

Tax Sale Procedures

- The sale will be conducted in the manner of a public auction with the parcels sold in the order as indicated in the advertisement. Please make your bid known loud and clear or it may not be recognized.
- This is a **buyer beware** sale. ***There are no guarantees neither expressed nor implied.*** If you do not know the entire tax sale process, it is suggested that you **do not** bid on property. Please consult with your attorney for legal advice.
- We also suggest you **do not** purchase property sight unseen.
- Mobile Homes do not convey with property.
- The opening bid will include all applicable taxes, penalties and costs.
- Bidding on a piece of property is a binding agreement between the County and the bidder/purchaser. Once the auctioneer recognizes a bid, it is then considered an official bid (and a binding agreement).
- The property will be sold to the highest and best bidder.
- At the time of the sale, the purchaser will be required to show proof of identification, such as a driver's license. Purchaser will be issued a property purchase form (bill of sale) identifying property purchased at the sale. Purchaser then becomes liable for payment.
- Payment must be made for the amount of the bid within one hour of the sale. The form of payment must be cash or a cashier's or certified check issued by a financial institution which is insured with the FDIC or FSLIC.
- The Tax Commissioner will execute a tax deed between 4 to 6 weeks after the sale, and will have the deed properly recorded. The tax deed is not a fee simple deed. It is the purchaser's responsibility to check the validity of title to the property. The deed, along with other pertinent information, will be sent to the purchaser at the address given. The mailing address given at the time of purchase will be the address listed on the PT-61 and all mail/future tax bills will be sent to that address.
- The purchaser of the property does not take possession of the property that he/she has purchased. The current record holder and/or defendant in FiFa still maintains possession of said property and has the right to redeem the property for no less than twelve (12) months after the date of sale. The purchaser must wait until one (1) year and one (1) day has elapsed from the date of sale to begin the foreclosure process to bar the right of redemption at which time the purchaser may then take possession of the property.
- The purchaser will be responsible for any future assessments and property taxes as they may become due. This includes any outstanding taxes owed to a city if the property lies within the city limits.
- On very rare occasions the Tax Commissioner reserves the right to set a sale aside due to irregularities in the sale such as bankruptcies, assessment errors and procedural errors. If such action takes place, a full refund of payment tendered will be given.
- **THE ABOVE MENTIONED INFORMATION IS NOT TO BE CONSTRUED AS LEGAL ADVICE. THE TAX COMMISSIONER'S OFFICE DOES NOT GIVE LEGAL ADVICE NOR ASSUMES ANY LIABILITY THAT GOES WITH THE PRATTICE OF LAW. LEGAL ADVICE SHOULD BE SOUGHT FROM THE PURCHASER'S OWN ATTORNEY.**

GENERAL INFORMATION FOR CITY AND COUNTY TAX SALES:

A tax lien attaches to the property at its valuation (January 1st; O.C.G.A. § 48-2-56). A tax lien against real property is superior to all other liens and encumbrances. The lien is released by paying the tax charged against it. State Law, O.C.G.A. § 48-3-3, requires that each year the City Tax Collector or County Tax Commissioner must issue an execution (Writ of Fi.Fa.) against all delinquent taxpayers. Executions direct the levying officer to levy on the property to satisfy the delinquent tax execution. It is the duty of the levy officer to enforce an execution by either collection of the delinquent taxes, or levy and sale of the property at public outcry. Municipal tax sales are conducted as provided by O.C.G.A. § 48-5-359. For complete reference to both cities and counties, see Chapters 3 and 4, Title 48 of the Official Code of Georgia Annotated, governing tax executions and tax sales; and Chapter 13, Title 9 of the Official Code of Georgia Annotated, governing executions and judicial sales.

Tax sales are scheduled on the first Tuesday of any given month on the steps before the city hall or courthouse door between the legal hours of sale of 10:00 AM and 4:00 PM (See O.C.G.A. §§ 9-13-160 and 9-13-161). Notice of the sale is published and advertised once a week for four weeks immediately preceding the sale in the legal organ (newspaper) of the county (See O.C.G.A. § 9-13-141). Generally, the cities and counties do not provide mailing lists for tax sales; however, if you are interested in what properties are being advertised for tax sale in a particular county, you should contact the newspaper that currently serves as that county's official legal organ.

Tax sale bidding commences with a starting or minimum bid that consists of the total delinquent taxes and costs of sale (levy, recording, advertising and commissions) that is owed on a parcel, with the property being sold to the highest and best bidder for cash or cashier's check (See O.C.G.A § 9-13-166 for form of tender). If there are no bidders, the city or county may enter a bid on the property equal to the starting bid. Tax sale bids are binding (See O.C.G.A § 9-13-170 for purchaser's liability to comply with bids). Any excess funds, above and beyond the starting bid, are held by the sale officer as a fiduciary for distribution to the record property owner at the time of sale or lienee (if any) according to their order and priority of entitlement (See O.C.G.A § 48-4-5). A tax sale is not necessarily final and may be rescinded under certain circumstances by the sale officer even though the sale bid price has been properly tendered by the tax sale purchaser (See O.C.G.A § 9-13-172.1).

While the successful bidder receives a tax deed, it is a defeasible title that is subject to right of redemption and the tax sale purchaser has no immediate control over the property. The delinquent property owner or any other person having any right, title, interest, or lien upon the property (See O.C.G.A 48-4-40 for persons entitled to redeem) may redeem it at any time within twelve (12) months from the date of sale; or up and until such later time that the right of redemption is foreclosed by notice, or the title by tax deed has ripened by 4-Year prescription accompanied by adverse possession. A Georgia Supreme Court Decision, [Blizzard v. Moniz, 271 Ga. 50, 518 S.E.2d 407 (1999)] has rendered "ripening by prescription" (O.C.G.A. § 48-4-48) inapplicable to tax sale purchases in most cases. The Court determined that actual possession of the property is necessary for a tax deed to convey fee simple title to the property absent the process of barring or foreclosing the right of redemption. The tax sale purchaser is not entitled to rents and/or profits arising from the property during the redemption period.

