

Adjudicated
Properties:
Tips and Tricks for
Unlocking Their Potential

2023 Brownfields Conference
Brownfield Bootcamp

Karen Day White
Executive Counsel
Louisiana Municipal Association
(225) 332-7670
kwhite@lma.org

What is Adjudicated Property?



Tax delinquent property for which no bid is received at tax sale



Why no bid at tax sale?

- ✓ Unlikely prospect of redemption – investors
- ✓ Likely prospect of redemption – personal use
- ✓ Liens, interest & costs exceed property value (see La. R.S. 47:2129)
- ✓ Title, liability and/or maintenance issues

CAN WE
REDUCE
HOW MANY
WE END UP
WITH?

Promissory Note
Statutory Imposition Payment Plan ("SIPP")
State of Louisiana
Parish of _____

This contract ("Contract") is an agreement between _____, henceforth known as "Debtor," and the (city/town/village) of _____, henceforth known as "Creditor." The terms of this payment agreement between the parties is as follows:

- (1) Pursuant to La. R.S. 33:_____, Debtor is legally obligated unto Creditor for all costs and fees (plus interest) associated with the abatement of nuisances at the property located at _____.
- (2) The total amount of statutory impositions due on the property as of the date of execution herein is \$ _____.
- (3) The property at issue is current in the payment of all ad valorem taxes due on the property at issue herein, and Debtor has requested that Creditor, pursuant to La. R.S. 47:2129, accept less than the full amount of statutory impositions due.
- (4) Both parties have agreed to enter into this promissory note for payment of the total amount due above, under the following conditions:
 - (a) the amount Debtor has remitted toward the balance due as of the execution of this agreement is \$ _____;
 - (b) the term of the payment plan shall be _____ (months, weeks, days) from the execution of this agreement;
 - (c) the Debtor shall remit the sum of \$ _____ to Creditor at _____ (address) on _____ (date), and thereafter shall submit equal sums to Creditor at the address above on _____ (designate due dates) _____, with the final payment of \$ _____ due on _____;
 - (d) the payments due herein represent the inclusion of a 20% administrative fee on the total amount due;
 - (e) Debtor expressly agrees that, if Debtor fails to timely remit any payment on the due date as set forth herein, the total sum due herein shall become exigent, and Creditor may immediately proceed with a tax sale; and
 - (f) Debtor expressly waives all formal notification required to Debtor under La. R.S. 47:2121 *et seq.*



First Things First . . .

Is It REALLY Adjudicated?

*Did the government follow the steps
surrounding the tax sale
of the property to impart legal status of
the property
as “adjudicated?”*

WE LOVE SAFE HARBORS!

Steps to Perfect Adjudicated Property at Tax Sale

(La. R.S. 47:2196)

- Tax collector “bids” on behalf of the government in the amount of the taxes, statutory impositions, costs, and interest
- Tax collector authenticates and files **tax sale certificate** in the conveyance records (Clerk of Court) of the Parish where the property is located
- **Note:** a certified copy of the tax sale certificate is *prima facie* evidence of the regularity of all matters regarding the tax sale and the validity of the tax sale
- Government, with the agreement of the tax collector, **may readvertise** the selling of tax sale title to the property adjudicated at any regularly scheduled tax sale, using the same procedure required at the first tax sale, BUT . . .

Steps to Perfect Adjudicated Property at Tax Sale (cont'd)

(La. R.S. 47:2196)

- ▶ If readvertised, the purchase price is more: taxes and statutory impositions to date of payment; 5% penalty; 1% per month interest; and actual costs
 - (1) determination and notification of tax notice parties prior to 1st tax sale;
 - (2) publication/advertisement prior to 1st tax sale;
 - (3) determination and notification of tax notice parties prior to 2nd tax sale;
 - (4) publication/advertisement prior to 2nd tax sale
- ▶ If purchased at the 2nd tax sale, it is considered retroactive to the first sale date (new tax sale certificate authenticated and filed in the conveyance records)
- ▶ If not readvertised and then purchased at a 2nd sale, the property shall remain adjudicated property until redeemed

**Template
Tax Sale
Certificate
for
Adjudicated
Property**

[Name of Political Subdivision]
v.
[Name of Tax Debtor]

State of Louisiana
Parish of _____
City of _____
To: (COC – Conveyance)

BE IT KNOWN AND REMEMBERED, that, I, [name of tax collector], Tax Collector for the [name of political subdivision], in the name of the [name of political subdivision], and by virtue of the authority in me vested by the Constitution and laws of the State of Louisiana and, pursuant to the requirements of the law, having mailed and published the notice required by the law, and having strictly complied with each and every requirement of the law relating to delinquent taxes, tax debtors, and to seizures, advertisements, and sale of tax sale title to the property in full, did in the manner prescribed in the law, advertise and list in [name of appropriate journal for legal notices] the property to be sold for delinquent property taxes with interest and costs for the year(s) of _____ in the [place of sale] on [dates of publication], beginning at ten o'clock A.M. giving notice in the issues of the newspaper and in the list as advertised the following described property:

[See Exhibit "A."] (Include name of each tax debtor in Exhibit "A")

And on said [date], after beginning but not completing said list, I continued the same within legal hours the next succeeding legal days offering tax sale title to said property for sale at public auction in the manner required by said laws and the whole or the undivided interest of the tax debtor therein being the smallest amount of said property that any bidder would buy and pay the taxes and costs and [name of political subdivision to which the property is being adjudicated] being the bidder, and having complied with the terms of sale, became the purchaser of tax sale title to the whole of the property or the undivided interest of the tax debtor therein.

