

B. Judicial *In Rem* Tax Sales (or Tax Foreclosure Actions)

When property is sold through a tax foreclosure auction, it is also sold to the highest bidder. As with the non-judicial sale, a land bank's tender of the opening bid is merely a commitment to pay not more than all costs of the sale, while a competitive bid requires the tendering of the full bid amount. However, it should be noted that the costs of the sale for which the land bank is responsible will be higher in a tax foreclosure auction than the costs associated with a non-judicial sale. As such, it is recommended that a land bank that plans only to bid an opening bid amount at a tax foreclosure sale first ask the County or the City that is conducting the sale for the amount of the costs of the sale.

The most significant difference between the two types of tax sales is in the nature of the title that is conveyed. In a tax foreclosure action, the owner of the property has a limited sixty-day window to come forward to redeem the property. If the owner exercises that right to redeem, the bid funds will be returned to the bidder. If the owner does not exercise that right to redeem within the sixty days, the bidder will receive a tax foreclosure deed. This deed delivers clear, fee simple title. As such, the winning bidder at that the tax foreclosure sale can immediately have marketable title upon receipt of the deed and an immediate right of entry.

Based on the nature of the title difference and the cost and delay of clearing title of a non-judicial tax deed versus immediately marketable title contained in a tax foreclosure deed, most land banks prefer to acquire property through a judicial tax foreclosure auction. Therefore, it is recommended that land bank leaders develop a good working relationship with their local tax officials to encourage them to sell properties through the judicial tax foreclosure process when appropriate.

