

Spring Tax Time: A Quick Guide to Tax Sales in Indiana

In the Dirt: A Real Estate Legal Update

By Keith Mundrick on May 24, 2022

It's May in Indiana, which means flowers are blooming, the Indianapolis 500 is here, and the spring installment of Indiana property taxes are due. Property taxes in Indiana are paid twice a year, with payments generally due on May 10 and November 10. However, the spring installment is most significant as it relates to the sale of land for unpaid taxes. This makes May the perfect time for a refresher on Indiana tax sales.

When an owner of real estate fails to pay property taxes, the past-due amount of property taxes becomes a lien on the property. With some exceptions, a tax lien generally has priority over all other liens, even mortgages. If those taxes remain unpaid, the property may be auctioned by the county where it is located in order to pay the taxes, assessments, and fees owed.

Indiana's Tax Sale Procedure

The sale of land for delinquent taxes is governed by Indiana Code § 6-1.1-24, *et seq* (the "Code"). Pursuant to the Code, the county treasurer is required to certify to the county auditor a list of real property on which property taxes or assessments certified for collection from the **prior year's spring installment or earlier** are delinquent in excess of \$25, or on which there are any unpaid costs from a prior tax sale.

The tax sale process begins when the county where property is located initiates a civil lawsuit to reduce the tax liability to a judgment. The county auditor maintains a list of all real property eligible for sale, and property will remain on this list unless the taxpayer pays the amount of all delinquent taxes, special assessments, and unpaid costs. Ahead of a tax sale, the county auditor will list all properties that will be offered for sale. The tax sale must be held publicly with an opportunity for competitive bidding. These requirements vary slightly for property deemed to be vacant or abandoned.

After the winning purchaser pays its bid amount, the county auditor must deliver a certificate of sale to the purchaser, which can generally be assigned to others. When a certificate of sale is issued, the purchaser acquires a lien against the property for the amount paid. However, a tax sale certificate does not convey title to the property to the purchaser. A purchaser is entitled to a tax deed only after the redemption period has expired and required notice of redemption

rights has been given.

Setting Aside a Tax Sale or Redeeming Property

If there has been substantial compliance with each step governing the tax sale process, a court can order that the purchaser at the tax sale be granted a tax deed. However, if any step required by the Code has been omitted, the tax sale could potentially be invalidated and any deed arising from such a sale may then be set aside.

Generally, any person with a “substantial property interest” in the property—such as the owner or mortgagee—may redeem property within one year after the date of the tax sale, with some exceptions. *See In re 1989 Lake County Tax Sale*, 691 N.E.2d 481 (Ind. Ct. App. 1998); Ind. Code § 6-1.1-25-4. Redemption is accomplished by paying the amount set forth in Ind. Code § 6-1.1-25-2, which can include a premium in excess of the minimum or winning bid at the tax sale, interest, costs, and even attorney’s fees. Investors often participate in tax sales because of the favorable rate of return they receive when a property is redeemed and interest is paid.

Accordingly, it is critical for landowners and mortgage-secured lenders to monitor property taxes in order to avoid significant costs and the potential loss of property. An attorney can also provide advice regarding the priority of any liens. Unpaid property taxes can also have severe ramifications for the state of title, as discussed in my last article.

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