

## TAX DEEDS

### Footnotes

For definitions applicable to chapter, see §445.1

#### **448.1 Return of certificate of purchase execution of deed fees.**

Immediately after the expiration of ninety days from the date of completed service of the notice provided in section 447.12, the county treasurer shall make out a deed for each parcel sold and unredeemed upon the return of the certificate of purchase and payment of the appropriate deed and recording fees by the purchaser. The treasurer shall record the deed with the county recorder prior to delivering the deed to the purchaser. The treasurer shall receive twenty-five dollars for each deed made by the treasurer, and the treasurer may include any number of parcels purchased by one person in one deed, if authorized by the treasurer.

The tax sale certificate holder shall return the certificate of purchase and remit the appropriate deed issuance fee and recording fee to the county treasurer within ninety calendar days after the redemption period expires. The treasurer shall cancel the certificate for any tax sale certificate holder who fails to comply with this paragraph. This paragraph does not apply to certificates held by a county. This paragraph is applicable to all certificates of purchase issued before, on, or after July 1, 1997. Holders of certificates of purchase that are outstanding on July 1, 1997, shall return the certificate of purchase and remit the appropriate deed issuance fee to the county treasurer within ninety calendar days from that date.

[C51, § 503, 504; R60, § 781, 782; C73, § 895; C97, § 1442; C24, 27, 31, 35, 39, § **7284**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.1]

91 Acts, ch 191, §100; 97 Acts, ch 121, §24; 2000 Acts, ch 1085, §6

### Footnotes

Management when county acquires deed, chapter 569

#### **448.2 Form.**

Deeds executed by the county treasurer shall be substantially in the following form:

KNOW ALL PERSONS BY THESE PRESENTS, that the following described parcel: (Here follows the description), situated in the county of ..... and state of Iowa, was subject to taxes for the year (or years) A.D. .... and the taxes on the parcel for the year (or years) stated remained due and unpaid at the date of the sale; and the treasurer of the county, on the ..... day of ..... A.D. .... by virtue of the authority vested by law in the treasurer, at (an adjournment of) the sale begun and publicly held on the third Monday of June, A.D. .... exposed to public sale at the office of the county treasurer in the county named, in substantial conformity with all the requirements of the statute, the parcel described, for the payment of the total amount then due and remaining unpaid on the parcel, and at that time and place ....., of the county of ..... and state of ....., offered to pay the sum of ..... dollars and ..... cents, being the total amount then due and remaining unpaid on the parcel, for (here follows the description of the parcel sold) which was the least quantity bid for, and payment of that sum was made by that person to the treasurer, the parcel was stricken off to that person at that price; and ..... did, on the ..... day of ..... A.D. .... assign the certificate of the sale of the parcel and all right, title, and interest to the parcel to ..... of the county of ..... and state of .....; and by the affidavit of ....., filed in the treasurer's office on the ..... day of ..... A.D. .... it appears that notice has been given more than ninety days before the execution of this deed to ..... and ..... of the expiration of the time of redemption allowed by law; and two years have elapsed since the date of the sale, and the parcel has not been redeemed:

Now, I, ..... treasurer of the county, for the consideration of the stated sum paid to the treasurer and by virtue of law, have granted, bargained, and sold, and by these presents do grant, bargain, and sell to ..... (or .....), and that person's heirs and assigns, the parcel described, to have and to hold unto that person (or .....), and that person's heirs and assigns, forever; subject, however, to all the rights of redemption provided by law. In witness whereof, I, ..... treasurer of ..... county, by virtue of the authority vested in me, have subscribed my name on this ..... day of ..... A.D. .... Treasurer State of Iowa, ) ..... County. ) ss.

I certify that before me, ..... in and for said county, personally appeared the above named ..... treasurer of the county, personally known to me to be the treasurer of the county at the date of the execution of the above conveyance, and to be the identical person whose name is affixed to and who executed the above conveyance as treasurer of the county, and acknowledged the execution of the conveyance to be the treasurer's voluntary act and deed as treasurer of the county, for the purposes expressed in the conveyance.

Given under my hand (and seal) this ..... day of ..... A.D. ....

