

Henderson County NC

Tax Foreclosure (In-Rem) FAQ

Q. Does Henderson County sell tax liens?

A. No. If a non-owner pays the taxes prior to the foreclosure auction, it DOES NOT convey rights to the property to that person.

Q. Can the tax foreclosure sale be stopped or redeemed from sale?

A. State law provides that any owner, mortgage holder, or defendant in a filed tax foreclosure proceeding can stop the foreclosure at any time by redeeming the property. The redemption price is equal to the taxes, interest, legal fees, and costs of the foreclosure proceeding to the date of the redemption.

Q. How Many years do property taxes have to be in arrears before the county begins the foreclosure process?

A. In accordance with state law, property taxes become delinquent on January 6. Past due taxes are subject to enforcement measures including garnishment of wages and bank account, levy on personal property, foreclosure of real estate, attachment of current and future state income tax refunds and attachment of lottery winnings. Foreclosure of the tax lien is the last resort, but is seriously considered after all other remedies are exhausted even when only one (1) year is in arrears.

Q. Can I visit the property before going to the foreclosure sale?

A. It is up to the individual to check the status of the property before bidding. Potential bidders should visit the property to determine if it will meet their needs. If you choose to visit these properties you will be doing so at your own risk. These properties do not belong to the County, and the county does not have access to, and cannot grant access to individuals who wish to enter the properties to check their status.

Q. What is the status of title delivered by a tax foreclosure deed?

A. The commissioner of the sale will make it clear to all bidders present at the public sale that no representation or warranty of any kind is being made about the property or the status of title being delivered. Under state law, it is up to each bidder to carefully check out the title and status of the property being sold before placing either a public sale bid or an upset bid. Upon final payment you will receive a signed Sheriff's Deed which is your responsibility to record with the Register of Deeds.

Q. Are there any warranties on the Property?

A. These sales are buyer beware. All sales are final. We offer the properties on an as-is and where is basis. Henderson County makes no representation of warranty, express or implied. It is the buyer's responsibility to investigate the property prior to bidding. Anyone considering buying property at a tax foreclosure sale should be aware that there may be risk involved. The county does not guarantee or provide any warranties. **Any questions or concerns pertaining to the marketability of the title of the property are legal issues and should be addressed with an attorney. The tax collector's office cannot provide legal advice to you.**

Q. What happens if the winning bidder is unable to produce the total amount due within three business days after they are deemed the winner?

A. The bidder will be in default and will be subject to immediate loss of all deposits.

Q. What is the process for bidding on a property?

- On the day of the Sale please arrive early. There will be a short registration process for all bidders.
- The Sale will be conducted by the Henderson County Sheriff's Department and it will be held at the front door of the Courthouse located at 200 N. Grove Street, Hendersonville, NC. All procedural aspects regarding the sale will be at the discretion of the Henderson County Sheriff's Department and in accordance with North Carolina Law.
- The sale is typically conducted similar to an auction, with the property sold to the highest bidder. Opening bids will start at the amount due for Henderson County property taxes for which the Tax Judgment was taken.
- The highest bidder will be required to pay a 10% CASH deposit at the close of the bids.
- Each bid will remain in the Office of the Clerk of Court for a period of 10 days after the Report of sale is filed by the Sheriff. This is usually filed the following business day after the sale. During this ten-day period, the bid can be upset, or "raised" by a third party.
- Any person may upset the bid within (10) days of the reported sale price or last upset bid. Said upset bid must be made by increasing the bid by 5% of the last reported sale price or upset bid but in no event less than \$750.00. (i.e. Reported sale amount of \$250.00 + \$750.00 (required upset bid amount) = \$1000.00 which must be paid to the Clerk of Superior Court to perfect the upset bid. If the reported sale amount or upset bid amount is in excess of \$15,000.00 then the increase of 5% would apply) All upset bids are to be made with the Clerk of Superior Court. The total amount of the upset bid must be paid in cash and received prior to the expiration of the ten-day time period. If the tenth day falls upon a weekend or legal holiday when the Clerk's office is closed for regular dispatch of its business, the upset bid and notice of upset bid may be filed on the next day following when the office is open for the regular dispatch of business.
- At the expiration of the ten-day period, the remaining balance must be paid immediately, upon receipt of payment a SHERIFF'S DEED will be issued to the successful bidder. The Sheriff's deed will need to be recorded in the Henderson County Register of Deeds office by the successful bidder.
- The successful bidder will take the property SUBJECT TO all outstanding taxes for all other taxing units in addition to outstanding taxes due Henderson County for ALL YEARS SUBSEQUENT TO THE TAX YEAR(S) INCLUDED IN THE FORECLOSURE SALE.

Q. What laws govern the In rem foreclosure process?

A. Henderson County conducts In rem foreclosures in accordance with North Carolina General Statute 105-375. https://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_105/GS_105-375.html