

Tax Sales

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Tax Auctions

- Auctions held by a county official, usually the Sheriff or Constable, to sell properties that have become delinquent on their local property taxes and have been foreclosed on in the courts (a Property Tax Foreclosure).
- In Texas, even though you may hear of a sale referred to as a "Texas Tax Lien Sale", a buyer is not buying a lien, but is actually buying the deed to a property at a Sheriff Sale.

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Texas Property Tax Code: Chapter 34. Tax Sales and Redemption

- **Sec. 34.01. SALE OF PROPERTY** – This section describes in very general terms the entire process of the tax sale from the point of tax foreclosure on an individual to the sale of the property and through the REDEMPTION PERIOD.

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Institution of Seizure

Once a tax becomes delinquent, a tax warrant can be sought from any court in any county where there is property

Tax Code §33.22.

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Tax Warrant

- A **tax warrant** is a legal action that can be brought against you by the state or federal government if you fail to pay your **taxes**. Also called a lien, the warrant is a public record that allows the government to claim your personal property or assets to satisfy the unpaid **taxes**.

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Tax Warrant Contents

- Direct a peace officer in the county and the collector to seize as much of the person's personal property as may be reasonably necessary for the payment of all taxes, penalties, interest, and attorney's fees included in the application and all costs of seizure and sale.
- Direct the person whose property is seized to disclose to the officer executing the warrant the name and the address if known of any other person having an interest in the property
- *A fee or court cost may not be charged for issuance or delivery of a warrant*

Tax Code §33.23

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After ISSUED:

- Shall take possession of the property pending its sale.
- The person (or another person having possession of property) shall surrender the property on demand.
- Pending the sale of the property, peace officer may secure the property at the location where it is seized or may move the property to another location.

Tax Code §33.23

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Bond for Payment of Taxes

A person may prevent seizure of property or sale of property seized by delivering to the collector a cash or surety bond conditioned on payment of the tax before delinquency. The bond must be approved by the collector in an amount determined by him, but he may not require an amount greater than the amount of tax if imposed or the collector's reasonable estimate of the amount of tax if not yet imposed.

Tax Code §33.24.

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Sec. 34.01 – Tax Foreclosure Sale of Property

- **Who conducts the sale** – Unless otherwise requested by the foreclosing party, a tax foreclosure property is to be sold by a Sheriff or a Constable in the County where the property is located.

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Sec. 34.01 – Tax Foreclosure Sale of Property

- **Where is a Tax Sale advertised?** – A notice of the upcoming tax sale must be advertised in a local newspaper for three consecutive weeks prior to the sale and the notice must include date, time and location of the sale as well as a brief description of the property to be sold. If there is no local newspaper, the officer will post a notice of the sale in three different public places including the county courthouse.

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Sec. 34.01 – Tax Foreclosure Sale of Property

- **Where is the Sheriff Sale held?** – Tax Sales must take place at the County Courthouse in which the properties in question are located. A County Commissioner may change the location, but it is rarely the case

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Redemption Period

- A Foreclosure Redemption Period is a period of time in which the original owner of a property that has been sold at a Property Tax Foreclosure Sale may choose to financially redeem (buy back) his or her property as stated in the Prop. Tax Code, Chapter 34.21

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Redemption Time Period

- **Properties with Homeowner's Exemptions or Properties designated as Agricultural Use**– This category includes any property where a previous owner had on file a current Homeowner's Exemption for the purposes of taxes or was agricultural in nature. Properties with this exemption, in the state of Texas, are allowed TWO YEARS after the date that a Sheriff's deed is filed to redeem their property. It is important to note that this two year time period does not commence until the Sheriff's deed is actually filed (not on the date of the sale) and in many counties, it is up to the purchaser to file that deed – not the county.

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Redemption Time Period

- **Properties without Homeowner's Exemptions**- This category includes any properties that do not have a Home owner's Exemption on file for the purpose of taxes. Even if a homeowner is using the property as his primary residence, if he or she has not filed an exemption prior to the property being sold, the property falls into this category. Properties in this category carry only a six month exemption period.