[R60, § 783; C73, § 896; C97, § 1443; C24, 27, 31, 35, 39, § **7285**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.2]

83 Acts, ch 101, § 92; 91 Acts, ch 191, §101; 2000 Acts, ch 1058, §41

#### **448.3 Execution and effect of deed.**

The deed shall be signed by the county treasurer as such, and acknowledged by the treasurer before some officer authorized to take acknowledgments, and when substantially thus executed and recorded in the proper record in the office of the recorder of the county in which the parcel is situated, shall vest in the purchaser all the right, title, interest, and claim of the state and county to the parcel, and all the right, title, interest, and estate of the former owner in and to the parcel conveyed. However, the deed is subject to all restrictive covenants, resulting from prior conveyances in the chain of title to the former owner, and subject to all the right and interest of a holder of a certificate of purchase from a tax sale occurring after the tax sale for which the deed was issued. The issuance of the deed shall operate to cancel all suspended taxes.

[C51, § 503; R60, § 784; C73, § 897; C97, § 1444; C24, 27, 31, 35, 39, § **7286**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.3]

91 Acts, ch 191, §102; 95 Acts, ch 57, §22; 97 Acts, ch 121, §25

#### **448.4 Presumptive evidence.**

The deed shall be presumptive evidence in all the courts of this state in all controversies and actions in relation to the rights of the purchaser, and the purchaser's heirs or assigns, to the parcel conveyed, of the following facts:

1. That the parcel conveyed was subject to taxes for the year or years stated in the deed.
2. That the taxes were not paid at any time before the sale.
3. That the parcel conveyed had not been redeemed from the sale at the date of the deed.
4. That the parcel had been listed and assessed.
5. That the taxes were levied or set according to law.

6. That the parcel was duly advertised for sale.

7. That the parcel was sold as stated in the deed.

[C51, § 503; R60, § 784; C73, § 897; C97, § 1444; C24, 27, 31, 35, 39, § **7287**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.4]

91 Acts, ch 191, §103

#### **448.5 Conclusive evidence.**

The deed shall be conclusive evidence of the following facts:

1. That the manner in which the listing, assessment, levy, notice and sale were conducted was in all respects as the law directed.

2. That the grantee named in the deed was the purchaser.

3. That all the prerequisites of the law were complied with by all the officers who had, or whose duty it was to have had, any part or action in any transaction relating to or affecting the title conveyed or purporting to be conveyed by the deed, from the listing and valuation of the parcel up to the execution of the deed, both inclusive, and that all things required by law to make a good and valid sale and to vest the title in the purchaser were done, except in regard to the points named in section 448.4 for which the deed shall be presumptive evidence only.

[C51, § 503; R60, § 784; C73, § 897; C97, § 1444; C24, 27, 31, 35, 39, § **7288**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.5]

91 Acts, ch 191, §104

#### **448.6 Action to challenge treasurer's deed.**

1. A deed executed by the county treasurer in conformity with the requirements of sections 448.2 and 448.3 shall be presumed to effect a valid title conveyance, and the treasurer's deed may be challenged only by an equitable action in the district court in the county in which the parcel is located. If the action seeks an order of the court to allow redemption after delivery of the treasurer's deed based on improper service of notice of expiration of right of redemption, the action shall be brought in accordance with section 447.8. If the action is not brought on that basis, the action shall be controlled by the provisions of this section.

2. A person shall not be permitted to maintain the action unless the person establishes that the person, or the person under whom the person claims title, had title to the parcel at the time of the sale, or that the title was obtained from the United States or this state after the sale, and that all amounts due upon the parcel for the applicable tax years have been paid by that person or by the person under whom that person claims title.

3. The person maintaining the action shall name as defendants the holder of the tax title and the treasurer of the county in which the parcel is located.

4. The person challenging the deed shall be required to prove, in order to invalidate the deed, any of the following:

*a.* That the parcel was not subject to taxes for the year or years named in the deed.

*b.* That the taxes had been paid before the sale.

c. That the parcel had been redeemed from the sale and that the redemption was made for the use and benefit of persons having the right of redemption.

d. That there had been an entire omission to list or assess the parcel, or to levy the taxes, or to give notice of the sale, or to sell the parcel.

5. If the court determines that the person challenging the treasurer's deed has established one or more of the elements required under subsection 4 to be proven in order to invalidate the deed, the court shall enter judgment declaring the deed to be invalid. The judgment shall order the treasurer to refund to the person claiming under the tax title all sums paid to the treasurer for the purchase of the tax sale certificate and for any subsequent taxes paid by the certificate holder. If the person claiming under the tax title is determined by the court to have made improvements to the parcel, the court shall enter judgment in favor of the person claiming under the tax title for an amount equal to the value of such improvements made after the treasurer's deed was issued, and such judgment shall be a lien on the parcel until paid.

