

How did the Legislature Respond?

The legislature passed Act 819 in 2008. This came to them on recommendation of the Louisiana State Law Institute to address the issue with tax sales being overturned in the courts after many of these cases that we have discussed. In the new law, they plainly stated that the purpose was to “Amend and restate the law governing the payment and collection of property taxes, tax sales and redemptions to”:

- Reorganize the prior law into 1 place using consistent terminology
- Satisfy the requirements of due process
- Provide a fair process for the redemption of tax sale property and
- Encourage the return to commerce of tax sale property

Definitions:

Tax sale title- A tax sale confers on the purchaser only tax sale title. If the property is not redeemed then at the end of the redemptive period, tax sale title transfers to its holder ownership of the tax sale property.

Tax debtor- the person listed on the tax roll

Tax notice party- the person listed on the tax roll and any person requesting notice. Any person may request that all notices sent to a tax debtor also be sent to them by sending a written notice to the tax collector.

Tax sale party- the all those listed above, the owner of the property and any other person holding an interest such as a mortgage, privilege or other encumbrance on the property including a tax sale purchaser.

Tax sale title- the set of rights acquired by a tax sale purchaser

Tax sale certificate- the written notice evidencing a tax sale to be filed

Here are the significant changes as they pertain to Assessors responsibilities:

No tax sale shall transfer or terminate the property interest of any person until that person has been duly notified **AND** both the redemptive period and the right to challenge the sale have terminated.

Duly notified means an effort meeting the requirements of due process of law has been made to identify and to provide that person with a notice regardless of whether the effort resulted in actual notice, whether the effort was made by a public official or a private party or when after the tax sale the effort was made.

The comments of the legislation state that it is the giving of notice and the passage of time that converts tax sale title to a full ownership, not the filing of an affidavit.

The Assessor shall use reasonable efforts to list on the tax roll all co-owners of record of the property, or if there has been a tax sale, the tax sale purchaser. There shall be only one assessment for each tax parcel and the full assessment shall be on each tax bill sent.

The tax collector shall use reasonable efforts to send each tax notice party written notice.

The tax collector shall sell tax sale title and file a tax sale certificate.

The old concept of a tax deed is replaced with the concept of tax sale certificate which transfers tax sale title only.

The tax collector is to send notice and the buyer may do so. As long as a person is duly notified at least 6 months prior to the end of the redemption period, failure to give any other notices do not give rise to a redemption nullity.

Upon the expiration of the applicable redemption period, the tax sale purchaser may send a notice. This notice shall constitute a notice of sale. This notice shall be sufficient without regard to whether the notice of the tax sale or any other notice has been given.

After the expiration of the applicable time period the tax sale purchaser may file with the recorder of mortgages an affidavit.

This affidavit is designed to evidence as a matter of public record the conversion of tax sale title to ownership.

In several parishes there are multiple taxing districts that conduct their own tax sales. For example the Parish of Caddo and the City of Shreveport conduct separate tax sales on property located in the City of Shreveport. This revision does not address the issue of overlapping tax sales of the same property for the same tax year by different political subdivisions. This issue is left for the courts to decide.

Many parishes operate under the practice that the parish sale takes precedence over the city but this is not written in law anywhere that I know.

In those parishes where multiple political subdivisions conduct tax sales on the same property, all the political subdivisions within a parish should enter into a cooperative endeavor agreement allowing the tax collector of the parish to conduct one tax sale for all the political subdivisions within a parish.

After the filing of the tax sale certificate selling the tax sale title, **all taxes on the property shall, after that date, be assessed to and paid by the tax sale purchaser** until the property is redeemed.

Adjudicated property shall remain in the name of the tax debtor.

After the redemption period, the purchaser may institute an ordinary proceeding against the tax sale parties whose interests the petitioner seeks to be terminated. If no proceeding to annul the sale has been instituted after 6 months after the date of service of the petition, judgment shall be rendered quieting and confirming the title and the full ownership therein.

No tax sale shall be set aside except for a payment nullity, redemption nullity or a nullity under R.S. 47:2162 (which says that the purchaser cannot be an employee of the assessor's office or the tax collector) all of which are relative nullities.

A payment nullity means the taxes were paid prior to the sale, and a redemption nullity means that the owners were not duly notified at least 6 months **before the end** of the redemption period.

ACT 836

In 2012, Act 836 was passed and clarified that In the absence of actual notice of the sale to a tax party, including a transferee, or the demonstration of a reasonable effort to provide notice, where the name and address were reasonably ascertainable the tax collector shall cancel the sale of the property and refund the tax sale purchaser the tax sale purchase price.

The purpose of Act 819 of 2008, as set forth in La. Rev. Stat. 47:2121(A), is to encourage the payment and efficient collection of property taxes, satisfy the requirements of due process, provide a fair process for the redemption of tax sale property, and encourage the return of such properties to commerce. Under the amended law, when a property owner fails to pay ad valorem property taxes, the parish, through its tax collector, has a lien by operation of law against the property for the unpaid taxes **Under the tax sale laws as amended in 2008, the tax collector no longer auctions the real estate itself; instead, the tax collector auctions a tax sale title to the property, as evidenced by a tax sale certificate** per La. Rev. Stat. 47:2155, **which neither transfers nor terminates the property interest of any person in the property.** See La. Rev. Stat. 47:2121(B) (“No tax sale shall transfer or terminate the property interest of any person in tax sale property or adjudicated property until that person has been duly notified and ... the redemptive period ... [has] terminated.”); La. Rev. Stat. 47:2121(C) (“A tax sale title confers on the tax sale purchaser ... only tax sale title. **If the tax sale property is not redeemed within the redemptive period, then at the termination of the redemptive period, tax sale title transfers to its holder ownership of the tax sale property....**”). A “tax sale title” is defined as “the set of rights acquired by a tax sale purchaser ... pursuant to this Chapter.” La. Rev. Stat. 47:2122(22). Thus, we recognize the term “tax sale” actually denotes that it is the tax lien that is purchased in the form of a tax sale title, albeit with future rights of ownership after due notice to all “tax sale parties” and the expiration of the redemptive period, as well as the filing of a suit to quiet title.