

59-2-1361 Notice of findings -- Proceedings in district court -- Injunction -- Determining taxes due -- Security during proceedings.

- (1)
 - (a) Notice that the commission has made a finding and declaration under Section 59-2-1359 shall be given to the owner of the property in the same manner as is provided by law for the giving of the notice of assessment by the commission.
 - (b) The notice required by this section shall include a notice of the location and time of the hearing in which the findings of the commission may be protested.
 - (c)
 - (i) The hearing must be scheduled at least 10 days after the mailing of the notice.
 - (ii) The owner, lessee, contractor, or operator of the property shall be afforded the opportunity to protest the commission's findings at the hearing.
- (2) After the scheduled hearing, the taxes shall become immediately due and payable if any of the following occur:
 - (a) the owner, contractor, lessee, or operator of the property fails to appear at the hearing; or
 - (b) the commission sustains the findings.
- (3) If the taxes are not paid within 10 days from the date due, the commission may commence a proceeding in court in its name, but for the benefit of the state and the taxing entities interested in the taxes, in the district court of the county in which the property is located to determine the lien of the taxes and to foreclose the lien.
- (4) In any proceeding the court may order any of the following:
 - (a) enjoin and restrain the destruction or removal of the property or any part of the property;
 - (b) appoint a receiver to operate the property; and
 - (c) order and direct that the proceeds from the property, or so much of it as may be necessary to pay the amount of the taxes, be withheld and impounded or paid on account of the taxes from time to time as the court may direct.
- (5) In determining the amount of taxes due for any year for which the levy has not been fixed and for the purposes of the proceeding in court, the commission shall use the levy prevailing within the taxing entity where the property is located for the last preceding year.
- (6) In any court proceeding brought to enforce the payment of taxes made due and payable under this section, the findings of the commission shall be for all purposes presumptive evidence of the necessity for the action for the protection of the public revenues and of the amount of taxes to be paid.
- (7)
 - (a) Payment of taxes due under this section will not be enforced through the proceedings authorized by this section prior to the expiration of the time otherwise allowed for payment of taxes if the owner, lessee, contractor, or other person operating the property furnishes security approved by the commission that the person will timely submit all required returns and tax payments.
 - (b) The commission may, from time to time, require additional security for the payment of taxes.
- (8) The commission may promulgate rules to implement this section.

Amended by Chapter 9, 2001 General Session