

Urban Abandonment and Property Tax Delinquency



Research Report No. 149

Legislative Research Commission
Frankfort, Kentucky

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The Commission and its staff, by law and by practice, perform numerous fact-finding and service functions for members of the General Assembly. The Commission provides professional, clerical and other employees required by legislators when the General Assembly is in session and during the interim period between sessions. These employees, in turn, assist committees and individual members in preparing legislation. Other services include conducting studies and investigations, organizing and staffing committee meetings and public hearings, maintaining official legislative records and other reference materials, furnishing information about the legislature to the public, compiling and publishing administrative regulations, administering a legislative intern program, conducting a pre-session orientation conference for legislators, and publishing a daily index of legislative activity during sessions of the General Assembly.

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The Commission functions as Kentucky's Commission on Interstate Cooperation in carrying out the program of the Council of State Governments as it relates to Kentucky.

GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY
REGULAR SESSION 1978

Senate Resolution 42

A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the problem of delinquent, abandoned or vacant property in cities and urban counties.

WHEREAS, the cities and urban counties of the Commonwealth of Kentucky contain numerous delinquent, abandoned or vacant properties; and

WHEREAS, in only a small percentage of cases do the tax delinquencies on these properties, even over a period of several years, amount to the assessed value of the properties; therefore there is no strong economic incentive for the delinquent property owner to settle up his back taxes; and

WHEREAS, cities and urban county governments continue to lose much needed revenue from such tax delinquencies;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Legislative Research Commission is directed to study the problem of delinquent, abandoned or vacant property in cities and urban counties in the Commonwealth of Kentucky, including the feasibility of such governments bringing foreclosure proceedings against properties themselves.

Section 2. The findings along with any recommendations shall be reported to the appropriate interim joint committee not later than June 1, 1979.

Section 3. Staff services to be utilized in completing this study are estimated to cost \$8,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Urban Abandonment and Property Tax Delinquency

Prepared by
William B. Neuhaus

Research Report No. 149

*Legislative Research Commission
Frankfort, Kentucky
October, 1978*

Paid for from state funds

Polsgrove v. Moss, 154 Ky. 408, 157 S.W. 1133 (1913).

Spitcaufsky v. Hatten, 182 S.W.2d 86 (Mo. 1944).

U.S. v. Lawton, 110 U.S. 146 (1883).

U.S. v. Taylor, 104 U.S. 216 (1881).

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Law Reports

Annotation: "Constitutional Validity of Statute Providing for In Rem or Summary Foreclosure of Delinquent Tax Liens on Real Property." 160 *American Law Reports* 1026 (1946).

Annotation: "Validity and Construction of Statute or Ordinance Providing for Repair or Destruction of Residential Building by Public Authorities at Owner's Expense." 43 *American Law Reports* 3rd 916 (1972).

City of Louisville v. Thompson, 339 S.W.2d 869 (Ky. 1969).

Collector of Revenue v. Parcels of Land, 517 S.W.2d 49 (Mo. 1974).

Covey v. Town of Somers, 351 U.S. 141 (1956).

Johnson v. Paducah, 512 S.W.2d 514 (Ky. 1974).

Mullane v. Central Hanover Trust Co., 339 U.S. 306 (1950).

Nelson v. N.Y., 352 U.S. 103 (1956).

FOREWORD

The 1978 Senate Resolution 42 directs the Legislative Research Commission to "study the problem of delinquent, abandoned or vacant property in cities and urban counties in the Commonwealth of Kentucky, including the feasibility of such governments bringing foreclosure proceedings against the properties themselves." This research report, the product of that study, concludes that a land reutilization act such as that of St. Louis can be an efficient means of restoring revenue lost through tax delinquencies.

The report was prepared by William B. Neuhaus. The assistance of Jim White, of the Kentucky Department of Revenue, and various municipal officials of the Commonwealth in supplying information is gratefully acknowledged.

