



Center for
COMMUNITY PROGRESS

Turning Vacant Spaces into Vibrant Places



Rethinking tax foreclosure

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Center for Community Progress*

*San Diego, California
February 2, 2012*

Center for Community Progress



- **Takes to scale the efforts of the nation's leading organizations and individuals on issues of revitalization and reuse of vacant, abandoned, and underutilized properties.**
- **The mission: to create vibrant communities through the reuse of vacant property in America's cities and towns - to transform the systems that affect how the community development, government, and private development fields repurpose these properties and communities.**
- **Technical Assistance & Capacity Building, Policy & Research, Coalition Building, and Communications.**



Tax collection and enforcement



- **Governments need taxes to operate governmental services**
- **All taxable properties are required to pay their fair share of the tax burden**
- **Failure to pay on time results in some form of enforcement against the property itself, rather than typical collection actions against owners**



Tax collection and enforcement



Common elements of tax collection and foreclosure systems

- *Property taxes are typically a priority lien*
- *Non-payment of taxes results in loss of ownership*
- *Highest priority is on collection of the taxes owing*
- *Disposition of the property itself is secondary*

Tax collection and enforcement



No uniformity of approaches across the country, but the systems fall in to some basic categories

- *Tax lien Sales*
- *Tax auctions/tax deed or certificate sales*
- *Judicial foreclosure*

Some of these processes are used in combination with one another in and in a variety of different forms. Recent movement toward “servicing agreements.”



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 JAMES H. HARRIS, Sheriff


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Tax Lien Sales



- Sale of a government tax receivable
- Individual lien sales (former MI system)
- Bulk lien sales (several states) – often sold at a discount from the face value
- Liens bear relatively high rate of return for investor

Advantages: simple, efficient, transfers collection to 3rd party, privatization the government function

Disadvantages: discounted value of receivable, loss of control of collection process, loss of control over property



Tax Auctions/tax deed or certificate sales



- Also known as the “tax sale”
- Sale of tax title or certificate using “courthouse steps” method - transfers title or right to clarify title to purchaser
- Often includes redemption period
- May result from judicial foreclosure producing clear title
- May generate surplus sale proceeds, typically returned to purchaser *or* to prior title interests

Advantages: simple, efficient, provides some degree of finality as element of enforcement process

Disadvantages: not “market-based” (despite some interpretations), loss of control over property, title conveyed often clouded



Servicing agreements



- Relatively* new approach currently being marketed
- Sold to municipalities as alternative to lien sale
- Privatized collection service
- Fee-based service

Advantages: simple, efficient, transfers collection to 3rd party, privatization the government function

Disadvantages: fees earned are significant, loss of control of collection process, often based upon high fee structure with risk held by municipality and profit earned by private contractor



**not entirely new, but a new approach being offered as alternative to lien sales - a thin disguise*

Tax collection and enforcement variables – and elements to include in reform process



- Time period of collection and enforcement
- Penalties and fees that apply to delinquencies
- Standard of notice applying to process
- Judicial/non-judicial procedure
- Bulk process or separate enforcement actions
- Provision for hardship/homeowner protections
- Sale of collection stream, receivable, or asset?
- Requirements for disposition of assets (financial *and* real estate assets)
- Mandatory and uniform enforcement vs. optional enforcement/foreclosure by parcel



What are we trying to achieve?



- **Tax collection that is efficient and produces the necessary revenue to operate government**
- **A collection process that is fair and provides uniformity of enforcement and relief for owners experiencing financial hardship**
- **A system that produces productive reutilization of the foreclosed properties**



Tax foreclosure reform



- Elimination of tax liens sales/tax certificate sales
- County-wide/regional collection process
- Replace privatized system with DTAN/foreclosure

How it works:

- *Municipality issues short-term bonds for back taxes*
- *Tax collector collects principal and penalty*
- *Collections generate fund to retire notes, plus public profit*
- *On \$50 million in delinquency, \$3-5 million in surplus, plus equity*
- *Title to and equity in foreclosed property is a public asset*

What are the long term effects?



- **Loss of control of critical properties**
- **Negative consequences of re-use, effect on surrounding property values**
- **Monetization of essential component of a community**
- ***Who cuts the weeds? Who boards up the house? Who puts out the fire?***

Land Banks



A land bank is a public or nonprofit entity created to efficiently acquire, hold, manage and develop foreclosed property, as well as other vacant and abandoned properties.





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