

owners or its, his or their agent, shall be justified in paying the same when due and charging the same to the contractor. The person or persons to whom any such debt is due and who shall deliver a verified account thereof as above provided, may recover the amount thereof in an action at law, to the extent of any balance due by such owner or owners to the contractor at or after the time of delivering the verified account. Provided, that nothing contained in this section or in W.S. 41-5-202 shall interfere with the right of action upon the bond or bonds provided for in W.S. 41-5-201, or against the company or other owner, for the full amount of any such debt in case of a failure to take a bond.

CHAPTER 6 - IRRIGATION AND DRAINAGE DISTRICTS GENERALLY

ARTICLE 1 - JOINT OPERATION AND COOPERATION BETWEEN DISTRICTS

41-6-101. Authority to cooperate.

Whenever two (2) or more incorporated irrigation or drainage districts desire to cooperate in the operation and maintenance of their respective systems of irrigation or drainage works, they may do so by availing themselves of the provisions of this act, as hereinafter more particularly provided.

41-6-102. Election upon request of landowners; procedure generally.

The commissioners of any such district may, and, upon written request of not less than ten (10) landowners thereof, shall, at any time, submit to the qualified electors thereof the question as to whether or not they desire their district to cooperate with any other district or districts named, in the operation and maintenance of their respective systems under the provisions of this act. Such question may be submitted at any general district election, or at a special election duly called for the purpose, notice of which shall have been given as required by law in case of general elections in irrigation districts. In every case, the notice of election shall state briefly but clearly the question to be submitted, naming the district or districts with which it is proposed to cooperate. The vote shall be by ballot, and a majority of the votes cast shall determine the question. If more than two (2) districts are involved in the proposal, the electors shall in like manner determine the district or districts, if any, with which they desire their district to cooperate, in the event that they do not desire to cooperate with all the districts named in the proposal, or in the event

that any district or districts named in the proposal should vote adversely thereto. All elections held hereunder shall be conducted in the same manner as general irrigation district elections are required by law to be conducted.

41-6-103. Certificate of election proceedings to be filed; effect of filing; effect of informal certificates on validity of election.

Whenever any two (2) or more irrigation or drainage districts shall have voted to cooperate with one another under the provisions of this act, the respective commissioners thereof shall file in the office of the clerk of the court having jurisdiction of the district proceedings, a certified copy of the minutes of the election proceedings, including a copy of the election notice. From and after the filing of such certificates, the operation and maintenance of the respective irrigation or drainage, or irrigation and drainage works of said districts shall be under the exclusive management and control of a board of district managers, as hereinafter particularly provided. No informality in these certificates, or in the records of which they are a copy, shall affect the validity of any such election, if in fact the same was held in substantial compliance with this act.

41-6-104. Appeals.

Any district aggrieved by any order of apportionment of operation and maintenance costs, or any part thereof, may obtain judicial review as provided by the Wyoming Administrative Procedure Act and the Wyoming Rules of Appellate Procedure.

41-6-105. Withdrawal from joint operations.

The commissioners of any district belonging to any association formed hereunder, may at any time submit to the qualified electors of their district the question as to whether or not the district shall withdraw from such association. Such election shall be held as above provided, and if in any case, the vote shall be in favor of withdrawal, the result thereof shall be duly certified to the proper court, and notice thereof served upon the other districts involved. Thereupon such withdrawal will become operative on the first day of the second December following such election, and thereafter the provisions of this act shall be applicable to such district.

41-6-120. Number of members; qualifications; succession; quorum; voting procedures.

The board of district managers shall be composed of as many members as there are districts to be represented, and a majority of its members shall constitute a quorum. The commissioner in each district who has longest served the district as such commissioner, shall be the member of the board of district managers from such district. In case of death, resignation, disability or absence of any district manager, the commissioner from his district who is next in seniority of service shall act as district manager in his stead. Where there is no seniority in service among the commissioners of any district, they themselves shall determine the order in which they shall successively serve as members of the board of district managers. If the commissioners of all of the associated districts shall at any time so order, the board of district managers may thereafter be composed of two (2) commissioners from each district, but in such case the vote upon any question before the board shall be by districts, each district being entitled to cast one (1) vote by its representatives or representative present.

