

## Executive Orders Concerning Municipal (Non-Judicial) Tax Sales

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June 9, 2020 | 2020-R-0119

### Issue

Summarize the governor's executive orders (EO) concerning municipal (non-judicial) tax sales and provide background on related state law.

### Summary

Following his emergency declarations, Governor Lamont issued two orders postponing municipal non-judicial tax sales and extending the redemption period for auctions that already occurred. The orders also temporarily reduce the annual interest rate that is used to calculate the redemption amount (i.e., the amount paid to prevent title from transferring to the highest bidder, see below) ([EO 7S](#), § 11, Apr. 1, 2020; [EO 7CC](#), § 2, Apr. 21, 2020).

Tax sales are a type of foreclosure conducted without the court's involvement. Municipalities conduct tax sales for delinquent real property taxes, water and sewer assessments, blight and demolition liens, and other assessments ([CGS §§ 7-148ff\(e\), 7-254\(b\), 7-258\(a\), 7-328\(a\), 12-155\(b\), 12-157, and 12-169b](#)). After a tax sale, title will not pass to the winning bidder until a six-month redemption period ends, during which the owner and lienholders can redeem the auctioned property by paying the redemption amount. Once the redemption period ends, the winning bidder takes title to the auctioned property "free and clear" of other liens and encumbrances, with limited exceptions. According to the [Connecticut Fair Housing Center](#), more than 100 municipalities conduct non-judicial tax sales (for additional background on such sales, see below).

## **Executive Orders**

The orders apply regardless of any conflicting laws, such as statutes, special acts, and municipal charters.

### ***Postponed Auctions***

The executive orders prohibit municipalities and water pollution control authorities from conducting tax sales until at least 30 days after the end of the declared public health and civil preparedness emergencies (“declared emergencies”). The postponement applies to tax sales whether or not they were noticed before March 10, 2020.

### ***Extended Redemption Period***

For auctions conducted before the emergency declarations (i.e., March 10, 2020), the orders extend the six-month redemption period that follows an auction by the number of whole months that is nearest to the duration of the declared emergencies. ([EO 7CC](#) modified [EO 7S](#) by requiring that the extended redemption timeframe be calculated in whole months, rather than days.)

For the duration of the declared emergencies, the redemption interest rate is lowered. Under the orders, the interest rate during this “holding period” must be charged at the monthly equivalent of 3%, rather than 18%, per year.

## **Background: Non-Judicial Tax Sales (CGS § 12-157)**

### ***Public Auction***

Under [CGS § 12-157](#), a municipality, after posting public notices and notifying the property owner and other interested parties (e.g., lienholders), may seize a tax delinquent property and sell it at a public auction (tax sale) to recoup delinquent taxes and related charges owed to a municipal entity (including property, motor vehicle, sewer, and personal property taxes) (hereinafter “taxes”).

Generally, the municipality sets a minimum bid that covers the delinquent taxes and interest charges and fees allowed by law; the minimum bid does not cover amounts owed to other lienholders (e.g., the state or a judgment lienholder). However, other lienholders may serve notice on the municipality’s tax collector to raise the minimum bid such that it covers their liens. If the property owner does not pay the delinquent taxes before the tax sale, the property is sold to the highest bidder. It can also be sold to the municipality if there is no bidder or the amount bid is insufficient to pay the amount due.

Auction proceeds are used to pay off delinquent taxes and other liens for which notice was served on the tax collector. Excess proceeds are held in an interest-bearing escrow account during the redemption period.

### ***Redemption Period and Title Transfer***

During the redemption period, an auctioned property can be bought back before title permanently transfers to the winning bidder (i.e., before the deed is recorded on the land record). The redemption period generally lasts six months from the date of sale, unless the property is abandoned or meets other conditions specified in a municipal ordinance, in which case the redemption period is 60 days (as described above, the governor’s executive orders extended the redemption period during the declared emergencies).

During the redemption period, the owner or other encumbrancer of record whose interest is affected by the tax sale may redeem the property by paying:

1. the minimum bid amount;
2. interest on the total bid, at a rate of 1.5% per month (except as modified during the declared emergencies, see above); and
3. allowable auction-related charges and delinquent municipal taxes and debts not recovered through the auction (see [CGS § 12-140](#)).

If the property is redeemed, the municipality must transfer to the winning bidder the (1) first two amounts and (2) escrowed overbid (the municipality keeps any earned interest). If the property is not redeemed, the interests of parties who received actual or constructive notice of the sale are extinguished and the winning bidder is deeded the property “free and clear” of liens and encumbrances, except certain kinds such as easements and other taxes.

A municipality that auctions a property for an amount totaling more than the taxes, interest, fees, and related costs owed on the auctioned property and other property owned by the subject taxpayer must turn the remaining funds over to the court. The law sets the procedure for parties to claim a portion of the excess proceeds.

### ***Tax Sale Resource***

For detailed information on municipal tax sale procedures in Connecticut, see this [Q&A document](#) prepared by attorney Adam J. Cohen.

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