NOW, THEREFORE, all the formalities of the law having complied with, I [name of tax collector], Tax Collector for said [name of political subdivision], by virtue of the authority in me vested by the laws of the State of Louisiana do by these presents sell and transfer unto [name and address of political subdivision], tax sale title to the property or the undivided interest of the tax debtor therein. The [name of political subdivision] has the right to take possession of the property and become owner of the property pursuant to R.S. 47:2231 through 2237. [Name of the political subdivision] has the right to sell or donate the property pursuant to R.S. 47:2201, 2211 and 2237. The property may be redeemed pursuant to the provisions of R.S. 47:2241 through 2247.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially at _____, Parish of _____, in the presence of the two undersigned competent witnesses, who also signed this _____ day of _____ [Month], _____ [Year].

Witnesses:

Printed Name: _____

Printed Name: _____

[Name of Tax Collector]
[Name of Political Subdivision]
By: _____

Steps to Perfect Adjudicated Property at Tax Sale (cont'd)

(La. R.S. 47:2156(C)(1))



- Tax collector shall, **within 30 days of filing of the tax sale certificate**, or as soon as practical thereafter, provide written notice to interested persons that tax sale title has been sold at tax sale
- The notice must be sent by **first class U.S. mail** to each tax notice party and each tax sale party whose interest would be shown on a 30-year mortgage certificate in the name of the tax debtor and whose interest was filed prior to the filing of the tax sale certificate
- The notice must specify the property, amount of taxes due, and the manner in which the property shall be redeemed

**Template
Post-Sale
Notice to
Interested
Parties
re:
Adjudicated
Property**

[Date]
[Name of Tax Debtor]

RE: Property No. _____
Ward ____ Section No. ____ Assessment No. _____
Subd. _____ Lot _____

Dear Sir/Madam,

This is an important notice. Please read it carefully. We are writing to inform you that the property taxes for the above noted property were not paid, and tax sale title to the property was sold to [name of political subdivision] for delinquent taxes for the year(s) _____. You may redeem this property within three years [or other applicable redemptive period] from _____ by paying to the [name of tax collector] the amount due stated in or enclosed with this document. The redemptive period will expire _____. Under some circumstances, the [name of political subdivision] may be entitled to take actual possession and full ownership of the property or otherwise sell a full ownership interest in the property. After the expiration of the redemptive period, your rights to redeem may be limited. Continued possession of the property does not extend the redemptive period.

Please contact the [name of tax collector] if you believe that you received this notice in error, have sold or transferred this property, or for further information and assistance.

[Tax collectors or name of political subdivision / name of tax sale purchasers]

Payment shall be made with cashier's check or money order.

This notice concerns only the property described in the "regarding" portion of this letter; the address of that property may or may not be the same as the mailing address of this notice. Please contact our office if you feel that you received this notice in error. The taxes are now assessed in the name of the tax sale purchaser, but will continue to be due as in the past.

[Enclose or list the amount of statutory impositions due.]



You Did It
Right, but
What Does
the
Government
Actually
Acquire?

- Government acquires “Tax Sale Title” to either the entire property or to an undivided interest (least quantity necessary)
- Tax sale title does NOT convey ownership itself – it conveys certain rights, but government cannot walk onto property and exercise authority simply by virtue of adjudicated tax sale title (via code compliance, yes)
- Property remains assessed in the name of the tax debtor

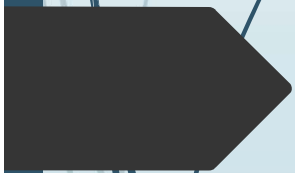
Caveat!



There are specific local laws for certain localities, so check to see if you do/don't have such a framework!

Time to Take Stock

**Inventory
the Properties
on Your
Books!**





Why Do We Hate Adjudicated Property?

! What's Not Clear:

- *Will it ever be redeemed?*
- *Will it ever yield any tax revenue?*
- *Will it depress surrounding property values?*
- *Will it discourage development?*

! What Is Certain:

- *It will generate maintenance costs*
- *It will challenge neighborhood aesthetics*
- *It will attract criminal activity*

Redemption

Adjudicated tax sale property may be bought back

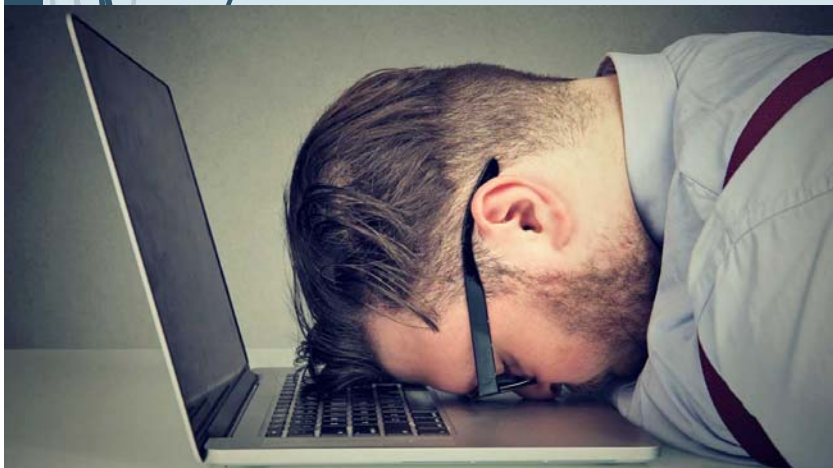
- ▶ Cost of redemption is taxes due and all statutory impositions and liens, a 5% penalty, actual costs incurred by government (may be compounded, with \$200 max for redemption certificate), and interest (1% per month)
- ▶ Payment is made to tax collector at any time prior to the end of the redemption period
- ▶ Any person may redeem tax sale title to property, but the redemption must be in the name of the taxpayer

How Long Is the Redemptive Period?