41-6-121. President.

The presidency of the board of district managers shall devolve successively upon the representatives of the respective districts, and the order of succession shall be determined in the first instance by lot. The first president shall hold office until the first day of the next succeeding December, and succeeding presidents shall hold office for terms of one (1) year each. In the absence of the president, or in case of his death, resignation or inability to act, his duties shall be discharged by the commissioner from his district who would be entitled to act in his stead, under the provisions of W.S. 41-6-120. The president shall preside at all meetings of the board. He may vote upon all questions, and, in case of tie, shall also cast the deciding vote. He shall perform such other duties as may be imposed upon him by law, or the order of the board.

41-6-122. Secretary.

The board of district managers shall appoint a secretary who may or may not be one of their number. Such secretary shall hold his position at the pleasure of the board, and shall perform such duties as may be imposed upon him by law, or order of the board.

41-6-123. Treasurer.

The board of district managers shall appoint a treasurer for each of the associated districts. The same person may be the treasurer of two (2) or more districts, and may also be secretary of the board. The funds of the associated districts shall not be commingled, however, but shall in all cases be separately kept and accounted for.

41-6-124. Adoption of name.

At its first meeting, the board of district managers shall adopt a name which shall be formed by prefixing to the phrase "board of district managers", some word or words different from any used for a like purpose by any other board within the same judicial jurisdiction. A certificate of the adoption of such name shall be filed promptly with the clerk of the court, or clerks, of the courts, having jurisdiction of the several district proceedings.

41-6-125. Powers generally.

In the operation, maintenance, preservation and repair of the constructed works of the associated districts, and in the assessment, levy, collection and disbursement of district revenues for such purposes, and for the payment of the principal and interest on outstanding indebtedness, the board of district managers shall succeed to and possess all the powers and be charged with all the duties of the commissioners of the several districts which it represents. All other powers of the commissioners of such districts shall be possessed and retained by them, unimpaired, including those relating to uncompleted district works, or such additions to or extensions of such works as require a revision or modification of assessed benefits. Whenever necessary in the discharge of its duties, the board may use the name and corporate seal of any district which it represents, always indicating, however, in some appropriate manner, that the signature and seal have been affixed by the board.

41-6-126. Duties.

It shall be the duty of the board of district managers so to control and conduct the affairs of the districts under their jurisdiction that each shall bear its just portion of the burdens and receive its just share of the benefits resulting from cooperating management. Accurate and detailed accounts of

the amount and cost of labor and material used in the work of each district shall be separately kept, so far as practicable, and whenever labor or material is used for the common benefit of two (2) or more districts, a just apportionment of the cost thereof shall be made between or among the districts benefited, and, in each such case the records of the board shall be made to show clearly the basis of such apportionment.

41-6-127. Purchase of machinery, tools or equipment.

In the operation and maintenance of the works under its charge, the board of district managers shall, as far as practicable, avoid a duplication of labor and equipment. It shall have no power, however, to purchase machinery, tools or other equipment on account of any district, without written authority from two (2) of the commissioners from such district, and it shall have no power to purchase machinery, tools or other equipment on the joint account of two (2) or more districts, without written authority from two (2) of the commissioners of each of the districts to be charged therewith, which authority shall prescribe the agreed basis upon which the cost of such purchase shall be apportioned between or among such districts. Each district shall be charged with a reasonable rental or hire for the use of property or equipment owned by the associated districts. Such rental or hire shall be uniform to all the districts and shall be so adjusted as to cover, all nearly as can be estimated, repair, interest and replacement costs, and such readjustments shall be made from time to time as may be necessary in order that these costs shall ultimately be borne by the districts in proportion to the use which each has made of such property or equipment.

ARTICLE 2 - BONDS HELD BY STATE

41-6-201. Payment of installments.