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Redemption Fees

- the amount the purchaser paid for the property
- the amount of the fee for filing the purchaser's deed for record
- the amount paid by the purchaser as taxes, penalties, interest, and costs on the property
- plus a redemption premium of 25 percent of the aggregate total if the property is redeemed in the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed in the second year of the redemption period" (as quoted from the Texas Property Tax Code.
- **Note that this redemption fee *DOES NOT* include such things as remodeling.**

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Buyer' Rights

- If you purchase a property at a sale, the officer at the sale will prepare a Sheriff's Deed for the purchaser and mail it to the purchaser once it has been filed.
- This deed gives the purchaser the right to collect rent and use the property during the REDEMPTION PERIOD

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Minimum Bid

- Properties are generally not sold for less than the amount that covers the taxes, penalties, interest, cost and other claims for which the foreclosure warrant was issued. This amount is usually referred to as the “Minimum Bid” at most Tax Sales.

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Method of Payment

- 100% Payment is due when purchasing a property from a tax sale. No financing is available, and obtaining financing after the fact is difficult due to the difficulty of acquiring mortgage insurance on a Sheriff Sale property. There are multiple ways to secure the funding previous to the sale discussed later in the steps of the process, but funding is one of the biggest obstacles for many investors. With extremely few exceptions, payment is expected in full at the time of the sale or within a few hours later, by cashier’s check or by cash

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Deputy's Duties

- The sale shall be conducted in the manner similar property is sold under execution.

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Deputy's Duties

- The commissioners court of a county by official action may authorize the officer charged with selling property under this section to conduct a public auction using online bidding and sale.

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Deputy's Duties

- On receipt of an order of sale of real property, the officer charged with selling the property shall endorse on the order the date and exact time when the officer received the order.

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Deputy's Duties

- Provide a certified tax statement showing the amount of the taxes included in the judgment that remain due that taxing unit and all penalties, interest, and attorney's fees provided by the judgment as of the date of the proposed sale

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Duties Continued

- The officer charged with the sale shall give written notice of the sale in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended, or that rule's successor to each person who was a defendant to the judgment or that person's attorney.

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Duties Continued

- Provide a Notice of Sale

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The notice must include:

1. The date, time, and location of the sale
2. Gives a brief description of the property to be sold.
3. A notice of sale is not required to include field notes describing the property.
4. State the number of acres and identifies the original survey.
5. States the name by which the land is generally known with reference to that subdivision or addition.
6. The officer shall post the notice in writing in three public places in the county not later than the 20th day before the date of the sale.
7. One of the notices must be posted at the door of the county courthouse.

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Date & Time of tax sales

In person

- A sale of real property under this section, other than a sale conducted by means of a public auction using online bidding and sale under Subsection (a-1), must take place between 10 a.m. and 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a month occurs on January 1 or July 4, between 10 a.m. and 4 p.m. on the first Wednesday of the month.

Online

- A sale of real property conducted by means of a public auction using online bidding and sale under Subsection (a-1) may begin at any time and must conclude at 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a month occurs on January 1 or July 4, at 4 p.m. on the first Wednesday of the month.

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Online Auction

- REAL AUCTION – www.realauction.com
- Our online auction products are as follows: **RealTaxLien** for all Online Tax Lien Auctions, and **RealForeclose** for all Online Foreclosure Auctions, Tax Deed Auctions, and Sheriff Sale Auctions. We also offer **RealTDA** for online Tax Deed Applications and **RealTDM** for Tax Deed Management solutions.
- **REALTAXLIEN™** takes the arduous process of managing tax sale auctions and simplifies it by taking all the tools needed and putting them into one online piece of software that is easy to use for both counties and bidders.
- The Montgomery County, TX Tax Assessor-Collector, Tammy McRae, held her first ever Online Tax Sale hosted by Realauction.com on Tuesday, March 1st. The results were amazing!

