



**THE ATTORNEY GENERAL
OF TEXAS**

Gerald C. Mann

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Opinion No. 0-2859

Re: Transfer of delinquent
tax liens and whether
homestead may be fore-
closed upon for the pay-
ment of delinquent taxes
thereon.

Dear Sir:

In your letter of October 26, 1940, you request our opinion in substance (1) whether a person may at the request of the owner of a piece of property pay taxes delinquent thereon and receive a valid transfer of the tax lien and (2) whether a homestead may be foreclosed upon legally for the sale of taxes due thereon.

Relating to your first question we enclose a copy of our opinion No. 0-2830 concerning the status of a transferee of the tax lien under Article 7345a, Vernon's Civil Statutes. As pointed out in that opinion said Article 7345a is largely declaratory of the rights of subrogation existing prior to the passage thereof. Since in that opinion we went rather fully into the question of the rights acquired by the transferee of a tax lien we deem no further discussion necessary under your first question other than to say that in our opinion said Article 7345a is valid and by complying with its provisions a person may at the request of a land owner pay taxes delinquent on land owned by the latter and obtain a valid transfer of the tax lien from whatever taxing authority may be due the taxes. Your letter is accompanied by a form which your office has promulgated for use in transferring tax liens. We have examined that form and find that it complies fully with the requirements of Article 7345a and its use therefore bears our approval.

It has been well established by the decisions of our courts that the homestead is liable and may be foreclosed upon not only for the taxes which are assessed upon it but also for the penalties which the law prescribes in case of failure to make payment of such taxes. City of San Antonio v. Toepperwein 133 S.W. 416, by the Supreme Court; Tate v. McCraw, 73 S.W. (2) 559; Stephens v. City of El Paso, 81 S.W. (2) 149. Accordingly we answer your second question in the affirmative.

GRL:rw:hp

Encl.

APPROVED NOV 1, 1940

/s/ Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

Yours very truly,

ATTORNEY GENERAL OF TEXAS

/s/ Glenn R. Lewis

By Glenn R. Lewis, Assistant

Approved

Opinion

Committee

by BWB

Chairman