



UNDERWRITING BULLETIN - TEXAS

No. 17

DATE: February 16, 2012

RE: Ad Valorem Tax Sales

Insuring any transaction where there is a tax sale deed in the chain presents an out of the ordinary risk. Please take note of the following guidelines.

1. Verify that all persons (and spouses) or entities which were in title at the time the tax suit was filed were named as parties.
2. Verify that all such parties were personally served with citation. You will have to examine the file in the clerk's office to verify this; as to each Defendant, there should be a sheriff's/constable's/process server's return, showing the date and time of service.

Service must not have been by:

- posting,
- publication,
- certified or registered mail, or
- attaching the citation to the door or leaving it with someone over 16 years of age.

NOTE: If citation was not personally served on all defendants, or if "unknown heirs" were parties to the suit, we will not consider insuring until at least 2 years have passed since the date the tax sale deed was filed, regardless of any other factors. Please call Underwriting when you have this situation.

3. Verify that a final judgment was entered foreclosing the tax lien and ordering a sale.
4. Verify that the sale was advertised in the manner required by law and that the Defendants were given notice of the sale. You may rely on recitals of compliance with these notice requirements if they are contained in the sale deed.
5. The redemption period must have expired.
 - A. If the property was the residence homestead of the owner when the suit was filed (or if it was ag value property), the redemption period is 2 years.



B. For other properties, the redemption period is 6 months. TEXAS TAX CODE, §34.21.

C. The right of redemption runs from the date the purchaser's deed was filed for record. §34.21(a).

D. If the property was first sold to a taxing unit, the later re-sold, redemption runs from the date the deed to the taxing unit was filed for record. §34.05(a) and §34.21(b).

6. In addition to the right of redemption, there is a separate statutory right to challenge the title to property purchased at a tax sale. You must take exception to this right to set aside the tax sale in addition to the right of redemption.

A. This period is 2 years if the property was the residence homestead of the taxpayer (or if it was ag value property); for other types of property, the time period is 1 year.

B. The period begins to run on the date the tax sale deed was filed for record. §33.54.

C. If the property was first sold to a taxing unit, then later re-sold, the right to challenge title extends for 1 year after the re-sale deed. §34.05(f).

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NOTE: We will not insure title in the name of the tax sale purchaser, nor will we insure a lien placed on the property by the tax sale purchaser. We will not insure until there is a subsequent arm's length sale where conveyance is made by general warranty deed.

NOTE: Inferior liens are not wiped out by a tax sale unless the lien holder was joined in the suit and served, and the judgment states that the tax sale purchaser takes free of such liens. Inferior liens include deed of trust liens, AJs, Federal Tax Liens, etc. Please call Underwriting when you have that situation.

NOTE: You must obtain Underwriting approval if the transaction exceeds \$50,000.00 and your exam is coming off a tax sale deed.

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