Vic Hellard, Jr.
Director

The Capitol
Frankfort, Kentucky
October, 1978

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18. Olson and Lachman, p. 54.
19. National Council for Urban Economic Development, *Urban Land Recycling and Economic Development Policy in St. Louis, Missouri* (Washington, 1975), p. 10.
20. *Spitcaufsky v. Hatten*, 182 S. W. 2d86 (Mo. 1944); also see *Annotation, Constitutional Validity of Statute Providing for In Rem or Summary Foreclosure of Delinquent Tax Liens on Real Property*, 160 American Law Reports, Annotated 1026 (1946).
21. Olson and Lachman, pp. 55-59.
22. Olson and Lachman, p. 56.
23. Olson and Lachman, p. 60.
24. Olson and Lachman, p. 61.
25. City of Cleveland, "Summary of HB 1327 as Enacted into Law," (Cleveland: City Planning Commission, 1976), pp. 1-5.

SUMMARY

The disturbing modern phenomena of abandonment of urban real estate, and the complementary problem of urban property tax delinquency, are nationwide in their occurrence. Among the major urban areas in Kentucky, it is in Louisville that these problems are perceived as most acute. Current Kentucky law in the area of urban property tax delinquency is complicated and cumbersome. Its major characteristics are the little understood or utilized "tax sale," whereby the city's right to the delinquent taxes is sold for cash, and a generous provision for "redemption," in which the delinquent taxpayer may get his property back from the tax sale purchaser by paying off the taxes within an allotted number of years after the sale.

A model for reform in this area may be provided by the St. Louis Land Reutilization Law concept, whereby the tax foreclosure process is shortened and simplified by allowing mass filing of law suits by the taxing entity against numerous tax delinquent parcels ("in rem"), with notice by publication and a limited period for redemption. Land so obtained by the city is placed in the hands of a Land Reutilization Authority, a kind of land bank, for city development purposes.

It is recommended that the General Assembly consider implementation of a land reutilization law.

NOTES

1. George Sternlieb and Robert W. Burchell, *Residential Abandonment: The Tenement Landlord Revisited* (New Brunswick: Rutgers University, 1973), p. xii.
2. Ibid.
3. Sternlieb, pp. xix-xx.
4. National Urban League, *The National Survey of Housing Abandonment* (New York: Center for Community Change, 1971), p. 12.
5. National Urban League, cited in Sternlieb, p. 274.
6. Sternlieb, p. xxvii.
7. Ibid.
8. Sternlieb, p. xxix.
9. Sternlieb, p. 187.
10. Jim White, Kentucky Department of Revenue, June 1978 interview.
11. Herb Zimmerman, City of Louisville Department of Building and Housing, May 1978 interview.
12. Various Lexington-Fayette officials, June 1978 interviews.
13. Various City of Louisville officials, May 1978 interviews.
14. June 1978 interviews cited.
15. Susan Olson and M. Leanne Lachman, *Tax Delinquency in the Inner City* (Lexington, Mass., 1976), p. 53.
16. Kenneth B. Langsdorf, "Urban Decay, Property Tax Delinquency: A Solution in St. Louis," *Urban Lawyer* 5 (1973), 730.
17. Langsdorf, 737.

CHAPTER IV

CONCLUSION

The General Assembly should take a look at our statutes dealing with city real estate tax delinquency. They and the procedures they mandate are complicated, cumbersome, and probably little understood and utilized.

At least for areas where the twin problems of tax delinquency and urban abandonment are perceived as acute (and this may be only Louisville), the General Assembly should consider reform. Specifically, it should consider:

1. *Reduction of the period allowed for redemption. A prospective buyer of tax delinquent property should be assured of firm and certain title and possession within a reasonable time.*

2. *A general streamlining of the tax foreclosure process. Such actions could be more clearly in rem, with the concomitant reduction in the stringency of such requirements as notice (which could be by publication, with mail notice to the delinquent taxpayer at his last known address) and naming defendant parties (with the elimination of the requirement that all creditors interested in the property be personally served).*

3. *Wholesale, group foreclosure suits (i.e., against a large number of parcels). Such an innovation could greatly reduce the cost and time required for tax foreclosure.*

4. *The authorization of municipal land reutilization authorities to coordinate and give purpose to the public acquisition of tax delinquent real estate and to guarantee its best possible use in line with the city's urban development goals.*

