Property Tax Division of the Minnesota Department of Revenue. It is intended as a guide for county auditors and county land commissioners to use in the administration of the law concerning property tax delinquency and tax forfeiture of real property. Examples are given throughout the manual to illustrate processes and concepts. The cases are fictional situations that are 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. Not every potential delinquent tax or tax forfeiture situation is covered in this manual. If you have questions about specific circumstances, please contact the Department of Revenue for further consultation.

Because seizure of the property 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. The Minnesota Legislature has gradually built the major provisions of the delinquent real property tax laws into four chapters in statute:

- [Minnesota Statutes, Chapter 279: Delinquent Real Estate Taxes](#)
- [Minnesota Statutes, Chapter 280: Real Estate Tax Judgment Sales](#)
- [Minnesota Statutes, Chapter 281: Real Estate Tax Sales and Redemption](#)
- [Minnesota Statutes, Chapter 282: Tax-Forfeited Land Sales](#)

## Stages of Property Tax Delinquency and Forfeiture

The property tax delinquency and forfeiture process can be broken down into six stages:

### 1. Stage One: Determination of Delinquent Taxes

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.

## 2. Stage Two: Publication of Delinquent Taxes

Steps are taken to announce the delinquent taxes and the impending court judgment. 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.

## 3. Stage Three: Court Judgment Against Delinquent Taxes

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.

## 4. Stage Four: Redemption Period and [Confession of Judgment](#)

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 three-year [period of redemption](#) or a confession of judgment.

## 5. Stage Five: Expiration of Redemption and Forfeiture

The time periods allowed for redemption or confession of judgment to expire. The titles to the properties with unpaid taxes are forfeited to the state in trust for the local taxing districts.

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

The tax-forfeited land held by the state in trust for the local taxing districts is returned to the public or private sector of the community.

If the tax-forfeited land is 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 indirectly benefits from the public use of the tax-forfeited land.

If the tax-forfeited land is sold to a third party or repurchased by the former owner, the local taxing districts receive at least a portion of the lost tax revenue from the distribution of the basic sale or repurchase price. Additionally, the parcel returns to the tax lists and begins 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.



# Chapter 2: Determination

## Introduction: Stage One

[Determination](#) involves identifying and officially listing which taxes remain unpaid after the year in which they are due. The major tasks that must be accomplished in order to complete this first stage are:

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 [interested party](#) whose name is 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.

## Delinquent Date: First Business Day in January

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.

**Property Tax Due Dates** ([Minnesota Statutes 279.02](#) and [279.01](#))

Property tax payments generally have two due dates associated with them: May 15 and October 15. When property taxes exceed \$100 on any tract or lot, one half of the taxes are due on each of these dates.

If the first half of the property taxes is not paid by or on May 15, a penalty begins to accrue on May 16. The penalty accrues at a rate of two percent on homestead property through May 31. The penalty rate increases to four percent on June 1. For nonhomestead property, the penalty rate is four percent through May 31 and eight percent on June 1. Thereafter, for both homestead and nonhomestead property, on the first day of each subsequent month through December, an additional penalty of one percent for each month accrues and is charged on all such unpaid taxes provided that the penalty must not exceed eight percent in the case of homestead property, or 12 percent in the case of nonhomestead property.

Class 1c and 4c seasonal residential recreational property is treated differently. These properties do not accrue a penalty until June 1 of the taxes payable year for unpaid property taxes. Similarly, class 3a commercial property will not accrue a penalty until June 1 as long as over 60 percent of the gross income earned by the enterprise on the property is earned during May, June, July, and August. A 3a commercial [property owner](#) must attach an affidavit to a property tax payment made between May 16 and May 31 demonstrating the income requirement in order to avoid the delinquent penalty costs.



**NOTE**

The county board can delegate to the county treasurer the power to abate property tax penalties. The county treasurer may then abate the penalty if imposing the penalty would be unjust or unreasonable ([Minnesota Statute 279.01](#)).

**Grace Periods**

If the property tax statement was not postmarked prior to April 25, the first half payment due date must be 21 days from the postmark date of the property tax statement and all penalties should be determined with regard to the later due date ([Minnesota Statute 279.01](#)).

**Property Tax Delinquency**

If any of the property taxes due during the taxes payable year remain unpaid the following year, they are declared delinquent. At this point, the tax proceedings begin and an annual rate of interest is imposed each month on the sum of the delinquent taxes, penalties, and costs.

## Property Tax Lists: First Business Day in January

**Delinquent Taxes**

On the first business day in January, the county treasurer returns to the county auditor the county property tax lists for all real property taxes payable in the previous year ([Minnesota Statute 279.02](#)). The tax lists contain 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.

The county auditor compares the county property tax lists with the set of tax statements for the previous taxes payable year. Then the county auditor marks as officially delinquent the unpaid tax on each parcel in the county property tax lists.



**NOTE**

The language in many statutes does not reflect how technological advances alter property tax procedures. In most counties, a computer-generated list of delinquent taxes and penalties per parcel is produced instead of a hands-on comparison of tax lists to tax statements.

**Penalties Added to Delinquent Taxes**

The county auditor adds to each delinquent tax the total amount of penalties that accrued on the unpaid tax during the previous year when the tax was due ([Minnesota Statute 279.02](#)). The maximum penalty that can accrue on any unpaid tax during the year when the tax is due is 10 percent on homestead property and cabins, and 14 percent on nonhomestead property ([Minnesota Statute 279.01](#)). Each class of a split class property will have its own penalty rate applied.

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. An example is provided below to demonstrate what this table might look like:

Property Type:	2018										2019
	May 16	June 1	July 1	Aug 1	Sep 1	Oct 1	Oct 16	Nov 1	Nov 16	Dec 1	Jan 2
<b>Homesteads and Cabins</b>											
1st half	2%	4%	5%	6%	7%	8%	8%	8%	-	8%	10%
2nd half	-	-	-	-	-	-	2%	4%	-	5%	7%
Both Unpaid	-	-	-	-	-	-	5%	6%	-	6.5%	8.5%
<b>Agricultural Homesteads</b>											
1st half	2%	4%	5%	6%	7%	8%	8%	8%	8%	8%	10%
2nd half	-	-	-	-	-	-	-	-	2%	4%	6%
Both Unpaid	-	-	-	-	-	-	-	-	5%	6%	8%
<b>Nonhomesteads</b>											
1st half	4%	8%	9%	10%	11%	12%	12%	12%	-	12%	14%
2nd half	-	-	-	-	-	-	4%	8%	-	9%	11%
Both Unpaid	-	-	-	-	-	-	8%	10%	-	10.5%	12.5%
<b>Agricultural Nonhomesteads</b>											
1st half	4%	8%	9%	10%	11%	12%	12%	12%	12%	12%	14%
2nd half	-	-	-	-	-	-	-	-	4%	8%	10%
Both Unpaid	-	-	-	-	-	-	-	-	8%	10%	12%
<b>Personal Property</b>	8%	8%	8%	8%	8%	8%	8%	8%	8%	8%	8%
<b>Manufactured Homes</b>											
1st half	-	-	-	-	8%	8%	8%	8%	8%	8%	8%
2nd half	-	-	-	-	-	-	-	-	8%	8%	8%

**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 ([Minnesota Statute 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 ([Minnesota Statute 279.02](#)).

**Multiple Owners**

When 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 party. This information is helpful 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).

**Reduction or Abatement of Taxes (Minnesota Statutes 375.192)**

Upon written application by the owner, the county board may reduce or abate estimated [market values](#), taxes, and associated penalties, interest, and costs as the board deems just and equitable. The county board may refund all or any part of taxes, penalties, interest, or costs that were erroneously or unjustly paid.

The county board’s authority is 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.

All applications for the reduction or abatement of estimated market value, taxes, or costs must be approved by all of the following county officials:

- The county assessor or a city assessor if the property is located in a first or second class city;
- The county auditor; and
- The county board.

Applications for the reduction or abatement of penalties or interest must be approved by the same officials, except the county treasurer is required instead of the county or city assessor. Reductions, abatements, or refunds of any special assessments that were levied by a municipality for local improvements must also be approved by the board of review or similar taxing authority of the municipality.



**NOTE**

All applications for abatement or reduction must include the social security number of the applicant.

The county board must give 20 days’ notice to the school board and the municipality in which the property is located before taking any action on a reduction or abatement of more than \$10,000. If the school board and municipality do not respond within the 20 day period, the county board can take final action. If the school board or municipality objects to the county’s proposed action, the county must submit the reduction or abatement to the Property Tax Division of the Department of Revenue for a decision.

Please contact the Property Tax Division of the Department of Revenue at [PropTax.Admin@state.mn.us](mailto:PropTax.Admin@state.mn.us) for more information about the reduction or abatement process.

### Delegation of Powers to County Treasurer

The county board, with the concurrence of the county treasurer, can delegate to the county treasurer the power to abate the penalties for the late payment of property taxes in the current year. The county treasurer may then abate the penalty if imposing the penalty would be unjust and unreasonable. This authorization *only* extends to the penalty. It does not apply to:

- The property taxes on which the penalties are based;
- The penalties on taxes which became delinquent prior to payment; or
- The interest on delinquent property taxes.

The county treasurer may abate the penalty for late payment of property taxes if the envelope containing the payment is postmarked within one business day of the due date. If the postmark on the envelope is missing or illegible, the property owner may provide an affidavit as proof of mailing. This abatement is granted only once per taxpayer.

## Delinquent Tax List: February 15

The county auditor must send a copy of the delinquent tax list to the district court administrator of the county by February 15 each year ([Minnesota Statute 279.05](#)).

### Delinquent Tax List: Parcels Included + Excluded

The delinquent tax list contains all parcels of property with unpaid taxes due in the previous year ([Minnesota Statutes 278.04](#) and [279.05](#)) with three exceptions:

**1. *Parcels which were previously [bid in for the state](#) and have not been redeemed;***

Because 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, there is no need to include the parcel in the delinquent tax list again. Instead, the county auditor is to incorporate the new delinquent tax and penalties into the existing tax judgment and lien against the parcel of property.

If the county auditor inadvertently forgets to include a parcel of property with delinquent taxes in the appropriate year's delinquent tax list, the parcel can be included in a later delinquent tax list as soon as the omission is discovered.

**2. *Parcels which are under U.S. bankruptcy orders; and***

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

Bankruptcy petitions do not stop the levying of property taxes or the [determination](#) of property tax delinquency on the property subject to the bankruptcy. However, the [automatic stay](#) imposed by the bankruptcy court stops any further delinquent tax collection or forfeiture process until the bankruptcy has been completed. In addition, the taxpayer could contest the property taxes in the bankruptcy court.

The filing of a bankruptcy petition requires (if there are delinquent taxes) penalty be frozen as of the date of the case filing. Statutory interest can continue to accrue.

Upon completion of the bankruptcy, usually by the granting of a discharge by the bankruptcy court, the property tax delinquency or forfeiture process may continue on from the point it was stayed. Often the bankruptcy estate makes payments toward the taxes and interest due prior to discharge. This is because in Minnesota, local property taxes are secured by a lien on real property that automatically attaches by operation of statute. In bankruptcy cases, a lien for real property taxes has higher [priority](#) than other secured debt, and secured debts have higher priority than unsecured debts.

In bankruptcy cases, the county auditor should do the following:

- Suspend actions to collect delinquent taxes or forfeit the property as of the bankruptcy petition filing date;
- Monitor all notices issued by the bankruptcy court; and
- Upon discharge, dismissal, or closure of the case, resume delinquent tax collection or the forfeiture process at the point it was when the stay was imposed.

**3. *Parcels for which a petition for review has been filed in district court or tax court.***

After the court has entered its judgment under [Minnesota Statute 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 the judgment had been entered under [Minnesota Statutes, Chapter 279](#), except that interest does not apply to the 30 day period.

If the court’s judgment is entered after the second Monday in May, and the judgment is not paid within the 30 day 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 ([Minnesota Statute 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 ([Minnesota Statute 279.05](#)):

- The name(s) of the taxpayer(s) of record;
- The name(s) of the [property owner\(s\)](#);
- The names of any other [interested parties](#) who have filed to receive tax notices for the property ([Minnesota Statute 276.041](#));
- The property tax identification number;
- A [legal description](#) of the land on which the real property taxes are delinquent;



**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. [Minnesota Statute 279.05](#).

- 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.);
- The total amount of the delinquent tax and penalties.

### Names Included on the Delinquent Tax List

The names of the property owners, taxpayers of record and interested parties on the delinquent tax list should be the most current names determined at the time the taxes become delinquent. The intent is for all parties who have a legal interest in the property and stand to lose that interest to be notified when the taxes go delinquent ([Minnesota Statute 279.05](#)).

### Purpose of the Delinquent Tax List

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 ([Minnesota Statute 279.05](#)).

### Access to the Delinquent Tax List

The delinquent tax list is to be made available in the county auditor’s office for public use. The list is also to be published in the county’s official newspaper along with the notice of delinquent taxes. The mailing of tax delinquency information to interested parties does not include the delinquent tax list; it only consists of the delinquent tax letter and the notice.

### Effect of Errors on the Delinquent Tax List

[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 ([Minnesota Statute 279.06](#)). The delinquent tax proceedings will 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.

Although the legal validity of the tax proceedings is not affected by insignificant errors, they should be corrected as soon as they are found.

### Required Format for the Delinquent Tax List

The major components of the delinquent tax list format are:

- An introductory paragraph under the title that provides readers with a capsule summary of what the list contains and what has to be done to remove a parcel from the list.
- Four columns that contain the required delinquent tax data ([Minnesota Statute 279.05](#)). The four columns facilitate quick reading and easy comprehension of the data.
  - Column One: The names of the property owners, taxpayers of record, and interested parties.
  - Column Two: The property identification number and the [legal description](#).



#### **NOTE**

The county auditor can choose whether or not to include the addresses with the names in column one of the delinquent tax list. Including addresses may help some readers identify their properties on the list.

- Column Three: Tax year.
- Column Four: Total tax and penalties.

These formatting rules are to be used for the delinquent tax list when it is exchanged 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 a part of the mailing of delinquent tax information to interested parties.



**DELINQUENT TAX LIST**

The following table contains the list of real property located in Spruce County on which taxes and penalties became delinquent on January 2, 2018. Interest calculated from January 1, 2018, 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.

Individuals that own homestead property, and are in federal active military or other qualified duty service, are eligible for a four month grace period during which no late penalties will be assessed for late payment of property taxes. Qualified taxpayers appearing in the delinquent tax list that have not applied may do so by providing a signed copy of their service orders or form DD214 that proves the taxpayer was on active service on the date the payment was due. To file, determine eligibility, or for more information, contact the Spruce County auditor's office at 234-567-8910.

<b>Names of Owners, Taxpayers, &amp; Interested Parties</b>	<b>Description of Property</b>	<b>Tax Year</b>	<b>Total Tax + Penalties (\$ + Cents)</b>
Kathryn & Jason Davis 563 Franklin Street Applewood, MN 57252  Homestead Mortgage Co. 345 Parkview Ave. Barkton, CA 94705	CITY OF APPLEWOOD  02-0135-0014, Oak Hill Subdivision Lot 2 & West 30 Feet of Lot 3, Block 4	2018	\$1,457.24
	02-0692-0059, Sawyer Addition, East 25 Feet of Lot 6 & West 50 Feet of Lot 7, Block 8	2018	\$694.18
Shirley Harriston 154 Sandstone Street Greenbriar, MN 56323  Riverside Furniture Co. 632 West Broadway Greenbriar, MN 56323	CITY OF GREENBRIAR  08-0325-0001, Towers Subdivision Lot 2 & Lot 3, Block 5	2018	\$183.66
	08-0711-0034, Crystal Addition Lots 16, 17 & West 40 Feet of Lot 18, Block 4	2018	\$3,376.00
Raymond & Esther Cologne Rural Route #3, Box #12 Greenbriar, MN 56323	TOWN OF WILLOW CREEK  04-0034-0038, Twp 120, Range 37, Section 22, Northwest ¼ & North ½ of Southwest ¼, 240 Acres	2018	\$1,963.60

Farmer's State Bank 129 Main Street Greenbriar, MN 56323			
Arnold A. Zimmerman Rural Route #1, Box #64 Greenbriar, MN 56323	04-0012-0087, Twp 120, Range 37, Section 8, East ½ & Southeast ¼ of Southwest ¼, 360 Acres	2018	\$2,043.52
	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 ½ of Lot 3, South of Service Road, Document 8043, Book 16, Page 19	2018	\$856.48

## Auditor's Affidavit: February 15

The delinquent tax list is authenticated by the county auditor's written affidavit. The affidavit is sent to the district court administrator along with the copy of the delinquent tax list by February 15 ([Minnesota Statute 279.05](#)). If the county auditor fails to certify the delinquent tax list with an affidavit or the affidavit has a defect, the court judgment and lien against the properties on the delinquent tax list are not invalidated.

## Notice of Delinquent Taxes: February 20

The county auditor prepares both the delinquent tax notice and list. The notice is sent along with the list to the district court administrator. The administrator reviews the documents, signs the notice, and returns the documents to the county auditor within five days of the auditor filing the delinquent tax list with the district court administrator, but not later than February 20 ([Minnesota Statutes 279.05](#) and [279.06](#)).

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 to be included in the delinquent tax notice are the following:

### 1. 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 twenty days after the last [publication](#) of the delinquent tax notice and list in order to have their case heard by the court ([Minnesota Statute 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.

## 2. 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 ([Minnesota Statute 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.

## 3. Period of Redemption

The [period of redemption](#) is three years after the property is bid in for the state.

### Required Format

The commissioner of revenue specifies the form of the notice of delinquent taxes ([Minnesota Statute 279.06](#)). The major components of the format for the delinquent tax notice are outlined below:

- [Paragraph One](#) announces that the delinquent tax list has been sent to the administrator of the district court and warns that the properties listed are subject to forfeiture if the delinquent tax amount is not paid.
- [Paragraph Two](#) covers 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.
- [Paragraph Three](#) describes the redemption periods in the Minnesota Statutes. “Period of redemption” is also defined.

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

- [Paragraph Four](#) discusses the option of entering into a [confession of judgment](#). The various time frames of confessions of judgment are also discussed.
- [Paragraph Five](#) addresses the Senior Citizen’s Property Tax Deferral.
- [Paragraph Six](#) states that property homesteaders are ineligible to receive the Property Tax Refund while they owe delinquent property taxes.



### NOTE

The format for the delinquent tax notice is to be used for (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.

**NOTICE OF DELINQUENT TAXES**

State of Minnesota

District Court

County of Spruce

5<sup>th</sup> 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, 2018, stating the reason(s) 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 12, 2018. The period of redemption means the time within which taxes must be paid to avoid losing the property through forfeiture. The period of redemption is three years, with a handful of exceptions. The redemption period is one year for most properties located in a targeted neighborhood, as defined in the Minnesota laws, and for municipal solid waste disposal facilities. The redemption period is five weeks for certain abandoned or vacant properties.

You may also enter into a confession of judgment as an alternative method to paying off the delinquent tax amount and avoiding forfeiture. This allows you to pay the delinquent balance in equal annual installments, with a down payment due at the time you enter into the confession. The length of the installment plan varies: five years for commercial-industrial/public utility property; 10 years for all other properties.

If you have homesteaded property, you may be eligible for a Senior Citizen's Property Tax Deferral, which enables seniors to pay just three percent of their total household income and allow remaining amounts to become a lien on the property that may be deferred for later payment (perhaps upon eventual sale of the property).

It should also be noted by property homesteaders that you are ineligible to receive the Property Tax Refund while you owe delinquent property tax.

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. You may also contact the auditor at (234) 567-8910 or [nicolas.archer@spruce.co.mn.us](mailto:nicolas.archer@spruce.co.mn.us).

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Thornton J. Longstreet  
District Court Administrator  
5<sup>th</sup> Judicial District

(District Court Seal)

Date: February 19, 2017

## Delinquent Tax Letter: March 20

On or before March 20, the county auditor is to mail a copy of the signed delinquent tax notice and the delinquent tax letter to all taxpayers and other [interested parties](#) included on the list ([Minnesota Statute 279.091](#)).

The major components of the format for the delinquent tax letter are outlined below:

- The delinquent tax letter is intended to be a one-page mailer that 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.
- 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.
- 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.
- 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.
- 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](#).
- In Paragraph Three, the date entered in the blank after “TOTAL AMOUNT DUE CALCULATED THROUGH:” depends on when the delinquent tax letter is prepared. If it is prepared in January, the date to enter is “01/31/18.” If it is prepared in February, the date to use is “02/28/18.” If it is prepared in March, the date should be “03/31/18.”

The tax and penalty amounts in Paragraph Three will be the same regardless of which month the delinquent tax letter is prepared. The interest will be calculated for January 2018 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.

- 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.

- 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 [Minnesota Statute 276.041](#).

## Interest on Delinquent Taxes

### Basis of the Interest

An annual rate of interest is to be imposed on the sum of the following amounts ([Minnesota Statute 279.03](#)):

- The delinquent taxes;
- The delinquent special assessments, if any;
- The penalties; and
- The county costs.

An annual rate of interest is calculated from January 1 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 first 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 ([Minnesota Statute 279.03](#)). A portion of a month is considered to be a whole month. Thus, 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)

The annual rate of interest on delinquent real property taxes, penalties, and costs is to be computed according to [Minnesota Statute 270C.40](#). 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 and is subject to change on January 1 of each year. The APR used for delinquent tax amounts is subject to a 10 percent minimum and a 14 percent maximum. In other words, the rate that is used for delinquent tax amounts cannot drop below 10 percent and cannot rise above 14 percent regardless of what the APR charged by banks may be for any given year.

The APR applies to the following delinquent tax and tax-forfeited land situations:

- Unpaid real property taxes and penalties. This includes costs that may be added to the unpaid taxes and penalties ([Minnesota Statute 279.03](#)).
- Confessions of judgment under both the five- and 10-year installment plans for delinquent tax amounts ([Minnesota Statute 279.37](#)).
- The unpaid balance of any repurchase contract approved by the county board ([Minnesota Statute 282.261](#)).
- The unpaid balance of the basic sale price of a parcel of tax-forfeited land sold under a contract for deed ([Minnesota Statute 282.01](#)).

### Double Interest for 25% Tax Test

The interest rate on delinquent taxes that remain unpaid 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 percent of the prior year's school district levy ([Minnesota Statute 279.03](#)). The interest rate to be doubled is the rate computed according to [Minnesota Statute 270C.40](#).

### Interest Rate for Court Judgments

The interest rate to use for court judgments arising out of petitions for review is the floating rate determined under [Minnesota Statute 549.09](#).



#### **NOTE**

Court judgments under [Minnesota Statutes, Chapter 278](#) may or may not involve property taxes that are actually delinquent.

### 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 county treasurer.

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 also be made available to each county auditor and county treasurer. This information is made available annually on the Department of Revenue's [web page](#).

### Interest Rate for Unpaid Drainage Ditch Costs ([Minnesota Statutes, Chapter 103E](#))

The county auditor must prorate the costs of a drainage ditch system 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 is an additional lien on the property. The county auditor must add the annual installments plus interest to the tax lists for each year. The interest is determined under [Minnesota Statute 549.09](#).

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 ([Minnesota Statute 279.03](#)). In other words, unpaid drainage ditch installments plus interest are subject to the same penalty and delinquent tax provisions as real property taxes ([Minnesota Statute 103E.611](#)).

### *Example: Calculation of Interest on Delinquent Taxes*

The following example shows the steps in calculating the interest for a hypothetical situation where the payable 2015 real property tax and penalties on a residential homestead became delinquent on January 2, 2016, and remained unpaid along with the costs until July 15, 2018.

1. Total Payable 2015 Property Tax Due	\$ 1,000.00	
2. Total Penalty: January 2, 2016, at 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, 2016 at 10% per annum at 0.8333% for 12 months		
(Line 4 x 10%)		\$ 111.00
6. Second Delinquent Year: Interest on December 31, 2017 at 10% per annum at 0.8333% for 12 months		
(Line 4 x 10%)		\$ 111.00

#### TAXPAYER PAYS DELINQUENT TAX AMOUNT ON JULY 15, 2018

7. Third Delinquent Year: Interest on July 15, 2018 at 10% per annum, at 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

## Federal Active Service Property Tax Grace Period

Effective for taxes payable beginning July 1, 2013, there is a four-month grace period for complying with property tax due dates for homestead property owned by a qualifying individual who is on federal active service. No late fees or penalties may be assessed during the grace period. A qualifying taxpayer will not be deemed delinquent if payment is made by the end of the grace period. The taxpayer must provide proof that they were on federal active service on the date the payment was originally due ([Minnesota Statute 279.01](#) and [279.02](#)).

“Federal active service” excludes federally funded state active service and means service or duty under [United States Code, title 10](#), other service or duty as may be required by law, regulation, or order of the United States government, and travel to or from that service or duty ([Minnesota Statute 190.05](#)).



A “qualifying taxpayer” includes only the individual on active service. It does not include an LLC, partnership, trust, family farm corporation, or other similar entity where a member of the entity may qualify.

**Effect on Delinquency**

Homestead property owned by a qualifying individual is not to be deemed delinquent and no late fees or penalties can be applied if the taxes are paid by the modified due dates.

The delinquency schedule is pushed back along with the due dates and unpaid taxes penalty schedule. This means that in taxes payable year 2017, property owned by a qualifying individual would not be deemed delinquent until the first business day in January 2019. Interest applied when property becomes delinquent would also not start until this time.

The law does not require advance notification to a county from a qualifying individual. Such an individual need only provide the necessary paperwork described above when making the payment. It is possible a county will commence delinquency proceedings on a property unaware the taxpayer qualifies for the modified due dates. When a qualifying individual makes a payment and provides the proper documentation, the county must cancel or adjust any penalties according to a modified schedule.

Because a county treasurer will be preparing the delinquent tax list before the second-half taxes are due under the grace period, a county may wish to include a statement when its list is published noting that individuals who may qualify for the modified due dates may be included on the list and assuring any such individual that if payment is made, along with the proper documents, or if the proper documents are submitted without a payment during the grace period, the delinquency proceedings for that year will be canceled. Full payment after the grace period may include late fees and penalties. If the taxes remain unpaid, they will be included on the delinquent tax list in the next year, and the property will be subject to forfeiture.

**Properties Affected**

This grace period applies only to homestead property, including agricultural homestead property. It does not apply to, for example, nonhomestead, seasonal recreational residential, or commercial properties an individual on federal active service may own. If a qualifying individual is an owner of a relative homestead, the modified due dates also apply. If a service member is the relative living on the property but does not own it, the modified due dates do not apply.

**Documentation Required**

A taxpayer making a payment under this provision must accompany the payment with a signed copy of the taxpayer’s orders or [form DD214](#) showing the dates of active service. The document must clearly indicate the taxpayer was on active service on the date the payment was due.

**Property Tax Due Dates and Penalties**

The modified payment due date under the grace period for the first half of property taxes (or full payment if less than \$100) for homestead property is September 15. The modified payment due date for the second half is February 15 of the following year.

A modified unpaid taxes penalty schedule that applies to qualifying individuals for taxes payable in 2019 is below.

**Active Service Member Taxpayer Penalties when Grace Period Applies – Taxes Payable 2019**

Property Type	2019								2020						
	May 16	June 1	July 1	Aug 1	Sep 16	Oct 1	Nov 1	Dec 1	Jan 1	Feb 1	Feb 16	Mar 1	Mar 16	Apr 1	May 1
<b>Homestead</b>															
1st half					2%	4%	5%	6%	7%	8%	8%	8%	-	8%	10%
2nd half					-	-	-	-	-	-	2%	4%	-	5%	7%
Both unpaid					-	-	-	-	-	-	5%	6%	-	6.5%	8.5%
<b>Agricultural homestead</b>															
1st half					2%	4%	5%	6%	7%	8%	8%	8%	8%	8%	10%
2nd half					-	-	-	-	-	-	-	-	2%	4%	6%
Both unpaid					-	-	-	-	-	-	-	-	5%	6%	8%
<b>Personal Property (homestead only)</b>					8%	8%	8%	8%	8%	8%	8%	8%	8%	8%	8%

## Record of Interested Parties

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 ([Minnesota Statute 276.041](#)):

1. The property tax statement ([Minnesota Statute 276.04](#))
2. The [delinquent tax letter](#) and [notice](#) ([Minnesota Statute 279.091](#)), and
3. The [notice of expiration of redemption](#) ([Minnesota Statute 281.23](#)).

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 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 ([Minnesota Statute 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.



**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 comply with the provisions of [Minnesota Statute 276.041](#).

## Rules and Recommendations for Receipt of Designated Tax Documents and Filing as an Interested Party

The following rules and recommendations should be followed when mailing the three designated tax documents to interested parties:

- **Fee Owners:** The fee owner should receive a copy of the delinquent tax letter and notice as recommended by the Department of Revenue. The fee owner should receive a copy of the property tax statement only if they have filed as an interested party.
- **Vendees:** Under the terms of most contract for deed arrangements, the vendee is required to pay the property taxes directly to the county auditor. As a result, the vendee receives the property tax mailings as the taxpayer of record. However, if the contract requires the vendee to pay the property taxes to the [vendor](#), the vendor would pay the taxes directly to the county auditor and would receive the property tax mailings as the taxpayer of record. If the vendee wanted to keep track of the tax status of the property by receiving the three designated tax documents, the vendee would have to file as an interested party.
- **Mortgagees:** 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.
- **Lienholders:** Lienholders are generally 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. The lienholder will have to file as an interested party in order to be informed about the tax status of the lienhold property.
- **Escrow Agents:** Escrow agents who are mortgagees are subject to the same guidelines and rules as mortgagees. Escrow agents who are not mortgagees can also file as interested parties in order to receive the three designated tax documents.
- **Lessees:** Under the terms of the lease, the lessee is paying the property taxes as part of the monthly payment to the [lessor](#). As a result, the 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.

### Fees Required from Interested Parties

The fee is \$15.00 for each parcel of property for which an interested party wants to receive the three designated tax documents ([Minnesota Statute 276.041](#)). The 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.

### 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.

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. A fee may be charged for this service 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.

## Bankruptcy

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](#). In the case of property that is about to be placed on the delinquent tax list, the automatic stay prevents the property from being listed and published. A delinquent tax notice may also be mailed. [United States Code, title 11, section 362\(b\)\(9\)\(B\)](#) provides an exception to the automatic stay for “the issuance to the debtor by a governmental unit of a notice of tax deficiency.” This allows for a delinquent tax notice to be mailed.

Further steps in the delinquency or forfeiture process should be suspended during the automatic stay, including filing of the judgment which should be postponed until the stay is lifted. This means that the affected parcel should **not** be included on the list given to the local court administrator. 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. In addition, interest at the statutory rate continues to accrue on the unpaid taxes during the pendency of a bankruptcy proceeding. Penalties for nonpayment may not 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 the state tax court determines the tax owed, concluding with court judgment. The tax court proceedings are handled under the provisions of [Minnesota Statutes, Chapter 278](#).



### 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.

Upon completion of the bankruptcy, the forfeiture process should be resumed from the point it was stayed if there are unpaid delinquent property taxes remaining. The bankruptcy estate may end up paying all of the real property taxes that were levied against the property before, as well as during, the bankruptcy proceeding. This includes any pre-petition penalty and statutory interest. 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 proceeding because payment of these taxes is secured under Minnesota law by a lien that automatically attaches to the affected real property before the bankruptcy petition was filed. In a typical bankruptcy estate, debts will be paid in the order of their [priority](#). Secured debts will have a higher priority than unsecured debts. Within the listed secured debts, the real property tax liens generally have 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 usually end up being paid. The real property taxes related to assessment dates occurring after the date of the bankruptcy petition will also usually be paid, because they will be treated as administrative expenses of the bankruptcy estate.

Bankruptcy notices are sent by mail or through enrollment in the electronic bankruptcy notification system. When a bankruptcy petition is received, the county auditor should do the following:

1. Suspend actions to collect delinquent taxes or forfeit the property as of the petition filing date;
2. Review terms of the bankruptcy petition to be sure the debt is listed as a secured debt and that the correct interest rate is listed;
3. Monitor all notices issued by the bankruptcy court and any other notices pertaining to the property from any source; and
4. Upon discharge, dismissal, or closure of the case, resume collection of any remaining delinquent property taxes if any, or the forfeiture process, at the point it was when the stay was imposed.

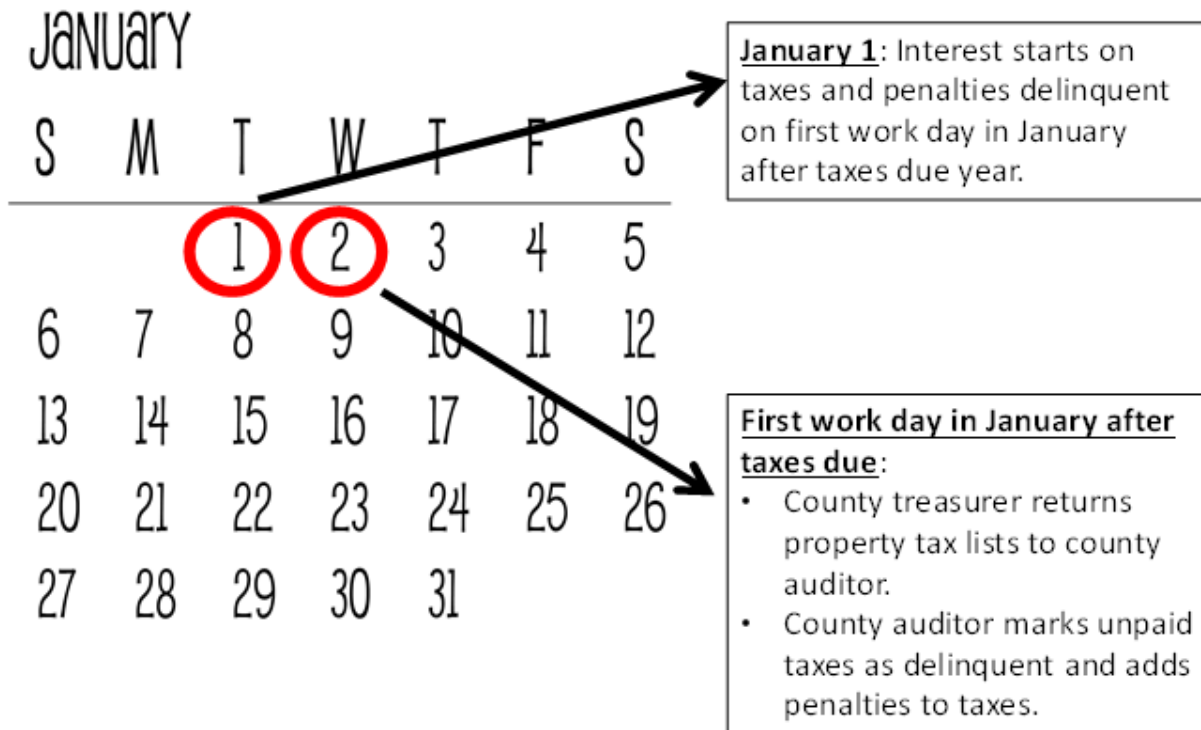
If the bankruptcy petition property lists real estate taxes as secured debt and includes the correct interest rate, it is usually not necessary to file a formal [proof of claim](#) for property taxes in a bankruptcy proceeding. This is because federal bankruptcy code recognizes statutory liens for ad valorem taxes as secured, high priority debt as well as post-petition taxes or assessments. However, if there are errors in the petition or the bankruptcy involves a commercial or other property with significant tax liability, consideration should be given to filing a proof of claim with the bankruptcy court. A proof of claim may be filed by using a paper form available through the bankruptcy court, or electronic filing may be available.

In summary, the table below recaps the foregoing information about property in bankruptcy during the automatic stay:

Tax lien	Attaches automatically by operation of Minnesota law
Penalty accrual	Penalty freezes as of the date of the bankruptcy petition
Interest	Continues to accrue at statutory rate
Judgment	Notice of delinquent taxes—may be mailed
	Court judgment—do not file
	Delinquent tax list—do not list, do not publish
Forfeiture	Suspend process during the stay

## Determination Calendar

The following images graphically illustrate the important dates and actions in the determination stage of the delinquent real property tax proceedings:



**FEBRUARY**

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

**February 15:** County auditor sends copy of delinquent tax list, affidavit, and notice of delinquent taxes to administrator of district court.

**February 20:** Court administrator sends signed notice of delinquent taxes and copy of delinquent tax list to county auditor.

## Sample Case: Stage One

The following sample case is intended to dramatize the major steps that 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 is 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 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 Svobodas 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 Frudeau, the Spruce County Treasurer, sent the Svobodas a property tax statement for the vacant lot each year. The tax averaged between \$400 and \$500 a year. The Svobodas always managed to save enough during the year to pay the taxes on time.

In January 2010, 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 2010 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, 2011, Audrey Trudeau sent the payable 2010 county property tax lists to Nicholas Archer, the Spruce County Auditor.

