

Study Guide & Handbook
Rhode Island Tax Collectors

TAX SALES

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44-9-1. Tax liens on real estate.

(a) Taxes assessed against any person in any city or town for either personal property or real estate shall constitute a lien on the real estate. The lien shall arise and attach as of the date of assessment of the taxes, as defined in § 44-5-1.

(b) The lien shall terminate at the expiration of three (3) years thereafter if the estate has in the meantime been alienated and the instrument alienating the estate has been recorded; otherwise, it shall continue until a recorded alienation of the estate. The lien shall be superior to any other lien, encumbrance, or interest in the real estate whether by way of mortgage, attachment, or otherwise, except easements and restrictions.

44-9-2. Taxes for which particular property liable.

If any person is taxed for several parcels of real estate, each of the parcels shall be liable for the payment of the tax assessed against it, even though the parcel may have been alienated, but no parcel shall be liable for any tax assessed against any other parcel. If any person is taxed for real estate and for personal estate in the same tax, the whole of the person's tax may be collected either out of the real or personal estate. If any person is taxed for several parcels of real estate and for personal estate in the same tax, the tax on personal estate may be collected out of the real estate, and each of the parcels shall be liable for the payment of the tax assessed against it, together with the portion of the tax on the personal estate as the assessed value of the parcel bears to the aggregate assessed values of all parcels.

44-9-3. Lien of fire district, lighting district, water district, sewer district and road district.

All taxes, charges, assessments, assessed against any person in any fire district, water district, sewer district, road district and lighting district within this state, pursuant to the act of incorporation of the district, for either real or personal estate, shall constitute a lien upon that person's real estate in the district for the space of three (3) years after the assessment, and, if the real estate is not alienated, then until the taxes or fees are collected.

44-9-4. Collector of taxes – Powers, privileges, duties and liabilities of fire district, water district, sewer district, road district and lighting district.

The collector of taxes of every fire district, water district, sewer district, road district and lighting district shall have all the powers and privileges and be subject to all the duties and liabilities which are conferred or imposed upon collectors of taxes in cities or towns.

44-9-6. Primary liability of life estate.

In case of a life estate, the interest of the tenant for life shall first be liable for the tax, and the remainderman, if assessed, shall be secondarily liable.

44-9-8: Sale of undivided part or whole of land.

If the taxes are not paid, the collector shall, at the time and place appointed for the sale, sell by public auction for the amount of the taxes, assessments, rates, liens, interest, and necessary intervening charges, the smallest undivided part of the land which will bring the amount, but not less than one percent (1%), or the whole for the amount if no person offers to take an undivided part.

44-9-8.1. Taking for taxes.

(a) Notwithstanding the provisions of § 44-9-8, upon a determination that the property is necessary for redevelopment, revitalization, or municipal purposes by the redevelopment agency of a municipality or, if there is no redevelopment agency and the city or town council makes that determination, then the municipality may take the land for the city or town.

(b) If a tax on land is not paid within fourteen (14) days after demand for the tax and remains unpaid at the date of taking, the collector may take the land for the city or town, first giving fourteen (14) days' notice of his or her intention to exercise the power of taking, the notice may be served in the manner required by law for the service of civil cases or may be published. The notice shall contain a substantially accurate description of the lots or divisions of land to be sold, which shall be furnished to the collector by the assessors upon demand of the collector, the amount of tax assessed on each, and the names of all owners known to the collector. The notice of the sale of the undivided real estate of a deceased person assessed to his or her heirs or devisees or assessed in general terms to his or her estate shall contain the names of all the heirs or devisees interested in the real estate, if the probate records of the county where the land lies disclose their identity. The collector shall also, fourteen (14) days before the taking, post a conforming notice in two (2) or more convenient and public places.

(c) Whenever the collector of taxes of a city or town shall have taken land in the city or town he or she may, in the name and on behalf of the city or town, take immediate possession of the land and, until the tax title acquired is redeemed, collect the rent and other income from the land, this rent and income, after the payment of all necessary expenses in the care, repair, and management of the land shall be applied on account of the taxes, assessments, rates, charges, interest, and costs due the city or town on the land, with any balance remaining being paid to the person entitled to this rent and income.

(d) Upon petition of any person having a right to redeem the tax title, the superior court for the county where the land lies, if it adjudges justice and the circumstances warrant, may, upon any terms that it deems equitable, enjoin a taking of possession under this section or command the surrender of a possession taken. A city or town must designate a detailed purpose and plan for any land it takes at a tax sale within one year, or that land will be offered at the next tax sale.

(e) Neither the city or town nor any of its officers, agents or employees is liable or accountable to the owner or to any other person having an interest in the land for failure to collect rent or other income from the land; and neither the city or town nor any of its officers, agents, or employees is liable for injury or damage caused by the possession of land under this section to the land or to the person or property of any person.

44-9-8.2. Deed of taking.

The instrument of taking shall be under the hand and seal of the collector and shall contain a statement of the cause of taking, a substantially accurate description of each parcel of land taken, the name of the person to whom the tax was assessed, the amount of the tax, and the incidental expenses and costs to the date of taking, and if notice of the sale was given to the Rhode Island Housing and Mortgage Finance Corporation and/or to the department of elderly affairs under the provisions of § 44-9-10, an affirmative certification as to which entity received notice and the date(s) on which each such notice was given shall be set forth in the instrument. This instrument of taking is not valid unless recorded within sixty (60) days of the date of taking. If recorded, it is prima facie evidence of all facts essential to the validity of the title taken. Title to the land taken shall vest in the city or town, subject to the right of redemption. The title shall, until redemption or until the right of redemption is foreclosed, be held as security for the repayment of the taxes with all intervening costs, terms imposed for redemption, and charges, with interest. The premises taken, both before and after either redemption or foreclosure, is also subject to and has the benefit of all easements and restrictions lawfully existing in, upon or over the land or appurtenant to the land, and all covenants and agreements running with the premises either at law or in equity, when taken.

44-9-8.3: Sale of owner-occupied residential property to housing agency.

(a) Where the property subject to tax sale is owner-occupied residential and contains three (3) or less units, the Rhode Island Housing and Mortgage Finance Corporation shall have a right of first refusal to acquire the

tax lien at tax sale, and may assist the owner to discharge the lien or take title and acquire the property in its own name pursuant to regulations to be developed by the corporation, consistent with its purposes. The corporation shall notify the collector of its intention to exercise this right by the later of: (i) thirty (30) days from its receipt of the certified mail notice set forth in § 44-9-10; or (ii) ten (10) days before the date of sale or any adjournment of the sale. Failure of the corporation to notify the collector as provided herein shall extinguish the right of first refusal provided in this section.

44-9-9: Notice and advertisement of sale.

Before the sale, the collector shall give notice of the time and place of sale posted in two (2) or more public places in the city or town at least three (3) weeks before the time of the sale. The collector shall also cause to be published in some public newspaper published in the city or town, if there is one, and if there is no public newspaper published in the city or town, then in some public newspaper published in the county, a statement concerning the time and place of sale, the real estate liable for payment of taxes, and the name of the person against whom the real estate was assessed, with a list of the parcel or parcels to be offered for sale by the recorded plat and lot number, or by assessors' plat and lot number, or by other adequate description. The newspaper notice giving this full description shall be inserted, once, at least three (3) weeks prior to the date of the advertised sale, and thereafter a weekly formal legal notice, between the date of original advertisement and the time of sale specified in the notice, shall be inserted, stating that the collector will sell at public auction the real estate advertised. The subsequent formal legal notice shall include reference to the original advertisement, which gave a full description. Whenever an advertised tax sale is continued or postponed, a formal legal notice giving the new date shall be inserted at least one week prior to the new date. Any notice of sale shall inform any party entitled to notice of its right of redemption and shall explain to such party the manner in which said right shall be exercised and inform said party of the penalties and forfeiture that may occur if the right of redemption is not exercised.

44-9-10: Notice of sale to taxpayer.

(a) Whether or not the person or general partnership to whom the estate is taxed as of December 31st prior to the tax sale is a resident of this state, the collector shall, in addition to the foregoing, notify the taxpayer of the time and place of sale first by first-class mail not less than ninety (90) days before the date of sale or any adjournment of the sale, and again by certified mail not less than forty (40) days before the date of sale or any adjournment of the sale, sent postpaid to the street address of the real estate liable for payment of taxes, and, if different, to the taxpayer's address listed with the tax assessor's office of the city or town where the real estate is located or to any other address which the taxpayer designates by written notice to the tax assessor, or to the address of the taxpayer stated on the deed recorded in the land evidence records of the city or town where the real estate is located or to the last-known address of the taxpayer or be left at the taxpayer's last-known address or personally served on the taxpayer not less than thirty (30) days before the date of sale or any adjournment of the sale, but no notice of adjournments shall be necessary other than the announcement made at the sale. Copies of such notices shall be provided to Rhode Island Housing and Mortgage Finance Corporation by mail or hand delivery, or a manifest of such notices shall be electronically delivered in a machine-readable format through secure means established by the Rhode Island Housing and Mortgage Finance Corporation not less than forty (40) days before the date of sale or any adjournment of the sale. Failure to notify the Rhode Island Housing and Mortgage Finance Corporation as prescribed herein shall nullify any tax sale of any property with respect to which such notice was not given.

(b) Persons aged sixty-five (65) years and over or persons suffering from a disability may designate a third party to whom notice may be sent as required pursuant to this section by advising the tax assessor of the name and address of the person.

(c) If the estate taxed is a corporation, the notice may be sent either by registered or certified mail to its place of business or left at the business office of the corporation with some person employed there.

