

Indiana Commissioners' Certificate Sale: LIEN BUYER HANDOUT



DISCLAIMER

THIS HANDOUT PROVIDES GENERAL INFORMATION ABOUT INDIANA TAX SALES AND THE STATUTORY OBLIGATIONS OF LIEN BUYERS FOLLOWING A TAX SALE. HOWEVER, LEGAL INFORMATION IS NOT THE SAME AS LEGAL ADVICE, WHICH CONCERNS THE APPLICATION OF THE LAW TO A SPECIFIC SITUATION. THIS HANDOUT IS NOT MEANT TO PROVIDE COMPREHENSIVE GUIDELINES FOR ANY PARTICULAR SITUATION. THE INFORMATION HEREIN IS NOT GUARANTEED TO BE CORRECT, COMPLETE, OR CURRENT. LIEN BUYERS SHOULD NOT ACT OR RELY ON ANY INFORMATION IN THIS HANDOUT WITHOUT SEEKING THE ADVICE OF AN ATTORNEY.

A COMMISSIONERS' CERTIFICATE SALE IS A BUYER BEWARE SALE; ALL PROPERTIES/TAX LIENS ARE SOLD "AS IS." PURSUANT TO IC 6-1.1-24-10 THE ONLY WARRANTY PROVIDED BY THE COUNTY IS THAT THE TAXES AND SPECIAL ASSESSMENTS ASSOCIATED WITH THE PROPERTY DESCRIBED IN THE TAX SALE CERTIFICATE WERE DELINQUENT AND UNPAID AT THE TIME OF THE SALE AND THE PROPERTY WAS ELIGIBLE FOR SALE. THE COUNTY DOES NOT PROVIDE ANY REPRESENTATION, COVENANT OR WARRANTY AS TO THE HABITABILITY, CONDITION OR FITNESS OF THE PROPERTY. THE COUNTY DOES NOT WARRANT THE ACCURACY OF THE LEGAL DESCRIPTION, STREET ADDRESS OR COMMON LOCATION OF THE PROPERTY. THE COUNTY MAKES NO REPRESENTATION, COVENANT OR WARRANTY OF TITLE. A TAX DEED ISSUED TO A PURCHASER IN A COMMISSIONERS' CERTIFICATE SALE MAY NOT CONVEY INSURABLE OR MARKETABLE TITLE TO THE PROPERTY. BIDDERS ARE STRONGLY ENCOURAGED TO EXERCISE DUE DILIGENCE IN RESEARCHING PROPERTIES AND OBTAINING THE ADVICE OF LEGAL COUNSEL PRIOR TO PURCHASING TAX SALE CERTIFICATES IN A COMMISSIONERS' CERTIFICATE SALE.

REGISTRATION AND AUCTION PROCEDURE

If you are interested in obtaining a preliminary list of properties that will be offered in the Commissioners' Certificate Sale prior to the time and place of the auction, a list will be available on SRI's website at: sriservices.com or you may contact the County Commissioners' Office. Any list made available prior to the time and place of the auction is only a preliminary list and should not be relied upon as a final list of properties. Any list of properties made available prior to the time and place of the auction is subject to change without notice.

PLEASE NOTE THAT THE MINIMUM BIDS FOR PROPERTIES IN THE COMMISSIONERS' CERTIFICATE SALE DO NOT INCLUDE THE PROPERTY TAXES THAT ARE DUE AND PAYABLE IN THE YEAR OF THE SALE, IN CONTRAST TO THE MINIMUM BIDS FOR TAX SALES HELD UNDER IC 6-1.1-24-5. WHEN A DEED IS ISSUED TO A PURCHASER OF A CERTIFICATE OF SALE SOLD UNDER IC 6-1.1-24-6.1 (COMMISSIONERS' CERTIFICATE SALES), THE COUNTY AUDITOR SHALL, IN THE SAME MANNER THAT TAXES ARE REMOVED BY CERTIFICATE OF ERROR, REMOVE FROM THE TAX DUPLICATE THE TAXES, SPECIAL ASSESSMENTS, INTEREST, PENALTIES, AND COSTS REMAINING DUE AS THE DIFFERENCE BETWEEN THE AMOUNT OF THE LAST MINIMUM BID UNDER IC 6-1.1-24-5(E) AND THE AMOUNT PAID FOR THE CERTIFICATE OF SALE.