Cory Patchen, the Spruce County Deputy Auditor, worked with Nick Archer's office staff to compare the county's payable 2010 property tax lists with the set of payable 2010 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 2010 based on the maximum rate of 14 percent for non-homestead 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, 2011.

As soon as the unpaid taxes and penalties were marked in the payable 2010 property tax lists, Nick Archer's office staff prepared the county's 2011 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: 2010

4. Total Tax and Penalties: \$485.53

When the 2011 delinquent tax list and the notice of delinquent taxes were finished, Nick Archer signed the affidavit that his office staff had prepared and dated February 15, 2011. The affidavit was needed to certify the authenticity of the delinquent tax list. Cory Patchen countersigned the affidavit.



A copy of the county's 2011 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, 2011 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 2011 notice of delinquent taxes. On February 20, 2011, Thornton's office staff delivered the signed notice of delinquent taxes and a copy of the 2011 delinquent tax list to Nick Archer's office in the Spruce County Courthouse.

Once they had the documents back from Thornton Longstreet's office, Cory 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 the 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

# Chapter 3: Publication

## Introduction: Stage Two

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 and private announcements function as a legal service of notice to the [property owners](#), taxpayers of record, and other [interested parties](#). After the official notice, the court acquires full and complete legal jurisdiction over the parcels of real property on the delinquent tax list ([Minnesota Statute 279.14](#)).

The following 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 twice 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 ensures that the second publication of the notice of delinquent taxes and the delinquent tax list is at least two weeks after the first publication, and that any taxpayers who have paid their delinquent taxes in full since the first publication are removed from the list.

9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. The county auditor delivers an affidavit certifying the mailing to the administrator of the district court.
15. 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.

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.

## Bids for Publication: January

The second stage of the delinquent tax proceedings that involves the official public announcement of the delinquent taxes begins about two months before the actual [publication](#) takes place. This section outlines the major actions that are required to complete the early steps in the publication process.

### Applications Taken From Publishers

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 ([Minnesota Statute 279.07](#)).

**Applications Accepted Until Designation**

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 ([Minnesota Statute 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 ([Minnesota Statute 279.07](#)).

## Designation of Newspaper: January

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 that have been filed with the county auditor. The county board is to select the newspaper from one of the bidders ([Minnesota Statute 279.08](#)).

**Criteria for Selection of Newspaper**

The county board is to select the designated newspaper based on the following criteria established by law:

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. If no daily newspaper submits the lowest bid, the right of publication may go to a weekly newspaper with general circulation in the county.
4. 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. A copy of the resolution must be certified by the county auditor and filed with the administrator of the district court.

**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.

## County Tasks before First Publication

The county and county auditor are responsible for two major tasks to be completed before the notice of delinquent taxes and the delinquent tax list can be published in the designated newspaper ([Minnesota Statute 279.09](#) and [279.10](#)).

### Task #1: Notice + List Sent to Publisher

At least 10 days before the first [publication](#) but not later than March 1, the county delivers a copy of the notice of delinquent taxes and the delinquent tax list to the designated newspaper ([Minnesota Statute 279.09](#)).

### Task #2: Corrected Proofs Returned to Publisher

At least five days before the first publication but not later than March 15, 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 ([Minnesota Statute 279.10](#)).

As soon as possible after receiving the proofs from the publisher, the county auditor reviews the proofs, makes any necessary corrections, and returns the corrected proofs to the publisher.

## Deadline for First Publication: March 20

The county 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 ([Minnesota Statute 279.09](#)):

### 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 weeks in the designated newspaper.

### 2. March 20 Deadline

The county 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.

## Requirements for Second Publication

The county is responsible for ensuring that the notice of delinquent taxes and the delinquent tax list are published twice in the designated newspaper, at least two weeks apart. The requirements for the second [publication](#) are outlined in this section ([Minnesota Statute 279.09](#)).

### 1. Deadline

The county 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. The county is

also responsible for ensuring the second publication is at least two weeks after the first publication takes place.

**2. Paid Taxpayers Removed from List**

Any taxpayer who has paid delinquent taxes in full since the first publication must be removed by the county from the second publication.

**3. Revised List Submitted to Publisher**

At least five days before the second publication, the county is required to submit a revised copy of the delinquent tax list to the designated newspaper.

## Conditions for Republication

As soon as possible after receiving a copy of the newspaper containing the first [publication](#) of the notice of delinquent taxes and the delinquent tax list, the county auditor must examine the published notice for any errors.

**Correction of Errors Found Within 10 Days of Publication**

If any errors are discovered in the published notice within 10 days after the last publication, the county auditor directs the publisher to republish the corrected notice and list for another two weeks. The auditor does not have to direct the publisher to republish the entire list ([Minnesota Statute 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 ([Minnesota Statute 279.10](#)).

## Affidavit of Publication

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 ([Minnesota Statute 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.

## Payment of Publication Costs

The county auditor is authorized to pay the publisher for the costs of publishing the notice of delinquent taxes and the delinquent tax list ([Minnesota Statute 279.12](#)).

The total amount paid by the county auditor is not to exceed the total amount stipulated in the bid for [publication](#) that 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. 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.

The delinquent tax laws do not contain a suggested form to use for the certificate of legal publication.

## Deadline for Mailing: March 20

On or before March 20, the county auditor must mail a personalized delinquent tax letter and a copy of the notice of delinquent taxes to all [property owners](#), taxpayers of record, and [interested parties](#) on the delinquent tax list ([Minnesota Statute 279.091](#)).

**Who Receives the Mailings?**

The Department of Revenue recommends 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 [Minnesota Statute 276.041](#).

**Are Mailings Required for Later Legal Action?**

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 ([Minnesota Statute 279.091](#)).

## Affidavit of Mailing

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 ([Minnesota Statute 279.131](#)).

## Announcement Confirms Court’s Authority

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 ([Minnesota Statute 279.14](#)):

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.

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 amount due. In short, they confirm everything needed to allow the parcels of property to be forfeited and sold if the total [delinquent tax amounts](#) are 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 that are enumerated in [Minnesota Statute 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 that 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.

## Costs of Publication, Mailing, and Judgment

The county auditor is responsible for imposing service fees on each parcel of real property included in the delinquent tax list ([Minnesota Statute 279.092](#)).

### **Service Fees: Amount Determined by County Board**

The county shall assess a service fee of the amount determined by the county board as reasonably necessary to recover all costs incurred against each parcel of real property included in the delinquent tax list ([Minnesota Statute 279.092](#)).

### **Service Fees: Purpose**



The service fees that 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 ([Minnesota Statute 279.092](#)):

- Preparing the delinquent tax list, the notice of delinquent taxes, and the delinquent tax letter.
- Publishing the delinquent tax list and the notice of delinquent taxes.
- Mailing the delinquent tax letters and the notices of delinquent taxes.
- Entering the court judgment against the delinquent taxes and penalties.

**NOTE**

The cost listed here are incurred by both the county auditor's office and the office of the district court administrator.

**Service Fees: County General Revenue Fund**

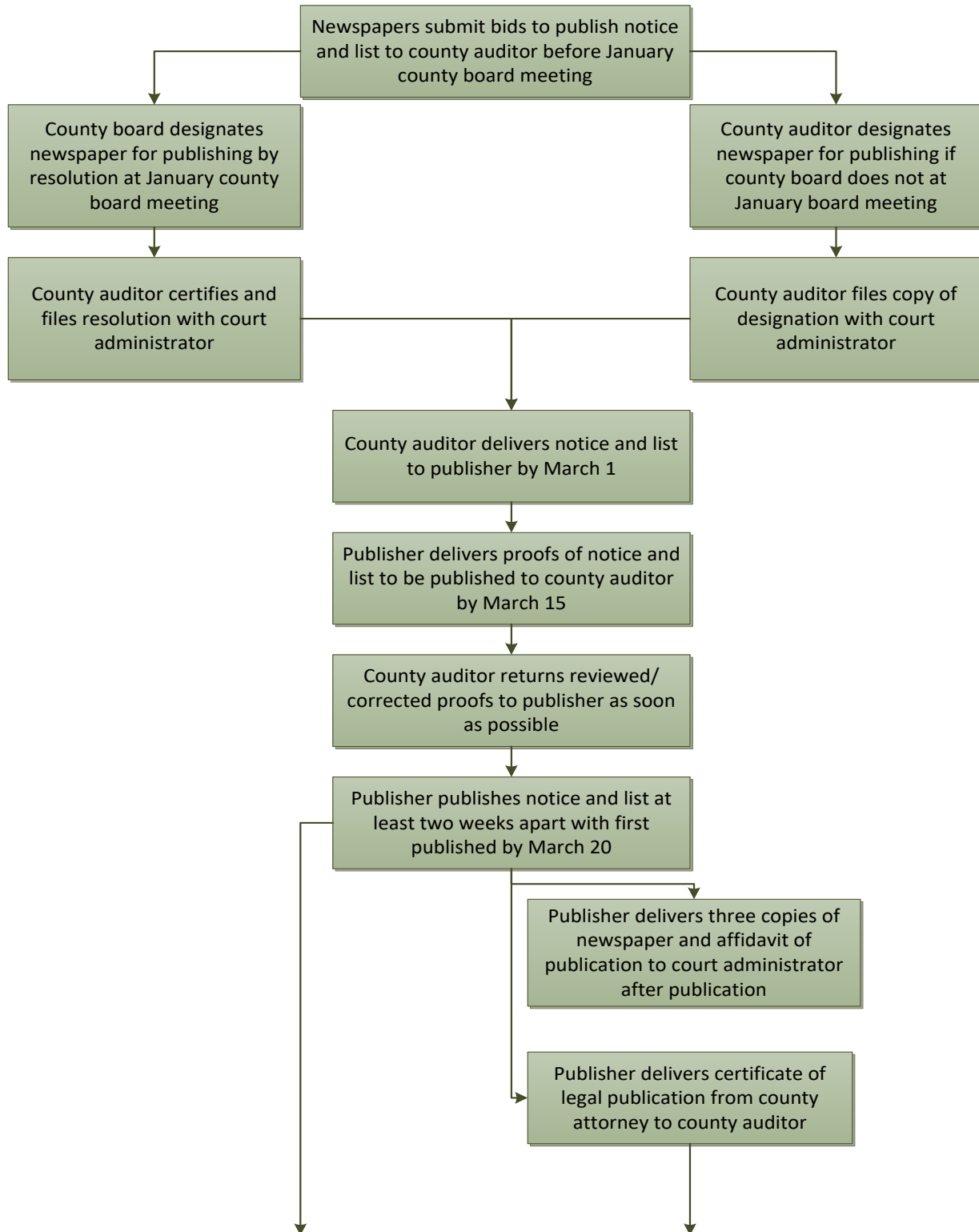
The service fees that the county auditor imposes on the parcels of real property included in the delinquent tax list are to be deposited in the county general revenue fund ([Minnesota Statute 279.092](#)).

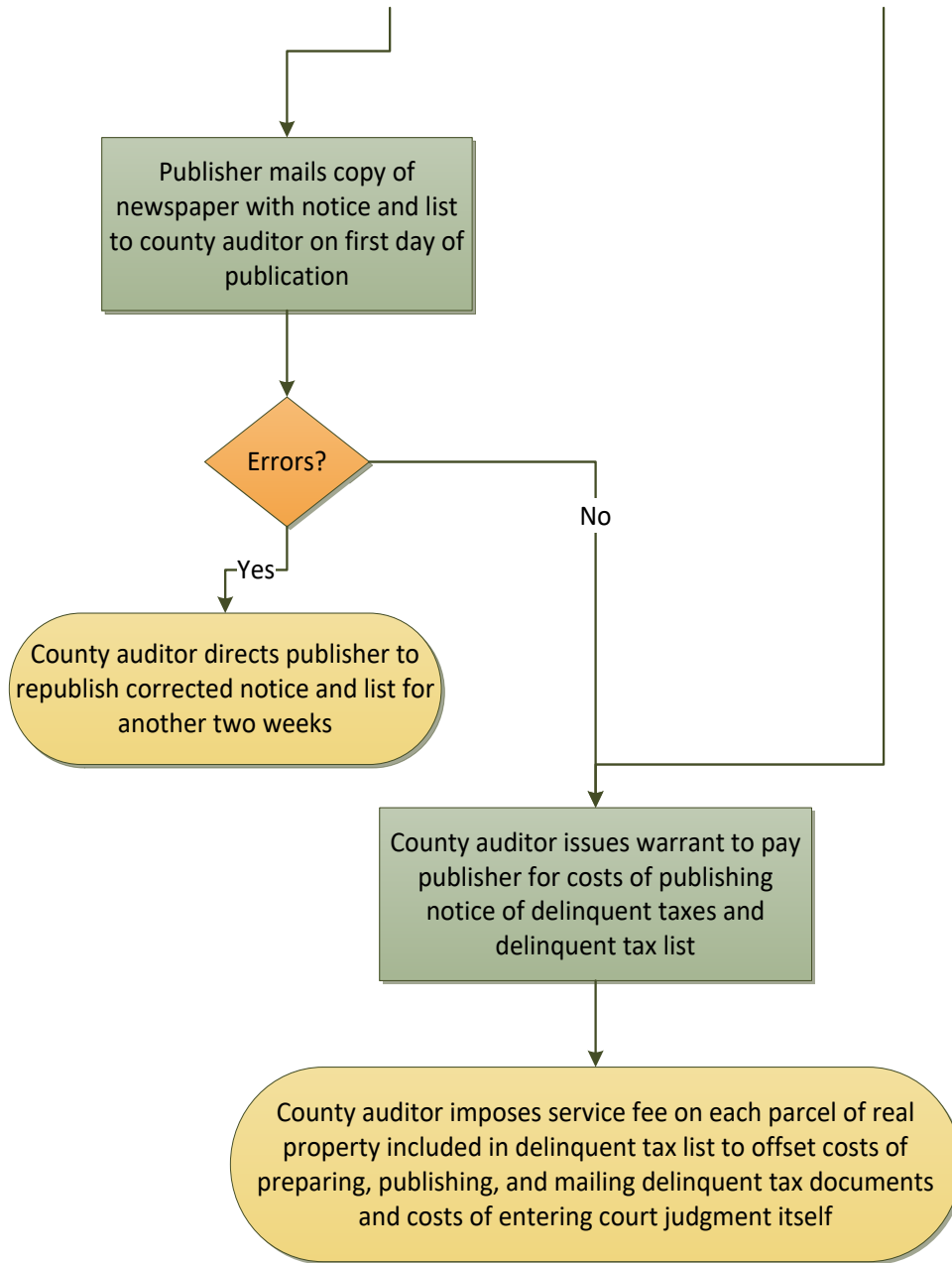
**Service Fees: Lien on Property**

Any service fee 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 ([Minnesota Statutes 272.31](#) and [279.092](#)). This means that the county auditor is to add the service fee 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 constitute the total [delinquent tax amount](#) that must be paid before any parcel can be removed from the delinquent tax list.

# Publication of Notice and List Chart





## Sample Case: Stage Two

At their January 3, 2011 meeting at the courthouse, the Spruce County Board reviewed the written bids for publishing the 2011 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. 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 Wednesday, January 5, 2011. After he signed the Resolution and dated it January 6, 2011, 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 second floor of the courthouse.

After he received the 2011 notice of delinquent taxes along with a copy of the 2011 delinquent tax list from Thornton Longstreet's office on Tuesday, February 22, 2011, 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 Tuesday, March 1, 2011 deadline.

Cory Patchen worked with the staff to get the 2011 delinquent tax notice and list ready by Friday, February 25, 2011. When they were finished, Cory 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 28 (one workday before the March 1 deadline).

Harold Hoffman's newspaper staff had the proofs of the 2011 delinquent tax notice and list ready by March 2, 2011. That same day, one of the members of Harold Hoffman's newspaper staff hand delivered a copy of the proofs to Cory Patchen's office in the courthouse (well before the March 15 deadline).

Right away Monday morning, March 7, 2011, Cory 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 2011 notice and list would be in the Greenbriar Weekly Journal before the March 20, 2011 deadline. Harold Hoffman told Nick Archer that it was too late to make the Thursday, March 10, 2011 edition. However, he assured Nick that the first publication would be in the Thursday, March 17, 2011 edition and the second publication would be in the Thursday, March 31, 2011 edition.

On Thursday, March 17, 2011, Harold Hoffman had a member of his newspaper staff hand deliver a copy of that week's Greenbriar Weekly Journal containing the 2011 delinquent tax notice and list to Nick

Archer's office in the courthouse. Nick and Cory Patchen checked it over and found no errors. They were satisfied that there was no reason to require a republication.

On Monday, April 4, Harold Hoffman signed the Affidavit of Publication that his newspaper staff had prepared earlier. The Affidavit certified that the 2011 delinquent tax notice and list had been published in the Greenbriar Weekly Journal on Thursday, March 17, 2011 and on Thursday, March 31, 2011.

After the Affidavit of Publication was 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, April 6, 2011.

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 2011 delinquent tax notice and list. Clayton Powers assured him that it would be done right away.

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 officially 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 8, 2011. 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 April 8, 2011, 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 2011 delinquent tax notice and list. Nick signed the warrant, and it was mailed to Harold Hoffman on Monday, April 11, 2011.

At the same time that they were preparing for the publication of the 2011 delinquent tax notice and list in the Greenbriar Weekly Journal, Nick Archer's staff was also getting ready to meet the March 20, 2011 deadline for mailing the delinquent tax letters and the copies of the notice of delinquent taxes.

By Monday, February 28, 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, 2011.

By Tuesday, March 15, 2011, Nick Archer's staff stuffed the envelopes with the delinquent tax letters to the names and addresses shown 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 Wednesday, March 16, 2011 (two workdays before the March 20 deadline; in 2011, March 20 fell on a Sunday).

Right away on Thursday morning, March 17, 2011, Nick Archer had one of his staff members prepare the Affidavit of Mailing. That same afternoon, Nick signed the Affidavit, and Sandra Fallon notarized it.

The next morning, March 18, 2011, one of Nick Archer's staff members hand delivered the Affidavit of Mailing up to Thornton Longstreet's office on the second floor of the courthouse.

With the publication in the Greenbriar Weekly Journal on Thursday, March 17, 2011 and on Thursday, March 31, 2011, and with the mailing on Wednesday, March 16, 2011, the two major actions of the second stage of the delinquent tax proceedings were completed.

The 2011 delinquent tax list that 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 Saturday, March 19, 2011, Peggy Svoboda did receive a letter from Nick Archer's office as part of the Wednesday, March 16, 2011 general mailing of the 2011 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 2011 property tax on her Applewood lot.

If Peggy Svoboda understood 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, 2011 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.

# Chapter 4: Judgment

## Introduction: Stage Three

Once the delinquent real property taxes have been determined (stage one) and announced (stage two), the third stage of the delinquent real property tax proceedings starts. This stage covers the court judgment on the parcels of real property with delinquent taxes and the subsequent [bid in for the state](#) on the second 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 database of their computers.
5. Each year on the second 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.

## Objection to Delinquent Taxes

The first steps in stage three of the delinquent real property tax proceedings involve 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.

### **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 ([Minnesota Statute 279.15](#)).

**Filers: Owners, Taxpayers, and Interested Parties**

The following parties may file a written objection to the delinquent real property taxes and/or penalties ([Minnesota Statute 279.15](#)):

- The [property owner](#);
- The [taxpayer of record](#); and
- Any other party with a legal interest in the parcel of property.

In other words, 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 a written objection. This 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 \(Minnesota Statute 276.041\)](#) 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 district court administrator ([Minnesota Statute 279.15](#)).

**Failure to File: Loss of Defense**

If no written objection is filed within the twenty-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 ([Minnesota Statutes 279.16](#) and [279.22](#)):

1. Proof that the property taxes were paid.
2. Proof that the property is exempt from property taxation.

## Tax Judgment by Court Administrator

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 district court administrator are explained in this section.

**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 record](#), or any other party with a legal interest in the property. This action occurs without a court case ([Minnesota Statute 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 or the affidavit of mailing by the county auditor, whichever is later ([Minnesota Statute 279.16](#)).

### **Record of Tax Judgment: “Tax Judgment Book”**

The district court administrator 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 ([Minnesota Statute 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 database of a computer to reflect the status of the delinquent tax amount for a particular parcel. In effect, the database 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 district court administrator constitutes 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 ([Minnesota Statute 279.16](#)).

Although technically a lien exists against the parcel of real property from January 2 of the assessment and levy year ([Minnesota Statute 272.31](#)), the due process clause of the United State Constitution 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.

### **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, a tax judgment is against the title to the property regardless of who owns it and not against a specific person.

## **Tax Judgment by Court**

The primary requirements and conditions for the completion of a tax judgment by the district court are explained in this section.

### **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 ([Minnesota Statute 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 cancelation 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 ([Minnesota Statute 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 ([Minnesota Statute 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. 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 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 [Minnesota Statute 549.09](#). 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 district court administrator records the tax judgment by the court in the same manner as a tax judgment by the court administrator.

**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. The same Constitutional due process concerns that apply to the tax judgment by the court administrator apply to the tax judgment rendered by the district court ([Minnesota Statute 279.16](#)).

**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 ([Minnesota Statute 279.21](#)).

## Interest Rate for Judgments by Court

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 [Minnesota](#)

[Statute 549.09](#). The interest rate for court judgments should be applied as per [Minnesota Statute 278.08](#). Interest for court judgments is determined on a year-by-year basis. For more information, visit the [interest rate page](#) on the Department of Revenue’s website.

## Copy of Tax Judgment to County Auditor

The district court administrator delivers 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 ([Minnesota Statute 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.” 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.

## Conditions for Canceling Tax Judgment

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.

### 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. The district court must receive proof of payment from the county auditor or county attorney before the tax judgment can be vacated ([Minnesota Statute 279.22](#)).

### 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. The district court must receive proof of the exemption from the county auditor or county attorney before the tax judgment can be rescinded.

## Recording Payments Before/After Tax Judgment

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 district court administrator or rendered by the court itself ([Minnesota Statute 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.

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 computer database. The tax judgment proceedings pending against the parcel of property are to be canceled.

**Legal Tender: U.S. Currency, Check, or Money Order**

All delinquent taxes, special assessments, penalties, interest, and costs must be paid with United States currency or by check, money order, or electronic means drawn on a bank or other financial institution location in the United States. Electronic means of withdrawal includes, but is not limited to, automated clearing house transactions and federal wires.

## Distribution of Delinquent Tax Amount

When the [delinquent tax amount](#) is paid any time 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 and the state according to the following provisions.

**Delinquent Taxes**

The delinquent taxes are to be apportioned to the appropriate local units of government and the state:

1. According to the tax rates that were set for the year(s) 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(s) when the delinquent taxes were levied.

They are to be distributed according to the regular schedule for settlement and distribution of current property taxes ([Minnesota Statutes 276.09 through 276.111](#)).



**NOTE**

For more detailed information about the regular schedule for settlement and distribution of current property taxes, 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. The Property Tax Division maintains a current copy of the calendar on the Department of Revenue’s website.

**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 ([Minnesota Statutes 276.09 through 276.111](#)).

**Penalties and Interest**


All penalties and interest on special assessments against real or personal property are to be apportioned to the city or township that levied the assessment. 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.

Fifty percent 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 fifty percent 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 ([Minnesota Statute 127A.34](#)). The taxable net tax capacity of a school district for this purpose is the net tax capacity excluding powerline credit, tax increment, and fiscal disparity contribution net tax capacities (fiscal disparity distribution value is not included in this net tax capacity).

The penalties are to be distributed according to the regular schedule for settlement and distribution of current property taxes.

For interest collected on real and personal property taxes, the following apportionment is to be made:

1. In the case of interest on taxes that have been delinquent for a period of one year or less, 50 percent is to be apportioned to the county in which the property is located. The other 50 percent 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 ([Minnesota Statute 127A.34](#)).
  
2. In the case of interest on taxes that have been delinquent for a period of more than one year, 50 percent 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 ([Minnesota Statute 127A.34](#)), and the remaining 50 percent 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.

 **NOTE**

Cities, towns, special taxing districts, tax increment financing districts, and the state are not authorized to receive any portion of the penalties 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.

### 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 ([Minnesota Statute 276.131](#)).

The costs are to be distributed according to the regular schedule for settlement and distribution of current property taxes.

### 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 ([Minnesota Statute 469.176](#)).

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: Second Monday in May

On the second Monday in May, 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. 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 second Monday in May ([Minnesota Statute 280.01](#)).

### Actions Required

The county auditor and district court administrator are responsible for completing the paperwork for the tax judgment sale. The tax judgment sale is also known as bidding 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 paperwork by entering the same phrase on the right-hand page 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 ([Minnesota Statute 280.07](#)).

#### **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 ([Minnesota Statute 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.

#### **Using an Incorrect Name**

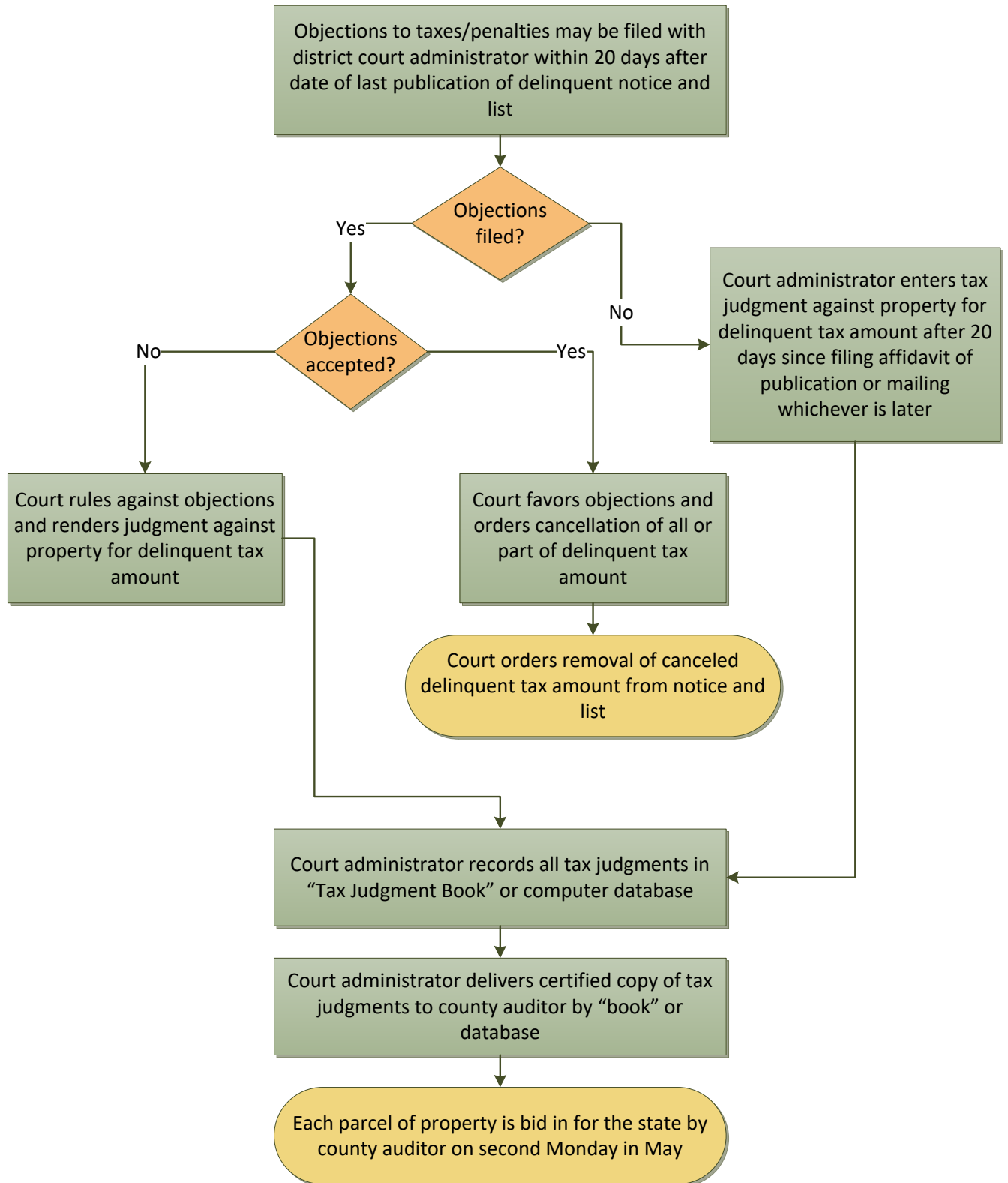
The use of any name other than the true owner of record in describing the ownership of a parcel of real property in the tax judgment sale has no effect on the validity of the tax judgment sale ([Minnesota Statute 280.06](#)).



#### **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 database of a computer to reflect the status of the [delinquent tax amount](#) for a particular parcel. In effect, the database has superseded the tax judgment book in most counties as the medium for record keeping.

# Judgment on Delinquent Taxes Chart





## Sample Case: Stage Three

After receiving the delinquent tax letter and notice of delinquent taxes for her Applewood lot on March 19, 2011, Peggy Svoboda mentioned her tax problem in an e-mail 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 13, 2011 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. 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 persuaded 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 11, 2011, two days before the deadline.

All of the written objections to delinquent taxes and penalties filed with Thornton Longstreet by Wednesday, April 13, 2011 were brought to trial at the current term of the district court in Spruce County. Peggy Svoboda's objection was heard on Tuesday, April 26, 2011.

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, 2011. The interest was at nine percent per year or 0.75% per month.

On Thursday, April 28, 2011, the office staff of the district court entered the [delinquent tax amounts](#) in the computer database 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 that also contained the \$510.40 tax judgment by the court on Peggy Svoboda's Applewood lot. Thornton Longstreet signed it on Friday, April 29, 2011.

On Monday, May 2, 2011, Thornton Longstreet's office e-mailed the tax judgment data to the county auditor's office. Nick Archer's staff stored it for future use.

The next time Nick Archer's staff used the data was on Monday, May 9, 2011. On that date, each parcel of real property with an unpaid 2011 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 2011 tax judgment data.

When all of the dates and symbols were added, Nick Archer's staff made a copy of the file with all of the parcels bid in for the state. On Wednesday, May 18, 2011, one of the staff members e-mailed a copy of the updated file to the office of the district court in the Spruce County Courthouse.

When the district court's ruling was known back on Tuesday, April 26, 2011, 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.

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

# Chapter 5: Redemption

## Introduction: Stage Four (Part I) – Redemption

There are two major methods of paying off a [delinquent tax amount](#) before the property is forfeited to the state. The first method of payment is called “redemption.” This method of payment is the focus of this series. The second method of payment is called [confession of judgment](#). That method of payment is the focus of [Chapter 6](#).

### Redemption under the Tax Judgment Plan

Although the delinquent tax amount may be paid any time after it is determined in January, the provisions for redemption are authorized for payments made after the property is [bid in for the state](#).

Under the redemption payment 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. 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](#).

### Required Actions for Redemption

The major actions for redeeming a parcel of property under tax judgment are as follows:

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 database.
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.

## Redemption under Tax Judgment Plan

### 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 [Minnesota Statutes, Chapter 281](#). This includes the [property owner](#), the [taxpayer of record](#), and any other party with a legal interest in the property. Other parties with a legal interest in a property are usually lienholders who are not taxpayers of record. These individuals may include (a) a mortgagee who does not pay taxes from the mortgagor’s escrow account or (b) a contractor holding a mechanic’s lien.

### 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 ([Minnesota Statute 272.44](#)).

### Period of Redemption

In most cases, the [period of redemption](#) is three years from the time the property is bid in for the state ([Minnesota Statute 281.17](#)).

### Exceptions to the Standard Period of Redemption

The following delinquent tax situations are exceptions to the standard three-year period of redemption.

#### ***Minneapolis and St. Paul Targeted Communities***

In a Minneapolis or St. Paul targeted community ([Minnesota Statute 469.201](#)), homestead property is restricted to a three-year period of redemption. All other classes of property in a targeted community are limited to a one-year period of redemption instead of the standard three years ([Minnesota Statute 281.17](#)).

The property classification as of the assessment year of the judgment is used to determine the period of redemption. Any change to the classification after the assessment year of the judgment does not affect the period of redemption.

***Mixed Municipal Solid Waste Disposal Facility***

A special period of redemption applies for all real property constituting a qualified mixed municipal solid waste facility ([Minnesota Statute 115B.39](#)). The special period of redemption for this type of property is one year from when the property was bid in for the state ([Minnesota Statute 281.17](#)).

***Abandoned Property***

A five-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 and only applies to property that was bid in for the state in 1996 or subsequent years. 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 housing and redevelopment authority (HRA) ([Minnesota Statute 281.173](#)).

Under this provision, (a) a county, (b) a city, (c) the HRA, economic development authority (EDA), or port authority of a city, or (d) 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 the following individuals or entities as defendants:

1. The record [fee owners](#), 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 (1), (2), or (3) above;
5. Taxpayers of record;
6. The Internal Revenue Service (IRS) 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 the following:

1. The property has been 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 five 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.

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 10 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 the 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:

- Windows or entrances to the property are boarded up or closed off, or multiple window panes are broken and unrepaired;
- Doors to the property are smashed through, broken off, unhinged, or continuously unlocked;
- Gas, electric, or water service to the property has been terminated;
- Rubbish, trash, or debris has accumulated on the property;
- 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
- 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 five weeks of the date of entry or the order, the county auditor must execute a certificate of forfeiture.

**Vacant Property**

A five-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 ([Minnesota Statute 281.174](#)) and only applies to property that was bid in for state in 1996 or subsequent years.

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 community revitalization program ([Minnesota Statute 469.201](#));
2. No structures are located on the land;
3. The property is classified as residential. The property classification as of the assessment year of the judgment is used to determine the period of redemption. Any change to the classification after the assessment year of the judgment does not affect the period of redemption; and
4. A residential structure existed on the land within the last five years.

Under this provision, a county, 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 the same individuals as in the case of [abandoned property](#). The complaint must allege the following:

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 five weeks.

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



**NOTE**

The definition of “city” in [Minnesota Statute 469.201](#) includes cities of the first class (Duluth, Rochester, 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-week redemption period may apply only to certain residential property located within this small group of cities.

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 10 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 10 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 five weeks of the date of entry of the order the county auditor must execute a certificate of forfeiture.

## Methods of Payment for Redemption

Anytime during the three-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](#) ([Minnesota Statutes 281.02](#) and [281.03](#)).

### **Legal Tender: United States Currency, Check or Money Order**

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. Electronic means of monetary payment are also valid ([Minnesota Statute 279.025](#)).

### **Two Methods of Payment**

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 following ways:

#### **Single Payment of Total Delinquent Tax Amount**

Under this 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.

**Each Year’s Delinquent Tax Amount Paid Separately**

Under this 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 years is paid in full before the period of redemption expires, the delinquent tax proceedings will be canceled, and the tax lien will be removed from the property.

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

Under the partial-payment plan, certain 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 that is under tax judgment are eligible for the partial-redemption plan.

There are four types of partial ownership that are eligible for a partial redemption by the county auditor:

1. An undivided part of a parcel ([Minnesota Statute 281.06](#));
2. An undivided share of a parcel ([Minnesota Statute 281.07](#));
3. A specific part of a parcel ([Minnesota Statute 281.08](#)); and
4. A specific part of an undivided part of a parcel ([Minnesota Statute 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. [Minnesota Statute 281.11](#).

## Administration of Partial Redemption

To complete a partial redemption, the county auditor and county treasurer must perform the administrative tasks explained in this section ([Minnesota Statutes 281.10](#) and [281.11](#)).


**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](#) that is to be paid to complete a partial redemption. The determination of the partial redemption amount usually takes place in the county auditor’s office in the county courthouse.

**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.

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.

**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.

For all of the types of partial ownership listed above 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.

**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:

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.
3. Report the transaction to the county auditor.

 **NOTE**

Although the county treasurer is given the task of entering the information, 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.

**Auditor Exempts Partial Redemption from Forfeiture**

Once the above tasks have been completed, the county auditor is to exempt the portion of the whole parcel that was redeemed from all future delinquent tax proceedings and possible forfeiture.

The county auditor is to continue all future delinquent tax proceedings and possible forfeiture against the portion of the whole parcel for which the delinquent 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.

## Administration of Full Redemption

In order to complete a full redemption, the county auditor and county treasurer are responsible for performing the administrative tasks explained in this section ([Minnesota Statute 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](#).

**Auditor Certifies Delinquent Tax Amount**

The county auditor is responsible for certifying the [delinquent tax amount](#) that must be paid in order to redeem a parcel of real property ([Minnesota Statute 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.

**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 ([Minnesota Statute 281.02](#)). The delinquent tax amounts are deposited with the current taxes and distributed according to [Minnesota Statute 276.131](#).

**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.

The master receipt should contain the following information:

- The date when the payment was made to redeem the property;
- The name and address of the party who redeemed the property;
- The amount of the payment to redeem the property;
- A description of the parcel of real property being redeemed;

- A statement to the effect that the delinquent tax amount has been paid in full; and
- The signature of a 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.

