

HARNETT COUNTY TAX FORECLOSURE PROCEEDINGS ON REAL PROPERTY

North Carolina law provides Cities and Counties two different methods to enforce tax liens and sell real property for the collection of delinquent ad valorem taxes. Currently, Harnett County primarily uses the *Foreclosure Method* although it will occasionally utilize the *In Rem Method*. Both methods are discussed briefly below. Utilization of these two methods usually only occurs after other collections procedures such as bank attachment, rent attachment, and wage garnishment have proven inadequate to collect the taxes in full.

The Foreclosure Method

G.S. 105 -374 et. seq., provides that tax liens may be enforced by *The Foreclosure Method*. This is the most commonly used method in Harnett County to sell real property subject to tax liens for delinquent ad valorem taxes. In such cases, a civil action is filed in The General Court of Justice seeking a court order authorizing the City or County to sell the parcel upon which the taxes are owed. The plaintiff will be the County and the defendant(s) will be the owner of record as of the date the taxes became delinquent and spouse (if any), any subsequent owner, all other taxing units (if not already a plaintiff), all other lienholders of record. Multiple delinquent parcels owned by the same taxpayer may be joined in one foreclosure action.

The tax foreclosure compliant seeks an Order of Sale authorizing the county to sell the property to collect the delinquent taxes, fees, and court costs, including reasonable attorney fees incurred by the plaintiff. After all parties have been served with process and upon the expiration of the time for defendants to file a responsive pleading or after a responsive pleading is filed, the matter is ready for hearing by the court. Provided the plaintiff meets its burden of proof, an Order of Sale will be issued authorizing the appointment of a commissioner to conduct the tax foreclosure sale after due notice and public advertisement to the parties entitled thereto. Notices of Sale are posted in the courthouse no less than 20 days prior to the date of sale. Additionally, the Notice of Sale is published in *The Daily Record* once a week for two weeks prior to sale.

The actual tax foreclosure sale is done by the court appointed commissioner at a public auction at the courthouse on the date and time designated in the notice of sale. The minimal bid for each parcel will be determined by the delinquent taxes, fees, and costs (including court costs & attorney fees) owed thereon. A deposit of 10% of the bid will be required at the sale. Each parcel sold is subject to a 10 Day “upset bid” period during which the bid may be raised by a minimal statutory amount of 5% or \$750.00, whichever is greater. Once the parcel goes 10 days without being “upset”, the sale must be confirmed by the court after which the sale becomes final. At any time prior to confirmation, the taxpayer may redeem their property by payment of all delinquent taxes, fees, and costs (including court costs & attorney fees) owed thereon. Redemption prior to confirmation essentially stops the foreclosure process and any bid deposits made thereon will be returned to the bidder.

Buyers at tax foreclosure sales are given a Commissioner’s Deed and no representations, warranties or guarantees of any kind are made by the County or Commissioner with respect to these tax foreclosure sales. Each property is being sold as-is, buyer beware, and it is the duty of any bidder to investigate the property on their own prior to making any bid. All tax foreclosure sales are final sales subject only to upset bids or redemption by the taxpayer prior to confirmation. Sales are not subject to financing or marketable title, etc. and it is the duty of the bidder to

investigate the property on their own prior to making any bid. After confirmation, bidders are generally given no more than 20 days to remit the balance of their bid. Bidders who default will forfeit their deposits and may be liable to the County for the costs of resale and for any difference in sale price if the property brings less during a resale than their original bid.

The In Rem Method

G.S. 105 -375 et. seq., provides another means by which Harnett County can collect delinquent taxes on real property. Unlike The Foreclosure Method, the *In Rem Method* does not involve a civil action being filed. Instead, the tax collector must first send notice of the tax lien foreclosure and potential docketing of a judgment to the taxpayer at their last known address, and to all lienholders of record who have a lien against the taxpayer. This notice can be sent no earlier than 30 days after the tax liens were advertised. After 30 days, the tax collector may then docket a judgment against taxpayer for each parcel on which the taxing unit has a lien for unpaid taxes, together with the amount of taxes, penalties, interest, and costs that are a lien thereon; the year or years for which the taxes are due; and a description of the property sufficient to permit its identification by parol testimony. Immediately upon the docketing, the taxes, penalties, interest, and costs shall constitute a valid judgment against the real property described therein and it shall bear interest at an annual rate of eight percent (8%). At any time after three months and before two years from the indexing of the judgment, execution shall be issued at the request of the tax collector in the same manner as executions are issued upon other judgments of the superior court, and subject to certain statutory exceptions the real property shall be sold by the sheriff in the same manner as other real property is sold under execution.

No Tax Lien Certificates in North Carolina

Contrary to popular opinion, North Carolina does not sell tax lien certificates therefore, payment of the tax lien by a third party prior to sale at public auction will not transfer ownership of the property.

Other Disclaimer

The information, pictures, maps, or any other data pertaining to properties listed for foreclosure on this website contain no warranties or guarantees. Anyone interested in participating in the bidding process should conduct his or her own research for each individual property prior to placing a bid on the parcel.