

Delinquent Tax Sales Information

A guide to policies, processes, and laws for delinquent tax sales in Richmond County



Richmond County Tax Commissioner's Office

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.
- Payment must be made for the amount of the bid within two hours of the sale. The form of payment must be cash, money order or certified check.
- The Tax Commissioner will execute a Sheriff's Tax Deed (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 mailing address given at the time of purchase will be the address used to mail deed and all future tax notices.
- State law prohibits the purchaser from taking possession and/or trespassing prior to twelve months from the sale date. Twelve months after the sale date, the purchaser may forever "bar" or "foreclose" the right of redemption.
- The purchaser will be responsible for any future assessments and property taxes as they may become due.
- At the discretion of the Levy Officer, certain properties for which no minimum bid is received may be re-offered following our regular sale.
- No information provided is to be considered legal advice. CONSULT AN ATTORNEY.

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Tax Commissioner/Ex-Officio Sheriff
Richmond County, Georgia
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INTRODUCTION

Our tax sales are held at the Augusta Richmond County Municipal Building at 535 Telfair Street or Augusta Judicial Center and John H. Ruffin Courthouse at 735 Ninth Street on the first Tuesday of the month at 10:00 am when held. Please check our website (arctax.com) for scheduled sales or call our office at 706-821-2391. There are several actions required by law in the preparation for auctioning property. Information folders are kept on these parcels including our title search, tax map and/or plat, various correspondences, and our Ex-Officio Sheriff's Notice of Service. The legal axiom of **caveat emptor** or "buyer beware" applies to tax sales (O.C.G.A. § 9-13-167). Therefore, you are charged with knowledge of the titles of the properties that are sold and any defects in these titles. The Richmond County Tax Commissioner does not warrant the titles and any title searches performed for or by our office for the purpose of a tax sale should not be considered an opinion of title to rely on for tax sale purchasers.

TAX SALE PROCEDURES

The Richmond County Tax Commissioner's Office follows certain procedures when it levies upon a piece of property. The procedures are prescribed in the Official Code of Georgia Annotated (O.C.G.A.). Code sections referenced throughout this brochure are a starting point for your research and are by no means a complete listing. We strongly suggest you read those sections of Georgia Law which pertain to Tax Executions and Tax Sales. O.C.G.A. Title 48 – Revenue and Taxation, Chapter 3 – Tax Executions, and Chapter 4 – Tax Sales, contain important information that you may want to be aware of. Also read and research those Opinions of the Attorney General and Judicial Decisions that are shown after each code section. These opinions and court cases are extremely important and must be taken into consideration when interpreting these laws.

Fi.Fa. (FIERI FACIAS)

A Fi.Fa. (short for fieri facias – a Latin term for "cause it to be done" and also used interchangeably with TAX EXECUTION or EXECUTION) is a tax lien or writ, authorizing the Sheriff or Ex-Officio Sheriff to obtain satisfaction of unpaid taxes by levying on and selling the delinquent taxpayer's property. These documents are recorded on the General Execution Docket ("GED") of the Clerk of Superior Court. (O.C.G.A. § 48-3-1 and 48-3-3). After the due date for tax payments has expired, the Tax Commissioner shall notify each delinquent taxpayer in writing that the taxes are outstanding, and if taxes are not paid within thirty (30) days, an execution (Fi.Fa.) will be issued (O.C.G.A. § 48-3-3). If there is not sufficient property in the county in which the taxpayer resides to satisfy the tax execution, property of the taxpayer situated in any other county shall be subject to levy and sale. (O.C.G.A. § 48-3-5)

AUTHORITY TO SELL

The Tax Commissioner serves as Ex-Officio Sheriff of Richmond County. Each tax commissioner when acting as an ex officio sheriff shall have full power to bring property to sale for the purpose of collecting taxes due the state and county. Additionally, he shall have all the powers vested in sheriffs for the advertisement of the property for sale, for the sale of the property, and for the making and delivery of all due and proper conveyances and bills of sale. All sales made by a tax commissioner acting as an Ex Officio sheriff shall be valid and shall carry the title to property sold as fully and completely as if made by the sheriff of the county (O.C.G.A. § 48-5-137). As Ex-Officio Sheriff, he appoints Ex-Officio Deputy Sheriffs to act on his behalf in tax sale matters. Each Ex-Officio Deputy Sheriff has full power to advertise and bring property to sale for the purpose of collecting taxes due (O.C.G.A. § 48-3-6). Taxes due the state and county are not only against the owner BUT also against the property regardless of judgments, mortgages, sales, or encumbrances. Taxes constitute a general lien upon all property of a taxpayer and the lien attaches on January 1st of each tax year, even though a Fi.Fa. has not been issued (O.C.G.A. § 48-2-56 and 48-5-28).

ISSUANCE AND RECORDATION OF Fi.Fa.