(d) In the event the person to whom the estate is taxed is listed in the records of the assessor and/or collector as having applied for and been granted a property tax abatement based wholly or partially on the age of the taxpayer, then the collector shall also notify the department of elderly affairs by mail, hand delivery, or a manifest of such notices shall be electronically delivered in a machine-readable format through the secure means established by the Rhode Island Housing and Mortgage Finance Corporation pursuant to subsection (a), not less than forty (40) days before the date of sale. Failure to notify the department of elderly affairs as prescribed herein shall nullify any tax sale of any property with respect to which such notice was not given.

(e) Within ninety (90) days after the end of each calendar year, the department of elderly affairs shall prepare and submit an annual report to the governor, the speaker of the house of representatives, the president of the senate, and the secretary of state. The report shall contain information concerning the number of notices received by the department of elderly affairs pursuant to this section of law during the calendar year and information concerning the identity of the specific parcels that might be sold in each city or town as well as a description of exactly what action followed on each such notice. The report shall conclude by indicating the present status of each case in which the department received such a notice as well as an indication as to whether each such case is open or closed.

44-9-11: Notice to mortgagees and other parties in interest.

(a) In case the collector shall advertise for sale any property, real, personal, or mixed, in which any person other than the person to whom the tax is assessed has an interest, it shall not be necessary for the collector to notify the interested party, except for the following interested parties, provided that their interest was of record at least ninety (90) days prior to the date set for the sale: the present owner of record; mortgagees of record and mortgage assignees of record; former fee holders whose right to redeem has not been foreclosed; holders of tax title; federal agencies having a recorded lien on the subject property; holders of life estates of record and vested remainder, whose identity can be ascertained from an examination of the land or probate records of the municipality conducting the sale; and/or their assignees of record who shall be notified by the collector, either by registered or certified mail sent postpaid not less than twenty (20) days before the date of sale or any adjournment of the sale to an agent authorized by appointment or by law to receive service of process; or to the address of the party in interest set forth in the recorded mortgage document or the recorded assignment; or to the last known address of the party in interest; but no notice of adjournments shall be necessary other than the announcement made at the sale. The posting and publication of the notice of the time and place of sale in the manner provided by § 44-9-9 shall be deemed sufficient notice to all other interested parties. This provision shall apply to all taxes levied prior to and subsequent to 1896. This provision shall be subject to the notice requirements of § 44-9-10. It shall not be necessary, however, to provide the names of the mortgagees and other parties in interest under this section to the Rhode Island Housing and Mortgage Finance Corporation or to the department of elderly affairs. In the event that the Rhode Island Housing and Mortgage Finance Corporation does in fact pay the tax and acquire a lien on the subject property, then the Rhode Island Housing and Mortgage Finance Corporation shall, within ninety (90) days of making the tax payment, notify those mortgagees of record and mortgagee assignees of record whose interests in the property was of record at least ninety (90) days prior to the date set for the tax sale as identified in the recorded collector's deed of the fact that the taxes have been paid by the Rhode Island Housing and Mortgage Finance Corporation and that a tax lien has been acquired by the Rhode Island Housing and Mortgage Finance Corporation.

(b) Only a person or entity failing to receive notice in accordance with the provisions of this section and §§ 44-9-9 and 44-9-10 shall be entitled to raise the issue of lack of notice or defective notice to void the tax sale. The

right to notice shall be personal to each party entitled to it and shall not be asserted on behalf of another party in interest. If there is a defect in notice, the tax sale shall be void only as to the party deprived of adequate notice, but shall be valid as to all other parties in interest who received proper notice of the tax sale.

(c) Once a petition is filed under § 44-9-25, and any party in interest entitled to notice of the tax sale receives actual notice of the pendency of the petition to foreclose, the party must raise the notice defense in accordance with the provisions of § 44-9-31 or be estopped from alleging lack of notice in any action to vacate a final decree entered in accordance with § 44-9-30.

44-9-12: Collector's deed – Rights conveyed to purchaser – Recording.

(a) The collector shall execute and deliver to the purchaser a deed of the land stating the cause of sale; the price for which the land was sold; the places where the notices were posted; the name of the newspaper in which the advertisement of the sale was published; the names and addresses of all parties who were sent notice in accordance with the provisions of § 44-9-10 and 44-9-11; the residence of the grantee; and if notice of the sale was given to the Rhode Island housing and mortgage finance corporation and/or to the department of elderly affairs under the provisions of § 44-9-10. The deed shall convey the land to the purchaser, subject to the right of redemption. The conveyed title shall, until redemption or until the right of redemption is foreclosed, be held as security for the repayment of the purchase price with all intervening costs, terms imposed for redemption, and charges, with interest; and the premises conveyed, both before and after either redemption or foreclosure, shall also be subject to, and have the benefit of, all easements and restrictions lawfully existing in, upon, or over the land or appurtenant to the land. The deed is not valid unless recorded within sixty (60) days after the sale. If the deed is recorded, it is prima facie evidence of all facts essential to the validity of the title conveyed by the deed. It shall be the duty of the collector to record the deed within sixty (60) days of the sale and to forward said deed promptly to the tax sale purchaser. The applicable recording fee shall be paid by the purchaser. The purchaser shall be reimbursed for said fee upon redemption by the redeeming party, if any. Except as provided, no sale shall give to the purchaser any right to either the possession, or the rents or profits of the land until the expiration of one year after the date of the sale, nor shall any sale obviate or transfer any responsibility of an owner of property to comply with any statute of this state or ordinance of any municipality governing the use, occupancy, or maintenance or conveyance of property until the right of redemption is foreclosed.

(b) The rents to which the purchaser shall be entitled after the expiration of one year and prior to redemption shall be those net rents actually collected by the former fee holder or a mortgagee under an assignment of rents. Rents shall not include mere rental value of the land, nor shall the purchaser be entitled to any rent for owner-occupied, single-unit residential property. For purposes of redemption, net rents shall be computed by deducting from gross rents actually collected any sums expended directly or on behalf of the tenant from whom the rent was collected. Such expenditure shall include utilities furnished, repairs made to the tenanted unit, and services provided for the benefit of the tenant. However, mortgagee payments, taxes, and sums expended for general repair and renovation (i.e. capital improvements) shall not be deductible expenses in the computation of the rent.

(c) This tax title purchaser shall not be liable for any enforcement or penalties arising from violations of environmental or minimum-housing standards prior to the expiration of one year from the date of the tax sale, or five (5) years from the date of the tax sale if the Rhode Island housing and mortgage finance corporation is the tax title purchaser pursuant to § 44-9-8.3, except for violations that are the result of intentional acts by the tax sale purchaser or his or her agents.

(d) Upon the expiration of one year after the date of the sale, the tax title holder shall be jointly and severally liable with the owner for all responsibility and liability for the property and shall be responsible to comply with

any statute of this state or ordinance of any municipality governing the use, occupancy, or maintenance or conveyance of the property even prior to the right of redemption being foreclosed; except, however, that if the Rhode Island housing and mortgage finance corporation is the tax title holder pursuant to § 44-9-8.3, then joint and several liability shall arise upon the expiration of five (5) years after the date of the sale. Nothing in this section shall be construed to confer any liability upon a city or town that receives tax title as a result of any bids being made for the land offered for sale at an amount equal to the tax and charges.

(e) In the event that the tax lien is acquired by the Rhode Island housing and mortgage finance corporation, and said corporation has paid the taxes due, title shall remain with the owner of the property, subject to the right of the corporation to take the property in its own name, pursuant to applicable statutes and any regulations duly adopted by the corporation. Upon such notice by the corporation, the collector shall execute and deliver a deed to the corporation as herein provided.

44-9-14. Purchase by collector for city or town.

If at the time and place of sale no person bids an amount equal to the tax and charges for the land offered for sale, the collector shall then and there make public declaration of the fact; and, if no bid equal to the tax and charges is then made, the collector shall give public notice that the collector purchases for the city or town by which the tax is assessed the land as offered for sale at the amount of the tax and the charges and expenses of the levy and sale. This amount, together with the cost of recording the deed of purchase, shall be allowed the collector in his or her settlement with the city or town; provided, that the collector causes the deed to be duly recorded within sixty (60) days after the purchase and to be delivered to the city or town treasurer.

44-9-19: Right of redemption from city or town.

(a) Any person having an interest in land sold for nonpayment of taxes, or his or her heirs or assigns, at any time prior to the filing of a petition for foreclosure under § 44-9-25, if the land has been purchased by the city or town and has not been assigned, may redeem the land by paying or tendering to the treasurer the sum for which the real estate was purchased, plus a penalty which shall be ten percent (10%) of the purchase price if redeemed within six (6) months after the date of the collector's sale, and an additional one percent (1%) of the purchase price for each succeeding month, together with all charges lawfully added for intervening taxes, which have been paid to the municipality, plus interest thereon at a rate of one percent (1%) per month, and expenses assessed subsequently to the collector's sale.

(b) The certificate of redemption shall be recorded by the treasurer on the land records within twenty (20) days after the entire redemption amount has been paid to the municipality. The recording costs for the certificate of redemption shall be paid by the redeeming party.

(c) The right of redemption may be exercised only by those entitled to notice of the sale pursuant to §§ 44-9-10 and 44-9-11.

44-9-20. City or town treasurer's release.

If land sold to a city or town for nonpayment of taxes, which has not been assigned, is redeemed, the treasurer shall sign, execute, and deliver on behalf of the city or town a release of all the right, title, and interest, which it acquired by the purchase in and to the land redeemed. The delivery of the instrument shall extinguish all right and title under the collector's deed. If a person other than the owner of the fee rightfully redeems, the instrument when duly recorded shall be notice to all persons of the payment. If the amount so paid for redemption is paid by a holder of a mortgage on the premises, the amount so paid may be added to the mortgage debt (Form 3).

44-9-21. Redemption from purchaser other than city or town.