The government must wait at least three years before moving to dispose of the property under the La. Const. Art. 7, Sec. 25(B)(1) . . .

- ▶ UNLESS the government had established an administrative blight court/a process for declaring property either blighted and/or abandoned AND brought the subject property through that process *BEFORE* the tax sale adjudication – if they did that, then, it's 18 months (La. Const. Art. 7, Sec. 25(B)(2&3); La. R.S. 13:2575 – see *Fight the Blight* guide)
- ▶ At the termination of the redemptive period, the government may exercise one of its options to move property, *HOWEVER*, the tax debtor continues to possess a right to redeem because . . .
- ▶ When the tax debtor's right to redemption *ACTUALLY* ends all depends on what the government does with the adjudicated property during and after the 3-year or 18-month redemptive period, so STAY TUNED . . . (La. R.S. 47:2246)

We cannot talk about when the redemptive period finally ends without FIRST talking about what options a government has regarding adjudicated property both during and after the 3-year/18-month redemptive period.



SORRY



DURING the Redemptive Period

Act 404 of 2023: all tax sale property conferred to a private or public body via tax sale is subject to the rights of those occupying that property

- ▶ You cannot evict owner or other person occupying premises
- ▶ You cannot charge rent or lease to existing occupants
- ▶ You cannot make improvements to occupied property during the redemptive period
- ▶ Penalty for non-compliance:
 - 5% of tax sale title price, plus
 - 5% of any rental/lease payments made by owner/occupant

******* For these properties, then, code enforcement is how you keep the property in shape (*Fight the Blight*)**

FIGHT THE BLIGHT

**A GUIDE TO ADDRESSING COMMON
PUBLIC NUISANCES**

A publication of



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DURING the Redemptive Period

- ▶ Government need not enter onto the property to do anything – the burden tax payment, code compliance, and maintenance remains with the tax debtor (La. R.S. 47:2197, 2210)

- ▶ BUT the government MAY sue to obtain a judgment of possession if they do want to enter onto the property (La. R.S. 47:2231)
 - ✓ A summary proceeding and government does not have to pay court costs
 - ✓ Present a certified copy of the tax sale certificate to the court
 - ✓ The court notifies the tax debtor at least ten days prior to the court hearing
 - ✓ The court has a hearing on the government's request
 - ✓ The judge shall grant an order of possession
 - ✓ The order commands the sheriff to place the government in actual possession of the adjudicated property

DURING the Redemptive Period

- Effects of government being placed in possession of the property:
 - Government may enter onto the property to maintain it for public safety/code compliance
 - Either federal, state, or local code provisions may be used as a basis for remediation
 - It is strongly recommended that the government work with regulatory authorities to develop/adopt a local ordinance that echoes environmental standards so that the basis for entry is immediate and unequivocal
 - ✓ Mimic / adopt by reference EPA and DEQ standards, e.g.
 - ✓ Uniform sanitary and construction codes should already be in place
 - ✓ *Tailor local ordinances to capture the remediation needed for the Brownfield property*

If you plan to tread on adjudicated property, ask . . .



DURING the Redemptive Period

➤ ANOTHER effect of being placed in possession of the property:

➤ Government may (via tax collector) lease property and collect rentals (La. R.S. 47:2233)

- ✓ No special public letting rules apply
- ✓ Need only be commercially reasonable terms


➤ THIS could be a mechanism to recapture funding invested in remediation and another means to satisfy the *Cabela's* test on front-end examination

If Government Rents/Leases the Adjudicated Property

Government must apply the rental proceeds in order:

- (1) to the payment of all court costs incurred in obtaining the writ of possession, then
- (2) against any taxes and statutory impositions / government liens

➤ When (if) all of the obligations have been paid in full through rental income, the government's tax collector shall issue a proper certificate of redemption and file it in the conveyance records, and the government shall surrender possession of the property (*La. R.S. 47:2245*)



Things to
Bear in Mind
as
Redemption
Nears Its
End

- ▶ Redemption by property owners/family is always favored
- ▶ Delinquent owners may not acquire the property via municipal disposal processes – it's treated like a redemption IF they can participate
- ▶ Property renovation plans for donees are mandated by state Constitution
- ▶ There are extensive public transparency measures and notifications required to protect owners' property rights

More Things to Bear in Mind as Redemption Nears Its End

- Who should we prioritize?
 - ↳ Adjoining landowners who have maintained the property
 - ↳ Local community organizations/local governments (e.g., redevelopment authorities)
 - ↳ Purchasers for their own residential occupation
 - ↳ Non-profits who commit to convey ownership to local residents

- What can governments do beyond pushing paper?
 - ↳ Ordinances may rank/score potential acquirers in case of multiple non-profit or adjoining neighbor applicants
 - ↳ Focus should be on stabilizing neighborhoods, building communities, and ensuring local control
 - ↳ Processes should seek to avoid absentee ownership and commercial acquisition solely for investment purposes

MORE Notice Just Before Redemptive Period Ends

- ▶ Again, the redemptive period is either 3 years or 18 months – regardless, the notice requirements are the SAME
- ▶ Within 90 days of the expiration of the redemptive period, the tax collector shall provide written notice to interested parties – it's a "FAIR WARNING" notice that also serves to
- ▶ Notice must be by U.S. first class mail
- ▶ Notice must be sent to each "tax notice party" – examples of *Mennonite* compliance . . .
 - ▶ computer search of digitized records and databases of the clerk of court or sheriff's office for addresses of other properties that may be owned by the debtor
 - ▶ contact the tax assessor of the parish in which the property is located for the addresses of other properties that may be owned by the debtor
 - ▶ examine the mortgage or conveyance records of the parish where the property is located to determine whether there are any other transactions pertaining to the property.
- ▶ Notice must inform them that tax sale title to the property has been sold at tax sale and that after the expiration of the redemptive period (describing what that means), the property cannot be redeemed

