

# Request for Board of Commissioners' Action

**From:** Faye Hughes, County Administrator **Date:** 9/11/2018

**Subject:** Judicial in Rem Tax Resolution **Item Number:** VIII-D

Tonya McConnell, Tax Commissioner, is going to have a tax sell due to delinquent taxes. Some of the property is tied up in a way that prohibits her from following through with the procedures she has been authorized by the voters to follow. Attached is a resolution the Board needs to adopt in order for her to proceed with the tax sell.

Legislature provides a method in O.C.G.A. 48-4-76 et seq for judicial foreclosure and sale of property to collect delinquent ad valorem taxes. O.C.G.A. 48-4-76 provides the tax commissioner authority to proceed provided the county adopts an ordinance or resolution for that authority. That is the resolution she is requesting the county adopt.

With that authority the tax commissioner must then file a petition in superior court seeking a tax foreclosure. The procedure cannot be started until the taxes on the subject property are delinquent for more than 12 months.

After the petition is filed the tax commissioner must request a judicial hearing before the superior court and evidence must be presented as to delinquency, notice etc. This is covered in O.C.G.A. 48-4-79.

After a finding by the court of the requisite evidentiary findings the sale may then proceed. After the sale the owner shall then have a period of 60 days to redeem the property by paying the delinquent taxes and that requires the dismissal of the foreclosure action.

The code provides numerous safe guards for the owner, i. e. delinquent tax payer. The procedure provides a clean and transparent method for collecting delinquent taxes owed on property. Without the resolution the tax commissioner cannot procedure in this manner.

The Tax Commissioner, Tonya McConnell has requested the Board adopt the attached resolution.

Motion made by \_\_\_\_\_

Second made by \_\_\_\_\_

Any discussion: \_\_\_\_\_  
\_\_\_\_\_

Votes \_\_\_\_\_ yes \_\_\_\_\_ no

Motion carried/ failed

**JUDICIAL IN REM TAX FORECLOSURES RESOLUTION BY BOARD OF  
COMMISSIONERS OF COOK COUNTY, GEORGIA**

**WHEREAS**, the General Assembly of the State of Georgia has by enactment made the following legislative findings:

- (1) The nonpayment of ad valorem taxes by property owners effectively shifts a greater tax burden to property owners willing and able to pay their share of stock taxes;
- (2) The failure to pay ad valorem taxes creates a significant barrier to neighborhood and urban revitalization;
- (3) Significant tax delinquency creates barriers to marketability of the property;
- (4) Nonjudicial tax foreclosure procedures are inefficient, lengthy, and commonly result in title to real property which is neither marketable nor insurable; and
- (5) Putting certain tax delinquent properties back on the tax rolls and into productive use helps to eliminate health and safety hazards; and

**WHEREAS**, COOK County Board of Commissioners desires to improve the payment of ad valorem taxes, improve the marketability and insurability of property, decrease safety hazards associated with delinquent properties, and return certain tax delinquent properties to the tax rolls and into productive use; and

**WHEREAS**, the General Assembly of this State has amended Chapter 4 of Title 48 of the Official Code of Georgia Annotated by adding Article 5 relating to tax sales, specifically providing for a method of judicial in rem foreclosures of tax executions; and

**WHEREAS**, O.C.G.A. 48-4-76(a) provides that governing authorities of counties may proceed with judicial in rem tax foreclosures for delinquent taxes upon enacting an Ordinance or Resolution so to do; and

**WHEREAS**, COOK County desires to enact such Resolution so that it may proceed with judicial in rem tax foreclosures;

**IT IS THEREFORE RESOLVED**, that the governing authority of COOK County, Georgia does hereby declare that it will follow the requirements of S.B. 383 as set forth in Article 5 of chapter 4 of Title 48 of the Official Code of Georgia Annotated relating to tax sales, regarding judicial in rem tax foreclosures;

**THEREFORE, BE AND IT IS FURTHER RESOLVED**, that the duly elected Tax Commissioner for COOK County shall have the authority to commence tax foreclosure and to file petition with the COOK County Superior Court in accordance with Article 5 of Chapter 4 of Title 48 of the Official Code of Georgia Annotated relating to tax sales; and

**NOW THEREFORE BE IT FINALLY RESOLVED**, that as so provided by the state law effective April 7, 1995, COOK County may undertake judicial in rem tax foreclosures for delinquent taxes.

**IT IS SO RESOLVED**, by the Board of Commissioners of COOK County, Georgia on this 17th day of September 2018.

**BOARD OF COMMISSIONERS OF COOK COUNTY, GEORGIA**

BY: \_\_\_\_\_  
Debra Robinson, Chair

ATTEST: \_\_\_\_\_  
Vicki S. Parrish, Clerk