Any person may redeem by paying or tendering to a purchaser, other than the city or town, his or her legal representatives, or assigns, or to the person to whom an assignment of a tax title has been made by the city or town, at any time prior to the filing of the petition for foreclosure, in the case of a purchaser the original sum and any intervening taxes which have been paid to the municipality plus interest thereon at the rate of one percent (1%) per month and costs paid by him or her, plus a penalty as provided in § 44-9-19, or in the case of an assignee of a tax title from a city or town, the amount stated in the instrument of assignment, plus the above-mentioned penalty. He or she may also redeem the land by paying or tendering to the treasurer the sum which he or she would be required to pay to the purchaser or to the assignee of a tax title, in which case the city or town treasurer shall be constituted the agent of the purchaser or assignee. The right of redemption may be exercised only by those entitled to notice of the sale pursuant to §§ 44-9-10 and 44-9-11.

44-9-22. Proceedings as to low value lands unaffected by redemption provisions.

Nothing in §§ 44-9-19 – 44-9-21 nor in §§ 44-9-25 – 44-9-33 shall be construed to prevent the title of a person or a city or town purchasing land at a sale under §§ 44-9-36 – 44-9-38 from becoming absolute without any foreclosure proceedings under these sections.

44-9-24. Title absolute after foreclosure of redemption – Jurisdiction of proceedings.

The title conveyed by a tax collector's deed shall be absolute after foreclosure of the right of redemption by decree of the superior court as provided in this chapter. Notwithstanding the rules of civil procedure or the provisions of chapter 21 of title 9, no decree shall be vacated except in a separate action instituted within one year following entry of the decree and in no event for any reason, later than one year following the entry of decree. Furthermore, the action to vacate shall only be instituted for inadequacy of notice of the petition amounting to a denial of due process or for the invalidity of the tax sale because the taxes for which the property was sold had been paid or were not due and owing because the property was exempt from the payment of such taxes. The superior court shall have exclusive jurisdiction of the foreclosure of all rights of redemption from titles conveyed by a tax collector's deed, and the foreclosure proceedings shall follow the course of equity in a proceeding provided for in §§ 44-9-25 – 44-9-33.

44-9-25: Petition for foreclosure of redemption.

(a) After one year from a sale of land for taxes, except as provided in §§ 44-9-19 – 44-9-22, whoever then holds the acquired title may bring a petition in the superior court for the foreclosure of all rights of redemption under the title. The petition shall set forth a description of the land to which it applies, with its assessed valuation, the petitioner's source of title, giving a reference to the place, book, and page of record, and other facts as may be necessary for the information of the court. Two (2) or more parcels of land may be included in any petition brought by any purchaser of a title or titles, if the parcels are in the same record ownership at the time of bringing the petition (Form 5).

(b) No more than one foreclosure petition may be filed for each tax deed regardless of the number of tax title holders having an interest under such deed. If more than one petition is filed, the petitions shall be consolidated for hearing by the court. The court shall not award more than one attorneys' fee to the petitioners.

(c) Notwithstanding the provisions of subsection (a) of this section, no petition for foreclosure of redemption shall be filed or entertained by any court with respect to any property or title acquired by the Rhode Island Housing and Mortgage Corporation pursuant to § 44-9-8.3 of the general laws until after five (5) years from the sale of said property or title for taxes.

44-9-36. Sale by city or town treasurer without foreclosure.

After one year from the purchase by a city or town of any parcels of land for nonpayment of taxes, if the treasurer is of the opinion that the parcels are of insufficient value to meet the taxes, interest, and charges and all subsequent taxes and assessments, together with the expenses of a foreclosure under § 44-9-25, and that the facts essential to the validity of the tax title on the lands have been adequately established, he or she may sell all the parcels, severally or together, at public auction to the highest bidder, first giving notice of the time and place of sale by publication in some public newspaper at least once a week for three (3) successive weeks before the sale, the first publication of which shall be at least twenty-one (21) days before the day of sale, including the day of the first publication in the computation. The treasurer at the auction may reject any bid which he or she deems inadequate. The treasurer shall execute and deliver to the highest bidder, whose bid has not been rejected as inadequate, a deed without covenant, except that the sale has in all particulars been conducted according to law. The deed shall not be valid unless recorded within sixty (60) days after the sale. Title taken pursuant to a sale under this section shall be absolute upon the recording of the deed of the treasurer in the proper registry of deeds within sixty (60) days (Forms 11 to 13).

Overview:

Notices: 90 Day – First Class to taxpayers & Certified to Dept of Elderly Affairs

40 Day – Certified to taxpayers, Dept of Elderly Affairs & notify RI Housing regular or electronically

20 Day – Certified to owner, mortgagee holders, parties w/ liens, holder of life estate/vested remainders

Unable to deliver – leave notice at taxpayer's last known address not less than 30 days

In case of a life estate, the interest of the tenant for life shall first be liable for the tax, and the remainderman, if assessed, shall be secondarily liable.

Postings: Must be posed in 2 public places at least 3 weeks prior to sale

Newspaper – full description once 3 weeks prior & a weekly formal notice thereafter

RI Housing: Property that is owner occupied and less than 3 units – RI Housing has first refusal. They must notify collector 30 days from receipt of certified mail or 10 days prior to sale.

Those who have to be notified: the present owner of record; mortgagees of record and mortgage assignees of record; former fee holders whose right to redeem has not been foreclosed; holders of tax title; federal agencies having a recorded lien on the subject property; holders of life estates of record and vested remainder, whose identity can be ascertained from an examination of the land or probate records of the municipality conducting the sale; and/or their assignees of record who shall be notified by the collector, either by registered or certified mail sent postpaid not less than twenty (20) days before the date of sale

Collector's Deed: Must be recorded within 60 days of sale to be valid

The smallest undivided part of the land which can be sold at the auction is 1%.

Jones vs Flowers – Arkansas Supreme Court ruled when the notice of a tax sale is returned unclaimed, the 14th Amendment's guarantee of due process requires the State to take additional reasonable steps to contact the property owner before it can sell the property, if it is practical to do so. They could have simply posted a notice on the front door addressed to 'occupant'.

Redemption penalties - penalty which shall be ten percent (10%) of the purchase price if redeemed within six (6) months after the date of the collector's sale, and an additional one percent (1%) of the purchase price for

each succeeding month, together with all charges lawfully added for intervening taxes, which have been paid to the municipality, plus interest thereon at a rate of one percent (1%) per month, and expenses assessed subsequently to the collector's sale.

The certificate of redemption shall be recorded by the treasurer on the land records within twenty (20) days after the entire redemption amount has been paid to the municipality. The recording costs for the certificate of redemption shall be paid by the redeeming party.

After one year from the tax sale, the title owner may bring a petition to superior court to foreclose all rights of redemption. RI Housing must wait 5 years.

GENERAL KNOWLEDGE

**Including MLC's & Motor Vehicles
and By-Laws**

Collection of Taxes Generally

Chapter 44 - 7 Index Of Sections

§ 44-7-1. Definitions.

§ 44-7-2. Duty of collector to collect and pay over.

§ 44-7-3. Collector's records.

§ 44-7-4. Continuance in force of collection warrants.

§ 44-7-5. Removal of collector from office – New collection warrant.

§ 44-7-6. City or town treasurer as collector.

§ 44-7-7. Notice by collector to taxpayer of amount of tax.

§ 44-7-7.1. Taxpayer information.

§ 44-7-7.2. Portsmouth – Tax bill contents.

§ 44-7-8. Permissive excise tax collection agreement.

§ 44-7-9. Delegated authority.

§ 44-7-10. Priority of city or town taxes in insolvency.

§ 44-7-10.1. Exeter – Non-issuance and/or renewal of licenses or permits to applicants or licensees in arrears in local taxes, liens and assessments in the town.

§ 44-7-10.2. Gloucester – Non-issuance of building and demolition permits to applicants in arrears in local taxes, liens, and assessments in town.

§ 44-7-11. Collectors to furnish statements of liens.

§ 44-7-12. Action for recovery of tax.

§ 44-7-13. Judgment for collector – Execution and levy.

§ 44-7-14. Cancellation of taxes – Erroneous, uncollectible, or illegal taxes – Incentive to rehabilitate property – Exeter – equitable cancellation in the town.

§ 44-7-15. Certificate of cancellation – Attachment to tax list.

§ 44-7-16. Action by city or town treasurer against delinquent collector.

§ 44-7-17. Execution against delinquent collectors.

§ 44-7-18. Execution against sureties of delinquent collector.

§ 44-7-19. Action by co-tenant for contribution to tax.

§ 44-7-20. Actions for refund of taxes.

§ 44-7-21. Severability.

§ 44-7-22. Remedy not exclusive.

§ 44-7-23. Exemption on uninhabited buildings.

§ 44-7-24. Legislatively created bodies – Collection of taxes, assessments, and other charges.

§ 44-7-25. Sale of rights to uncollected taxes that are due and payable.

§ 44-7-26. Jeopardy collections of taxes.

§ 44-7-27. Newport – Cancellation of real property taxes in the city.

§ 44-7-28. Gloucester and Coventry tax lien on mobile or manufactured home in the town.

44-7-2. Duty of collector to collect and pay over.

The collector shall collect all taxes levied by the city or town by the time directed for the payment of the taxes according to law, and shall pay over the taxes to the city or town treasurer by the time limited for the payment.

44-7-3. Collector's records.

All records kept by the collector shall be furnished by the city or town and shall be at all reasonable times open to the inspection of the auditor of the city or town or any other authorized agent of the city or town, and when the tax warrant has been executed and the accounts of the collector audited, the records showing the collection of all taxes or other disposition of the taxes shall be immediately returned to the city or town.

44-7-7. Notice by collector to taxpayer of amount of tax.

