

# ***LYON COUNTY REAL ESTATE TAX SALE***

*(Updated 9/20/2016)*

## **General Information**

Lyon County real estate tax foreclosure sales are held yearly to collect unpaid real estate taxes. This information is intended to help you understand the sale process and to assist you in successfully purchasing property at the tax sale.

## **Sale Held after Proper Notice**

All of the known and ascertainable property owners of the properties listed in this sale were provided notice of the foreclosure action through either personal service or service by publication. Approximately 30 days before the tax sale, notice of this sale was published in the *Emporia Gazette* on three consecutive weekly printings as provided for by K.S.A. § 79-2804.

**It is your responsibility to acquire information about the properties that interest you to determine if they are suitable for your use.**

**You may want to: determine the method of service obtained on each case, the location and type of property; check with the city or county for zoning and building limitations; check with the County Appraiser for assessed value and current tax rates; check with the Register of Deeds for easements and restrictive covenants; and view the property.**

The current owner(s) may redeem the property at any time prior to 4:00 p.m. the last working day before the day of sale. It is possible that properties originally published in the Notice of Sale may have been redeemed prior to the sale. The County will provide an updated list of the properties being sold on the day of the sale.

Although Lyon County makes every effort to insure complete accuracy in its legal pleadings, K.S.A. § 79-2302a provides that no irregularity or informality in the advertisement nor any error or omission in the listing of the names shall affect the legality of the sale or the title to any real estate subject to sale or sold for taxes under the act of which K.S.A. § 79-2302 is amendatory, or under the act providing for judicial foreclosure and sale of realty by county.

## **The Auction**

**A MINIMUM BID OF 5% OF THE TAXES DUE ON THE DATE OF THE SALE WILL BE REQUIRED. See NOTICE OF SALE for amount.** The properties will be sold by public auction to the highest qualified bidder. The Sheriff of Lyon County will act as auctioneer for this sale. Bidders are reminded that the Sheriff's acceptance of the high bid constitutes an enforceable contract between the bidder and Lyon County. Lyon County reserves the right to bid on properties up to the amount of taxes and interest owed. (See K.S.A. § 79-2804)

As a practical matter, some properties may sell for less than the taxes owed, while others may sell for more than the taxes owed.

Registration prior to the sale is required. No bids will be accepted unless the bidder has registered and signed the Affidavit, under oath, stating that the bidder meets all of the statutory qualifications for bidding on tax sale property. Registration will be held immediately prior to the sale. You will need to bring with you **a photo ID** for verification purposes. No person may register as a bidder if that person is the record owner of any real estate located in Lyon County, Kansas, upon which there are any delinquent *ad valorem* property taxes or delinquent special assessments in existence as reflected by the records of the County Treasurer (See K.S.A. §§ 79-2804g; 2812).

No tract shall be sold either directly or indirectly to any person having a statutory right to redeem the real estate prior to sale for a bid amount which is less than the judgment lien, interest cost charges and expenses of the proceeding in the sale. (See K.S.A. § 79-2804 g.)

Properties will be sold by legal description and by county tax identification number.

## **No Warranty Provided By County**

**Properties are sold in an “as is” condition. There are no warranties, express or implied, granted by Lyon County its agents or assigns.**

**Lyon County makes no assurances that you can obtain title insurance guaranteeing the marketability of the property purchased at the tax sale, nor title insurance for a bank to which you may grant a mortgage, nor title insurance to a subsequent buyer from you. You should contact a local title company for information concerning the availability of title insurance.**

**A tax sale purchase is not an innocent purchaser, and the doctrine of *caveat emptor*, applies. In other words, buyer beware. While Lyon County exercises due diligence in researching these properties and discloses all information known to the County at the time of sale, it is the seller's responsibility to know what they are purchasing. See paragraph 2 under *Sale Held after Proper Notice* above.**

### **Property is Sold for Cash (or Check) in Hand**

All properties must be paid for on the day of the sale. Cash or personal/business checks are accepted. Checks should be made payable to the Sheriff of Lyon County, Kansas. The buyer will receive a receipt upon payment.

Insufficient fund checks tendered to the Lyon County tax sale will result in the cancellation of the sale of the property in question and will subject the drawer of the check to a \$30.00 service charge in addition to possible civil damages including cost of collections and attorney fees (*See K.S.A. § 60-2610*).

### **Filing and Recording Fees**

State law requires that a \$15.00 recording fee be collected at the time payment is made, and an additional charge of \$11.00 per page after the first page. The clerk will estimate these charges. Overcharges will be returned to the buyer. Undercharges must be paid prior to recording.

### **After the Auction**

The court will hold a hearing approximately 30 days after the auction to determine whether to confirm the sales. Deeds cannot be issued until after confirmation of the sale. After filing, the buyer will be contacted and given instructions on how to receive the deed.

**There is no redemption period after the sale except for properties subject to a federal lien or homestead.** Deeds for properties without a federal tax lien will be issued and recorded by the Sheriff of Lyon County, Kansas, as required by statute, after checks clear and after confirmation by the court. Deeds for properties subject to a federal lien will not be issued until the expiration of the federal redemption period, and then only if there has been no redemption. **The redemption period for a federal tax lien is 120 days from the date of the sale; the redemption period for a federal judgment lien is one year from the date of sale.**

Homestead properties are subject to K.S.A. §79-2401a as follows:

Real estate which is a homestead under section 9 of article 15 of the Kansas Constitution shall be held by the county until the expiration of three years from the date of the sale and may be redeemed partially by paying to the county treasurer the amount of taxes for which the real estate was sold for one or more years, beginning with the first year for which the real estate was carried on the tax-sale book of the county plus interest at the rate prescribed by K.S.A. 79-2004, and amendments thereto, on the amount from the date the same was carried on the sale book. Upon payment and partial redemption, the time when a tax foreclosure sale may be commenced shall be extended by the number of years paid in the partial redemption.

