

Judicial-in-Rem Tax Sales Information

A guide to policies, processes, and laws for
judicial-in-rem tax sales in
Richmond County



Quick Facts...

- Tax sales will be conducted in the manner of a public auction with the parcels sold in the order as indicated in the advertisement.
- These are **buyer beware sales!** There are no guarantees neither expressed nor implied.
- We suggest you **do not** purchase property without having seen the property.
- Bidding on a piece of property is a binding agreement between the County and the bidder/purchaser. Once the Levy Officer recognizes a bid, it is then considered an official bid (and a binding agreement).
- The opening bid will include all applicable taxes, penalties and costs.
- Title will vest absolutely into the purchaser at the sale, eliminating the need for post-sale barment procedures and quiet title action.
- The purchaser will be responsible for any current and future assessments and property taxes as they are due.
- No information provided is to be considered legal advice. CONSULT AN ATTORNEY.

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INTRODUCTION

Most tax commissioners use tax sales as their method of last resort in fulfilling their constitutional obligation to collect delinquent property taxes. The reality for every tax office in Georgia is that sometimes the only way to collect taxes is the levy and sale of the taxpayer's property. The Georgia code provides for two types of tax sales – the more common, **non-judicial tax sale** that we primarily use here in Richmond County and the less common but equally useful **judicial-in-rem tax sale**, which this brochure will further explain.

When we use a judicial tax sale process some adjustments are made to our normal tax sale timeline and procedures. Ultimately, it is a process that allows our county to deal with more complicated collection issues and in general, our use of this process is an additional way to put otherwise uncollectable abandoned and blighted property back on the tax rolls.

AUTHORITY TO SELL

In 1995, the General Assembly created the "in rem" process by which counties and municipalities can collect taxes through judicial means in a manner that is quicker and results in greater certainty of title than a regular, non-judicial tax sales. (O.C.G.A. § 48-4-75).

In accordance with state law (O.C.G.A. § 48-4-76) and as adopted locally in a resolution dated October 6, 1998, Richmond County authorized *"the filing of judicial-in-rem tax foreclosures for the collection of delinquent taxes..."* and further decided that it was desirable for *"properties for which taxes have been delinquent for at least two years."* After deciding to pursue this process, a tax commissioner *"shall file a petition with Superior Court..."* (O.C.G.A. § 48-4-78) for a judicial tax sale.

Note, that the lawsuit is not filed against an individual, such as the owner of the property, but against the land itself, a procedure in law known as the aforementioned, "in rem."



NOTICE

When a petition for judicial tax sale is filed, multiple types of notices will be distributed (O.C.G.A. § 48-4-78). A Notice of Lis Pendens will be filed in the Richmond County real estate records (formal notice of pending legal action). The property will be posted with copies of the summons, petition, notice to interested parties, and notice of hearing. The same set of documents will be sent via regular mail to the occupant of the property that is the subject of the action and by certified mail to all interested parties named in the action. Also, within 30 days of filing the petition, the petitioner will submit a legal notice to the Augusta Chronicle which alerts the public to the filing of the petition. That notice will run for two weeks.

Any interested party who learns that a property they have a claim to is subject to a tax foreclosure action should take actions to protect their interest, as their interest in the property can be extinguished through the tax foreclosure process. Such interested parties should contact the Richmond County Tax Commissioner and attend the scheduled hearing in the Richmond County Superior Court. Interested parties should consult an attorney as to their rights and obligations..

JUDICIAL TAX HEARING

During the hearing, any interested party shall have the right to be heard and to contest the delinquency of the taxes or the adequacy of the proceedings. If the Superior Court determines that the information set forth in the petition is accurate and that proper notice was given, the court shall render its judgment and order that all the requirements were met and that the property as described in the petition be sold in accordance with the provisions (O.C.G.A. § 48-4-79).

ADVERTISING

With the court order allowing for a foreclosure sale, all properties to be auctioned for delinquent taxes are advertised for four (4) consecutive weeks prior to the tax sale. These advertisements are printed in the Thursday edition of the Richmond County's legal organ, the Augusta Chronicle. Each advertisement shows the owners name, a description of the property to be sold, and the amount of the tax due (O.C.G.A. § 9-13-140; 9-13-141; 9-13-142).