#### **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" ([Minnesota Statutes 281.03](#) and [280.07](#)).

#### **Cancelation of Court Judgment**

The completion of the recording of the redemption in the county auditor's "Tax Judgment Book" serves to cancel the delinquent tax proceedings and to annul the court judgment against the property ([Minnesota Statute 281.03](#)). In practice, this means that the [period of redemption](#) for paying the delinquent tax amount is canceled 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 canceled in district court files. This is when the court judgment is officially annulled.

#### **Removal of Tax Lien on Title**

The county auditor's master receipt of payment that 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 retains the legal title to the property during the period of redemption with the warranty deed or quitclaim 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 party 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 canceled. The property 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.

**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 ([Minnesota Statute 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.

*Example: Lienholder’s Claim against the Property*

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 the 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.

**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 the amount required by law does not invalidate the redemption ([Minnesota Statute 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

When the [property 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 ([Minnesota Statute 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 ([Minnesota Statute 281.05](#)). The Uniform Probate Code is codified in [Minnesota Statutes, Chapter 524](#).

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 ([Minnesota Statute 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; and
6. The levy year of the delinquent taxes.

**Auditor’s Certificate: Cancels Tax Judgment**

The county auditor’s certificate that 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 ([Minnesota Statute 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 ([Minnesota Statutes 281.03](#) and [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 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 that 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 ([Minnesota Statute 281.05](#)).

## Delinquent Tax Paid in Inverse Order

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 the taxes, or a portion of them, the county auditor is to credit each payment in the inverse order of delinquency ([Minnesota Statute 280.39](#)).



### NOTE

The inverse order of delinquency is:

1. Taxes delinquent last are paid off first.
2. Taxes delinquent first are paid off last.

The inverse ordering means that 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 continue to be applied in inverse order until the total delinquent amounts due for all years are paid in full ([Minnesota Statute 280.39](#)).

### Example of Inverse Order for 2017, 2018, and 2019 Taxes

Let us assume that property taxes are delinquent and under tax judgment for the taxes payable years 2017, 2018, and 2019.

If the property owner, taxpayer of record, or any other party with a legal interest in the property chooses to pay a portion of the delinquent tax amount due, the county auditor is to credit that first payment towards the year 2019, with any remainder of that payment applied in inverse order towards the unpaid delinquent tax.

The next 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 with the most recent delinquent tax.

The delinquent tax amount for payable 2017, being the first to become delinquent, would be the last to be credited.

The [sample inverse payment calculation](#) demonstrates how three payments would be applied towards delinquent taxes in inverse order.

SAMPLE INVERSE PAYMENT CALCULATION				
Action	Amount	Penalty	Interest	Tax
<b>01/02/17 – Pay 2016 Property Tax Delinquent</b>				
-Penalty assessed	<b>\$1,350.00</b>			<b>\$1,350.00</b>
-New Pay 2016 balance due	\$135.00	\$135.00		
	\$1,485.00	\$135.00		\$1,350.00
<b>01/02/18 – Pay 2017 Property Tax Delinquent</b>				
-Penalty assessed	<b>\$1,420.00</b>			<b>\$1,420.00</b>
New Pay 2017 balance due	\$142.00	\$142.00		
	\$1,562.00	\$142.00		\$1,420.00
<b>01/02/19 – Pay 2018 Property Tax Delinquent</b>				
-Penalty assessed	<b>\$1,485.00</b>			<b>\$1,485.00</b>

SAMPLE INVERSE PAYMENT CALCULATION				
<b>Action</b>	<b>Amount</b>	<b>Penalty</b>	<b>Interest</b>	<b>Tax</b>
-New Pay 2018 balance due	\$148.50	\$148.50		
	\$1,633.50	\$148.50		\$1,485.00
<b>01/08/19 – Payment</b>	<b>\$1,500.00</b>			
-Interest on Pay 2018	\$13.61		\$13.61	
-Application of payment to Pay 2018	-\$1,500.00	-\$148.50	-\$13.61	-\$1,337.89
New Pay 2018 balance due	\$147.11			\$147.11
<b>03/13/19 – Payment</b>	<b>\$1,500.00</b>			
-Interest on Pay 2018	\$2.45		\$2.45	
-Application of payment to Pay 2018	-\$149.56		-\$2.45	-\$147.11
-New Pay 2018 balance due	\$0.00			
-Interest on Pay 2017	\$195.25		\$195.25	
-Application of payment to Pay 2017	-\$1,350.44	-\$142.00	-\$195.25	-\$1,013.19
-New Pay 2017 balance due	\$406.81			\$406.81
<b>08/07/19 – Payment</b>	<b>\$1,500.00</b>			
-Interest on Pay 2017	\$58.15		\$58.15	
-Application of payment to Pay 2017	-\$464.96		-\$58.15	
-New Pay 2017 balance due	\$0.00			-\$406.81
-Interest on Pay 2016	\$396.00		\$396.00	
-Application of payment to Pay 2016	-\$1,035.04	-\$135.00	-\$396.00	-\$504.04
-New Pay 2016 balance due	\$845.96			\$845.96

#### **Inverse Order: No Effect on State’s Lien**

The payment of a portion of the 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 ([Minnesota Statutes 280.39](#) and [281.18](#)).

If the [period of redemption](#) expires before any unpaid delinquent tax amount is paid in full, 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.



**Partial Payments: Suggested Document**

The acceptance of partial payments for delinquent taxes can pose some potential pitfalls. It is recommended that each county have a formal policy on the acceptance of partial payments for delinquent taxes.

One potential issue that could emerge is that taxpayers who have made partial payments on delinquent taxes, especially with any regularity, may assume that they are in an informal “payment plan.” This line of thinking could lead them to believe that they are not in any danger of losing their property, and that they have “suspended the clock” on their redemption period. The Department of Revenue strongly suggests that each county have any taxpayer wishing to make a partial payment for delinquent tax sign an acknowledgement that they have been informed that their property will still forfeit if the delinquent tax is not paid in its entirety before the end of the period of redemption.

## Voluntary Conveyance in Lieu of Forfeiture

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 ([Minnesota Statute 280.385](#)).

**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:

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.

**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. 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.

**Cancelation 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. 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.

### **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:

1. Reinstate all delinquent taxes, penalties, costs, and accrued interest due and canceled as of the date of the voluntary conveyance.
2. Add to the total delinquent tax amount all interest that would have accrued from the date of the voluntary conveyance to the date of the cancelation 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 cancelation of the transaction.
4. Reinstate the delinquent tax proceedings under the tax judgment as if the voluntary conveyance had never taken place.

### **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 Subdivision.”

### **Statutory Reference**

If a voluntary conveyance is completed, the conveyance document should contain a reference to the fact that the voluntary conveyance is authorized under statute.

## **Attachment of Rents**

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 ([Minnesota Statute 280.38](#)).

### **Administrative Tasks for Attachment of Rents**

The following 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.

#### ***County Auditor's Affidavit***

The county auditor delivers an affidavit to the administrator of the district court. The affidavit must contain the following information:

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; and
3. The dollar amount of the rent.

***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.

***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.

***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.

**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 five-day notice given to the county auditor and approval being given by the district court.

**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:

- Grant additional clerical staff to the county auditor.
- Institute court action to evict tenants and to collect unpaid 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. 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 five-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.

**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 that became delinquent last are the first to be credited as paid by the rents collected ([Minnesota Statute 280.40](#)).

**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 delinquent tax amounts described in the writ of attachment are paid before the period of redemption expires.

## Attachment of Crops

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 ([Minnesota Statute 280.38](#)).

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.

**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.

**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.

**County Leasing**

The county auditor is authorized to lease a parcel of unplatted real property bid in for the state that is not currently under a lease agreement with the owner to a third party. The lease cannot extend for more than one crop season.

The following administrative tasks must 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.

**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:

1. Grant additional clerical staff to the county auditor.
2. Institute court action to evict tenants and to collect unpaid rents.

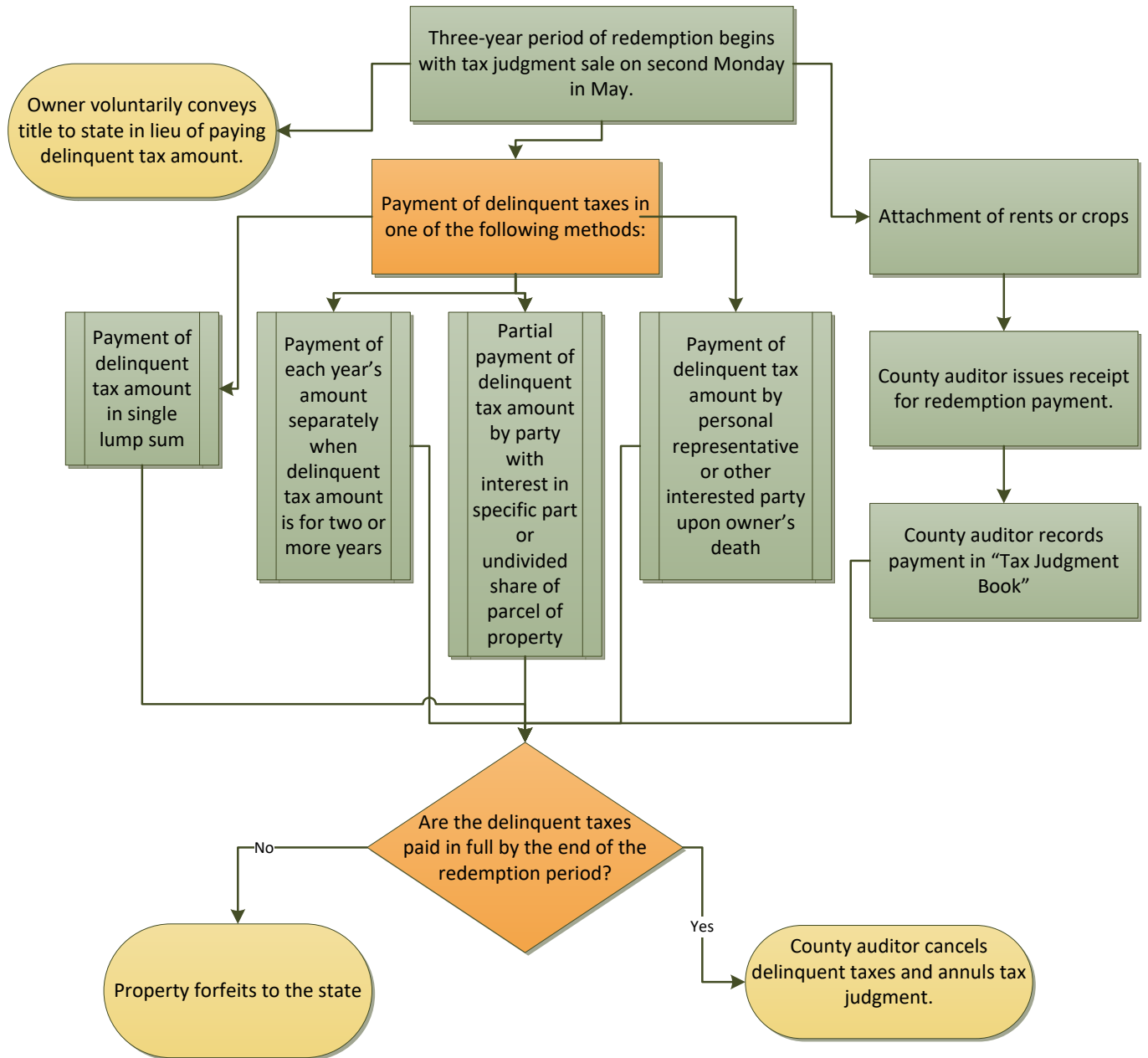
**Credited in Inverse Order**

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 that became delinquent last are the first to be credited as paid by the rents collected ([Minnesota Statute 280.40](#)).

**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 delinquent tax amounts described in the writ of attachment are paid before the period of redemption expires.

# Redemption of Property Chart



## Sample Case: Stage Four (Part I) – Redemption

### 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 2013, the Narveson’s bought an 80-acre piece of open land to put in more corn for silage. The “80” was located about two miles from their home place. They paid \$510 an acre or \$40,800, for the “80.”

Everything seemed to go smoothly from 2014 through the fall of 2015. However, when the Narveson’s reviewed their budget in the winter of 2015-2016, 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 2016 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 80-acre parcel go until later.

On January 2, 2017, Nicholas Archer, the Spruce County Auditor, entered the sum of the unpaid tax (\$594.32) and the penalties (\$59.43) in the county’s 2017 delinquent tax list. The total amount listed as delinquent on the Narveson’s “80” was \$653.75.

Nick Archer’s office staff mailed a 2017 delinquent tax letter along with a copy of the delinquent tax notice to the Narvesons on Tuesday, March 7, 2017. The owner of the Greenbriar Weekly Journal, Harold Hoffman, had the Spruce County 2017 notice of delinquent taxes and the delinquent tax list published on March 15 and March 22, 2017. The Narveson’s “80” was in the published delinquent tax list.

Thornton J. Longstreet, Administrator of the District Court, entered a tax judgment against the Narveson’s “80” on Thursday, April 27, 2017. 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 nine percent from January through April, 2012 (\$19.91).

On May 15, 2017, Nick Archer’s office staff completed the paperwork for the “tax judgment sale.” The Narveson’s “80” 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 nine percent from January through May 2012.

The Narvesons had three years to redeem the parcel, or until May 11, 2020, before it would forfeit to the state. Although they were not aware of it then, the Narvesons also had the option to confess judgment under the 10-year plan anytime during that three-year [period of redemption](#).

The Narveson's cash flow situation began to improve in the fall of 2017. A year later, there was enough extra cash to pay the [delinquent tax amount](#). On Tuesday, November 13, 2018, the Narvesons drove to the county seat to see Nick Archer and redeem the "80."

While the Narvesons waited, Cory Patchen, the Deputy Auditor, had the office staff calculate the total delinquent tax amount required to redeem the "80." 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 nine percent from January through December, 2017 (\$59.74) and at eight percent from January through November, 2018 (\$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 Narvesons, and they left the office.

The auditor's staff completed the redemption process by performing several tasks. First, one of the copies of the Narvesons 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 "80" had been redeemed.

Finally, the paperwork 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 "80." 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.



# Chapter 6: Confession of Judgment

## Introduction: Stage Four (Part II) – 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](#). The 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.

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.

The major components and requirements of a confession of judgment are outlined below ([Minnesota Statute 279.37](#)):

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. 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.
3. 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.
4. The property owner and/or taxpayer who chooses this plan agrees to pay the single total sum under either a five-year or a 10-year installment plan that replaces the three-year or five-year periods of redemption set up under the original tax judgment.
5. 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.
6. 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.

7. 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.
8. Once the conditions of the confession of judgment are satisfied by paying the installments, the tax judgment is canceled and the property owner regains title to the parcel of real property free and clear of the delinquent tax lien.

## Ten Year Plan: Eligibility

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 any time after the delinquent taxes are determined in January and prior to the expiration of the [period of redemption](#) and tax forfeiture ([Minnesota Statute 279.37](#)).

### 10-Year Plan: Eligible Parties

The legal right to confess judgment is restricted to the following parties ([Minnesota Statute 279.37](#)):

- The [property owner](#) ([fee owner](#)), or
- Any person to whom the right to pay taxes has been given by statute, mortgage, or other agreement. 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.
  - Examples:
    - [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.
    - [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](#). 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.

**Ten-Year Plan: Eligible Property**

All property except commercial/industrial, public utility, public utility machinery, unmined iron ore, low recovery iron ore is eligible for a 10-year confession of judgment.

**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 percent or more of the estimated market value of the parcel is assessed under a classification eligible for the 10-year plan ([Minnesota Statute 279.37](#)).

*Example: Market Value Cut-Off*

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, commercial-industrial. The two apartments have a market value of \$35,000 and are assessed as class 4b(1), residential nonhomestead (one to three units that do 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 percent of the total market value ( $\$35,000/\$135,000=25.9\%$ ).

**10-Year Plan: Unimproved Land**

Delinquent taxes on improved land may be composed into a 10-year confession of judgment only if the unimproved land has been classified as homestead, agricultural, rural vacant, or managed forest land in the calendar year prior to the year in which the confession of judgment is offered and signed.

Delinquent taxes on unimproved land may be composed into a 10-year confession of judgment if two conditions are met: (1) the unimproved land must have been classified as homestead, agricultural, rural vacant, or managed forest land in the calendar year prior to the year in which the confession of judgment is offered and signed; and (2) the taxes which were offered to be paid under a confession of judgment became delinquent after December 31, 1991.

**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.

**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. No more than two confessions of judgment may be offered for the same taxes on the same parcel of real property ([Minnesota Statute 279.37](#)). A second confession is also allowed for the unpaid balance of a first confession of judgment under a five-year plan which was defaulted.

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.



**NOTE**

Similar to the first confession, a second confession of judgment does not require the approval of the county auditor or the county board.

The conditions, requirements, and procedures for setting up and administering the second confession of judgment are the same as those for the first confession. If a second confession of judgment contract for 1a or 1b qualified property is entered into, the contract may be subject to the special interest rate.

## Ten Year Plan: Confession Agreement

The [property owner](#) and/or taxpayer begins the process by filing a request to confess judgment with the county auditor ([Minnesota Statute 279.37](#)).

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.



**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 ([Minnesota Statute 279.37](#)).

Counties are permitted to offer financial literacy counseling as part of an agreement to enter into a confession of judgment. This counseling must be optional, not mandatory, and free to the taxpayer. The county auditor may fund the financial literacy counseling using the administrative fees described later in this chapter ([Minnesota Statute 279.37](#)).

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 ([Minnesota Statute 279.37](#)):

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 percent of the total delinquent tax amount combined into the confession of judgment.
5. To direct court judgment to be entered for the remaining 90 percent of the total delinquent tax amount combined into the confession of judgment.
6. To pay the remaining 90 percent 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.

#### **Legal Tender: United States Currency, Check, or Money Order**

All delinquent taxes, penalties, interest, and costs must be paid with United States currency or by check, money order, or electronic means (automated clearing house transactions, federal wires, etc.) drawn on a bank or other financial institution located in the United States ([Minnesota Statute 279.025](#)). This requirement applies to both the down payment and installment payments made under a [confession of judgment](#).

#### **Payment of Current Year Taxes and Penalty**

The property owner and/or taxpayer must pay all current taxes and penalty due at the time the confession of judgment is entered. This payment must be made at the same time that the ten percent down payment is made. The confession of judgment cannot be effective without this payment ([Minnesota Statute 279.37](#)).



#### **NOTE**

A confession of judgment under the five-year plan is also subject to the requirement that all current taxes and penalty be paid upon entering the confession.

***Example: Payment of Current Year Taxes under a Confession of Judgment***

A residential homestead owner enters into a confession of judgment for delinquent property taxes. The following payments must be made depending on when the confession of judgment was signed:

1. If the taxes were confessed on February 1, no current taxes must be paid because the first half of taxes are due May 15.
2. If the taxes were confessed on June 1, the owner must pay the first half of property taxes in the current payable year if they have not already been paid.
3. If the taxes were confessed on November 1, the owner must pay the first and/or second half of the property taxes due in the current payable year if they are not already paid.

## Ten Year Plan: Recording of Confession

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 certain tasks.

### County Auditor's Tasks

The county auditor must:

1. Notify the county board of the offer by the [property owner](#) or taxpayer to confess judgment under the 10-year plan. The county board does not have to approve the [confession of judgment](#).
2. Record the offer by the property owner or taxpayer to confess judgment under the 10-year plan in the ["Tax Judgment Book."](#)
3. Deliver 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. Credit the 10 percent down payment under the 10-year confession of judgment as a partial release of the new tax judgment and distribute the amount in inverse order to the delinquent taxes.
5. Deliver the 10 percent down payment under the 10-year confession of judgment to the county treasurer.


**County Treasurer Tasks**

The county treasurer records the 10 percent 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.

**Court Administrator’s Tasks**

The court administrator must:

1. Enter a new tax judgment for the [delinquent tax amount](#) combined under the 10-year confession of judgment minus the ten percent down payment.
2. Record the 10 percent down payment in the “Tax Judgment Book.

 **NOTE**

The tasks for the County Treasurer and Court Administrator are to be followed with the receipt of each annual installment payment.

## Ten Year Plan: Administering Installments

The county auditor has several tasks to complete to administer the receipt of the annual installment payments under the 10-year [confession of judgment](#) ([Minnesota Statute 279.37](#)).

**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 ([Minnesota Statute 279.37](#)).

The two major purposes of the county auditor’s notice are:

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 percent 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.

**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.

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 local taxing districts by the county auditor according to statute.



**NOTE**

The annual installment payments under the 10-year confession of judgment are not to apply to any specific year’s delinquent tax amount.

## Ten Year Plan: Default on Payments

If the [property owner](#) or taxpayer who has confessed judgment fails to meet any of the terms of the contract, the county auditor has several tasks to complete 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 ([Minnesota Statute 279.37](#)).

**Notice of Sixty-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 ([Minnesota Statute 279.37](#)).

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 also agrees 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 ([Minnesota Statute 279.37](#)):

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 second 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.



#### NOTE

If a notice of the expiration of redemption was published, mailed, and served before the confession was signed and then a default occurred, another notice has to be published mailed and served after the confession is canceled. 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.

#### *Example: Reinstatement to Period of Redemption*

The payable 2012 tax on a residential homestead property was not paid. The unpaid tax and penalties were declared delinquent on January 2, 2013. A tax judgment was entered against the property, and the property was bid in for the state for the delinquent tax amount on May 13, 2013.

The property owner, [taxpayer of record](#), or any other party with a legal interest in the residential homestead property had three years, or until May 9, 2016, to redeem the property.

A 10-year confession of judgment was signed on July 22, 2013, and the 10 percent down payment was paid. However, the first annual installment was not paid by December 31, 2014. No payment was made after the notices were given. The confession was declared in default and canceled on March 23, 2015.

The delinquent tax proceedings reverted back to May 13, 2013, 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 23, 2015, when the confession of judgment was canceled, the original tax judgment would have been at the end of the second year of the three-year period of redemption. Therefore, the period of redemption continues from that point as if the confession of judgment had never been signed.

### *Example: Reinstatement to Tax Forfeiture*

Assume the same facts for the [Reinstatement to Period of Redemption Example](#) through the confession of judgment down payment. The annual installments were paid through December 31, 2017. However, the annual installment due by December 31, 2018 was not paid. No payment was made after the notices were given. The confession was declared in default and canceled on March 18, 2019.

The delinquent tax proceedings reverted back to May 13, 2013, 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 18, 2019, when the confession of judgment was canceled, the three-year period of redemption under the original tax judgment would have already expired. It would have extended only through May 9, 2016. Therefore, the tax forfeiture proceedings are started immediately by mailing out a notice of the expiration of the period of redemption.

#### **Default: Second Confession Allowed**

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 ([Minnesota Statute 279.37](#)).

## **Five Year Plan: Eligibility**

Certain properties which do not qualify for the 10-year [confession of judgment](#) may qualify for a five-year confession of judgment. The five-year plan may be requested any time after the taxes become delinquent in January and prior to the expiration of the [period of redemption](#) or tax forfeiture ([Minnesota Statute 279.37](#)).

#### **Eligible Parties**

The same parties who are eligible to confess judgment under the 10-year plan are also eligible to confess judgment under the five-year plan. The eligible parties are the [property owner](#) and/or the taxpayer.

#### **Eligible Property**

The [property owner](#) and/or taxpayer of class 3A commercial-industrial or public utility property ([Minnesota Statute 273.13](#)) may submit a written offer to pay the total [delinquent tax amount](#) under a five-year [confession of judgment](#) ([Minnesota Statute 279.37](#)).

It is up to the county auditor whether or not that application is accepted. The county may place conditions on such property requesting a confession of judgment. These conditions include



#### **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 five-year plan.

environmental remediation action plans, restrictions, or covenants. The conditions may be different on a second confession of judgment.

### Market Value Cut-Off for Eligibility

The [delinquent tax amount](#) on a parcel of real property is eligible for the five-year [confession of judgment](#) if twenty-five percent or more of the estimated market value of the parcel is assessed under a classification eligible for the five-year plan.

#### *Example: Market Value Cut-Off for Eligibility*

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. 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 percent 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 five-year plan. This is true because (1) the grocery store is assessed as Class 3a, commercial-industrial property, and (2) the estimated market value of the grocery store is 25% or more of the total estimated market value of the parcel ( $\$74,000/\$96,000=77.1\%$ ).

## Five and Ten Year Plan Comparison

A [confession of judgment](#) under the five-year plan is to be administered the same way as a 10-year confession of judgment with the following exceptions ([Minnesota Statute 279.37](#)):

- The property eligibility requirement;
- The time period;
- The down payment; and
- The number of annual installment payments.

The following chart compares the differences between a 10-year and five-year confession of judgment.

	<b>10-Year Plan</b>	<b>Five-Year Plan</b>
<b>Time Period Allowed</b>	10 years from date confession was signed and sealed	Five years from date confession was signed and sealed
<b>Amount of Down Payment</b>	10 percent of the delinquent tax amount (the property taxes, special assessments, penalty, and interest) due under the confession of judgment	Usually 20 percent, but it depends on the assessment authority.  If a waiver of special assessments is granted, all of the current-year taxes, special assessments, and penalties due at the time, along with a 20 percent down payment of the confession amount, must be paid.  If an abatement and reassessment is authorized, the municipality must notify the county auditor of its intent to reassess and no portion of the current and delinquent assessments will be required as part of the down payment.
<b>Number of Installments</b>	Nine equal annual payments of 10 percent of the delinquent tax amount (including special assessments)	Four equal annual payments of 20 percent of the delinquent tax amount (excluding special assessments)
<b>Property Eligibility Requirements</b>	All property except commercial/industrial, public utility, public utility machinery, unmined iron ore, low recovery iron ore	Commercial/industrial and public utility property, with the approval of the county auditor.

## Properties Not Eligible for Confession

The classes of real property outlined below are not eligible for either the 10-year or five-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 ([Minnesota Statute 279.37](#)).

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 three-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.

Class 5	Unmined iron ore and low recovery iron ore	<a href="#">Minnesota Statute 273.13</a>
Class 5	All other property not included in any other class	<a href="#">Minnesota Statute 273.13</a>

**Special Exclusion for the cities of Minneapolis and Saint Paul**

Property within the cities of Minneapolis and Saint Paul that has been reclassified from class 4bb to 4b under [Minnesota Statute 273.1319](#) is not eligible for a confession of judgment.

Under [Minnesota Statute 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

Under both the 10-year and five-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](#) ([Minnesota Statute 279.37](#)). The interest rate for both 10-year and five-year confessions of judgment is to be the adjusted prime rate charged by banks. The Department of Revenue publishes the applicable interest rates each year on its [website](#).

## Calculation of Installments and Interest

This section describes how payments on confessions of judgment are calculated in certain scenarios. One fictitious homestead property will be used as an example throughout this document.

**Calculation Steps on a Standard Confession of Judgment**

**Step 1: Calculate the delinquent tax amount.**

Calculate the total interest 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. Add the total accrued interest to the unpaid balance of the delinquent taxes, penalties, and costs. The sum is the [delinquent tax amount](#).

*Example*

Homestead property. Taxes were payable in 2013 (Total due: \$1,000). The taxes are declared delinquent on January 1, 2014. The confession of judgment is signed on July 6, 2016. The interest on the taxes is calculated from January 1, 2014 to July 6, 2016 at the appropriate rate.

Total Payable 2013 Property Taxes Due	\$1000.00
Total Penalty on January 1, 2014 (Taxes Due in 2013 x 10%)	\$100.00
Publication Cost	\$25.00
Base for Interest	\$1125.00
Interest from 1/1/2014 to 12/31/2014 on base: 10% per annum, 0.83% monthly	\$112.50
Interest from 1/1/2015 to 12/31/2015 on base: 10% per annum, 0.83% monthly	\$112.50
Interest from 1/1/2016 to 7/6/2016 on base: 10% per annum, 0.83% monthly	\$65.36
<b>TOTAL DELINQUENT TAX AMOUNT (add base + all interest amounts)</b>	<b>\$1415.36</b>

**Step 2: Calculate interest for the first installment.**

Calculate the total interest that has accrued under the confession of judgment. This amount must be calculated from the month after the confession was signed through December 31 of the year following the year the confession was signed. This amount is to be paid as part of the first installment. Each installment equals 10 percent of the total delinquent tax amount (i.e., the down payment amount) plus the calculated interest on the remaining balance up to the time of the installment payment.

The first installment is not the down payment required at the time the confession of judgment is signed (10 percent of the delinquent tax amount for a 10-year confession of judgment, 20 percent of the delinquent tax amount for a five-year confession of judgment for class 3a property) ([Minnesota Statute 279.37](#)). When calculating interest, a portion of a month is deemed to be a whole month ([Minnesota Statute 279.03](#)).

*Example*

A down payment of \$141.54 was made on July 6, 2016 when the confession of judgment was signed. This left a remaining balance of \$1,273.82 to be paid. The first installment is due December 31, 2017.

Down Payment on total delinquent tax amount (10% of total delinquent tax amount)	\$141.54
Remaining balance after down payment	\$1273.82
Interest on remaining balance: 10% per annum, 0.83% monthly. Calculated from 8/1/2016 to 12/31/2017 (i.e. 17 months)	\$179.74
Remaining balance plus interest	\$1453.56
First installment paid on 12/20/2017	\$321.28

**Step 3: Calculate interest for remaining installments.**

Calculate the total interest that has accrued under the confession of judgment for the calendar year that relates to each installment. The interest is to be paid as part of each remaining installment. This example does not include county administrative fees. These would normally be included in the installments.

*Example*

The first installment payment of \$321.28 leaves a remaining balance of \$1,132.28 (\$1,453.56 - \$321.28). The next installment payment is due on 12/31/2018. The installment payment will be equal to \$141.54 plus interest calculated for the year.

Remaining balance after first installment	\$1132.28
Interest on remaining balance: 10% per annum, 0.83% monthly. Calculated from 1/1/2018 to 12/31/2018.	\$113.23
Remaining balance plus interest	\$1245.51
Second installment payment amount	\$254.77

These steps are to be repeated until all nine installment payments are made and the balance on the confession of judgment is \$0.



**Calculating a Confession of Judgment Installment Paid Early**

Taxpayers have the option to make installment payments earlier than December of the year the payment is due. If an early installment payment is made, the taxpayer is only to be charged interest up to the point of payment. Interest will accrue from the point the early installment payment is made to the time of the next installment payment. Per [Minnesota Statute 279.03](#), the interest is calculated only for the months that the taxes or penalties remain unpaid.

*Example*

The second installment payment is made in December 2018. On June 19, 2019, the taxpayer desires to pay the third confession of judgment installment. The installment payment will be equal to \$141.54 plus interest calculated through June of 2019 (six months). On December 17, 2020, the taxpayer makes the fourth installment payment. Interest for the fourth installment payment will be equal to \$141.54 plus interest calculated from July 2019 to December 2020.

**Third Installment Payment**

Remaining balance after second installment payment	\$990.74
Interest on remaining balance: 10% per annum, 0.83% monthly. Calculated from 1/1/2019 to 6/19/2019 (i.e. 6 months)	\$49.34
Remaining balance plus interest	\$1040.08
Third installment amount	\$190.88

**Fourth Installment Payment**

Remaining balance after third installment payment	\$849.20
Interest on remaining balance: 10% per annum, 0.83% monthly. Calculated from 7/1/2019 to 12/31/2020 (i.e. 18 months)	\$126.87
Remaining balance plus interest	\$976.07
Fourth installment amount	\$268.41

**Calculating a Confession of Judgment Installment Paid Late**

No extra interest is added to a confession of judgment installment paid late. The taxpayer has 60 days after December 31 to make the installment payment due on December 31 before the property becomes subject to tax forfeiture. Interest for January and/or February is not to be charged for late payment. Interest on those months will be recovered in the following installment payment.

*Example*

The third installment payment is due on December 31, 2019. The taxpayer misses the installment payment due date. The notice was sent November 18, 2019, with a listed payment amount of \$240.61. The taxpayer misses the December 31, 2019 deadline, but offers to pay the third installment on February 11, 2020. The payment amount remains \$240.61. The taxpayer makes the fourth installment payment on December 17, 2020. The fourth installment payment will be calculated with 12 months interest.

**Calculating a Confession of Judgment Paid Off Early**

Interest on a confession of judgment is only calculated up to the time the confession of judgment is paid off entirely. Parties eligible to confess judgment have the right to pay off the confession of judgment prior to the 10-year or five-year deadlines

*Example*

On May 11, 2020, the confessing party offers to pay the confession of judgment on the property in full. As of December 31, 2019, three installment payments have been made on the property, leaving a balance of \$849.20 on January 1, 2020. Interest up to May 11, 2020 will be calculated for five months and added to the remaining balance on the confession.

Remaining balance on 1/1/2020	\$849.20
Interest on remaining balance: 10% per annum, 0.83% monthly. Calculated from 1/1/2020 to 5/11/2020	\$35.24
Remaining balance plus interest	\$884.44
<b>TOTAL AMOUNT TO PAY OFF CONFESSION</b>	<b>\$884.44</b>

**Handling an Installment Payment in Excess of the Required Amount**

The county may include information about the processing of excess payments in its confession of judgment contract. If the information is not covered in the contract, the county should contact the taxpayer to determine how to handle the excess. The county may send a letter to the taxpayer explaining how the county will handle the excess if the taxpayer does not say otherwise.

**Calculation of Interest under Five-Year Plan**

The same calculation steps should be used for five-year confessions of judgment except for the following five components ([Minnesota Statute 279.37](#)):

1. The property eligibility requirement.
2. The number of years the contract runs.
3. The percentage of the total delinquent 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 five-year plan than they are under the 10-year plan.

**Calculating Interest on a Defaulted Confession of Judgment for Homestead Property**

A special interest rate exists for confessions of judgment on delinquent taxes on property classified as 1a or 1b and used as the homestead of the owner. If there is a default on the confession of judgment for such property, the law requires the delinquent real property taxes and penalties on the property be subject to the standard interest rate on delinquent taxes ([Minnesota Statute 279.37](#)).

A second confession of judgment for 1a or 1b property used as the homestead of the owner uses the special interest rate.

***Default Occurs after Original Redemption Period Would Have Ended***

**Example:** A second installment payment was made on December 14, 2017. No installment payment is made on December 31, 2018. The county auditor provides notice of the 60-day grace period for the missed installment payment ([Minnesota Statute 279.37](#)). The property owner does not make the payment within the grace period. Default occurs on March 1, 2019. The property owner does not attempt to enter into a second confession of judgment. If a confession of judgment had never been entered into, the property would have forfeited on May 14, 2018.

The new rate is calculated on the remaining delinquent tax amount up until the contract is canceled due to default. This is the same amount to be reported on the notice of expiration of redemption, which must be sent after default ([Minnesota Statute 281.23](#)).

Remaining balance after second installment	\$833.45
Interest on remaining balance: 5% per annum, 0.42% monthly. Calculated from 1/1/2018 to 12/31/2018.	\$41.67
Remaining balance plus interest for third installment	\$875.12
Third Installment missed	
Interest on remaining balance until default: 5% per annum, 0.42% monthly	\$7.29
Remaining balance plus interest at time of default on 3/1/2019.	\$882.41

***Default Occurs While Original Redemption Period is Still Running***

**Example:** The first installment payment was made on December 14, 2016. No installment payment is made on December 31, 2017. The county auditor provides notice of the 60-day grace period for the missed installment payment ([Minnesota Statute 279.37](#)). Default occurs on March 1, 2018. The property owner does not attempt to enter into a second confession of judgment. The redemption period ends on May 14, 2018.

The new rate is calculated on the remaining delinquent tax amount up until the contract is canceled due to default. Interest accrues at a rate of 10 percent until the end of the redemption period on May 14, 2018.

Remaining balance after first installment	\$952.51
Interest on remaining balance: 5% per annum, 0.42% monthly. Calculated from 1/1/2017 to 12/31/2017.	
Remaining balance plus interest for second installment	\$1,000.14
Second installment missed	
Interest on remaining balance until default: 5% per annum, 0.42% monthly	\$8.33
Remaining balance plus interest at time of default on 3/1/2018	\$1,008.47
Interest on remaining balance through end of redemption: 10% per annum, 0.84% monthly. Calculated from 3/1/2018 to 5/15/2018.	\$25.21
Remaining balance plus interest when forfeited	\$1,033.68

***Default Occurs while Original Redemption Period is Still Running & Second Confession of Judgment Signed***

**Example:** The first installment payment was made on December 14, 2016. No installment payment is made on December 31, 2017. The county auditor provides notice of the 60-day grace period for the missed installment payment ([Minnesota Statute 279.37](#)). The property owner

does not make the payment within the 60-day grace period. Default occurs on March 1, 2018. The redemption period will end on May 14, 2018. The property owner signs a second confession of judgment on April 18, 2018.

