

Title

FREQUENTLY ASKED ^ QUESTIONS

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Our county search reflects a tax sale certificate and a lis pendens pertaining to its foreclosure. The property is going to be sold to a third party. Are there any special requirements or issues we need to address?

Yes. Several years ago the New Jersey Supreme Court rendered its decision in the case of Simon v. Cronecker, 189 N.J. 304 (2007) where the question before the Court was whether a third party investor purchasing the affected property has a right to redeem a tax sale certificate (either directly or indirectly) once foreclosure proceedings have been instituted. The Court held that he/she does not unless he/she first intervenes in the foreclosure action and subjects his/her purchase of the property to judicial scrutiny. The Court held that without court approval, the investor has no right to participate, directly or indirectly, in the redemption process.

Therefore, when insuring title to property that is subject to a pending tax sale certificate foreclosure, it is not enough to merely obtain a redemption statement and pay the required redemption price. Rather, you must require either that the holder of the tax sale certificate confirm in writing that they will accept the redemption price and discontinue the tax sale certificate foreclosure action or that the purchaser intervene in the foreclosure action and obtain Court approval for redemption of the certificate. This requirement applies even if you believe that the sale is an arms length transaction for appropriate consideration.

To satisfy this condition, the following requirement must appear on Schedule B-I of the commitment following the entry for the Tax Sale Certificate and lis pendens:

Written confirmation is required from the holder of Tax Sale Certificate No. ___ that (a) the redemption statement prepared by the tax collector is accurate and complete, (b) he/she will accept the payment of the redemption price as set forth in the redemption statement, and (c) he/she will discontinue the foreclosure suit, discharge the notice of *lis pendens*, and cause the Tax Sale Certificate to be discharged of record **or in the alternative**, proof must be provided that the purchaser intervened in the foreclosure action and obtained Court approval for redemption of the certificate.

Please note, this requirement does not apply in a refinance transaction since the owner is not conveying his or her interest in the real property.

As always, feel free to address any questions to a member of our underwriting staff.