

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

September 11, 1986

SUBJECT: Taxation and Revenue - Redemption period
from tax sale and requirement to advertise
the period.

SYLLABI: (1) The redemption period for property sold
for nonpayment of county property taxes
was not changed by Act 166, Acts of
1985, in those counties that received an
extension for the implementation of the
Act.

(2) There is no requirement to set forth the
redemption period in the notice or
advertisement for the sale of property for
nonpayment of county taxes.

TO: The Honorable Ramon Schwartz, Jr.
Speaker of The House of Representatives

FROM: Joe L. Allen, Jr. *JAL*
Chief Deputy Attorney General

QUESTIONS: Act 166, Acts of 1985, provides the exclusive
remedy under which a county may collect property taxes. The
Act was effective January 1, 1986, however, a county that
could not implement the Act for that year was given a year's
extension upon approval of the Comptroller General. The
questions are:

(1) Does the granting of the extension limit or extend the
period of time in which the property may be redeemed from
the tax sale?

(2) Is the Tax Collector required to state the redemption
period in the notice and advertisement of the sale?

APPLICABLE LAW: Act 166, Acts of 1985, §§ 12-51-90,
12-51-120 and 12-49-520, South Carolina Code of Laws, 1976.

DISCUSSION - Question 1:

Section 18 of the 1985 Act provides that the Act was to be
effective on January first following approval by the

The Honorable Ramon Schwartz, Jr.
Page Two

September 11, 1986

Governor. The Act was approved by the Governor on June 20, 1985, and would thus be effective as of January 1, 1986. Section 9 of the Act amended § 12-51-90 so as to reduce the period in which the property could be redeemed from eighteen months to twelve months.

Section 18 of the Act further provided that a county could receive an extension for one year for the implementation of the Act for the collection of its taxes upon satisfying certain conditions. The inquiry is whether the redemption period in those counties that received an extension is governed by the 1985 Act.

In our view, it is not so governed. The provision for the extension is an effective postponement of the provisions of the 1985 Act for one year. The Supreme Court of Appeals of Virginia held in the case of County School Board v. Town of Herndon, 194 Va. 810, 75 S.E.2d 474 that:

"The rule is well settled that while the legislature may not delegate its power to make a law, it may make a law to become operative on the happening of a certain contingency or future event. For instance, there are in the cases examples of statutes which by their terms are in force only in such localities as may adopt the statute. * * *"

"As a general rule a statute speaks as of the time which it takes effect and not of the time it was passed. Indeed, where a statute does not become operative immediately on its enactment, but the time of its going into effect is postponed until a later date, either by virtue of its own terms * * * it ordinarily does not have any effect until the stated period has expired. Thus, when the time for taking effect is postponed, saving or repealing clauses in an act do not take effect at a different time from the act as a whole, though expressed in the present tense." See also 73 Am.Jur.2d, Statutes, §§ 363 and 369.

The Honorable Ramon Schwartz, Jr.
Page Three

September 11, 1986

The legislative intent that the Act is not to be effective until January 1, 1987 in those counties that receive an extension is clear. The redemption period would thus be the period set forth in § 12-49-520 or § 12-51-90. The exact period is dependent upon whether the county had previously adopted the provisions of Chapter 51 of Title 12 for the collection of its property taxes. If so, the redemption period is eighteen months and if not, the period is twelve months.

CONCLUSION:

The redemption period for property sold for nonpayment of county property taxes was not changed by Act 166, Acts of 1985, in those counties that received an extension for the implementation of the Act.

DISCUSSION - Question 2:

We do not know of any statutory requirement to set forth the redemption period in the notice and advertisement for the sale of property for nonpayment of taxes. The 1985 Act, however, does require notice to the owner of record on February first preceding the end of the redemption period. This would be effective for all counties in 1987 and also in those without an extension in 1986. Such a notice is also required in 1986 by those counties that adopted the provisions of Chapter 51 of Title 12 for the collection of taxes that received an extension for the implementation of the 1985 Act. See § 12-51-120.

CONCLUSION:

There is no requirement to set forth the redemption period in the notice or advertisement for the sale of property for nonpayment of county taxes.

JLAJr:wcg