The collector, after receiving a tax list and warrant, shall immediately, at the expense of the city or town, send notice to each person assessed of the amount of his or her tax. The notice shall be mailed postpaid and directed to the address on file in the office of the city or town treasurer or the assessors of taxes. Failure by the collector to send or failure by the taxpayer to receive a notice shall not excuse the nonpayment of the tax or affect its validity or any proceedings for the collection of the tax.

44-7-7.1. Taxpayer information.

(a) When a municipality issues a property tax bill to each taxpayer, each bill shall state the amount by which the taxpayer's rate of tax has been reduced by the distribution of state municipal revenue sharing and state aid for education. The bill shall also state the total amount of state municipal revenue sharing and state aid for education received by the municipality from the state. The statement shall read as follows:

Fiscal Year 19....

State Aid to City/Town of

Total Amount

Tax rate reduced by

(b) The director of revenue shall annually provide each municipality with the amount of state municipal revenue sharing and state aid for education subject to identification under this section.

44-7-11: Collectors to furnish statements of liens.

(a) Cities, towns or fire districts. The collector of taxes for any city, town, or fire district shall, on written application by any person, and within five (5) days thereafter, excluding Saturdays, Sundays, and holidays, furnish to the applicant a single certificate of all taxes and other assessments, including water rates and charges, which at the time constitute liens on the parcel of real estate specified in the application and are payable on account of the real estate. The certificate shall be itemized and shall show the amounts payable on account of all taxes and assessments, rates, fees and charges, so far as the amounts are fixed and ascertained, and if the amounts are not then ascertainable, it shall be expressed in the certificate. In addition, the tax certificate shall include: (1) a statement as to whether there are any tax sales scheduled which would affect the parcel of real estate noted in the certificate; and (2) a statement as to whether any of taxes or other assessments noted on the tax certificate as being paid in full were paid as the result of a sale held pursuant to the provisions of chapter 9 of this title within the twelve (12) month period immediately preceding issuance of the certificate. Any city or town officer or board doing any act toward establishing any tax assessment, lien, fees or charge upon any real estate in the city or town shall transmit a notice of that act to the collector of taxes. The collector of taxes shall charge not more than twenty-five dollars (\$25.00) for each certificate so issued, and the money so received shall be paid into the city or town treasury. A certificate issued on or after October 1, 1966, under this section may be filed or recorded with the land evidence records of the city or town

in which the real estate shall be situated within sixty (60) days after its date, and if filed or recorded shall operate to discharge the parcel of real estate specified from the liens for all taxes, assessments or portions, rates, fees and charges which do not appear by the certificate to constitute liens, except the taxes, assessments or portions, rates, fees and charges which have accrued within one year immediately preceding the date of the certificate; provided, that they are noted in the certificate, and the taxes, assessments or portions, rates, and charges concerning which a statement has been filed or recorded in the land evidence records. A certificate issued under this section shall not affect the obligation of any person liable for the payment of any tax, assessment, rate, fee, or charge.

(f) City, town or fire district. The collector of taxes for any city, town, or fire district may, upon application for any municipal lien certificate, include and attach to the certificate at no additional fee, a separate motor vehicle excise tax certificate setting forth all motor vehicle excise taxes which at the time are due and payable to the town on account of any owner of any real estate referenced in the application. The closing agent presiding at the closing on any transfer of the real estate shall collect all sums due as set forth on the motor vehicle excise tax certificate and transmit the sums to the tax collector along with the forwarding address of the owner transferring any real estate. This section does not apply to refinancing transactions or to transfers of real estate within a family without consideration.

44-7-14. Cancellation of taxes – Erroneous, uncollectible, or illegal taxes – Incentive to rehabilitate property.

The city or town council of any city or town may cancel in whole or in part, taxes assessed upon personal, mixed, or real property:

- (1) When there is a mistake in the assessment of a tax, and the tax assessors have certified to the fact, in writing, to the body authorized by the provisions of this section to cancel taxes, setting forth the nature of the mistake, the valuation of the property, the amount of the tax assessed, and the name of the person to whom the property was taxed.
- (2) When a person dies leaving no estate, or removes from the state and owns no property or interest in property within the state, and the tax collector or person acting in the capacity of tax collector certifies, in writing, to the body authorized by the provisions of this section to cancel taxes, as to the facts in the case.
- (3) When the council is advised by the city or town solicitor, or the person acting in the capacity of the solicitor, by written opinion that a tax is illegal, and the tax administrator concurs in the opinion.
- (4) When the council is acting pursuant to §§ 45-44-1 – 45-44-13 or a properly enacted city or town ordinance intended to encourage the renovation, rehabilitation, or construction of tax delinquent properties.

44-7-15. Certificate of cancellation – Attachment to tax list.

Whenever any tax is cancelled in accordance with the provisions of § 44-7-14, the body canceling the tax shall certify to the tax collector, or person acting in the capacity of tax collector, that the tax has been cancelled, and the tax collector or person acting in the capacity of tax collector shall, upon receipt of the certification, immediately attach the certification to the tax list, whereupon it shall become a part of the list, and shall strike the cancelled tax from the list or correct the amount in the list, as the case may be. The liability of the collector of taxes or person acting in the capacity of collector of taxes and the surety on his or her bond shall be measured and determined by the tax list as amended by cancellations made under the provisions of this chapter, in the same manner and to the same extent as if it were the original list.

45-4-13. Bond of tax collectors.

(a) Every collector of taxes shall give bond, with sufficient surety, for the faithful performance of his or her trust, to the town treasurer of the town for which the collector is chosen, in any sum the town or the town council determines, not exceeding double the amount of the tax with the collection of which the collector is charged. Whenever any town elects its town treasurer as collector of taxes for the town, the bond to be given by the collector under the provisions of this section shall be given to the town, and delivered to the town council for safekeeping, and upon the happening of any breach of the condition of the bond, an action on the bond may be commenced in the name of the town to which it was given.

(b) Any collector of taxes, for any fire district that is covered by any other bond held by the district which gives sufficient coverage and protection for his or her duties as determined by the board of commissioners of the district, is exempt from the requirements of this section.

31-3-6. List of vehicles on which taxes delinquent – Denial of registration.

On or before October 31 in each year, the collector of taxes of each city or town shall furnish the division of motor vehicles, with a listing showing the registration plate numbers, names, and addresses of the taxpayers of the city or town whose personal property and/or excise tax on motor vehicles, the assessment of which were made the prior December 31 in the case of the property tax, and the tax levied in the current year in the case of the excise tax, remained unpaid as of the date of the list. Subsequently, the collector of taxes in each city or town shall, at the times and in the manner prescribed by the administrator of the division of motor vehicles, furnish to the division of motor vehicles the names and addresses of those persons whose names appeared on that list who have subsequently paid such personal property, and/or excise taxes on motor vehicles, and the division shall remove from the list the names and addresses of those persons. No city or town treasurer or tax collector shall refuse to accept personal property, and/or excise taxes on a motor vehicle, or refuse to remove the names and addresses of the owners of the vehicle from the list because of any other taxes owing the city or town. No person, corporation, partnership, joint stock company, or association whose name appears on the list and whose name has not been subsequently removed from the list shall be permitted to register any motor vehicle until all the excise and attendant penalties have been paid in full and the payment has been certified to the division of motor vehicles by the tax collector. The provisions of this section shall not be construed so as to prevent the payment of taxes on motor vehicles in quarterly installments as provided in chapter 5 of title 44. The provisions of this section shall apply in all respects in the case of taxes assessed upon motor vehicles by any fire district.

44-34-11. Rhode Island vehicle value commission.

(a) There is hereby authorized, created, and established the "Rhode Island vehicle value commission" whose function it is to establish presumptive values of vehicles and trailers subject to the excise tax.

44-5-7. Provision for municipal installment payments.

(a)(1) Every city and town shall make provision for the payment in installments of any tax levied under the provisions of § 44-5-1 by adding to and making a part of the resolution ordering the assessment and the collection of the tax an option permitting persons assessed to pay their taxes in equal quarterly installments if they so desire, free of any charges, interest, penalties, or other assessments, the amounts and dates for payment of the installments to be specified in the resolution; provided, that the city or town may provide that the option contained in the resolution does not apply to any tax levied in an amount not in excess of one hundred dollars (\$100) in which case the tax is payable in a single installment.

44-5-8.1. Waiver of interest on overdue quarterly tax payments.

(a) Notwithstanding any other provision in this chapter to the contrary, any city or town may, by ordinance duly enacted, authorize a waiver of interest on one quarter's overdue property tax payment and allow the

remaining balance of taxes owed to be paid on a quarterly basis if all of the following conditions are satisfied by the taxpayer:

(1) The property subject to the overdue payment is the residence of the taxpayer and has been for the five (5) years immediately preceding the tax payment which is overdue.

(2) The request for a waiver of interest is in writing, signed and dated by the taxpayer.

(3) The taxpayer has made timely payments of taxes to the city or town for the five (5) years immediately preceding the tax payment, which is overdue. The burden of proof of timely payments shall be upon the taxpayer.

(4) The bill for which the payment is overdue was issued less than two (2) years prior to the date of the request for a waiver of interest.

(b) In no event shall the waiver of interest on a tax bill exceed five hundred dollars (\$500). Decisions of the tax collector shall be in writing and contain a notice to the city or town council. If the taxpayer receives an adverse decision from the tax collector, the taxpayer must pay the interest and may file a claim for reimbursement with the city or town council within ten (10) days of the decision.

(c) Any request for a waiver of taxes which meets criteria established by this section pursuant to a duly enacted ordinance shall be granted by the city or town.

44-5-8. Form of option for quarterly payment.

(a) The option to allow payment of taxes in installments shall be expressed in substantially the following form:

"The tax may be paid in installments, the first installment of percent on or before the day of A.D. 20..... : (proportions and dates to be specified.)"

"Each installment of taxes if paid on or before the last day of each installment period successively and in order is free from any interest charge."