Any irrigation or drainage district, all of whose outstanding bonds are held by the state of Wyoming, may, on any date when an installment of principal or interest matures, pay to the state treasurer the whole of any unmatured installment or installments of the principal indebtedness evidenced by any such bond or bonds. Upon receipt of any such payment, said treasurer shall make proper notation thereof upon the bond or bonds to which it is to be applied, and shall also make proper notation of credit for any unaccrued interest upon the installments paid which may be included in any coupon subsequently maturing.

41-6-202. Payment of installments; construction assessments of landowners.

The owner of any land in any irrigation or drainage district coming within the provisions of W.S. 41-6-201, may, not less than ten (10) days before the maturity of any installment of principal or interest evidenced by such bonds, pay to the treasurer of the county in which said lands are situated, all or any part of the unmatured portion of any assessment for construction levied against the same to provide for the payment of its proportionate share of the indebtedness evidenced by said bonds. Upon receipt of any such payment, said county treasurer shall cause proper credit to be entered upon the record of said assessment, and thereafter a corresponding reduction shall be made in the annual installments of said assessment to be collected. The acceptance of such payments shall not be construed, however, as relieving any such land from its liability for future assessments made for any lawful purpose. Upon receipt of any such payments, the county treasurer shall promptly remit the same to the state treasurer, who shall, on the date on which the next installment of principal or interest shall mature, credit all payments thus received upon the bonds of the district, as provided in the preceding section, retaining any amount too small to be applied until it shall be sufficiently augmented by future payments to admit of its application as therein provided.

41-6-203. Filing of certificate of delinquency; suspension of district commissioners; appointment of special commissioner; powers and duties generally; compensation.

(a) If the bonds or other obligations, or any part thereof, of any drainage or irrigation district, which are owned by the state of Wyoming, are in default as to principal or interest or both, or if the state of Wyoming holds an unsatisfied judgment against any drainage or irrigation district for unpaid interest or principal or both, of the bonds of that district which are owned by the state of Wyoming, upon being advised in writing of that fact by the state treasurer, the state loan and investment board shall file a certificate setting forth that fact and stating the amount of the delinquency, the name of the district and the names of the commissioners of the district, with the clerk of the district court having jurisdiction of the drainage or irrigation district the bonds or obligations of which, or any part thereof, are in default or the judgment is unsatisfied. Upon filing the certificate and the filing being called to the attention of the judge of the

district court, the judge of the district court shall suspend the commissioners of the district from office.

(b) Immediately upon the suspension of the commissioners as provided in subsection (a) of this section, the state loan and investment board, by and with the consent and approval of the governor, shall appoint a special commissioner for the district who shall be a resident of the state of Wyoming. The governor may remove any special commissioner as provided in W.S. 9-1-202. Any vacancy created by the removal of a special commissioner may be filled by further appointment of another special commissioner for the district by the state loan and investment board, by and with the consent and approval of the governor.

(c) The special commissioner has all the power and authority and shall perform all the duties required by law of commissioners of drainage or irrigation districts, as the case may be, and shall perform his duties in accordance with the laws governing those districts.

(d) Compensation and expenses of the special commissioner shall be paid for by the district.

41-6-204. Term of special commissioner; appointment of district commissioners after expiration of term.

The special commissioner, or his successor or successors, shall continue in charge of such drainage or irrigation district until a certificate is filed with the clerk of the district court of the district in which said drainage or irrigation district is located by the state loan and investment board to the effect that the delinquency has been removed and that such drainage or irrigation district is in such financial condition that it is believed that the special commissioner is no longer necessary, whereupon commissioners for such district may be appointed by the court, or elected by the district, as the case may be; provided, however, that this shall not prevent the subsequent appointment of a special commissioner for any of the reasons provided in W.S. 41-6-203.

41-6-205. Special commissioner may serve for several districts.

The state loan and investment board may appoint the same person as special commissioner for any number of drainage or irrigation districts.

41-6-206. Action by attorney general; service of process; sale of property to satisfy judgment.