Once Redemptive Period Has Run

Government has four options to make property productive again:

1. They can acquire full ownership (*La. R.S. 47:2236*)
2. They can sell the property at public auction to a third party (*La. R.S. 47:2206*)
3. They can donate the property in accordance with La. Const. Art VII, Sec. 14 (*La. R.S. 47:2205*)
 1. *Municipalities may donate abandoned or blighted housing property to a 501(c)(3) or 501(c)(4) nonprofit organization that agrees to renovate and maintain such property as long as they possess it*
4. They can facilitate the sale of the property by the tax debtor to a 3rd party via an "Arm's Length" transaction

Option #1

Government Ownership

- (1) Government **declares by ordinance** that it intends to acquire full ownership interest in the property
- (2) Ordinance **filed in mortgage records**; clerk indexes tax debtor and government as mortgagees

***Note:** any subsequent transfer, mortgage, lien, privilege, or encumbrance shall not affect the property*

- (3) Within 30 days of filing (or as soon thereafter as practical), send **written notice to interested parties**
 - (a) government's intent to acquire full ownership
 - (b) the party has until the end of redemption (described therein) to redeem the property or otherwise challenge the acquisition

***Note:** curative effect here; proper notice negates the need to determine whether notice of the tax sale or any other notice was given*

**Template
Notice to
Interested
Party re:
Intent to
Acquire Full
Ownership**

**This is an important legal notice.
Please read it carefully. You will receive no further notice.
[Date]**

[Name]

[Address]

[City], [ST] [Zip]

RE: Property: [Property Address]
 [Description of Property Abbr]
 Parish of _____, State of Louisiana

Tax sale title to the above described property has been adjudicated to [name of political subdivision] for failure to pay taxes.

[Name of political subdivision] now intends to acquire full ownership in the above described property. You have been identified as a person who may have an interest in this property.

Your interest in the property **will be terminated** if you do not redeem the property by making all required payments to the tax collector listed below, or file a lawsuit within [60 days] [6 months] of the date of this notice.

[Tax collector name, address, and telephone number]

Option #1

Government Ownership, cont'd

- (4) Publish in **official journal** (reasonableness) that any tax sale party has until the end of redemption (described therein) to redeem the property or otherwise challenge the acquisition
- (5) If no redemption, **ordinance becomes effective** and government acquires full ownership
- (6) Notice **filed in conveyance records** re: acquisition of full ownership
- (7) MAY simultaneously file **affidavit in mortgage records**
 - ✓ how the tax sale parties were identified
 - ✓ how the address of each tax sale party was obtained
 - ✓ how written notice was sent
 - ✓ results of sending the written notices
 - ✓ dates of publication
 - ✓ statement of the interest acquired (*optional*)

**Template
Newspaper
Notice re:
Intent to
Acquire Full
Ownership**

**NOTICE
[Names of Tax Sale Parties]**

THIS NOTICE BY PUBLICATION IS NOTIFICATION THAT YOUR RIGHTS OR INTEREST IN THE FOLLOWING DESCRIBED PROPERTY LOCATED IN _____, LOUISIANA MAY BE TERMINATED BY OPERATION OF LAW IF YOU DO NOT TAKE FURTHER ACTION IN ACCORDANCE WITH LAW:

[Brief legal description of property]

Improvements thereon bear Municipal No. _____.

Tax sale title to the above described property has been adjudicated to [name of political subdivision] for failure to pay taxes.

[Name of political subdivision] now intends to acquire full ownership in the above described property. You have been identified as a person who may have an interest in this property.

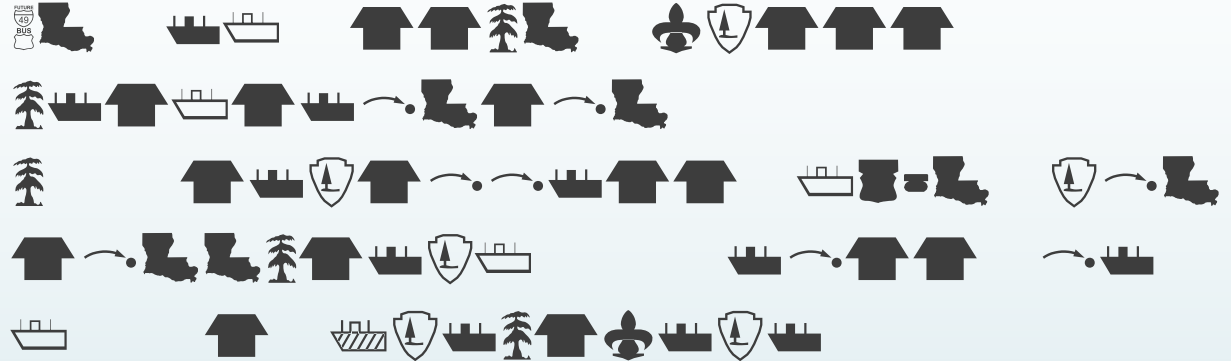
Your interest in the property **will be terminated** if you do not redeem the property by making all required payments to the tax collector listed below or file a lawsuit in accordance with law within [60 days] [6 months] of the date of the first publication of this notice, or the recording of an act transferring ownership, if later.