At any time after the 30 day notice has elapsed, the Tax Commissioner shall issue an execution (Fi.Fa. or tax lien) against the owner and the property. The execution (Fi.Fa.) is directed "to all singular sheriffs of this state" (which means Sheriffs or Tax Commissioners who serve as Ex-Officio Sheriffs) and shall direct them to seize and sell the property of the delinquent taxpayer to satisfy the delinquent taxes. The property shall be plainly described on the execution (Fi.Fa.). The execution also bears interest at the rate of 1% per month from the date the tax was due. The execution (Fi.Fa.) is signed by the Tax Commissioner as Ex-Officio Sheriff. The execution (Fi.Fa.) is then recorded on the General Execution Docket (GED) of the Clerk of Superior Court (O.C.G.A. § 48-2-40).

LEVY

When real estate is levied upon, the levy officer who acts as an Ex-Officio Deputy Sheriff is directed by a tax execution to seize and sell the property to satisfy the delinquent taxes. The Ex-Officio Deputy Sheriff must give twenty (20) days written notice before advertising to the owner, tenant, holder of the security deed, and notice to IRS 25 days prior to sale. This levy notice is delivered by certified mail. If we cannot service by certified mail (mail returned unclaimed or undeliverable), this notice is delivered to the owner and/or tenant in person. The levy shall state the owner's and/or mortgage holder's name, the tax years delinquent, the principal amount of taxes due, the accrued cost due, and a description of the property to be sold (O.C.G.A. § 48-3-6; 48-3-9; 48-3-10; 48-5-27; 48-5-161; 9-13-12; 9-13-13).

POINTING OUT PRIVILEGE

If the property being levied upon is a house and lot, then the Tax Commissioner routinely seizes both. However, if a large parcel is being levied, it may not be prudent to sell all of it, and a portion may be set aside for levy purposes. The delinquent taxpayer may select the property to be sold. This is known as the "pointing out privilege". However, it is at the discretion of the Ex-Officio Deputy Sheriff to levy on additional property whenever it is deemed necessary to secure prompt collection of delinquent taxes (O.C.G.A. § 48-3-4).

ADVERTISING

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 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).

10 DAY NOTICE TO OWNER

At least ten (10) days before the tax sale, the owner is sent a written notice via certified mail informing him/her of the impending tax sale (O.C.G.A. § 48-4-1).

TAX SALE

Our tax sales (when held) occur on the first Tuesday of the month between the hours of 10:00 am and 4:00 pm. In the event that the first Tuesday of the month falls on a legal holiday, the sale may be held on the following day (Wed.). The 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. If no one bids at least the amount due the county for the property, the Tax Commissioner considers the property a "No Bid" which can be offered again that day for bid at their discretion.

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

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. After all payments are processed we begin preparation of the Sheriff's Tax Deed and the Real Estate Transfer Tax form. These documents are normally filed/recorded by Friday afternoon following the tax sale.

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 REAL OR PERSONAL PROPERTY AND THEN PROCEED AGAINST THE FIRST PURCHASER FOR ANY DEFICIENCY ARISING FROM THE SALE.

SALE CLOSING

Our office prepares and records the Sheriff's Tax Deed and the Real Estate Transfer Tax form after the sale.

You are reminded that a Sheriff's Tax Deed only conveys "defeasible title" (conditional title that can be revoked or voided) to property. To acquire "fee simple title" (complete possessory rights and ownership) to property, a tax deed purchaser must "foreclose" or "bar" the right to redeem, or allow the title to "ripen by prescription", pursuant to state law.

After the tax sale, if there are any excess funds generated from the sale of the real property, notice is then sent to all interested parties notified during the levy and sale. This notice contains the name of the purchaser, purchaser's address, opening bid, sale price, and excess funds amount with a description of the real property sold. (O.C.G.A. § 9-13-160; 9-13-161; 9-13-166; 48-2-55; 48-4-1; 48-4-3; 48-4-4; 48-4-6; 48-4-20).

PAYMENT OF EXCESS FUNDS

If there are any Excess Funds after paying taxes, costs, and all expenses of a sale, persons or entities who feel they are entitled to the Excess Funds created from a tax sale bid price that is above the total amount due can request funds through a claim with the Tax Commissioners Office. At the Tax Commissioner's discretion, he/she may 1) disburse funds to claimant based on request and information gathered in tax sale file, 2) request a review and recommendation of request from county or outside attorney for the payment of the amount of such excess, or 3) file an interpleader action in Superior Court for the payment of the amount of such excess. In all instances, such excess may then be distributed to intended parties, including the original owner as their interest appears and in the order of priority in which their interests exist (O.C.G.A. § 48-4-5).

A letter is sent to the owner(s) of record and the mortgage holder(s) advising them of the tax sale and explaining how the excess funds can be claimed. We provide the forms to be used as a guideline for the claim.

The original owner of the property, absent other lien holders, can claim the excess funds with an affidavit and indemnification agreement.

