



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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## Delinquent Property Tax Collection

Ohio law provides various avenues to enforce the collection of delinquent property taxes. Generally, in order to prevent tax foreclosure, a property owner and the county treasurer will first enter into a delinquent tax contract that allows the owner to pay the taxes in installments over a period of time. If the delinquent taxes are not paid under a tax contract, county officials may either transfer the lien for the delinquent taxes to a private party through the sale of a tax certificate or pursue a foreclosure action.

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### Introduction

Local governments in Ohio may levy taxes on real property. Property taxes are imposed as a lien of the state against the property until they are paid. If the taxes are not paid in a timely manner, they become delinquent and local officials may enforce the state’s lien by taking action that may ultimately result in the property’s foreclosure. This brief explores the manner in which property taxes may be collected and enforced by local officials. Specifically, it focuses on the timing of tax payments, the potential consequences of not making a timely payment, and the options available to local officials for enforcing the state’s lien on delinquent property.

## Property tax payments

### Tax due dates

Real property taxes are generally due in the year after they are levied. For example, taxes for tax year 2022 will be paid in 2023. Property tax payments are due in two semiannual installments. The statutory due dates for these installments are December 31 and June 20. However, in practice, these due dates are often extended into January or February, and July or August, depending on the county and year.<sup>1</sup>

### Late penalties and interest

When taxes remain unpaid after the applicable due date, a penalty applies, unless the property owner enters into a delinquent tax contract with the county treasurer, as described below. If the overdue amount is paid within ten days after the due date, the penalty equals 5% of the unpaid amount or, if it remains unpaid after ten days, 10% of that amount. Interest begins to accrue on the delinquent taxes beginning on the first day of the following December.<sup>2</sup>

### Compilation of delinquent land tax list

After each semiannual due date, the county treasurer and auditor make a “settlement” of all property taxes collected in that period. If taxes remain unpaid after the second settlement, which occurs not later than August 10, they are considered to be delinquent.

Immediately after the second settlement, the county auditor compiles a list of tax delinquent property in the county, known as the delinquent land list.<sup>3</sup> The auditor separately compiles a list of property upon which taxes first became delinquent as of the most recent settlement, known as the delinquent tax list. That list is published twice in a newspaper of general circulation within 60 days after its compilation, with a notice that listed property may be subject to foreclosure unless delinquencies are paid.<sup>4</sup>

### Property tax collection timeline

The following table provides a summary of the timeline for collecting real property taxes, using tax year 2022 for reference.

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<sup>1</sup> R.C. 323.12 and 323.17. If delivery of a tax duplicate is delayed for certain reasons, the payment dates may be automatically extended for 30 days. The county auditor or treasurer may also apply to the Tax Commissioner for an additional extension of up to 15 days in the case of an “emergency,” e.g., death or serious illness, equipment failure, or organized work stoppage. In addition, the Commissioner may grant an additional extension when an unavoidable delay is necessary to avoid penalties to taxpayers.

<sup>2</sup> R.C. 323.121.

<sup>3</sup> R.C. 324.24 and 5721.011.

<sup>4</sup> R.C. 5721.03.

Property Tax Collection Timeline	
Date	Action
January 1, 2022	Real property tax lien date, i.e., that date at which a property's value is fixed for the purpose of calculating the tax due (R.C. 323.11).
December 31, 2022-February 2023	First one-half payment date (R.C. 323.12 and 323.17).
June 20, 2023-July 2023	Second one-half payment date (R.C. 323.12 and 323.17).
August 2023	Deadline for the second tax settlement, after which taxes are considered to be delinquent. County auditors compile the delinquent land list and delinquent tax list (R.C. 5721.011 and 5721.03).
December 1, 2023	Interest is charged on tax year 2022 delinquent taxes (R.C. 323.121(B)(3)).
August 2024	County auditors compile the delinquent land tax certificate. Auditors also compile the delinquent vacant land tax list, which includes any land that is unimproved and still delinquent (R.C. 5721.03).

## Collection of delinquent taxes

Once taxes have been certified as delinquent, county officials have many options to enforce its collection, with a tax foreclosure being the most drastic. But, generally, a taxpayer will first have an opportunity to enter into a delinquent tax contract to avoid tax foreclosure (see "**Delinquent tax contracts**," below).