Whenever the state loan and investment board deems it advisable after being advised of the default in the payment by any drainage or irrigation district of principal or interest, or both, due to the state of Wyoming upon bonds or other obligations of such drainage or irrigation district owned by the state of Wyoming, it shall instruct the attorney general to take such steps as he deems necessary to collect the amount due. In case an action is filed, process may be served in case a special commissioner has been appointed by leaving a copy thereof with the special commissioner. Any property which the district owns, or in which it has any equity, may be levied upon to satisfy any judgment obtained in the manner now provided by law, except that no appraisal of such property shall be required; and at any sale of property of said district under execution, the state of Wyoming may bid in such property in any amount deemed advisable by the state loan and investment board; provided, however, that no property of the district shall be bid in by the state of Wyoming for a sum in excess of the amount of the judgment held by the state of Wyoming.

41-6-207. Certificate stating special commissioner no longer necessary to be filed; state loan and investment board to sell equipment; disposition of proceeds.

The state loan and investment board shall immediately, after the effective date of this section, file with the clerk of any district court which has appointed a special commissioner under the provisions of W.S. 41-6-203, a certificate to the effect that the drainage district for which such special commissioner was appointed is in such financial condition that it is believed that the special commissioner is no longer necessary, which certificate shall comply in all respects with the provisions of W.S. 41-6-204, except that it shall not be necessary that the certificate state that all delinquency has been removed. The Wyoming farm loan board is further directed to immediately take all necessary steps to sell and dispose of any and all equipment owned by the state loan and investment board or the state of Wyoming and used by such commissioner in the operation of any such drainage district, such sale to be conducted in accordance with the provisions of existing law for the sale of state property. When such sales shall have been completed all proceeds received therefrom shall be paid into the general fund of the state of Wyoming by the state loan and investment board.

41-6-208. Title and control of lands bid in by state; disposition of income.

The title to any lands so bid in shall be taken in the name of the state loan and investment board, and said lands shall be administered, leased and sold by the state loan and investment board, and said board shall have full power and authority to sell, contract for sale, and lease said lands for such prices and upon such terms as the state loan and investment board deems for the best interests of the state. All rentals or income from such lands shall be applied, first, to the payment of the expenses of the administration of such lands, and the balance, if any, together with all proceeds from the sale of such lands, shall be paid to the state treasurer and by him credited to the permanent fund bond account of the drainage or irrigation district in which such lands are located.

41-6-209. Quorum of board.

A majority of the members of the state loan and investment board shall constitute a quorum to transact any business provided for under W.S. 41-6-203 through 41-6-206, 41-6-208 and 41-6-209.

ARTICLE 3 - DETERMINATION OF RIGHTS OF JOINT USERS OR CLAIMANTS

41-6-301. Disagreements may be referred to water commissioner; action by commissioner; fees.

When two (2) or more persons, joint owners in an irrigation ditch or reservoir, not incorporated, or their lessees, are unable to agree relative to the division or distribution of water received through their ditch or from their reservoir, it shall be lawful for any of the owners or lessees to apply to the water commissioner of the district in which the ditch or reservoir shall be located, by a written notice setting forth that fact, asking the water commissioner to take charge of the ditch or reservoir for the purpose of making a just division or distribution of the water from the ditch or reservoir to the parties entitled to the use of the water. The water commissioner shall take exclusive charge of the ditch or reservoir for the purpose of dividing the water in accordance with rights established by existing decrees, and continuing the work until the necessity shall cease to exist. In all cases where the water commissioner or a deputy water commissioner is called upon to divide the waters of a ditch or reservoir between appropriators, when the term of his employment exceeds three (3) consecutive

days he shall be paid in full for his service by the interested water users in proportion to the established rights of each. Any payments not made for the service of the water commissioner after a written demand has been made for payment, the bill for the water commissioner's services shall be a lien upon any land or other property owned by an interested water user refusing to pay and may be recovered in any court of competent jurisdiction. Any reimbursement recovered under this section for services of the water commissioner shall be paid into the general fund.

41-6-302. Actions for injunctions; notice; hearings; issuance of injunctions or restraining orders; bond.

