

**2016 TAX SALE GUIDELINES
CLAY COUNTY, MISSOURI
AUGUST 22, 2016**

This is not a mortgage foreclosure sale; we sell tax liens on properties for taxes due. Only our most delinquent parcels are sold without the ability for redemption. Mortgage foreclosures are generally held by a Trustee or law firm representing the mortgage company. Interested parties should contact them for any information concerning those sales. Clay County does not have a list of properties that may appear on a foreclosure sale.

Please review all applicable Missouri statutes, with particular emphasis on Chapter 140. These statutes can be found at www.moga.mo.gov. Statutes can also be researched at a Missouri public library. You may wish to consult an attorney before making a bid. This summary is provided for your convenience only. It is the responsibility of tax sale investors to understand the state statutes. Since a court's interpretation of state statutes overrules any interpretation by the Collector's office, the Collector cannot answer legal questions. **The laws governing tax lien sales change frequently. Please read the following guidelines carefully to learn how Clay County interprets the law and operates its sale.**

The Collector makes no warranty on the title generated by issuance of a Collector's Deed. Failure to follow all tax sale guidelines and procedures found in Chapter 140 of the Missouri statutes may result in the purchaser's loss of all interest in the purchased property, without refund of tax dollars paid, and may make such a purchaser liable for civil damages or criminal charges.

Registrations to bid must be submitted before 5:00 PM on Friday, August 19th. Forms may be obtained online or by contacting our office. **Registrations will not be accepted the day of the sale.**

During the tax sale, the Collector will act as auctioneer, proceeding through the properties in the same order as they are listed in the newspaper publication.

Cash, cashier's checks, or money orders are the only acceptable forms of payment. Bidders will be able to pay following the sale, or they may leave to obtain certified funds from a local bank, but **MUST** return and pay between 2:00 PM and 3:00 PM that afternoon.

At 3:00 PM, if a bidder has not made payment, those parcels (and only those) will be offered again to any bidders that are present at 3:00 PM. Only bidders that were timely registered for the sale at 10:00 am will be allowed to bid. If there is no new bid for any such parcel offered, the original bidder will be charged 25% of the purchase price (RSMo 140.280).

Interest on tax certificates is paid at 10% annually on the amount of delinquent taxes only, not on any overbid. Subsequent taxes paid earn 8% annually.

Buyer Beware!! All sales are final.

Know exactly what you are bidding on. There are no refunds.

Carefully research the properties you bid on. There are some properties in Clay County with federal or state liens, hazardous conditions, or that are considered common area. It is the responsibility of the investor to research the property fully and understand how those conditions may impact your purchase. We recommend researching the owner's name as well as the property on the Recorder of Deeds website.

Non tax sale liens or other obligations on the property may not be extinguished by the issuance of a Collector's deed. We advise you to consult your attorney about liens and/or deeds of trusts, etc. (RSMo 140.420).

The tax sale is held annually on the 4th Monday in August, commencing at 10:00 AM at the Clay County Administration Building (1 Courthouse Square) in the 3rd floor Commission Hearing Room. Check-in is between 9:00 -10:00 AM. The sale will start promptly at 10:00 AM. **Late registrations will be not allowed.**

All lands shall be subject to all validly recorded covenants or easements of record or in use.

Certificates of purchase may be assigned to a third party if that person is a resident of Missouri and is not a delinquent taxpayer. Arrangements must be made through our office. Recording fees will be charged.

