

Ellsworth County, Kansas Tax Foreclosure Sale Instructions

Background:

County tax sales are held to collect unpaid real estate taxes. The County may institute an action in the District Court against the owners and persons having or claiming an interest in real property upon which taxes have not been paid for three or more years. The action in District Court, which takes the form of a petition, asks the District Court to determine the amount of taxes, charges, interest and penalties charged to each piece of property to be included in the sale, and that the Court decree the amount due to be a first and prior lien upon the real estate and that the property be sold at a public sale to satisfy the lien.

Before the Auction:

1. Several properties may be offered for individual sale at the auction. Any potential buyers are responsible for having researched any properties he or she is interested in. A list of the properties offered at the sale will be/was published in the Ellsworth Independent Reporter.
2. A property that you may have researched before today and expected to bid on today, could have been redeemed before this sale. The current owner(s) have the right to redeem their property at any time prior to the day of the sale.
3. Properties are sold at the public auction to the highest qualified bidder. The minimum bid is \$1 but all property will be assessed a \$225 administration fee plus the cost of filing the Sheriff's Deed. It is not the assessed value of the property.
4. Registration by anyone bidding on a property prior to the sale is required. Registration for the auction will begin on October 1, 2019 and continue until the start of the auction. You can register for the auction at the Ellsworth County Clerk's Office in the Ellsworth County Courthouse.
5. State law prohibits the following people from buying at the auction:
 - a. Those who owe delinquent taxes in Ellsworth County;
 - b. Those who have an interest in the property, such as the owners, mortgagees, relatives, or officers in a corporation which owns the property; and,
 - c. Those who buy the property with the intent to transfer it to someone who is prohibited from bidding.
6. All winning bidders must execute an affidavit, under oath, that they meet the statutory qualifications for bidding on tax sale property.
7. All properties will be identified at the sale by cause of action number and by approximate street address, if applicable.
8. **REMEMBER**, it is the legal description, not the street address which controls the location of the property being sold. **IF YOU ARE NOT ABSOLUTELY CERTAIN ABOUT WHAT YOU ARE PURCHASING, DO NOT BID.**
9. Properties are sold "AS IS." Ellsworth County makes no warranties of any kind or character as to the condition or attributes of the property.

10. All properties that are sold today must be paid in full by 4:30 p.m. the day the auction concludes. **Payment must be made by cashier's check or money order made payable to The Clerk of the District Court. Personal checks and cash WILL NOT be accepted as payment.** You are to make payment at the Ellsworth County Treasurer Office located in the Ellsworth County Courthouse. You will be given a receipt for your payment.

11. If you fail to pay for the property you purchased by 4:30 the day of the sale you will be banned from bidding in any tax sale held by the Ellsworth County, KS for three years.

After the Auction:

1. As soon as practicable after the auction, a Motion will be filed with the Court requesting the court to confirm the sales. After each sale is confirmed and the deed is recorded with the Register of Deeds Office, the purchaser will receive a Sheriff's Deed. This process can take time, approximately 3-5 weeks. Be assured the County works to conclude each case in the most expeditious, legal manner possible.

2. You are NOT the owner of the property until such time as the sale is confirmed. Until the sale is confirmed, you do not have the right to collect rent or require the owner to leave the premises. You do not have the right to start removing, demolishing, cleaning up or otherwise altering the property. You do not have the right to change the locks on the property. Once the sale is confirmed, then you have an interest in the property subject to your receipt of the Sheriff's Deed.

3. If there are occupants of the property at the time you receive your deed, you cannot breach the peace trying to take possession. You will be required to obtain a court order directing the sheriff to evict the occupants. The sheriff cannot act without the court order. The County is not responsible for obtaining possession for you or for your expenses to obtain possession.

4. All liens of record will be extinguished upon confirmation of the sale; however, covenants, restrictions and easements of record are not extinguished, and you take the property subject to those encumbrances.

5. You take title to the real estate, and that which is typically understood to be real estate, only. You do not get title to any personal property on the purchased property. You need to consult a lawyer in order to determine how to dispose of any personal property found on the premises.

6. You take the property subject to any pending actions to condemn the property for code violations or any environmental enforcement proceedings. It is up to you to have done the research to determine if the property you are purchasing as part of tax foreclosure proceedings are part of such actions. You may find that the property has been demolished since the last time you inspected it or that a demolition is soon to occur. This is not a basis that allows you to have the sale set aside.

7. You are responsible for any taxes and/or special assessments not included in the judgment; including the full amount of taxes assessed against the property for the calendar year in which the auction is held and any current and future special assessments. You are responsible for payment of the taxes and assessments for 2019.

8. Under K.S.A. 79-2804b, for twelve months after the date of the sale, a legal challenge may be made questioning the procedure(s) used by the county. If such a challenge is successful, the property could revert to the original owner, in which case the purchase price would be refunded to you. Because of this, most title companies won't write title insurance on tax sale property until

the challenge period has expired. Those that do issue insurance may require a quiet title action. Ellsworth County is not giving any warranty of title to any parcel. However, if you are not able to obtain title insurance please let us know and we will provide contact information for someone that may be able to help.

9. During the time period after the sale and up to confirmation you may not have an insurable interest. Therefore, if the property is destroyed by fire or other casualty before you are able to get insurance, it is not a basis to set aside the sale. You need to consult with your insurance agent as to when you have a sufficient interest for your insurance company to issue a policy protecting the property. This is a risk of purchasing tax foreclosure property.

This is not meant to be a complete statement of the law regarding tax foreclosures nor is anything in these instructions meant to be legal advice. If you need legal advice in regards to any purchase or bid that you make at the tax sale, you should hire an attorney.