

Former Section 5718, General Code, provided in substance that when at the expiration of four years after the taxes had been certified delinquent to the Auditor of State, (if in the meantime such lands had not been redeemed) the Auditor of State might cause foreclosure proceedings to be brought in the name of the County Treasurer, to subject such lands to the payment of the lien of such delinquent taxes, penalties, etc.

No authority is contained in this section or in the act of which it was a part, (popularly known as the "Boyle Act") to bring any foreclosure proceedings prior to the certification. The only provision that was contained in the General Code which would authorize a foreclosure prior to certification was contained in Section 2667, General Code, but this section has been amended so as to take away such right. The only authority now given by statute to bring a foreclosure proceeding to subject land to the payment of a tax lien thereon is contained in Sections 5712 et seq. General Code. Section 5717, General Code, specifically provides:

"No proceedings in foreclosure, under this chapter shall be instituted on delinquent lands, unless the taxes, assessments, penalties, and interest have not been paid for three consecutive years after such lands have been certified as delinquent."

I must therefore answer your second inquiry in the negative.

Specifically answering your inquiries it is my opinion that:

1. In compiling the new or first delinquent list under Section 5704, General Code, the items of taxes and assessments which have not been certified to the Auditor of State as delinquent as provided under the former law, do not bear interest until they have been placed on "the list and duplicate thereof of all delinquent lands in his county" by the county auditor, even though such taxes have been delinquent since 1927.

2. Such items may not be certified for foreclosure under the provisions of Section 5718, General Code, until after they shall have remained for three years on the list of delinquent lands of such county.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

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4613.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENT IN FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, September 14, 1932.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*