The new rate is calculated on the remaining delinquent tax amount up until the contract is canceled due to default. Interest accrues at a rate of 10 percent until the second confession of judgment is signed.

Remaining balance after first installment	\$952.51
Interest on remaining balance: 5% per annum, 0.42% monthly. Calculated from 1/1/2017 to 12/31/2017	\$47.63
Remaining balance plus interest for second installment	\$1,000.14
Second installment missed	
Interest on remaining balance until default: 5% per annum, 0.42% monthly	\$8.33
Remaining balance plus interest at time of default on 3/1/2018	\$1,008.47
Interest on remaining balance until second confession of judgment is signed: 10% per annum, 0.84% monthly. Calculated from 3/1/2018 to 4/18/2018.	\$16.81
Delinquent tax amount for second confession of judgment	\$1,025.28

## Format for Confession of Judgment

[Minnesota Statute 279.37 provides a format for drafting a confession of judgment.](#) It includes the conditions required for 10-year confessions of judgment. The same format can be used for the five-year plan except for changes in the time period, the amount of down payment, and the number of annual installments.

## Notice of Payment

The county auditor must mail a payment notice, no later than November 30 of each year, to the taxpayer who has confessed judgment. If the county auditor does not receive the annual installment payment by December 31, the auditor will send another notice by certified mail stating that the property will be subject to forfeiture if payment is not made within 60 days from December 31. Failure to send or receive the notice does not postpone any payment or excuse any default under the confession of judgment. Proof of such mailing shall be made by the certificate of the auditor filed in the auditor's office (Minnesota Statute 279.37).

## Administrative Fees

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](#) ([Minnesota Statute 279.37](#)).

### 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 ([Minnesota Statute 279.37](#)).

The amount of the county administrative fee that 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](#) that 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 ([Minnesota Statute 279.37](#)).

The amount of the county administrative fee should be listed on a separate line in the confession of judgment document.

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 ([Minnesota Statute 279.37](#)).

Just like the county administrative fee, the district court administrative fee 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 fee will be paid as part of the down payment and the installment payments ([Minnesota Statute 279.37](#)).

The amount of the district court administrative fee should be listed on a separate line in the confession of judgment document. The county auditor is to forward the district court administrative fees to the administrator of the district court.

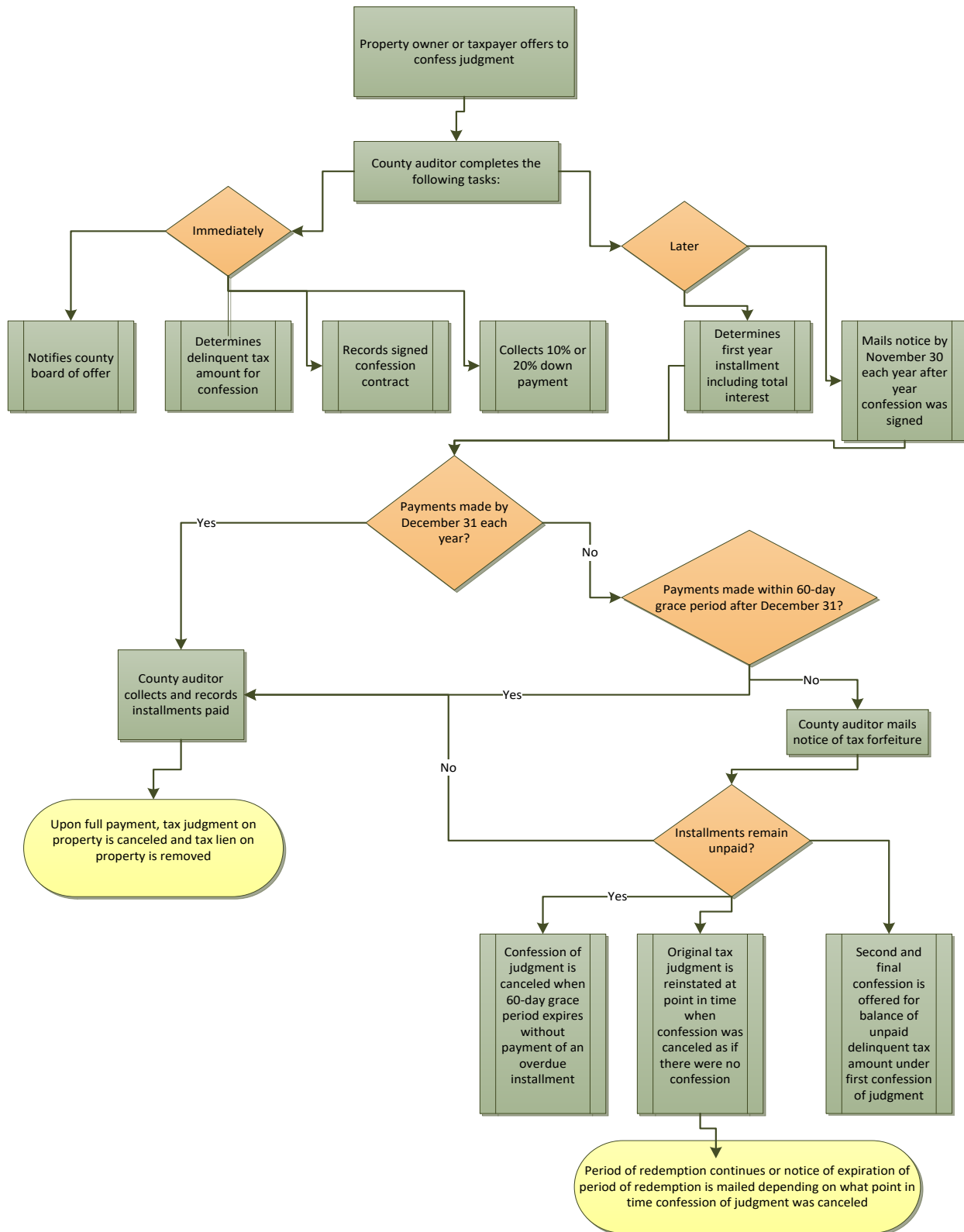
## Eligibility for Property Tax Refund

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 [Minnesota Statutes, Chapter 290A](#).

Each claimant who files a claim for a property tax refund with the Department of Revenue 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 the first line of the property tax statement. This indicates that the taxpayer is not eligible for a property tax refund, and the Department of Revenue 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 number one of the property tax statement

# Confession of Judgment Flow Chart





## Sample Case: Stage Four (Part II) – Confession of Judgment

### 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 3, 2012 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 2013. The total tax was \$942.67.

Business at The Italian Village was slack during most of 2012 and 2013. So Mr. Corelli did not pay the property taxes on the restaurant when they came due in 2013. As a result, on January 2, 2014, Nicholas Archer, the Spruce County Auditor, entered the sum of the unpaid tax (\$942.67) and the penalties (\$131.97) in the county's 2014 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 Monday, March 5, 2014. Harold Hoffman, owner of the *Greenbriar Weekly Journal*, published the Spruce County 2014 delinquent tax notice and list on March 10 and March 17. 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 Friday, April 18, 2014. 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 eight percent from January through April, 2014 (\$28.93).

On May 12, 2014, 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 eight percent from January through May, 2014 (\$36.16).

Mr. Corelli had three years to redeem his restaurant, or until May 10, 2017, 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 five-year plan anytime during that three-year [period of redemption](#).

By the summer of 2014, business at The Italian Village began to improve somewhat. Mr. Corelli decided to pay the current 2014 taxes and the delinquent 2013 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 five-year installment plan called a [confession of judgment](#).

On Tuesday, December 9, 2014, Mr. Corelli mailed a letter to Nick Archer officially offering to confess judgment under the five-year plan. As soon as they received the letter, Nick Archer's office staff started to prepare the five-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 five-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 eight percent from January 2014 through December 2014.

Finally, they entered \$234.28 as the 20 percent down payment required under the terms of the five-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 12, 2014, Mr. Corelli came in to Nick Archer's office to complete the confession of judgment under the five-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 eight percent before December 31 of each year from 2015 through 2020. 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 annual installments, and/or the current year's taxes were not paid as required under the contract, the five-year confession of judgment would be canceled 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 Thursday, December 18, 2014.

Next, the auditor's office staff recorded the transaction in the computer database. 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 \$237.13 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 percent down payment in their computer database.

No further action needed to be taken on Mr. Corelli's five-year confession of judgment until November of 2015. 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, 2015.

On Monday, November 16, 2015, 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, 2015, as the first installment under his five-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 the annual rate of 8% from January through December, 2015).

Unfortunately, the improvement in Mr. Corelli's restaurant business was short-lived. By the fall of 2015, 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 18, 2015, 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 2015 taxes due on The Italian Village.

Not having received payment by December 31, 2015, Nick Archer sent a second notice to Mr. Corelli by certified mail on Monday, January 4, 2016. 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, 2016 (the end of the 60-day grace period following the December 31, 2015 deadline).

When there was still no payment by March 1, 2016, Nick Archer canceled Mr. Corelli's five-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 five-year confession of judgment--\$1,030.89. The cancelations and the reinstatement were effective on Monday, March 7, 2016. The original tax judgment on Mr. Corelli's restaurant would have been at the end of the

second year of the three-year period of redemption. Therefore, the period of redemption continued from that point as if the five-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 8, 2017, to pay the delinquent tax amount of \$1,030.89 before his restaurant would be forfeited to the state.

# Chapter 7: Expiration of Redemption

## Introduction: Stage Five

The fifth stage of the delinquent tax proceedings begins when the [period of redemption](#) under the original tax judgment is about to expire. This stage involves two major parts ([Minnesota Statute 281.23](#)):

1. A notification of the expiration of the period of redemption; and
2. The actual forfeiture of the property to the state.

### 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 [fee owner](#), the [taxpayer of record](#), and any [interested party](#) under [Minnesota Statute 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 or other assigned adult person ([Minnesota Statute 281.23](#)).

After receiving this final warning, the [property owner](#), the taxpayer of record, or any interested party under [Minnesota Statute 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 fee owner, the taxpayer, or any interested party under [Minnesota Statute 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 ([Minnesota Statute 281.23](#)).

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.

### 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. The recording of the certificate of forfeiture “perfects” the forfeiture by making it public record to the entire world.

### Summary

The major steps in the fifth stage of the delinquent real property tax proceedings are summarized below:

1. The county auditor prepares the notice of expiration of redemption within 120 days before the three-year period of redemption expires.
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 (hereinafter “process server”) with copies of the notice that was published in the official county newspaper.
6. The process server serves copies of the notice to all persons in possession of the parcels of real property listed on the notice.
7. The process server submits a report to the county auditor listing the notices served and the parcels found vacant.
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 fifth stage of the delinquent real property tax proceedings culminates in the forfeiture of the unredeemed parcels of real property to the state in trust for the local taxing districts. The auditor must 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.

# Notice of Expiration: General Information

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. 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. 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.

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 statute ([Minnesota Statute 281.23](#)).

### 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 [period of redemption](#) expires. This means that the notice process cannot be started before that time ([Minnesota Statutes 281.23](#) and [281.14](#)).



### NOTE

A delay in giving notice by the county auditor does not affect the legal validity of the notice.

### Parcels That May be Listed on the Notice

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 ([Minnesota Statute 281.23](#)).

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 ([Minnesota Statute 281.23](#)).

### *Example: Deadline for Notice*

The payable 2015 taxes on a farm homestead became delinquent on the first business day in January 2016. The property was [bid in for the state](#) on the second Monday in May of 2016. The three-year period of redemption began on that same date and expires on May 9, 2019.

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 9, 2019. One hundred twenty calendar days before May 9, 2019 takes us back to January 9, 2019. January 9, 2019 is a Sunday. Thus, the earliest day that the county auditor can begin to process the notice of expiration of redemption is January 10, 2019.

# Notice of Expiration: Posting

The county auditor’s first task is to prepare and post the notice of expiration of redemption ([Minnesota Statute 281.23](#)).

### Posted Notice: Location

The county auditor is to post the notice of expiration of redemption in the auditor’s office for public inspection. The notice should be posted on the official bulletin board where other tax notices are routinely posted.

### Posted Notice: Time Period

The county auditor is to assure that the 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.

### Posted Notice: Content

The following basic information is to be included in the county auditor’s notice of expiration of redemption:

1. The tax parcel identification numbers (PIDs);
2. The [legal descriptions](#) of the parcels;
3. The names and current filed addresses of the [fee owners](#);
4. The names and current filed addresses of the taxpayers of record if they are not the fee owners;
5. The names and current filed addresses of the [interested parties](#) who have filed under [Minnesota Statute 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. The statement must further explain 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

Statute 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: Format**

The counties should use the format contained in Minnesota Statute 281.23 to develop their notice of expiration of redemption for posting.

**Posted Notice: Affidavit of Posting**

After the 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).

The affidavit will serve as prima facie evidence of the posting of the notice. This means that the affidavit is written proof that the county auditor has correctly completed the posting of the notice of expiration of redemption as required under statute. In order to prove otherwise, the facts must be successfully contested in court.



**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

As soon as possible after the posting, the county auditor is to complete the tasks outlined in this section as part of the publishing of the notice of expiration of redemption. The notice of expiration of redemption that is used for the posting must also be used for the publishing ([Minnesota Statute 281.23](#)).

**Published Notice: County Newspaper**

The county auditor is to have the notice of expiration of redemption published in the official county newspaper ([Minnesota Statute 281.23](#)). This should be the same newspaper that the county board has designated as the official newspaper for publishing other tax notices, including the delinquent tax notice and list under [Minnesota Statute 279.09](#).

**Published Notice: Time Period**

The statute requires the county auditor to have the 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 ([Minnesota Statute 281.23](#)).

In the absence of any statutory requirement or other legal guideline, the Department of Revenue recommends that the county auditor publish the notice of expiration of redemption once in each of the two consecutive weeks as is required for publishing the delinquent tax notice and list under [Minnesota Statute 279.09](#). This is consistent with what county auditors have historically done.

**Published Notice: Form and Content**

The county auditor is to publish the same notice of expiration of redemption that is to be posted in the county auditor’s office ([Minnesota Statute 281.23](#)).

**Published Notice: Affidavit of Publication**

After the 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 ([Minnesota Statute 281.23](#)).

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 notice of expiration of redemption. In order to prove otherwise, the facts must be successfully contested in court.

## Notice of Expiration: Mailing

After the first publication, the county auditor is to mail the notice of expiration of redemption. The major requirements for completing the mailing are outlined in this section ([Minnesota Statute 281.23](#)).

### 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 [fee owners](#), taxpayers who are not fee owners, and any [interested parties](#) who have filed under [Minnesota Statute 276.041](#). These are the parties whose names must be listed on the notice of expiration of redemption ([Minnesota Statute 281.23](#)). 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.

### 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 [Minnesota Statute 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 ([Minnesota Statute 281.23](#)).

### 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

[Minnesota Statute 281.23](#) have been satisfied regardless of whether or not each party actually receives the notice.

This provision of [Minnesota Statute 281.23](#) was confirmed by the Minnesota Court of Appeals, *Franklin v. 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 that was confirmed by the court ruling is that the fee owner, the taxpayer, and the interested parties who have filed under [Minnesota Statute 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**

[Minnesota Statute 281.23](#) 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 that are listed on the notice that was posted and published. This separate notice for each parcel may be called a “parcel-specific notice” ([Minnesota Statute 281.23](#)).

A parcel-specific notice should contain the same basic information as the notice that 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 notice.
2. All references to the parcel on a parcel-specific notice should be singular not plural as they are on the 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.

### *Example: Parcel-Specific Notice*

The first parcel is a 240-acre farm outside 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.

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 would also prepare a parcel-specific notice of expiration of redemption for the second parcel. This notice would be mailed to Bernice Lowry. If the county auditor finds any other lienholders who are listed in the county recorder's office for this second 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 notice of expiration of redemption that was posted and published.

#### **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.

1. STATE TAX LIENS

Minnesota Department of Revenue  
Collection Division  
Collection Enforcement Section  
P.O. Box 64447  
St. Paul, MN 55164-0447

2. FEDERAL TAX LIENS

Collection Advisory Unit  
Internal Revenue Service  
M/S 5900 30 E. 7<sup>th</sup> St., Suite 1222  
Saint Paul, MN 55101-4940  
(651) 312-7725

The St. Paul office of the Internal Revenue Service (IRS) offered the following instructions regarding when and how to submit a notice of expiration of redemption to the IRS.

Notice must be given only when there is a federal tax lien that affects the property and that lien is recorded more than thirty days prior to the expiration of redemption date.

Notice must be given in writing by registered or certified mail or by personal service not less than twenty-five days prior to the expiration of redemption date.

A notice will be adequate if it contains the following information:

1. The name and address of the county auditor;
2. A copy of each notice of federal tax lien;
3. The street address and legal description of the property;
4. The amount required to redeem the property;
5. The last date to redeem the property.

Only an original Notice of Expiration of Redemption is required. If a duplicate and a written request for acknowledgment are submitted with the original, the IRS will indicate the date received on the duplicate and return it to the sender.

According to [Section 7425\(d\)\(1\) of the Internal Revenue Code](#), the United States has 120 days from the last date the taxpayer has to redeem the property to make a redemption determination.

If the county were to attach a copy of the relevant Notice of Federal Tax Lien to the Notice of Expiration of Redemption, and send both of these documents together to the district directors of the IRS by registered or certified mail to the address shown above, not less than twenty-five days prior to the expiration of redemption date, the federal notice requirements should be satisfied.

#### **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 ([Minnesota Statute 281.23](#)).

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 [Minnesota Statute 281.23](#). In order to prove otherwise, the facts must be successfully contested in court.

## Notice of Expiration: Service

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 ([Minnesota Statute 281.23](#)).

### **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 published notice. 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.

### **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 occupying person(s). The parcel-specific notices are to be served in the same manner prescribed for serving a summons in a civil action.

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 8:00am and 5:00pm 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. This must be done even if the property appears to be vacated.

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.

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 court cases have ruled on this issue.

### ***Franklin v. Hennepin County (No. C2-91-2182 (June 9, 1992))***

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 [Minnesota Statute 281.23](#). The Minnesota Court of Appeals ruled in favor of the county.

***Hamborg v. Hennepin County (No. C4-92-2338 (April 13, 1993))***

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.

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 [Minnesota Statute 281.23](#).

**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 attached 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.

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. In order to prove otherwise, the facts must be successfully contested in court.

**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 attached to the affidavit. The affidavits along with their respective notices must be filed in the county auditor’s office.

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. In order to prove otherwise, the facts must be successfully contested in court.

If the property is vacant, the county auditor may enter the property to protect it from waste or trespass including:

- Installing or changing locks on doors and windows provided that a key must be delivered to the taxpayer any person lawfully claiming a right of occupancy upon request;
- Boarding up windows; and
- Other actions to prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activities.

Costs incurred by the county auditor in protecting the premises from waste or trespass under this section may be added to the delinquent taxes due. The costs may bear interest to the extent provided and interest may be added to the delinquent taxes due.

#### **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 attached to the affidavit. The affidavits along with their respective notices must be filed in the county auditor's office).

The affidavits of posting, along with the affidavits of service on occupants and the affidavits of vacancy, 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. In order to prove otherwise, the facts must be successfully contested in court.

## **Notice of Expiration: 60-Day Grace Period**

The redemption period 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 ([Minnesota Statute 281.23](#)):


1. Posting of the notice;
2. Publishing of the notice;
3. Mailing of the notices; and
4. Serving of the notices.

The key point to remember is that the 60-day grace period can extend the [period of redemption](#) but it cannot reduce it. The rationale for this is explained below.



**No Effect on the Period of Redemption**

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.



**NOTE**

The 60-day grace period can extend but not reduce the period of redemption.

In this case, the 60-day grace period would mean that the time for redeeming would end about two weeks before the period of redemption expires. Does this mean that the [property owners](#), taxpayers, and [interested parties](#) under [Minnesota Statute 276.041](#) have less than three years to redeem?

No. The property owners, taxpayers and interested parties are guaranteed the full three years to redeem the parcel of real property. The intention of the 60-day grace period is not to reduce the three-year period of redemption. In this case, the 60-day grace period would have no effect on the length of the redemption period.

**Extension of Redemption Period**

Assume the county auditor prepares the notice 120 days before the expiration of the period of redemption. However, the county auditor takes six 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 six 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 period of redemption would expire. Does this mean that the property owner, taxpayers, or interested parties under [Minnesota Statute 276.041](#) have more than three years to redeem?

Yes. The intention of the law is to extend the three years for redemption, if necessary, in order to guarantee that the property owners, taxpayers, or interested parties under [Minnesota Statute 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.

## Notice of Expiration: County Costs

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. The county can recover the costs of processing the notice of expiration of redemption ([Minnesota Statute 281.23](#)).

**List of Recoverable County Costs**

The county costs of processing the notice of expiration of redemption that may be recovered are outlined below ([Minnesota Statute 281.23](#)):

- The cost of posting the notice;

- The cost of publishing the notice;
- The cost of mailing the notices;
- The cost of serving the notices.

#### **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 ([Minnesota Statute 281.23](#)).

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 that are collected as part of the total delinquent tax amount paid for a redemption are to be distributed to the county under [Minnesota Statute 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.

#### **Method of Recovering Costs During Repurchase**

With the county board's approval, any eligible party may repurchase tax-forfeited land that was classified as homestead property any time before it is conveyed or sold. Tax-forfeited land that was not classified as homestead property may be repurchased within six months after the forfeiture if it has not already been conveyed or sold.

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 ([Minnesota Statute 281.23](#)).

According to [Minnesota Statute 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.

Other counties take a more narrow interpretation and deposit in the fund only part of the total receipts collected 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.

In either case, the county is authorized to retain the costs of processing the notice of expiration that was included in the repurchase price.

## Certificate of Forfeiture: General Information

The property forfeits 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 ([Minnesota Statute 281.23](#)).

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 [Minnesota Statutes 279.33](#); [279.34](#); and [284.28](#).

### Certificate of Forfeiture: Two-Fold Purpose

The county auditor’s certificate of forfeiture serves two major purposes ([Minnesota Statute 281.23](#)):

1. The county auditor’s certificate of forfeiture serves as 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.
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 time when the period of redemption expires and the property forfeits to the state. It also does not affect the validity of the state’s title to the property.

### Certificate of Forfeiture: Required Information

The basic information outlined below must be included on the county auditor’s certificate of forfeiture ([Minnesota Statute 281.23](#)):

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 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 ([Minnesota Statute 281.23](#)).

**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 ([Minnesota Statute 281.23](#)). 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.

## Certificate of Forfeiture: Format

Information regarding the certificate of forfeiture can be found under [Minnesota Statute 281.23](#).

## Application for Cancelation of Forfeiture

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 ([Minnesota Statutes 279.33](#) and [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 cancelation of a certificate of forfeiture and the revocation of the erroneous tax forfeiture itself are outlined below. The outline assumes that the forfeiture was in error.

**Authorized Reasons for Cancelation**

There are three types of tax situations that are the only authorized reasons for canceling a certificate of forfeiture and revoking the erroneous tax forfeiture itself.

**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.

#### ***Exemption Based on State or Local Government 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.

#### ***County Administrative Error***

In this situation, a cancellation of a tax forfeiture is authorized any time 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 [fee owner](#) at the time of the tax forfeiture or anyone who is authorized to act 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 any time before the parcel is conveyed to a third party ([Minnesota Statute 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 [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.

#### **Approval of Application for Cancellation by County Board**

If it is received any time before the parcel is conveyed to a third party, the application for cancellation of forfeiture is to be reviewed by the county board. The phrase "conveyed to a third party" refers to the date when the state deed that 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. If the county board approves the application, the county board is to pass a resolution recommending that the cancellation be granted ([Minnesota Statute 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 at the bottom of the form.

**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 ([Minnesota Statute 279.34](#)).

Depending on whether the application is approved or disapproved, an individual with delegated authority to act 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 of the Department of Revenue keeps the master copy of the application form for its records. A duplicate copy of the application form is sent to the county auditor.

**Cancellation Rejected by Department of Revenue**

By signing the Rejection section of the form, the Department 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.

**Cancellation Accepted by Department of Revenue**

By signing the Acceptance section of the form, 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 statute ([Minnesota Statutes 279.33](#) and [279.34](#)) is silent on the 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. 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, after the parcel is conveyed, neither the county nor the state of Minnesota has any legal interest in the parcel that would give it the authority to cancel the forfeiture and take back the title to the parcel. 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 [Minnesota Statute 284.28](#) that contain the three-percent assurance account.



**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 the state deed or the state deed itself should be returned with the [PT Form 90](#).

# Certificate of Cancellation: General Information

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 ([Minnesota Statute 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).

## Required Information

The certificate of cancellation must include the following information, at a minimum:

1. The [legal description](#) of the parcel of real property that was erroneously forfeited. The legal description should be identical to the one listed on the certificate of forfeiture that is being canceled.
2. A reference to the recording of the certificate of forfeiture. This includes 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.

## Restoration of Original Title

The recording of the certificate of cancellation annuls 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 that was erroneously forfeited automatically returns to the former [fee owner](#). The title rests with the former owner’s deed of record that 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.

# Tax Action Following Cancellation

After an erroneous tax forfeiture is canceled, the county auditor must perform one of two tax actions 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 ([Minnesota Statute 279.34](#)).

## Option 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. The property was found to be owned by an exempt party before the forfeiture, so the taxes should not have been assessed and levied in the first place. The court judgment should also not 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.

Finally, the county auditor must have the property removed from the tax-forfeiture list and placed on the tax-exempt list.

## Option 2: Cancellation of Forfeiture for Other Errors

If the forfeiture was voided because of an error other than tax exemption, the county auditor must 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 forfeitures takes place.

The delinquent tax amount, along with the current taxes and penalties 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 ([Minnesota Statute 273.02](#)).

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 corrected, 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 [Minnesota Statute 281.23](#), the county auditor must repeat all of the action (i.e. posting, publishing, mailing, and serving the notice of expiration).



## Persons in Active Military Service

Persons in military service hold some special rights under federal and state laws while they are serving in active military service. These rights affect the property tax delinquency and tax forfeiture proceedings for such individuals.

### **Federal Soldiers' and Sailors' Civil Relief Act**

The purpose of this Act is to protect persons in the military service of the United States and to prevent prejudice to their civil rights during their terms of active military service.

Sales of qualified property, and other tax or assessment enforcement proceedings against such property are prohibited until six months after termination of military service, except upon court order finding that the person's military service does not materially affect their ability to pay these amounts.

When qualified property is allowed to be sold or forfeited under the Act, because the owner's ability to pay is not materially affected by their military service, the Act provides that the owner still has the right to redeem the property, or to bring a suit for recovery of the property, within six months after their termination from service (or within any longer period that may be provided under state law). This right may be modified by court order.

Taxes or assessments on qualified property that are not paid when due bear interest at the rate of six percent per year. No other penalty or interest is allowed ([50 U.S.C. 561](#)).

### **Similar Minnesota Laws**

The Minnesota Statutes provide similar relief to that of the Federal Soldiers' and Sailors' Relief Act. These provisions are highlighted below.

#### ***Tax-Forfeited Real Property Withheld from Sale or Conveyance***

When the sheriff or other person serves notice of the expiration of the time for redemption under [Minnesota Statute 281.23](#), the sheriff or other person must inquire if the property was owned and occupied for dwelling, professional, business, or agricultural purposes by a person in military service of the United States at the commencement of the military service. On finding that the real property is so owned, the sheriff or other person must make a certificate to the county auditor containing:

1. A description of the property;
2. The name of the owner;
3. The particulars of the person's military service; and
4. The names and addresses of those providing the information.

The auditor must retain the certificate in their office. Upon expiration of the state law redemption period, property qualifying for protection under the federal Act (including property that otherwise

qualifies under the federal Act but is no longer occupied by the person's dependents or employees) must continue to be withheld from sale or conveyance until six months after the termination of the person's military service.

If the county board reasonably concludes that the person's ability to pay property taxes and assessments is not materially affected by their military service, State law authorizes the board to petition the district court of the county for an order authorizing the property to be sold or disposed of under the laws relating to tax-forfeited property.

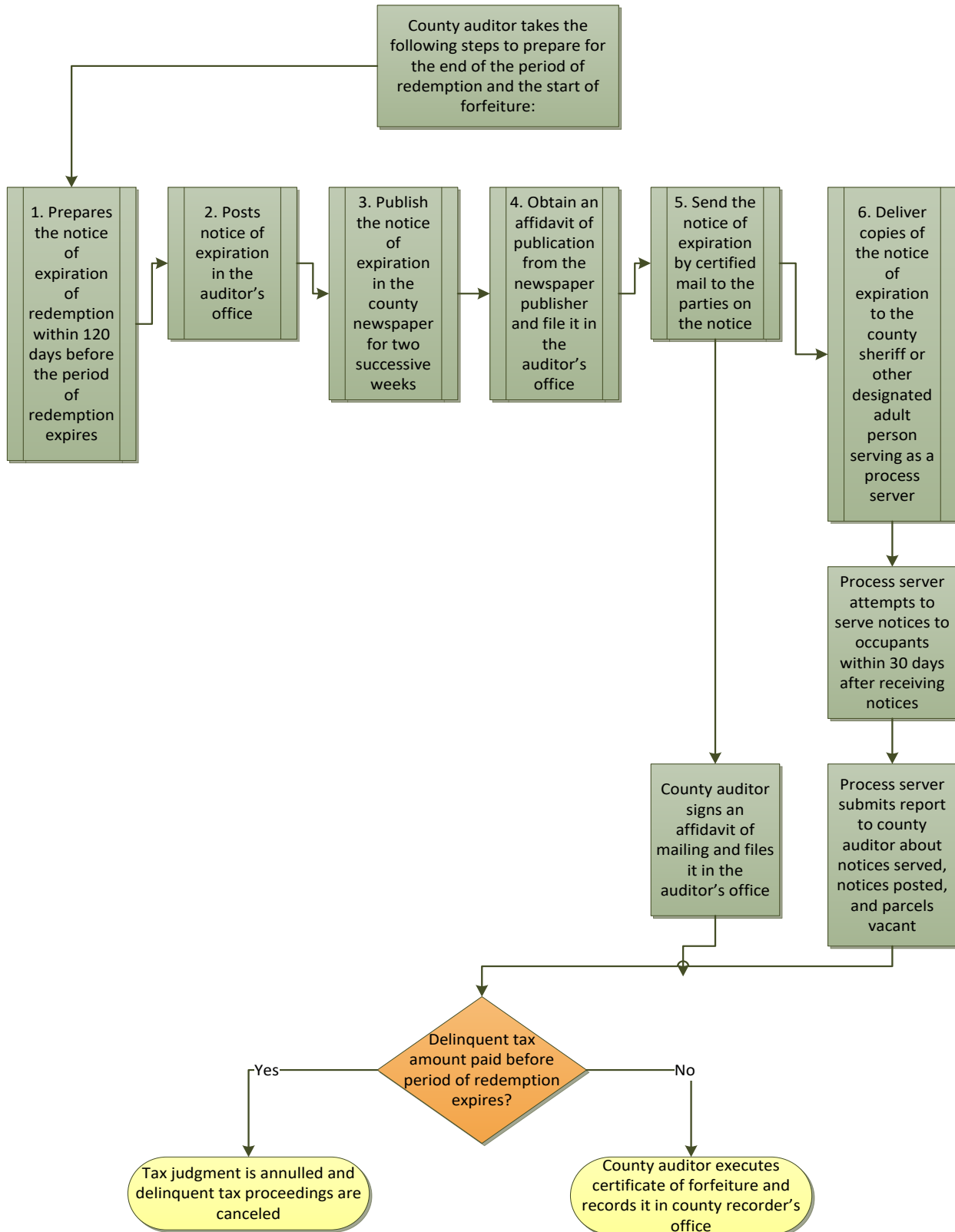
If it becomes known that the certificate is based upon erroneous information, a supplemental certificate must be filed with the auditor. If the supplemental certificate shows that the property is not entitled to be withheld from sale by reason of the owner's military service, the certificate has the effect of allowing State officials to sell or convey the property under the laws relating to tax-forfeited property. Depending on several factors, other provisions of these state and federal laws might continue to apply.

In the absence of a certificate of military service, property tax administrators are directed to treat the property as if the owner is not in military service. The presence of a certificate does not affect the time at which the property obtains a forfeited status under state law ([Minnesota Statutes 281.273](#), [281.275](#) and [281.276](#)).

#### **Repurchase Rights**

The owner, or an agent or representative of the owner of tax-forfeited property withheld from sale by reason of the owner's military service has the right to repurchase the property – not subject to county board approval – during the period it is being withheld, by paying the back taxes amount prescribed in [Minnesota Statute 281.274](#) in a lump-sum, or over a 10-year period in equal annual installments including interest at four percent. Failing to pay an installment within 60 days of the due date terminates the state-law prohibition against sale or conveyance of the property. Depending on several factors, other provisions of these state and federal laws might continue to apply ([Minnesota Statute 281.274](#)).

# Expiration of Redemption Flow Chart



## Stage Five: Expiration of Redemption

### Corelli's Italian Village

On Monday, November 21, 2016, 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 8, 2017.

On Wednesday, January 18, 2017, 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 8, 2017.

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, 2017 -- \$1,104.80.

The \$1,104.80 redemption price was the sum of the unpaid balance of the canceled five-year [confession of judgment](#) (\$1,030.89), the interest accrued at an annual rate of 8 percent from April through December, 2016 (\$61.88), and the interest accrued at an annual rate of 7 percent from January through February 2017 (\$12.03).

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 24, 2017.

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 26, 2017, 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 27, 2017, 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 9 and February 16, 2017.

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 6, 2017, 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 9, 2017. 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 13, 2017. 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 16, 2017, 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 21, 2017, the notices were delivered to Sheriff Jankowski's office in the courthouse.

On Wednesday, March 1, 2017 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 14, 2017.

After Deputy Neuberger completed his visits on Thursday, March 30, 2017, 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 4, 2014. 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 8, 2017, whichever was later. In his case, the 60-day grace period that extended through Friday, June 2, 2017, was later, so the period of redemption for The Italian Village would expire on Friday, June 2, 2017.

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 Friday, June 2, 2017, 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 Tuesday, June 6, 2017, 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.

# Chapter 8: Tax Forfeiture

## Introduction: Stage Six

The final stage of the delinquent real property tax proceedings brings the long, complex process to an end. At this point, 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 and the county board.

At the end of the tax-forfeiture process, the parcels of tax-forfeited land will either be returned to the property tax rolls or put to a public use or purpose.

The following are the major tasks the county auditor and county board are required or permitted to perform in this stage:

1. The county auditor removes from the tax lists the parcels that 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 dispenses with a tax-forfeited parcel in one of the following ways:
  - a. Conveys it a [governmental subdivision](#) free of charge for a public use;
  - b. Sells it to a government subdivision or [state agency](#) for a public purpose;
  - c. Sells it to a third party at market value at a public or private sale; or
  - d. Reconveys it 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. The [State Deed Application](#) can be found on the Department of Revenue’s website.
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.



**NOTE**

If a county has a land commissioner, the administration of the tax-forfeited land statutes is the responsibility of the land commissioner’s office.

8. The county auditor returns the parcels that were sold to a third party at a tax-forfeited land sale or repurchased by the former owner to the property tax lists.

## Delegation of County Board Powers to Auditor

The county board may delegate to the county auditor any of its authority, powers, or responsibilities under [Minnesota Statutes, 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 ([Minnesota Statute 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 ([Minnesota Statutes 282.01](#) and [282.341](#)):

1. The classification of tax-forfeited land as conservation or non-conservation property;
2. The determination of the appraised value for the sale of tax-forfeited land;
3. The determination of the terms of the sale of tax-forfeited land;
4. The sale of tax-forfeited land at public auction.
5. The initiation of legal proceedings to cancel contracts for the purchase or repurchase of tax-forfeited land in default.
6. The authorization to reinstate canceled contracts for the purchase or repurchase of tax-forfeited land.
7. The authorization to approve or disapprove the repurchase of tax-forfeited land by the former owner or other eligible party.



### 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 [Minnesota Statute 282.13](#).

## Removal from Tax Rolls

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 ([Minnesota Statute 272.02](#)). The removal of tax-forfeited land from the tax rolls 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. In other words, when a condominium apartment forfeits for nonpayment 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 instances where the association has maintained ownership of some common elements and did not pay the tax on them ([Minnesota Statute 515.22](#)).

### Exception to July 1 Cutoff Date

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 statute. One of the authorized exceptions is for property that forfeits to the state for failure to pay real property taxes ([Minnesota Statute 274.175](#)).

### Rationale for Exception

The exception is needed to avoid an unreasonable and impractical tax situation. 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.

## Liens and Encumbrances

What happens to any existing liens and encumbrances on a parcel of real property that is forfeited to the state? This section outlines the major types of liens and encumbrances encountered on tax-forfeited property.