[Tax collector name, address, telephone number]

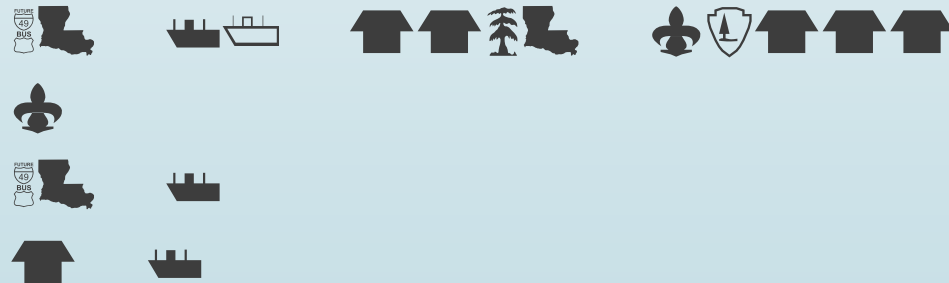


NOTICE

**Template
Notice to File in
Conveyance
Records to
Announce
the
Acquisition of Full
Ownership**



[Legal description of property]



Option #1

Government Ownership, cont'd

Effects of filing the optional affidavit

La. R.S. 47:2236(F):

❖ [Illegible text]

❖ [Illegible text]

❖ [Illegible text]



NOW,
What Are You Going to
Do With It?

The decision to acquire full ownership must be part of a bigger plan to either put the property back into commerce or use it for a compelling public purpose.

Option #2

Public Auction to Third Party

- (1) Government **sets by ordinance** its processes for the sale of adjudicated property beyond the statutory minimums; GREAT flexibility to create as tailored of a solution as you wish, including calculating minimum bid:
- ✓ May set a dollar amount as the total amount of statutory impositions, governmental liens, and costs of sale under La. R.S. 47:2202, **OR**
 - ✓ May choose appointment of a licensed appraiser to appraise, then ...
 - First public sale minimum bid is $\geq 2/3$ of appraised value
 - Second public sale minimum bid is $1/3$ appraised value, **OR**
 - ✓ May elect to sell to the highest bidder at public auction without setting a minimum or requiring an appraisal
- (2) Council may allow **adjoining landowner** to purchase property for any price at a public meeting with no competitive bidding, **BUT ONLY IF** that adjacent landowner has maintained the property for at least a year prior to sale

Option #2

Public Auction to Third Party, cont'd

(3) Who's starting the engine?

- ✓ Government may set a public sale by ordinance, including specific terms and provisions for the sale, **OR**
- ✓ A person wants to initiate a public sale and the government wants to sell, the person starts the process by depositing money sufficient to cover all costs and expenses related to the public sale
 - If no minimum bid is set, or if it's set *and* exceeded, but depositor is a low bidder, money returned to them
 - If minimum bid is set but no one bids up to it, collector keeps deposit to cover expenses and depositor gets anything left

(4) Regardless of who gets it started, public sale must be advertised twice in official journal:

- ≥ 30 days prior to date of public sale
- ≤ 7 days prior to date of public sale (*i.e., the countdown period between 30 days before sale and 7 days before sale is a dead zone for advertising*)
- If minimum bid set, ads must contain
 - the minimum bid
 - the latest date written bids will be accepted
 - the time and date of in-person bidding
 - any other terms of sale
- If no minimum bid set, ads must contain statement that no minimum bid is set and that the property shall be sold to the highest bidder

Option #2

Public Auction to Third Party, cont'd

- (5) Following public sale, government or winning bidder must send **written notice to all tax sale parties** notifying them that they have until the end of redemption (described therein) to redeem the property or otherwise challenge the acquisition

***Note:** curative effect here; proper notice negates the need to determine whether notice of the tax sale or any other notice was given*

- (6) Either government or winning bidder must **publish notice in official journal** (reasonableness) that any tax sale party has until the end of redemption (described therein) to redeem the property or otherwise challenge the acquisition

- (7) Either **MAY file in mortgage records** a copy of post-public-sale notice to interested parties, which prohibits additional transfers, liens, mortgages, etc. on that property

**Template
Newspaper
Notice to
Alert Any
Interested
Parties of
Final
Redemptive
Period
Tolling**
*(following
public sale to
third party)*

NOTICE
[Names of Tax Sale Party/ies]

THIS NOTICE BY PUBLICATION IS NOTIFICATION THAT YOUR RIGHTS OR INTEREST IN THE FOLLOWING DESCRIBED PROPERTY LOCATED IN _____, LOUISIANA MAY BE TERMINATED BY OPERATION OF LAW IF YOU DO NOT TAKE FURTHER ACTION IN ACCORDANCE WITH LAW:

[Brief legal description of property]

Improvements thereon bear Municipal No. _____.

Tax sale title to the above-described property has been sold for failure to pay taxes. You have been identified as a person who may have an interest in this property.

Your interest in the property **will be terminated** if you do not redeem the property by making all required payments to the tax collector listed below or file a lawsuit in accordance with law within [60 days] [6 months] of the date of the first publication of this notice, or the recording of an act transferring ownership, if later.