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Constable duties for online auction

1. Same duties with exception of In-Person Tax Sale
2. Serve the warrant/citation
3. Post Notices of Sale
4. Enter and complete returns on all sales.
5. Sign Deeds
6. Taxing Unit (L,G,B & S) collects and disburses money
7. Constable fees & commissions should increase

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Tax Sale Cheat Sheet (handout)

Tax Sale Cheat Sheet

- Receive order of Sale from Attorney with cover letter
- Date/Time stamp
- Enter data into Spillman
- Make folder
- Copy of O/S to put in folder – make copies to be mailed to Defendant
- They will email the NOS – add dates and signature
- Type publication instructions – hold until mail out dates
- Publish in newspaper – Ex: Montgomery County News

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Post Tax Sale

- Our Taxing Unit (L,G,B & S) will email the returns to be completed
- Once signed return original to District Clerk with original Order of Sale
- Wait for Deed to be mailed to you
- Receive Deed, input dates, make sure deeds are only 2 pages long
- Print Deed on Deed paper
- Have The Constable sign the deeds and notarize them
- Send Deeds to respective Tax Attorney
- Return the Original Order of Sale & Deputy Return to District Clerk.

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Conducting an auction

- Arrive an hour early – 9:00 a.m.
- Set up Sign In Log
- Post Disclaimer
- 10:00 a.m. Announce agency and area
- Read Disclaimer
- Read Property Description
- Take Bids

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Props

- Bidder numbers
- Disclaimer
- Disclaimer Board

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Bidder Registration

A commissioners court may require that, to be eligible to bid at a sale of real property under this chapter, a person must be registered as a bidder with the county assessor-collector before the sale begins.

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- to designate the person's name and address
- to provide valid proof of identification
- to provide written proof of authority to bid on behalf of another person, if applicable
- to provide any additional information reasonably required by the county assessor-collector
- a form provided by the county assessor-collector certifying that there are no delinquent ad valorem taxes owed by the person registering as a bidder to the county or to any taxing unit having territory in the county.

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Reading property description

- Cause #
- Judgement date
- Account #
- Order issue date
- Style of Case
- Legal Description
- Adjudged value
- Minimum Bid.

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Tips for conducting an auction

- Control the room
- Speak loudly & clearly
- Make sure all bidders know which property you are selling
- Record every bid
- Control the bids

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Order of sale

- An Order for sale is a way to enforce a **Charging Order**. It is an order granting the chargeholder the right to take possession of the property and then to sell it in order to recover the monies secured by their charge

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SALE AT PLACE OTHER THAN COURTHOUSE DOOR

- If the public sale of real property is required by court order or other law to be made at a place other than the courthouse door, sales under this chapter shall be made at the place designated by that court order or other law.
- The commissioners court of a county may designate an area other than an area at the county courthouse where public sales of real property under this chapter will take place that is in a public place within a reasonable proximity of the county courthouse.

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FAILURE TO LEVY OR SELL

- If an officer fails or refuses to levy on or sell property subject to execution and the levy or sale could have taken place, the officer and the officer's sureties are liable to the party entitled to receive the money collected on execution only for actual damages suffered.
- valid judgment
- writ of execution was issued & writ was delivered to the officer
- creditor's judgment was unpaid and unsatisfied
- property to be levied on was subject to execution
- the officer failed or refused to levy under the writ

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DUTIES OF EXECUTING OFFICER

An officer receiving a writ of execution does not have a duty to search for property belonging to the judgment debtor

- determine whether property belongs to a judgment debtor
- determine whether property belonging to the judgment debtor is exempt property
- determine the priority of liens asserted against property subject to execution
- make multiple levies for cash or multiple levies at the same location

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Post Sale

- The officer making the sale shall prepare a deed to the purchaser of real property at the sale, to any other person whom the purchaser may specify, or to the taxing unit to which the property was bid off.
- The taxing unit that requested the order of sale may elect to prepare a deed for execution by the officer.
- If the taxing unit prepares the deed, the officer shall execute that deed.
- The officer shall either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the order of sale, which shall file the deed for recording with the county clerk.
- The county clerk shall file and record each deed filed under this subsection and after recording shall return the deed to the grantee.

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Duties after the sale

- Collect money from the purchaser – cashier's check, money order or cash.
- View tax clear certificate
- Check the identification of the purchaser
- Issue the deed – sent to taxing unit for filing
- Distribution of sale proceeds – County Clerk & County Treasurer
- Proceeds applied to cost of advertising, fees ordered by the judgement to be paid to appointment of attorney ad litem, fees and commissions to the officer conducting the sale, expenses incurred by the taxing unit, tax penalties and interest granted in the judgement & any other amount awarded in the judgement.

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Thank you!

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