

# **SOUTHEASTERN ASSOCIATION OF TAX ADMINISTRATORS**

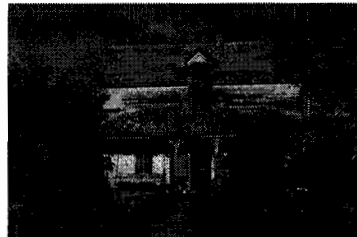
## **15<sup>TH</sup> ANNUAL CONFERENCE**

JULY 10-13, 2005  
SHERATON HOTEL  
NEW ORLEANS, LOUISIANA

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### **PROPERTY TAX SECTION**

#### **EXPLORING THE INS -AND-OUTS OF BUYING ADJUDICATED PROPERTIES FROM CITIES**



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## ADJUDICATED PROPERTY

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## PROPERTY TAX

- Predominantly local tax.
- Primary source of revenue which can be controlled by local government.
- Since 1978, local governments percentage from property tax is approximately 18%.
- Failure to enforce collection of delinquent property taxes can have a devastating impact on local government.
- 2%-4% Delinquency Rate
  - - \$3-6 billion in lost revenue nationally

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## ENFORCEMENT OF TAX LIENS

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|---|--|
| <ul style="list-style-type: none"> <li>● "STRICT FORECLOSURE"           <ul style="list-style-type: none"> <li>● Final date is established for payment of dates</li> <li>● Upon non payment, the property is conveyed to the government</li> <li>● Does not involve a public or private sale (Small minority of jurisdictions)</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>● SALE           <ul style="list-style-type: none"> <li>● Sale of the lien, or of the underlying property, or sequential sales of first the lien and then the property (Majority of Jurisdictions)</li> </ul> </li> </ul> |
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## NON PAYMENT OF PROPERTY TAXES

- Local governments usually impose some combination of penalties and interest on delinquent taxes.
- Does not deter property tax delinquencies.
- The greater the amount of accrued delinquent taxes relative to fair market value, the greater the disincentive for the property owner to make payment on the taxes.

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- Non payment occurs in 3 concepts:
  1. Economic conditions depress property values, incomes, or both.
    - Assessed values may be too high, failing to reflect neighborhood declines in value.
    - Property owners may simply lack the ability to pay the annual tax.

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2. Non payment may be a form of public protest when the property tax rates exceed the level of popular tolerance.



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3. Property owners, usually investors, elect to maximize income derived for the property by foregoing payment of the property taxes, eventually abandoning the property. When the total amount of accrued taxes, penalties, and interest equals or exceeds the fair market value of the property, no owner or third party will pay the taxes or make any investment in the property.

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Local government will not be able to find any purchased at a tax foreclosure sale when the minimum bid is the total amount of tax liability.

Abandoned properties become public nuisances, foster crime, and cause decline in neighboring property values.

• Alexander, Frank S. *Tax Liens, Tax Sales, and Due Process* 75 Ind. L.J. 747

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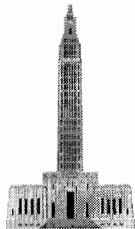
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## PURPOSE

State Legislatures empower political subdivisions to more readily dispose of abandoned properties:

- To control the rising number of abandoned properties throughout the state.
- To slow urban blight.
- To revitalize economically depressed areas by placing abandoned properties back into the economic stream of commerce.



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## WHAT IS ADJUDICATED PROPERTY?



- Property not sold at a tax sale;
- **Tax Sale** – sale of property by the Sheriff's Office for the non-payment of taxes;
- Three years elapsed; Property is abandoned.

(LA RS 33:4720.11 et seq)

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## ABANDONED PROPERTY (Definition)

- Adjudicated to a political subdivision for non-payment of taxes, And "**Vacant or not lawfully occupied.**"
- Not actually occupied by its owner, lessee, or other invitee,  
**and**
  - Has been left inadequately secured from unauthorized entry to the extent that the premises may be utilized by vagrants;**OR**
  - Premises which endanger public safety by reason of dilapidation, deterioration, state of disrepair.

(LA RS 33:4720.11 et seq)

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## NOTICE

The United States Supreme Court ruled that a party holding a legally protected property interest whose name and address are reasonably ascertainable based upon reasonably delinquent efforts is entitled to notice reasonably calculated to inform it of the proceeding.

