

## **CHAPTER 28-24 REDEMPTION OF REAL ESTATE**

### **28-24-01. Who may redeem - Redemptioner.**

A property sold subject to redemption may be redeemed as provided in this chapter by the following person or successors in interest:

1. The judgment debtor; or
2. A creditor having a lien on the property, or on some part of the property, subsequent to that on which the property was sold, and is designated in this chapter as a redemptioner.

### **28-24-02. Payment on and period of redemption.**

The judgment debtor or redemptioner may redeem the property from the purchaser during the redemption period by paying the amount of the bid and any additional lien claimed under section 28-24-07 with interest at the rate provided in the original instrument on which the judgment is based. If the purchaser is also a creditor having a lien superior to that of the redemptioner, the amount of that prior lien with interest must be paid to effect a redemption. Except as provided in section 32-19-18 for redemption from foreclosure sales, the redemption period is one year from the date of the sheriff's sale.

### **28-24-03. Redemption by redemptioner - Notice to be recorded.**

A redemptioner shall give a written notice of redemption to the sheriff and at the same time shall record a duplicate in the office of the county recorder of the county where the land is situated. The redemptioner must state in the notice of redemption an amount that the redemptioner will credit on the claim on making redemption. If the amount stated in the notice is less than the amount of the lien under which the redemptioner makes redemption, a later redemptioner having a subordinate lien may redeem from the earlier redemptioner by paying the amount paid by that redemptioner, and interest at the same rate as provided in the original instrument on which the judgment is based, together with the amount stated by the first redemptioner in the notice. The amount stated by a redemptioner in the notice must be treated as a payment of that amount on the indebtedness and the redemptioner immediately shall endorse that on the evidence of the claim. If the claim is a judgment, the redemptioner shall cause a statement of that amount to be entered by the clerk of court in the judgment docket. That credit is conditional and must be canceled on proof of a further redemption by the debtor or by a redemptioner having a prior right, without payment of the amount credited.

### **28-24-04. Successive redemptions - Time.**

If property is redeemed by a redemptioner, another redemptioner, even after the expiration of the redemption period, may redeem from the last redemption if the redemption is made within sixty days after recording of the notice of redemption. This sixty-day limitation does not apply to any redemption made within the redemption period, but all persons entitled to redeem in all cases must have the entire statutory redemption period in which to redeem. The property, as often as a redemptioner is so disposed, may be redeemed again from any previous redemptioner within sixty days after the recording of the last notice of redemption.

### **28-24-05. Redemptioner production of requisite papers.**

A redemptioner shall produce to the officer or person from whom the redemptioner seeks to redeem and shall serve with the redemptioner's notice to the sheriff:

1. A copy of the docket of the judgment under which the redemptioner claims the right to redeem, certified by the clerk of the district court of the county where the judgment is docketed, or, if the redemptioner redeems upon a mortgage or other lien, a note of the record of the mortgage or lien certified by the county recorder;
2. A copy of the assignment necessary to establish the redemptioner's claim, verified by the affidavit of the redemptioner or of a subscribing witness to the assignment; and

3. An affidavit by the redemptioner or the redemptioner's agent showing the amount then actually due on the lien.

**28-24-06. Redemption by debtor - Recording certificate - Rights of redemption.**

The debtor may not be required to pay more to effect a redemption than the purchase price, with interest from the day of sale, at the same rate as provided in the original instrument on which the judgment is based, despite the fact that the debtor seeks to redeem from a redemptioner. If the debtor redeems, the effect of the sale is terminated and the debtor is restored to the estate. On a redemption by the debtor, the person to whom the payment is made shall execute and deliver to the debtor a certificate of redemption acknowledged or proved before an officer authorized to take acknowledgments of conveyances of real property. The certificate must be recorded in the office of the county recorder of the county in which the property is situated and the county recorder shall note that record in the margin of the record of the certificate of sale. If the debtor redeems from a redemptioner who, to effect redemption, has paid liens on the property other than for taxes or assessments, the redemptioner is subrogated to all the rights of the former holders of those liens, and the recording of written notice of that redemption is notice of the rights of that redemptioner in and to all the liens the redemptioner holds as equitable assignee as fully as if formal written assignments had been recorded.