Registration and Tax Sale List

Steps to registration:

1. Complete the tax sale eligibility affidavit. This document is completed under oath and notarized. If any statement is later found to be untrue, lien purchases will be void, tax dollars paid will not be refunded, and the affiant may be subject to other civil or criminal penalties.
2. If you are bidding in a corporate or business name, or you have any personal interest in a business or corporation, your affidavit will need to assert that your affiliated businesses are also not delinquent on taxes. Additional proof may be required.
3. Shill bidding or proxy bidding are prohibited. Your affidavit must affirm that you are bidding for your personal interest only, and are not bidding on behalf of any person that is ineligible to participate in the Clay County tax sale.
4. If you are not a Missouri resident you will need to fill out additional forms for designating a resident agent.
5. All forms are online at www.claycountymo.gov, or may be obtained through the Collector's office. Submit forms to Tax Sale Processing, collector@claycountymo.gov, or mail to: Clay County Collector, Attention: Tax Sale Processing, 1 Courthouse Square, Liberty, MO 64068, or deliver your paperwork in person at either location.
6. Copies of these documents will do for registration purposes. The originals need to be submitted on or before the day of the sale.
7. Supply copy of a valid driver's license or other government issued ID at check-in on the day of the sale.

A list of properties subject to sale will be published in a local paper for three consecutive weeks prior to the auction. Each parcel offered for sale is individually identified by advertised item number, parcel

number, owner of record, legal description (as provided by the Assessor's office), and amount of taxes due. This list will also be available online at www.claycountymo.gov.

Sale to Non-Residents

No bid shall be received from any person not a resident of the state of Missouri until such person files an affidavit with the Collector appointing a Clay County resident to act as their agent and said agent files an affidavit stating they accept the responsibility. Non-resident bidders must agree that service of process on the designated agent shall give the Circuit Court of Clay County jurisdiction to determine any suit arising out of or connected with a sale for taxes. All out of state bidders must be registered by the Wednesday prior to the sale. All certificates of purchase and deeds will be issued in the agent's name. It is then be the responsibility of the agent to transfer title to the purchaser. Suitable affidavit forms can be found on our website or by contacting our office. (RSMo 140.190). Buyers and/or their registered agents must be present to bid. **Non-resident bidders must have their registration complete by Wednesday, August 20th.**

Businesses registered with the MO Secretary of State are not subject to this requirement.

Tax Sale

During the tax sale, the Collector will act as auctioneer, proceeding through the properties in the same order as they are listed in the newspaper publication.

Each parcel is classified based on the number of times the property has been offered at previous tax sales. This is called the publication category. Parcels are listed in numerical order, by publication type and tax sale identification number.

City taxes or assessments not assigned to the County Collector by contract may need to be paid before a Collector's deed is issued. Issuance of a Collector's deed may not extinguish the right of the cities to their taxes and assessments.

First, Second and Third Publication

1. Bidding starts at the amount of taxes due (this may include city taxes or assessments).
2. First and second publication offerings have a one year redemption period.
3. Third publication offerings have a 90 day redemption period.
4. The original property owner may redeem their property at any time during the given redemption period, or at any time prior to the investor meeting all requirements necessary to claim a deed.

Fourth Publication

1. There is no set minimum bid for taxes. However, the bidding will start at \$30.00 to cover the cost of recording the deed.
2. These properties have no redemption period. The right to a Collector's deed will be perfected as soon as the bid amount is paid in certified funds.
3. The deed will be typed, recorded and mailed to the purchaser.

Interest on tax certificates is paid at 10% annually on the amount of delinquent taxes only. Subsequent taxes paid earn 8% annually. Overbids or Surplus bids do not earn interest.

Post Third Tax Sale

1. After a property has been offered for three consecutive years without receiving a bid, it may be offered for a compromised price to any interested person.
2. For the first ten (10) days after the tax sale, cities where such properties are located, and the Clay County Land Trustee shall have the right to purchase these properties for at least 10% of the County taxes due.
3. After this ten (10) day period, sealed bids will be accepted, to be opened the first business day of each month, starting October 1.
4. Once awarded, the bid amount must be paid in certified funds within three (3) business days.
5. These properties have no redemption period. The right to a Collector's deed will be perfected as soon as the bid amount is paid in certified funds.
6. Please see additional instruction sheet for post 3rd sales.

