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TAX TITLES

By: Gary A. Kahle
March 2010



Tax Certificates

The tax collector will sell tax certificates at public auction on real property for which taxes are delinquent on the later of June 1 or the sixtieth day after the date of delinquency.

Certificates are sold for an amount equal to the taxes owed, interest accrued since the date of delinquency, and other administrative charges to the person bidding to purchase the certificate and accepting the lowest interest rate.

The property owner, or a lien holder, may redeem a tax certificate anytime before issuance of a tax deed by paying all taxes, interest, and costs as specified on the tax certificate including interest payable to the certificate holder. A tax certificate becomes null and void seven years after its issuance if no tax deed is applied for during that time.

Tax Deeds

A tax certificate holder may apply for a tax deed after two years have passed from April 1 of the year in which the tax certificate is issued. If there are other outstanding certificates for prior years, the certificate holder applying for the tax deed must redeem those certificates. After a tax deed is applied for, the Clerk of the Court will hold a tax deed sale at public auction after giving notice to the property owner and lien holders and publishing notice of the sale once a week for four weeks. The sale is held at least thirty days after the first publication. If the property is improved, the sheriff must also serve the property owner with the notice of sale, or if the owner resides outside the county, must post the notice on the property.

The minimum bid at the tax deed sale for non-homestead property is the amount required to redeem all outstanding tax certificates. The certificate holder applying for the tax deed has a credit for that amount. The minimum bid on homestead property is the minimum bid on non-homestead property plus one-half the latest assessed tax value of the property.

The successful bidder must pay the bid amount within twenty-four hours of the sale after which the Clerk will issue the tax deed.



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Insurability of Tax Titles

Titles based upon tax deeds are insurable if the tax deed has been of record for more than twenty years, the taxes have been paid by the tax deed grantee or its successor for that period of time, and there has been no claim or possession adverse to the tax deed grantee or its successors during that time.

A title insurer may insure title based upon a tax deed after the deed has been recorded for at least four years if an examination of the Clerk's records confirm compliance with all statutory requirements and the tax deed grantee or its successors have been in continuous possession of the property for the four year period, have paid taxes during that period, and no claim adverse to the tax deed grantee or its successors has been brought during that time. Alternatively, if the tax deed grantee and its successors have not been in actual possession (e.g., the property is vacant) title may still be insurable after four years if it can be established that neither the prior owner nor anyone claiming under the prior owner has been in actual possession of the property for one year or more after issuance of the tax deed.

If the conditions to insurability are not met, then a tax deed holder must successfully prosecute a quiet title action against the prior owner and lienors in order to obtain insurable title.

Survival of Restrictions and Covenants

A tax deed will extinguish prior mortgages or other third party liens against the property but will not extinguish valid deed restrictions or covenants that run with the land.

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