



**INFORMATION CONCERNING JUDICIAL TAX FORECLOSURE SALE HELD
PURSUANT TO K.S.A. 79-2804**

**MEMORIAL HALL
APRIL 21, 2021 AT 10:00 A.M.**

This Information is provided by the Atchison County Counselor for general informational purposes only. It is not intended as legal advice or as a complete statement of the law regarding tax foreclosures. Experience has shown, however, that after each tax sale at least one successful bidder will complain that the rules were not adequately explained or were not understood by the bidder. If you do not understand the rules you should speak with your own attorney about the rules, and see if your own attorney can explain them adequately.

**IF YOU DO NOT UNDERSTAND THE RULES DO NOT BID AT THE TAX
SALE OR BE PREPARED TO LIVE WITH THE CONSEQUENCES.**

1. Each successful bidder is responsible for any taxes and assessments, including special assessments, which are not included in the judgment, **THIS INCLUDES THE FULL AMOUNT OF TAXES AND SPECIAL ASSESSMENTS AGAINST THE PROPERTY FOR THE CALENDAR YEAR IN WHICH THE SALE IS HELD.** This means that each successful bidder will be responsible for 2021 taxes on any tract purchased. By statute, those taxes become due November 1, 2021, and the first half payment is to be paid by December 20, 2021. Under Kansas law real estate taxes do not become due and owing until November 1 of the year in which they are levied. Unpaid taxes do not constitute a lien upon the property until November 1. Therefore, the taxes which have not as yet become current **ARE NOT EXTINGUISHED.** If a tax lien attaches subsequent to the tax foreclosure judgment, K.S.A. 79-2804 clearly contemplates the purchaser taking title subject to such subsequent tax liens. Please note that Kansas real estate taxes are paid in arrears. That is, the 2021 real estate taxes will not become due until after the sale. The successful bidder will be responsible for paying **ALL** of the taxes, even taxes the successful bidder may attribute to the time period prior to the issuance of a deed.

2. Special assessments for sewer, paving, and water will be pro-rated from the date of judgment. The purchaser will then be responsible for the special assessments until they expire or until the purchaser transfers the property.

3. Any special assessments for demolition, weed cutting, or nuisance abatement (e.g. mowing, weeds, demolition) that have been certified to the County on or before the sale will be abated. Any such assessments certified after that date are not abated and may still become a lien against the property. This may be the case even if

the assessment is for work that occurred prior to the date of the sale. This may be the case even if the assessment is for work that occurs after the sale but before a Sheriff's Deed is issued.

4. Each interested bidder must obtain a bid number in order to bid.
5. The information included on the bid registration will be used to prepare the deed for the successful bidder. Please make sure the information is correct.
6. If a person wishes to bid on some items in his or her own name but bid on others in the name of a corporation or LLC the person must obtain a separate bid number for each entity for which the person will place a bid.
7. The Sheriff will not issue a deed to anyone other than the successful bidder. While you may be able to transfer an interest in the property after the bidding is complete but before deeds are prepared, you will need to prepare any paperwork (e.g., contracts and/or deeds) necessary to effectuate that transfer. The Sheriff will issue the deed to the successful bidder.
8. No bid number will be issued to any person who is the record owner of any real estate upon which there are any delinquent taxes or special assessments as reflected by the records of the Atchison County Treasurer.
9. In addition, a bidder may not buy a particular parcel if the bidder has a statutory right to redeem that parcel. That includes any person who has (or had) "an interest" in the tract, or who is an heir, parent, grandparent, child, grandchild, spouse, sibling, trustee, stockholder, officer, director, or who is acting on behalf of any such person who had a statutory right to redeem. This does not include the holder of a mortgage.
10. The auction will be conducted by Atchison County Sheriff Jack Laurie.
11. Each tract will be sold to the highest bidder.
12. Bidding will begin at \$38 per tract.
13. After the sale, each successful bidder must sign an affidavit stating that he/she has not purchased the property either directly or indirectly for anyone having the right to redeem. (K.S.A. 79-2804g.)
14. Based on Notary Public guidelines, each purchaser will be required to provide a photo ID prior to signing the affidavit.
15. Successful bidders must pay for their purchase(s) at the conclusion of the sale.
16. Only ONE CHECK is required. The amount of the successful bid must be paid to the Sheriff in cash or by check made payable to the "Clerk of District Court" for

the purchase of the property.

17. The sale of all property will be enforced. The County will take all necessary steps to collect on bad checks from this tax sale, collect from those persons stopping payment on a check, or collect from those purchasers attempting to back out of the sale for any reason whatsoever.

18. For any property that sells for more than the amount of the County's total lien, the excess proceeds will be distributed upon order of the Court and pursuant to K.S.A. 79-2803.