Requirements to Obtain a Deed

1. Issuance of a Collector's deed may not extinguish the right of the cities to collect their special assessments.
2. Subsequent taxes coming due AFTER the tax sale, but BEFORE an investor claims a deed will be billed to the investor, and must be paid before they become delinquent on December 31. If they are not paid, the purchaser forfeits all liens on such lands so purchased. (RSMo 140.440)
3. Supply the Collector's office with copies of anything paid as soon as possible. This includes: taxes or assessments; Cost of title search; and mailing costs. Missouri law requires a title search. This is the only title work done on the property before title transfers, therefore it is in your best interest to perform a search that includes chain of title back to the most recently insured title transfer. E & O reports, also known as letter reports, are not acceptable. **The reasonable cost of this search will be included in the redemption price (the generally accepted cost range is \$100-\$300), but only if the receipts are on file when the redemption occurs.** Please bring in the receipts, mail them to our office Attn: Tax Sale Processing, or email to collector@claycountymo.gov.
4. A bill for subsequent taxes will be mailed to you for payment. Mail payments in the envelope provided, and send all correspondence to Clay County Collector Attn: Tax Sale Processing, or email to collector@claycountymo.gov. Please be sure to notify the Collector's office if your address changes.
5. Have title research performed by a licensed title company or attorney. This charge is reimbursable as long as the amount is reasonable. A copy of the bill must be on file when the redemption is quoted. (RSMo 140.405)
6. **For first and second publications** the title search may be performed at any time after the sale, but the cost of the search may not be added to the amount needed to redeem the parcel until March 1 after the sale. The notice letters must be mailed at least 90 days before the end of the redemption period. **Failure to follow these dates may result in forfeiture of your rights either before or after the Collector's deed is issued.**

7. In the letters, you are to notify those persons or entities that were reported in the title report as having a financial interest in the property of such person's right to redeem. The notice should explain that they have the right to redeem their property up to one year after the date of the tax sale or 90 days from the letter date for properties bought on the third publication. It should be clear what property is involved and that they are to contact our office to ask questions or to redeem the parcel. Mailing costs are reimbursable if notices of charges are on file when the redemption is quoted. (RSMo 140.405.2).

The Collector's office further requires that each letter must contain the Clay County parcel identification number and the legal description as printed on the tax sale certificate. An additional legal description may be cited in addition to the one published for the tax sale, but the notice will be deemed insufficient if it does not EXACTLY contain the Assessor's legal description. All sections of the letter should be clearly identified, and it should be clear from the text and structure of the letter that it is the intent of the investor to give the interested party actual notice of legal rights and deadlines. It is recommended that you include a copy of the tax certificate and have your form letter approved by our office before relying on it to claim a deed as our requirements have changed. Any letter appearing to be intentionally unclear, or otherwise obscuring the required information will not be acceptable for receipt of a Collector's deed.

The deadline for redemption is ALWAYS the Tuesday following the next annual tax sale (which occurs on the 4th Monday in August). Your letter MUST quote this date as a deadline for redemption.

8. **For Third Publication Certificates**, the requirement of title research and notification by letter is the same. The title research **must** be done and the required notification letters must be sent **within 45 days** of the tax sale. (RSMo 140.405.6) The end of the redemption period will be calculated as 90 days from the date notification letters are sent. If certified letters are returned, the County's requirement of at least thirty (30) days of actual notice will be followed with regard to these sales as well.
9. Investors **MUST** follow statutory procedures for mailing notices (RSMo 140.405). Letters must be sent by both first class and certified mail. We suggest additionally sending letters addressed to "Resident/Occupant" at the situs address.
10. Before a Collector's deed will issue, investors must notify the Collector by affidavit that statutory requirements have been met. The following must be attached to the affidavit: (RSMo 140.405)
 - a) Copy of letters sent by certified mail. Copies of the envelopes just before mailing and proof of mailing date.
 - b) Copy of letters sent by first class mail. Copies of the envelopes just before mailing and proof of mailing date.
 - c) Certified mail receipts showing recipient signature.
 - d) Copy of any envelopes that were returned.
 - e) Complete title search, proof of the date of the search, and the invoice or receipt of payment for the search.
 - f) Evidence that all taxes coming due after the sale but before claiming a deed were paid **ON TIME** by the investor. The Collector should have on file, you will be notified if not.