In cases when suits for injunction are brought affecting the use of water from streams upon which the rights to the use of water have been adjudicated, no restraining order shall be granted by the court, judge or court commissioner, before hearing had after at least three (3) days notice thereof, served upon all persons defendant. All suits for injunction involving the use of water from streams shall be heard, either in term time or during vacation as the case may be, not later than fifteen (15) days after issues joined. In no case shall an injunction or restraining order be issued or become operative until the party obtaining the same executes an undertaking, to the defendants, with good and sufficient surety, to be approved by the clerk of the court granting the same, in an amount fixed by court, judge or commissioner allowing the same, conditioned to secure to the party enjoined all actual damages he may sustain if it be finally decided that the injunction or restraining order ought not to have been granted.

41-6-303. Relative interests of joint owners.

Unless the owners of ditches, canals and reservoirs make a record as herein provided, or have a record thereof made in some other manner, showing the relative ownership of each interested party in such irrigation works, said interests shall be established by the ratio between the water right of each water user to the total water rights adjudicated under such irrigation works. The relative interests of joint owners shall, therefore, be fixed by the issuance of the final certificate of appropriation as the same appears of record on the date of the passage of this act or as they shall hereafter be recorded in the office of the board of control and in the office of the respective county clerks, and no action for the recovery of the title to such irrigation works can be brought after ten (10) years from the date when the final certificates of appropriation

have been recorded in the office of said county clerk; provided, that during such ten (10) years the interested water users as mentioned in the final certificates of appropriation, or their successors, have had continuous, open, adverse and undisputed possession of such irrigation works. Every conveyance of a ditch, canal or reservoir, or any interest therein, shall hereafter be executed and acknowledged in the same manner as a conveyance of real estate and recorded as herein provided, and any such conveyance which shall not be made in conformity with the provisions of this act, shall be null and void as against subsequent purchasers thereof in good faith and for a valuable consideration.

41-6-304. Affidavits of interest; parties joining in; filing; contents.

Any person, persons, partnership or association of individuals, or corporation, may file in the office of the board of control, and in the office of the county clerk of the county wherein any ditch, reservoir or other irrigation works shall be located, an affidavit, duly sworn to before an officer authorized to acknowledge deeds, or before a water superintendent of this state, joined in, signed, and sworn to by all the parties having an interest in such ditch or ditch right, or by the guardian of any such person, if insane or a minor, or in case of a corporation by any two (2) of its officers, stating therein the name of the ditch, the ownership of said ditch, the interest each claimant owns therein specifically, the method of securing rights of way or irrigation works and the date of such procedure and referring to the records of the office of the state engineer or board of control, or both, relative to dimensions of irrigation works, their location, and adjudicated rights to water conveyed in or stored in such works and such other information as may be deemed necessary.

41-6-305. Affidavits of interest; as evidence; statute of limitations for civil actions upon.

When said affidavit hereinbefore mentioned has been duly executed and filed and recorded as hereinbefore prescribed, the facts therein stated shall be prima facie evidence of the truth thereof in any court of the United States, and no action for the recovery of the title or possession of such irrigation works can be brought after ten (10) years from the time of the recording of such affidavit; provided, that during such ten (10) years the claimant as mentioned in such affidavit, or his successor, in

rights, has been in continuous, open and undisputed possession of such irrigation works.

41-6-306. Affidavits of interest; transfer of interests after filing.

Any transfer made to a purchaser in good faith and for a valuable consideration, of any such irrigation works after the expiration of ten (10) years from the filing of the affidavit as hereinbefore provided, shall vest in the grantee of such transfer an absolute title in fee simple, free from the claims of any person whatsoever, to the extent that such irrigation works are claimed in the said affidavit of such grantor or his predecessor in interest, unless before the expiration of said ten (10) years any other party claiming an interest in such irrigation works has filed in the office of the county clerk of the county wherein his, her, or its land, irrigated by such ditch, may be situated, an affidavit as mentioned in section 23 hereof.

41-6-307. Affidavits of interest; perjured statements.