19. ATCHISON COUNTY IS NOT GIVING ANY WARRANTY OF TITLE TO ANY PARCEL.

20. There are no warranties as to the condition or attributes of the property. Under Kansas law, tax sale purchasers take property under the premise of caveat emptor/buyer beware. Potential purchasers are charged with notice of all defects or problems with the property.

21. The property is being sold based up the legal description only, not the commonly known address or the parcel identification number(s). Rely only on the legal description and not on the address or parcel identification number(s).

22. All property is sold subject to easements, restrictions, and covenants of record. (K.S.A. 79-2804.)

23. Pursuant to court order we are selling real estate only. Any personal property that is located on the real estate is not included in the sale. If there is a mobile home, a manufactured home, or other personal property located on the property that property is not part of the real estate being sold. A buyer does not obtain title to any personal property on the purchased property. In such a case the buyer may need to consult with his or her own lawyer in order to determine how to dispose of any personal property found on the premises.

24. A buyer takes subject to any pending actions to condemn the property for code violations or any environmental enforcement proceedings. We have no way of determining whether any of the parcels we sell as part of tax foreclosure proceedings are part of such actions. It is up to the bidder to have done the research.

25. The tax sale statutes (K.S.A. 79-2804) provide that the successful purchaser will be vested with fee simple title, which excludes all other parties who have been sued in the action.

26. After the sale, the Court must "CONFIRM" the sale and authorize the Sheriff to issue the deeds. As part of this process, the Sheriff must prepare and file a sales return with the Court. Thereafter the County Counselor will file a Motion requesting that the Court approve and confirm the sale. Once the Motion is granted, the Counselor will prepare the deeds and have the Sheriff sign them. The Register of

Deeds will record the deeds and mail them to the purchasers. This process may take several weeks, depending upon issues arising post-sale.

27. The deeds will be made in the name of the purchaser as stated on the bid registration. In the event that a single bidder purchases more than one tract or parcel, a separate deed will be issued for each tract or parcel purchased.

28. The County does not guarantee that any purchaser will be able to purchase title insurance.

29. A purchaser at this sale is NOT the owner of the property until such time as a Deed is recorded.

30. A PURCHASER MAY NOT HAVE THE RIGHT TO POSSESSION UNTIL THE SALE IS CONFIRMED BY THE COURT AND THE DEED IS FILED. IF YOU HAVE QUESTIONS ABOUT THIS PLEASE SPEAK TO YOUR OWN ATTORNEY. THE RIGHT TO POSSESSION IS FACT-INTENSIVE, AND THERE IS NO ONE-SIZE-FITS-ALL ADVICE.

31. Until the Sheriff's Deed is recorded a purchaser may not have a right to collect rent or require the owner to leave the premises. A purchaser may not have the right to start removing, demolishing, cleaning up or otherwise altering the property. A purchaser may not have the right to change the locks on the property until after the Sheriff's Deed is recorded.

32. If there are occupants in the property at the time the deed is recorded, the purchaser may not breach the peace trying to take possession. If this occurs, the purchaser should seek the advice of his or her own attorney. The purchaser might need to obtain a court order directing the sheriff to evict the occupants. Depending on the facts of the case, you may be able to obtain such an order in this case. Atchison County is not responsible for expenses involved in any action to obtain possession.

33. If a structure on the property is damaged or destroyed by fire or other casualty, this is not a basis to set aside the sale. This is the case even if the damage occurs after the sale but before the deed is issued. In fact, this is the case even if the damage occurred one minute before the sale and that fact is not known to the bidder. This is a risk of purchasing tax foreclosure property.

34. During the time period after the sale the purchaser may be able to obtain property insurance on the property. Each purchaser should consult with an insurance agent as to when the purchaser has a sufficient interest to obtain insurance on the property.

35. Atchison County does not guarantee that you will be able to purchase property insurance on the property.

36. Actions to open, vacate, or modify the foreclosure proceedings may be instituted for any number of reasons. (K.S.A. 79-2804b.) For twelve months after the

date the sale is confirmed by the court, a legal challenge may still be made questioning the foreclosure procedures. If an individual claims he/she was not properly notified and attempts to challenge the tax sale, he/she could legitimately come into court and challenge the sale.

37. For this reason, Atchison County recommends that no improvements be made to the property until 12 months after the date the sale is confirmed by the Court.

38. In the event a sale is set aside, Atchison County will refund the purchase price of the property plus interest (K.S.A. 79-2804c). The County will not, however, refund any purchaser for the cost of improvements made to the property or for insurance, loss of anticipated profit, or other expenses, incurred.

39. If the purchaser transfers, sells, gives, or otherwise conveys the property to any person who had a statutory right to redeem prior to the sale, within ten (10) years of the date of the sale, such person shall be liable for an amount equal to the original judgment lien and interest thereon from the date of sale as required by K.S.A. 79-2804g(c).