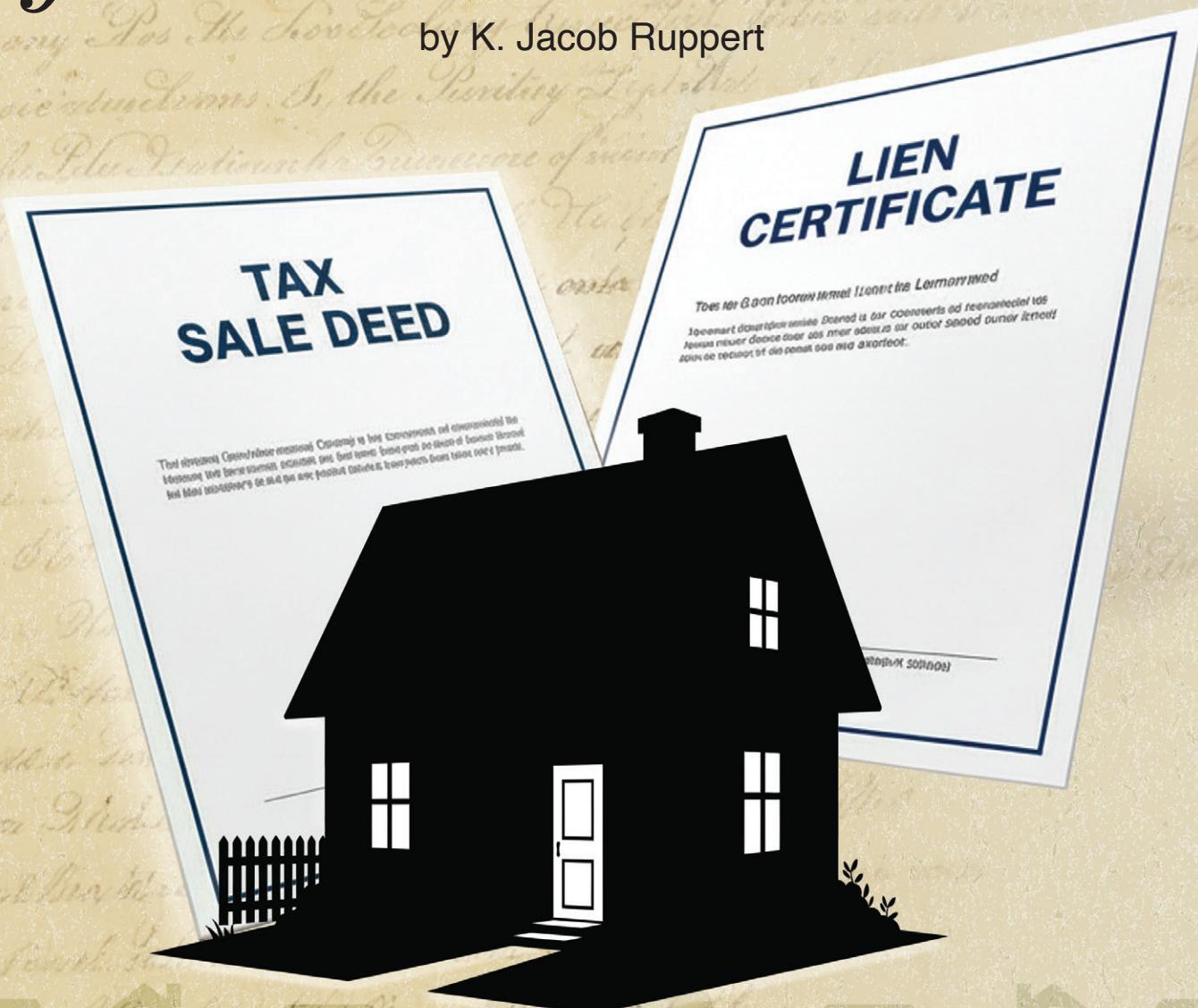


# Louisiana's TAX SALE TRANSFORMATION

by K. Jacob Ruppert



Louisiana just rewrote the playbook on collecting overdue property taxes. The landslide passage of Acts 774 and 409 of 2024 and 411 of 2025 conspired to replace traditional tax sales with a tax-lien-auction system. The State Legislature overwhelmingly voted for joint resolution SB119/Act 409 (35-1 Senate, 94-0 House) followed by strong approval by the voters on Dec. 7, 2024, in favor of the constitutional amendment (54.59/45.41%). State Senator Greg Miller of Norco sponsored the legislation, arguing the former system was inequitable to property owners noting the lion's share of certificates are redeemed by original owners, supporting a new system that prioritizes debt recovery over property seizure. The new framework, effective Jan. 1, 2026, permanently eliminates Title 47's monition and quiet-title proceedings.

