Act 182 Prohibits Tax Sale While a VHAP Application Is Pending

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On June 7, 2022, Governor Scott signed S.226 (Act 182(opens in a new tab)) which concerns tax sales for non-payment of property tax or utility fees. The law clearly provides that if a municipality intends to proceed with a tax sale on a residential property, an additional "VHAP notice" must be sent to the delinquent taxpayer's last known address not less than 60 days before giving the final notice of tax sale. This notice must state that the delinquent taxpayer may be eligible for assistance through the Vermont Homeowner Assistance Program (VHAP). Section 21(a) of the law contains specific language that must be used.

> Once notified that a VHAP application is pending, a town may not proceed with a tax sale until the homeowner is deemed ineligible, the application is closed due to inaction by the applicant, or payment is issued to the municipality on a qualifying application. Act 182 also requires the municipality to include the same VHAP notice when it sends the final notice of tax sale.

VHAP is a Vermont Housing Financing Agency (VHFA) program to help homeowners pay past-due taxes and water and sewer charges. If a homeowner's application is successful, VHAP will pay the town delinquent taxes, charges, interest, and penalties on the applicant's behalf.

Once notified that a VHAP application is pending, a town may not proceed with a tax sale until the homeowner is deemed ineligible, the application is closed due to inaction by the applicant, or payment is issued to the municipality on a qualifying application.

It is clear that the same VHAP notice will need to be sent to the delinquent taxpayer's last known address if that taxpayer's property was sold before June 7, 2022 (the effective date of the law) but the deed conveying the property had not been executed. In this case, the VHAP notice needs to be sent no later than July 7, 2022 (30

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days after the law's effective date). The redemption period will be extended until the applicant is deemed ineligible, the application is closed due to inaction by the applicant, or payment has been issued.

The VHAP language will be repealed on September 30, 2025, and notices will no longer be necessary when funding is exhausted.

Less clear from the letter of the law is what municipalities are to do if they have already noticed a tax sale prior to June 7, 2022 – the effective date of the law – but have not conducted the sale before then, as any mention of this period of time is conspicuously absent from Act 182. Given the intent of the law (to notify delinquent taxpayers of assistance provided through VHAP and to prohibit tax sales while VHAP applications are pending), we believe that if notice must be sent to delinquent taxpayers for property sold prior to June 7 and also 60 days prior to giving notice of tax sale, then a VHAP notice would also be required for all notices sent in between those periods of time (i.e., notices sent for tax sales prior to June 7, 2022, that have yet to occur). In this event, we would recommend cancelling any pending tax sales noticed before June 7, sending the statutorily prescribed VHAP notice 60 days prior to serving a new notice of tax sale on the delinquent taxpayer, and including an additional VHAP notice along with the new notice of tax sale. The costs associated with this additional notice can be added to the cost of the tax sale when formulating its minimum bid price. Though this will undoubtedly delay the tax sale process, it seems to be at least part of the objective behind this act.

If a municipality has already noticed its tax sale prior to June 7 but has already conducted its sale after that date, we recommend sending the VHAP notice no more than 30 days after the law's effective date similar to if the sale had occurred prior to June 7. The law doesn't explicitly address this scenario either, but the intent of the law would seem served by this similar treatment.

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Delinquent taxpayers can apply for VHAP online at vermonthap.vhfa.org(opens in a new tab). For advice about the program and help completing the application, they can call Vermont Legal Aid at 1-800-889-2047.

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