



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

January 6, 1971

File No. S-253

TAXATION:
Redemption of Real Estate

Honorable Albert N. Kennedy
State's Attorney
Lee County
Dixon, Illinois 61021

Dear Sir:

I have your recent letter and the attached letter of Mr. John E. Stouffer, County Clerk of Lee County, which states:

"Re: S.B. 1173 Approved June 25, 1970
The above referred to bill deals with tax sale and redemptions of real estate. Since some of the provisions of this bill seem to be in conflict and contrary to the probable intent of the law, I would like to call to your attention and ask your advice on the following:

"Section 253 provides that real estate sold under the act may be redeemed at any time before the expiration of two years from the date of sale, or time as extended. Also provided in this section is that a person who redeems subsequent to filing of a petition for a tax deed 'who desires to preserve

his right to defend against such petition for any reason' shall accompany his deposit for redemption with a 'redemption under protest' statement. Redemption under protest constitutes appearance of the person protesting (how the Court or Clerk of Court is advised of this does not seem to be indicated).

"Notice provided for in Section 263 (by Clerk of the Circuit Court), states that a petition for a tax deed has been filed and that a hearing has been set. Notices shall be furnished the Clerk of the Circuit Court with payment for mailing, not more than 5 nor less than 3 months before expiration of time for redemption. Use of this prescribed form of notice seems to necessitate filing of a petition for a tax deed prior to mailing said notice; if so, redemption during the last 3 (or possibly up to 5) months prior to expiration of period of redemption would seemingly have to be made under the protest section; if so, this would work an added hardship on the person redeeming, rather than safeguarding him from loss of property as the bill was certainly intended.

"The fact that the purchaser must petition for a tax deed (as indicated by the form of notice) prior to sending of the notice will cost the person redeeming an additional \$30.00 filing fee which he may not have had to pay under the former statute (some purchasers did not petition for a tax deed until near the end of the redemption period in order to give the owner all the time possible to redeem). This again seems to work an added hardship.

"Section 266 provides that at any time within 5 months prior to the expiration of the redemption time, the purchaser may petition

for a tax deed, but this is precluded by use of the form of notice provided for in section 263 which would necessitate petition filing prior to the time of mailing of notices (3 to 5 months before expiration of time).

"The preceding noted hardships and seeming inconsistencies probably all evolve from the use of the form of notice provided. A possible conclusion could certainly be that the form of notice (stating that a petition for a tax deed has been filed) is in error since it seems to work hardships contrary to the probable intent of the law and is in conflict with the provision that the purchaser may petition for a tax deed at any time within 5 months of expiration of the time for redemption.

"I believe that clarification of the notice provisions of this act and/or conflict of time periods is necessary if we are to properly comply with said statute. I would appreciate your study of this matter or referral to the Attorney General of the State of Illinois for his opinion."

As you have indicated, Section 263 of the Revenue Act of 1939 (Par. 744 of Chap. 120, 1969 Ill. Rev. Stats.) was amended by Senate Bill 1173 to require a purchaser or assignee of such purchaser of real estate sold for nonpayment of general taxes or special assessments, in order to be entitled to a deed, must prepare and deliver to the clerk of the circuit court not more than five nor less than three months prior to the expiration of the period

of redemption, for mailing by registered mail, a notice which is required to be in the following forms:

"TAX DEED NO. FILED.

TAKE NOTICE

County of.

Certif. No.

Gen. Taxes Yr.

Sp. Assmt. No.

YOUR PROPERTY HAS BEEN SOLD FOR DELINQUENT TAXES

Property located at

This official notice is to advise you that a petition has been filed for a Tax Deed which will transfer title and the right to possession of your property if redemption is not made on or before.

This matter is set for hearing in the circuit court of this county in

Illinois, on. You may be present at this hearing but your right to redeem will already have expired at that time.

YOU ARE URGED TO REDEEM IMMEDIATELY TO PREVENT LOSS OF YOUR PROPERTY

Clerk of the Circuit Court

MAIL TO FOLLOWING PERSONS:

- (a)
- (b)
- (c)
- (d)

Redemption can be made at any time on or before. by applying to the County Clerk of. County at the County Court House in., Illinois.

For further information contact the County Clerk."

From an examination of the foregoing notice it can be observed that the language of the notice contemplates that a petition for a tax deed has already been

filed and that a title transfer will take place unless redemption is made on or before a certain date. This notice must be delivered to the clerk not more than five nor less than three months prior to the expiration of the period of redemption. It should be noted, however, Paragraph 744 of Chapter 120, 1969 Illinois Revised Statutes also provides as follows:

"* * * The purchaser or assignee may extend the time of redemption for such real estate either before or after the expiration of 2 years from the date of sale for a period which will expire not later than 3 years from the date of the sale by filing with the county clerk of the county in which the real estate is located a written notice to that effect describing the real estate, stating the date of the sale and specifying the extended time of redemption. If the time of redemption is extended, the purchaser or assignee must give the notices herein provided at the specified times prior to the expiration of the extended period of redemption."

All statutes relating to the same subject matter should be so construed with reference to each other that effect may be given to all the provisions of each, if this can be done by any fair and reasonable construction. See Ashton v. Cook County, 384 Ill. 287. The court avoids a construction of a statute which leads to great inconvenience,

Honorable Albert N. Kennedy - 6 -

Brotherhood of Railroad Trainmen v. Elgin, J. & E. Ry.
Co., 382 Ill. 55.

I am of the opinion that the provisions of Senate Bill 1173 afford additional protection to an owner wishing to redeem property sold for taxes. The required notice must be given. However, since the purchaser or assignee can extend the time of redemption, he could petition for a tax deed at any time within five months prior to the expiration of the time of redemption, and then by extending the time of redemption pursuant to Paragraph 744 of Chapter 120, the notice required by Senate Bill 1173 (Public Act 76-2329) could be given during the extended period of redemption.

Very truly yours,

A T T O R N E Y G E N E R A L