"If the first installment or any succeeding installment of taxes is not paid by the last date of the respective installment period or periods as they occur, then the whole tax or remaining unpaid balance of the tax, as the case may be, immediately becomes due and payable and carries until collected a penalty at the rate of percent (not less than six (6) nor more than eighteen (18) or, in the case of the city of Cranston, not more than twelve (12) per annum)."

(b) Notwithstanding the provisions of subsection (a), each municipality shall have the authority, in the case of failure of a taxpayer to pay the first installment or any succeeding installment by the last date of the respective installment period, to require immediate payment of only that late installment, and to impose an interest charge only on that late installment.

44-5-5. Determination of date on which taxes due – Penalties on delinquencies.

The electors in a financial town meeting of any town qualified to vote on any proposition to impose a tax or for the expenditure of money, or the city council of a city, shall determine the date on which taxes are due and payable and the date on which they are subject to a penalty, unless otherwise provided by law, and all taxes remaining unpaid on the specified date shall carry until collected a penalty at a rate determined by the electors or the city council; provided, that if a state of fiscal emergency is deemed to exist by a vote of any city or town council, then the city or town council is authorized until July 1, 1992, to determine the delayed date on which taxes are due and payable and the date on which they are subject to a penalty, and may adopt a procedure to

determine which persons assessed to pay the taxes are or have been adversely affected by the fiscal emergency.

44-5-7. Provision for municipal installment payments.

(a)(1) Every city and town shall make provision for the payment in installments of any tax levied under the provisions of § 44-5-1 by adding to and making a part of the resolution ordering the assessment and the collection of the tax an option permitting persons assessed to pay their taxes in equal quarterly installments if they so desire, free of any charges, interest, penalties, or other assessments, the amounts and dates for payment of the installments to be specified in the resolution; provided, that the city or town may provide that the option contained in the resolution does not apply to any tax levied in an amount not in excess of one hundred dollars (\$100) in which case the tax is payable in a single installment.

Overview:

Failure by the collector to send or failure by the taxpayer to receive a notice shall not excuse the nonpayment of the tax or affect its validity or any proceedings for the collection of the tax.

Each tax bill must state the amount by which the taxpayer's rate of tax has been reduced by state aid for education and include the total amount of state municipal revenue sharing and state aid for education received by the municipality.

Municipalities assess taxes on a calendar year but collect taxes based on a fiscal year.

A Multiple Lien Certificate (MLC) must be responded to within 5 days (not counting weekends & holidays) and the collector can not charge more than \$25 for each certificate which is good for 60 days.

Motor Vehicle taxes can be added to MLC's at no additional charge for any owner of the property in question.

The Vehicle Value Commission (VVC) sets the values for motor vehicles. MV bills are always for what was registered in the previous year. A tax block through the registry is the only remedy (with the exception of a MLC) collectors can use to collect delinquent MV taxes.

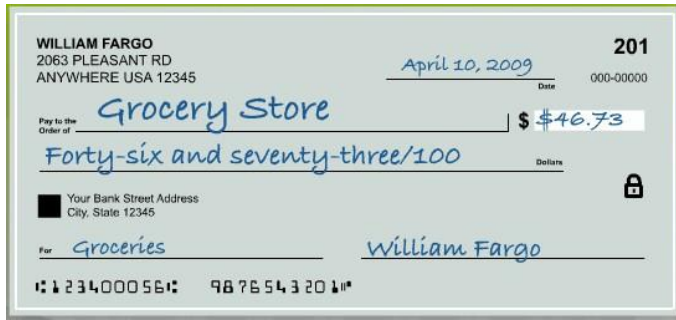
In no event shall the waiver of interest on a tax bill exceed \$500.

Calculating interest manually: $\text{rate} / 365 \times \# \text{ of delinquent days} \times \text{payment amount}$

The electors in a financial town meeting of any town qualified to vote on any proposition to impose a tax or for the expenditure of money, or the city council of a city, shall determine the date on which taxes are due and payable and the date on which they are subject to a penalty.

Tax bills must be broken down into 4 installments unless the total bill is less than \$100.

The Parts of a Check:



Pay to the order of

This is where the name of your municipality should be

Numeric amount box (this should always match the legal line)

The amount of the check is written in this box.

Written amount – legal line (this is the line the bank accepts)

The amount in words is written on this line.

Signature line

This gives the bank permission, or authorization, to release the money to the payee.

Account number

This is the 10-digit account number that is unique to each account. This tells the bank which account the money comes from.

Routing number

This is the bank routing number. It identifies the bank that issued the check.

RHODE ISLAND
TAX COLLECTORS' ASSOCIATION
CONSTITUTION AND BY-LAWS
(updated September 24, 2014)

ARTICLE I. Name

The Association shall be called the "Rhode Island Tax Collectors' Association."

ARTICLE II. Object

Its object shall be:

- To obtain a better understanding of the responsibilities and duties of collectors within this state through cooperation and mutual assistance.
- To provide a forum to discuss subjects relating to tax collection.
- To elevate the standards of collection by promoting a study of legislation which will strengthen and make more workable and understandable the general tax laws of this State and to promote justice and equity under the Constitution of the State of Rhode Island.

ARTICLE III. Membership

Regular Members:

Any duly appointed or elected collector and/or deputy collector, from each town in the State of Rhode Island and any fire district or water district tax collector. Any retired Tax Collector, Deputy or Assistant will be given the honor as Lifetime Certified member at no fee.

Associate Members:

Former Tax Collectors/Deputies, and anyone interested in Collection work, not regularly employed by this State or a municipality.

Dues:

Dues shall be set by the executive board each year and shall be payable by January 31st of each year. Members whose dues have not been paid by April 1st of each year shall be removed from the active rolls.

Annual Audit:

An annual audit of the accounts of the RITCA shall be performed within the Fiscal year of January 1st through December 31st.

ARTICLE IV. Officers and Committees:

The officers of this association shall consist of President, Vice President, Treasurer, and Secretary. Officers shall be elected at the annual meeting and only regular members in good standing shall hold offices. The term for all elected officers shall be for two years.

Terms of the elected officers shall begin within thirty days after elections. In the event of vacancy in the office of president, this office shall automatically be filled by the vice-president. In the event that the vice president does not wish or is unable to serve as president, the executive board will appoint a president *pro tem*, until such time as the body can elect a new president. All other vacancies occurring during the term of office shall be filled by the body at the next meeting.

Executive Board:

The Executive Board shall consist of all elected officers, the immediate past president and all committee chairman and two regular members elected by the body.

Terms of all executive board members shall be for two years. Terms of all members shall commence within thirty days of the annual meeting. Any vacancy shall be filled by the body at its next regularly scheduled meeting. A quorum shall consist of not less than three executive board members.

The board shall have an organizational meeting within thirty days after election of officers. The president shall serve as chairman. They shall be the advisory board to the entire membership and shall not make any decisions before presenting them to the entire body assembled at a regular or special meeting.

Committees:

Committees as needed shall be appointed by the president-such as: Legislative and Educational.

ARTICLE V. Meetings

There shall be at least three regular meetings per year.

- **Special Meeting:** A special meeting may be called by the president at any time provided the membership is notified at least ten days prior to such special meeting.
- **Annual Meeting:** The annual meeting shall be held in September (to be determined). This meeting may be conducted as a regular business meeting, followed by the election of officers.
- The president shall be empowered to have the Annual meeting at a place suitable during their term of office.
- A quorum shall consist of not less than 25% of regular members in good standing.

ARTICLE VI.

Amendments to constitution and bylaws

- **How to amend:**
This constitution may be amended by a two-thirds majority vote of the regular members in good standing present and voting at the annual meeting, provided that notice of any proposed amendment shall have been sent to all regular members not less than thirty (30) days prior to such meeting.
- **How to Propose:**
Amendments may be proposed either by initiatory petition signed by not less than ten (10) regular members or by resolution of the executive board. Such petition or resolution shall be placed in the hands of the secretary, notify all regular members that such proposed amendment will be voted on at the next regular meeting.

Format for conducting association meetings

1. All meetings shall be conducted according to Roberts Rules of Order.
2. Call to order by the presiding president.
3. Reading of the minutes of the previous meeting.
4. Treasurer's report.
5. Reading of communications.
6. Report of any committees.
7. Unfinished Business.
8. New Business.
9. Adjournment.

BANKRUPTCY

There are 3 types of bankruptcy – Chapters 7, 11 & 13

Chapter 7 is straight liquidation. Usually they have no assets, they won't lose their homes. Taxes do get paid. MV's do not. You can't hold up a car registration. Tax liens survive the bankruptcy. A chapter 7 bankruptcy case does not involve the filing of a plan of repayment as in chapter 13. Instead, the bankruptcy trustee gathers and sells the debtor's nonexempt assets and uses the proceeds of such assets to pay holders of claims (creditors) in accordance with the provisions of the Bankruptcy Code.

Chapter 11 is a corporate reorganization. This chapter of the Bankruptcy Code generally provides for reorganization, usually involving a corporation or partnership. A chapter 11 debtor usually proposes a plan of reorganization to keep its business alive and pay creditors over time. People in business or individuals can also seek relief in chapter 11. The debtor is supposed to list all debt. You need to check the amounts to be sure they are accurate.

Chapter 13 is a wage organizer plan. Debtor has to pay. What ever is left over from monthly expenses goes to the creditors. A chapter 13 bankruptcy is also called a wage earner's plan. It enables individuals with regular income to develop a plan to repay all or part of their debts. Under this chapter, debtors propose a repayment plan to make installments to creditors over three to five years. This is where loan modifications take place.

Pre-Petition & Post-Petition: Automatic stay of taxes happens at the filing. Taxes that are owed prior to the filing are pre-petition. You can not go to tax sale on these taxes. You can assess the taxes but you can not demand payment. Post Petition taxes can be collected.