### Real Property Tax + Special Assessment Liens

After tax forfeiture, the county auditor cancels all of the following real property taxes and special assessments due and remaining unpaid on each parcel ([Minnesota Statute 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 assessments 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.

These cancellations allow the state to issue a state deed for the parcel of tax-forfeited land free and clear of any property tax and special assessment liens. Special assessments collected as part of the basic sale price (and levied after the forfeiture) are paid first when the [net revenue](#) from the sale is distributed.

### *Municipality Recovery and Protection of Special Assessments*

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 canceled at the time of forfeiture that were not reimbursed through the distribution of the net revenue from the tax-forfeited land sale. Generally, the sale proceeds will be sufficient to pay these assessments. To ensure that, the auditor should make sure the appraiser includes the value added to the parcel by the improvement ([Minnesota Statutes 429.071](#), [435.23](#) and [444.076](#)).

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. If the appraised value does not include the value of the associated improvement, or if the value is less than the associated assessment amount, the county auditor is to add the remaining amount of the special assessment to the appraised value to determine the basic sale price of the parcel. ([Minnesota Statutes 282.01](#) and [282.08](#)).

#### **Federal Income Tax Liens**

A parcel of real property that has forfeited to the state may be subject to a federal income tax lien. If the Internal Revenue Service (IRS) properly received a copy of the Notice of Expiration of Redemption and failed to respond within 120 days of the expiration of the redemption period, the federal income tax lien will no longer remain on the property.

If the county did not notify the IRS regarding the Notice of Expiration of Redemption, the income tax lien is not canceled. In this situation, the county has three options:

1. Send the 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, provided that notice satisfies the requirements of federal law ([26 U.S.C. 7425](#)).
2. Set the appraised value of the parcel high enough to cover the income tax lien. When the property is sold and the lien is paid off, a state deed can be issued clear of the lien.

Under this option, 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.

3. Sell the property subject to the federal lien and let the buyer be responsible for paying the income tax lien. Under this option, the appraised value would have to be low enough to attract a buyer.

### ***Notifying the IRS***

Notice must be given to the IRS when there is a federal tax lien that affects the property and that lien is recorded more than 30 days prior to the expiration of redemption date.

Notice must be given in writing, by registered or certified mail, or by personal service, not less than 25 days prior to the expiration of redemption date.

A notice will be adequate if it contains the following:

1. The name and address of the county auditor;
2. A copy of each notice of federal tax lien;
3. The street address and the [legal description](#) of the property;
4. The amount required to redeem the property;
5. The last date to redeem the property.

Only an original Notice of Expiration of Redemption is required. If a duplicate and a written request for acknowledgment are submitted with the original, the IRS will indicate the date received on the duplicate and return it to the sender.

If the county were to attach a copy of the relevant Notice of Federal Tax Lien to the Notice of Expiration of Redemption and send both of these documents together to the advisory unit of the IRS by registered or certified mail no less than 25 days prior to the expiration of redemption date, the federal notice requirements should be satisfied.

The contact information for the Saint Paul, MN branch of the IRS is as follows:

Address:           Collection Advisory Unit  
                       Internal Revenue Service  
                       M/S 5900 30 E. 7<sup>th</sup> St., Suite 1222  
                       Saint Paul, MN 55101-4940

Phone:           (314) 612-4081

Fax:               (651) 312-8050

### ***State Income Tax Liens***

A parcel of real property that forfeited to the state may be subject to a state income tax lien.

In the case of liens filed by the Department of Revenue, the county auditor must notify the Department of Revenue of the notice of expiration of redemption when (1) there is equity in a property with delinquent taxes, and (2) the property is not homesteaded. When delinquent property does not meet these conditions, the county may elect to notify the Department of Revenue of the notice of expiration.

Notices sent to the Department of Revenue are received and reviewed by the Seizure Program. Each case is noted in Department of Revenue records. In most cases, since there are no statutes giving the Department of Revenue a right of redemption as a junior creditor, the notices are discarded and the property is not redeemed.

### **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.

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 depends on several key principles and whether or not several major actions have been performed.

#### ***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](#) 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 this 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. The title, however, 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 (i.e. a contract for deed or a lease agreement).

#### ***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 hinges 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.

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.

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.

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.

### ***Attorney Liens***

An attorney lien against real property should be handled in the same manner as a mortgage lien ([Minnesota Statute 481.13](#)).

### **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.

### **Environmental Liens**

An environmental lien is one of the methods that the Pollution Control Agency (PCA) or the Department of Agriculture (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.

## **Classification of Tax-Forfeited Land**

The county board must classify a parcel of tax-forfeited land as "conservation" or "nonconservation" before any other steps may be taken. The classification should take place within a reasonable time after the forfeiture ([Minnesota Statute 282.01](#)).

**Criteria for Classification**

The county board must use the following criteria in deciding whether to classify a parcel of tax-forfeited land as “conservation” or “nonconservation”:

1. The present use of all parcels of property adjacent to the land;
2. The potential productivity of the land’s soil;
3. Forests or vegetation growth on the land;
4. The current or potential accessibility of the land to established roads, schools, and other public services;
5. The suitability or desirability of the land for particular uses; and
6. The suitability of the forest resources for multiple uses and sustained yield management.

**Goals of Classification**

The classification of a parcel of tax-forfeited land is intended to achieve the following goals ([Minnesota Statute 282.01](#)):

1. Encourage the most economical and efficient use of the property;
2. Reduce local and state government expenses;
3. Conserve and develop the state’s natural resources; and
4. Encourage economic development.


**Classification Procedure Options**

The counties may elect one of two classification procedures: (1) classification notice and meeting or (2) municipal approval required ([Minnesota Statute 282.01](#)). If the board decides on the municipal approval required procedures, the procedures must remain in place for at least five years ([Minnesota Statute 282.01](#)).

**Classification Notice and Meeting**

The county board may hold a meeting for the purpose of classifying tax-forfeited land not sold or released from the trust ([Minnesota Statute 282.01](#)).

The county board must give notice of the meeting and its intent. The notice must be given 60 to 90 days before the date of the meeting. If the meeting is rescheduled, notice

 **NOTE**

If a county board does not specifically elect the county board information gathering procedures for classifying tax-forfeited land, the county defaults to the notice and meeting procedures.

of the date, time, and location must be given at least fourteen days before the date of the rescheduled meeting. Receipt of actual notice satisfies the notice requirement.

All three of the following notification methods must be utilized ([Minnesota Statute 282.01](#)):

1. **Notice by Electronic Publication.** Notice must be posted on a web site.
2. **Notice by mail.** The notice must be mailed or delivered at least 60 days prior to the meeting date to each person who filed a request for notice of special meetings with the public body. It does not matter whether the classification meeting is considered a regular or a special meeting.

The county board must also e-mail a notice by to each person requesting notice of meetings relating to tax-forfeited land and agrees to accept notice mailed by electronic means.

3. **Notice by publication.** The public body must publish the notice once at least 30 days before the meeting in a local newspaper.

At the meeting, the county board must allow any person or agency to make or submit comments and recommendations about the pending classification or reclassification of the tax-forfeited land. Representatives of government entities must be allowed to describe plans, ideas, or projects involving the property. The county board must solicit and consider any current comprehensive land plans that involve the area where the land is located. After allowing testimony, the board may classify, reclassify, or delay taking action on any parcel ([Minnesota Statute 282.01](#)).

If a [state agency](#) or [governmental subdivision](#) wants to preserve its right to request a purchase or acquisition of the property, it may file a written request to withhold the parcel from sale or lease to others at any time following forfeiture ([Minnesota Statute 282.01](#)).

### ***Classification Requiring Municipal Approval***

When classifying land, the county board is authorized to use any information to aid in the classification decision ([Minnesota Statute 282.01](#)).

If the land is located within the boundaries of an organized town or incorporated municipality, a classification or reclassification and sale must first be approved by the town board or city council of the municipality in which the land is located. Approval is required for both lands proposed to be sold at public auction and lands proposed to be sold at a private auction to adjacent landowners.



#### **NOTE**

The county board is not required to obtain the approval of the city or township for the basic sale price of the parcel. Op. Atty. Gen., 412a-8, July 11, 1966.

The city council or town board has 60 days from receipt of the county's written request for approval to respond in one of the following ways:

1. Approve the public sale;

2. Approve the private sale to adjacent landowners;
3. Disapprove of any conveyance or sale to anyone; or
4. Request the property be conveyed to the city or town itself.

If no response is received within the 60 day period, the request is considered approved.

If the town board disapproves of the classification or reclassification and sale, the county board must follow the [Classification Notice and Meeting procedures](#).

### Authority for Reclassification

The county board may reclassify any parcel of tax-forfeited land at any time to enhance the sale of the parcel. However, tax-forfeited land classified as “conservation” may not be reclassified ([Minnesota Statute 282.01](#)). The Department of Natural Resources approval processes are to be followed when reclassifying lands.

### Splitting Parcels

When classifying, reclassifying, appraising, and selling tax-forfeited lands, the county board may designate the tracts as assessed and acquired. Alternatively, the board may by resolution allow the tracts to be subdivided or grouped if such actions are advantageous for conservation or sale purposes ([Minnesota Statute 282.01](#)).



### NOTE

The county board is not authorized to subdivide a parcel or tract of tax-forfeited land withheld from sale under [Minnesota Statute 282.018](#).

### Consolidated Conservation Areas

There are three consolidated conservation areas in the state:

1. The Red Lake Game Preserve established in Lake of the Woods, Beltrami, and Koochiching Counties ([Minnesota Statutes 84A.01 to 84A.11](#));
2. The conservation areas established in Aitkin, Roseau, and Mahnommen Counties ([Minnesota Statutes 84A.20 to 84A.30](#));
3. The conservation areas designated in Marshall County ([Minnesota Statutes 84A.31 to 84A.42](#)).

Title to forfeited lands in these areas passes to the state in trust for the taxing districts ([Minnesota Statute 84A.57](#)). The county auditor is to handle the lands in the same way as other lands located outside of the three areas (i.e., classify them as conservation or nonconservation, appraise them, and appropriately dispense them according to [Minnesota Statutes, Chapter 282](#)).

## DNR Approval of Classification and Sale

### Department of Natural Resources (DNR) Approval of Tax-Forfeited Lands

The Department of Natural Resources (DNR) is directed by state law to review and approve the sale of certain tax-forfeited lands. The county where the parcel is located makes a determination of whether or not the parcel will require DNR review.



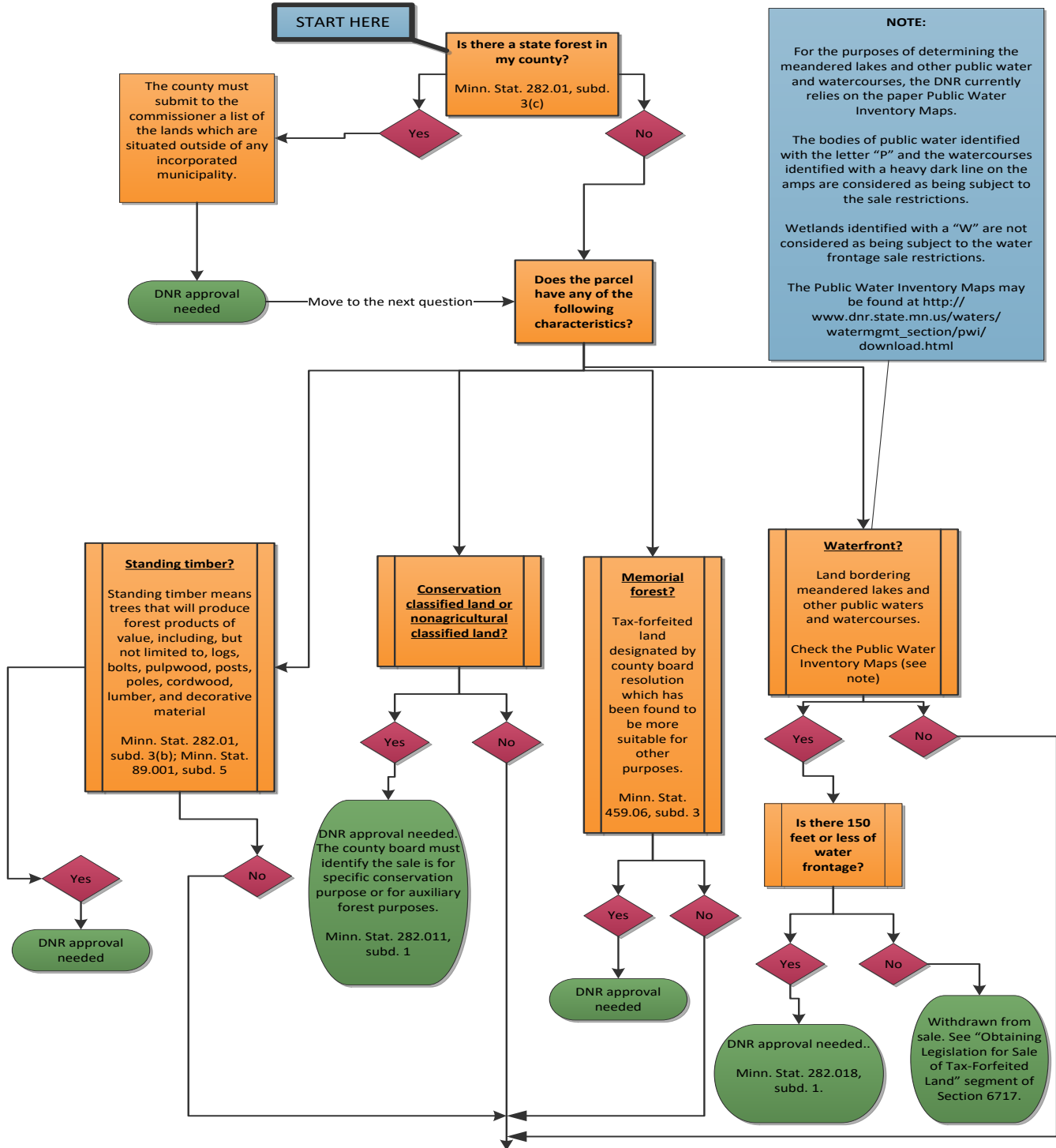
The following table summarizes the parcels that require DNR review. The table covers many lands requiring review, but is not comprehensive. The DNR should be contacted with any questions on review of tax-forfeited lands.

Feature for review	Withdrawn from sale or Commissioner of Natural Resources' approval required
<p><b><u>Standing Timber</u></b></p> <p>Timber means trees that will produce forest products of value, including, but not limited to, logs, bolts, pulpwood, posts, poles, cordwood, lumber and decorative material.</p>	<p>Commissioner must approve appraised value of timber and sale of land (<a href="#">Minnesota Statute 282.01</a>).</p>
<p><b><u>Waterfront</u></b></p> <p>Bordering on or adjacent to <a href="#">meandered</a> lakes and other <a href="#">public waters</a> and watercourses.</p>	<p>Waterfront of 150 feet or less requires commissioner's approval.</p> <p>Waterfront of more than 150 feet is withdrawn from sale <a href="#">Minnesota Statute 282.018</a>.</p>
<p><b><u>State Park or State Recreation Area</u></b></p> <p>Within boundary of state park or state recreation area.</p>	<p>Withdrawn from sale <a href="#">Minnesota Statutes 85.012</a> and <a href="#">85.013</a>.</p>
<p><b><u>Nonforested Marginal Land and Wetland</u></b></p> <p>Lands and wetlands identified by Minnesota Board of Water and Soil Resources (BWSR) or federal agencies, often using Army Corps of Engineers manual.</p>	<p>Withdrawn from sale unless notice of existence of nonforested marginal land or wetland is provided to prospective purchasers and deed contains restrictive covenant that precludes enrollment in state conservation program (unless platted subdivision or conveyance is to correct errors in legal descriptions) <a href="#">Minnesota Statutes 103F.535</a> and <a href="#">282.018</a>.</p>
<p><b><u>Memorial Forest</u></b></p> <p>Tax-forfeited land designated by county board resolution as most suitable for forest purposes and managed on forestry principles.</p>	<p>Withdrawn from sale, unless county board finds it more suitable for other purposes and withdraws lands from memorial forest and commissioner approves sale <a href="#">Minnesota Statute 459.06</a>.</p>
<p><b><u>Mineral Lease or Mining Unit</u></b></p> <p>Lands or stockpiled materials are subject to state mineral lease or lands or stockpiled materials have been designated in mining unit status by the</p>	<p>Withdrawn from sale <a href="#">Minnesota Statute 282.01</a>.</p>

<p>commissioner for offering for mineral leasing purposes.</p>	
<p><b>Peat</b></p> <p>Lands chiefly valuable for commercial quantities of peat.</p>	<p>Withdrawn from sale <a href="#">Minnesota Statute 92.461</a>, and Opinion of Attorney General, Feb. 9, 1968.</p>
<p><b>Land Classified as Conservation</b></p> <p>County board has classified tax-forfeited land as conservation instead of nonconservation.</p>	<p>Withdrawn from sale, except commissioner may approve sale of conservation lands designated by county board as primarily suitable for a specific conservation purpose or for auxiliary forest purposes <a href="#">Minnesota Statute 282.011</a>.</p>
<p><b>Red Lake Game Preserve and Other Consolidated Conservation Areas</b></p> <p>Tax-forfeited lands located within Red Lake Game Preserve area and other consolidated conservation areas that forfeited on or after May 3, 1984.</p>	<p>Subject to above requirements.</p>
<p><b>Trust Fund Lands and Other DNR Administered Lands (other than tax-forfeited land held free from the trust in favor of the taxing districts)</b></p> <p>Lands were erroneously taxed and erroneously forfeited or correctly taxed (e.g., certificate of sale issued) but erroneously forfeited (e.g. land sold but purchaser still paying for land and patent not issued).</p>	<p>Commissioner objects to forfeiture of land and objects to sale of land by counties.</p>

### Screening for Lands Requiring DNR Review

The DNR suggests using the following screening process to determine which lands need to be submitted for review.



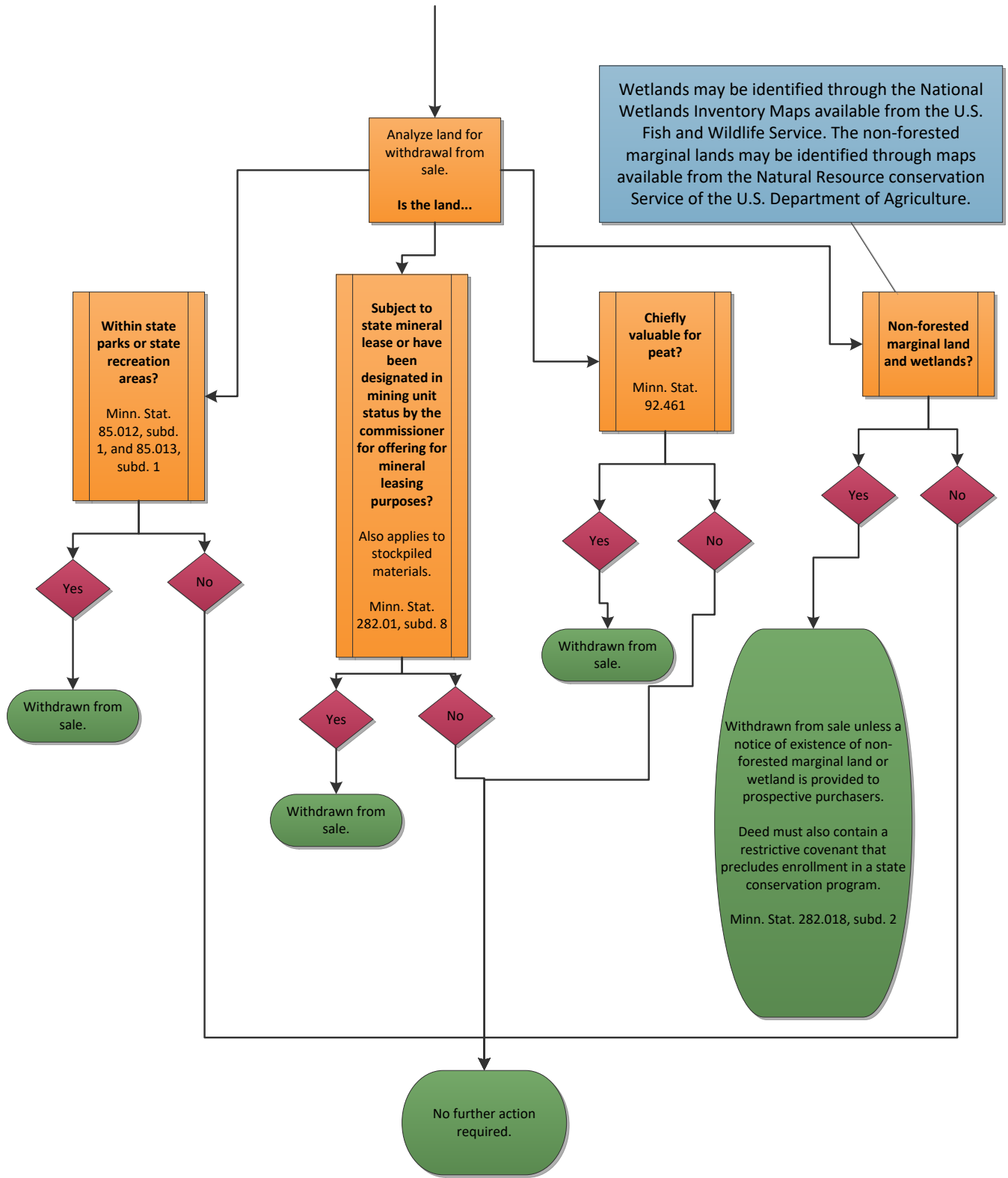
**NOTE:**

For the purposes of determining the meandered lakes and other public water and watercourses, the DNR currently relies on the paper Public Water Inventory Maps.

The bodies of public water identified with the letter "P" and the watercourses identified with a heavy dark line on the amps are considered as being subject to the sale restrictions.

Wetlands identified with a "W" are not considered as being subject to the water frontage sale restrictions.

The Public Water Inventory Maps may be found at [http://www.dnr.state.mn.us/waters/watergmt\\_section/pwi/download.html](http://www.dnr.state.mn.us/waters/watergmt_section/pwi/download.html)



If the county determines that DNR review is required, the county must put together a tax-forfeited land sale review packet for the DNR. The packet includes the following:

1. A list itemizing each tax-forfeited parcel being submitted for review. The list must include the parcel ID number and the complete [legal description](#) (including lot, block, government forties, section township, range, acreage) for each parcel requiring review.
2. Plat or subdivision maps and/or aerial map identifying location of the parcel. If the parcel is located on public water, identify the length of the waterfront footage.
3. Any additional information that the county may have available relating to the parcels to be reviewed.

The tax-forfeited land sale review packet must be sent to the Lands and Minerals Regional Operations Supervisor in your area. The Lands and Minerals Regional Operations Supervisors can be found on the [DNR's website](#).

**Obtaining Legislation for Sale of Tax-Forfeited Land**

If a parcel of tax-forfeited land is withdrawn from sale by law (e.g., the parcel contains water frontage of more than 150 feet) or if the commissioner does not grant the required approval for sale of the parcel, a county may seek legislation to authorize the sale. A county may also seek legislation to authorize a private sale of a tax-forfeited parcel notwithstanding the public sale requirements in [Minnesota Statutes, Chapter 282](#).

It is the county's responsibility to seek legislation. Neither the Department of Natural Resources nor the Department of Revenue will seek special legislation on behalf of a county for such tax-forfeited land sale transactions. The county must contact its local legislators (both the senator and the representative) to request the legislation. The legislators will need the specific legal description of the parcels, identification of what law is being accepted, and the reasons for the request. For example, if the county is requesting that a parcel with more than 150 feet of water frontage be authorized for sale, the county will provide the legal description, identify that the authority to sell is being requested notwithstanding [Minnesota Statute 282.018](#), and describe the reasons why the county board decided that the parcel was no longer needed in public ownership. The legislator will have a bill drafted by the Revisor's office. The county should ask to see a draft of the bill to check for any corrections that are needed prior to introduction.

The tax-forfeited land sale bills are introduced by the local legislators. On occasion, a legislator may ask a county representative to attend and testify at a hearing on the bill. The common practice during the legislative session is to combine the various tax-forfeited land sale bills with the DNR land sale bill and create an omnibus lands bill that is passed and adopted into law each year. When drafting legislative requests, a county may find it helpful to review the omnibus lands bills passed in prior years for examples of language and procedures.

# Appraisal of Tax-Forfeited Land

After the classification and sale of the tax-forfeited land have been approved, the county board is responsible for determining the appraised value of the tax-forfeited land. This is a major component of the sale price of each parcel of tax-forfeited land ([Minnesota Statute 282.01](#)).

## Official Source of Appraisal

The county board may perform the appraisal itself, or it may use any other official source for appraisal it chooses. In most cases, the county board will 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.

## Appraised Value Set by the County Board

The county board has the responsibility and authority to set an appraised value that 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.

The appraised value means the [fair market value](#) of the parcel.

## 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 ([Minnesota Statute 282.01](#)).

If the appraised value does not include the value of the associated improvement, or if the associated improvement does not provide sufficient value to cover the assessments, the county auditor adds the amount of the certified special assessment to the appraised value of the parcel. The amount of the certified special assessment is listed as a separate item along with an indication of whether or not it is already included in the county board’s appraised value.

The amount of the 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.

## 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 added to the appraised value by the county auditor ([Minnesota Statute 282.019](#)).

## Basic Sale Price

The goal of the appraisal process is to set the basic sale price (i.e. minimum 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](#) ([Minnesota Statute 282.01](#)).



### NOTE

Special assessments levied before forfeiture were canceled at forfeiture. They are not recertified until the property is returned to private ownership.

No parcel of tax-forfeited land may be sold for less than the appraised value, except when a governmental subdivision is acquiring the property for removing blight or creating affordable housing ([Minnesota Statute 282.01](#)).

In some cases, the basic sale price may be more than the appraised value. 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.

**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 ([Minnesota Statute 282.01](#)).


No parcel of tax-forfeited 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 DNR’s approval or disapproval of the sale of a parcel of tax-forfeited land containing standing timber is to be in writing and must state the reasons for the decision. The county board may appeal the DNR’s decision.

**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 ([Minnesota Statute 282.01](#)).

If the county board reappraises 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.



**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. 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.

## Exchanging Tax-Forfeited Land

The Department of Natural Resources (DNR) has a program to exchange state-owned land for privately-owned land. The state may also exchange state-owned land for other publicly-owned land ([Minnesota Statutes, Chapter 94](#)).

Generally, the goal of a land exchange is to allow more efficient and productive management of lands. An exchange often consolidates or fills the state’s land holdings within existing management units, such

as state forests or wildlife management areas. Any exchange should result in improvement in the protection, use, or management of the natural resources and increase public benefits for present and future generations.

**Classes of Tax-Forfeited Land ([Minnesota Statute 94.342](#))**

State-owned land is classified into two categories for exchanges:

1. Class A lands are lands controlled or administered by the DNR, and include tax-forfeited lands held free from the trust in favor of taxing districts.
2. Class B lands are lands acquired by the state through tax-forfeiture and held in trust in favor of taxing districts and under the control of county authorities.

This manual focuses on tax-forfeited lands held in trust for the taxing districts and under the control of county authorities. Therefore, this section will only discuss land exchanges of Class B lands.

**Application**

The DNR has a Class B Land Exchange application that must be filled out to facilitate an exchange of Class B lands. The form can be located on the DNR’s [website](#).

**Value of Land**

If the land to be exchanged for Class B land has a greater value than the state land, the other party must waive any payment for the difference in value. However, if the exchange is for non-school trust Class A land or United States owned land, the county must agree to pay the difference in value.

If the land to be exchanged has a lesser value than the state land, the lands must be substantially equal in value and the other party must pay to the difference in value to the state. “Substantially equal in value” means the values do not differ by more than twenty percent, unless both lands are over 100 acres. In that case, the values do not differ by more than ten percent. School trust lands cannot be exchanged for lands of lesser value.

**Riparian Land**

Riparian land may not be exchanged unless expressly authorized by law or unless in the same exchange the state acquires land on the same or other [public waters](#) in the same general vicinity affording at least equal opportunity for access to the waters and other riparian use by the public.

**Mineral Reservations**

The state reserves all minerals and water power rights in the lands transferred by the state. The state will generally accept lands where the mineral rights have been reserved, provided that the mineral reservation does not include a right to repurchase the surface.

**Land Exchange Board**

The Land Exchange Board consists of the Governor, State Auditor, and Attorney General. Any exchange of public lands of the state for any publicly or privately-held lands must be approved by all three



members of the board. The Land Exchange Board meets quarterly. The DNR is responsible for preparing and distributing the agenda for the meetings.

**Time Frame**

Once the county board decides to proceed with a land exchange of Class B lands and all appraisal, value, and title issues have been addressed, the land exchange proposal is submitted to the DNR for review. Unless there are appraisal or title problems, the DNR review is usually completed within four weeks. The DNR then places the land exchange proposal on the agenda for the next Land Exchange Board meeting.


**DNR Staff Contact**

For more information on land exchanges and the procedures involved, please contact Kate Giel, Program Coordinator, in the Lands and Minerals Division of the DNR.

Address: 500 Lafayette Road  
 St. Paul, MN 55155-4045  
 Phone: 651-259-5377  
 Fax: 651-297-3517  
 E-mail: [katherine.giel@state.mn.us](mailto:katherine.giel@state.mn.us)

## Improvements to Tax-Forfeited Land

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 ([Minnesota Statutes 282.04](#) and [282.01](#)). 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. These actions include maintenance.

 **NOTE**

The expenses 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.

**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 ([Minnesota Statute 282.04](#)):

1. Make repairs and improvements necessary for the operation, use, preservation, and safety of the buildings.
2. 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 building or structure, which has been determined by the county board to be especially liable to fire or so situated as to endanger life or limb or other buildings or property in the vicinity because of age, dilapidated condition, defective chimney, defective electrical wiring, any gas connection, heating apparatus or other defect.
7. Sell any salvaged materials from the building or structure. The net proceeds from the sale of salvaged materials are to be deposited in the forfeited tax sale fund.
8. 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.

### **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 ([Minnesota Statute 282.04](#)).

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.

### **Roads on the Land**

If a tax-forfeited parcel contains a private road or roads, and the parcel has not been conveyed or sold to a third party, it is the county’s responsibility to maintain the private road(s) until the property is conveyed. The level of maintenance the county provides is left to the discretion of the county board.

### **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 ([Minnesota Statute 282.01](#)).

#### ***Subdividing/Grouping: Before Classification and 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.

***Subdividing/Grouping: After Classification and 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.

**Source of Revenue**

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 ([Minnesota Statute 282.04](#)).

How does a county pay for the improvement 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 county should discuss each proposal for an advance with the State Auditor’s Office before actually making the advance.

**Expenditure of Public Funds**

It is not required to expend public funds to maintain any agreement, easement, or other encumbrance affecting the property.

**Sale of Abandoned Personal Property**

The county auditor is authorized to seize and sell any personal property abandoned on tax-forfeited land prior to the sale of the tax-forfeited land itself ([Minnesota Statute 282.04](#)). The county board may approve the seizure and sale under the provisions governing the sale of abandoned property by the county sheriff ([Minnesota Statute 345.15](#)).

With approval from the county board, the county auditor may sell or dispose of personal property found at a tax-forfeited property after the redemption period has expired and has been recorded. The county auditor must make a reasonable effort to give the former owner, taxpayer and any current occupants at least 28 days notice of the sale or disposal of the personal property. The county board may contract with a third party to assist with removal, disposal or sale of personal property ([Minnesota Statute 282.04](#)). 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 in the Minnesota statutes.

## Timber Sales

Before a parcel of tax-forfeited land is conveyed or sold, the county auditor may sell timber located on the land with the approval of the Department of Natural Resources (DNR). 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 ([Minnesota Statute 282.04](#)).

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 no less than the appraised value of the timber. Small amounts of timber not exceeding 500 cords in appraised volume may be sold for no 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 fifteen percent 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 percent 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 DNR. 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 tax-forfeited land that may be apportioned to the taxing districts.

## Leasing Tax-Forfeited Land

The county auditor may lease a parcel of tax-forfeited land for a designated purpose before the land is sold or conveyed. 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.

No matter the type of lease, all revenues are deposited in the forfeited tax sale fund ([Minnesota Statute 282.09](#)).

### 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 ten 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" ([Minnesota Statute 282.04](#)).

The price and terms of the standard 10-year lease are set by the county board. The leases are to be granted at a public auction unless the lease is for \$12,000 or less per year or to a [governmental subdivision](#) of the state. Leases that are for \$12,000 or less per year or are to a governmental subdivision may be granted privately.

When the leased tax-forfeited land is sold, the property is to remain subject to the lease for no 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 ten years to individuals, corporations, or governmental subdivisions for the purpose of taking and removing stockpiled iron-bearing material from tax-forfeited land for road construction and other purposes ([Minnesota Statute 282.04](#)).

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. Further, the county auditor may also grant permits, licenses, and leases with the permission of the board and the DNR to use the tax-forfeited land for facilities needed to recover iron-bearing oxides from tailings basins or stockpiles, or for a buffer area needed for a mining operation ([Minnesota Statute 282.04](#)). 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 twenty-five years.

### **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 ([Minnesota Statute 282.04](#)). The price and the conditions of the lease are set by the county board. The county board also determines the length of the lease for any time up to 25 years.

The county may grant peat leases without DNR approval if the lease covers less than 320 acres. The county still must get DNR approval when the lease covers 320 acres or more. This allows counties to complete small lease agreements without having to wait for DNR's approval.

Before a special lease for peat removal may be granted, the county auditor holds a public hearing on the proposed leasing. The county auditor posts a notice in the courthouse at least 20 days before the hearing. The county auditor also has a notice printed in a legal newspaper in the county at least 10 days before the hearing.

### **Special One-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 ([Minnesota Statute 282.04](#)).

The lease may be granted without advertising for bids. As an exception to the provisions of the standard ten-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.

A one-year lease on tax-forfeited property cannot be renewed, with the exception that a county may enter into a management contract for the land when necessary ([Minnesota Statute 282.04](#)). Upon expiration of the one-year lease, a county may enter into the standard temporary lease with increased county board oversight and lasting up to ten years. The temporary lease may be renewed for another period of up to 10 years, as long as the county board still views the use of the land as temporary.

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.

### *Example: One-Year Lease for Land with Buildings*

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 must be drafted and signed by the county and the occupants. The county collects the rents and manages 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 is 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.

#### **Leasing 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 ([Minnesota Statute 282.01](#)). The price for the lease, the terms of the lease, and the time period of the lease are set by the county board.

#### **Leasing of Surface Land Containing Minerals**

With the approval of the DNR, the county auditor may lease the surface of tax-forfeited land withheld from sale because it contains minerals and is under the jurisdiction of the DNR ([Minnesota Statute 282.01](#)). 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.

#### **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 assessed and collected as a personal property tax. The tax does not become a lien against the property ([Minnesota Statutes 272.01](#) and [273.19](#)).

**Lessee’s Rights**

A tenant is bound by the terms of the lease agreement and is subject to the laws governing the landlord-tenant relationship ([Minnesota Attorney General’s book on landlord-tenant law](#)). If the lease says nothing about the tenant receiving a monetary benefit from commercial activity taking place on the leased land, the tenant is not entitled to any compensation from any such activity.

## Easements on Tax-Forfeited Land

The county auditor, county board, and the Department of Revenue may all grant easement rights to certain types of tax-forfeited land for specific purposes before the land is conveyed or sold. This section covers the types of easements that may be granted and under what conditions they may be granted.

**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 ([Minnesota Statute 282.04](#)):

1. Telephone, telegraph, and electric power lines;
2. Sewer and water lines;
3. Pipelines for gas, liquids, or solids in suspension; and
4. Highways, railroads, and recreational trails.

The price for the easement, the conditions and terms of the easement, and the time period of the easement are set by the county board.

Any easement granted may be canceled by county board resolution for the following 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 ninety-day written notice of the cancelation. The easement holder may be granted additional time 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 deposited in the forfeited tax sale fund ([Minnesota Statute 282.09](#)).

**Special Easement to the State and United States Federal Government**

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 federal government for the following purposes:

1. Highways, roads, and trails;
2. Flowage for development of fish and game resources; and
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.

**Private Easements**

The county board may convey a road easement across unsold tax-forfeited land to an individual requesting an easement for access to private property owned by the individual. Such easements may be conveyed by the county auditor, but only if the county board has delegated its authority to the auditor ([Minnesota Statute 282.04](#)).

The county board may grant such easements if:

1. There are no reasonable alternatives to obtain access to the individual’s property; and
2. The easement will not cause significant adverse environmental or natural resource management impacts.

An individual applying for such an easement must pay the appraised value of the easement to the county auditor. The appraised value is determined by the county board. The conveyance granting the road easement must provide that the easement reverts to the state in trust for the taxing districts in the event of nonuse. The county board determines what constitutes “nonuse” since there is no statutory definition for the term.

