Tax Lien Certificates as an Acquisition Tool

Robin Darden Thomas
6th Annual Land Bank Conference
Think of a home valued at $500,000 with a $250,000 mortgage
Now imagine buying that $250,000 mortgage for $50,000
Then foreclosing and taking title to a $500,000 property for $50,000: 10% of its value.
Impossible? No.

This is how a tax lien certificate works.

(Sometimes)
Buy $1 Million Homes Starting as Low as $1,995!

The Truth Will Shock You!
Tax Lien Certificates as an Acquisition Tool

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So what is a tax certificate?

Document (paper or electronic) representing the purchase of a delinquent tax lien - the total amount of unpaid taxes, including penalties and interest, following the close of the tax collection.
Who sells tax certificates (and why)?

County Treasurers

• Effective tax collection tool
• Purchaser pays certificate price up-front; no risk of non-payment
• Subdivisions receive unpaid tax amounts more quickly
Who buys tax certificates (and why)?

Investors - Anticipate high returns

• First lien position
• Up to 18% interest
• Guaranteed 6% with early pay-off
• If taken to foreclosure, either receive full purchase price plus interest and fees OR take property
How do you learn more about buying tax certificates?

1. Watch an infomercial at 3 a.m.
2. Read the Ohio Revised Code (Sections 5721.30 - 5721.43)
3. Talk to the County Treasurer about how tax certificates are sold in their county.
Characteristics of tax certificates

- Up to 18% interest
- Guarantee of 6% with early pay-off
- 3 – 6 year tax certificate life
- May initiate foreclosure after 1 year
Selection of tax certificates for sale

May sell tax lien for any property **except**:

- Taxes, assessments, etc. are paid in full
- Valid payment plan in effect
- Bankruptcy
Other possible exclusions:

- Properties under certain value
- Homeowners qualify for Homestead Exemption (senior, income, disability)
- Properties awaiting decision on tax exemption
- Delinquent taxes under specified amount
- Vacant lots
- Other
So how does it work?

1. Tax lien auction
   - Individual tax liens are offered for sale
   - Cost of certificate is amount of delinquent taxes, penalties, interest, etc.
   - Additional fees may be included
   - Bidding starts at 18% interest rate and is bid down in quarter increments
   - Lowest bid wins
2. Bulk auction

- Similar to auction of individual certificates
- Liens are sold as one package or bundles of liens are offered separately
- Bundles include both “good” and “bad” liens
- Lowest interest rate bid wins
3. Negotiated Tax Lien Sales

- County Treasurer and Tax Lien Purchaser negotiate terms of sale
- Competitive bid not required
- May be one year only or contract for several years.
- Purchaser may “cherry pick” – rejecting certificates they feel will not redeem
- May purchase at discount or premium
- Most common form of sale in Ohio
Negotiable Items

Interest rate
Payment plan terms
Buy back provisions
Discount or premium
Method of payment
Subsequent liens

Collection processes
Contact with property owner
Foreclosure fees
Foreclosure time frame
Other
Objections to tax lien sales

- Impact on senior citizens and working poor
- Added costs, high interest
- Less “friendly” collection methods
- Difficult to monitor
- Expired tax certificate without foreclosure
- Foreclosed properties not maintained
How can this be legal?

Original legislation – Am. Sub. HB371 was approved and became effective in 1999
- Sale by auction for counties over 200,000
  - Summit County held first bulk auction
- Negotiated sale for counties over 1.4 million
  - Cuyahoga County held first negotiated sale

Various amendments over the years.
Population requirement removed.
How Can Tax Liens Sales Benefit County Land Banks?

A negotiated tax lien sale can help land banks acquire vacant and abandoned property at minimal cost.
How It Could Work

1. Land bank identifies one or more properties it wishes to acquire
2. Certificate purchase price is determined – delinquent taxes, penalties, interest, costs, fees, etc.
3. Discount percentage is established
4. Land bank pays for tax certificate with cash, non-cash consideration or notes.
5. Land bank may begin foreclosure immediately after purchase.
Example

Land bank selects one parcel – a property in a first ring suburb that is condemned, vacant and tax delinquent. Land bank has demolition funds to raze the house and plans for reuse of the vacant lot.
Tax Status

- Delinquent taxes: $10,000
- Treasurer’s admin fee: 1,000
- Certificate Purchase Price: $11,000
Discount

Certificate Purchase Price $11,000

Discount: 50% $11,000 - $6,500

Amount Due $6,500
Payment with Note

- Land Bank issues note for $6,500 to Land Bank
- Payment of note is contingent upon property being redeemed or purchased at foreclosure sale
- If Land Bank ultimately takes title to property through foreclosure, note is forgiven
Foreclosure

- May begin any time after purchase
- May file with Court or Board of Revision
- Redemption cost is **full** amount of tax certificate (prior to discount) plus accrued interest and fees ($11,000 +)
- If county auditor values property at less than redemption cost, property may be transferred directly to land bank.
When would tax certificate purchase be a better option than tax foreclosure?

• Sale of tax certificate can happen as soon as delinquent land list is complete
• Foreclosure filing is a private foreclosure rather than tax foreclosure – treated like mortgage foreclosure
• Prosecutor workload for tax foreclosure alleviated by use of private attorney
Just another option.....

Land banks have multiple options for property acquisition – tax foreclosure, forfeiture, deeds in lieu of foreclosure, donations or direct purchases.

Tax certificate purchase is just another option.
Questions?
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