Standing trustee is appointed by the courts.

341 meeting is a meeting of the creditors

You can ask for a relief from the stay to get money owed.

Entitled to interest that is provided under state law at 18% but they usually settle for 4 – 5%. You must be involved in the plan in order to get it.

You must get your claim in 70 days from the date of petition. What goes on the claim? Taxes owed prior to the filing. If no one objects to the plan it is assumed that you agree with it. You have 7 days to file objections.

If the corporation owns the real estate, then the tangible can be included.

Taxes are a priority claim and ahead of the banks.

Violating the stay has serious consequences. Make sure delinquent notices demanding payment are not sent.

Bankruptcy letters should always be sent to solicitor.

Stay is terminated when the case is closed, not when it's discharged.

Tax bills should state – if you have filed for bankruptcy, this is for informational purposes only.

You should set up procedures in the town hall as to how to deal with bankruptcy and who the information is forwarded to.

Pre-petition taxes apply to fire and sewer as well.

Motor vehicles taxes are not considered liens in RI.

Overview:

There are 3 types of bankruptcy -

Chapter 7 – straight liquidation

Chapter 11 – corporate reorganization

Chapter 13 – wage organizer plan

Automatic stay of taxes happens at the filing. Pre-petition taxes are taxes owned prior to filing. Post-petition taxes are after the filing. The stay is terminated when the case is closed, not when it's discharged.

A standing trustee is appointed by the court.

You should send all bankruptcy information to your solicitor and get your claimed filed with 70 days of the petition.

Tangibles can only be included if a corporation owns the real estate.

You can not demand payment for pre-petition taxes ones a petition is filed. Pre-petition taxes also apply to fire and sewer. Motor vehicles are not considered liens in RI.

ETHICS

Code of Ethics

CHAPTER 36-14 Index Of Sections

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§ 36-14-3. Code of ethics.

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§ 36-14-6. Statement of conflict of interest.

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§ 36-14-21. Severability.

Ethics - <http://www.ethics.ri.gov/code/>

36-14-1. Declaration of policy.

It is the policy of the state of Rhode Island that public officials and employees must adhere to the highest standards of ethical conduct, respect the public trust and the rights of all persons, be open, accountable, responsive, avoid the appearance of impropriety, and not use their position for private gain or advantage.

36-14-4. Persons subject to the code of ethics.

The following persons shall be subject to the provisions of the Rhode Island code of ethics in government:

- (1) State and municipal elected officials;
- (2) State and municipal appointed officials; and
- (3) Employees of state and local government, boards, commissions, and agencies.

36-14-5. Prohibited activities.

(a) No person subject to this code of ethics shall have any interest, financial or otherwise, direct or indirect, or engage in any business, employment, transaction, or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties or employment in the public interest and of his or her responsibilities as prescribed in the laws of this state, as defined in § 36-14-7.

(b) No person subject to this code of ethics shall accept other employment which will either impair his or her independence of judgment as to his or her official duties or employment or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties.

(c) No person subject to this code of ethics shall willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or employment or use any information for the purpose of pecuniary gain.

(d) No person subject to this code of ethics shall use in any way his or her public office or confidential information received through his or her holding any public office to obtain financial gain, other than that provided by law, for him or herself or any person within his or her family, any business associate, or any business by which the person is employed or which the person represents.

(e) No person subject to this code of ethics shall:

(1) Represent him or herself before any state or municipal agency of which he or she is a member or by which he or she is employed. In cases of hardship, the ethics commission may permit such representation upon application by the official provided that he or she shall first:

(i) Advise the state or municipal agency in writing of the existence and the nature of his or her interest in the matter at issue;

(ii) Recuse him or herself from voting on or otherwise participating in the agency's consideration and disposition of the matter at issue; and

(iii) Follow any other recommendations the ethics commission may make to avoid any appearance of impropriety in the matter.

(2) Represent any other person before any state or municipal agency of which he or she is a member or by which he or she is employed.

(3) Act as an expert witness before any state or municipal agency of which he or she is a member or by which he or she is employed with respect to any matter the agency's disposition of which will or can reasonably be expected to directly result in an economic benefit or detriment to him or herself, or any person within his or her family, or any business associate of the person, or any business by which that person is employed or which the person represents.

(4) Shall engage in any of the activities prohibited by subsection (e)(1), (e)(2), or (e)(3) of this section for a period of one year after he or she has officially severed his or her position with said state or municipal agency; provided, however, that this prohibition shall not pertain to a matter of public record in a court of law.

(f) No business associate of any person subject to this code of ethics shall represent him or herself or any other person, or act as an expert witness before the state or municipal agency of which the person is a member or by which the person is employed unless:

(1) He or she shall first advise the state or municipal agency of the nature of his or her business relationship with the person subject to this code of ethics; and

(2) The person subject to this code of ethics shall recuse him or herself from voting on or otherwise participating in the agency's consideration and disposition of the matter at issue.

(g) No person subject to this code of ethics, or spouse (if not estranged), dependent child, or business associate of the person, or any business by which the person is employed or which the person represents, shall solicit or accept any gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the person would be influenced thereby.

(h) No person subject to this code of ethics, or any person within his or her family or business associate of the person, or any business entity in which the person or any person within his or her family or business associate of the person has a ten percent (10%) or greater equity interest or five thousand dollars (\$5,000) or greater cash value interest, shall enter into any contract with any state or municipal agency unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded; provided, however, that contracts for professional services which have been customarily awarded without competitive bidding shall not be subject to competitive bidding if awarded through a process of public notice and disclosure of financial details.

(i) No person shall give or offer to any person covered by this code of ethics, or to any candidate for public office, or to any person within his or her family or business associate of any person, or to any business by which the person is employed or which the person represents, any gift, loan, political contribution, reward, or promise of future employment based on any understanding or expectation that the vote, official action, or judgment of the person would be influenced thereby.

(j) No person shall use for any commercial purpose information copied from any statements required by this chapter or from lists compiled from the statements.

(k) No person shall knowingly and willfully make a false or frivolous complaint under this chapter.

(l) No candidate for public office, or any person within his or her family, business associate of the candidate, or any business by which the candidate is employed or which the candidate represents, shall solicit or accept any gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the candidate would be influenced thereby.

(m) No person subject to this code of ethics shall, either directly or indirectly, through any government agency, or through a business associate, or through any other person, threaten or intimidate any complainant or witness or any family member of any complainant or witness in any proceeding before the state ethics commission.

(1) In addition to any rights a complainant or witness may have under the Rhode Island Whistleblowers' Protection Act, chapter 50 of title 28 or under any other statute, a complainant or witness may bring a civil action in superior court for appropriate injunctive relief, or actual damages, or both and attorney's fees within three (3) years after the occurrence of the alleged violation of subsection (m) above.

(2) The initiation of litigation by a complainant or witness pursuant to subsection (m)(1) shall not constitute a violation of any confidentiality provisions of this chapter.

(n)(1) No state elected official, while holding state office and for a period of one year after leaving state office, shall seek or accept employment with any other state agency, as defined in § 36-14-2(8)(i), other than employment which was held at the time of the official's election or at the time of enactment of this subsection, except as provided herein.

(2) Nothing contained herein shall prohibit any general officer or the general assembly from appointing any state elected official to a senior policy-making, discretionary, or confidential position on the general officer's or the general assembly's staff, and in the case of the governor, to a position as a department director; nor shall the provisions herein prohibit any state elected official from seeking or accepting a senior policy-making, discretionary, or confidential position on any general officer's or the general assembly's staff, or from seeking or accepting appointment as a department director by the governor.

(3) Nothing contained herein shall prohibit a state elected official from seeking or being elected for any other constitutional office.

(4) Nothing contained herein shall prohibit the Rhode Island ethics commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

(o)(1) No person holding a senior policy-making, discretionary, or confidential position on the staff of any state elected official or the general assembly shall seek or accept any other employment by any state agency as defined in § 36-14-2(8)(i), while serving as such policy-making, discretionary, or confidential staff member and for a period of one year after leaving that state employment as a member of the state elected official's or the general assembly's senior policy-making, discretionary, or confidential staff.

(2) Notwithstanding the foregoing, a person holding a senior policy-making, discretionary, or confidential staff position who has a minimum of five (5) years of uninterrupted state service shall be exempt from the provisions of this section. "State service" as used herein means service in the classified, unclassified and nonclassified services of the state, but shall not include service in any state elective office.

(3) Nothing contained herein shall prohibit any general officer or the general assembly from appointing any such senior policy-making, discretionary, or confidential member of the staff of any state elected official or the general assembly to any other senior policymaking, discretionary, or confidential position on any general officer's or the general assembly's staff, and in the case of the governor, to a position as a department director; nor shall the provisions hereof prohibit any senior policy-making, discretionary, or confidential member of the staff of any state elected official or the general assembly from seeking or accepting any other senior policy-making, discretionary, or confidential position on any general officer's or the general assembly's staff, or from seeking or accepting appointment as a department director by the governor.

(4) Nothing contained herein shall prohibit a person holding a senior policy-making, discretionary, or confidential staff position from seeking or being elected for any constitutional office.

(5) Nothing contained herein shall prohibit the Rhode Island ethics commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

Guide to the Code of Ethics

This provides a brief overview of the Code of Ethics for public officials and employees. It is not meant to serve as formal advice or to substitute for legal counsel. The Ethics Commission conducts hearings to consider revisions to the Code of Ethics. For up-to-date and complete information, contact the Commission at 401-222-3790 or by email at ethics.email@ethics.ri.gov.