The superior lien holder may claim the funds in the same manner. These claims should state the dollar amount of the lien on the property since the excess funds paid to the superior lien holder cannot exceed that amount.

An owner who makes a request through a claim, and has one or more liens on the property, requires the lien holder to release their interest in the funds to the owner in order for us to approve the claim. As stated earlier, in this instance we may file an interpleader action in Superior Court for the payment amount to be distributed to intended parties, including the owner as their interest appears and in the order in which their interest exists (O.C.G.A. § 48-4-5).

RIGHT OF REDEMPTION AND THE AMOUNT PAYABLE

When real property is sold at a tax sale, the owner, creditor, or any person having an interest in the property may redeem the property from the holder of the Sheriff's 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 tax sale, plus any special assessment on the property, plus a twenty (20) percent premium for the first year or fraction of a year, and a ten (10) percent premium of the amount for each additional year or fraction of a year, which has elapsed since the date of sale (O.C.G.A. § 48-4-42).

The owner, creditor, or any other person with interest in the property may redeem the property at any time during the twelve (12) months following the tax sale. The purchaser of the Sheriff's 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 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 an interest in the property, the amount expended by the creditor or the person interested shall constitute a first lien on the property (O.C.G.A. § 48-4-40; 48-4-41; 48-4-42; 48-4-43; and 48-4-44).

NOTICE OF FORECLOSURE OF RIGHT TO REDEEM

The buyer at a tax auction is responsible for proper processing of documents concerning the foreclosure of the owner's right to redeem and those documents concerning the right of redemption.

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 *"the sheriff of the county in which the land is located, not less than 45 days before the date set in each notice for the expiration of the right to redeem. Within 15 days after delivery to him, the sheriff shall serve a copy of the notice personally or by deputy upon each of the persons included on the list furnished him who reside in the county. The sheriff shall make an entry of the service on the original copy of the notice. Leaving a copy of the notice at the residence of any person required to be served with the notice shall be a sufficient service of the notice."* The notice of foreclosure is to be published in the legal section of the Augusta Chronicle once per week for four (4) consecutive weeks after the twelve months have elapsed.

If the redemption is not made until more than thirty (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 (O.C.G.A. § 48-4-42; 48-4-45; and 48-4-46). **PLEASE NOTE: ANY QUESTIONS ABOUT THIS FORECLOSURE PROCESS SHOULD BE REFERRED TO AN ATTORNEY.**

AFTER THE RIGHT OF REDEMPTION IS FORECLOSED

After foreclosing the right of redemption, we recommend the purchaser seek legal advice regarding the petition to quiet title in land, pursuant to O.C.G.A. § 23-3-60.

Under the action, the petitioner (Sheriff's Tax Deed purchaser) makes a request to the court to take jurisdiction over the matter. The court then appoints a Special Master (third party) to examine the petition and exhibits to determine who is entitled to notice. The petitioner will then ask the court to issue a decree establishing his/her title in the land against "all the world" and that all "clouds to petitioner's title to the land be removed" and that "said decree be recorded as required by law".

RIPENING OF THE TAX DEED BY PRESCRIPTION (AN ALTERNATIVE METHOD)

The term "prescription" refers to a process whereby, over a period of time a tax deed becomes a fee simple title. This process promotes an alternative method to obtain fee simple title without the legal intricacies of the foreclosure process. A title under a tax deed properly executed at a valid and legal sale prior to July 1, 1989, shall ripen by prescription after a period of seven (7) years from the date of execution of that deed (O.C.G.A. § 48-4-48).

A title under a tax deed properly executed at a valid and legal sale on or after July 1, 1989, but before July 1, 1996, shall ripen by prescription after a period of four (4) years from the execution of that deed (O.C.G.A. § 48-4-48).

A title under a tax deed properly executed on or after July 1, 1996, at a valid and legal sale shall ripen by prescription after a period of four (4) years from the recordation of that deed in the land records in the county in which said land is located (O.C.G.A. § 48-4-48).

Notice of foreclosure of the right to redeem is not required in order for the title to ripen by prescription. In order to protect your tax sale investment, subsequent taxes should be paid. We also suggest that the purchaser seek legal advice regarding the petition to quiet title in land after the ripening process.

SUBSEQUENT TAX SALES

Until the right of redemption has been foreclosed or the title has ripened by prescription, a tax deed has the same force and effect as a lien. 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. If there is a subsequent tax sale of the same parcel, the tax deed purchaser will be listed as the defendant in Fi.Fa. (record owner) for purposes of levy and sale, despite not having foreclosed the right of redemption or having the tax deed ripen by prescription. Therefore, the tax deed purchaser may wish to consider the best possible avenue to protect their initial tax sale investment. If and when the tax deed purchaser forecloses the right to redeem or the tax deed ripens by prescription and the tax deed purchaser takes possession, the tax deed purchaser becomes the owner of record.

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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