[Tax collector name, address, telephone number]

Option #2

Public Auction to Third Party, cont'd

- (8) After final redemption has elapsed, the winning bidder may ask **government to authenticate the sale**, which must be done within 10 days from request or as soon as practical
- Purchaser pays all filing fees to file in conveyance records
 - Government only warranties clear title, regardless of sale docs
 - **DO THIS AS CLOSE TO POST-SALE NOTICE** as possible
- (9) Acquiring bidder **MAY simultaneously file affidavit in mortgage records**
- ✓ how the tax sale parties were identified
 - ✓ how the address of each tax sale party was obtained
 - ✓ how written notice was sent
 - ✓ results of sending the written notices
 - ✓ dates of publication
 - ✓ statement of the interest acquired (*optional*)

Option #2

Public Auction to Third Party, cont'd

Effects of filing the optional affidavit

La. R.S. 47:2208(B):

❖ [Illegible text]

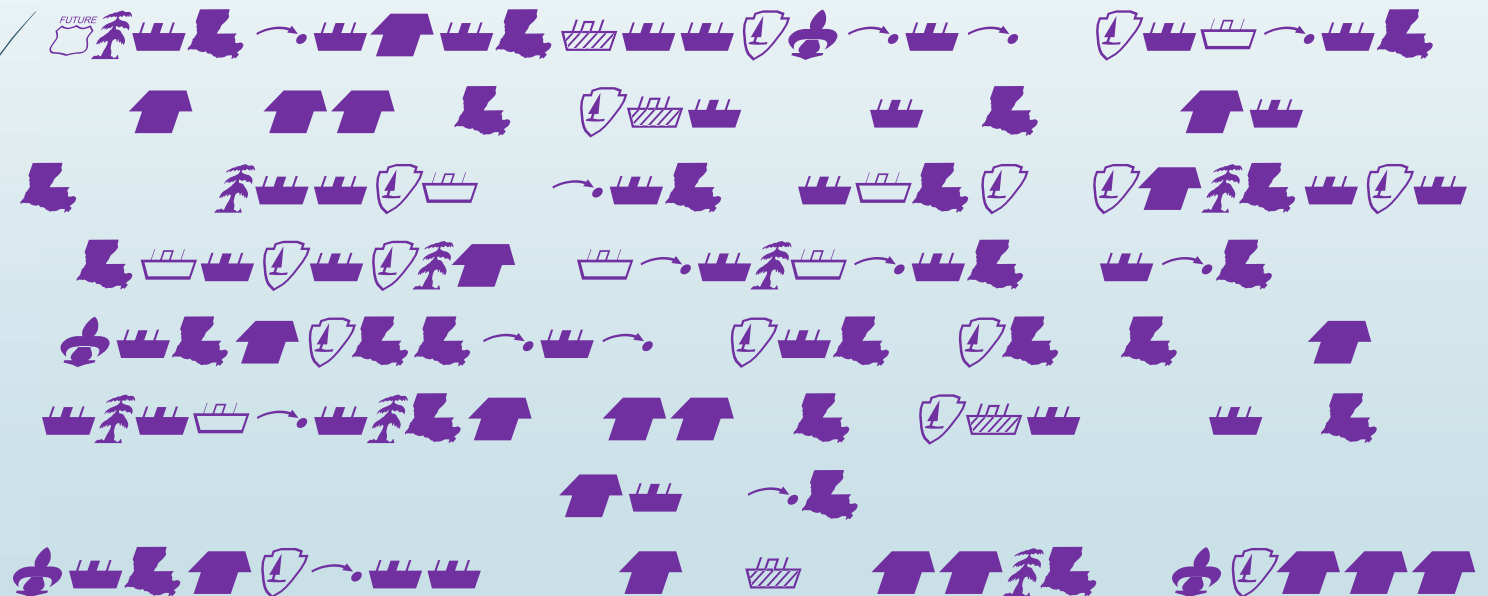
❖ [Illegible text]

❖ [Illegible text]

Option #2

Public Auction to Third Party, cont'd

How Are the Proceeds of the Public Sale of Adjudicated Property Divvied Up?



Option #3

Donate Property per Constitution

(1) Government must **declare by ordinance** its intention and plan to donate adjudicated property, and in a way that comports with the constitution (Art. VII, Sec. 14):

- ❖ *Political subdivisions may donate abandoned or blighted housing property to a 501(c)(3) or 501(c)(4) nonprofit organization that agrees to renovate and maintain such property as long as they possess it*

(2) Once donation is worked out, government or donee must send **written notice to all tax sale parties** notifying them that they have until the end of redemption (described therein) to redeem the property or otherwise challenge the acquisition

***Note:** curative effect here; proper notice negates the need to determine whether notice of the tax sale or any other notice was given*

(3) Either government or donee must **publish notice in official journal** (reasonableness) that any tax sale party has until the end of redemption (described therein) to redeem the property or otherwise challenge the acquisition

(4) Either **MAY file in mortgage records** a copy of donation notice to interested parties, which prohibits additional transfers, liens, mortgages, etc. on that property

Option #3

Donate Property, cont'd

- (5) After final redemption has elapsed, the donee may ask government to **authenticate the donation**, which must be done within 10 days from request or as soon as practical
- Donee pays all filing fees to file donation in conveyance records
 - Government only warranties clear title, regardless of act of donation
 - Like sales to 3rd parties, there is a statutory template for “writing sufficient to constitute the donation”
- (6) Acquiring donee **MAY simultaneously file affidavit in mortgage records**
- ✓ how the tax sale parties were identified
 - ✓ how the address of each tax sale party was obtained
 - ✓ how written notice was sent
 - ✓ results of sending the written notices
 - ✓ dates of publication
 - ✓ statement of the interest acquired (optional)

***** The filing of this optional affidavit has the same effects as it does with a sale, EXCEPT it only discharges donor encumbrances; governmental liens and statutory impositions of political subdivisions other than the donor are fully preserved; the donee indemnifies the clerk of court if it's done wrong here*

Option #4

Facilitate Arm's Length Sale Between Property Owner and Third Party

- Let's cut out the middle man, though the MM is who makes it all happen
- The idea is that the tax debtor will transfer the troubled property into the hands of a responsible owner
- The governmental body builds a framework by which they educate the public/potential buyers on available adjudicated property
 - ✓ This often means reviewing applications and acting as liaison (very carefully)
 - ✓ Government may waive a portion of entitlements accrued during the tax sale process to encourage the sale – reasonable expectation of something of value in return (*Cabela's*)
 - ✓ To truly be successful, the facilitation programs must be collaborative with other local government property tax collectors – piecemealing won't due, so an IGA/MOU lays out guidelines on everything from disbursement of proceeds to the authority to bind all public bodies