JUDICIAL-IN-REM SALES

When held, Judicial-in-Rem tax sales are on the first Tuesday of the month between the hours of 9:00 am and 4:00 pm at the Augusta-Richmond County Municipal Building at 535 Telfair Street or Augusta Judicial Center and John H. Ruffin Courthouse at 735 Ninth Street. In the event that the first Tuesday of the month falls on a legal holiday, the sale may be held on the following day. Check our website (arctax.com) for scheduled sales or call our office at 706-821-2391.

The judicial-in-rem tax sale shall not occur earlier than 45 days following the date of issuance of such order of the Superior Court (O.C.G.A. § 48-4-81).

Opening bid for a particular property is the amount of the tax due, plus penalties, interest, and costs. The property is sold to the highest bidder.

Pre-Sale Information

At any point prior to the sale, an interested party may redeem the property from the sale by payment of the redemption amount (taxes, accrued interest, penalties, and collection costs) to the Richmond County Tax Commissioner. In the event such payment by the owner is made, the proceedings shall be dismissed, and the rights and interests of all interested parties shall remain unaffected. In the event of such payment is made by an interested party other than the owner, the party shall possess a lien on the property for the full amount of such payment and the lien shall have the same priority as the lien for delinquent taxes (O.C.G.A. § 48-4-80).

Post-Sale Information

The law gives the former owner one last chance to rescue the property through the redemption process after the tax sale. For 60 days after the sale, the delinquent owner can pay into the registry of the Superior Court the redemption amount, which is the minimum bid price. The successful bidder is refunded the purchase price and the foreclosure action is dismissed. If the owner misses that opportunity, then within 90 days of the date of sale, a report of the sale is filed with Superior Court and the title to the property passes to the purchaser by a deed issued by the tax commissioner.

PAYMENT

We require payment in full within two hours of the conclusion of the tax sale. Remittance is required to be made at the Augusta-Richmond County Municipal Building in Suite 100 and must be in the form of cash, certified check, or money order. We also require the purchaser to sign a statement attesting to the fact that certain property was purchased for the bid price.

According to O.C.G.A. § 9-13-170, any person who becomes the purchaser of any real or personal property at any sale made at public outcry who fails or refuses to comply with the terms of the sale when requested to do so, shall be liable for the amount of the purchase money. It shall be the Tax Commissioner's option either to proceed against the purchaser for the full amount of the purchase money or to resell the property and then proceed against the first purchaser for any deficiency arising from the sale.

EXCESS FUNDS

In the event the tax sale price exceeds the minimum bid amount at the sale, the Tax Commissioner shall deposit the surplus amount into the registry of the Superior Court. Such surplus shall be distributed by the Superior Court to the interested parties, including the owner, as their interests appear and in the order of priority in which their interests exist (O.C.G.A. § 48-4-81).

Information 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 for 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 dynamic, volatile and subject to legislative changes by the Georgia General Assembly or rule changes by the Georgia Department of Revenue.

BENEFITS OF JUDICIAL-IN-REM SALES

- Opportunity to buy properties at a much lower cost than on the open market
- Based on a court order, property is sold free and clear of all liens, claims, and encumbrances other than listed by law (see O.C.G.A. § 48-4-79)
- Tax deed purchaser to receive deed within 90 days after date of sale if property is not redeemed
- Eliminates the need for post-sale barments (closing previous owners right to redeem)
- Eliminates need to "quiet title" in most cases - Title will vest in owner after purchase without delays
- Increases marketability of property for investors, as title questions are eliminated prior to sale
- Properties can be put back into productive use as residential homes or new businesses quicker than with non-judicial sales
- Eliminates the shift of increased tax burden to property owners willing and able to pay their share of taxes

QUESTIONS

If you have any questions regarding tax sales after reading this brochure, you may call our office at 706-821-2391. We will attempt to clarify the information found here for you. Again, we strongly encourage interested purchasers at our tax sales to consult with an attorney for answers to any questions.



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