Mizeloni v Adams, 482 U.S. 701 (1983)

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## NOTICE

Court ruling left more questions than answers:

- Who is entitled to more than notice by publication?
- What efforts are required to reasonably ascertain interested parties.

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## NOTICE

Since the Supreme Court decision, many states have modified or rewritten their laws on tax liens and tax sales.

Tax sale purchases and title insurance companies remain at risk whenever adequate notice is not given to the holder of a property interest!

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## NOTICE

Political subdivision shall cause notice to be given to:

- Owner;
- Mortgagee;
- Any other person who may have a vested or contingent interest in the property.

(ARS 32-4720-11 et seq)

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## NOTICE

Notice must be given 60 days before the sale

- No further notice required, and it is not necessary to determine whether notice of the tax sale was given.

(LA RS 33:4720.11 et seq)

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## REDEMPTION



- At any moment before the sale, the property may be **REDEEMED** by the:
  - Tax debtor
  - His heir
  - Administrator
  - Executor
  - Assignor
  - Successor

(LA RS 33:4720.11 et seq)

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## REDEMPTION (CONT'D)

Property is **REDEEMED** upon payment of:

- Taxes, interest, costs, and penalties due and owing at that time;
- All charges imposed including paving and local improvement assessments (all interest, costs, and penalties);
- All costs in connection with the request for the sale of property.

(LA RS 33:4720.11 et seq)

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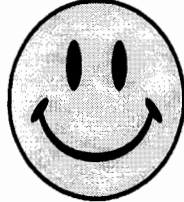
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## ACT OF SALE

- Sale of adjudicated property transfers the property **FREE** and **CLEAR** of any liens or privileges.



(LA RS 33:4720.11 et seq)

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## ACT OF SALE



Recordation of the sale in the conveyance and mortgage records operates as a cancellation of all:

- Liens,
- Privileges,
- Conventional and judicial mortgages, and
- Other encumbrances recorded against the property,
- including the liens and privileges for taxes, paving, and other assessments.

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## WHAT IF THE TAX DEBTOR PARTICIPATES?

- If tax debtor participates in a public or private sale, liens **WILL NOT** be cancelled.
- The sale will be treated as a redemption  
Tax debtor will be required to pay all taxes and costs.
- All conventional mortgages, liens privileges, and other encumbrances remains in effect.

(LA RS 33:4720.11 et seq)

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## RIGHTS AND OBLIGATIONS



- Purchaser of adjudicated property is deemed to have purchased the property at a tax sale.
- Purchaser has the same rights, obligations, and duties of a tax sale purchaser. *(except tax debtor may no longer redeem)*

(S.A. RS 33:4720.11 et. seq.)

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## QUIET TAX TITLE

- After the recording deed in the conveyance records, the purchaser may institute suit by petition and citation against former owner of the property.
- Not mandatory;
- Allows for purchaser to obtain title insurance;
- Costs \$1,500-\$3,000 and will take 3-12 months.

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## TITLE INSURANCE

- Banks will not lend money on a property without title insurance.
- If a piece of property does not have title insurance, then its market value is decreased.



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## TAX TITLE SERVICES

- Alternative to quiet title actions.
- Tax Title Services issues a Certification which validates the tax sale to their program underwriters.
- If after the due process review by Tax Title Services, it is discovered that all statutory requirements have not been met they will ----

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## TAX TITLE SERVICES (Cont'd)

- Identify any title-related defects affecting insurability;
- Recommend and effect appropriate title underwriter approved corrective action necessary to insure title, if possible.
- Claim to be faster and Cheaper than quiet title actions.

[www.taxtitleservices.com](http://www.taxtitleservices.com)

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## CONCLUSION

- Delinquent property taxes can have devastating effects on local government.
- Abandoned property causes loss of revenue, becomes public nuisances, and causes decline in property values.
- Many states have realized the need to return abandoned properties to the stream of commerce and to slow urban blight.

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## **CONCLUSION**

- Adjudicated property programs may authorize the removal of all taxes, penalties, interest, and liens with the sale of the property.
- Statutory requirements may be confusing. The advice of a lawyer is strongly recommended.

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