Property may be redeemed by paying the redemption price which is the amount paid for the property at the tax sale, plus any taxes subsequently paid by the tax deed purchaser, plus a premium of 20% of that amount for the first year or fraction of a year elapsing between the date of the sale and the date of redemption. After the first year following the date of sale, the tax deed purchaser is entitled to an additional 10% for each subsequent year or fraction of a year until redemption is made (See O.C.G.A. § 4-4-42). Once property is redeemed, the tax sale purchaser must issue a quitclaim deed to the defendant in fi.fa. The quitclaim must contain specific recitals in order to properly effect redemption (See O.C.G.A § 48-4-43).

Twelve months after the tax sale date, the purchaser may forever "bar" or "foreclose" the right of redemption by having a proper 45-day notice served upon the delinquent property owner, the occupant and all other persons having any recorded right, title, interest, or lien on the property (See O.C.G.A. §§ 48-4-45 and 48-4-46). Additional fees may be charged for sheriff's service and legal publication after service of notice. Thus a minimum time of one year and forty-five days elapses between acquisition of a tax deed and the right to physical control and actual possession of the property.

Even though an unredeemed tax deed is only a defeasible title until such time that the property is redeemed or the right of redemption is foreclosed, the tax sale purchaser acquires sufficient interest in the property to make a property tax return, and becomes liable for taxes due on the property for subsequent years until redeemed.

It is important to remember that the worth of a tax deed title is subject to many factors and that all tax sales are administered under the doctrine of caveat emptor ["Let the buyer beware (or take care)"]. O.C.G.A § 9-13-167 provides that a tax sale purchaser is personally responsible for determining the title and soundness of property before placing a bid. Simply put, the purchaser buys at the purchaser's peril. To ensure your rights and obligations as a tax sale purchaser, you should consult a knowledgeable real estate attorney before bidding on tax sale properties. In all cases, a prospective purchaser should exercise diligence and care in inspecting and knowing the fitness of title and property before bidding on it.

DISCLAIMER: Informational content contained herein is not appropriate for the purposes of making a decision to carry out a tax sale transaction without first consulting your attorney, nor does it provide any form of advice amounting to tax sale purchases. The information herein is not warranted or guaranteed to be accurate or complete, and may contain errors, mistakes, inaccuracies or omissions. You are advised not to take any actions in reliance on this information without first receiving competent legal advice. Even though reasonable diligence has been used to ensure that the information provided is up to date, the laws and legal requirements affecting tax executions and tax sales are volatile and subject to legislative changes by the Georgia General Assembly or rule changes by the Georgia Department of Revenue. ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE ACCURACY OF ANY THE CONTENT PROVIDED, OR AS TO THE FITNESS OF THE INFORMATION FOR ANY PURPOSES ARE EXPRESSLY DISCLAIMED INCLUDING ANY AND ALL LIABILITY FOR LOSS OR DAMAGE WHICH MAY RESULT FROM ITS USE. This is a free information therefore you agree by receiving it that this disclaimer is reasonable. Any copying or redistribution of this document is strictly prohibited.

Right of Redemption and the Amount Payable for Redemption

When real property is sold at a tax sale, whether to an individual, city, or to the county; the owner, creditor, or any person having an interest in the property may redeem the property from the holder of the tax deed.

The owner, creditor, or any other person with interest in the property, must pay the tax deed purchaser, the tax amount of the property paid at tax sale, plus any taxes paid on the property by the purchaser after the sale, plus any special assessment on the property, plus a 20% premium for the first year or fraction of a year, and a 10% premium of the amount for each additional year or fraction of a year, which has elapsed since the date of sale. A premium of 20% must also be paid when the County is the purchaser. (OCGA 48-4-42)

The owner, creditor, or any other person with interest in the property may redeem the property at anytime during the twelve (12) months following the tax sale. The purchaser of the tax deed cannot take actual possession of the property during this time. The tax deed purchaser is not authorized to receive rents or make improvements to any structure on the property or grade any lot prior to this time.

When the property has been redeemed (all monies due the purchaser paid as prescribed by law), the purchaser shall then issue a quitclaim deed to the owner of the property (as stated on the fi.fa) releasing the property from the tax deed.

This redemption of the property shall put the title conveyed by the tax sale back to the owner, subject to all liens that existed at the time of the tax sale. If the redemption was made by any creditor of the owner or by any person having any interest in the property, the amount expended by the creditor or the person interested shall constitute a first lien on the property. (OCGA 48-4-21; 48-4-41; 48-4-42; 48-4-43; 48-4-44)

Notice of Foreclosure of Right to Redeem

After twelve (12) months from the date of the tax sale, the purchaser at the tax sale may terminate or foreclose on the owner's right to redeem the property by causing a notice(s) of the foreclosure to be served by certified mail to the owner of record and to all interest holders which appear on the public record. In addition, the notice of foreclosure is to be published in the county in which the property is located, once a week for four (4) consecutive weeks after the twelve months has elapsed.

If the redemption is not made until more than 30 days after the notice, then the sheriff's costs for serving the notice(s) and the cost of publication of the notice(s) shall be added to the redemption price. (OCGA 48-4-42, 48-4-45 and 48-4-46)

Any questions about this foreclosure process should be referred to an attorney.