Nepotism and Favoritism:

You may not participate in official actions, decisions or deliberations that affect your family members, business associates, outside employers or any business you represent. You may not hire, evaluate, supervise or otherwise participate in employment decisions affecting your family members. For an exhaustive list of persons who qualify as family members, See Commission Regulation 36-14-5004(a)(2). Business associates include anyone with whom you have joined together to achieve a common financial objective. See R.I. Gen. Laws §§ 36-14-5(a), 5(d), 5(f), 7(a), 7(b), and Commission Regulations 36-14-5004 and 5005.

Gifts:

You may not accept anything of value based on the understanding that the gift will influence your judgment or official action. This prohibition includes anything of value given to your family or your business associates. See R.I. Gen. Laws § 36-14-5(g),(i). Additionally, if you participate in making decisions, you may not accept cash or forgiveness of debt from interested persons, but may accept things of value (gifts, loans, rewards, promises of future employment, favors, discounts, etc.) from interested persons having a value up to and including \$25 per instance and up to \$75 per year from each interested person. An interested person is a person, business, or representative that has a direct financial interest in a decision that you participate in making. See Commission Regulation 5009. If you are a state procurement official, you may not accept any goods or services for personal use for less than fair market value from state vendors or prospective vendors within a 24 month time period. See R. I. Gen. Laws § 36-14.1-2.

Honoraria:

You may be asked to speak at conferences, meetings, and other functions. You may not accept honoraria, or payment, if you use public time or resources to prepare for or make the presentation or if you have decision-making authority over the sponsor. See Commission Regulation 5010.

Municipal/State Property:

Public property, vehicles, equipment and supplies are intended to serve a public purpose. Any use of municipal or state property for private purposes must conform to laws, rules and regulations adopted by the state, city or by your department. See R.I.G.L. § 36-14-5(d).

Confidential Information:

You may not use or disclose, for financial gain, confidential information acquired in the course of your official duties. See R.I. Gen. Laws § 36-14-5(c).

Outside Employment:

You may have a private or public sector job in addition to your state/municipal position; however, you may not accept outside employment that impairs your independence of judgment or that induces you to disclose confidential government information. See R.I. Gen. Laws § 36-14-5(b).

Acting as an Agent or Attorney:

You may not receive compensation to represent any person or organization before any agency, board, commission or other government entity over which you exercise fiscal or jurisdictional control, in any matter in which the state has an interest or is a party. There are several exceptions: You may accept outside compensation to represent others in the manner described above, if you are acting as a representative of a duly certified bargaining unit or the representation takes place in a state court of public record or you are asking the government entity to carry out a mandatory duty that does not involve any discretion. See Commission Regulation 36-14-5008(a).

Appearances Before Your Own Agency:

You may not represent yourself or anyone else before the agency you are a member of or employed by or any other agency for which your agency is the appointing authority. You also may not serve as an expert witness before your own agency. These prohibitions continue for one year after you leave your public job. See R.I. Gen. Laws § 36-14-5(e). The Ethics Commission may grant a hardship exemption allowing you to represent yourself before your own agency. To obtain an exemption you must request an advisory opinion. See R.I. Gen. Laws § 36-14-11 and Ethics Commission Procedural Regulation 1024.

Public Forum Exception:

The Code of Ethics does not limit your right to express your opinions and viewpoints in a public forum on any matter of general public interest, or any matter which affects said individual or his or her spouse or dependent child. See Ethics Commission Regulation 36-14-7003.

Revolving Door:

Members of a public body may not accept appointment from that body to any position that carries with it financial benefit or remuneration. This prohibition continues until one year after you leave your position. See Commission Regulation 36-14-5006. If you hold a senior policy-making, discretionary or confidential position on the staff of a state elected official or the General Assembly, you may not seek or accept other state employment in the classified, unclassified, or nonclassified service. This prohibition continues until one year after you leave your job. See R.I. Gen. Laws § 36-14-5(o). Limited exceptions apply under both provisions.

Contracts:

You may not enter into any contract with state or local government unless the contract is awarded through an open and public bidding process, including prior public notice and subsequent public disclosure. You may not be hired to provide professional services unless there is prior public notice and subsequent disclosure. These prohibitions also apply to your family, your business associates and to any business in which you, your family or business associates have a 10% or greater equity interest or a \$5000 or greater cash value interest. See R.I. Gen. Laws § 36-14-5(h).

Transactions with Subordinates:

You may not engage in a financial transaction, including private employment, loans, monetary, political or charitable contributions with an employee, contractor, or consultant over whom you exercise supervisory responsibilities. Exceptions include transactions in the normal course of a regular commercial business, or if the subordinate initiates the financial transaction, or for charitable events that are sponsored by the highest official or governing body of the state or municipality. See Commission Regulation 36-14-5011.

Moonlighting: Public Employees and Officials Undertaking Other Employment

Secondary private and public employment can cause conflicts of interest in some circumstances. The following are considerations for the public official or employee contemplating a second job.

Things to Consider:

Is the second job related to your public position?

Will you be doing similar work?

Will you come in contact with the same people in both jobs?

Can you refer clients to your private employer?

Does your second job require you to access information through your public agency?

Is the information confidential or public?

Do you have special access to information at your agency?

Is your private employer funded by or have a contract with your agency?

Does your private employment require you to appear (ie. make presentations) before your own agency?

Does your employer appear before your agency?

Dos and Don'ts:

Do not participate as a public employee or official in matters concerning your private employer.

Do not use public resources or time to perform your private job.

When recusing from participation in official matters, complete a conflict of interest form, give it your supervisor and send a copy to the Ethics Commission.

Call the Ethics Commission if you are unclear about your responsibilities.

Always ask for an Advisory Opinion from the Ethics Commission in advance of accepting private employment or taking official action if you are unsure about the potential conflicts posed.

Do I have a conflict of interest?

Ask yourself if it is “reasonably foreseeable” that:

- 1) A decision you are helping to make as part of your public duties,
- 2) Will result in a financial benefit or detriment,
- 3) To: You; or Your Family or household member; or Your outside employer; or your business associate
- 4) Or even if there is no financial impact, is a family member, household member, employer or business associate a party to, or participating in, the matter being discussed?

If the answer is “Yes”, then you have a conflict of interest and you must recuse from the participation in the matter.

How to recuse:

Complete a Statement of Conflict of Interest form, or write or sign a memo which includes the following information: You can find the form here: <http://www.ethics.ri.gov/education/recusalForm.pdf>

Name

Position & agency

Describe the nature of your conflict

Indicate that you are recusing from participation

Sign the memo or form under penalty of perjury

Present the original to your presiding officer, appointing authority, director, or immediate superior

Send a copy to the Ethics Commission

GIFTS:

To whom does the gift regulation apply?

All State elected and appointed officials & state employees

All Municipal elected and appointed officials & employees

What Gifts are prohibited?

Gifts of Cash, debt forbearance or debt forgiveness of any amount

A gift of goods or services having either a market value of an actual cost great than \$25

Multiple gifts from a single interested person or entity in one calendar year having an aggregate market value of aggregate actual cost of great than \$75.

Does the gift regulation apply to gifts received from anyone?

No. The gift regulation only applies to gifts received from an ‘interested person’. An interested person is a person or representative of a person or business that has a financial interest in a decision that the public official or employee is authorized to make or participate in, as part of their official duties.

Are there exceptions?

- If the interested person receives lawful consideration of equal or greater value in return, then the transfer is not considered to be a gift
- If the gift is immediately returned or given to a bona fide charity with no benefit accruing to the public official or employee, then the transfer is not considered to be a gift
- Lawful campaign contributions are not subject to the gift regulation
- Certain services to assist an official or employee in the performance of official duties and responsibilities are not considered gifts
- A plaque or similar item in recognition of service to field of specialty or charity
- A gift from a family member who is also an interested person
- A gift that is given because of the recipient's membership in a group, the majority of whose members are not subject to the Code of Ethics, and the same or equivalent gift is given or offered to the other members of the group

Q. Who is required to file with the Ethics Commission?

A. All State appointed and elected officials and employees holding major decision-making positions, as well as all municipal elected and certain municipal appointed officials are required by law to file a Financial Disclosure Statement every year. See R.I. Gen. Laws § 36-14-16. All officials required to file must continue to file Financial Disclosure Statements until they have been out of office for one full calendar year. Additionally, candidates for elected office are required to file a Financial Disclosure Statement within 30 days of the deadline for declaring candidacy.

Q. When must the statements be filed?

A. The Code of Ethics requires that a Financial Disclosure Statement be filed with the Ethics Commission by the last Friday in April, or within thirty (30) days of appointment to a public position or declaration as a candidate in an election.

Q. What is the purpose of financial disclosure?

A. The purpose of requiring financial disclosure is to help insure that those people who are acting in the public interest do not use their public positions to further their private financial interests. The Financial Disclosure Statement also provides evidence that there are no conflicts between an official's financial interests and his or her public office

Overview:

The following are subject to the provisions of the Rhode Island code of ethics in government:

State and municipal elected officials; State and municipal appointed officials; and Employees of state and local government, boards, commissions, and agencies.

Financial Disclosure Statement be filed with the Ethics Commission by the last Friday in April, or within thirty (30) days of appointment to a public position or declaration as a candidate in an election.

No person subject to this code of ethics shall use in any way his or her public office or confidential information received through his or her holding any public office to obtain financial gain, other than that provided by law.

It is the policy of the state of Rhode Island that public officials and employees must adhere to the highest standards of ethical conduct, respect the public trust and the rights of all persons, be open, accountable, responsive, avoid the appearance of impropriety, and not use their position for private gain or advantage.

RETENTION LAWS

LG2.1.2 Accounts Receivable Records: Records that document all monies received by the municipality. Includes property taxes, water, sewer, funds transfer, escrow accounts, general fund accounts, state aid and credits. Retention: Retain six (6) years after audit.

