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March 16, 1976

R75-580

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Mr. Charles Preimsberg
Yavapai County Attorney
Yavapai County Courthouse
Prescott, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Mr. Preimsberg:

This letter is in response to your inquiries regarding Title 35, Chapter 3, Article 4.1, entitled "Summary Sale of Property for Special Assessment Default," A.R.S. §§ 35-481 through 35-483. The questions that you requested be answered are:

1. Is this article applicable to the sale of property for delinquent assessments and taxes other than delinquent installments of special assessments?
2. If the answer to Question #1 is negative, must the assessments and taxes to which this article is not applicable be collected separately after the sale under this article?
3. If the answer to Question #1 is affirmative, is the redemption period for the assessments and taxes to which this article is applicable controlled by A.R.S. § 11-743?

It is our opinion that the answer to Question #1 is "No" and that the answer to Question #2 is "Yes". An answer to Question # 3 is unnecessary because of our answer to Question #1.

It is clear from the language of A.R.S. § 35-841(A) that the remedy provided by this article is only applicable to the sale of property for delinquent installments of special assessments (1) which are secured by a lien on property and (2) upon the security of which bonds have been issued. It is not applicable to the sale of property for delinquent taxes or other delinquent assessments which do not satisfy the requirements of A.R.S. § 35-841(A). This remedy is an additional remedy for the collection of delinquent installments of qualifying special assessments and does not nullify or modify the existing remedies and

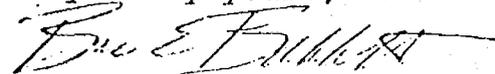
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procedures for delinquent taxes (A.R.S. §§ 42-381 to 42-406) or for nonqualifying delinquent assessments (A.R.S. §§ 9-678 to 9-704, 11-736 to 11-744).

Our answer to Question #2 is "Yes". A review of the remedies provided for the sale of property for delinquent taxes and assessments indicates that the remedy provided by this article is more expeditious than these other remedies. Since the procedures provided by these various remedies must be strictly followed, Nicholas v. Fowler, 89 Ariz. 7, 357 P.2d 331 (1961), the delinquent assessments and taxes to which this article is not applicable will need to be collected separately after the sale under this article. The purchaser at such sale takes the property subject to all assessments, taxes, and obligations which have priority to the lien for which the property is sold and subject to the continuing obligation of the property for installments of special and other assessments. A.R.S. §§ 35-482(E). The governmental entity using the remedy provided by this article may be able to coordinate the procedural requirements for several other remedies with this remedy to enable it to sell property at one sale for delinquent taxes and assessments as well as delinquent installments and special assessments. Essentially, this will require the pursuit of two or more remedies at the same time regarding the same property.

It has been suggested that this article may be unconstitutional because it was "log-rolled" through the Legislature in violation of Article 4, Part 2, Section 13 of the Arizona Constitution. Article 4, Part 2, Section 13 of the Arizona Constitution provides that "every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title". The purpose of this provision is to prevent the surprise and evils of omnibus bills and surreptitious and hodgepodge legislation. In re Dos Cabezas Power Dist., 17 Ariz. App. 414, 419, 498 P.2d 488 (1972); accord, State v. Espinosa, 101 Ariz. 474, 421 P.2d 322 (1966); Shaw v. State, 8 Ariz. App. 447, 447 P.2d 262 (1968). It is our opinion that the act, ch. 148, § 3 [1975] Ariz. Sess. Laws, 1st Reg. Sess. p.791, by which this article became law satisfies the subject matter and title requirements of Article 4, Part 2, Section 13 of the Arizona Constitution. In re Dos Cabezas Power Dist., supra; accord, State v. Lockhart, 76 Ariz. 390, 265 P.2d 447 (1953); Hood v. State, 24 Ariz. App. 457, 539 P.2d 931 (1975).

Very truly yours,


BRUCE E. BABBITT
Attorney General

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