Rethinking tax foreclosure

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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
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*
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.”
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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