

***What steps must a collector of delinquent taxes take in order to hold a tax sale? Who must be notified and how? Must an attorney be hired to help with the sale?***

Vermont statutes are very specific about the steps a collector must take to bring a property to tax sale, and the statutes even include the forms for some of the paperwork involved! Although many collectors of delinquent taxes hire an attorney to assist in the preparation and conduct of their tax sales, the law *does not* require that an attorney be used. However, if the collector does decide to seek legal assistance, he or she will first need to obtain authorization for this expense from the selectboard. Also, the legal expenses cannot exceed 15% of the uncollected tax. 32 V.S.A. §5258.

The first step in the tax sale process is to “*extend the [original tax] warrant... .*” This is done by filing in the Town Clerk’s office a “*true and attested*” copy of the warrant, a description of the land, and a statement that the collector of delinquent taxes will proceed with a tax sale to collect the unpaid taxes. Next the collector must advertise the sale at public auction for three successive weeks in a newspaper of general circulation in the community. The last publication of the notice of sale must be at least 10 days prior to the sale. 32 V.S.A. 5252. The form of the advertisement and the notice of tax sale must be substantially in the form provided for by statute. 32 V.S.A. 5253. Although the statute does not detail what must go into a description of the property, it must be “sufficient” so that a person unfamiliar with the property could identify it from a brief search of the land records. For example, in addition to the property owner’s name, the description might include information such as: the town’s tax map identification number, the lot number (if any), road name on which the property fronts, zone designation, deed reference, etc. *Chester Motors, Inc. v. Koledo* 146 Vt. 357 (1985).

Concurrently with these steps, the collector needs to notify the taxpayer and any lien holders or mortgagees of the impending sale of the property. Mortgagees and lien holders may be identified through the land records; ask the town clerk for assistance if you aren’t quite sure how to conduct the search. It is important to conduct as thorough a search as possible because failure to notify a lien holder or mortgagee of an impending tax sale could result in the lien not being extinguished after the sale. This means that the purchaser at the sale will be obligated to pay what is owed to the lien holder or mortgagee or risk losing the property in a foreclosure action. Municipal property tax liens generally take priority over federal liens on the same property. Therefore, it is very important to include the appropriate federal agency (depending upon the kind of lien that is on the property) when you notify the lien holders of the tax sale.

The purpose of the tax sale notice is to give the taxpayer or a lien holder with an interest in the property an opportunity to pay the outstanding taxes in order to avoid the sale and the accompanying costs associated with redemption of the property later. It also serves to notify prospective purchasers that the land is to be sold. The notice to the delinquent taxpayer must include the date, time and place of the sale, be in writing and sent by registered or certified mail, return receipt requested. It should be sent to the taxpayer’s last known address at least 10 days prior to the sale date (20 days prior to the sale for taxpayers that are nonresidents of the town). The exact same notice requirements apply

to the notification of mortgagees and lien holders of record. 32 V.S.A. 5252. Lastly, the collector must post a notice of the tax sale in at least one public place in the municipality (generally the town clerk's office).

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