Any person who knowingly falsely states his or her ownership in such irrigation works, or the extent thereof, or any guardian who in like manner makes such statement on behalf of his or her ward, or any person who in like manner makes such a statement on behalf of a corporation, shall be guilty of perjury and upon conviction thereof shall be punished.

41-6-308. Action in equity to determine rights of claimants; construction of act.

Where the ownership of any irrigation works is disputed, or jointly claimed by any person, partnership or corporation, and the several owners cannot agree upon the amount of interest owned by each, and one (1) or more claimants of such right desire the filing of the affidavit as hereinbefore mentioned, while the other or others do not desire to join therein, one (1) or more such claimants may bring an action in equity in the district court of any county wherein the land or parts of the land affected by such ditch or ditch right is located, and said court shall determine the right of the several claimants to such ditch or ditch right, and determine all the facts necessary in the affidavit hereinbefore prescribed, and such decree shall, after being filed and recorded in the office of the county clerk of the proper county as hereinbefore prescribed, have the same force and effect as the affidavit hereinbefore prescribed;

provided, that the provisions of W.S. 41-6-303 through 41-6-308 shall not be construed to relate to water rights, or in any way to conflict with the laws governing the same.

ARTICLE 4 - CONTESTING ORGANIZATION OR ASSESSMENTS; LIMITATION
OF ACTIONS

41-6-401. Organization.

When any irrigation or drainage district has been organized and the legality of its organization has not been questioned by proceedings in quo warranto, or otherwise, within one (1) year from the effective date of this act as to districts heretofore organized, or within two (2) years from the date of entry of the order of court establishing such district and appointing commissioners therefor as to districts hereafter organized, it shall be conclusively deemed to be a legally established district, and its lawful organization shall not be questioned in any subsequent suit or proceeding.

41-6-402. Assessments.

Where any irrigation or drainage district shall make and levy any assessment against any property within such district, the same shall not be questioned in any suit or proceeding unless such suit or proceeding is instituted on or before the second December 31st following such levy or assessment.

ARTICLE 5 - TAXES AND ASSESSMENTS; ENFORCEMENT OF LIENS

41-6-501. "Land" defined.

The word "land", as used in this act, shall be construed to mean town lots and any and all kinds of real property and premises, with the improvements thereon and the fixtures and appurtenances thereunto belonging.

41-6-502. "Person" defined.

The word "person", as used in this act, shall be construed to mean any person, corporation or copartnership, or any association owning land.

41-6-503. Foreclosure of tax deeds; tax certificates as liens; actions to enforce generally; sale of lands generally.

Any person, drainage district or irrigation district holding a drainage or irrigation tax sale certificate of purchase or tax deed heretofore or hereafter issued for delinquent drainage or irrigation taxes and assessments legally levied and assessed, together with the penalty and costs due on the land described therein, shall have a lien on said land for such taxes, penalty and costs, and all subsequent taxes paid thereon by said person, drainage or irrigation district and those under whom he holds, with interest thereon, and all accruing penalties, and for the value of all improvements placed thereon by such lienholder while lawfully in possession of the premises, and those under whom the same is held, which lien shall be superior to any other lien, except that of subsequent taxes, and may be enforced by such lienholder by a civil action in the district court of the county wherein said land lies, or in any action in such court concerning said land in which such lienholder may be made a defendant; in which action every person having an interest in said land, as shown by the records in the office of the county clerk of said county, may be made a party; and all the proceedings in such action, so far as applicable and not inconsistent with the provisions of this act, shall be the same as provided by law, for the foreclosure of mortgages on real estate by action and sales thereunder; provided that the decree rendered in such action may contain the order of sale, directed to the sheriff of said county, commanding him to advertise and sell said lands without appraisal, and to make a return of his proceedings thereunder within sixty (60) days from the date thereof, which shall be sufficient authority for the sale of said land, and no other order of sale shall be necessary; and provided further, that any number of tracts of land belonging to any one (1) person upon which any one (1) lienholder shall have said lien, may be united in one (1) suit, in which suit each of said tracts of land shall bear its proportionate share of the cost of such suit, calculated upon the amount for which it shall sell. Provided further, that no such action shall be commenced on any drainage or irrigation district tax sale certificate within eighteen (18) months from the date of the sale mentioned herein.