The Collector is the last guardian of the homeowner's right to redeem, and will therefore examine the above requirements carefully. However, it is the sole responsibility of the bidder to comply with all applicable statutes. Issuance of a Collector's deed is not verification that all statutes have been followed. Failure to follow all statutes could mean a loss of all interest in the property after the deed is issued.

In Missouri, title companies require a "quieted title" before issuing a title policy to the land. See RSMo 140.410.

If deeds from any tax sale publication are not claimed and recorded within 18 months of the sale date all rights and liens you have will cease. See RSMo 140.410.

In *Harpagon v. Bosch*, the Missouri Supreme Court ruled that the notification letters required by RSMO 140 must be sent at least 90 days before the end of the redemption period. The Court stated that if notices are sent late, the bidders risk having their deeds voided. Clay County will follow the indicated guideline of the Court and VOID any sale where sufficient notices are not mailed 90 days before the end of the redemption period. Taxes paid WILL NOT BE REFUNDED.

The Court did not specifically state what should happen when notices are returned unopened, or are undeliverable. The Court only stated that "additional efforts" at notice were necessary. In keeping with the spirit of the Court's ruling, and the concept of redemption as a due process right, Clay County will not issue a Collector's deed until satisfactory evidence has been presented that all persons with an ownership interest in the subject property have been given ACTUAL notice of the closing of the redemption period. As long as certified AND regular mail notices are sent 90 days prior to the end of the redemption period, if notices are returned unopened or undeliverable, investors may have additional time—within the redemption period—to POST legal notice on the subject property. The posted notice must contain substantially the same information as the required letters. No Collector's deed will issue until at least thirty (30) days after such posting, or the end of the redemption period, whichever is later.

Clay County will interpret all statutes related to its tax sale with the perspective that the homeowner's right to redemption is substantive and absolute.

Property Redemption

Property sold at the tax sale may be redeemed on or before the final redemption day in the following manner:

1. Property may be redeemed by the owner of record, or by any person holding a publicly recorded deed of trust, lease, lien, or other claim upon the property.
2. The amount charged for redemption will be the amount bid plus 10% interest per annum on the amount of taxes due, subsequent taxes paid plus 8% interest per annum, recording fees, costs of letters sent by certified or regular mail, and reasonable costs of title research. No interest will be paid on fees and costs.

The Collector's office notifies the certificate of purchase holder when the property has been redeemed. The Collector will provide a check to the certificate holder for the redemption amount. Redemptions may take 4-5 weeks to process after the money for redemption has been received. The redeemer will receive a copy of the certificate of redemption and a copy will be file with the Recorder of Deeds office. If an investor bid an amount greater than the taxes due, the surplus money will be disbursed as follows:

- To the investor if legal interest in the property is forfeited or lost, or if the property is redeemed;
- To the homeowner if title to the subject property is forfeited through the tax sale process.

Notes for investors:

Surplus funds will not be issued to third parties. If an investor negotiates with a homeowner to take title to their property AND receive the surplus, that is a separate agreement between the investor and homeowner, not enforceable by the Collector's office. All surplus monies payable to homeowners will be paid by check, made payable to the owner(s) of record.

Homeowners are not permitted to transfer or otherwise encumber title to their property during the redemption period without first redeeming the property. Any collaboration between investors and homeowners to transfer title during this period is a violation of state law and will result in the investor being barred from participation in the Clay County tax sale.

Only costs already submitted to the Collector at the time of redemption will be made part of the redemption cost. If a homeowner comes forward to redeem, and an investor has incurred costs but has not submitted those costs to collector, the homeowner will be able to redeem for the amount known to the Collector, and the investor's costs not submitted will no longer be reimbursable.