If you are interested in bidding on properties in this Commissioners' Certificate Sale, you must comply with the following steps (for instructions in the case of an online auction, please visit zeusauction.com):

1. Review and complete (please print) the Bidder Registration Card and sign where indicated. Return your signed Bidder Registration Card to auction staff. If you have pre-registered for the Commissioners' Certificate Sale online, please inform auction staff and turn in the online printout.
2. You will be given IRS Form W-9 to complete. Unless otherwise directed during the introduction to the auction, you must sign and turn in a completed form when you pay the amount of your winning bid(s) to the county office indicated in the introduction.
3. After your Bidder Registration Card has been processed, your name will be called and a bidder number page will be given to you prior the start of the auction.
4. Raise your bidder number page to signal your bid.

After your bid is accepted as the winning bid for a property or at the conclusion of the entire auction, a Bid Verification and Receipt Form will be printed by auction staff. Your name will be called and you will be given this form for signature and verification.

Once you have signed and verified the Bid Verification and Receipt Form for the tax sale certificate(s) you purchased, you must pay the total amount of your bid(s) pursuant the terms and conditions discussed in the introduction to the auction. Please remember to pay in a form of funds acceptable to the County and by the deadline discussed in the introduction to the auction. After you have paid the total amount of your bid(s), you will be given a receipt and a tax sale certificate for each lien you purchased during the auction. **It is critical that lien buyers safeguard the tax sale certificate(s) they are issued.**

POST-AUCTION INFORMATION FOR LIEN BUYERS

PLEASE NOTE THAT THE MINIMUM BIDS FOR PROPERTIES IN THE COMMISSIONERS' CERTIFICATE SALE DO NOT INCLUDE THE PROPERTY TAXES THAT ARE DUE AND PAYABLE IN THE YEAR OF THE SALE.

The tax sale certificate(s) a lien buyer purchased contains: (1) a description of the real property that corresponds to the description used on the notice of sale; (2) the name of the owner of record at the time of the sale; (3) the mailing address of the owner of the real property sold as indicated in the records of the county auditor; (4) the name of the purchaser; (5) the date of sale; (6) the amount for which the real property was sold; (7) the amount of the minimum bid for which the tract or real property was offered at the time of sale; (8) the date when the period of redemption specified in IC 6-1.1-25-4 will expire; (9) the court cause number under which judgment was obtained; and (10) the street address, if any, or common description of the real property. Lien buyers should pay close attention to the dates on their tax sale certificate(s), as they govern their ability to petition the court having jurisdiction over the Commissioners' Certificate Sale to direct the County Auditor to issue them tax deed(s). **A tax sale certificate does not convey ownership of property. Until a lien buyer is issued a tax deed for the property pursuant to a court order, a lien buyer does not have any right to take possession of the property.**

The period for redemption of real property sold in the Commissioners' Certificate Sale is **one hundred twenty (120) days after the sale date. Not later than ninety (90) days** after the date of the Commissioners' Certificate Sale, a lien buyer must give notice of the sale (via certified mail) to:

- the owner of record at the time of the sale; and
- any person with a substantial property interest of public record in the tract or real property.

The legal requirements of this notice are governed by IC 6-1.1-25-4.5. **Lien buyers are strongly encouraged to hire an attorney to assist them in meeting these statutory notice requirements.** Lien buyers are strongly encouraged to initiate a title search on the subject property to identify the owner(s) of record and persons with a substantial property interest of public record.

If property for which a lien buyer bought a tax sale certificate is redeemed during the redemption period, the lien buyer may be reimbursed for its attorney's fees and costs of giving notice under IC 6-1.1-25-4.5, as well as the cost of a title search. This reimbursement of a lien buyer's actual paid expenses is subject to a maximum or ceiling amount established by the court having jurisdiction over the sale. The maximum amounts for reimbursement were stated in the introduction to the auction and the Auditor's office will have a copy of the court order setting the maximum amounts for title search and attorneys' fees reimbursement. **Please note that lien buyers shall only be entitled to reimbursement if they file a form 137 B with the County Auditor prior to time that the property is redeemed. Lien buyers must present proof of payment of reimbursable expenses when they file a form 137 B. If the property is not redeemed during the redemption period, a lien buyer will not be entitled to any reimbursement of attorneys' fees, costs of giving notice under IC 6-1.1-25-4.5 or a title search. Again, if the property is redeemed before a lien buyer files a form 137 B, the lien buyer will not be reimbursed.**