**28-24-07. Protection of purchaser during period of redemption.**

If a sale of real estate is made under execution or upon mortgage foreclosure, the purchaser at the sale or the purchaser's successor in interest, in case of the expiration during the period of redemption of any insurance policy on the premises sold, may pay the premium necessary to procure a renewal of that policy, and, if any taxes or assessments become delinquent, or if any installment of interest or principal on any prior or superior mortgage becomes due during that period of redemption, and any utilities or other items to be paid by the purchaser in protection of the title or premises, the purchaser may pay those charges. The amount paid, with interest at the same rate as provided in the original instrument on which the judgment is based, is part of the sum necessary to be paid for the redemption from the sale. The payments must be proved by a written notice of additional lien verified by affidavit of the purchaser, the purchaser's agent or attorney, stating the items and describing the premises. That notice must be recorded in the office of the county recorder and a copy of the notice served on the sheriff of the county. After that service the sheriff shall collect the full amount specified in the notice in addition to the amount which would otherwise be due in redemption from the sale, and shall pay over that amount to the purchaser at the sale, or the purchaser's assignee. If the notice is not served on the sheriff and recorded within five days after payment, redemption may be made without paying those amounts.

**28-24-08. Protection of debtor.**

In case any mortgagor, redemptioner, or judgment debtor objects to the payment of any insurance premium, taxes, or prior liens on account of the incorrectness or invalidity thereof, that person may file with the sheriff an indemnity bond, in an amount and with sureties to be approved by the judge of the district court, and thereupon the sheriff shall permit redemption to be made without the payment of such insurance premiums, taxes, or prior liens so excepted to, and the purchaser may determine the correctness or validity thereof and may collect the same by an action directly upon such bond, which action must be brought within one year next following such redemption.

**28-24-09. Payments - To whom made.**

The payments upon redemption mentioned in this chapter may be made to the purchaser or redemptioner, or for the purchaser or redemptioner, to the officer who made the sale.

**28-24-10. Notice of additional lien.**

If any taxes, assessments, insurance premiums, utility charges, or other items are paid by the purchaser or by a redemptioner, or if the purchaser or redemptioner has or acquired any lien

other than that on which the sale or redemption was made, written notice of that item must be given to the sheriff and if that notice is not given to the sheriff, the property may be redeemed without paying the amount shown in the notice of additional lien.

**28-24-11. Debtor entitled to rents during redemption period.**

The debtor under an execution or foreclosure sale of the debtor's property is entitled to the possession, rents, use, and benefit of the property sold from the date of the sale until the expiration of the period of redemption except as provided by section 32-19-19.

**28-24-12. Waste restrained - Use of premises.**

Until the expiration of the time for redemption, the court may restrain the commission of waste on the property by order granted with or without notice, on the application of the purchaser or the judgment creditor. But it is not waste for the person in possession of the property at the time of the sale, or entitled to possession afterwards, during the period allowed for redemption, to continue to use it in the manner in which it previously was used, or to use it in the ordinary course of husbandry, or to make the necessary repairs of buildings thereon, or to use wood or timber on the property therefor, or for the repair of fences, or for fuel for that person's family, while that person occupies the property.

**28-24-13. Sheriff shall execute deed.**

If the property is not redeemed according to law, the sheriff shall execute and deliver a sheriff's deed for the property immediately after the time for redemption has expired to the purchaser, purchaser's assignee, or the redemptioner.

**28-24-14. Effect of sheriff's deed - Contents.**

The sheriff's deed is sufficient evidence of the legality of the sale and the proceedings contained in the certificate, until the contrary is proved, and vests in the grantee title to the premises as vested in the debtor at or after the time when the real property became liable to the satisfaction of the judgment. The deed must recite the execution, or the substance of the execution, the names of the parties, the amount and date of rendition of the judgment by which the real property was sold, and must be executed, and recorded as a conveyance of real property.

**28-24-15. Sheriff's successor may execute deed.**

The sheriff's deed may be executed by any succeeding sheriff to the purchaser or person entitled thereto or the purchaser's or person's legal representatives, and such deed is as good and valid in law and has the same effect as if the sheriff who made the sale had executed the same.

**28-24-16. Chapter applicable to mortgage foreclosures.**

The provisions of this chapter relating to redemption of real property govern sales on mortgage foreclosures.