Law Offices James J. Falcone 520 Capitol Mall, Suite 600 Sacramento, California 95814-4717

JFalconeLaw.com

916/442-4204

What happens to unpaid California property tax when a mortgage lender forecloses?

The payment of ad valorem real property taxes is secured by a lien on the assessed property. The tax lien is senior to other state tax liens and federal tax liens that take their priority from the date of recording, and it is senior to all other liens on the property regardless of the time of their creation- this includes the mortgage deed of trust.

Thus, because the property tax lien is superior to the mortgage lien, on the foreclosure of a deed of trust, the buyer takes title subject to all property tax liens assessed against the property, whether the assessment was levied before or after the deed of trust was recorded. The buyer at the trustee's sale must pay the delinquent taxes together with all penalties in order to clear title. Whether or not the penalties have the same priority as the tax lien is not relevant. The only way of redeeming and preventing a foreclosure sale of the tax lien is by payment of the penalties

Will the homeowner be personally liability for California property taxes?

As a general rule nonpayment of the taxes can be enforced only by foreclosure of the tax lien, so there is no personal liability for ad valorem real property taxes. However, there is an exception. The taxes may be transferred to the "unsecured roll" by the County Tax Collector, and collected from the taxpayer personally without foreclosure of the lien, if the value of the property secured by the lien is not sufficient for the amount of taxes due. This is not done automatically.

You will need to confirm that your property taxes are still on the "secured roll". (The secured & unsecured rolls are just lists of properties the assessor is required to put together) Check your property tax bills, there should be an indication. Otherwise, contact the assessor.