6. If an affidavit is filed pursuant to section 448.15, and if the time period for filing a claim under section 448.16 expires with no claims having been filed, all persons are thereafter barred and estopped from commencing an action under this section.

[C51, § 503; R60, § 784; C73, § 897; C97, § 1445; C24, 27, 31, 35, 39, § **7289**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.6]

91 Acts, ch 191, §105; 2005 Acts, ch 34, §21, 26

2005 amendment to this section takes effect April 19, 2005, and applies to parcels sold at tax sales occurring on or after June 1, 2005; 2005 Acts, ch 34, §26

**448.7 Additional facts necessary.** Repealed by 2005 Acts, ch 34, § 25, 26. See § 448.6.

**448.8 Sale made by mistake.**

If an amount due was paid, and through mistake in the entry made in the county system, the parcel was afterward sold, the treasurer's deed does not convey the title.

[R60, § 784; C73, § 897; C97, § 1445; C24, 27, 31, 35, 39, § **7291**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.8]

91 Acts, ch 191, §107

**448.9 Fraudulent sale.**

If the owner of a parcel sold for taxes resists the validity of the tax title, the owner may prove fraud committed by the officer selling the parcel, or in the purchaser, to defeat the title, and, if fraud is established, the sale and title shall be void.

[R60, § 784; C73, § 897; C97, § 1445; C24, 27, 31, 35, 39, § **7292**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.9]

91 Acts, ch 191, §108

**448.10 Wrongful sales purchaser indemnified.**

If, by mistake or wrongful act of the county treasurer, a parcel has been sold on which no tax was due at the time, or when a parcel is sold in consequence of error in describing it within the county system, the county shall hold the purchaser harmless by paying the purchaser the amount due to which the purchaser would have been entitled had the parcel been rightfully sold, and the treasurer and the treasurer's surety shall be liable to the county to the amount of the treasurer's official bond; or the purchaser, or the purchaser's assignee, may recover the amount directly from the treasurer and the treasurer's surety.

[C51, § 509; R60, § 785; C73, § 899; C97, § 1446; C24, 27, 31, 35, 39, § **7293**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.10]

91 Acts, ch 191, §109

#### **448.11 Correcting wrongful sale.**

When it is made known to the county treasurer, before the execution of a deed for a parcel sold, or if the deed is returned by the purchaser, that a parcel was sold which was not subject to taxation, or upon which the taxes had been paid, the treasurer shall make an entry in the county system that the parcel was erroneously sold, and the entry shall be evidence of the fact, and the purchase money shall be refunded to the purchaser.

[R60, § 789; C73, § 901; C97, § 1447; C24, 27, 31, 35, 39, § **7294**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.11]

91 Acts, ch 191, §110

#### **448.12 Limitation of actions.**

An action under section 447.8 or 448.6 or for the recovery of a parcel sold for the nonpayment of taxes shall not be brought after three years from the execution and recording of the county treasurer's deed.

[R60, § 790; C73, § 902; C97, § 1448; C24, 27, 31, 35, 39, § **7295**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.12]

85 Acts, ch 21, §44; 91 Acts, ch 191, §111; 92 Acts, ch 1016, §34; 96 Acts, ch 1129, § 113; 2005 Acts, ch 34, §22, 26

2005 amendment to this section takes effect April 19, 2005, and applies to parcels sold at tax sales occurring on or after June 1, 2005; 2005 Acts, ch 34, §26

**448.13 Limitation of action on tax sales and deeds.** Repealed by 91 Acts, ch 191, §123, 124.

#### **448.14 Officers de facto.**

In all actions and controversies involving the question of title to a parcel held under a county treasurer's deed, all acts of assessors, treasurers, auditors, supervisors, and other officers de facto shall be of the same validity as acts of officers de jure.

[R60, § 786; C73, § 903; C97, § 1449; C24, 27, 31, 35, 39, § **7296**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.14]

91 Acts, ch 191, §112

#### **448.15 Affidavit by tax-title holder.**

1. After taking possession of the parcel, after the issuance and recording of a tax deed or an instrument purporting to be a tax deed issued by a county treasurer of this state, the then owner or holder of the title or purported title may file with the county recorder of the county in which the parcel is located an affidavit substantially in the following form: State of Iowa, ) ..... County. ) ss.