41-6-504. Foreclosure of tax deeds; joinder of defendants; pleading; decree; rights of assignee of tax deed.

When a drainage or irrigation district is the plaintiff in any suit brought under the provisions hereof, it may join all owners of real estate covered by its tax sale certificates of purchase or tax deeds as defendants, whether jointly or separately interested in the real estate, or any part thereof, and may

unite in such action any persons having or claiming to have any interest in the real estate described in the petition. The defendants may plead jointly or separately to the petition and the court shall try and determine all issues between the plaintiff and each and all of the defendants, and shall, in its decree, ascertain and determine the amount of taxes, interest and costs chargeable to each particular tract or lot of real estate, and state the name or names of all defendants who have an interest in each tract or lot of real estate upon which the lien is fixed by its decree. The fact that the owners of separate or different lots of real estate are joined as defendants in one (1) action shall not constitute a defense on the part of any one (1) or more of the defendants, or misjoinder of defendants, or causes of action, and like rights shall be extended to any assignee of said drainage or irrigation district, tax certificate or tax deeds.

41-6-505. Foreclosure of tax deeds; sale procedures generally; redemption.

In pursuance of said order of sale, whether contained in said decree or issued thereafter, the sheriff of said county shall immediately advertise the property for sale, and shall sell the same at public auction, without appraisalment, to the highest bidder for cash, and shall make a return of his proceedings thereunder within sixty (60) days from the date thereof; and said lands shall be sold in tracts or parcels with reference to the rights of all parties therein, as the court in said order of sale may direct; at which sale said lienholder may bid as any other person, but, in the event of becoming the purchaser thereof, he shall not be required to pay any money, except such sum only as his bid may exceed the amount due him under said decree; and, upon confirmation of said sale by the court, the said sheriff shall execute a deed as nearly as may be in cases of mortgage foreclosure, conveying to the purchaser of said property, his heirs and assigns, all the right, title, estate, claim and interest, both at law and in equity, of all parties to said action in and to said land, subject only to subsequent taxes; and, upon request of the purchaser thereof, a writ of assistance shall issue to place said purchaser in possession of said land; provided, that any person having an interest in said land, may redeem the land in which he is interested at any time before the confirmation of such sale by the court, by paying into court a sum of money sufficient to discharge the lien thereon, for the use of the lienholder, and upon such terms as to the payment of the costs as the court may direct.

41-6-506. Foreclosure of tax deeds; disposition of sale proceeds.

(a) Upon the confirmation of such sale, the proceeds arising therefrom shall be delivered by the sheriff to the clerk of said court to be applied by him as follows:

(i) To the payment of all costs of such action and sale, including an attorney fee to the lienholder's attorney to be allowed by the court;

(ii) To the payment of all sums due the lienholder, including the value of all improvements placed on said land by said lienholder and those under whom he holds;

(iii) The balance, if any, to be paid to the prior owners of said land and those having an interest therein, as their interests may appear.

41-6-507. Remedy cumulative.

The right and remedy herein provided for shall be cumulative and in addition to the right of any purchaser at tax sale to acquire tax deed in the manner and time now provided by law.

CHAPTER 7 - IRRIGATION DISTRICTS

ARTICLE 1 - IN GENERAL

41-7-101. Waiver of defect of service.

In case of failure to serve any notice of any proceeding or hearing in this chapter provided for upon any person or corporation, such persons or corporation may appear in open court and waive such defect of service, or may waive it by filing in court or delivering to the commissioners of the irrigation district to be filed in court a written waiver of such defect, in which waiver said defect shall be described, which waiver shall be signed by such party and witnessed and acknowledged before a proper officer having power to take acknowledgments of deeds.

41-7-102. Construction; generally.

The provisions of this chapter shall be liberally construed to promote the public welfare by reclaiming and irrigating lands, constructing and completing reservoirs, canals, ditches, or