

In Rem Tax Foreclosure

What Is “In Rem” Foreclosure?

Real estate taxes are secured by the real property upon which they are assessed by a tax lien. When property owners do not pay their real estate taxes, Wisconsin law permits counties to enforce the tax lien in order to collect the delinquent taxes.

On September 1st of each year, Sauk County issues a Tax Certificate for each parcel of real property for which there are unpaid taxes, interest, penalty, special assessments, and/or special charges as of August 31st. All owners of record receive notice of the issuance of the Tax Certificate.

If there are still unpaid taxes, interest, penalty, special assessments, and/or special charges two years after Tax Certificates are issued, the county can foreclose on the property. Sauk County uses a statutory procedure known as “In Rem” foreclosure. Section 75.521 of the Wisconsin Statutes contains all of the legal procedures and requirements for an in rem foreclosure action.

When an “In Rem” foreclosure action is filed, a List of all properties being foreclosed upon is filed with the Clerk of Court, along with a Petition for a Judgment of Foreclosure transferring legal title to each parcel in the list to Sauk County. Notice of the foreclosure action is sent to the last known address of all owners, lenders, and other persons, entities, or units of government with secured interests in the property. Notice is also sent to the municipalities in which properties are located. Notice of the foreclosure action and the list of properties are also published in the local newspapers for three (3) consecutive weeks.

Wisconsin law requires a redemption period of at least 8 weeks after the foreclosure action is first published. During the redemption period, any owner or interested party may “redeem” the property (that is, take it off of the foreclosure list) by paying the delinquent taxes along with any special assessments, special charges, interest, penalties and other additional charges that have accrued for the year of the Tax Certificate. There may be other charges that must be paid before a property is redeemed.

An attorney, known as a Guardian Ad Litem [GAL], is appointed by the court to determine if any party with an interest in a listed parcel may be incompetent or a minor.

Each party entitled to receive notice also has the right to file a written answer to the action. The kinds of defenses that can be raised and the time period during which an answer can be filed are limited by statute. IF YOU WOULD LIKE MORE SPECIFIC INFORMATION ABOUT FILING AN ANSWER, YOU WILL NEED TO CONSULT WITH AN ATTORNEY OR REVIEW APPLICABLE LAW. THE CORPORATION COUNSEL AND TREASURER CANNOT GIVE YOU LEGAL ADVICE.

After the redemption period has expired, a court hearing is held. Generally, a judgment of foreclosure will be granted by the court for every parcel that remains on the list at the time of the hearing. At that point in time, the county obtains complete ownership of the properties in the foreclosure list. With the exception of easements and mineral rights, all prior ownership interests, liens, secured interests, etc., are extinguished forever.

Where Can A Property Owner Find Out The Amount Of Delinquent Taxes Owed?

To view more property information, including base tax, interest and penalty amounts, you can go online to Sauk County’s website. Please visit the Property Tax Info (ALRS) link located on the Treasurer/Real Property Lister’s page <https://www.co.sauk.wi.us/treasurer>. You will need to contact the Sauk County Treasurer’s Office at 608-355-3275 to find out if there are additional charges on the property.

Can Foreclosure Be Avoided With A “Payment Plan” For Delinquent Taxes?

Formal payment plans are NOT available. However, a property owner can, and is encouraged to, continue making payments as often as possible to avoid foreclosure and additional charges. Once the “In Rem” Tax Foreclosure Action has been filed with the court, the only way to prevent foreclosure or to have a parcel removed from the foreclosure list is to pay all of the delinquent taxes along with any special assessments, special charges, interest, penalties and other additional charges that have accrued for the year of the Tax Certificate.

Can Former Owners Repurchase Property They’ve Lost Through Foreclosure?

The County may give preference to the former owner, but is not obligated to do so. If preference is given, the former owner must pay all real estate taxes, including special assessments, special charges and special taxes,

then due and owing together with the interest and penalty thereon, including In Rem foreclosure service charge, plus purchase fee on said lands equal to 1% of the equalized value of the tax deeded lands. In any event, the service fee shall not be less than \$50.00.

How And When Are Tax-Foreclosed Properties Sold?

Newly Listed Properties: These are properties that haven't been offered for sale previously. State law requires that newly available properties be offered in a public sale with minimum bid requirements. A Class 3 Notice of upcoming sales of newly available properties is published in the local newspapers in advance of bid deadlines. "Newly Listed" properties are sold by sealed bid, with a requirement of a deposit. Only bids that meet or exceed the minimum bid requirement will be considered. More information, Sealed Bid Form and location of the properties are available online on Sauk County's website <https://gis.co.sauk.wi.us/TaxDeedPropertiesForSale/>.

Ongoing Sale Properties: Any properties not sold through the sealed bid process become available for sale on an ongoing basis. A Class 1 Notice of these properties is published in the local newspapers before they can be listed as available for sale. For these properties, offers can be made at any time after publication. A deposit is required. Properties will continue to have a sale price. The treasurer is authorized to accept the offer first made after publication that meets or exceeds the sale price that is most advantageous to the county. More information, Offer to Purchase Form and location of the properties are available online on Sauk County's website <https://gis.co.sauk.wi.us/TaxDeedPropertiesForSale/>.

What Happens To The Sale Proceeds?

The proceeds of the sale are used to pay toward delinquent taxes, special charges, interest and penalties (including amounts due on other parcels owned by the former owner that have not been foreclosed upon), other taxes and charges, and certain expenses incurred by the county in the foreclosure action.

In cases where the property was a homestead, the former owner may be entitled to receive some of the remainder, if there is any, of the proceeds from the sale of the property. There are special conditions and requirements to qualify for this refund. IF YOU WOULD LIKE MORE SPECIFIC INFORMATION ABOUT HOMESTEAD CLAIMS, YOU WILL NEED TO CONSULT WITH AN ATTORNEY OR REVIEW APPLICABLE LAW. THE CORPORATION COUNSEL AND TREASURER CANNOT GIVE YOU LEGAL ADVICE.

FOR MORE INFORMATION about Tax-Foreclosed Properties that are available for sale, Bid Forms and Instructions on how to bid, please visit the Treasurer/Real Property Lister's page Sauk County's website <https://www.co.sauk.wi.us/treasurer>.

NOTICE & DISCLAIMER

The purpose of this data is to provide general information about tax foreclosure proceedings and answer questions that are frequently asked of Sauk County offices. It is not intended to provide legal or other professional advice or service. In addition, some information provided may become outdated.

You should always research original sources of State or local law and/or consult with an attorney or other professional in making important legal decisions that may affect you or property in which you have a legal interest.