### ***Tyler v. Hennepin County***

Although not the impetus for the Louisiana reform, which has been in the works for years, the reform does respond directly to *Tyler v. Hennepin County*, 598 U.S. 631 (2023), wherein the Supreme Court unanimously held that retaining surplus proceeds from tax foreclosures violates the Fifth Amendment's Takings Clause. Hennepin County, Minnesota, seized a condominium worth \$40,000 to satisfy a \$15,000 tax debt, keeping the \$25,000 surplus. Chief Justice Roberts wrote that when government takes more property than it is owed, it effects a "classic taking in which the government directly appropriates private property for its own use."<sup>1</sup>

*Tyler* clarified that tax foreclosure functions exclusively as a debt collection mechanism. Governments may recover only the amount owed, nothing more, while property owners retain rights to any surplus value. This principle required Louisiana to abandon its bid-down-of-ownership system, which allowed complete property transfers without surplus distribution and created potential constitutional vulnerabilities, like faulty or impossible *Mennonite* service.

Beyond constitutional compliance, the legislation addresses three practical concerns. First, title insurers refused to insure properties acquired through tax sales due to unclear ownership chains. Second, the

bid-down mechanism generated persistent litigation over fractional ownership interests. Third, the Legislature sought to establish constitutional principles while delegating procedural details to statutory law. Louisiana joins approximately a dozen states reforming their tax collection systems post-*Tyler*. Justice Gorsuch's concurrence in *Tyler*, joined by Justice Jackson, suggested such seizures might also implicate the Excessive Fines Clause, indicating constitutional scrutiny extends beyond takings analysis.

### **Structural Changes to Law**

The reforms repealed most of Article 7, § 25, of the Louisiana Constitution and comprehensively revised La. R.S. 47:2122. The terminology reflects substantive changes. "Tax sale title" becomes "tax lien certificate." "Tax sale purchaser" becomes "tax lien certificate holder." New terms include "delinquent obligation," "termination price" and "face value of tax lien." This linguistic shift embodies a conceptual transformation. Previously, purchasers acquired ownership interests that could mature into full title. Now, certificate holders obtain security interests analogous to mortgages, enforceable only through judicial proceedings that ensure due process, proper valuation and surplus distribution. Property owners retain full ownership throughout the process.

The three-year redemption period and bid-down-of-ownership mechanism are gone. Bidders now compete on interest rates, from 1% to 0.7% per month, rather than ownership percentages. Constitutional provisions for blighted property and quiet-title procedure have been repealed and now default to existing statutory regulation. Any tax postponements require emergency declarations under the Louisiana Homeland Security and Emergency Assistance and Disaster Act.<sup>2</sup>

### **Notice Procedures**

Tax notices under La. R.S. 47:2127 remain substantially unchanged for 2025. New requirements for 2026 tax notice include disclosure of existing tax sales or tax lien certificates and explicit warnings that unpaid taxes will result in lien auctions. Notices go to owners of record and tax notice parties, but not to prior certificate

purchasers. Safe harbor provisions protect compliant tax collectors.

Notices of delinquency under La. R.S. 47:2153 impose heightened requirements. Certified mail goes to tax debtors and tax notice parties. If these are not timely returned, tax collectors must attempt three additional contact methods, including reviewing telephone directories, contacting assessors for updated addresses, examining mortgage and conveyance records, attempting personal service, posting property notices or conducting computer searches of parish records. These exhaustive requirements respond to due process concerns articulated in *Jones v. Flowers*, 547 U.S. 220 (2006), as well as protecting diligent tax collectors. The tax collector is required to send notice to and take to auction properties already on the adjudicated rolls.

### **Tax Lien Auction Mechanics**

Tax collectors advertise once in official journals, and all clerk of court recording costs and statutory impositions are included in the opening bid. Properties are auctioned at 100% ownership with competitive bidding on interest rates. Auction prices equal face value of delinquent obligations, including all costs accrued at auction. The lien certificates specify bid-down interest rates used to calculate termination prices.

Properties receiving no bids transfer to the local political subdivision, replacing former "adjudicated property" classifications. Tax collectors record certificates in mortgage records (not conveyance records, as ownership has not changed) within 30 days. Certificates held by third parties prescribe after seven years from recordation; those held by political subdivisions never prescribe. This prescriptive period sparked debate when State Senator Eddie Lambert of Gonzales cast the sole dissenting vote fearing the seven-year prescription might deter investors. Sen. Miller countered that prescription incentivizes prompt enforcement rather than allowing stagnant liens that generate no revenue and prevent properties from productive use. Properties continue to be assessed to tax debtors post-auction. Certificate preparation and redemption fees are capped at \$300, excluding recordation fees.

