

Representative R. Curt Webb proposes the following substitute bill:

ASSESSMENT AREA FORECLOSURE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends foreclosure provisions in the Assessment Area Act.

Highlighted Provisions:

This bill:

- ▶ modifies the methods by which a local entity may enforce an assessment lien; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42-502, as enacted by Laws of Utah 2007, Chapter 329

ENACTS:

11-42-502.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-42-502** is amended to read:



26 **11-42-502. Enforcement of an assessment lien -- Pre-May 10, 2016, procedure.**

27 (1) The provisions of this section apply to any property that is:

28 (a) (i) located within the boundaries of an assessment area; and

29 (ii) the subject of a foreclosure procedure initiated before May 10, 2016, for an

30 assessment or an installment of an assessment that is not paid when due; or

31 (b) located within the boundaries of an assessment area for which the local entity

32 issued an assessment bond or a refunding assessment bond:

33 (i) before May 10, 2016;

34 (ii) that has not reached final maturity; and

35 (iii) is not refinanced on or after May 10, 2016.

36 ~~[(1)]~~ (2) If an assessment or an installment of an assessment is not paid when due, the

37 local entity may sell the property on which the assessment has been levied for the amount due

38 plus interest, penalties, and costs, in the manner provided:

39 (a) by resolution or ordinance of the local entity;

40 (b) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for

41 delinquent general property taxes; or

42 (c) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a

43 trust deed in favor of the local entity.

44 ~~[(2)]~~ (3) Except as ~~[modified by]~~ otherwise provided in this chapter, each tax sale

45 under Subsection ~~[(1)]~~ (2)(b) shall be governed by Title 59, Chapter 2, Part 13, Collection of

46 Taxes, to the same extent as if the sale were for the sale of property for delinquent general

47 property taxes.

48 ~~[(3)]~~ (4) (a) In a foreclosure under Subsection ~~[(1)]~~ (2)(c):

49 (i) the local entity may bid at the sale;

50 (ii) the local entity's governing body shall designate a trustee satisfying the

51 requirements of Section [57-1-21](#);

52 (iii) each trustee designated under Subsection ~~[(3)]~~ (4)(a)(ii) has a power of sale with
53 respect to the property that is the subject of the delinquent assessment lien;

54 (iv) the property that is the subject of the delinquent assessment lien is considered to
55 have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to

56 exercise the trustee's power of sale under Subsection ~~[(3)]~~ (4)(a)(iii);

57 (v) if no one bids at the sale and pays the local entity the amount due on the
58 assessment, plus interest and costs, the property is considered sold to the local entity for those
59 amounts; and

60 (vi) the local entity's chief financial officer may substitute and appoint one or more
61 successor trustees, as provided in Section 57-1-22.

62 (b) The designation of a trustee under Subsection ~~[(3)]~~ (4)(a)(ii) shall be disclosed in
63 the notice of default that the trustee gives to commence the foreclosure, and need not be stated
64 in a separate instrument.

65 ~~[(4)]~~ (5) (a) The redemption of property that is the subject of a tax sale under
66 Subsection ~~[(1)]~~ (2)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

67 (b) The redemption of property that is the subject of a foreclosure proceeding under
68 Subsection ~~[(1)]~~ (2)(c) is governed by Title 57, Chapter 1, Conveyances.

69 ~~[(5)]~~ (6) (a) The remedies ~~[provided for]~~ described in this part for the collection of an
70 assessment and the enforcement of an assessment lien are cumulative.

71 (b) The use of one or more of the remedies ~~[provided for]~~ described in this part ~~[may~~
72 ~~not be considered to]~~ does not deprive the local entity of any other available remedy or means
73 of collecting the assessment or enforcing the assessment lien.

74 Section 2. Section 11-42-502.1 is enacted to read:

75 **11-42-502.1. Enforcement of an assessment lien -- Post-May 10, 2016, procedure.**

76 (1) (a) Except as provided in Subsection (1)(b), the provisions of this section apply to
77 any property that is:

78 (i) located within the boundaries of an assessment area; and

79 (ii) the subject of a foreclosure procedure initiated on or after May 10, 2016, for an
80 assessment or an installment of an assessment that is not paid when due.

81 (b) The provisions of this chapter do not apply to property described in Subsection
82 11-42-502(1)(b).

83 (2) If an assessment or an installment of an assessment is not paid when due, the local
84 entity may sell the property on which the assessment has been levied for the amount due plus
85 interest, penalties, and costs:

86 (a) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the
87 sale of property for delinquent general property taxes; or

88 (b) by judicial foreclosure.

89 (3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(a)
90 shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if
91 the sale were for the sale of property for delinquent general property taxes.

92 (4) (a) The redemption of property that is the subject of a tax sale under Subsection
93 (2)(a) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

94 (b) The redemption of property that is the subject of a judicial foreclosure proceeding
95 under Subsection (2)(b) is governed by Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.

96 (5) (a) The remedies described in this part for the collection of an assessment and the
97 enforcement of an assessment lien are cumulative.

98 (b) The use of one or more of the remedies described in this part does not deprive the
99 local entity of any other available remedy or means of collecting the assessment or enforcing
100 the assessment lien.