Alternatively, to avoid foreclosure, a property owner may convey delinquent property to a political subdivision or county land reutilization corporation (CLRC) that has implemented a land bank program. Delinquent taxes on the property are recovered when the property is subsequently sold through the program.<sup>5</sup>

However, if a delinquent tax contract becomes void, or if there was no contract or conveyance, the remaining options for collection involve foreclosure.

### Delinquent tax contracts

To prevent tax foreclosure, county treasurers may, or in some instances, are required to give delinquent property owners the opportunity to enter into a written delinquent tax contract with the treasurer before the completion or, in certain situations, the initiation of the foreclosure

<sup>5</sup> R.C. 5722.08 and 5722.10.

process. No penalties or interest accrue on the delinquent taxes as long as the contract remains valid.

Under the contract, the taxpayer must pay the delinquent taxes in installments over a period of up to five years, or two years at the request of a homeowner. If the treasurer does not receive a payment when due, the contract becomes void. At that time, the county treasurer may offer another tax contract or refer the matter to the county prosecuting attorney to initiate foreclosure proceedings. Contracts must be offered to a homeowner or a farmer at least once, and may be offered to other property owners at the option of the treasurer.<sup>6</sup>

### **Tax foreclosure**

Current law provides several options for enforcing and collecting delinquent taxes through foreclosure. The county treasurer or prosecuting attorney may directly bring a foreclosure action or, if the property is vacant, a foreclosure and forfeiture action. Alternatively, state law authorizes a nonjudicial procedure by which county boards of revision may adjudicate the foreclosure of abandoned property. In addition, the treasurer may sell a tax lien certificate to a private party, who may initiate a foreclosure action.

The timeline for when the county treasurer or prosecuting attorney may initiate a foreclosure depends on the statutory procedure used. In general, foreclosure proceedings may commence either immediately, or one year after the deadline for the final publication of the delinquent tax list (i.e., 60 days after the county auditor certifies the list of tax-delinquent properties to the county treasurer).<sup>7</sup> No minimum amount of delinquent tax is required to be due in order for the treasurer or prosecuting attorney to initiate foreclosure proceedings.

With the exception of the nonjudicial alternative, described below, and foreclosure actions within the jurisdiction specifically granted to the Cleveland Municipal Court, a tax foreclosure action must be brought in the common pleas court of the county in which the property is located.<sup>8</sup> After the complaint is filed, the property owner is notified and may participate in the action. In most, but not all, foreclosure proceedings, the prosecuting attorney must also cause a title search to be conducted to identify and notify any other parties with an interest or lien on the property.<sup>9</sup>

### **Right of redemption**

After a foreclosure action is initiated, a property owner can “redeem” the property by paying the debt for which the property is being foreclosed, as well as any costs already incurred

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<sup>6</sup> R.C. 323.31.

<sup>7</sup> R.C. 323.25 (immediately) and 5721.18 (after one year). A foreclosure against delinquent vacant land (unimproved land upon which delinquent tax is due and unpaid for at least one year) may be initiated 28 days after the final publication of the delinquent vacant land tax list. In addition, for any delinquent land, the prosecuting attorney may file an “in rem” action against the property (rather than the property owner) two years after the auditor certifies the list of tax-delinquent properties to the county treasurer. (R.C. 5721.18(B).)

<sup>8</sup> See R.C. 1901.18(B).

<sup>9</sup> R.C. 323.68 and 5721.18.

in the foreclosure proceeding. An owner's redemption rights continue until the filing of an entry of confirmation of sale or transfer, which occurs after the property is sold in a tax sale auction.<sup>10</sup>

A county treasurer foreclosing upon abandoned property may invoke an alternative redemption period to shorten the time within which an owner or other interested party may redeem abandoned property. In general, property is considered "abandoned" if it is unoccupied and meets certain other criteria, such as that the property is not receiving utility service, is boarded up, or is uninhabited upon inspection. The alternative redemption period is the 28-day period after an adjudication of foreclosure is journalized.<sup>11</sup>

### **Foreclosure sale**

After property is foreclosed, the court will order that the property be sold at auction. The proceeds of the sale are used to pay the delinquent taxes and the cost of the foreclosure action. Property that is not sold after two auctions is forfeited to the state, a political subdivision, or a CLRC.