**Easements on Land Bordering Water**

With the recommendation of the county board, the Department of Revenue is authorized to grant permanent easement rights to the Department of Natural Resources (DNR) for tax-forfeited land bordering lakes and streams ([Minnesota Statute 282.37](#)).

The county auditor must submit to the Department of Revenue 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 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 Department of Revenue. After reviewing the application materials, the Property Tax Division may prepare a statement 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 use the following contacts:

Minnesota Department of Revenue State Deeds  
 651-556-6085  
[state.deeds.mdor@state.mn.us](mailto:state.deeds.mdor@state.mn.us)

Department of Natural Resources  
 Division of Lands and Minerals  
 651-259-5959

## Government Acquisition: Request

### Written Request by a Governmental Subdivision

After it has been classified, approved for sale, and appraised, any parcel of tax-forfeited land may be acquired by a [governmental subdivision](#). A governmental subdivision requests a purchase or other acquisition of a forfeited parcel by filing a written request with the county auditor to withhold the parcel from sale or lease to others. These procedures also apply to town boards, governing bodies of municipalities, parks and recreation boards in cities of the first class, and state agencies ([Minnesota Statutes 282.01](#)).

Upon written request from a governmental subdivision, a parcel of unsold tax-forfeited land is withheld from sale or lease to other for up to six month. The county auditor confirms the starting date of the six-month withholding period to the requesting agency or subdivision. The governmental subdivision must pay the maintenance costs incurred by the county during the period the parcel is withheld. If the county conveys or sells the parcel to another party after the application is received and before the six-month period expires, the conveyance or sale must be canceled.

The governmental subdivision may acquire the parcel in one of three ways:

1. Acquire the parcel for free and implement an [authorized public use](#) on the parcel;
2. Pay [market value](#) and use the parcel for an authorized public purpose; or

3. Pay less than market value to correct blight or implement affordable housing.

Sale or conveyance of the property to the governmental subdivision terminates the withholding period.

If no governmental subdivision submits an application requesting to withhold the property from sale or lease to others, the county may offer the property for sale to the public. The county may reject a request for withholding tax-forfeited property if it is made more than 30 days after the county notified the requesting [state agency](#) or governmental subdivision of its intent to sell or otherwise dispose of the property. A governmental subdivision may not make a second request for withholding a tax-forfeited parcel if it made a request for that same parcel in the past 18 months.



**NOTE**

The difference between an “authorized public use” and an “authorized public purpose” is defined in the glossary.

**Rationale for Government Acquisition**

At first glance, it appears that governmental acquisition of tax-forfeited land does not serve the public interest. When a governmental subdivision 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 does 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 benefits as much or more from the governmental use or purpose of the parcel as it would have from the parcel being on the tax rolls.

In order to justify the rationale, a governmental subdivision should carefully review its proposed public use or purpose before requesting to acquire a parcel of tax-forfeited land. The county board must also carefully review each proposed public use or purpose before approving any conveyance or sale.

**Governmental Subdivision Rights and Entitlements after Forfeiture**

A governmental subdivision that has tax-forfeited property within its boundaries does not have an automatic right to acquire the property. The rights and entitlements of a governmental subdivision relating to tax-forfeited property are:

1. The governmental subdivision may require the county board to refrain from selling or leasing the property to anyone else for up to six months; and
2. The governmental subdivision may submit requests to the county board that the board approve a conveyance of the property to it.

These rights and entitlements are not exclusive to the city or township where the tax-forfeited parcel is located; any other local unit of government or state agency has these rights ([Minnesota Statutes 282.01](#)).

**County Board Decision: Two or More Requests**

It is possible for more than one governmental subdivision 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 that will put the land to the best public use. The “best public use” must be defined by the county board.

This decision-making process should also be followed when a parcel of tax-forfeited land is requested by a governmental subdivision at the same time that a party with the legal right to repurchase requests to repurchase the parcel.

## Government Acquisition: Purchasing

A [governmental subdivision](#) may acquire tax-forfeited land by purchasing the land for any “public purpose.” Depending on the circumstances, the land can be sold at either [market value](#) or less than market value.

A “sale” to a [state agency](#) is called a “release from trust” since the state already holds the tax-forfeited land in trust for the local units of government. The sale to a governmental subdivision or state agency does not have to be approved by the Department of Revenue ([Minnesota Statutes 282.01](#)).

The proceeds of any sale of tax-forfeited land to a governmental subdivision or state agency are deposited in the forfeited tax sale fund.

**Market Value Sale**

The county board may sell nonconservation tax-forfeited lands for their market value to an organized or incorporated government subdivision of the state or a state agency for any public purpose or [authorized use](#) for which the governmental subdivision or state agency may acquire property ([Minnesota Statutes 282.01](#)). The sale releases the property from the trust in favor of the taxing districts. The market value of the land is determined by the county board. The governmental subdivision or state agency must apply to the county board for such a sale.

**Sales for Less than Market Value**

***Correcting Blight and Creating Affordable Housing***

Nonconservation tax-forfeited lands may be sold by the county board to an organized or incorporated governmental subdivision of the state or a state agency for less than market value if ([Minnesota Statutes 282.01](#)):

1. The county board determines that a reduced price is necessary to incentivize a governmental subdivision or state agency to correct blight or create affordable housing; and

2. The governmental subdivision or state agency has a documented specific plan for correcting blight or creating affordable housing. The governmental subdivision or state agency must identify the specific law(s) that empower it to acquire the property for its plans. Citing generic pursuits within the entirety of the Housing and Redevelopment Authority statutes (i.e. citing to the whole of [Minnesota Statutes, Chapter 469](#)) does not qualify for the discounted price for the sale of the land.

The Department of Revenue has not defined what a “specific plan” is or is not. The county therefore has discretion as to what is specific enough, reliable enough, or extensive enough to meet this requirement. At a minimum, the plan must be in writing and describe with some specificity the intentions for the land.

The commissioner of revenue conveys the property on behalf of the state by quit claim deed.

**Conservation Purposes**

Conservation tax-forfeited land may be sold to a governmental subdivision for less than its market value for the following purposes ([Minnesota Statute 282.01](#)):

1. Creation or preservation of wetlands;
2. Drainage or storage of storm water under a storm water management plan; or
3. Preservation, or restoration and preservation, of the land in its natural state.


When land is sold for one of these purposes a restrictive covenant is in place for 30 years. The lands may be reconveyed to the state, at which point the restrictive covenant is lifted. If reconveyed lands are sold, the county board may take into account the original amount paid when setting the terms of the sale. If the reconveyed lands are unplatted and located outside of an incorporated municipality, the sale must be approved by the Department of Natural Resources to determine mineral use potential.

**County Board Approval of Government Purchases**

The county board may sell a parcel of tax-forfeited land to a governmental subdivision or state agency for an [authorized public purpose](#) or authorized use ([Minnesota Statute 282.01](#)).

The county board may 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 that authorizes it to acquire property for the proposed public purpose.

 <p><b>NOTE</b></p> <p>The county board decides the amount of effort put into enforcing the authorized public purpose. If the county board approves a 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.</p>
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Before approving or denying a sale, the county board may want to ask the following questions:

1. Is the proposed purpose authorized by statute, law, or local charter?
2. Will the proposed purpose serve the public interest as much or more than having the parcel back on the tax rolls?

If the answer is “yes” to both questions, the county board may approve the request by resolution. The county auditor then contacts the governmental subdivision or state agency to collect money to purchase the property along with any other costs to complete the sale.

When the sale is complete, the county auditor applies for a state deed from the Department of Revenue in the name of the governmental subdivision or a release from trust in the name of the state agency.

#### **“Flipping” Tax-Forfeited Land**

Governmental subdivisions and state agencies are allowed to purchase tax-forfeited land for any public purpose for which they are authorized to acquire property. Generally, a governmental subdivision will not be authorized to buy tax-forfeited land for the intent to make a profit by reselling the property.

#### **No Rule of Reversion for Government Purchases**

The rule of reversion does not apply to the purchase of a parcel of tax-forfeited land by a governmental subdivision or state agency ([Minnesota Statute 282.01](#)). Once the sale is 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.

## **Government Acquisition: Authorized Public Use**

A county may convey tax-forfeited property free of charge to a [governmental subdivision](#) that uses the land for an [authorized public use](#). This section details the limitations and special conditions on conveyances for authorized public uses.

#### **Authorized Public Use Limitations**

Authorized public uses for tax-forfeited land are limited by statute. The following list details the valid authorized public uses of tax-forfeited property ([Minnesota Statute 282.01](#)):

1. A road, or right-of-way for a road.
2. A park that is both available to, and accessible by, the public. The park must contain amenities such as campgrounds, playgrounds, athletic fields, trails, or shelters.
3. Trails for walking, bicycling, snowmobiling, or other recreational purposes. A reasonable amount of the surrounding land may be maintained in its natural state.

4. Transit facilities for buses, light rail transit, commuter rail or passenger rail. This includes transit ways, park-and-ride lots, transit stations, maintenance and garage facilities, and other facilities related to a public transit system.
5. Public beaches or boat launches.
6. Public parking.
7. Civic recreational or conference facilities.
8. Public service facilities such as fire halls, police stations, life stations, water towers, sanitation facilities, water treatment facilities, and administrative offices. A public service facility is usually a brick-and-mortar structure.

**Rule of Reversion**

The governmental subdivision has three years from the date of conveyance to implement the authorized public use on the tax-forfeited land. If the governmental subdivision fails to put the land to the intended use after three years, or abandons that use during the three year time period, the governmental subdivision must do one of two things:

1. With the approval of the county board, purchase the property for an authorized public purpose at the present [market value](#) as determined by the county board; or
2. Convey the land, or the part of the land not required for an authorized public use, to the state in trust for the taxing districts.

If the governmental subdivision purchases the property, the commissioner of revenue conveys the property on behalf of the state by quit claim deed free of a use restriction and the possibility of reversion or defeasement. The [State Deed Application Form](#) is used to apply for a quit claim deed under these circumstances.

If the governmental subdivision reconveys the property to the state, a reconveyance must be executed immediately. The conveyance is subject to the approval of the commissioner and its form must be approved by the attorney general. The forms and procedures are covered in the [Voluntary Reconveyance by Governmental Subdivision](#) paragraph below.

If the tax-forfeited land is not purchased or conveyed to the state in accordance with the above provisions, the commissioner of revenue declares the land to have reverted to the state. The details of these reconveyances are explained in the [State Enforced Reconveyance](#) paragraph below.



**NOTE**

There is no failure to put the land to an authorized public use and no abandonment of that use for 15 years from the date of conveyance if a formal plan of the governmental subdivision shows an intended future use of the land for the authorized public use. The formal plan may be a comprehensive plan, a land use plan, or some similar document ([Minnesota Statutes 282.01](#)).

### Exceptions to the Rule of Reversion

Property held by a governmental subdivision under a conditional use deed executed by the commissioner of revenue before January 1, 2007 is released from the use restriction and possibility of reversion on January 1, 2022 if the county board records a resolution describing the land and citing [Minnesota Statutes 282.01](#).

Property conveyed under a conditional use deed, regardless of when it was executed, is released from the use restriction and reverter on the later of ([Minnesota Statute 282.01](#)):

1. January 1, 2015;
2. Thirty years from the date the deed was acknowledged; or
3. Upon final resolution of an appeal initiated prior to January 1, 2015.

In practice, this means a 30-year expiration is on all conditional use deeds.

### Voluntary Reconveyance by Governmental Subdivision

When a whole parcel or part of a parcel of conveyed tax-forfeited land is not being used for the authorized public use, the governing body of the governmental subdivision must voluntarily reconvey the property to the state ([Minnesota Statute 282.01](#)). The [PT Form 975](#) is used for reconveyances of the entire original conveyance. The [PT Form 976](#) is used for reconveyances of a portion of the original conveyance. This may include whole parcels if the original conveyance involved multiple parcels.

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 is mailed to the Department of Revenue. If the reconveyance is approved, the Department of Revenue keeps a copy of the reconveyance deed for its records and mails the original document to the county auditor. The county auditor records the original reconveyance deed in the county recorder's office.

After recording, the county auditor returns the parcel to the county's tax-forfeited land list. The regular tax-forfeiture procedures can then be completed to make the parcel eligible again for acquisition by a governmental subdivision or [state agency](#) or for sale at a public or private auction. The governmental subdivision that reconveyed the property 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 a reconveyance, the Department of Revenue must enforce the rule of reversion ([Minnesota Statute 282.01](#)).

To complete its enforcement role, the Department of Revenue adopted a process to monitor the use of the parcels. Each year, a letter is mailed to each governmental subdivision for which a parcel conveyed

by a conditional use deed reached its three-year limitation in the previous year. The mailing includes a list of the parcels. Waiting until the following year to conduct the review assures that at least three years have passed since the parcels were conveyed.

The letter requests the governmental subdivision fill out a land use form that provides the Department of Revenue with important information. The form is mailed with pre-printed information regarding the deed. The governmental subdivision identifies whether or not the current use of the property is the same as the intended use of the property and whether or not the property is still owned by the governmental subdivision to which the property was originally conveyed. Any employee of the governmental subdivision that has the knowledge and ability to fill out the form appropriately may authorize the form on behalf of the governmental subdivision. The form must be completed and returned to the Department of Revenue by a fixed deadline.

If the governmental subdivision does not comply, the Department of Revenue executes a written declaration of reversion. A notice of reversion, with a copy of the declaration, is served via certified mail upon the chief officer of the governmental subdivision. A declaration of reversion may not be made any earlier than 60 days after the three-year period post-conveyance has expired. The Department of Revenue files the original declaratory document, with verified proof of service.

The governmental subdivision has 30 days after the certified mailing to appeal with the district court of the county in which the land lies. The governmental subdivision appeals by filing a notice of appeal with the court administrator specifying the grounds of appeal and the description of the land involved. A copy of the notice of appeal must be mailed via certified mail to the commissioner of revenue. Another copy must be filed with the county recorder or registrar of titles. Both copies must be sent and filed within 30 days after mailing the notice of reversion. The appeal is tried by the court as a civil action.

If no appeal is made or if the court rules in favor of the reversion, the declaration of reversion is final. A certified copy of the declaration of reversion and proof of service must be filed by the commissioner of revenue with the county recorder or registrar of titles of the county where the land lies ([Minnesota Statute 282.01](#)). The title is then back in the name of the state and the parcel can be returned to the county's list of tax-forfeited land.

### **Public Hearing to Change Use**

If a governmental subdivision that acquired a parcel for public use later determines to change the use, it must hold a public hearing on the proposed change. The governmental subdivision must mail written notice of the proposed use change and the public hearing to each owner of property that is within 400 feet of the parcel between ten and sixty days before the hearing is held. The notice must include the following information ([Minnesota Statute 282.01](#)):

1. Identity of the parcel;
2. The current authorized public use;
3. The proposed use;



4. The date, time, and place of the public hearing; and
5. Invite the public to testify at the hearing or submit written comments on the proposal. The location for submitting written comments must be provided.

## Government Acquisition: Other Methods of No Cost Conveyance

Acquiring tax-forfeited property for an [authorized public use](#) is only one of several purposes for which government entities may acquire tax-forfeited land through conveyance without a cost. The other methods are described in this section.

### Written Development Agreements (Failure to Convey)

Outlots that developers promised but failed to convey to local governments under development agreements may be conveyed to the [governmental subdivision](#) by the Department of Revenue through a quitclaim deed.

The governmental subdivision must certify to the county board that prior to forfeiture it was entitled to the parcel under a written development agreement or instrument, but the conveyance failed to occur prior to forfeiture. The county board then provides a favorable recommendation to the Department of Revenue as part of the deed application ([Minnesota Statute 282.01](#)).

Similarly, parcels that common interest community associations were entitled to under a written agreement that forfeited without conveyance may be conveyed to the common interest community by the Department of Revenue through a quitclaim deed. The common interest community must certify to the county board that prior to forfeiture it was entitled to a parcel under a written development agreement or instrument, but the conveyance failed to occur prior to forfeiture. The county board then provides a favorable recommendation to the Department of Revenue as part of the deed application ([Minnesota Statute 282.01](#)).

### Economic Redevelopment in Targeted Communities

Tax-forfeited lands in a targeted community ([Minnesota Statute 469.201](#)) in a first class city are conveyed to a governmental subdivision that submits a [State Deed Application](#) to the Department of Revenue and receives a favorable recommendation of the county board. The land is conveyed through a quitclaim deed.

### School Forest

Tax-forfeited land may be conveyed to a governmental subdivision for school forest purposes without monetary compensation or consideration ([Minnesota Statute 282.01](#)).

Any lands conveyed for school forest purposes are annually monitored by the commissioner of natural resources to ensure they are being used as school forests. The Department of Revenue issues the deed conveying the property to the governmental subdivision for school forest use.

Unlike conditional use deeds given for authorized public uses property conveyed for school forest purposes is monitored for compliance in perpetuity. If the property is no longer used for a school forest at any point in time, the property reverts to the state. The commissioner of revenue must record a declaration of reversion in these instances.

## Government Acquisition: Costs

A [governmental subdivision](#) or [state agency](#) is required to pay no less than the value of the property as determined by the county board plus the other costs that are charged to any other purchaser when acquiring land for a public purpose. In most cases, the value of the property is the same as the basic sale price which other purchasers must pay. The county board makes the final decision on costs 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 ([Minnesota Statute 282.01](#)).

A conditional use deed is issued “free of charge” to a governmental subdivision. This means that the governmental subdivision is not subject to the same deed transaction costs as a purchase deed.

The following table summarizes the cost differences between a purchase deed and a conditional use deed.

Costs	Purchase Deed	Conditional Use Deed
Basic Sale Price	X	
\$25 State Deed Fee	X	
\$250 State Deed Application Fee		X
Three-Percent Surcharge	X	
State Deed Tax	X	X
County Recording Fee	X	X
Agricultural Conservation Fee	X	X



**NOTE**

A state deed cannot be recorded or delivered to the purchaser until all of the costs are paid. The county auditor should not apply for the state deed until the governmental subdivision or state agency has paid all of the costs.

## Land Restricted or Withheld from Sale

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 that are withheld from sale or conveyance.

Some of the major types of tax-forfeited land that are 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.

### Conservation Land Managed by the County Board

Tax-forfeited land that 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 any one of the following ways ([Minnesota Statute 282.01](#)):

1. It may be conveyed 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 ([Minnesota Statute 282.011](#)).
3. It may be conveyed privately to the DNR for conservation purposes.
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 [Minnesota Statutes, Chapter 282](#).

### Conservation Land Managed by the DNR

The county board may resolve that certain parcels of tax-forfeited land held by the state in trust for the taxing districts and are classified as conservation land must be devoted to conservation purposes. The county board forwards the resolution to the DNR ([Minnesota Statute 282.01](#)).

If the county board 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 records the transfer of the parcels in the county property tax lists and files it with the county recorder's office.

The title to the parcels of conservation land accepted by the DNR are held in the name of the state free from any interest for the taxing districts. In other words, the property is withheld from sale and will not be returned to the property tax rolls of the county in which it is located.

The parcels of conservation land are managed and developed by the DNR for any public conservation or recreational purpose including the following ([Minnesota Statute 282.01](#)):

1. Forestry;
2. Water conservation;
3. Flood control;
4. Parks;
5. Game refuges;
6. Controlled game management areas; and
7. Public shooting grounds.

The DNR may convey any parcel of these conservation lands to the governmental subdivision whose boundaries surround or are adjacent to the parcel for an [authorized public purpose](#). The DNR issues 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.

### **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 ([Minnesota Statutes 282.12](#), [282.20](#) and [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 repurchase does not contain a clause reserving the minerals and mineral rights in the name of the state.

Sand and gravel 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.

**Land Located on Public Waters**

All tax-forfeited land which borders on or is adjacent to [meandered](#) lakes and other [public waters](#) and watercourses is withheld from sale ([Minnesota Statute 282.018](#)). The 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. It may, however, be repurchased.

**Exceptions**

There are some exceptions to the requirement that tax-forfeited land located on public waters be withheld from sale ([Minnesota Statute 282.018](#)).

1. **Sale of live timber.** The county may sell the live timber growing on the tax-forfeited land for cutting and removal under the rules and conditions provided by law.
2. **Reservation of Public Road Ways.** The county is required to reserve a strip of land two rods in width for public travel. These public road ways begin at the high water mark and run parallel with the shoreline. A wider strip may be reserved where the confirmation and conditions of the shoreline require it.
3. **Sale of Land with 150 Feet or Less of Waterfront.** The county may sell or convey land without special legislation if the land has 150 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 DNR.
4. **Sale by written authorization from the Commissioner of Natural Resources.**
5. **Sale of Land by Legislative Approval.** The county may ask the Minnesota Legislature to pass special legislation authorizing the sale or conveyance of a specific parcel of tax-forfeited land located on public waters that otherwise must be withheld from sale or conveyance.

The county must submit its proposal for the sale or conveyance to the DNR. The DNR reviews the proposal, evaluates the land, and makes recommendations to the legislature about the proposed sale or conveyance. 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.

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.

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 [Minnesota Statutes, Chapter 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 applies for a state deed from the Department of Revenue in the same way as for other sales of tax-forfeited land unless the special law prescribes otherwise.

### Restriction on Marginal Lands + Wetlands

All nonforested marginal land and wetlands located on unplatted tax-forfeited land are withheld from sale unless both of the following conditions are met ([Minnesota Statute 103F.535](#)):

1. **Notice to Prospective Purchasers.** 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 recommends 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 unplatted lands for sale, it is advisable to differentiate between the two types so that prospective purchasers have no doubt as to which land has a restrictive covenant on its deed and which will not.

2. **Restrictive Covenant on State Deed.** The state deed from the Department of Revenue 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.

The county auditor must submit a completed [Wetland Certification Form](#) with each deed application so the Department of Revenue knows whether or not a state deed must contain a restrictive covenant.

The Board of Water and Soil Resources (BWSR) should be contacted for question about what constitutes marginal land or wetlands, how marginal land or wetlands are to be delineated, or any similar questions. The contact information for the central BWSR office is:

520 Lafayette Road North  
Saint Paul, MN 55155  
Phone: 651-296-3767  
Fax: 651-297-5615

### **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 ([Minnesota Statute 1031.001 to 1031.715](#)).

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 made on a [Well Disclosure Certificate](#) that must be signed by the seller at the closing of the sale ([Minnesota Statute 1031.235](#)).

#### ***Well Certification: General Procedures and Forms***

The Department of Revenue interprets 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 Department of Revenue with the information that is needed to complete this requirement.

On the application form for a state deed, the county auditor must certify whether or not there are any wells on the property. The Department of Revenue includes a clause in the state deed stating the property either does or does not have wells on it based on the auditor's certification. The statement is qualified by adding that the state of Minnesota is relying on the auditor's certification, so 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.

#### ***Well Certification: Contract for Deed Sales***

When a contract for deed 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. 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. This requirement extends to tax-forfeited land.

After receiving the county auditor's state deed application form, the Department of Revenue prepares the state deed and sends it to the county auditor.

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 there are wells, the county recorder must forward the certificate to the Department of Health. If the certificate states there are no wells, the county recorder stamps "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. If any dispute arises over the existence of wells on the property during the six-year liability period, the county has the purchaser's signed Well Disclosure Certificate to prove the purchaser knew of no wells on the property.

### **Contact Information**

For more information about Well Disclosure Certificates contact the Well Management Section of the Minnesota Department of Health using the following information:

625 North Robert Street  
PO Box 64975  
St. Paul, MN 55164-0975  
Phone: 651-201-4600 or 800-383-9808  
Fax: 651-201-4599

[health.welldisclosures@state.mn.us](mailto:health.welldisclosures@state.mn.us)

### **Land Forfeited in Conservation Areas Before 1984**

There are three consolidated conservation areas with special rules for handling tax-forfeited lands. These areas are:

1. The Red Lake Game Preserve in Lake of the Woods, Beltrami, and Koochiching Counties ([Minnesota Statute 84A.01 to 84A.11](#));
2. The conservation areas set up in Aitkin, Roseau, and Mahnommen Counties ([Minnesota Statute 84A.20 to 84A.30](#)); and
3. The conservation areas designated in Marshall County ([Minnesota Statute 84A.31 to 84A.42](#)).

All land located in these areas that forfeited to the state and was classified as nonagricultural before May 3, 1984 is not to be sold at a public or private sale, conveyed to any local government or state agency, or leased for any purpose ([Minnesota Statutes 282.06](#), [282.14](#), [282.22](#) and [84A.57](#)). The title to these tax-forfeited lands is to remain in the name of the state. The property is managed by the DNR.



All land within these three areas which forfeited to the state and classified as agricultural before May 3, 1984 may be sold by the county auditor only with DNR approval ([Minnesota Statutes 282.06](#), [282.14](#) and [84A.57](#)).

All lands within these three areas which forfeited to the state on or after May 3, 1984 must be classified and handled by the county board similar to other properties located outside of the three areas ([Minnesota Statute 84A.57](#)).

#### **Non-Conservation Land Deemed Not Advisable to Sell**

A county board can decide that it is not advisable to sell a particular parcel at the next public sale. It may be offered up for public sale at a later time ([Minnesota Statute 282.01](#)).

## **Hazardous Waste on Tax-Forfeited Land**

In general, state and local governmental organizations are not responsible for the release of contaminants solely because they hold title to tax-forfeited land. They also cannot be held responsible solely because of actions taken to manage or sell tax-forfeited land.

However, state and local 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 ([Minnesota Statutes 115B.02](#), [115B.03](#), [115C.02](#), [115C.021](#) and [116.49](#)).

#### **Management of Hazardous Waste on Tax-Forfeited Land**

Counties and the Department of Natural Resources (DNR) must follow certain procedures 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.

#### ***Notify the Pollution Control Agency (PCA): Superfund Sites***

The county auditor must file an affidavit with the PCA as required for all superfund sites ([Minnesota Statute 115B.16](#)). This requirement applies only to tax-forfeited land placed on the permanent list of priorities ([Minnesota Statute 115B.17](#)).

#### ***Notify the PCA: Storage Tanks***

The county auditor must file a notification or affidavit with the PCA as required by statute ([Minnesota Statute 116.48](#)) for tax-forfeited land with an underground or aboveground storage tank. This must also be done upon the sale of tax-forfeited land that contains storage tank or where there is a release from a tank for which no correction action has been taken ([Minnesota Statute 282.0195](#)).

#### **Management of Tax-Forfeited Land + Pollution Control**

There are three general requirements for a county or the DNR to manage tax-forfeited land subject to hazardous substance or petroleum release ([Minnesota Statute 282.019](#)):

1. The county or DNR must cooperate with the 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 must refrain from action that would significantly contribute to any release or threatened release.
3. The county or DNR must notify the PCA or the DOA in advance of any actions needed to manage the land that may affect the investigation of or response to any release or threatened release. The direction of the PCA must be followed when taking any actions.

These requirements also apply to any person managing the land under a lease or other similar arrangement with the county or the DNR.

#### **Asbestos on Tax-Forfeited Land**

Occupational Safety and Health Administration (OSHA) requires an inspection prior to demolition (29 CFR 1926.1101). Further guidance on removal of asbestos from properties being demolished can be found in Minnesota Rule 7035.0805.

#### **Sale of Tax-Forfeited Land with Hazardous Waste**

This subsection focuses on the procedures the county must 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.

#### ***Sale of Tax-Forfeited Land + Pollution Control***

With the approval of the county board, the county auditor must complete the following requirements ([Minnesota Statute 282.019](#)):

1. File the affidavit with the PCA required for all superfund and storage tank sites;
2. Establish the conditions on the sale of the land to ensure that the buyer and any successors will grant access to the land to the PCA for any pollution control actions needed; and
3. Establish the conditions on the sale of the land to ensure that the buyer and any successors will use the land in a way that protects the public health and the environment and comply with all federal and state laws.

The county board is authorized to establish other pollution control requirements that must be met before tax-forfeited land may be sold.

#### ***Alternative Methods of Sale + Pollution Control***

Tax-forfeited land may be sold by means 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 must be met ([Minnesota Statute 282.019](#)):

1. The county auditor must give at least 30 days written notice of the sale to the PCA and to all owners of the adjoining land.

2. The sale may be restricted to the owners of the adjoining land.
3. 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.
4. The notice of the sale must include the amount of an environmental lien or the estimated expenses for cleanup or response actions.

#### **Payment for Waste Cleanup on Tax-Forfeited Land**

There are two methods for the PCA to recover the costs of response actions taken on tax-forfeited land ([Minnesota Statute 282.019](#)).

#### ***Environmental Liens***

Before or at the time of tax-forfeiture, the PCA or the DOA may file an environmental lien to recover the costs of response actions ([Minnesota Statute 514.672](#)). The PCA or DOA must provide a copy of the environmental lien to the county assessor.

Selling the land after tax-forfeiture does not discharge or free it from an environmental lien. The county board may request release or reduction of the environmental lien if the board determines that the lien prohibits the return of the tax-forfeited land to the tax rolls.

#### ***Expenses Added to Basic Sale***

If no environmental lien was filed before or at the time of tax-forfeiture, the PCA or DOA must certify to the county any expenses incurred for response actions.

Prior to the sale, the county board must 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.

#### **Special Case: Delinquent Hazardous Property Penalty**

As part of a targeted community program, a city may assess a penalty up to one percent of the market value of any real property that the city determines to be hazardous under statute ([Minnesota Statutes 463.15](#) and [469.206](#)).

If the [property owner](#) does not pay the penalty or fix the property within 90 days of receiving notice of the penalty, the penalty becomes delinquent and is increased by 25 percent for each 60 days the penalty is not paid and the property remains hazardous.

A penalty that is delinquent is considered a delinquent property tax and is subject to the delinquent real property tax laws ([Minnesota Statutes, Chapters 279 to 282](#)).

**Landfill Cleanup Program**

The owner or operator of a qualified facility subject to a federal cleanup order or that includes any portion that is tax-forfeited may be subject to the Landfill Cleanup Program ([Minnesota Statute 115B.405](#)). The owner or operator of a qualified facility may apply to the PCA for exclusion from the Landfill Cleanup Program under [Minnesota Statutes, Chapter 115B](#). However, 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 was not allowed to apply for exclusion.

**Contact Information**

Any questions about managing hazardous waste on tax-forfeited land or related issues may be directed to the Minnesota Pollution Control Agency at 651-296-6300 or 800-657-3864.

## Notice of Public Sales

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 complete several tasks to announce a public tax-forfeited land sale ([Minnesota Statute 282.02](#)).

The major tasks are outlined and explained in this section. Several examples of the forms that are used to complete some of the tasks are included as well.



**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.

**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 ([Minnesota Statute 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 relevant statute ([Minnesota Statute 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. There is no statutory requirement, so each county may choose which components of the complete description are best for its purposes.

## **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. There are several components of the basic sale price.

The first component is the appraised value that is determined by the county board. The appraised value is the major components 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. The county auditor is 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. 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.

## **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. The municipality has the authority to recover any amount of these old, canceled special assessments that are not paid through the distribution ([Minnesota Statutes 429.071](#), [435.23](#) and [444.076](#)).

#### **4. Radon Disclosures for Tax-Forfeited Residential Property**

The Minnesota Radon Awareness Act ([Minnesota Statute 144.496](#)) requires disclosure of certain information relating to radon before signing an agreement to sell or transfer residential property. The act applies to sales and transfers of residential tax-forfeited property. The county is not required to conduct radon testing on tax-forfeited residential property if nothing is known about the levels of radon on the property.

The statutes do not provide any guidance on how the disclosure must be made for tax-forfeited properties. The Department of Revenue recommends placing the radon disclosure information in the list of tax-forfeited land. Displaying the information in the list makes the disclosure plain and complete in advance of the sale.

The radon disclosure must provide the following information for each parcel of residential tax-forfeited property:

1. Whether a radon test or tests have occurred on the property;
2. The most current records and reports pertaining to radon concentrations within the dwelling;
3. A description of any radon concentrations, mitigation, or remediation;
4. Information regarding the radon mitigation system, including system description and documentation if such a system has been installed in the dwelling; and
5. A radon warning statement, including the following language:

### *Radon Warning Statement*

The Minnesota Department of Health strongly recommends that ALL homebuyers have an indoor radon test performed prior to purchase or taking occupancy and recommends having the radon levels mitigated if elevated radon concentrations are found. Elevated radon concentrations can easily be reduced by a qualified, certified, or licensed, if applicable, radon mitigator. Every buyer of any interest in residential real property is notified that the property may present exposure to dangerous levels of indoor radon gas that may place the occupants at risk of developing radon-induced lung cancer. Radon, a Class A human carcinogen, is the leading cause of lung cancer in nonsmokers and the second leading cause overall. The seller of any interest in residential real property is required to provide the buyer with any information on radon test results of the dwelling.

(<http://www.health.state.mn.us/divs/eh/indoorair/radon/radonre.html>)

The county must provide a copy of the Minnesota Department of Health's [Radon in Real Estate Transactions](#) publication to any purchaser of residential tax-forfeited property.

#### **Marketing Tax-Forfeited Land**

A county board has great discretion to provide for the listing and sale of tax-forfeited property. A county board may by resolution provide for the listing and sale of individual parcels by other means such as through a real estate broker ([Minnesota Statute 282.01](#)). These properties are not required to be listed on the auction list, and can be sold any time after classification. However, if the buyer could have repurchased the property, that buyer may not purchase that same parcel for a purchase price less than the sum of all taxes, assessments, penalties, interest, and costs due at the time of forfeiture, and any special assessments for improvements certified as of the date of sale.

County auditors may also sell tax-forfeited property through an online auction. When an online auction is used to sell tax-forfeited lands, the county auditor must post a physical notice of the online auction, and publish a notice of the online auction on the county website no less than ten (10) days before it begins.

#### **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 ([Minnesota Statute 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.

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 are 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 (i.e. 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.

### **Approval of Public Sale by Resolution**

After receiving the documents from the county auditor, the county board approves the public sale of each parcel of tax-forfeited land on the list and the terms of the public sale by formal, written resolution ([Minnesota Statute 282.02](#)). When finished, the county board submits 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.

### **Publication of Notice of Sale**

The county auditor must publish the notice of the public sale and a copy of the resolution of the county board fixing the terms of the public sale in the official county newspaper ([Minnesota Statute 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. “Notice” is not defined in statute, so the county decides what types of information should make up the content of its published notice of the public sale.

The following major documents and their contents could be used as the official publication of a tax-forfeited land sale:

1. *A notice of the public sale of tax-forfeited land.*



This is a sentence-paragraph document containing 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.

**2. *The list of parcels of tax-forfeited land to be sold.***

This is the official list of the parcels of tax-forfeited land prepared by the county auditor and approved by the county board.

**3. *The terms of the public sale of tax-forfeited land.***

This is a sentence-paragraph document containing the terms for a tax-forfeited land sale in the county.

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. Alternatively, 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.

**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 ([Minnesota Statute 282.02](#)). For mailing purposes, the "owner" is defined as the taxpayer as currently listed in the county auditor's property tax records.

Statute does not specify what kind of notice to send to the property owners. 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.

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 equal to the greater of \$1.65 or 0.33% of the basic sale price.

**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 due in five equal 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 the same interest rate as delinquent taxes. The interest rate is based on the adjusted prime rate charged by banks on bank-to-bank-business loans (10% for 2014, 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 are not included in the basic sale price and 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.

**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.

## Conduct of Public Sales

After obtaining the county board’s approval and announcing the sale, the county auditor is responsible for conducting the public tax-forfeited land sale ([Minnesota Statute 282.01](#)).

### Purchasers

Any individual or organization is eligible to bid on and purchase a parcel of tax-forfeited land at a public sale with the following exceptions:

1. County auditor;
2. County treasurer;
3. County attorney;
4. District court administrator;
5. County assessor or supervisor of assessments;
6. Land commissioner or assistant land commissioner; or
7. Any deputies or employees of any of the above individuals



### NOTE

The prohibition on bidding and purchasing applies only to public sales in the county in which the individual is a county official. For example, the county auditor of Spruce County cannot bid on or purchase tax-forfeited land at a public sale in Spruce County. However, the Spruce County auditor could attend a public auction of tax-forfeited land in Basswood County and bid on or purchase tax-forfeited land in that county.

None of these individuals, either personally or as an agent or attorney for another person, may purchase a parcel of tax-forfeited land unless the parcel was owned by the individual before forfeiture. These individuals are further prohibited from having another person directly or indirectly purchase tax-forfeited land on their behalf for their benefit or gain ([Minnesota Statute 282.016](#)). Any county officials and employees listed above who own land adjacent to one or more parcels of tax-forfeited land being offered at a private sale for adjacent landowners only ([Minnesota Statute 282.01](#)) may bid on such property at the private sale.