⚠ SO, Now, Let's Get Back to Determining WHEN the Tax Debtor's Right to Redeem Adjudicated Property ACTUALLY TERMINATES

☞ Remember: *tax debtors have until the later of three sets of possible events; redemption is continued for adjudicated property as long as possible/practicable (see La. R.S. 47:2246)*

Redemptive Period #1 for Adjudicated Property

Government obtains a writ of possession

(at the end of the 3-year or 18-month redemptive countdown)

(La. R.S. 47:2232, 2246)

- This usually happens during the redemptive period (3 years or 18 months), but **IF** the government files a proceeding in court to obtain a writ of possession after the redemptive period has run and **IF** the government has otherwise complied with notice requirements, **THEN** the court granting this order of possession will terminate the tax debtor's right of redemption

JUDGMENT OF POSSESSION

TAX SALE
CERTIFICATE

WRIT OF
POSSESSION

3 YEARS
OR
18 MONTHS

???

CONSTITUTIONAL
REDEMPTION
ENDS

ENDS
REDEMPTION*
(BUT..)

*IF YOU EVER MOVE TO

OWN, SELL, OR DONATE,

TAX DEBTOR GETS ANOTHER SHOT

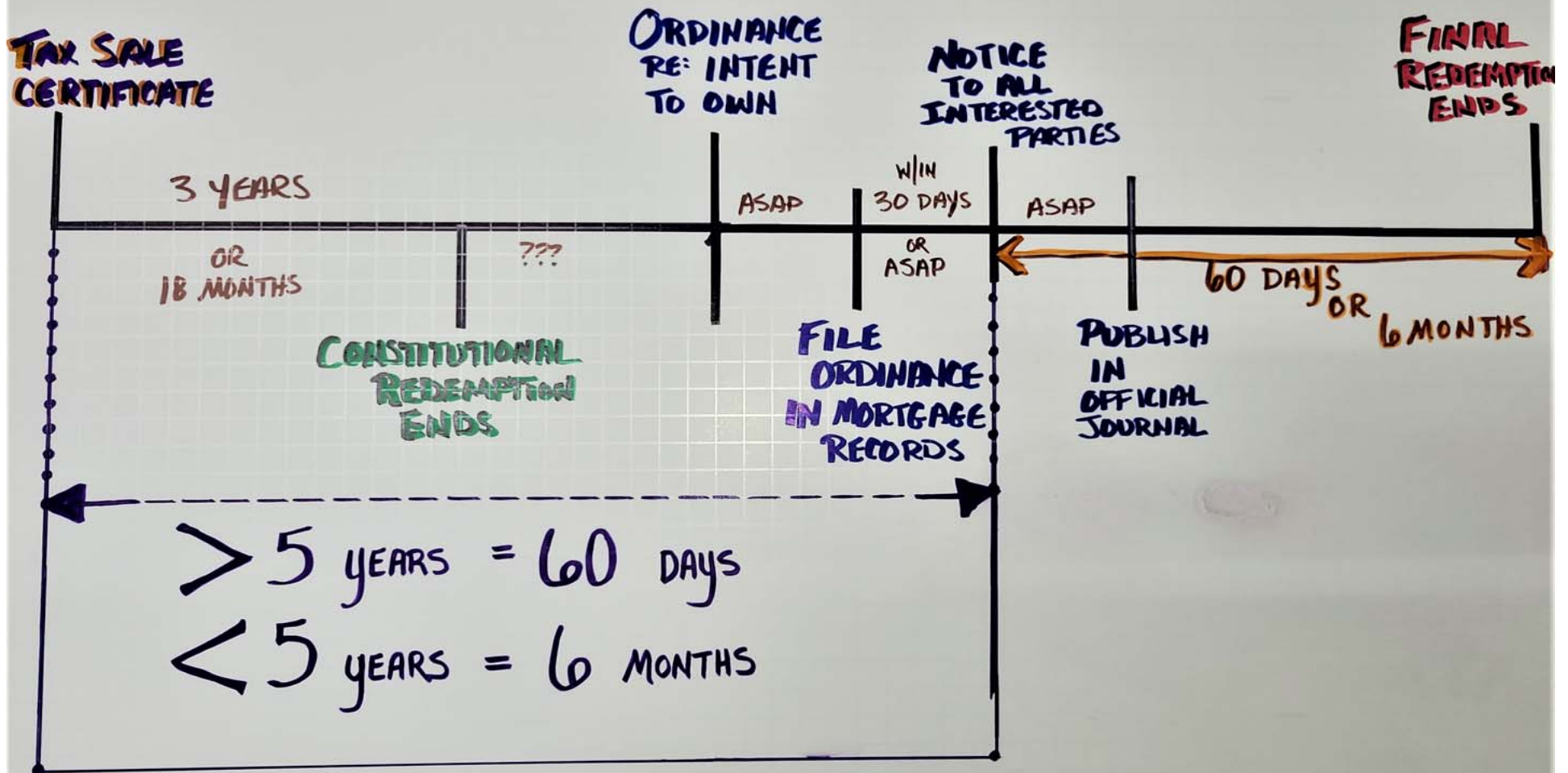
Redemptive Period #2 for Adjudicated Property

Government obtains FULL possession at the end of the 3-year or 18-month redemptive countdown

(La. R.S. 47:2231 et seq.)