In general, the minimum sale price at the foreclosure auction is based either on the property's appraised fair market value or the total amount of delinquent charges due on the property, including the costs of the foreclosure.<sup>12</sup> The minimum bid basis that applies to a particular tax sale may vary among, and even within, counties, as the court generally makes the decision which basis to use.

If the tax sale does not generate sufficient proceeds to pay all delinquent amounts, the court may enter a deficiency judgment.<sup>13</sup> The collection remedies available following a deficiency judgment would then be similar to those available in other actions for the enforcement of a debt, e.g., garnishing wages.

If any money remains after the payment of any delinquencies and costs, the excess is returned to the former owner of the property.<sup>14</sup>

### **Nonjudicial alternative**

In 2006, as an alternative to judicial foreclosure proceedings, county boards of revision (BORs) were authorized to adjudicate tax foreclosure complaints on abandoned property.<sup>15</sup> A BOR is a quasi-judicial administrative body comprised of the county auditor, county treasurer, and a county commissioner that is most commonly known as the body that hears tax valuation and other property tax-related complaints.<sup>16</sup>

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<sup>10</sup> R.C. 5721.25.

<sup>11</sup> R.C. 323.65 and 323.78.

<sup>12</sup> R.C. 323.28, 5721.16, and 5721.19.

<sup>13</sup> R.C. 5721.192.

<sup>14</sup> R.C. 5721.20.

<sup>15</sup> H.B. 294 of the 126<sup>th</sup> General Assembly.

<sup>16</sup> R.C. 5715.02 and 5715.19.

Under the procedure, if the property owner does not file an answer to a foreclosure complaint filed with the BOR, the BOR may adjudicate the foreclosure within 30 days after the complaint is filed. If the property owner files an answer, the BOR must conduct a hearing between 30 and 90 days after receiving the filing. Upon foreclosing on the property, the BOR must order that the property be sold at auction or otherwise conveyed to a political subdivision or CLRC. Any appeal from a BOR's adjudication of foreclosure must be brought in a court of common pleas. Use of this alternative procedure shortens the timeline and abbreviates the administrative steps necessary to obtain a foreclosure judgment, but because it is limited to only abandoned land foreclosures, court-adjudicated foreclosures remain the most common method of enforcing tax delinquencies.<sup>17</sup>

### **Delinquent property tax certificates**

Instead of initiating foreclosure proceedings on a delinquent parcel, a county treasurer may sell the tax debt in the form of a "tax certificate" to a third party, who may enforce collection of the debt. The treasurer may sell a tax certificate for any delinquent parcel appearing on the delinquent land list, except a parcel that (1) has been redeemed after being placed on that list, (2) is subject to a delinquent tax contract, or (3) is included in a bankruptcy proceeding filed by the property owner. No minimum amount of unpaid taxes must be due for a parcel to be subjected to a tax certificate sale.

The county treasurer must notify a delinquent parcel's owner that a tax certificate will be offered for sale. The treasurer must also publish that notice in a newspaper of general circulation, after which the tax certificate may be sold. The treasurer may either auction or negotiate to sell each tax certificate. For an auction, the sales price equals the amount of delinquent taxes, interest, and penalties accrued with respect to the parcel, and those delinquent amounts continue to accrue up to 18% interest once sold, at a rate set at the auction. The winning bidder is the bidder that accepts the lowest interest rate. In a negotiated sale, the treasurer may negotiate the certificate's price and interest rate.

Once a certificate is sold, the lien for the delinquent taxes essentially transfers to the certificate holder, who then may either initiate foreclosure proceedings or request that the county treasurer initiate proceedings on the holder's behalf. The treasurer may sell tax certificates individually or in blocks. Interest accrues until the certificate is redeemed, either by the holder initiating foreclosure or the delinquent taxes being paid by the parcel's owner.

In most instances, certificate holders are required to hold the certificate for at least one year before initiating a foreclosure action against the property. If a foreclosure action is not initiated within six years after the certificate is sold, the certificate holder forfeits the right to foreclose on the property. The one-to-six-year holding period does not apply to tax certificates purchased by CLRCs. In general, tax certificate holders are not permitted to contact the parcel owner to encourage or demand payment until one month after the certificate's sale.<sup>18</sup>

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<sup>17</sup> R.C. 323.65 to 323.79.

<sup>18</sup> R.C. 5721.30 to 5721.46.