The county auditor may also exclude the following persons or entities from purchasing tax-forfeited land:

- Has delinquent property taxes for other properties within the county
- Has had a rental license revoked in the last five years
- Was a vendee on a canceled contract for a purchase of tax-forfeited property within the last five years

**Eligible Repurchasers**

No one who could have repurchased a parcel of tax-forfeited land may purchase that same parcel of property at a private or public sale for less than the sum of all taxes, special assessments, penalties, interest, and costs due at the time of forfeiture plus any special assessments for improvements certified as of the date of sale ([Minnesota Statutes 282.241](#), [282.012](#), [282.251](#) and [282.01](#)).

**Location**

Except in Koochiching and St. Louis counties, the county auditor must conduct all public tax-forfeited land sales at the county seat ([Minnesota Statute 282.01](#)). 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. If a county desires to hold a public tax-forfeited land sale at a location other than the county seat, special legislation must be pursued.

County auditors may also sell tax-forfeited property through an online auction. When an online auction is used to sell tax-forfeited lands, the county auditor must post a physical notice of the online auction, and publish a notice of the online auction on the county website no less than ten (10) days before it begins.

**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 ([Minnesota Statute 282.01](#)).

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 any time in addition to the annual sale (Op. Atty. Gen., November 29, 1961, 412a-8).

**Basic Sale Price**

The county auditor must 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 ([Minnesota Statute 282.01](#)).

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.

**Irregular Parcels**

The county auditor may sell irregular parcels that cannot be improved without being adjoined to a neighboring parcel for less than appraised value. Counties often have trouble getting smaller “sliver” parcels back on the tax rolls because they must sell them for their full value. The neighboring land owner, who might be making private use of the property anyway, has no incentive to pay for the parcel when they can utilize it (and avoid the taxes) for free. By allowing these parcels to be sold for as little as \$1, this may help facilitate these transactions and get the property back on the tax rolls.

**State Agency Land Purchases**

The agency must prepare a fact sheet and obtain an appraisal of the property to be purchased. For properties appraised at \$100,000 or over, the state agency cannot pay more than ten percent above the appraised value. For properties appraised at less than \$100,000, the agency may pay more than 110% of the agency’s appraised value, but no more than the seller’s appraised value. The agency may conduct a new appraisal if desired.

The new procedures may impact the sale of tax-forfeited land when a state agency is an interested purchaser. A state agency would be required to go through the steps outlined above and would have limits on the price it could pay for the tax-forfeited land. This law does not create a preference for state agencies at public auction. The state agency may put in a written request to have a parcel of tax-forfeited land withheld from sale, as is currently allowed under statute ([Minnesota Statute 282.01](#)). The Department of Transportation, the Department of Natural Resources, and the Board of Water and Soil Resources are not subject to the new procedures.


**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 must be paid along with the basic sale price at the time of the sale. For contract sales, the extra costs must be paid no later than at the time of the final installment payment.

***Three-Percent Surcharge: Court Judgments against the State***

The purchaser is required to pay a three percent surcharge on the basic sale price of each parcel of tax-forfeited land. 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 ([Minnesota Statute 284.28](#)).



**NOTE**

The following state deeds are not subject to the three percent surcharge: (1) conditional use deeds, (2) failure to convey deeds, (3) replacement deeds, (4) repurchase deeds, and (5) school forest deeds.

**State Deed Tax**

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 ([Minnesota Statute 287.21](#)). The state deed tax is equal to 0.33% of the basic sale price of a parcel of tax-forfeited land, with a minimum deed tax of \$1.65. The extra costs and the interest paid under a contract purchase are not subject to the state deed tax.

The state deed tax must be paid for all types of state deeds. There are no exceptions.

*Example: Deed Tax*

A parcel of tax-forfeited land was purchased for a basic sale price of \$25,350. The state deed tax is \$83.66.

$$\$25,350 \times .0033 = \$83.66.$$

***State Deed Fee***

The purchaser must 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 ([Minnesota Statute 282.014](#)). 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.

***County Deed Recording Fee***

The purchaser must pay a recording fee to offset the county recorder's cost of indexing and recording the state deed to a parcel of tax-forfeited land. The total fee is \$46.00.

The fee is distributed as follows ([Minnesota Statute 357.18](#)):

- \$10.50 is paid to the state treasury and credited to the general fund;
- \$10.00 is deposited in the technology fund; and
- \$25.50 is deposited in the county general fund.

The county deed recording fee changes frequently in statute. The county auditor should check [Minnesota Statute 357.18](#) periodically to verify the current amount of the total recording fee.

***Agricultural Conservation Fee***

The purchaser must pay a \$5.00 agricultural conservation fee on the recording of each state deed to tax-forfeited land located in the seven county metropolitan area, a county which has exclusive agricultural zones, or a county which is an agricultural land preservation pilot ([Minnesota Statute 40A.152](#)).

For more information on the agricultural land preservation program, contact the following individuals at the Minnesota Department of Agriculture:

Bob Patton  
 Local Government Outreach Coordinator  
[bob.patton@state.mn.us](mailto:bob.patton@state.mn.us)  
 651-201-6226

Becky Balk  
 Agricultural Land Use Planner  
[becky.balk@state.mn.us](mailto:becky.balk@state.mn.us)  
 651-201-6369

**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.

**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 that 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 ([Minnesota Statute 282.01](#)).

The county board is not authorized to employ a private auctioneer to sell tax-forfeited land at a public auction (Op. Atty. Gen., August 1, 1956).

After the public auction, the county auditor must sell any unsold parcel privately to any eligible party 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 reappraises or withdraws an unsold parcel from the public sale list, the parcel cannot be sold privately, unless it is sold using a real estate broker with approval from the county board. 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 to the highest bidder 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 (“over the counter”) at the revised basic sale price.

The total to each parcel of tax-forfeited land not offered for public sale or not sold at the public sale remains 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.

**Parcels Added to Public Sale List**

The county auditor may add the following parcels of tax-forfeited land to the public sale list 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 ([Minnesota Statute 282.01](#)):

1. Parcels forfeited and classified as nonconservation land since the beginning of the public sale;
2. Parcels of conservation land that were classified as nonconservation land since the beginning of the public sale;

 **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.

3. Parcels of nonconservation land that were reappraised since the beginning of the public sale;
4. Parcels of nonconservation land inadvertently omitted from the original public sale list.

### **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 ([Minnesota Statute 282.01](#)).

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](#).

### **Proof of Purchase**

The county auditor must issue a certificate of purchase or a receipt to the purchaser of a parcel of tax-forfeited land at the time of the sale ([Minnesota Statute 282.01](#)).

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.

### **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 ([Minnesota Statute 282.01](#)).

There is one exception to the right of immediate possession. If the county auditor leased the parcel before the public sale, the purchaser's right of possession is subject to the terms of the lease.

### **Forfeited Tax Sale Fund**

The basic sale price of a parcel of tax-forfeited land is 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 ([Minnesota Statute 282.09](#)).

### **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 ([Minnesota Statute 282.03](#)):

1. The county board may limit the use, or require the buyer to put the property to a particular use, or 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 as well as help the county locate a qualified buyer. For example, a county could require the buyer provide a performance bond, financial statements, and/or plans for the building.

If a county includes restrictions on a parcel when selling it, the county should also include provisions in the deed regarding how and when those restrictions are met and released. While statute allows a county board to impose conditions on the sale of tax-forfeited property, there is no parallel statute for removing the conditions ([Minnesota Statute 282.03](#)).

In addition to the 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 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 ([Minnesota Statute 282.01](#)).

### **Public Sale by Sealed Bids: Anoka County**

Anoka County may sell tax-forfeited land by sealed bids. There is a precedent for selling tax-forfeited land by sealed bids. [Minnesota Statute 282.01](#) 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. The announcement of the sale must comply with [Minnesota Statute 282.02](#) except for the following special provisions:

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 statute for public auctions ([Minnesota Statute 282.02](#)).
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 phrase "appraised value" is intended to mean the same as the phrase "basic sale price."
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.

Anoka County continues to have the option of conducting a tax-forfeited land sale by public auction instead of sealed bids.

## Public Sale by Contract for Deed

When authorized by county board resolution, the county auditor must offer each parcel of tax-forfeited land for sale by contract for deed ([Minnesota Statute 282.01](#)).

The resolution adopted by the county board must contain the terms and conditions for all purchases by contract. The county auditor must provide the purchaser with a contract for deed that contains the terms of the installment purchase ([Minnesota Statute 282.01](#)). Local units of government may purchase parcels of tax-forfeited land under a contract for deed if the county board’s resolution allows this.



**NOTE**

The Minnesota statutes refer to the contract for deed document as a “certificate.”

**Down Payment + Installments + Extra Costs**

The county board has two options for contract sales. Under the first option, the purchase must pay at least 10 percent of the basic sale price at the time of purchase. The unpaid balance must be paid in no more than 10 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 ([Minnesota Statute 282.01](#)). The down payment still must be at least 10 percent of the basic sale price.

Under the second option, the payments must be made in accordance with county board policy, but the contract term must be for no more than 10 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 12 installments annually.

*Sample Contract for Deed Terms Established by County Board Resolution*

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 annual installments
3. Basic sale price of \$4,001 or more: 10% down, balance in ten annual installments.
4. All parcels with buildings: 20% down or \$300 whichever is greater, balance in 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.

**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. The counties, therefore, have the authority to choose one of the methods 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.

***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.

***Example: Deadline on Anniversary Date of Contract***

A parcel of tax-forfeited land was sold under a 10-year contract for deed providing that the remaining balance after the down payment be paid in annual installments. After paying the 10 percent down payment, the buyer signed the contract on October 1, 2017. The first annual installment payment will be due on October 1, 2018. The remaining annual installments will be due on October 1 of each of the succeeding nine years.

***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.

***Example: Deadline on December 31 of Each Year***

A parcel of tax-forfeited land was sold under a 10-year contract for deed providing that the remaining balance after the down payment be paid in annual installments. After paying the 10 percent down payment, the buyer signed the contract on October 1, 2017. The first annual installment payment will be due on December 31, 2018. The remaining annual installments will be due on December 31 of each of the succeeding nine years.

**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 canceling 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 means the notice should be mailed no later than 30 days before the anniversary 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.

### 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.

### 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 is in default of the terms of the contract, and the contract is canceled ([Minnesota Statute 282.01](#)).

### 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 set for all installment years at the time of the purchase. Instead, it is a variable rate open to change for each installment payment during the years of the contract. Contract sales are based on the prime interest rate. This is similar to the way interest is handled for a confession of judgment.

The unpaid balance of the basic sale price is subject to an annual rate of interest computed based on the adjusted prime rate charged by banks on bank-to-business loans. This interest rate is subject to change each year ([Minnesota Statutes 279.03](#) and [282.01](#)).

### Recording

All contracts for deed must be recorded within four months of the execution date. A penalty of two percent of the contract debt is imposed on all contracts for deed not recorded within the four-month period. The buyer is legally responsible for meeting the recording deadline ([Minnesota Statute 507.235](#)).

When it is discovered that a contract for deed was not recorded within the deadline, the county attorney may mail a written notice to the buyer. The notice should contain the following information:

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 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 [Minnesota Statute 507.235](#). The county auditor may require the buyer to record the contract for deed by completing the actions outlined above.

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. There is no statutory authorization to force the buyer to pay the fee for recording the 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 Department of Revenue. The Department of Revenue creates the state deed and forwards it to the county auditor. The county auditor records the deed and gives it to the purchaser.

## Cancelation of Contract for Deed

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 ([Minnesota Statutes 282.01](#) and [280.40](#)).

Because a cancelation 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.

### Reasons for Default

A contract for deed is in default for any one of the following reasons ([Minnesota Statutes 282.01](#) and [280.40](#)):

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.

### Cancelation Procedures

When a default occurs, the county board, auditor, and sheriff are required to take action to cancel the contract. The major cancelation procedures that are supposed to



#### NOTE

The cancelation procedures provided in [Minnesota Statute 559.21](#) are more detailed and complex than what is actually needed for the cancelation of a contract agreement to purchase a parcel of tax-forfeited land. A simpler, condensed version of the statutory procedures is presented in this section as an alternative. Each county is free to set up its own version of the required procedures.

be used are those provided in [Minnesota Statute 559.21](#) for the cancellation of all contracts of sale in Minnesota.

The first two procedures outlined below are not required in [Minnesota Statute 559.21](#). However, they are important preliminary actions that are required to obtain official approval to complete the major procedures leading up to the possible cancellation.

#### ***Request County Board Approval***

As the first step of the preliminary action, the county auditor must request the approval of the county board to cancel all contracts for deed in default. The written request should be accompanied by a list of the contracts in that are in default and are to be canceled ([Minnesota Statute 282.01](#)).

The written request should include the following information:

1. A description of each contract in default;
2. The reason for each default;
3. The amount of the unpaid installments;
4. The actions that must be taken to notify each contract holder of the impending cancellation ([Minnesota Statute 559.21](#)); and
5. The date when the contracts are scheduled to be canceled.

#### ***Approval of Cancellation by Resolution***

The second step is for the county board to pass a resolution approving the cancellation of each defaulted contract for deed. The resolution should authorize the county auditor to cancel each contract on the list ([Minnesota Statutes 282.01](#), [282.40](#) and [559.21](#)).

#### ***Preliminary Cancellation Notice***

After the cancellation process is 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, an installment payment is overdue.

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.

***Obtain Publication Dates + Fee***

The county auditor contacts the publisher to determine the dates for publication of the notices of impending cancelation and to obtain the fee for the publication ([Minnesota Statute 559.21](#)).

The county auditor should publish only those notices for parcels without buildings. It is assumed 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. A publication is sufficient to announce the impending cancelation of these types of contracts.

The notice of impending cancelation for parcels without buildings is 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 cancelation date for contracts on parcels without buildings.

The publication fee is one of the extra costs each contract holder for a parcel without buildings must pay to redeem a contract.

***Obtain Sheriff's Pickup Date + Fee***

The county auditor contacts the county sheriff's office to determine the date when the sheriff picks up the notices of impending cancelation and to obtain the fee for service of the notices ([Minnesota Statute 559.21](#)). The county sheriff should serve only those notices for parcels with buildings. It is assumed 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. A notice should be served by the sheriff in these cases and does not need to be published. The county sheriff's service fee is one of the extra costs each contract holder for a parcel with buildings must pay to redeem a contract.

***Determination of Cancelation Dates***

Once the county sheriff's pick-up date and the publication dates are known, the county auditor can calculate the calendar date when the defaulted contracts expire and the contracts are canceled ([Minnesota Statute 559.21](#)).

The redemption period for a contract is based on (1) when the contract was signed, and (2) what percentage of the basic sale price was paid before default. The redemption periods vary from 30 to 90 days. The Department of Revenue suggests the counties give all contracts a redemption period of 90 days.

Under the standard 90-day redemption period, the cancelation date for contracts on parcels without buildings is 90 days after the date of the first publication of the notice. The cancelation date for contracts on parcels with buildings is 90 days after the date when the county sheriff picks up the notices to be served.

***Preparation of Cancelation of Notices***

When the previous tasks are complete, the county auditor is responsible for preparing the notices of cancelation that will be published in the newspaper, served by the county sheriff, and possibly mailed through the post office ([Minnesota Statute 559.21](#)).

The content of all of the notices of cancellation are to be the same except for the date of cancellation.

The notice of impending cancellation must contain the following information and parameters:

1. All of the information required in [Minnesota Statute 559.21](#), including what must be paid to redeem a contract;
2. The name, address, and telephone number of the seller or the seller’s attorney who is authorized to receive payments;
3. A statement authorizing the person named to receive payments;
4. Twelve-point or larger underlined upper-case type for served and mailed notices; and
5. Eight-point type for published notices.

Statute contains a suggested format for the notice of impending cancellation that illustrates the required information and parameters.

***Delivery of Notices to Newspaper***

The county auditor delivers 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 that was set for the first week’s printing.

***Pick Up + Serve Cancellation Notices***

On the scheduled date, the county sheriff picks up the notices for parcels with buildings and serves them 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.

***Mailing Cancellation Notices***

The county is not required to mail copies of the notices of impending cancellation to the contract holders. Each county is free to make that decision itself.

There are two reasons why a county may want 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 the county auditor could reach the contract holders with the required information about the impending cancellation.



**NOTE**

If the county chooses to mail notices to all contract holders, the county auditor should make an extra set of the notices 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.



If a mailing is 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.

**Action Required to Avoid Cancellation**

To avoid cancellation of a contract agreement to purchase tax-forfeited land, the contract holder is required to fulfill the terms of the contract that were the cause of the default. The contract must be redeemed before the cancellation date shown in the published, served, and/or mailed notices ([Minnesota Statute 559.21](#)).

The specific actions required to redeem a contract and avoid cancellation are outlined below. All of the required actions 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 that do not involve payments of money.
2. The payment of all installments and interest that were not paid when due.
3. The payment of all real property taxes that 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 two percent of the amount in default at the time of the service of the notice of impending cancellation.

**Cancellation for Default**

After the 90-day redemption period expires and a contract for deed is canceled because of default, the county auditor must complete the following tasks ([Minnesota Statutes 282.01](#) and [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 recording it with the county recorder.

An auditor’s affidavit must be recorded with a copy of the notice and proof of service of the notice when cancelling a contract for deed.



**NOTE**

These are basically the same tasks 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.

2. Cancel all delinquent and current year taxes and all delinquent and current year special assessments 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.

**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 ([Minnesota Statute 282.341](#)).

If 50 percent 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. The original terms of the contract for deed are reinstated.

If less than 50 percent 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. The county board also has the discretion to alter the financial terms of the contract for deed under these circumstances.

In order to have a contract for deed reinstated, the former contract holder must pay all of the following amounts to the county auditor when applicable ([Minnesota Statutes 282.341](#) and [559.21](#)). 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.

1. All delinquent installments with interest that were due under the contract for deed at the time of the cancellation.
2. All installments with interest that 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.



**NOTE**

Within the statutory conditions for reinstatement of a contract for deed, 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.

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 two-percent of the amount in default at the time of the service of the notice of impending cancellation.

When the total amount required for reinstatement is paid, the county auditor records the reinstatement of the contract for deed. The county auditor transfers the total amount paid to the county treasurer ([Minnesota Statute 282.341](#)).

If the reinstatement is completed after January 2, the county auditor levies taxes on the parcel payable in the year in which the reinstatement is made as in the case of taxes on omitted property ([Minnesota Statutes 273.02](#) and [282.341](#)).

There is no time limit for contract reinstatement. If the purchaser has paid more than 50 percent on the contract, the reinstatement depends only on the purchaser requesting it and paying the required amounts. If the purchaser paid less than 50 percent, the county board approves or rejects the reinstatement.

#### **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 keeps a running record of all contracts that are defaulted during a calendar year. At the end of the calendar year, the county auditor begins the cancellation procedures for all of the contracts that defaulted during the year by submitting the complete list to the county board for approval.

## **Private Sale to the Other Owners or to Adjacent Owners**

#### **Sale to the Other Owners**

The county auditor is authorized to sell the interest in parcels of tax-forfeited land at a private sale for the other owners of the property if the property consists of an undivided interest in land and/or improvements.

#### **Sale to Adjacent Owners**

The county auditor is authorized to sell certain parcels of tax-forfeited land at a private sale for adjacent landowners. Roads and/or alleys do not act as interruptions for the purposes of determining adjacent owners ([Minnesota Statute 282.01](#)).

**Sale Price**

Tax-forfeited land sold to adjacent land owners must be sold to the highest bidder, but it can be sold for less than its appraised value. Counties often have trouble getting small “sliver” parcels back on the tax rolls if they are required to sell the land for its full value. By allowing these parcels to be sold for as little as \$1, it may encourage these transactions and get the property back on the tax rolls ([Minnesota Statute 282.01](#)).

**Sale to Adjacent Owners Requirements**

In order to hold a private sale for adjacent landowners, the county auditor must determine the following conditions exist or have been met:

1. The parcel of tax-forfeited land cannot be improved because it does not comply with the local ordinances regarding minimum area, shape, frontage, or access. This means the owner would not be allowed to contract buildings on the parcel.

*Examples of Land that Cannot be Improved*

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 the minimum frontage requirement.
2. A small parcel of pastureland 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 to their property.
3. A large parcel of timberland is located in an unorganized township. The land is not used now, and there are no 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 private sale of the 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 highest and best use of the land can be achieved by adding it to an adjoining parcel.

**Special Conditions for Sale to Adjacent Owners**

The sale of tax-forfeited land to adjacent landowners only is subject to the following special conditions ([Minnesota Statute 282.01](#)):

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 subject to any conditions imposed by the county board under [Minnesota Statute 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.

### Special Tasks for Sale to Adjacent Owners

A county official may purchase tax-forfeited land in two situations:

1. The county official owned the parcel before the forfeiture; and
2. The county official owns a parcel adjacent to tax-forfeited land being sold at a private sale for adjacent landowners only.

### Private Sale Subject to Public Sale Conditions

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.

## State Deed for Tax-Forfeited Land

The county auditor works with the Property Tax Division of the Department of Revenue to obtain a state deed for the sale or conveyance of tax-forfeited land that is under the jurisdiction of the county board ([Minnesota Statute 282.01](#)).

### Types of State Deeds for Tax-Forfeited Land

The Department of Revenue issues the following types of deeds for tax-forfeited land:

1. **Purchase Deed.** Issued for all purchases at [market value](#) regardless of whether the sale was public or private. Purchase deeds are also issued for [governmental subdivisions](#) that pay market value for tax-forfeited land.
2. **Removal of Blight/Affordable Housing Deed.** Issued for purchases for less than market value by a governmental subdivision or [state agency](#) to remove blight or develop affordable housing. Per statute, the governmental subdivision that is acquiring the land must document its specific plans for correcting the blighted condition or developing affordable housing. A copy of the board resolution giving a favorable recommendation is also required to be attached to the application.
3. **Conservation-Related Usage Deed.** Issued for sales for less than market value and used for (1) creation or preservation of wetlands; (2) drainage or storage of storm water under a storm water management plan; or (3) preservation or restoration of the land in its natural state. A copy of the board resolution giving a favorable recommendation is also required to be attached to the application.
4. **Repurchase Deed.** Issued for parcels repurchased by an eligible party before the property is sold or conveyed. Except for property that was homesteaded on the date of forfeiture, repurchase is only permitted within six months from the date of forfeiture.

5. **Conditional Use Deed.** Issued for conveyances to governmental subdivisions for [authorized public uses](#) Specified under Minnesota Statute § 282.01, subd. 1a, par. (e). A copy of the board resolution giving a favorable recommendation is also required to be attached to the application.
6. **Failure to Convey Deed.** Issued for parcels where a governmental subdivision or common interest community was entitled to a parcel under a written agreement but the conveyance failed to occur prior to forfeiture. A copy of the board resolution giving a favorable recommendation is also required to be attached to the application.
7. **Replacement for Lost/Destroyed Deed.** Issued for deeds that were lost or destroyed and not recorded.
8. **Release Deed.** Issued for parcels of land sold or conveyed to a state agency.
9. **School Forest Deed.** Issued for land conveyed to a governmental subdivision for a school forest.
10. **Deed Pursuant to Statute or Special Law.** Issued for parcels conveyed or sold under any other statute or session law.
11. **Corrective Deed.** Issued to correct errors on a previously issued state deed for tax-forfeited land.

### State Deed Application Form

The Department of Revenue uses one application form for all state deeds. Each state deed application must also be accompanied by a Wetland Certification form. A wetland certification form is not required for replacement deeds for which the original deed did not have a wetland restriction. A wetland certification may be voluntarily made even if not required by statute. Supplemental forms are required for conditional use deeds and school forest deeds. All of the forms related to state deed applications are available on the Department of Revenue [website](#). Instructions on how to appropriately fill out the application and supplemental forms are also available on the website.

The county auditor must receive the basic sale price and extra costs applicable to a sale or conveyance of a tax-forfeited property prior to submitting a state deed application. 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. When the state deed application and accompanying documents are completed in full, the county auditor mails the application to the Property Tax Division of the Department of Revenue.

### Fees Due with State Deed Application

Generally, no fees are due at the time a state deed application is submitted because the Department of Revenue bills each county for most deed fees at the end of the calendar year. However, state law requires certain deed fees be submitted with the application. These fees are:

1. The \$25 deed fee for a replacement deed ([Minnesota Statute 282.33](#)); and
2. The \$250 application fee for a conditional use deed ([Minnesota Statute 282.01](#)). This fee is meant to dissuade completely speculative acquisition of conditional use deeds and encourage governmental subdivisions to be more judicious and purposeful in applying for a conditional use deed.

State deeds for land exchanges between the Department of Natural Resources and a private [property owner](#) are exempt from the state deed fee ([Minnesota Statute 282.014](#)).

The state deed billing letter from the Department of Revenue to the counties shows the total number of state deeds that were issued in the previous year. The total amount of all fees must be paid by the county auditor ([Minnesota Statute 282.09](#)).

By March 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. The money is deposited in the state treasury as part of the state general fund.

### **Approval of State Deed Applications**

For most state deed applications, the Department of Revenue does not have the authority or the responsibility to approve or disapprove of the sale or conveyance of tax-forfeited land as approved by the county board. The Department of Revenue does, however, have authority and responsibility to approve or disapprove of the conveyance of tax-forfeited land with a state conditional use deed.

If a conditional use deed conveyance is approved, the Department of Revenue executes a conditional use deed in the name of the governmental subdivision and mails it to the county auditor. If a conditional use deed conveyance is rejected, the county auditor receives a letter from the Department of Revenue explaining the conditional use deed conveyance was rejected and the reasons for the rejection. The governmental subdivision is also issued a refund of \$150 of the \$250 conditional use deed application fee upon rejection ([Minnesota Statute 282.01](#)). Sometimes this refund may be issued to the county for transmittal to the governmental subdivision.

### **Issuing State Deeds**

The Department of Revenue takes the information from the state deed application and places it in a deed format approved by the state attorney general. Completed deeds are signed by individuals with delegated authority from the commissioner of revenue. The deed is then mailed to the county auditor.

### **State Deed Recording**

The county auditor must have each state deed recorded in the county recorder's office before delivering the deed to the grantee. The county auditor collects the fee for recording the deed from the grantee before submitting the state deed application.

### Restrictions

A state deed may be restricted by restrictive covenants and well disclosure certificates. Well disclosure is a part of the state deed application form. A state deed may also be restricted by certain liens and encumbrances that existed on the property before forfeiture and may remain on the property after forfeiture.

### State Deed Historical Records

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 the state deeds team for information about the state deed historical records. Individuals may come to the Department of Revenue and review the records in person.

### Minerals/Mineral Rights Reserved to State

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 ([Minnesota Statutes 282.12](#), [282.20](#) and [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 that the repurchaser receives does include the mineral rights. However, if the mineral rights have been reserved by the state in the past, the title that the repurchase receives does not include the mineral rights.

### Contact Information

State deeds staff may be reached at 651-556-6085 or [state.deeds.mdor@state.mn.us](mailto:state.deeds.mdor@state.mn.us).

## Taxes to be Paid Before Recording

### Delinquent Tax Payment upon Recording

Delinquent taxes must be paid to record a conveyance of land. “Delinquent taxes” are those deemed delinquent under statute even if they are being contested ([Minnesota Statute 279.02](#)). This includes special assessments as well as other charges that are entitled to appear on the property tax statement and be collected as property taxes. Refunds of amounts erroneously paid as delinquent taxes to accomplish a recording are to be paid from the funds into which the payments were placed ([Minnesota Statute 272.12](#)).

A conveyance for this purpose is ([Minnesota Statute 272.12](#)):

1. A negotiated instrument that either conveys absolute title to real property or that creates, terminates, or transfers an interest in real property such as an easement;



2. A plat;
3. A survey required under [Minnesota Statute 508.47](#);
4. A plat of a condominium subject to [Minnesota Statutes, Chapter 515](#) or [515A](#), or a declaration that contains such a plat; or
5. A plat of a common interest community under [Minnesota Statutes, Chapter 515B](#), or a declaration that contains such a plat.

### **Current Taxes upon Split of Parcel**

Property taxes due in the current year must be paid in order to record a deed or other instrument that conveys less than the whole of a tax parcel. The taxes due in the current year include special assessments as well as other charges that are entitled to appear on the property tax statement and collected as property taxes if the amount is included on the property tax statement for taxes payable in the current year. Refunds of amounts erroneously paid as current year taxes to accomplish a recording are to be paid from the funds into which the payments were placed.

A conveyance for this purpose is a negotiated instrument that either conveys absolute title to real property or that creates, terminates, or transfers an interest in real property such as an easement. If the transaction takes place early in the year, it may be necessary to estimate the current year taxes to allow for their payment and the recording of the deed or other instrument.

### **Specific Documents that Convey Land**

The following documents convey land. This includes pre-dated and post-dated documents. Although plats and surveys do not convey land, certain ones are subject to the delinquent-taxes-paid requirement.

- **Deeds.** General warranty, special warranty, and quitclaim deeds ([Minnesota Statute 272.12](#)).
- **Contracts for deed.** A contract for deed, or a document that evidences the cancelation of a contract for deed under statute (Op. Atty. Gen., 418a-14, Mar. 6, 1967; and [Minnesota Statute 559.21](#)).
- **Leases.** Leases of three years or more (Op. Atty. Gen., 373-B-17-e, Sept. 9, 1952).
- **Foreclosure sale certificates.** Instruments that assign a sheriff's or referee's certificate of sale for real property. The original issuance of a certificate of sale to the purchaser at a foreclosure sale (i.e. the new owner) is exempt from this requirement ([Minnesota Statute 272.12](#)).
- **Foreclosure redemption certificates.** Certificates of redemption from a mortgage or lien foreclosure sale issued to a junior creditor convey the land. However, such certificates are exempt from this requirement ([Minnesota Statute 272.12](#)). Certificates of redemption from a

mortgage or lien foreclosure sale issued to the redeeming debtor/borrower do not operate to convey the property, but rather to restore that person's ownership.

- **Assignments.** Instruments that assign a contract, certificate, lease, or right, if they operate to convey the land or an interest in the land (Op. Atty. Gen., 1922, No. 164, p. 162; Op. Atty. Gen., 373-B-9-e, Mar. 16, 1948).

### Specific Documents Exempt from the Requirement for Delinquent-Taxes-Paid and Current-Taxes-Paid

The following documents do not require delinquent taxes to be paid before recording ([Minnesota Statute 272.12](#)). These documents are also exempt from the current-taxes-paid requirement:

- **Affidavits of survivorship.** These are not conveyances for this purpose.
- **Agents and nominees.** A deed or instrument that transfers real property from an agent or [nominee](#) to their principal.
- **Corrective deed ([Minnesota Statute 272.15](#)).**
- **Decrees and judgments.** A decree or judgment that affects title to land but does not convey land may be recorded without presentation to the auditor.
- **Easement release.** Instrument releasing, removing, or discharging an easement, a right, or a restriction.
- **Appurtenant easement.** Instrument conveying an appurtenant easement. The portion of the instrument that conveys the dominant parcel remains subject to the delinquent tax certification requirement.
- **Public utility easement.** Instrument conveying an easement to a public utility. This may include a pipeline company.
- **Foreclosure sale certificates.** Sheriff's or referee's certificate of sale on execution or foreclosure of a lien or mortgage.
- **Foreclosure redemptions.** Certificate of redemption from a mortgage or lien foreclosure sale issued to a redeeming [mortgagor](#) or lienee, which includes junior creditors.
- **Government grantees.** A conveyance of real property to the government. "Government" means the United States, the state of Minnesota, or a political subdivision or agency of either (Op. Atty. Gen. 1936, No. 329, p. 391).
- **Mortgages (Op. Atty. Gen., 371-B-8, May 31, 1950).**

- **Patents.**
- **Personal property.** Bill of sale for property deemed to be personal property under the common law; for instance, a structure or improvement on the land that the parties intend to be owned separately from the land. See [Minnesota Statutes 272.38 to 272.42](#) for restrictions on the removal of improvements prior to payment of the taxes.
- **Plats.** Copy of town or statutory city plat when the previously-filed plat was lost or destroyed.
- **Probate.** Deed of distribution by a personal representative in a probate proceeding.
- **Receivers receipts.**
- **Transfer on death deed ([Minnesota Statute 507.071](#)).**
- **Unit developments.** Documents governing homeowners associations of condominiums, townhouses, common interest communities, and other planned unit developments are entitled to be recorded without the auditor's certificate to the extent provided in [Minnesota Statute 515B.1-116](#). Generally, the current taxes must be paid in order to record an instrument that creates or changes unit boundaries.
- **Undivided interests.** Deed or instrument conveying an undivided interest, upon payment of the proportional share of the delinquent taxes ([Minnesota Statute 272.14](#)).

#### **Specific Documents Excluded Only from Current-Taxes-Paid Requirement**

Two documents are exempt from the current-taxes-paid requirement that do not apply to the delinquent-taxes-paid requirement:

- **Foreclosure.** A "split" acquired by a lender through execution of a lien may be recorded if the proper portion of the current taxes due on whole parcel is paid.
- **Surveys.** Generally, surveys do not qualify as conveyances, but [Minnesota Statute 508.47](#) may require payment of current taxes on a whole parcel before a registered survey can be recorded.

## **Forfeited Tax Sale Fund**

Each county must set up a forfeited tax sale fund. The source of the gross revenue for the fund, the expenditures that are charged against the fund, and the method for the annual distribution of the [net revenues](#) from the fund are explained in this section ([Minnesota Statutes 282.09](#) and [282.291](#)).

### Source of Gross Revenue

The county auditor and county treasurer place all money received from the tax-forfeited land sale provisions in [Minnesota Statute 282.01 to 282.13](#) in the forfeited tax sale fund. This includes revenues from the repurchase of tax-forfeited land, excluding the state deed fee ([Minnesota Statute 282.291](#)).

The counties interpret the statutory requirements in different ways. Some counties interpret them broadly and deposit 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 three-percent surcharge and the state deed fee (excluding the state deed fee for repurchases). The other extra costs required for recording the state deed are usually handled by the county recorder.

In either case, the total amount a county deposits in its forfeited tax sale fund constitutes the gross revenue in the fund.

### Authorized Expenditures

In most cases, there are two types of expenditures taken out of the gross revenue in the county's forfeited tax sale fund. These expenditures are deducted from the total fund before any apportionment relating to specific parcels of property that were sold or repurchased.

#### *Extra Costs Deposited in the Fund*

One type of expenditure is the extra costs collected as part of the sale, conveyance, or repurchase of tax-forfeited land and deposited in the fund.

The extra costs may include some or all of the following:

1. Three-percent surcharge;
2. State deed fee, excluding the state deed fee collected from the repurchase of tax-forfeited land;
3. State deed tax;
4. County deed filing fees; and
5. Agricultural conservation fees.

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.

**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.

The following are some of the specific county administrative costs authorized by statute to be deducted from the gross revenue in the county’s forfeited tax sale fund ([Minnesota Statute 282.09](#)):

1. Per diem, mileage, and other necessary expenses to be paid to county board members;
2. Compensation to be paid to a land commissioner and assistants as determined by the county board;
3. Fifty cents for the issuance of each certificate of sale, contracts for deed, and lease to be paid to the county auditor. If there is no land commissioner, up to \$300 in annual compensation is also to be paid to the county auditor;
4. Compensation to be paid to clerical help needed by the county auditor or the land commissioner as determined by the county board;
5. Fees charged by the Department of Revenue in addition to the \$25 state deed fee ([Minnesota Statute 282.014](#)); and
6. Disbursements from the fund for repairs, refundments, expenses for legal actions to quiet title, or any other purpose that affects specific parcels.

**Special Provisions for State Deed Fees Collected**

The state deed fee collected from the sale of tax-forfeited property is to be deposited in the forfeited tax sale fund ([Minnesota Statute 282.09](#)). The state deed fee collected from the repurchase of tax-forfeited property is deposited in a “special fund” of the county ([Minnesota Statute 282.36](#)).

Each year, 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 pays 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**

How does a county pay for costs when there is not enough money in the forfeited tax sale fund?

The State Auditor’s Office suggested the county may 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 is a decision made by the county. The county should discuss each proposal for an advance with the State Auditor’s Office before actually making the advance.

**Distribution of Net Revenue**


The county auditor and county treasurer 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.

## Distribution of Net Revenue

The county auditor makes 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. This distribution is done on a parcel basis ([Minnesota Statute 282.09](#)).

There are three reasons for apportioning the net revenue on a per-parcel basis ([Minnesota Statutes 282.08](#)):

1. Statute refers to the proceeds from the sale of “any parcel” of forfeited land, not “all parcels” offered for sale at one time.
2. The statutory explanation of the distribution of the proceeds contemplates the distribution be on a per-parcel basis. The distribution steps are explained later in this section.
3. Because a county’s tax-forfeited land sale may include parcels in varying towns or cities or schools districts, the apportionment of the proceeds is to be made on a per-parcel basis to ensure each taxing district receives its appropriate share of the proceeds from the sale of a given parcel.



**NOTE**


Any distribution of net proceeds received by a municipality from the county’s forfeited tax sale fund may be used for any lawful municipal purpose.

