

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.