

TAX LIENING

2019

Spring workshop

RSA 80:59. Real Estate Tax Lien; Optional Procedure.

- Real Estate of **every person or corporation** may be subject to the tax lien procedure by the collector.
- Municipality must have adopted RSA 80:58-86 in accordance with RSA 80:87.
- A real estate tax lien imposed in accordance with these provisions shall have **priority over all other tax liens.**



RSA 72:6 Real Estate.RSA 80:86. Tax Lien on Real Estate.

- **All real estate**, whether improved or unimproved, shall be **taxed** except as otherwise provided.
- **Real estate of every kind** levied upon under RSA 85 shall be **subject to the real estate tax lien** procedure, and the owner of such real estate shall have the right to redeem the real estate.



Taxes Subject to Lien Procedure

- Betterment/Special Assessments - RSA 231:30
- Current Use Change Taxes - RSA 79-A:7(e)
- Excavation Taxes – RSA 72-B:7
- Property Taxes - RSA 72:6
- Resident Taxes – RSA 72:1
- Sewer Rents – RSA 149-I:11
- Water Rents – RSA 38:22(a)
- Yield Taxes – RSA 79:6
- Discretionary Preservation Easements (Barn Assessments) - RSA 76:13
- Conservation Assessments/Discretionary Easements Etc....

BASIC STEPS OF THE PROPERTY TAX LIEN PROCESS

RSA 76:11-b Notice of Arrearage

RSA 80:60 Notice of Impending Lien

RSA 80:61 Affidavit of Execution of Real Estate Tax Lien

RSA 80:64 Report of Tax Lien

RSA 80:65 Notice by Lienholder to Mortgagee

RSA 80:66 How Notice Shall Be Given

RSA 80:69 Redemption

RSA 80:70 Notice of Redemption

RSA 80:71 Partial Payments in Redemption

RSA 76:11-b. Notice of Arrearage.

- The Tax Collector shall provide to the **owner as of April 1** or current owner, if known, a summary of **all uncollected** and unredeemed **taxes** on the property. This summary may be included on or with the tax bill, or may be sent by separate mailing **within 90 days** of the due date of the final tax bill.



Doolan Case Bankruptcy Note

- It is suggested that you add the following: **PLEASE NOTE:** If you are currently in bankruptcy and subject to the protections of the Automatic Stay provisions of Section 362(a) of the Bankruptcy Code, then the above language is hereby modified as follows:
- By sending this notice, the Town is not attempting to collect any delinquent tax debt from property owner's in bankruptcy and the notice should not be interpreted as requiring payment. The notice is a requirement of New Hampshire law.
- The Tax Collector or Town may not increase the rate of interest in cases where the Court has set such rate without seeking appropriate Bankruptcy Court approval.
- The provisions of federal bankruptcy law may affect the rights of the municipality under state law as long as the assessed property owner is in bankruptcy. A tax collector's deed cannot and will not be issued without appropriate Bankruptcy Court approval. A Tax Lien may be imposed, and the Town is required to give separate notice of that action.
- Please seek legal counsel if you have any questions concerning this bankruptcy section of the Notice of Delinquency and Unredeemed Tax Liens. The Tax Collector's Office cannot provide legal advice.

RSA 80:60. Notice of Lien.

- Collector shall give notice of impending lien.
 - At least 30 days prior to the execution of said lien.
 - Certified or registered mail return receipt requested to last known post office address of the current owner, if known, or the person against whom the tax was assessed.
- Notice shall:
 - State the name of the current owner, if known, or the person against whom the tax was assessed.
 - Description of the property as committed to the tax collector.
 - Date & time on which the last payment shall be accepted.
 - Amount of the tax, interest and costs to the date of execution.
- Return receipt shall be prima facie evidence that the collector has complied with the notice requirements of this section.

RSA 80:61. Affidavit of Execution of Real Estate Tax Lien.

- An affidavit of the execution of the tax lien to the municipality, county or state shall be delivered to the municipality by the tax collector on the day following the last date for payment of taxes as stated in the notice given in RSA 80:60.
- The collector shall execute to the municipality, county or state only a 100% common and undivided interest in the property and no portion thereof shall be executed in severalty by metes and bounds; provided, however, that where distinct interests in the property have been separately assessed, the tax lien shall be for 100% of the separate distinct interest upon which the taxes have not been paid.

RSA 80:64. Report of Tax Lien.

- Within 30 days after executing the tax lien.
 - Deliver or forward to the register of deeds a statement of the following facts:
 - Name of person taxed.
 - Description of the property as it appeared on the tax list committed.
 - Total amount of each tax lien, including taxes, interest, fees and costs incident to the tax lien process.
 - Date and place of execution.
 - Certified under oath by the tax collector.

RSA 80:62. Postponement of Execution; Execution of Tax Lien by Agent.

- Whenever it shall appear to the selectmen or assessors that the collector of taxes or deputy collector of taxes will be unable to execute the tax lien to the municipality as specified in the notice of lien, they shall have the power to delay the execution of the tax lien for a period not exceeding 3 days. If at the end of the postponed period, the tax collector or deputy tax collector of taxes is unable to execute the lien by reason of illness or other unavoidable cause, the selectmen or assessors may appoint in writing any duly qualified person to execute the tax lien and make the statutory return to the register of deeds.