## Critical Practice Point: Request for Notice

A best-practice tip for mortgage lenders and other interested parties is to subscribe to the “Request for Notice” mechanism under La. R.S. 47:2159. Upon paying the annual fee (maximum \$20) and providing a service address and key information on the subject property, lenders receive all tax debtor notices for the year until cancellation. For other subscribers, requests are valid for the current tax year only.<sup>3</sup> This modest investment prevents lenders from discovering tax liens after issuance. Timely notice permits advancing funds for delinquent taxes (typically added to mortgage debt), initiating collection efforts or accelerating loans per mortgage terms. The strategic value significantly exceeds the nominal cost.

Post-auction notice requirements under La. R.S. 47:2156 mandate that certificate holders provide notice to mortgage holders via certified mail or commercial courier at least six months but not more than one year before filing enforcement proceedings. While not required, this writer advises all tax collectors to notify owners of record and provide termination prices to facilitate voluntary resolution. There is no notification to the tax assessor if a parcel falls to a tax lien.

The tax collector’s practice of filing exclusively in the mortgage records poses no genuine concern, as title examiners routinely scrutinize both the mortgage and conveyance records. Additionally, if a tax lien debtor owns property outright and conveys it to a third party post-auction, the lien attaches to the property rather than the debtor. In such circumstances, the innocent purchaser would have a cause of action against the debtor for breach of the warranty of merchantable title.

## Certificate Holder Rights and Restrictions

Certificate holders may pay subsequent delinquent taxes (which attach to liens and accrue statutory interest and penalties) or nondelinquent taxes (which do not accrue interest or penalties), with delinquent payments protecting their priority position against later tax liens. However, certificate holders face significant restrictions reinforcing that tax lien certificates

confer security interests, not ownership. They cannot evict property owners, charge rent or make improvements not judicially authorized.

Certificate holders may perform repairs if required by local government enforcing property standards or by court order. Repair costs receive privilege protection when certificate holders record a “statement of privilege” in mortgage records within 15 days after completion, thus becoming part of termination amounts. Further, a tax lien certificate may be assigned to anyone not prohibited by La. R.S. 47:2162.

## Lien Termination

Under La. R.S. 47:2241.1, tax collectors calculate termination prices including auction prices, 5% penalty and interest at certificate rates. Within one year of the end of the three-year period after recordation, tax collectors are well-advised to notify certificate holders when debtors request termination prices, inquiring whether certificate holders paid additional taxes or costs. Interest is calculated from date of recordation through the date of termination payment.

Tax collectors accept terminations up to 30 days after service in enforcement proceedings. Thereafter, interested parties may file a contradictory motion for the court to set the termination price. The court has 30 days to issue an order, and the moving party then has 30 days to pay by depositing funds with the court or paying the certificate holder directly. Upon payment, the clerk terminates the tax lien certificate. If no enforcement proceeding is pending, tax collectors may accept terminations anytime within six years and 364 days from the tax lien certificate’s recordation date. Thereafter, the lien expires by operation of law and the property owner must inform the clerk of court in writing to cancel the lien. However, title to the property remains clouded by the lien until this is done.<sup>4</sup>

## Political Subdivision Authority

When properties receive no bids, certificates transfer to political subdivisions. Unpaid taxes in subsequent years require separate auctions, potentially creating multiple certificate layers, each requiring

separate extinguishment and recordation. This prescription exemption may motivate local governments to find more creative ways to move no-bid properties into the stream of commerce. Political subdivisions may adopt ordinances governing adjudicated property sales or donations, tax lien certificate sales and conversion of adjudicated property titles into tax lien certificates. This local authority facilitates community development initiatives, land banking programs and other policy objectives while ensuring properties return to productive use.

## Enforcement Procedures

After the later of three years from recordation or 180 days after required post-sale notice, certificate holders may file ordinary proceedings seeking payment. This certificate holder’s post-sale notice requirement fulfills the constitutional notice standard articulated in *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791 (1983). Tax collectors, who provide the current termination amounts due and owing, must also be served with the petition to those enforcement proceedings.

Anyone may pay the termination price until close of business on the 30th day after service on the last party (or the next business day if the 30th falls on a holiday). The clerk of court is then directed to notify the tax collector when the last service took place initiating the 30-day period. Best practice dictates that the tax lien holder or his counsel ensure this notice takes place so filing of the motion for judgment, the *ex parte* final step of enforcement (i.e., default judgment), is not premature. Expenses incurred by all post-sale/pre-enforcement notices are recoverable up to \$500.

Judgments in favor of certificate holders are enforced through writs of fieri facias directing sheriffs to seize and sell the subject property. No tax lien certificates are subject to annulment without payment of statutory impositions, but surplus distribution is constitutionally mandated under *Tyler*.

