

91.504 Trial -- Master commissioner's judgment sale -- Appeal from judgment of the sale.

- (1) Upon the trial of the cause upon the question of enforcement, the tax bill shall be prima facie proof that the tax described in the tax bill has been validly assessed at the time indicated by the tax bill and that the tax is unpaid. Any person alleging any jurisdictional defect or invalidity in the tax bill or in the sale thereof must particularly specify in his answer the defect or basis of invalidity, and must, upon trial, affirmatively establish the defense.
- (2) After the court has first determined the validity of the tax liens of all tax bills affecting parcels of real estate described in the petition, the priorities of the tax bills and other interest and the amount due thereon, including principal, interest, penalties and costs, the court shall enter judgment of sale of the property and fix the time and place of the judgment sale.
- (3) The petition shall be dismissed as to any parcel of real estate released or redeemed prior to the time fixed for the master commissioner's sale as provided in KRS 91.484 to 91.527.
- (4) If the parcel of real estate sold at the master commissioner's judgment sale is sold for a sum sufficient to fully pay the principal amount of all tax bills included in the judgment together with interest, penalties and costs, and for no more, and such sale is confirmed by the court, then all other proceedings as to such parcels of real estate shall be finally dismissed as to all parties of interest other than tax bill owners or holders; provided, however, that any party seeking relief other than an interest in or lien upon the real estate may continue with said suit to a final adjudication of such other issues. An appeal may be had as to any claim attacking the validity of the tax bill or bills or the priorities as to payment of proceeds of the judgment sale.
- (5) If the parcel of real property sold at the master commissioner's sale is sold for a sum greater than the total amount necessary to pay the principal amount of all tax bills included in the judgment, together with interest, penalties, and costs, and the sale is confirmed by the court, and no appeal is taken by any person claiming any right, title or interest in or to or lien upon the parcel of real estate or by any person or taxing authority owning or holding or claiming any right, title or interest in or to any tax bills within the time fixed by law for the filing of notice of appeal, the court shall order the master commissioner to make distribution to the owners or holders of the respective tax bill included in the judgment of the amount found to be due and in the order of priority. Thereafter, all proceedings in the suit shall be ordered by the court to be dismissed as to such persons owning, holding or claiming any right, title or interest in any such tax bill paid, and the case shall proceed as to any parties claiming any right, title or interest or lien upon the parcel of real estate affected by such tax bill as to their respective claims to the surplus funds then remaining in the hands of the court.
- (6) Whenever an answer is filed to the petition, a severance of the action as to all parcels of real estate affected by such answer shall be granted, and the issues raised by the petition and the answer shall be tried separate and apart from the other issues

in the suit, but the granting of the severance shall not delay the trial or other disposition of any other issues in the case.

- (7) A separate appeal may be taken from any other issue in the case. A separate appeal may be taken from any action of the court affecting any right, title or interest in or to, or lien upon, such real estate, other than issues of law and fact, affecting the amount or validity of the lien of tax bills, but the proceeding to enforce the lien of any tax bills shall not be stayed by the appeal. The trial shall be conducted by the court without the aid of a jury. This action shall take precedence over and be triable before any other actions affecting the title to the real estate upon motion of any interested party.

Effective: July 15, 1980

History: Created 1980 Ky. Acts ch. 47, sec. 8, effective July 15, 1980.