

**STATE OF TENNESSEE**  
**OFFICE OF THE**  
**ATTORNEY GENERAL**  
**P.O. BOX 20207**  
**NASHVILLE, TENNESSEE 37202**

October 13, 2005

Opinion No. 05-156

Delinquent Tax Sales Conducted by Clerk and Master

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**QUESTION**

May a Clerk and Master who has conducted a delinquent property tax sale insist as a condition precedent to issuing a deed that the purchaser pay prior years' taxes that were not included in the minimum bid for the property established pursuant to Tenn. Code Ann. § 67-5-2506?

**OPINION**

No. A delinquent property tax sale is final when the Clerk and Master's report of sale is confirmed by the Chancery Court. Once the sale is confirmed by the court, the Clerk and Master may not attach additional conditions to the sale but must convey the property in accordance with the sale as approved by the court.

**ANALYSIS**

Pursuant to Tenn. Code Ann. § 67-5-2501, *et seq.*, when a court clerk conducts a delinquent property tax sale, the clerk is required to establish a minimum bid amount that is equal to the taxes due on the property, plus interest, penalties, and collection costs. *See* Tenn. Code Ann. § 67-5-2506(a)(2) (2003). Your request describes a situation in which a Clerk and Master mistakenly offers property for sale at a minimum bid that reflects only the current year's taxes and fails to include delinquent taxes due for prior years. You have asked whether, as a condition precedent to issuing a deed for the property at the conclusion of the statutory redemption period, the Clerk and Master may insist that the purchaser pay the prior years' taxes when these taxes were neither considered in establishing the minimum bid amount nor included in the terms of the sale conducted by the Clerk and Master. As drafted, your request appears to involve county property taxes only. *Cf.* Op. Tenn. Att'y Gen. No. 95-060 (May 25, 1995) (addressing effect of county's delinquent property tax sale on existing city tax liens).

Sales by the Clerk and Master are complete and binding when they are confirmed by the Chancery Court. *See Marlowe v. Kingdom Hall of Jehovah's Witnesses*, 541 S.W.2d 121, 125 (Tenn. 1976); *Tennessee Marble & Brick Co. v. Young*, 179 Tenn. 116, 122-23, 163 S.W.2d 71, 74 (1942); *Camp v. Riddle*, 128 Tenn. 294, 301-02, 160 S.W. 844, 846 (1913); *Eakin & Co. v. Herbert*,

44 Tenn. (4 Cold.) 116, 119-20 (1867); *Childress v. Hurt*, 32 Tenn. (2 Swan) 487, 490-91 (1852); *Morton, Smith & Co. v. Sloan*, 30 Tenn. (11 Hum.) 278, 280-81 (1850); *Bullington v. Greene County*, 88 S.W.3d 571, 575 (Tenn. Ct. App. 2002); *Dreher v. Hill*, 5 Tenn. App. 10, 20 (1927). Until the Clerk and Master's report of sale is confirmed by the Chancery Court, "the purchaser is not compelled to complete his purchase; nor is he entitled to a conveyance, nor to be let into possession of the estate." *Childress v. Hurt*, 32 Tenn. (2 Swan) at 490-91. Where special circumstances render it inequitable to confirm the sale, the court has discretion to decline to confirm the sale. See *Eakin & Co.*, 44 Tenn. (4 Cold.) at 119-20; *Childress v. Hurt*, 32 Tenn. (2 Swan) at 490-91; *Morton, Smith & Co.*, 30 Tenn. (11 Hum.) at 280-81. Once the court confirms the Clerk and Master's report of sale, however, the sale is complete and binding upon the parties. See *Marlowe v. Kingdom Hall*, 541 S.W.2d at 125; *Tennessee Marble & Brick Co.*, 179 Tenn. at 122-23, 163 S.W.2d at 74; *Camp v. Riddle*, 128 Tenn. at 301-02, 160 S.W. at 846; *Eakin & Co.*, 44 Tenn. 116 (4 Cold.) at 119-20; *Childress v. Hurt*, 32 Tenn. (2 Swan) at 490-91; *Morton, Smith & Co.*, 30 Tenn. (11 Hum.) at 280-81; *Bullington v. Greene County*, 88 S.W.3d at 575; *Dreher v. Hill*, 5 Tenn. App. at 20.

In the situation described in your request, the statutory redemption period had expired when the Clerk and Master demanded payment for additional taxes due for prior years. In such a case, the Clerk and Master's report of sale must have been approved by the Chancery Court because the statutory redemption period does not begin to run until entry of the court's order confirming the sale. See Tenn. Code Ann. § 67-5-2702 (2003); see also *Tennessee Marble & Brick Co. v. Young*, 179 Tenn. 116, 123, 163 S.W.2d 71, 74 (1942); *Wood v. Morgan*, 23 Tenn. (4 Hum.) 371, 373 (1843). Under these circumstances, the Clerk and Master would not have the authority to insist on additional payments that were not part of the sale confirmed by the Chancery Court. Once the Chancery Court confirmed the Clerk and Master's report of sale, the sale became complete and binding upon the parties thereto.

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