Deeds for properties subject to a homestead will not be issued until the expiration of the homestead redemption period, and then only if there has been no redemption.

### **Buyer Receives Clear Title to Property**

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

Lyon County notifies lien holders of the sale. Lyon County makes no promises, warranties, or guarantees, implied or otherwise, that the lien holder will make prompt notation of the extinguishment. Lyon County will not contact anyone on your behalf to argue that the lien should be extinguished. It is the purchaser's responsibility to consult a private attorney. See above section *No Warranty Provided by County*.

### **Buyer Is Not Responsible for Past Due (Delinquent) Taxes**

The successful bidder takes the property for the amount bid plus the filing fees. The past due delinquent taxes and/or special assessments are not assessed to the buyer. Lyon County will not contact anyone on your behalf to argue that the special assessments should be extinguished. It is the purchaser's responsibility to consult a private attorney. See above sections *No Warranty Provided by County* and *Buyer Receives Clear Title to Property*

### **Buyer Is Responsible for Taxes of This Calendar Year**

The buyer is responsible for any taxes and assessments which are 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.

### **Buyer Responsible For Taking Action to Obtain Possession**

Lyon County will not initiate action for you to remove persons occupying the land purchased. The buyer is responsible for taking any necessary legal action to obtain possession of the property, such as by filing an eviction proceeding (i.e. evicting squatters or hold-over tenants).

### **Challenges to the Sale**

The original owner will have twelve months from the time the deed is recorded to legally challenge the sale procedures followed by the County. If such a challenge is successful, the property could revert to the original owner, in which case the court would order your purchase price refunded to you. The twelve month limitation does not apply to efforts based upon inadequate service of process. For further information *see* K.S.A. § 79-2804b or consult a private attorney.

## **Conclusion**

This material is provided by the Lyon County Counselor's office for general information purposes. It is not intended as legal advice or as a complete statement of the law regarding tax foreclosures. The procedures described above are subject to change at any time, dependent upon changes in state law and County policies. For further information, please contact the office of the Lyon County Attorney, Lyon County Courthouse, 430 Commercial Street, Emporia, KS, 66801, telephone number (620) 341-3263.

## ***FREQUENTLY ASKED QUESTIONS***

### **Can I register to participate prior to the day of the sale?**

No. You must register in person at the tax sale. However, an Affidavit has been posted to the [lyoncounty.org](http://lyoncounty.org) website or you can stop by the Lyon County Attorney's Office, 430 Commercial St, Suite 202, Lyon County Courthouse, to pick up a copy. You may complete that document before the night of the sale, but **DO NOT SIGN** it as your signature requires a Notary Public, which will be available the night of the sale at no cost.

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### **Can I place bids ahead of time on the available properties?**

No. The sale is a public auction. Properties will be sold to the highest bidder.

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### **How do I pay for property purchased at a tax sale?**

The Sheriff will accept cash, personal checks, and certified checks. No payments by credit card will be accepted, and properties must be paid for by the close of the sale.

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### **Can I place sealed bids on any property?**

No. Currently Lyon County does not have any properties available by sealed bids.

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### **Are there any properties available for over-the-counter purchase?**

No. Currently Lyon County does not have any properties available for over-the-counter purchase.

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### **How can I get my property out of a tax sale?**

You may redeem your property by contacting the County Treasurer's office at (620) 341-3255 and by paying all taxes, interest, penalties, and court costs assessed against the property. You may redeem the property up to 4:00 p.m. the last working day before the tax sale. If the sale is held on a Monday, the aforementioned costs must be paid by 4:00 p.m. the Friday before the sale.

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***SPECIAL NOTICES***

**All questions must be addressed prior to the auction beginning – once the auction begins no questions will be allowed.**

**These are all of the issues known to Lyon County at the time of sale:**

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**We are aware of the following properties for which Orders for Demolition have been filed:**

<b>(02) EA00115</b>	<b>10 S Market St</b>	<b>2014MV000004</b>
<b>(06) EA01191</b>	<b>518 Sherman St</b>	<b>2016MV000004</b>
<b>(18) EM02346</b>	<b>228 Cottonwood St</b>	<b>2015MV000003</b>
<b>(25) EA01099</b>	<b>115 Arundel St</b>	<b>2015MV000006</b>
<b>(42) EM01952</b>	<b>725 Union St</b>	<b>2014MV000005</b>
<b>(51) EM02100</b>	<b>415 Exchange St</b>	<b>2016MV000001 &amp; 002</b>
<b>(52) EM02443</b>	<b>321 Sylvan St</b>	<b>2015MV000004</b>
<b>(61) EM00049</b>	<b>618 W 6<sup>th</sup> Ave</b>	<b>2014MV000010</b>
<b>(71) EM00512</b>	<b>413 State St</b>	<b>2015MV000008</b>

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**The following property(ies) have tax lien(s) assessed:**

**(72) ET00629            704 Road 160**  
KANSAS, STATE OF - Department of Revenue, Division of  
Taxation: Tax Warrant #11ST58; Tax Warrant #12ST70;  
Tax Warrant #13ST3; Tax Warrant #16ST33

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**There are no homestead properties on this year's sale.**

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**According to State Law, properties purchased at this auction are subject to 2016 real estate taxes – all prior years will be forgiven.**