CHAPTER I

ABANDONMENT: AN OVERVIEW

The Nation

Residential abandonment is the end product of all the urban ills of our modern society. While it has become an urban commonplace, it is a phenomenon about which little is known or understood.¹

George Sternlieb's often cited 1973 study *Residential Abandonment: The Tenement Landlord Revisited* accurately characterizes the disturbing modern phenomenon of urban abandonment. The reality of the situation is apparent to any visitor to the blighted urban cores of the industrial Northeast and Midwest. The distressing rows of boarded up and burned out buildings, the gaping, vacant lots, are, in Sternlieb's words, "challenging the theoretician's capacity to explain the phenomenon or predict its growth . . . The dynamics have evaded the state of the art."²

It is far beyond the purposes of this study, however, to deal with the socio-economic whys and wherefores of urban abandonment and its related problem of real estate tax delinquency. Much more ambitious works have been written on these areas; many are cited in the bibliography. A few general comments indicative of the nature and scope of the problem nationwide may, nonetheless, be in order.

Cities in which abandonment is most acute tend to be those of dwindling population, characterized by high crime rates and the exodus from the central city of those minority members who are well enough off to leave.³

How great a problem, nationally, is urban real estate abandonment? The landmark National Urban League study of 1971, *The National Survey of Housing Abandonment*, may provide some indication. The League defined abandonment thus:

When a landlord no longer provides services to an occupied building and allows taxes and mortgages to go unpaid, it is clear that the building is uninhabitable by all but desperation standards. We consider such buildings to be finally abandoned. On the other hand, when a building is temporarily unoccupied or is to be demolished for another socially or economically useful purpose, it cannot be considered finally abandoned.⁴

Using this definition, a survey was made of urban abandonment in seven cities: St. Louis, Cleveland, Chicago, Hoboken, New York, Detroit and Atlanta. The problem was found to be serious in each of the cities studied, with the exception of Detroit and Atlanta. It was found that approximately two percent of all structures in New York City were abandoned; in certain areas there the rate ranged from six to ten percent. In some sections of St. Louis, the abandonment rate was 16 percent. Two Chicago neighborhoods reported abandonment rates approaching 20 percent.⁵

Property tax delinquency and abandonment are related problems. According to Sternlieb, "it has been found that *an abandoned property is likely also to be a tax delinquent property in at least two out of every three cases.*"⁶ The scenario works as follows: Faced with dwindling rental income, the landlord may resort to non-payment of municipal real estate taxes, an "avenue of illegal credit" made possible by typically slow and ineffective methods of collection and enforcement.⁷ "Urban tax delinquency," Sternlieb observes, "functions in the same general area as abandonment, and is contributed to and linked to similar indices, i.e., basic poverty, high welfare tenancy, nonresident multiparcel owners, and high neighborhood transiency. The whole fiscal base of the city is hostage to the weakness of its basic market reality."⁸

Nationwide, the extent to which property tax delinquency is a problem varies. Using the formulae $\text{Tax Collection Percentage} = \frac{\text{Total Taxes Collected}}{\text{Total Taxes Levied}}$, and $\text{Tax Delinquency Percentage} = 100 \text{ minus Tax Collection Percentage}$, Sternlieb reports that (based on 1970 major city property tax delinquency) Newark leads in the Northeast, with an 11.9 tax delinquency percentage, followed by Boston (9.7 percent), Pittsburg (7.4 percent), New York (5.0 percent) and Philadelphia (4.4 percent). Chicago leads the Midwest (and the nation) with a 15.3 tax delinquency percentage, followed by St. Louis (5.3 percent), Cleveland (4.7 percent), Detroit and Cincinnati (both at 2.8 percent) and Kansas City (2.4 percent). In the Southeast, Atlanta and Norfolk both reported tax delinquency percentages of 4.5; Miami, Jacksonville and Baltimore each had a tax delinquency percentage of 2.4.⁹

Kentucky

How significant is the urban abandonment tax delinquency problem in Kentucky? The following analysis, while not purporting to be exhaustive, may give some rough idea of the situation.