RSA 80:65. Notice by Lienholder to Mortgagee.

- The lienholder (municipality, county or state), within 45 days of execution of the lien, shall identify and notify all persons holding mortgages upon such property as recorded in the office of the register of deeds.
- In the event that a person holds a mortgage on more than one piece of property, a listing of the property may be forwarded by the lienholder.
- If it is determined that one or more outstanding mortgages exist, the selectmen may direct the collector of taxes to identify and give such notice.
- Notice shall contain the date of the execution of tax lien, name of delinquent taxpayer, total amount of lien and costs for identifying and notifying mortgagees.

RSA 80:66. How Notice Shall be Given.

- Notice shall be in writing.
- Copy given to each mortgagee as recorded at the registry of deeds.
 - In hand,
 - Left at his usual place of abode, or
 - Sent by certified mail, return receipt requested, or registered mail to his last known post- office address.



RSA 80:69. Redemption.

- Any person with a legal interest may redeem by paying or tendering to the collector:
 - Before a deed is given.
 - Amount of real estate lien, with interest @ 18% or 14% per annum upon the whole amount of the recorded lien.
 - From the date of execution to the time of payment in full.
 - Except in the case of partial payments in redemption.
 - » Interest computed on the unpaid balance, together with redemption costs and costs for identifying and notifying mortgagees.

RSA 80:70. Notice of Redemption.

- When full redemption is made:
 - Tax Collector shall within 30 days notify the register of deeds.
 - Name of the person redeeming.
 - Date when redemption was made.
 - Date of the execution of the tax lien.
 - Brief description of the real estate in question.
 - Name of the person or persons against whom the tax was levied.

RSA 80:71. Partial Payments in Redemption.

- Any person with a legal interest in real estate upon which a real estate tax lien has been executed may make partial payments in redemption.
 - Tax Collector receives the partial payment and gives a receipt therefor.
 - Pay over such sums to the town treasurer.
 - If complete redemption is not made before a deed is given to the lienholder:
 - Tax Collector shall within 10 days direct the selectmen to issue an order upon the town treasurer to refund to the person making such partial payments or his heirs or assigns the sum so paid.
 - Selectmen shall promptly issue such order.
 - » If not issued within 30 days of the time the collector directs that the order be issued, the sum to be refunded shall draw interest at 6% per annum from the date the sum was directed to be paid to the date of actual payment.

RSA 80:54 Calendar Days.

- Whenever the word “day” or “days” is used in this or any other chapter of the RSA’s relating or appertaining to the collection of taxes, giving of notices, holding of distrained property or in making reports to a register of deeds, it shall be construed to mean calendar days and Sundays and holidays shall be included.



RSA 80:55. Timely Mailing.

- Any report, claim, tax return, statement and other document, relative to tax matters, required or authorized to be filed with any payment made to the state or to any political subdivision thereof which is transmitted through the US mail, shall be deemed filed and received by the state or political subdivision on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it;
- Mailed but not received by the state or political subdivision or where received and the cancellation mark is illegible, erroneous, or omitted, shall be deemed filed and received on the date it was mailed if the sender establishes by competent evidence that the report, tax return, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing; and in cases of such nonreceipt of a report, tax return, statement, remittance, or other document required by law to be filed, the sender files with the state or political subdivision a duplicate within 30 days after written notification is given to the sender by the state or political subdivision of its nonreceipt of such report, tax return, statement, remittance or other document.

RSA 80:55 cont.

- **Registered Mail, Certified Mail, Certificate of Mailing.** If any report, claim, tax return, statement, remittance, or other document is sent by the US PO of such registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed, and the date of registration, certification or certificate shall be deemed the postmarked date.
- **Saturdays, Sundays, and Legal Holidays.** If the date for filing any report, claim, tax return, statement, remittance, or other document falls upon a Saturday, Sunday or legal holiday, the filing shall be considered timely if performed on the next business day.
- **80:83. Exception.** The provisions of this action shall not apply to payment or remittance as a result of execution of tax liens or tax lien redemptions or payment of subsequent taxes thereon.

RSA 80:73. Part Owners. RSA 75:2 Distinct Interests

- 80:73. Each person having a legal interest with others in any taxable real estate may pay his proportion of the tax assessed thereon:
 - Provided that his share of interest therein shall have been definitely determined and recorded in the annual invoice and in the warrant book as committed to the collector.
- In case of tax delinquency:
 - He may pay the taxes upon his share or interest in the property and the residue only may be subject to the tax lien procedure.
- After the tax lien has been executed:
 - He may redeem his interest in the property by paying his assessed proportion of the taxes, accrued interest and costs incident to the real estate tax lien process.
- 75:2. Whenever it shall appear to the selectmen that several persons are owners of distinct interests in the same real estate, or that one person is owner of land and another is the owner of any building, timber, or wood standing thereon, or ores or minerals therein, they MAY, upon request, appraise such interests and assess the same to the owners thereof separately, except as provided in RSA 75:3.