During the redemption period, lien buyers are strongly encouraged to pay all subsequent taxes and special assessments on the properties for which they bought a tax sale certificate. If a lien buyer pays taxes and special assessments on the property after the sale, the lien buyer must follow the form 137 B process, referenced above, to ensure that the lien buyer is reimbursed if the property is redeemed. Immediately upon paying any subsequent taxes and special assessments on the property, the lien buyer should provide a receipt to the County Auditor's office and file a form 137 B. If the lien buyer has paid subsequent taxes and special assessments, and properly filed a form 137 B, the lien buyer will be entitled to reimbursement for all such taxes and special assessments plus interest at the rate of 10% per annum, upon redemption. **If the property is not redeemed during the redemption period, the lien buyer will not be reimbursed for any subsequent taxes and special assessments. If the property is redeemed before the lien buyer files a form 137 B for subsequent taxes and special assessments, the lien buyer will not be reimbursed.**



INFORMATION FOR LIEN BUYERS IN THE EVENT THE PROPERTY IS REDEEMED

Property sold in the Commissioners' Certificate Sale may be redeemed at any time within one hundred twenty (120) days after the date of the Commissioners' Certificate Sale. When property is redeemed in connection with the Commissioners' Certificate Sale, the County Auditor will notify the lien buyer and the tax sale certificate must be surrendered to the Auditor's office as soon as possible. When a lien buyer surrenders a tax sale certificate upon redemption, the lien buyer will receive a refund equal to the purchase price, plus ten percent (10%) interest thereon, plus all prior and properly filed 137 B costs, which may include attorneys' fees and costs of giving notice under IC 6-1.1-25-4.5, the cost of a title search and all taxes and special assessments paid by the lien buyer on the redeemed property after the sale (plus interest at the rate of ten percent (10%) per annum on the subsequent taxes and special assessments paid by the lien buyer).

An entry reflecting all transactions related to the sale of each property will be recorded on the Indiana Tax Sale Record (Indiana Board of Accounts Form 137).

INFORMATION FOR LIEN BUYERS IN THE EVENT THE PROPERTY IS REDEEMED

If the property for which a lien buyer purchased a tax sale certificate at the Commissioners' Certificate Sale is not redeemed during redemption period, the lien buyer must comply with additional statutory requirements in order to obtain a tax deed. These requirements are codified, generally, at IC 6-1.1-25-4.6. **After the expiration of the redemption period but not later than three (3) months after the expiration of the period of redemption,** the lien buyer or its assignee may file a verified petition with the court having jurisdiction over the tax sale for an order directing the County Auditor to issue a tax deed to the lien buyer. **In addition to the filing of the petition, lien buyers are required to send notice of the petition to the same parties and in the same manner as provided in IC 6-1.1-25-4.5** (note: this section governs the "notice of the sale" discussed previously). Lien buyers are strongly encouraged to hire an attorney to assist them with the legal steps required to obtain a tax deed.

The Court having jurisdiction over the tax sale will direct the County Auditor to issue a tax deed to a lien buyer if the court finds that the following conditions exist:

1. The time of redemption has expired;
2. The tract or real property has not been redeemed from the sale before the expiration of the period of redemption;
3. Except with respect to a petition for the issuance of a tax deed under a sale of the certificate of sale on the property under IC 6-1.1-24-6.1, all taxes and special assessments, penalties, and costs have been paid;
4. The notices required by IC 6-1.1-25-4.5 and IC 6-1.1-25-4.6 have been given; and
5. The petitioner has complied with all the provisions of law entitling the petitioner to a deed.

Lien buyers who receive a court order directing the County Auditor to issue a tax deed must submit the court order, tax sale certificate, and recording fees to the County Auditor within 150 days. Within a reasonable period of time thereafter, and following receipt of the court order, tax sale certificate, and recording fees, the County Auditor will issue a tax deed to the lien buyer.

PENALTIES FOR FAILURE TO COMPLY WITH TAX SALE LAWS

Failure to Pay Bid

A lien buyer who fails to pay the amount bid shall pay a civil penalty of twenty-five percent (25%) of the amount of the bid. The county prosecuting attorney is authorized to initiate an action in the name of the state treasurer to recover the civil penalty.

Failure to Give Post-Sale Statutory Notices

If a lien buyer fails to give notice as required by IC 6-1.1-25-4.5, the lien buyer will not be entitled to a return of the purchase price or any portion of the purchase price of the tax sale certificate. The penalties for failure to give the notice required by IC 6-1.1-25-4.6 are described at IC 6-1.1-25-4.6(d).

Failure to Petition Court

If a lien buyer fails to file the verified petition described in IC 6-1.1-25-4.6 **within three (3) months after the expiration of the period of redemption**, the lien buyer's lien against the property terminates.