Note: Retain accounting records relative to the administration of contracts ten (10) years after audit

LG2.3 Tax Collection

LG2.3.1 Abatements Report of abatements/tax refunds calculated from assessor's report. May include attached assessor's report or notices.

Retention: Retain seven (7) years after audit.

LG2.3.2 Delinquent Tax Bill Notices Copies of delinquent tax bill notices sent to tax payers. Includes lists and worksheets.

Retention: Retain three (3) years.

LG2.3.3 Tax Sale Records (amended 5/2016) Records that document the preparation and auction of the tax sale. Includes official legal notice, certified returns with USPS receipts/undeliverable certified returns, and tax collector's return. May include but is not limited to: departmental copy of purchase requisition to place legal notice in newspaper, real property delinquent notice, correspondence, tax payer detail reports, requests for redemption information, account summary information, copies of tax bills, instructions for tax sale bidders, lists of auction attendees/sign-in form, copy of purchase requisition for auction services, copy of collector's deed and payment vouchers for the redemption of properties.

a) Official legal notice, tax collector's return, tax sale list and all records filed with the municipal clerk pursuant to RIGL §44-9 Tax Sales.

Retention: Permanent.

b) All other records created once costs occur relating to the tax sale.

Retention: Retain three (3) years from the date of the tax sale.

c) Tax sale preparation records for parcels removed from the tax sale due to payment of taxes.

Retention: Retain ninety (90) days from the date of the tax sale. See also: LG2.3.7 Agreements for Payment of Delinquent Taxes.

d) Tax sale preparation records which relate to RIGL 44-9-25(c).

Retention: Retain five (5) years from the sale of the property or transfer of title for taxes or until right of redemption is foreclosed whichever is longer.

LG2.3.4 Tax Sale Mailing Book Mailing receipt book used as a record of all certified letters sent to taxpayers regarding notification of taxes due prior to advertisement of tax sale.

Retention: Retain three (3) years after last entry.

LG2.3.5 Legal Advertisements Notices sent by the municipal tax collector to newspaper(s) for publication.

Content includes time, date and location of meeting, lists of parcels of real estate to be sold for the payment of taxes assessed. Includes owner(s) name and plat and lot numbers. May indicate which newspapers received

notice(s), where notice was posted, and which municipal officials received copies.

Retention: Retain one (1) year after audit.

LG2.3.6 Redemption Requests Calculation worksheet for determining taxes owed on property subject to tax sale.

Retention: Retain until of no further administrative value.

LG2.3.7 Agreements for Payment of Delinquent Taxes Agreements between the municipality and taxpayer for payment of delinquent taxes.

Retention: Retain six (6) years after final resolution.

LG2.3.8 Notice of Intention to Perfect Lien Financing Statement/UCC Lien filed by the tax collector/treasurer for payment of delinquent taxes on tangible property that is not subject to tax sale. Notice includes plat and lot numbers, type of tax, tax amount and interest. May include the following attached documentation: copies of tax bills, postal certification and receipts.

Retention: Retain until lien is discharged per RIGL §44-9-55 or allowed to expire after five (5) years (RIGL §44-9-52).

LG2.3.9 Bankruptcy Records Records that serve as notification to the municipality of the filing of a bankruptcy by an individual or business/corporation.

a) Official notices

Retention: Retain one (1) year.

b) Case files

Retention: Retain six (6) years after final disposition. Note: Copies of notices may be forwarded to the municipal solicitor.

LG2.3.10 Notice of Denial of Registration Rights Form supplied to the municipality from the Division of Motor Vehicles for purposes of informing tax payers who are delinquent in the payment of motor vehicle excise taxes. May include those returned by mail due to change of address.

Retention: Retain until updated or superseded or of no further administrative value. No Certification of Records Destruction required.

LG2.3.11 Refunds (amended 11/2010) Report of refunds issued for taxes paid on tangible and real property. a) Report of refunds

Retention: Retain six (6) years after audit.

b) Worksheets

Retention: Retain three (3) years.

LG2.3.12 Municipal Lien Certificates (amended 9/2013) Copy of certificate that itemizes the balance owed to the municipality of any unpaid taxes, assessments, rates and charges on property. May also be called a tax certificate. Includes plat and lot (or block and parcel) numbers, and exemptions. May include motor vehicle excise tax certificates, water and sewer closing statements, correspondence and supporting documentation (RIGL §44-7-11).

Retention: Retain one (1) year from date of issuance.

Note: Paid municipal lien certificates are filed in the land evidence records and are held by the municipal clerk as a permanent record. For the retention of fiscal records and/or data associated with the payment of balances owed and associated fees, see LG2.1.2 Accounts Receivable Records – retain six (6) years after audit. For the

retention of duplicate fiscal records and data held by other departments, see GS1.B15 Accounts Receivable Case Files – retain one (1) year after audit.

LG2.3.13 Tax Bills/Invoices (amended 5/2016)) Municipality’s copy of tax bills (electronic or hard copy) issued for the payment of taxes or services regarding real estate, motor vehicle, tangible, water and sewer. Includes supplemental and pro-rated tax bills. May include any supporting records such as lists, reports and worksheets as well as any records that document payment errors such as returned checks for stop payments and/or insufficient funds.

a) Tax bills

Retention: Retain six (6) years after audit.

b) Supporting records

Retention: Retain three (3) years. LG2.3.13 Tax Bills/Invoices

c) Payment error records

Retention: Retain three (3) years after resolution.

d) Undeliverable tax bills (added 5/2016)

Retention: Retain three (3) years.

LG2.3.14 Tax Bill Stubs and Receipts Daily Receipts of tax bills paid. May include tax bill stubs, daily cash reports or summary, register tapes and copies of bank deposit slips.

Retention: Retain one (1) year after audit.

Note: If using remote deposit system, retain scanned checks until completion of reconciliation, then shred. No notification required.

LG2.3.15 Claims Files Records of claims filed for purposes of tax collection. Records may include reports and lists of taxpayers that are delinquent on payment, affidavits and collection status reports.

a) Record copy of files

Retention: Retain seven (7) years after settlement.

b) Duplicate copies

Retention: Retain until of no further administrative value.

Note: Record copy may be held by municipal solicitor

Overview:

Accounts Receivable Records – 6 years after audit

Abatement Reports – 7 years after audit

Delinquent Tax Bill Notices – 3 years

Tax Sale Records: official legal notice, collector’s return, tax sale list & all records filed with town clerk – permanent. All other records created once costs occur relating to the sale – 3 years from date of sale.

Payment Plans – 6 years after final resolution

Bankruptcy records – official notices – 1 year; case files 6 years after final disposition

MLC’s – 1 year from date of issuance

Tax Bill Stubs & Daily Receipts – 1 year from audit

ACCESS TO PUBLIC RECORDS

TITLE 38 - Public Records - CHAPTER 38-2

Access to Public Records

§ 38-2-2 (4) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities), or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

(e) A public body receiving a request shall permit the inspection or copying within ten (10) business days after receiving a request. If the inspection or copying is not permitted within ten (10) business days, the public body shall forthwith explain in writing the need for additional time to comply with the request. Any such explanation must be particularized to the specific request made. In such cases the public body may have up to an additional twenty (20) business days to comply with the request if it can demonstrate that the voluminous nature of the request, the number of requests for records pending, or the difficulty in searching for and retrieving or copying the requested records, is such that additional time is necessary to avoid imposing an undue burden on the public body.

38-2-4. Cost. (a) Subject to the provisions of § 38-2-3, a public body must allow copies to be made or provide copies of public records. The cost per copied page of written documents provided to the public shall not exceed fifteen cents (\$.15) per page for documents copyable on common business or legal size paper. A public body may not charge more than the reasonable actual cost for providing electronic records or retrieving records from storage where the public body is assessed a retrieval fee.

(b) A reasonable charge may be made for the search or retrieval of documents. Hourly costs for a search and retrieval shall not exceed fifteen dollars (\$15.00) per hour and no costs shall be charged for the first hour of a search or retrieval. For the purposes of this subsection, multiple requests from any person or entity to the same public body within a thirty (30) day time period shall be considered one request.

38-2-7. Denial of access.

(a) Any denial of the right to inspect or copy records, in whole or in part provided for under this chapter shall be made to the person or entity requesting the right in writing giving the specific reasons for the denial within ten (10) business days of the request and indicating the procedures for appealing the denial. Except for good cause shown, any reason not specifically set forth in the denial shall be deemed waived by the public body.

(b) Failure to comply with a request to inspect or copy the public record within the ten (10) business day period shall be deemed to be a denial. Except that for good cause, this limit may be extended in accordance with the provisions of subsection 38-2-3(e) of this chapter. All copying and search and retrieval fees shall be waived if a public body fails to produce requested records in a timely manner; provided, however, that the production of records shall not be deemed untimely if the public body is awaiting receipt of payment for costs properly charged under § 38-2-4.

(c) A public body that receives a request to inspect or copy records that do not exist or are not within its custody or control shall, in responding to the request in accordance with this chapter, state that it does not have or maintain the requested records.

38-2-10. Burden of proof.

In all actions brought under this chapter, the burden shall be on the public body to demonstrate that the record in dispute can be properly withheld from public inspection under the terms of this chapter.

Overview:

Public record" or "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities), or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

A public body receiving a request shall permit the inspection or copying within ten (10) business days after receiving a request.

A public body must allow copies to be made or provide copies of public records. The cost per copied page of written documents provided to the public shall not exceed fifteen cents (\$.15) per page for documents copyable on common business or legal size paper.

All copying and search and retrieval fees shall be waived if a public body fails to produce requested records in a timely manner; provided, however, that the production of records shall not be deemed untimely if the public body is awaiting receipt of payment for costs properly charged.

In all actions brought under this chapter, the burden shall be on the public body to demonstrate that the record in dispute can be properly withheld from public inspection under the terms of this chapter.