The county auditor distributes the net revenue in the county’s forfeited tax sale fund to the local taxing districts according to the apportionment plan detailed in this section.

**Step 1: Special Assessments Levied after Forfeiture**

The county auditor reimburses each municipality for any special assessments that were levied on a parcel after the forfeiture, and certified to the county auditor before the sale.

Because the value of the associated improvement is a part of the appraised value, or alternatively, because the amount of the assessment itself was 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 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 pays either the Minnesota Pollution Control Agency (PCA) or the Minnesota Department of Agriculture (DOA) for the costs of response actions taken after the forfeiture of the parcel and added to the appraised value of the parcel.

Because they were added to the appraised value, the costs of controlling hazardous waste were part of the basic sale price 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 the second distribution cannot exceed the costs for the response actions certified by the PCA or the DOA.

**Step 3: Special Assessments Levied before Forfeiture**

From any remaining balance, the county auditor reimburses 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.



**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. [Minnesota Statutes 429.071, 435.23](#) and [444.076](#).

**Step 4: Optional Fund Allocations**

From any remaining balance in the county’s forfeited tax sale fund, the county board may set aside specified percentages of the balance for the following specific uses.

**Forest Development**

From any remaining balance in the county’s forfeited tax sale fund, the county board may set aside up to 30 percent for forest development on tax-forfeited land and dedicated memorial forests. The amount set aside must be used only on projects improving the health and management of the forest resources.



**NOTE**

The balance used for forest development, county parks, or recreation areas is the balance remaining after steps 1, 2, and 3 are subtracted. If no funds are set aside for forest development, county parks, or recreation areas, the balance is used to compute Step 5.

In any county that sets aside funds for forest development, the commissioner of Iron Range resources and rehabilitation, after consultation with the Iron Range Resources and Rehabilitation Board, 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 ([Minnesota Statute 282.38](#)).

If the funds set aside for forest 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 ([Minnesota Statute 282.38](#)).

**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 twenty percent for the acquisition and maintenance of

county parks or recreational areas ([Minnesota Statute 398.31 to 398.36](#)). The county board supervises the expenditure of the money set aside ([Minnesota Statute 282.08](#)).

**Step 5: Local Taxing Districts**

The county auditor is to apportion any remaining balance in the county’s forfeited tax sale fund in one of the following two ways.

**Option One**

County	40%
City or Township	20%
School District	40%

**Option Two**

County	40%
City or Organized Township --or-- Unorganized Township (administered by county board)	20%
School District	40%



**NOTE**

The state of Minnesota does not receive a distribution from the remaining balance in the county’s forfeited tax sale fund.

**Example**

The following example for Spruce County shows the expenditures deducted from the gross revenue in the county’s forfeited tax sale fund and the distribution of the net revenue on a parcel basis. There were no hazardous waste expenses, and the county elected to set aside the maximum amounts for forest development and parks.

Step Number	Step Description	Monetary Figure
1	Gross revenues of the fund:	\$ 1,000,000
2	Deduct extra costs collected from the total fund: <ul style="list-style-type: none"> <li>• 3% surcharge</li> <li>• State deed fee</li> <li>• State deed tax</li> <li>• County deed filing fees</li> <li>• Agricultural conservation fees</li> </ul>	\$ 20,000
3	Deduct county administrative expenses from the total fund	\$ 100,000
4	Net revenue of the fund	\$ 880,000
	1 – 2 – 3	
5	Net revenue percentage	88%
	4 ÷ 1	
6	Parcel A gross revenue	\$ 50,000
7	Parcel A net revenue	\$ 44,000
	6 x 5	



8	Special assessments levied after forfeiture	\$ 2,000
9	Expenses of hazardous waste cleanup	NA
10	Special assessments levied before forfeiture	\$ 4,000
11	Remaining balance after 8, 9, and 10	\$ 38,000
12	Forest development projects (30%)  11 x 30%	\$ 11,400
13	County parks and recreation areas (20%)  11 x 20%	\$ 7,600
14	Remaining balance for apportionment to county, city or town, and school district where parcel A is located  11 – 12 – 13	\$ 19,000
15	County share of remaining balance  14 x 40%	\$ 7,600
16	City/town share of remaining balance  14 x 20%	\$ 3,800
17	School district share of remaining balance  14 x 40%	\$ 7,600

## Three Percent Surcharge

At the time of the sale of a parcel of tax-forfeited land, the county auditor collects from the purchaser an amount equal to three percent of the total sale price of the parcel. The total sale price is the amount for which the parcel sells at auction ([Minnesota Statute 284.28](#)).

### Conveyances Subject to the Three Percent Surcharge

The following conveyances of tax-forfeited land are subject to the three percent surcharge:

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 following conveyances of tax-forfeited land are exempt from the three percent surcharge:

1. All conveyances of tax-forfeited land to a governmental subdivision free of charge for an [authorized public use](#) with a state conditional use deed. Since there is no cost for this type of conveyance, the surcharge cannot be calculated against anything.
2. All conveyances of tax-forfeited land to a governmental subdivision or common interest community where a written agreement stated the land was supposed to have been conveyed to the governmental subdivision or common interest community prior to forfeiture but was not. There is no cost for this type of conveyance, so the surcharge cannot be calculated against anything.
3. All conveyances of tax-forfeited land to a governmental subdivision free of charge for a school forest. Since there is no cost for this type of conveyance, the surcharge cannot be calculated against anything.
4. 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 taxes has been given by statute, mortgage, or other legal agreement.
5. Land exchanges.

**Three Percent Surcharge Administered by Minnesota Management & Budget**

The total amount collected from the three percent surcharge is sent every three months to Minnesota Management and Budget ([Minnesota Statute 284.28](#)). The money is deposited in the state treasury and credited to the general fund.

Minnesota Management & Budget business process is to have the county auditor send an electronic payment or check for the total amount collected under the three-percent surcharge on a quarterly basis. The check must be made out to the Commissioner of Management and Budget. The standard form prescribed by Minnesota Management & Budget is to be completed and submitted with the check. If sending payment electronically the form can be emailed to [Fiscal.Services.MMB@state.mn.us](mailto:Fiscal.Services.MMB@state.mn.us).

The current form uses the name “real estate assurance account” for the revenues from the three-percent surcharge. The name is also used on the standard form.

Any issues with the surcharge, such as errors or refunds, must be resolved between the county auditor and Minnesota Management and Budget, following any accounting directives the State Auditor may have.

The mailing address and telephone number for Minnesota Management and Budget are:

Minnesota Management and Budget  
 400 Centennial Office Building  
 658 Cedar Street  
 St. Paul, MN 55155  
 (651) 201-8000

**Purpose of the Three Percent Surcharge**

The three percent surcharge helps 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 losses 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 ([Minnesota Statute 284.28](#)).

## Repurchase of Tax-Forfeited Land

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).

This section primarily presents an outline and explanation of the provisions for repurchasing nonconservation land. See [Minnesota Statute 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 for advice.

**Eligible Tax-Forfeited Land**

The statutes governing the repurchase of nonconservation land ([Minnesota Statute 282.241 to 282.324](#)) are different from the statutes governing the repurchase of conservation land ([Minnesota Statute 282.012](#)).

One of the major differences between the two provisions is the cost of repurchase. The cost of repurchasing nonconservation land is equal to the total [delinquent tax amount](#). The cost of repurchasing conservation land is equal to the greater of the total delinquent tax amount or the appraised value as determined by the county board for the sale of the parcel.

Except for the restrictions outlined below, all tax-forfeited land classified as nonconservation and conservation is eligible for repurchase. This includes tax-forfeited land bordering on public water. Although this type of property must be withheld from sale or conveyance, it can be repurchased.

**Restrictions on Nonconservation Land**

All parcels of tax-forfeited land classified as nonconservation 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. It could also be the date of the sale or conveyance ([Minnesota Statute 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 ([Minnesota Statute 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 ([Minnesota Statute 282.322](#)).

If no action has been taken to acquire the parcels within one year, the county board withdraws 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 ([Minnesota Statute 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 ([Minnesota Statute 282.241](#)).
6. Parcels located within the boundaries of the state capitol area may not be repurchased ([Minnesota Statute 282.323](#)).
7. State deeds issued for the repurchase of tax-forfeited land are subject to the requirement for restrictive covenants for marginal lands, wetlands, and well disclosure certificates.
8. Tax-forfeited land that was not classified as homestead property may be repurchased within six months after the forfeiture if it has not already been conveyed or sold.

#### **Eligible Parties**

The privilege of repurchasing a parcel of nonconservation tax-forfeited land is limited to the following parties ([Minnesota Statute 282.241](#)):

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 the 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. Some examples of parties to whom the right to pay the property taxes on the parcel has been given by statute, mortgage, or other legal agreement: (1) A mortgagee (lender) who has taken a mortgage on the parcel as security for repayment of a debt; (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.

#### **Time Period**

The time period for the repurchase of tax-forfeited land is different for parcels which were classified as nonhomestead property on the date of forfeiture than it is for parcels which were classified as homestead property on the date of forfeiture ([Minnesota Statute 282.241](#)).

#### ***Nonhomestead Property: Six Months from Forfeiture***

Any eligible parcel of tax-forfeited land which was classified as nonhomestead property on the date of forfeiture may be repurchased anytime within six months from the date of forfeiture, providing it has not already been sold or conveyed by the county. The written application must be submitted within the six month time frame, but the county board may approve or deny the application even if the six month time frame has passed. This would occur if the eligible repurchaser waited to the last minute to file the repurchase application with the county.

The county is not required to wait six months before selling or conveying a parcel of tax-forfeited land. The county may sell or convey a parcel anytime during the six month 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 six months has not ended.

#### ***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.

**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 ([Minnesota Statute 282.241](#)).

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 determines that undue hardship or injustice resulting from the tax forfeiture will be corrected by the repurchase.
2. The county board determines the repurchase will best serve the public interest.

**Impose Conditions Limiting Use**

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, electric power, or telecommunications ([Minnesota Statute 282.261](#)).


**Reinstate Canceled Special Assessments**

As part of a repurchase, the county auditor reinstates all delinquent special assessments which were canceled at the time of the forfeiture as part of the total delinquent tax amount ([Minnesota Statute 282.251](#)).

The canceled 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 canceled special assessments.

**Compute Special Assessments not Levied**

As part of a repurchase, the county auditor computes 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 ([Minnesota Statute 282.251](#)).

 **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 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. It could also be the date of the sale or conveyance.

**Reinstate Canceled Taxes**

As part of a repurchase, the county auditor reinstates all real property taxes which were canceled at the time of the forfeiture as part of the total delinquent tax amount ([Minnesota Statute 282.251](#)). The canceled 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 canceled taxes also include the current taxes and any penalties due in the calendar year of the forfeiture.

**Compute Taxes not Levied**

As part of a repurchase, the county auditor computes 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.

**Compute Additional Costs and Interest**

As part of a repurchase, the county auditor computes the total amount of additional costs and interest which would have accrued on the delinquent real property taxes and special assessments which were canceled at the time of tax forfeiture. This includes the costs and interest which would have accrued between the date of the forfeiture and the date of the repurchase ([Minnesota Statute 282.251](#)).

**Basic Repurchase Price*****Repurchase of Nonconservation Land***

The property owner or taxpayer who wants to repurchase a parcel of tax-forfeited land classified as nonconservation land must pay the basic repurchase price. The basic repurchase price is equal to the sum of the real property taxes, special assessments, penalties, costs, and interest which must be reinstated and computed by the county auditor ([Minnesota Statute 282.241](#) and [282.251](#)).

***Alternative Method for Qualifying Nonconservation Land***

An alternative method may be used by the county to determine the repurchase price for nonconservation land that was homesteaded at the time of forfeiture and has been in forfeited status for more than 10 years. The method may be used if it is established by county board resolution.

Under the alternative method, the basic repurchase price is the sum of:

1. The equivalent taxes, penalties, interest, and costs for each year the property was in forfeited status computed by multiplying the average of the assessor's estimated market value of the property at the time of forfeiture and the assessor's current estimated market value by the class rates under current law, and then applying the current tax, penalty, and interest rate; and
2. The unpaid special assessments that are reinstated, including the penalties and interest that accrued or would have accrued on the special assessments, computed under the current rates.

***Cost of Response Actions for Hazardous Waste Control***

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 since the forfeiture may also be included in the basic repurchase price ([Minnesota Statute 282.019](#)).

### ***Repurchase of Conservation Land***

The cost of repurchasing a parcel of tax-forfeited land classified as conservation land is equal to the greater of the basic repurchase price described in [Repurchase of Nonconservation Land](#) and [Cost of Response Actions for Hazardous Waste Control](#) or the appraised value as determined by the county board for the sale of the parcel ([Minnesota Statute 282.012](#)).

### **Extra Costs**

There are several extra costs which are to be paid for the repurchase of tax-forfeited land and for the recording of the state deed to that land. These extra costs are to be paid in addition to the basic repurchase price for nonconservation land or the basic repurchase price or appraised value for conservation land.

### ***State Deed Tax***

The repurchaser must pay the state deed tax at the time the repurchase price is paid in full. The state deed tax must be paid by the repurchaser before a state deed is issued ([Minnesota Statute 287.21](#)). The state deed tax is equal to 0.33% of the repurchase price, with a minimum deed tax of \$1.65. The extra costs and the interest paid under a repurchase contract are not subject to the state deed tax.

### *Example: State Deed Tax for Repurchase*

A parcel of tax-forfeited land was repurchased for a basic repurchase price of \$25,350. The state deed tax is \$83.66.

$$\$25,350 \times .0033 = \$83.66$$

### ***State Deed Fee***

The repurchaser must pay a \$25.00 fee for each state deed at the time the repurchase price is paid in full. The \$25 state deed fee must be paid by the repurchaser before a state deed is issued ([Minnesota Statute 282.014](#)).

### ***Maintenance Costs for Tax-Forfeited Property***

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 the property was tax-forfeited ([Minnesota Statute 282.241](#)).

### ***County Service Fee***

The county auditor may collect a service fee from each repurchaser to pay for the costs of handling the repurchase application. The county board has the authority to set the amount of the fee. The fee must be paid at the time of application for repurchase and credited to the county general revenue fund ([Minnesota Statute 282.261](#)).



**County Deed Recording Fee**

The repurchaser must pay a recording fee to offset the county recorder’s cost of indexing and recording the state deed to a parcel of tax-forfeited land. The total fee is \$46 ([Minnesota Statute 357.18](#)). The county deed recording fee is distributed as follows: \$10.50 to the state treasury and credited to the general fund; \$10 to the technology fund; and \$25.50 to the county general fund. The amount of the county deed recording fee changes frequently. The county auditor should check [Minnesota Statute 357.18](#) periodically to verify the current amount of the total recording fee.

**Agricultural Conservation Fee**

The repurchaser must pay a \$5.00 agricultural conservation 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, and in a county which is an agricultural land preservation pilot county ([Minnesota Statute 40A.152](#)).

For more information on the agricultural land preservation program, contact the following individuals at the Minnesota Department of Agriculture:

Bob Patton  
 Local Government Outreach Coordinator  
[Bob.patton@state.mn.us](mailto:Bob.patton@state.mn.us)  
 651-201-6226

Becky Balk  
 Agricultural Land Use Planner  
[Becky.balk@state.mn.us](mailto:Becky.balk@state.mn.us)  
 651-201-6369

**No 3% Surcharge**

The repurchaser is not required to pay the three percent surcharge on the repurchase price of each parcel of tax-forfeited land ([Minnesota Statute 284.28](#)).

The three percent surcharge is to be imposed only on the basic sale price of tax-forfeited land purchased at a public or private tax-forfeited land sale. For purposes of administering the three percent surcharge, a repurchase is not a sale and the repurchaser is not a buyer. Therefore, the three percent surcharge does not have to be paid on a 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 ([Minnesota Statute 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.

**10-Year Installment Plan**

A parcel of tax-forfeited land classified as nonconservation land may be repurchased by contract for deed under the standard ten-year installment plan ([Minnesota Statute 282.261](#)).

The following are the major conditions and terms for the repurchase of a parcel of tax-forfeited land under the standard ten-year installment plan.

**10% Down Payment + 10 Installments**

The repurchaser must pay no less than 10 percent of the basic repurchase price at the time of the repurchase. The unpaid balance of the basic repurchase price must be paid in no more than 10, equal, annual installments plus interest ([Minnesota Statute 282.261](#)).

The interest rates for repurchases under a contract for deed are the same as those for purchases under a contract for deed ([Minnesota Statute 282.261](#)).

**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 extra costs are paid in full.

**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 must be mailed no 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 ([Minnesota Statute 282.271](#)).

**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 deposits 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 ([Minnesota Statute 282.291](#)).

**Current Taxes: Payment Required Before Delinquent**

The repurchaser must pay the current real property taxes on the parcel before they become delinquent to avoid default of the repurchase contract. This must 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 ([Minnesota Statute 282.261](#)).



**NOTE**

If the county board determines a repurchase by contract is unnecessary and not in the public interest, the county board may require the basic repurchase price and the extra costs be paid in full at the time of the repurchase ([Minnesota Statute 282.241](#)).



**NOTE**

The repurchaser has the privilege of paying off the deferred installments in full at any time without penalty.

**Alternative Four-Year Installment Plan**

The county board may resolve to set up an alternative four-year installment plan for the repurchase of tax-forfeited land classified as nonhomestead property ([Minnesota Statute 282.261](#)).

**Two Basic Requirements**

When approved by county board resolution, the alternative four-year plan remains 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.

**20% Down Payment + Four Installments**

The alternative four-year plan requires a minimum down payment of 20 percent of the repurchase price. The balance must be paid in no more than four, equal, annual installments plus interest. The final installment must include payment of any extra costs which have not been paid earlier.

**Other Terms + Forms Same as Ten-Year Plan**

The other terms and conditions of the alternative four-year plan are the same as that of the standard 10-year plan outlined above.

**Property Tax Statement: Delinquent Tax Box**

Taxpayers who are paying their delinquent real property taxes under a [repurchase plan](#) are not eligible to receive a property tax refund.

Each claimant who files a claim for a property tax refund with the Department of Revenue 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 the first line of the property tax statement. This indicates that the taxpayer is not eligible for a property tax refund, and the Department of Revenue 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 repurchase plan, the county treasurer must place an “X” in the box on line number one of the property tax statement.

**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 ([Minnesota Statute 282.301](#)):

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 canceled contract.



**NOTE**

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.

**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 ([Minnesota Statute 282.321](#)).

The repurchaser is also not allowed to cut or remove any timber or timber products from the property. The repurchaser is, however, allowed to remove sand, gravel, topsoil, subsoil, or peat for 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.

**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 repurchase contract, the county auditor must wait until the final annual installment and the extra costs are paid before applying for the deed ([Minnesota Statute 282.301](#)).



**NOTE**

[Minnesota Statute 282.301](#) refers to the state repurchase deed as a quitclaim deed from the state, to be executed by the commissioner of revenue.

The following major tasks must be completed for a repurchaser to obtain legal ownership with a state repurchase deed.

***County Auditor Mails Application to Department of Revenue***

After the basic repurchase price and the extra costs have been paid, the county auditor must complete the [State Deed Application](#) for a repurchase and mail the application to the Department of Revenue.

***Department of Revenue Issues State Repurchase Deeds***

After receipt of a completed State Deed Application, the Department of Revenue must execute a state repurchase deed. 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. Completed deeds are signed by individuals with delegated authority from the commissioner of revenue. The deed is then mailed to the county auditor.

***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 the deed will be recorded. The county auditor has already collected the extra costs for recording the deed from the repurchaser before the application for the deed was submitted.

**State Deed Issued in Whose Name?**

Although the title passes to the state at forfeiture, [Minnesota Statutes, Chapter 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 has the responsibility of issuing the state deeds. However, 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 must 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 may establish a broad set of terms which apply to all sales or conveyances in the county ([Minnesota Statute 282.241](#) and Op. Atty. Gen., 425c-13, June 25, 1947).

The county board's responsibility may not end with the approval or disapproval of each repurchase application. 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 be based on the facts in each case.

The Department of Revenue recommends the counties consider the following procedures to process each application for repurchase and determine who is to receive the title with the state repurchase deed.

1. Upon receipt of each repurchase application, 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 [Minnesota Statute 276.041](#).

This is basically the same process the county follows to determine who receives 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 uncovers 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 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 receives 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 is not 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 repurchase and request the state repurchase deed in the name of the applicant.

This process means additional work and expense for the county. However, the additional work seems justified since 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.

#### **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 ([Minnesota Statutes 282.241](#) and [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.

#### **Forfeited Tax Sale Fund**

The basic repurchase price and the interest paid under a repurchase contract for deed are deposited in the county's forfeited tax sale fund ([Minnesota Statute 282.291](#)).

The extra costs collected may be deposited in the fund if it is the county’s policy. However, the state deed fee for a repurchase is deposited in a special fund of the county rather than in the county’s forfeited tax sale fund.

**Minimum Bid at Tax-Forfeited Land Sale**

No one who could have repurchased a parcel of tax-forfeited land under statute ([Minnesota Statutes 282.241](#) and [282.012](#)) may purchase that same parcel of property at a private or public sale for less than:

1. The sum of all taxes, special assessments, penalties, interest, and costs due at the time of forfeiture ([Minnesota Statute 282.251](#)); plus
2. Any special assessments for improvements certified as of the date of sale.

## Back on the Tax Rolls

Any parcel of tax-forfeited land 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 ([Minnesota Statutes 274.175](#) and [272.02](#)). In other words, each parcel of tax-forfeited land is 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 are 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.

**Exception to July 1 Cutoff Date**

Statute requires all assessments values that are recorded by the county assessor or county auditor for real and personal property 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 statute ([Minnesota Statute 274.175](#)).

One of the statutory exceptions is for property added to the assessments rolls under [Minnesota Statute 272.02](#). December 31 is the cut-off date for returning tax-forfeited land to the current assessment 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.

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.

The exception is needed to avoid an unreasonable and unwarranted tax-exempt situation.

**TIF District: Value after Tax Sale or Repurchase**

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.

## Persons in Active Military Service

Persons in military service hold special rights relating to tax-forfeiture while they are serving in active military service.

**Federal Soldiers’ and Sailors’ Civil Relief Act**

The Federal Soldiers’ and Sailors’ Civil Relief Act protects persons in the military service of the United States and prevents prejudice to their civil rights during their terms of active military service.

Sales of qualified property, and other tax or assessments enforcement proceedings against such property, are prohibited until six months after termination of military service, except upon court order finding that the person’s military service does not materially affect their ability to pay these amounts.

When qualified property is allowed to be sold or forfeited under the Act, because the owner’s ability to pay is not materially affected by their his or her military service, the Act provides that the owner still has the right to redeem the property or to bring a suit for recovery of the property within six months after termination from service (or within any longer period that may be provided under State law). This right may be modified by court order.

Taxes or assessments on qualified property that are not paid when due bear interest at the rate of six-percent per year. No other penalty or interest is allowed ([50 U.S.C. 561](#) and related sections).

**Similar Minnesota Laws**

Minnesota Statutes provide some similar relief to that of the Federal Soldiers’ and Sailors’ Relief Act. Those provisions are briefly outlined below.

***Tax-Forfeited Real Property Withheld from Sale or Conveyance***

When the sheriff or other person serves notice of the expiration of the time for redemption ([Minnesota Statute 281.23](#)), the sheriff or other person must inquire if the property was owned and occupied for dwelling, professional, business, or agricultural purposes by a person in military service of the United



States at the commencement of the military service. On finding that the real property is so owned, the sheriff or other person must make a certificate to the county auditor containing the following information:

1. A description of the property;
2. The name of the owner;
3. The particulars of the person's military service; and
4. The names and addresses of those providing the information.

The auditor retains the certificate in his or her office. Upon expiration of the state-law redemption period, property qualifying for protection under the federal Act (including property that otherwise qualifies under the federal Act but is no longer occupied by the person's dependents or employees) must continue to be withheld from sale or conveyance until six months after the termination of the person's military service.

If the county board reasonably concludes the person's ability to pay property taxes and assessments is not materially affected by his or her military service, State law authorizes the board to petition the district court of the county for an order authorizing the property to be sold or disposed of under the laws relating to tax-forfeited property.

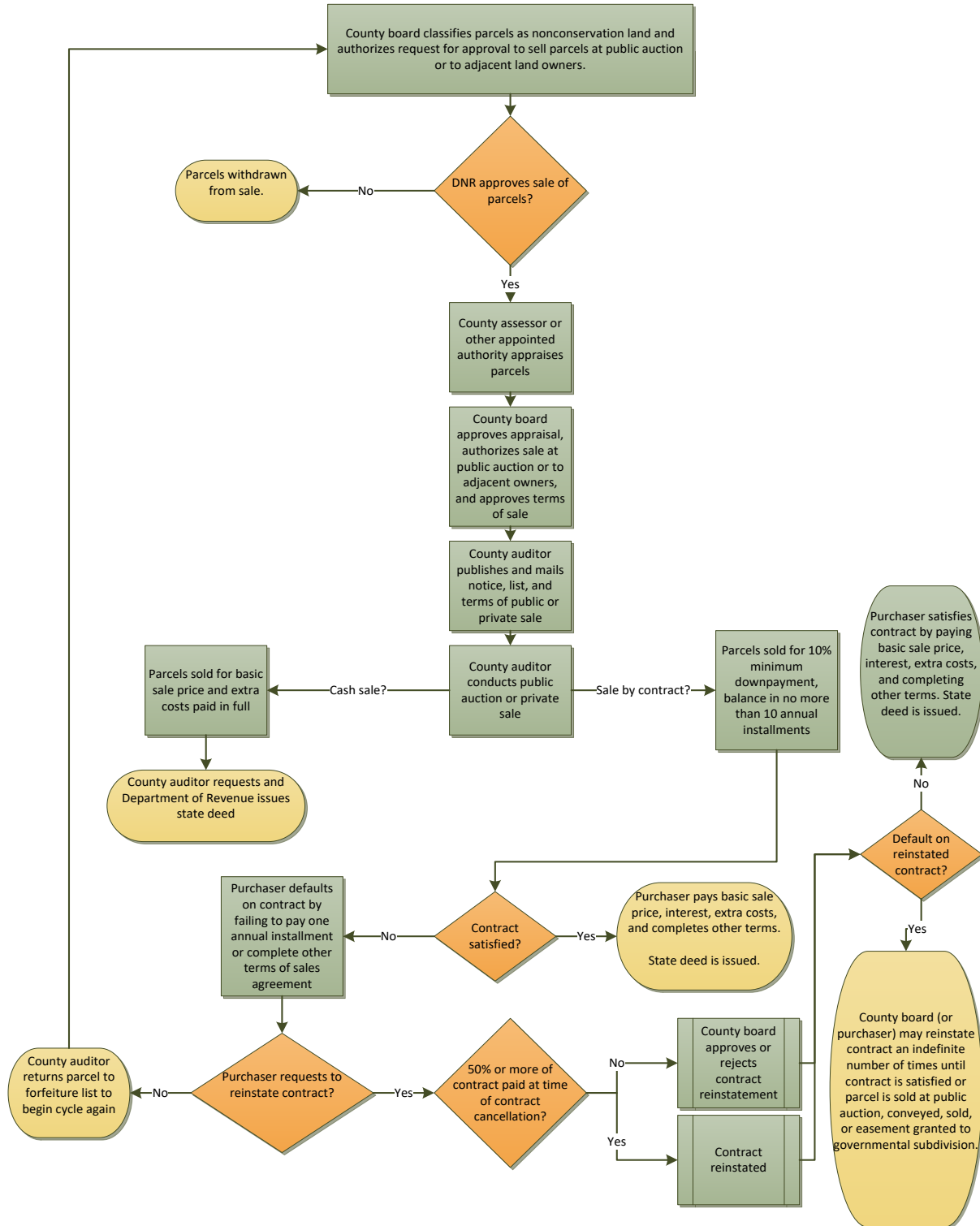
If it becomes known that the certificate is based upon erroneous information, a supplemental certificate must be filed with the auditor. If the supplemental certificate shows the property is not entitled to be withheld from sale by reason of the owner's military service, the certificate has the effect of allowing State officials to sell or convey the property under the laws relating to tax-forfeited property. Depending on several factors, other provisions of these state and federal laws might continue to apply.

In the absence of a certificate of military service, property tax administrators are directed to treat the property as if the owner is not in military service. The presence of a certificate does not affect the time at which the property obtains a forfeited status under state law ([Minnesota Statutes 281.273](#), [281.275](#) and [281.276](#)).

***Repurchase Rights***

The owner, or the agent or representative of the owner, of tax-forfeited property withheld from sale by reason of the owner's military service has the right to repurchase the property – not subject to county board approval – during the period it is being withheld by paying the back taxes amount ([Minnesota Statute 281.274](#)) in a lump-sum or over a 10-year period in equal annual installments including interest at four-percent. A failure to pay an installment within 60 days of when due terminates the state-law prohibition against sale or conveyance of the property. Depending on several factors, other provisions of these state and federal laws might continue to apply.

# Public or Private Sale of Tax-Forfeited Land Flow Chart



# Sample Case: Stage Six

## Corelli’s Italian Village

On June 7, 2017, 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 that had recently forfeited to the state. One of the parcels was Anthony V. Corelli’s restaurant property located in Applewood, Minnesota.

After the cancelation, 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 nonconservation land and sold at a public auction.

Nick Archer presented the list of tax-forfeited land to the Spruce County Board on at their meeting on June 15, 2017. 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 Department of Natural Resources (DNR) had to approve the list of tax-forfeited land. 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 Monday, June 19, 2017.

The County Board had previously resolved to use the classification procedures requiring municipal approval, so municipal approval was required before moving forward with the sale. 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 23, 2017, and it was mailed the same day with the other letters.

By Thursday, July 20, 2017, 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, August 1, 2017.

Robert Dalton decided to set the appraised value of Mr. Corelli’s restaurant property at \$37,000 that was the estimated market value of the property for tax purposes. Because there were no canceled 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, August 3, 2017, 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 27, at 10:00 AM in the Board Room in the Courthouse.

Nick Archer took copies of the three documents to the County Board meeting on Thursday, August 17, 2017. 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 Monday, August 21, 2017, 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 10 days before the public sale on Wednesday, September 27, 2017.

Mr. Hoffman told Nick he could have the announcement published on September 5 and September 12, 2017. The September 12<sup>th</sup> publication would be fifteen 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 25, 2017 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 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 Tuesday, September 5, 2017, 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 AM on Wednesday, September 27, 2017, 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 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:

1. The basic sale price of \$37,000;
2. A three-percent 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
6. An agricultural conservation fee of \$5.

Cory Patchen told Mr. Eilers the total cost would be split into two parts. First, Mr. Eilers would have to pay Cory \$38,135: the sum of the basic sale price, the three percent surcharge, and the state deed fee. The \$38,135 would be deposited in the Spruce County forfeited tax sale fund.

Secondly, Mr. Eilers would have to pay Nancy Levinson \$137.10: 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, October 2, 2017 all of the information about the tax-forfeited land sale had been recorded in the county computer system. Cory Patchen completed the paperwork 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, October 4, 2017, and mailed off to the Department of Revenue the next day.

Next, Nick Archer had his office staff return the parcels that 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, 2018 property tax assessment.

When the state deeds arrived from the Department of Revenue on Wednesday, November 1, 2017, Nick Archer's office staff stamped each one certifying 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).

At that point, the delinquent tax proceedings relating to the Corelli restaurant property were completed.

# Glossary

**Authorized Public Purpose:** Using a parcel of tax-forfeited land by a governmental subdivision for a purpose authorized by statute, law, or local charter.

The parcel does not have to be available to the general public. Access to the parcel may be limited to a select group of people as long as the purpose is authorized.

Example: 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. The sale of the parcel to the city is legitimate. If the city pays for the parcel, it can use it for an employee parking lot. The general public does not have to have access to it.

**Authorized Public Use:** A use that allows an indefinite segment of the public to physically use and enjoy the property in numbers appropriate to its size and use, or the use is for a public service facility.

**Authorized Use:** Using a parcel of tax-forfeited land by a state agency for a purpose authorized by statute, law, or local charter.

The parcel does not have to be available to the general public. Access to the parcel may be limited to a select group of people as long as the purpose is authorized.

**Automatic Stay:** Legally prohibiting any collection action against a debtor in bankruptcy. It goes into effect when a debtor files for bankruptcy and remains until the bankruptcy is resolved through a discharge, dismissal or closing by the bankruptcy court. The ending of this prohibition is sometimes called “lifting” the automatic stay.

**Bid in for the State:** This phrase does not mean that the state takes over legal ownership of each parcel of property on the second 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.

**Confession of Judgment:** A contract where an eligible party admits to owing the delinquent taxes on a property and agrees to pay the delinquent tax amount and other associated costs, fees, and interest in equal, annual installments for a specified number of years.

**Delinquent Tax Amount:** The sum of the separate amounts that must be paid in order to remove a parcel of real property from the delinquent tax list. The separate amounts are:

- The delinquent real property taxes that remain unpaid.
- Special assessments that were included on the tax statement and remain unpaid.

- The penalties that accrued on the unpaid real property taxes and special assessments (if any) during the year when they were due.
- The interest that accrued on the unpaid taxes, penalties, and county costs since they became delinquent.
- The county costs of administering the steps in the delinquent tax process.

**Determination:** The process of identifying and officially listing which taxes remain unpaid after the year in which they are due.

**Escrow Agent:** An entity that has fiduciary responsibilities in the transfer of property or assets from one party to another.

**Fair Market Value:** The arm’s length sale price of the parcel as set by an appraiser.

**Fee Owner:** A property 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. Some examples of fee owners are:

- A person holds 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.
- A person 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.

**Future Vested Interest:** The state will enforce the property tax lien on each parcel of real property if the aggregate of delinquent taxes, special assessments, penalties, costs, and accrued interest are not paid within the standard period of redemption or the time period allowed under a confession of judgment.

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.

**Governmental Subdivision:** 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. Examples of the special taxing districts that are most likely to purchase tax-forfeited land include, but are not limited to, the following: (1) housing and redevelopment authorities, (2) economic development authorities, and (3) port authorities.

**Insignificant Errors:** An error that does not mislead the taxpayer or property owner into thinking that the property does not have delinquent taxes, when in fact it does.

**Interested Party:** A person or persons with a legally recognizable interest in the property. The following individuals are included in [Minnesota Statute 276.041](#) as interested parties in delinquent property:



- Fee Owners
- Vendees
- Mortgagees
- Lienholders
- Escrow Agents
- Lessees

**Legal Description:** A property description, recognized by law that is sufficient to locate and identify the property without oral testimony.

**Lessee:** A party who has leased a parcel of real property from the property owner (lessor).

**Lessor:** A property owner who is leasing the property to another party (the lessee).

**Lienee:** Either the person who owns property on which there is a lien, or the person who owns that lien.

**Lienholders:** All parties who hold a lien on a parcel of real property under any legal contract. Examples of liens on property include mechanics liens and home equity mortgage liens.

**Market Value:** An estimate of the full and actual market value of the parcel as determined by the county board. When determining market value, the board and the people employed by or under contract with the board to perform, conduct, or assist in the determination of market value are exempt from the licensure requirements of [Minnesota Statutes, Chapter 82B](#). See [Minnesota Statute 282.01](#).

**Meandered:** Follow a winding and turning course.

**Mortgagee:** A financial lender who holds a mortgage deed on a parcel of real property as security for a loan.

**Mortgagor:** A person who mortgages property or gives the property as security.

**Net Revenue:** 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 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.

**Nominee:** Someone who holds title to real property in their name, gratuitously or for a fee, when the property in fact belongs to another.

**Period of Redemption:** The 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.

**Priority:** The right to collect money from a debtor's estate before other creditors.

**Proof of Claim:** A form and verifying documentation used to file a claim in order to receive payment from a bankruptcy estate.

**Property Owner:** The party or parties who own the property. Ownership is determined by whose name is on the deed of record in the county recorder's office.

**Publication:** The process of publicly and privately announcing the delinquent taxes and penalties on property. 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.

**Public Waters:** Includes, but is not limited to, lakes, rivers, and creeks.

**State Agency:** This term is 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 also includes 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 ruled that the following organizations are defined as state agencies for the purpose of purchasing tax-forfeited land: (1) the Minnesota State Agricultural Society (see Op. Atty. Gen., 425-C-11, June 22, 1954), (2) the University of Minnesota Board of Regents (see Op. Atty. Gen., 425-C-11, Nov. 1, 1946), and (3) the Minneapolis-St. Paul Metropolitan Airports Commission (See Op. Atty. Gen., 234, June 21, 1946).

**Suspended Tax Delinquency:** Pausing and postponing the time limitations on delinquent tax proceedings against delinquent property taxes due to superseding legal proceedings that interrupt the tax delinquency and forfeiture process (i.e., bankruptcy).

**Taxpayer of Record:** The party or parties who are authorized to pay the real property taxes. This 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.

**Vendee:** The purchaser of a property.

**Vendor:** The property owner selling property, possibly through a contract for deed.