C. The Louisville Vacant Lot Recycling Program

The nucleus of a St. Louis-style land reutilization authority may already exist in the Commonwealth. The Vacant Lot Recycling Program, part of the Community Development Cabinet of the City of Louisville, acquires "surplus" real estate parcels from other city agencies, as well as vacant and otherwise not utilized lots, by way of gift and foreclosure for delinquent taxes. Properties are classified in a manner similar to that of the St. Louis LRA, and then are sold or otherwise disposed of to persons who submit use proposals to the city, which are prioritized and evaluated, under specific evaluation criteria, on the basis of community benefit.

were being redeemed by means of two-year installment contracts, and 4,869 were acquired by LRA. Since that time, four to six suits have been filed annually, each against 500 parcels.²³

Relatively few of LRA's parcels have been sold to private purchasers, although the number has been increasing; many have been leased to urban homesteaders. In the beginning of 1976 "its primary uses of land were as follows:

1. Holding land for the Urban Renewal Agency and the Planned Industrial Expansion Authority for development of an industrial park . . .
2. Holding approximately 40 percent of the land in the area designated by the Community Development Agency for a new town-in-town.
3. Homesteading properties in neighborhoods deemed viable by the LRA director."²⁴

B. Ohio's Land Reutilization Program

A law similar to the Missouri Municipal Land Reutilization Law has recently been enacted in Ohio, at the urging of Cleveland city officials. 1976 House Bill 1327 (Chapter 5722, Ohio Revised Code) has as its stated purpose "to establish a workable method of restoring tax delinquent property to the tax rolls and to help rejuvenate and redevelop abandoned areas of cities." Previous Ohio law had required the foreclosure of tax liens to be instituted and prosecuted in the same manner as the foreclosure of mortgages on land, with time-consuming and expensive notice to and personal service on the debtor and all persons with any interest in the land. The new Land Reutilization Law makes possible tax foreclosure actions "in rem" for parcels delinquent for at least three years, thus eliminating the personal notice requirement and the requirement that other creditors be made parties.²⁵

The bill permits a city (as Cleveland has done by ordinance) to undertake a Land Reutilization Program (LRP) to aid in the return of "nonproductive," tax delinquent land to the tax rolls. Such non-productive land, which may be acquired by the city's LRP at tax foreclosure sale, is defined as land on which there are no buildings or other structures, or on which there are derelict structures, against which the city has filed removal or demolition proceedings. Thus, the scope of the Ohio LRP is somewhat more limited than that of the St. Louis LRA. As with the LRA, however, the LRP permits great discretion in the maintenance and disposition of the acquired properties.

A. Louisville

As the Commonwealth's largest city (1975 population estimate 335,954), Louisville may be expected to show the largest number of tax delinquent and abandoned parcels, and it does appear that it is in Louisville, among Kentucky's major urban areas, that the abandonment/delinquency problem is perceived as most acute. The table below indicates the property tax delinquency rate in Louisville: (See also chart on page 5)

Table A. Property Tax Delinquency, Louisville

Year	Total Real Parcels	Delinquent Real Parcels	Property Tax Delinquency Rate
1977	99,378	10,851	.1092
1976	99,124	7,701	.0777
1975	98,904	3,449	.0349
1974	96,297	5,093	.0529
1973	98,557	4,806	.0488

(Source: Jim White, Kentucky Department of Revenue, June, 1978. Interview).

As in other cities, the scope of the abandonment problem is not altogether clear, although it can be said that Louisville has by far the most significant real estate abandonment problem in the state. As of June 23, there were approximately 2,200 abandoned structures in the city, and it is estimated that 2,000 units are being abandoned there each year. In addition, there are about 2,300 vacant lots in Louisville, many of which could be considered to be abandoned.¹⁰ The City of Louisville has had to board up an average of 300 vacant or abandoned buildings per year for each of the past three years, 364 having been boarded up in 1977.