I, ....., being first duly sworn, on oath depose and say that on ..... (date) the county treasurer issued a tax deed to ..... (grantee) for the following described parcel: .....; that the tax deed was filed for record in the office of the county recorder of ..... county, Iowa, on ..... (date), and appears in the records of the office in ..... county as recorded in Book ..... Page ..... of the ..... Records; and that ..... claims title to an undivided ..... percent interest in the parcel by virtue of the tax deed, or purported tax title.

Any person claiming any right, title, or interest in or to the parcel adverse to the title or purported title by virtue of the tax deed referred to shall file a claim with the recorder of the county where the parcel is located, within one hundred twenty days after the filing of this affidavit, the claim to set forth the nature of the interest, also the time and manner in which the interest claimed was acquired. A person who files such a claim shall commence an action to enforce the claim within sixty days after the filing of the claim. If a claimant fails to file a claim within one hundred twenty days after the filing of this affidavit, or files a claim but fails to commence an action to enforce the claim within sixty days after the filing of the claim, the claim thereafter shall be forfeited and canceled without any further notice or action, and the claimant thereafter shall be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title. ....

Subscribed and sworn to before me this ..... day of ..... (month), ..... (year). ..... otary Public in and for ..... County, Iowa.

2. An owner or holder of a title or purported title who has entered into a lease agreement conveying possessory rights in the parcel to a tenant in possession shall be deemed to be in possession for purposes of filing an affidavit under this section.

3. For purposes of this section, if a tax deed or instrument purporting to be a tax deed has been issued to convey an undivided interest in the parcel of less than one hundred percent, the owner or holder of the tax title or purported tax title shall be deemed to be in possession and entitled to file the affidavit in subsection 1. However, before filing the affidavit, the owner or holder of the tax title or purported tax title shall serve a copy of the affidavit on any other person in possession of the parcel by sending a copy of the affidavit by both regular and certified mail to the person at the address of the parcel or at the person's last known address if different from the address of the parcel. Such service is deemed completed when the affidavit mailed by certified mail is postmarked for delivery. An affidavit of service shall be attached to, and filed with, the affidavit in subsection 1. The affidavit of service shall include the names and addresses of all persons served and the time of mailing.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.15]

91 Acts, ch 191, §113; 95 Acts, ch 57, §23; 2000 Acts, ch 1058, §56; 2005 Acts, ch 34, §23, 26

2005 amendment to this section takes effect April 19, 2005, and applies to parcels sold at tax sales occurring on or after June 1, 2005; 2005 Acts, ch 34, §26

#### **448.16 Claims adverse to tax title barred.**

1. When the affidavit described in section 448.15 is filed it shall be notice to all persons, and any person claiming any right, title, or interest in or to the parcel described adverse to the title or purported title by virtue of the tax deed referred to, shall file a claim with the county recorder of the county in which the parcel is

located within one hundred twenty days after the filing of the affidavit, which claim shall set forth the nature of the interest, the time when and the manner in which the interest was acquired.

2. At the expiration of the period of one hundred twenty days, if no such claim has been filed, the validity of the tax title or purported tax title shall be conclusively established as a matter of law, and all persons shall thereafter be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title, including but not limited to any claim alleging improper service of notice of expiration of right of redemption. An action shall not thereafter be brought to challenge the tax deed or tax title.

3. An action to enforce a claim filed under subsection 1 shall be commenced within sixty days after the date of filing the claim. The action may be commenced by the claimant, or a person under whom the claimant claims title, under either section 447.8 or 448.6. If an action by the claimant, or such other person, is not filed within sixty days after the filing of the claim, the claim thereafter shall be forfeited and canceled without any further notice or action, and the claimant, or the person under whom the claimant claims title, thereafter shall be forever barred and estopped from having or claiming any right, title, or interest in the parcel adverse to the tax title or purported tax title.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.16]

91 Acts, ch 191, §114; 2005 Acts, ch 34, §24, 26

2005 amendment to this section takes effect April 19, 2005, and applies to parcels sold at tax sales occurring on or after June 1, 2005; 2005 Acts, ch 34, §26

#### **448.17 Indexing and recording of affidavits and claims.**

All affidavits and claims as provided for in sections 448.15 and 448.16, filed with the county recorder, shall be indexed in the claimant's book under the description of the parcel involved, and shall be recorded as other instruments affecting parcels.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 448.17]

91 Acts, ch 191, §115

#### **448.17A Definitions.**

As used in this chapter, unless the context otherwise requires, "*book*", "*list*", "*record*", or "*schedule*" kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

#### **Footnotes**

See §445.1