

# Frequently Asked Questions (FAQ), about the tax foreclosure process in Union County and in North Carolina:

## What are delinquent real property taxes subject to foreclosure?

Everyone who owns real property in Union County is required to list this property as of the first day of January of each year. Most times, this listing is automatic, but if there have been improvements or changes in the property, these must be reported by state law to the Tax Office with the listing forms in January. By July 1 of each year, a tax rate will be set by the Union County Commissioners. For each parcel of taxable real estate, these tax rates will be multiplied by each parcel's listed and assessed valuation as of January 1, and the product of this multiplication is that year's tax bill on the parcel. Usually in August, but no later than September, a tax bill will be mailed out to the last known address of the taxpayer as of January 1 for that year. The taxpayer has until January 5th of the following year to pay the tax bill without penalty. After that time, if the bill remains unpaid, it becomes delinquent and subject to penalties and interest as set forth by state law. Once the property tax is delinquent, it is subject to foreclosure prosecution.

## What if the taxpayer sells the real property after January 1, and what if a bill is not received by the new owner?

Under state law, the listing taxpayer is the responsible party for the taxes on property owned by the listing taxpayer as of January 1 of each year, even if the taxpayer sold the property after January 1. The Tax Office makes efforts to notify new owners of the existence of tax bills, but state law only requires that the tax bill be sent to the taxpayer as of January 1 of that year, and to the last known address of the taxpayer. It is the duty of each owner of property to keep the Tax Office notified of address changes and to know that taxes are payable each year, regardless of whether a billing was received.

## What does Union County do with delinquent tax bills?

When a tax bill becomes delinquent, the Tax Office tries various methods to notify the taxpayer and potential owners about the delinquent bill to see if the bill can be collected without the extreme remedy of foreclosure. Sometimes the Tax Office will set up a payment plan with a taxpayer, but the Tax Office is not required to do so, and can terminate payment plans at any time. The final step in the collection procedure is a pre-foreclosure letter sent by the Tax Office to the last known address of an owner and/or taxpayer. If these pre-foreclosure methods still fail, the Tax Office may assign parcels to private attorneys to commence foreclosure proceedings.

## What happens when the Tax Office assigns property to attorneys to foreclose?

Once the Union County Tax Office assigns properties to attorneys to foreclose, the Tax Office marks its computer records with the assignment, and will no longer accept payment plans from taxpayers. All tax payments from the point of assignment must pay the taxes, interest, fees and costs in full. Persons interested in paying off properties in foreclosure must contact the tax office or attorney in order secure a payoff quote. At some point after the assignment, the attorney will start a title search of the property to determine, as a matter of public record, all of the owners, mortgage holders, judgment and lien holders, and other interested parties required by state law. The attorney will then prepare a complaint listing Union County and any affected municipality as the Plaintiffs (complaining parties). The Defendants will be all of those parties found by the record title search to be interested parties in the real estate (owners, mortgage holders, etc.) The complaint will be filed in either Union County District or Union County Superior Court (depending on the amount of taxes owed). The summons and complaint will be delivered to each defendant by the sheriff, or by other approved means of service of process in civil lawsuits (FEDEX, certified mail, process server, etc.). Each party that is served is clearly informed by the summons that written answer, if any, must be filed with the Court within 30 days from the date the papers were served on the party.

**What is the legal effect of a tax foreclosure filing?**

There is no real defense to a property tax foreclosure complaint and lawsuit. The main purpose of the foreclosure process is to notify all interested parties that any legal interest they may have in the property will be terminated and extinguished if a tax foreclosure sale of the property is completed. This is because property tax liens are ahead of and superior to all other liens, except (in a limited extent) to filed income tax liens held by the North Carolina Department of Revenue. When a superior lien is foreclosed, it cuts off all junior liens and ownership rights.

**What happens after the filing of the tax foreclosure complaint?**

As noted above, each defendant has 30 days to file a written answer to the complaint if they wish. Depending upon service on the parties and any answers filed, the attorney conducting the foreclosure will eventually move for a judgment of sale. Once a judgment of sale is entered, the property is scheduled for sale at the Union County Judicial Center in Monroe. Sales are scheduled on an as needed basis. Notices of sale are published in the Union Observer section of the Charlotte Observer once a week for two weeks, posted at the Courthouse for at least 20 days, as well as being posted on the Union County Tax Administration Website. The sale is conducted by a Commissioner appointed by the Court, usually Mr. Donald C. Perry. At the sale, the highest successful bidder puts up a 5% or \$750.00 (whichever is greater) cash or certified check deposit with the attorney, and the sale is reported to the Clerk of Court. After that, the sale stands open for 10 days for possible increased upset bids. Upset bids are calculated and received by the Clerk of Court for each property. If no upset bids are received, the attorney notifies the high bidder at the sale that the bidder has won, and that bidder has to come up with the balance of the purchase price. The process is the same when upset bids are received, except that the final high bidder after upset bids are completed is notified to bring in the purchase price of the final high upset bid. When the purchase price is paid under either sale process, the sale is confirmed and a Commissioner's deed is delivered to the new owner.

**Can the tax foreclosure sale be stopped or redeemed from sale?**

State law provides that any owner, mortgage holder or defendant in a filed tax foreclosure proceeding can stop the foreclosure process at any time by redeeming the property. The redemption price is equal to the taxes, interest, fees and costs of the foreclosure proceeding to the date of the redemption. Parties wishing to redeem property from tax foreclosure and stop the foreclosure process must contact the tax office or the attorney for a redemption payoff figure. Redemption can even occur after a sale, as long as the sale has not been confirmed by the Court. However, once the foreclosure property sale has been completed with a confirmation order and delivery of deed, all rights of redemption are terminated.

Bankruptcy proceedings filed by the property owner under federal law can also stop tax foreclosures, but all of the taxes, interest, fees and costs of the action to the date of the bankruptcy filing must be paid as a priority claim in the bankruptcy proceeding.

**What is the status of title delivered by a tax foreclosure deed? Are there any warranties on the property?**

The Commissioner 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.

**What if the successful bidder at the public sale or at upset bid doesn't bring in the purchase price?**

Any bidder at either public sale or upset bid who doesn't bring in the purchase price upon demand by the attorney will be subject to immediate loss of all deposits, as well as civil and/or contempt prosecution for failure to make the bid. All bidders who bid at tax foreclosure sales, either public or upset bid, are required by law to be aware of the penalties for failure to honor their bid.