Often the structures must be boarded up repeatedly, as they are commonly vandalized. The city has also had to undertake emergency demolition of such structures. There were 169 such emergency demolitions in 1974, 230 in 1975, 334 in 1976 and 290 in 1977. Demolition and boarding cost the City of Louisville approximately \$300,000 per year.¹¹

B. Lexington-Fayette

The Lexington-Fayette urban-county government (1975 population estimate 186,048) seems to enjoy a rather low property tax delinquency rate, as the table below shows:

Table B. Property Tax Delinquency, Lexington-Fayette

Year	Total Real Parcels	Delinquent Real Parcels	Property Tax Delinquency Rate
1977	54,064	1,226	.0227
1976	52,880	1,063	.0201
1975	52,227	1,049	.0201
1974	51,203	1,207	.0236
1973	49,727	1,142	.0230

(Source: White, 1978, Interview).

The number of abandoned parcels in Lexington-Fayette does not appear to be known. Perhaps no more than 30 to 40 parcels can be considered abandoned. Abandoned real estate is not, apparently, perceived as much of a problem.¹²

C. Other Second Class Cities

While exact figures are not always and everywhere available, and the figures given are in many cases only estimates, the following table may give a very rough idea of the tax delinquency and abandonment picture in other large Kentucky cities:

Table C. Property Tax Delinquency, Other Second Class Cities

City	1975 Population Estimate	Total 1977 Real Parcels	Total 1977 Delinquent Parcels	1977 Tax Delinquency Rate *	Total 1977 Abandoned Parcels
Owensboro	50,788	32,000**	189	.01**	24**
Covington	44,467	13,579	416	.01**	250**
Bowling Green	36,082	10,797	280	.01**	0
Paducah	30,674	12,622	789	.02**	...
Ashland	27,456	10,950	1000**	.10**	...
Frankfort	22,858	9,000**	85**	.03**	20**
Newport	22,606	6,500**	284	.02	40**

(Source: Interviews with various city officials, 6/78-7/78).

* Figures may include both personal property and real property taxes.

** Approximate.

(3) After the petition is filed, a newspaper notice of the suit is placed to run for four weeks. Notification is also mailed to each tax debtor at his last known address.

(4) The property owners have 60 days following publication of notice within which to pay or make contractual arrangements to pay the back taxes and redeem their real estate. If they fail to comply, the court can render a judgment of foreclosure. The sheriff can then advertise by newspaper for the sheriff's sale, which follows by 21 days his advertisement.

(5) If, during the sheriff's sale, which lasts three days, there is no bid equal to the taxes, penalties and costs, title is given for a bid in that amount to the Land Reutilization Authority.

The St. Louis Land Reutilization Authority (LRA), whose members are appointed by city and board of education executives, has the authority to manage, sell, transfer and otherwise dispose of real estate acquired by it for the benefit of the taxing entity.

After obtaining an item of real estate, the LRA must classify it into one of three categories: (a) suitable for private use; (b) suitable for use by a public agency; and (c) not usable in its present condition or situation and held as a public land reserve.

Property which has been deemed suitable for private use may be sold, otherwise disposed of or maintained by the LRA on such terms and conditions as may be determined in the sole discretion of the Commissioners; however, the sale of any property for less than two-thirds of its appraised value requires the special consent of the LRA's appointing authorities. Property deemed suitable for use by a public agency, or deemed not presently usable, may be transferred to another public agency at no cost. If the other public agency sells the real estate within ten years, the proceeds must be returned to the LRA commissioners for distribution to the taxing entities.²¹

The LRA has managed to remain self-supporting and solvent, with a \$200,000 surplus in early 1975, thanks to the income from the sale and management of its real estate. An early \$20,000 loan from the city to get LRA on its feet has been repaid, as has each annual city appropriation for LRA personnel. It is estimated that administrative costs for the land reutilization process are approximately \$30 per year for each parcel.²²

The Municipal Land Reutilization Law's more rapid foreclosure process has increased St. Louis' property tax collection rate from 90 to 96 percent. Between 1972 and 1975, 21 lawsuits were filed against 8,757 delinquent parcels (most of which were vacant lots; many had abandoned structures). Of these, 1,581 were entirely redeemed, 1,120

The Land Reutilization Authority is hereby created to foster the public purpose of returning land which is in a non-revenue generating, non-tax producing status, to effective utilization, in order to provide new housing, new industry and jobs for the citizens of any city operating under the provisions of . . . [the law], and new tax revenues for such city (Missouri Revised Statutes 92.875).