## Effect on Title

Judicial sales under tax lien enforcement extinguish all recorded interests, providing clear title to purchasers and addressing title insurance concerns that

plagued the former system. However, certain interests survive judicial sales: building restrictions and covenants, servitudes and easements, recognized mineral rights and dedications to public entities. This balance provides title clarity while respecting property rights and public interests transcending tax collection. Practitioners must analyze surviving interests to provide accurate title opinions and advise clients on both benefits and limitations of acquiring property through this process.

### The Missing A-Word: Appraisal

Other issues have arisen in states' compliance with *Tyler*: Appraisal. While neither *Tyler* nor Acts 409 and 411 expressly require appraisal of the subject property before auction, constitutional issues have arisen regarding the tax debtor's potential loss of equity in the subject property in the tax lien auction process. This term, the US Supreme Court is picking up where it left off in *Tyler* with *Pung v. Isabella County, Michigan*, addressing (1) whether the Takings Clause requires compensation based on fair market value of the seized property, rather than merely the surplus from a forced auction sale, and (2) whether the forfeiture of substantial home equity in this context constitutes an "excessive fine" under the Eighth Amendment, as hinted by Justices Gorsuch and Jackson in *Tyler*.<sup>5</sup>

Under La. C.C.P. art. 2332, Louisiana law already mandates appraisals for judicial sales conducted pursuant to writs of fieri facias, except where the property owner has waived such appraisal in a mortgage, security agreement or other instrument creating a privilege on the property. Should the *Pung* decision establish an appraisal requirement, the legislature or the La. Supreme Court should consider extending mandatory appraisals to include foreclosure proceedings by declaring compulsory appraisal waivers in standard mortgage agreements contrary to public policy, citing the same loss-of-equity concerns.

### Unintended Gap in the 2025 Application

While tax collectors scramble to master the new tax lien auction regime, doubt has emerged regarding its application to 2025 delinquent taxes. Act 409 joint resolution provides that the process "shall become

effective January 1, 2026," but Act 411 states that "this Act shall apply to all *taxable* periods beginning on or after January 1, 2026" and "shall become effective January 1, 2026." (Emphasis added.) This discrepancy questions whether the new system applies to taxes that became delinquent in 2025 or only to those becoming delinquent in 2026 and beyond. A legislative amendment is already underway to clarify that the Act applies to all *delinquent* tax periods, with passage expected early in the next legislative session.

To address this effective-date problem, tax collectors should consider postponing their tax lien auction until mid-August 2026. This delay would enable the Legislature to amend the statute during the 2026 regular session, resolving the hiccup. Postponement allows collectors to follow established collection protocols, conduct auctions, avoid litigation over the issue and prior-year delinquencies and preserve revenue streams despite the delay. Should the Legislature fail to remedy the issue, collectors can merely cancel the auction.<sup>6</sup>

### Conclusion

This reform represents the most significant change to Louisiana property tax collection in modern history. The new framework addresses decades of practical dysfunction. The shift from ownership transfer to lien enforcement, emphasis on redemption rights, and constitutional requirement of surplus distribution fundamentally alter practice in this area. Practitioners must master the new framework to advise clients on tax lien purchases, protect mortgage lenders' interests and handle enforcement proceedings. Enhanced notice requirements, safe harbor provisions, procedural timelines and surplus distribution mechanisms ensure constitutional compliance while maintaining effective tax collection. The Supreme Court in *Tyler* established federal constitutional requirements balancing fiscal necessity with property rights that it will further refine in *Pung*. Louisiana's system has now achieved a better balance while addressing practical concerns that undermined the former regime. The success of this transformation will depend on careful implementation, legislative refinement as issues emerge, and practitioners' willingness to abandon decades of ingrained prac-

tice in favor of a system that better serves both fiscal responsibility and fundamental fairness.

Since Jan. 1, 2026, practitioners have been scrambling to master a system that replaced decades of practice, leaving inadequate time for both the diligent and the dilatory. Relief may hinge on how the Legislature resolves the discrepancy between the 2025 and 2026 delinquent tax periods.

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### FOOTNOTES

1. *Tyler v. Hennepin Cnty.*, Minnesota, 598 U.S. 631 (2023), quoting *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency*, 535 U.S. 302, 324 (2002).

2. La. R.S. 29:721-739.

3. The intent behind this statute was to ensure all subscribers receive the same service for the same price; however, as written, it appears mortgage lenders pay once until cancellation, which could be years, when other subscribers, such as the property owner or their relatives, would have to pay annually. Amendment is certain.

4. La. R.S. 47:2155 C(1). This writer hopes that updated tax collector software will make the termination price uncollectable after the lien expires by operation of law.

5. *Pung v. Isabella Cnty.*, Michigan, No. 25-95 (U.S. Supreme Court, docketed July 24, 2025).

6. The Louisiana Sheriffs' Association has formally petitioned the La. Attorney General for guidance on this matter; however, no opinion had been issued as of press time.

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