

Article 28.

Special Duties to Pay Taxes.

§ 105-383. Fiduciaries to pay taxes.

(a) Duty to Pay. – It shall be the duty of every guardian, executor, administrator, agent, trustee, receiver, or other fiduciary having care or control of any real or personal property to pay the taxes thereon out of the trust funds in his hands.

(b) Liability for Failure to Pay. – Any fiduciary who fails to pay the taxes on property in his care or control when trust funds are available to him for that purpose shall be personally liable for the taxes. This liability may be enforced by a civil action brought in the name of the tax collector of the taxing unit to which the taxes are owed against the fiduciary in an appropriate division of the General Court of Justice of the county in which the taxing unit is located.

(c) Liability for Sale of Property. – Any fiduciary who suffers property in his care or control to be sold by reason of his negligence in failing to pay the taxes thereon when available funds were in his hands shall be liable to his ward, principal, or cestui que trust for all actual damages incurred as a result of his neglect.

(d) Effect of Section. – This section shall not have the effect of relieving property and estates held in trust or under the control of fiduciaries from the lien of property taxes. (1762, c. 69, s. 14; R.C., c. 54, s. 27; 1868-9, c. 201, s. 32; 1879, c. 71, s. 53; Code, ss. 1595, 3698; Rev., s. 2862; C.S., s. 7985; 1971, c. 806, s. 1.)

§ 105-384. Duties and liabilities of life tenant.

(a) If real or personal property is held by a tenant for life or by a tenant for the life of another, it shall be the duty of the life tenant to pay the taxes imposed on the property.

(b) Any remainderman or reversioner of real or personal property who pays the taxes thereon may recover the money so paid in an action against the life tenant of the property; in the case of real property, the action may be brought only in the appropriate division of the General Court of Justice of the county in which the real property is located.

(c) Any tenant for life of real or personal property who suffers the property to be foreclosed and sold or sold under levy for failure to pay the taxes thereon shall be liable to the remainderman or to the reversioner for any damages incurred. (1879, c. 71, ss. 53, 54; Code, ss. 3698, 3699; 1901, c. 558, s. 45; Rev., s. 2859; C.S., s. 7982; 1971, c. 806, s. 1.)

§ 105-385. Duty to pay taxes on real property; judicial sales; sales under powers; governmental purchasers.

(a) Judicial Sales. – In all civil actions and special proceedings in which the sale of any real property is ordered, the judgment shall provide for the payment of all taxes then constituting a lien upon the property and all special assessments or installments thereof then due, and the tax liens and special assessments shall be satisfied from the proceeds of the sale before the proceeds are disbursed. The judgment in such a civil action or special proceeding shall adjust the disbursements for taxes and special assessments between the parties to the action or special proceeding in accordance with their respective rights.

(b) Sales under Powers. – Any person who sells real property under a power of sale conferred upon him by a deed, will, power of attorney, mortgage, deed of trust, or assignment for the benefit of creditors shall from the proceeds of the sale first satisfy all taxes constituting a lien upon the real property and all special assessments or installments thereof then due unless the notice

of sale provided that the property would be sold subject to tax liens and special assessments, and it was so sold.

(c) Governmental Purchasers. – Any agency, department, or institution of the State of North Carolina and any county or municipal corporation that purchases real property shall satisfy all taxes constituting a lien upon the property purchased and all special assessments or installments thereof then due by deducting the amount of the taxes and special assessments from the purchase price and paying it to the proper taxing unit or units. Any agency, department, or institution of the State and any county or municipal corporation that fails to make the deductions and payments required by this subsection (c) shall be liable to the taxing unit or units to which the taxes and special assessments are owed for the amount thereof. This liability may be enforced in a civil action brought by the taxing unit or units to which the taxes and special assessments are owed in the appropriate trial division of the General Court of Justice of the county in which the property is located; this remedy shall be in addition to any remedies the taxing unit may have against the grantor of the property. (1901, c. 558, s. 47; Rev., s. 2857; C.S., s. 7980; 1929, c. 231, s. 1; 1951, c. 252, s. 1; 1971, c. 806, s. 1.)

§ 105-386. Tax paid by holder of lien; remedy.

If any person having a lien or encumbrance of any kind upon real property shall pay the taxes that constitute a lien upon the real property:

- (1) He shall thereby acquire a lien upon the real property from the time of payment, which lien shall be superior to all other liens and which may be enforced by an action in the appropriate division of the General Court of Justice of the county in which the real property is situated.
- (2) He may, by an action for moneys paid to the use of the owner of the real property at the time of payment, recover the amount paid. (1879, c. 71, s. 55; Code, s. 3700; 1901, c. 558, s. 46; Rev., s. 2858; C.S., s. 7981; 1971, c. 806, s. 1.)