- ▶ **IF** the redemptive period (3 years or 18 months) has elapsed, and **IF** the government has otherwise complied with notice requirements, **THEN** the tax debtor loses their right to redeem at either:
 - ✓ 60 days from *mailing of notice of intention to acquire full ownership to all interested parties* if ≥ 5 years since filing of tax sale certificate
 - OR**
 - ✓ 6 months from **mailing of notice of intention** to acquire full ownership if ≤ 5 years since filing of tax sale certification

GOVERNMENT OWNERSHIP



Redemptive Period #3 for Adjudicated Property

Sale or donation of adjudicated property to a third party

(La. R.S. 47:2201 et seq.)

- ▶ **IF** the redemptive period (3 years or 18 months) has elapsed, and **IF** the government has otherwise complied with notice requirements, **THEN** the tax debtor loses their right to redeem at the *later* of either:
 - (1) the filing of the transfer (sale or donation) in the conveyance records; **OR**
 - (2) 60 days from *mailing of post-sale/donation transfer notice* if ≥ 5 years since filing of tax sale certificate
- OR**
- 6 months from mailing of transfer notice if ≤ 5 years since filing of tax sale certification

DONATION

TAX SALE
CERTIFICATE

ORDINANCE
RE: INTENT
TO DONATE

PUBLISH NOTICE
IN OFFICIAL
JOURNAL

FINAL
REDEMPTION
ENDS

3 years

OR 18 months

???

As You Wish

As You Wish

← 10 days once the donee requests it →

60 days OR 6 months

CONSTITUTIONAL
REDEMPTION
ENDS

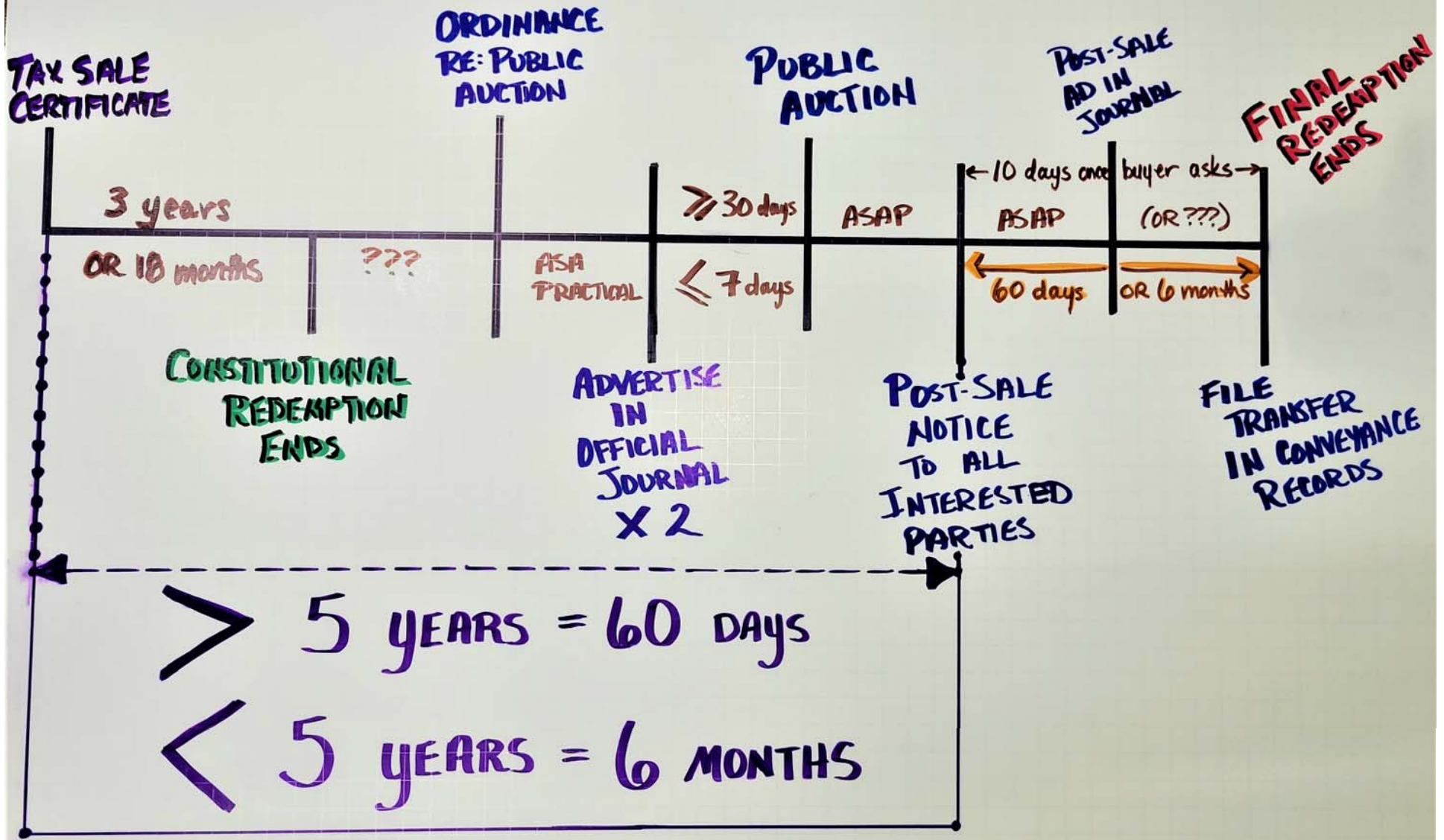
NOTICE OF
INTENDED
DONATION TO
ALL INTERESTED
PARTIES

FILE DONATION
TRANSFER IN
CONVEYANCE
RECORDS

> 5 years = 60 days

< 5 years = 6 months

PUBLIC AUCTION





Karen Day White

kwhite@lma.org

Phone: (225) 332-7670

