



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

March 13, 2023

The Honorable Nakia Stewart Anderson
Chancery Court Clerk, Wilkinson County
Post Office Box 516
Woodville, Mississippi 39669

Re: Auction Expense for Tax Sale

Dear Ms. Anderson:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, Wilkinson County (“County”) has contracted with an auction vendor to conduct its April 2023 sale of land on which taxes are due. The auction vendor conducts the sale on behalf of the County at a cost of \$20 per parcel sold. These costs have historically been absorbed by the County.

Question Presented

May a \$20 auction expense be assessed against persons entitled to redeem land sold for taxes as a “cost[] incident to the sale” as prescribed by Mississippi Code Annotated Section 27-45-3?

Brief Response

Yes. The \$20 auction expense described in your request may be assessed against persons entitled to redeem land sold for taxes as a “cost[] incident to the sale” as prescribed by Section 27-45-3.

Applicable Law and Discussion

Section 27-41-59(2) allows a tax collector “to enter into an agreement with an online provider to conduct tax sales using online bidding and sale” so long as the agreement is ratified by the county board of supervisors. *See also* MS AG Op., *Morgan* at *1–2 (Aug. 19, 2016).

Section 27-45-3, referenced in your opinion request, outlines the requirements for persons entitled to redeem land sold for taxes. It provides, in part:

The owner, or any persons for him with his consent, or any person interested in the land sold for taxes, may redeem the same, or any part of it, where it is separable by legal subdivisions of not less than forty (40) acres, or any undivided interest in it, at any time within two (2) years after the day of sale, by paying to the chancery clerk, regardless of the amount of the purchaser's bid at the tax sale, the amount of all taxes for which the land was sold, *with all costs incident to the sale*, and five percent (5%) damages on the amount of taxes for which the land was sold, and interest on all such taxes and costs at the rate of one and one-half percent (1- ½ %) per month, or any fractional part thereof, from the date of such sale, and all costs that have accrued on the land since the sale, with interest thereon from the date such costs shall have accrued, at the rate of one and one-half percent (1- ½ %) per month, or any fractional part thereof

(Emphasis added).

The phrase “costs incident to the sale” as used in Section 27-45-3 is unambiguous, and the auction expense described in your request would meet this criterion. *See City of Tchula v. Miss. Pub. Serv. Comm’n*, 187 So. 3d 597, 600 (Miss. 2016) (“No citation is needed for the principle that, where the words are clear and concise, courts and agencies are bound to apply their usual and ordinary meaning. Only if the words are unclear do we refer to other rules of statutory interpretation.”); *see also* MS AG Op., *McGee* at *1 (Apr. 2, 1986) (concluding the expense of “mailing of notices is part of the incidental cost of the sale and may be assessed as Section 27-45-3 provides”). Accordingly, it is the opinion of this office that an auction expense such as the one described in your request may be assessed against persons entitled to redeem land sold for taxes as a “cost[] incident to the sale” as prescribed in Section 27-45-3.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Maggie Kate Bobo

Maggie Kate Bobo
Special Assistant Attorney General