

CHAPTER 57-21

COLLECTION OF RENTS FOR PAYMENT OF TAXES

57-21-01. Application to district court. At any time after any taxes or special assessments or any installment thereof, heretofore or hereafter levied and assessed upon any real property within this state, have been delinquent for more than twelve months, and remain due and unpaid, the county treasurer, if the said property produces rents, may petition, and, by direction of the board of county commissioners, shall petition, the district court, in the name of the county, for an order directed to the tenant or subtenant, if any, and to the owner of said property, directing that said rents be paid to the county treasurer.

57-21-02. Notice to be given. A copy of the petition prescribed by section 57-21-01, and a notice of hearing thereon, must be served upon the tenant and upon the owner of the real property in the manner provided by law for the service of a summons in district court, or, upon order of the court endorsed upon the notice of hearing, the said petition and notice may be served by mailing a copy of each by registered or certified mail to the tenant, and a like copy to the owner of the record title of said property, at the tenant's and owner's last-known post-office address, or to such address as may appear of record in the office of the recorder or of the county treasurer, and in such case the return registry receipt of the post office is prima facie proof of the mailing of such notice and of its receipt by the tenant and the owner to whom it was mailed.

57-21-03. Order of court. After hearing, the court may issue an order directing the tenant to pay to the county treasurer all rents payable under the terms of the lease of the property, either due or to become due, and also directing the county treasurer to apply the said payments of rent to the delinquent and current taxes and special assessments, including penalty and interest, and the costs and expenses of the proceeding as determined and taxed by the court. In such order, or thereafter, upon application and hearing, the court, in its discretion, may allow to the taxpayer a percentage of rents, property, and crops, as to the court may seem just, up to and including fifty percent thereof, and may order the treasurer to pay such percentage to such taxpayer at such times and under such circumstances as to the court may seem just and equitable.

57-21-04. Duty of tenant and owner. A tenant, pursuant to an order made as provided in section 57-21-03, shall pay to the county treasurer all of the rent for the property described in such order, and if the owner reserves title to property as security for rent, the tenant or owner shall pay said taxes and special assessments out of the owner's portion of such crops or other property, or the proceeds thereof, and a failure to comply with the provisions of the order of the court constitutes contempt and is punishable as such.

57-21-05. Receipts a defense in action for rent. The treasurer shall give a receipt to the tenant for any rents paid pursuant to the order of the court, and the payment thereof and the receipt therefor constitutes a complete defense to a suit by any person for such rent.

57-21-06. Appeal. The owner of any property described in a petition made as provided in section 57-21-01 has the right to appeal to the supreme court of this state from any order issued by the district court under the provisions of this chapter. Pending the final determination of such appeal, the treasurer shall continue to receive and the tenant to pay the rents provided in said order, and the treasurer shall hold the said payments in trust for the final determination of such appeal.

57-21-07. Priority of liens and assignments. The payment of the rents provided for in the order of the court has precedence over and must be paid prior to any subsequent assignment of such rents, or lien upon such rents, and no part of such rents is exempt from the payments required under this chapter. The payment of the rents provided for in the order of the court, however, is subject and inferior to any lien which the government of the United States or any agency thereof may acquire as security for the payment of any seed, feed, or crop production loans.

57-21-08. Vacation of order requiring payment of rents for taxes and special assessment. Whenever the delinquent and current taxes and special assessments, including penalty and interest, and the costs and expenses of the proceeding, have been fully satisfied out of the rents, property, and crops as provided in this chapter, the treasurer shall apply to the court for an order vacating the order directing the payment of rents, which must be served upon the tenant and upon the owner in the manner provided for the service of the original notice.

57-21-09. Tax and special assessment receipts. Whenever the payments of rents result in the payment of any year's taxes or special assessments, with penalties, interest, and costs thereto attached, the county treasurer shall issue a receipt for such year's tax or special assessment in the usual manner. In like manner, the county auditor shall issue a certificate of redemption for any taxes or special assessments which have been sold.

57-21-10. Payments under protest. Nothing in this chapter may be construed to prevent any taxpayer from exercising the right provided by law as to the payment of taxes or special assessments under protest.

57-21-11. State's attorney to represent county. The state's attorney, in the county where proceedings under this chapter lie, shall prepare the necessary papers in connection with the proceedings and shall appear at any hearing in said matter as counsel for the county and treasurer.

57-21-12. Remedy cumulative. The remedy provided in this chapter is in addition to any other remedy which may be provided by law for the collection of taxes or special assessments levied and assessed against real property.