The primary thrust of the law is to enable St. Louis to

- (1) Foreclose on tax delinquent properties within two years;
- (2) Reduce administrative and court costs by allowing the filing of one suit against a large number of parcels ("in rem"); and
- (3) Establish a "Land Reutilization Authority" which could purchase, manage, hold, sell, or lease foreclosed properties that could not be sold for at least the back taxes.¹⁸

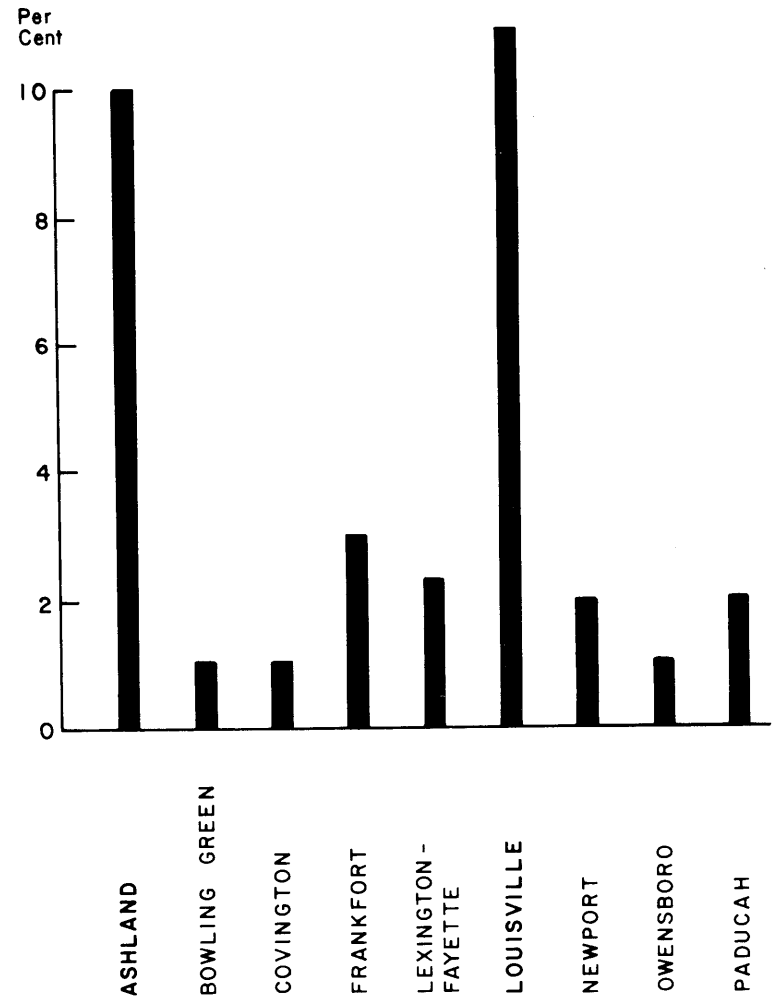
While the Land Reutilization Law began primarily as an attempt to address the problem of delinquent taxes, "it soon became obvious that out of the process of foreclosing liens on delinquent properties (some 12,000 to 14,000 in 1970) would come a sizable inventory of land, and thus a significant new economic resource for the city."¹⁹

The St. Louis process, which may employ private attorneys on an "as needed" commission basis, works as follows:

- (1) First, data is collected on parcels which are more than two years delinquent. While the law allows any number of parcels to be included in the suit, 500 are usually joined in each suit.

- (2) Next, a petition is filed in court against the parcels in question. Most significantly, the proceeding is "in rem" (i.e., it is the property, and not the owner, which is sued). Because the proceeding is "in rem," notice by newspaper publication is deemed all that is required. Because the judgment will be against the land and not the individual owner, there is no need to notify the property owner if he cannot be reached at his last known address; nor is it necessary to name as defendants and notify individually all parties (such as other lienholders and creditors) with an interest in the property in question. (Such simplified notice provisions have been upheld by the Missouri Supreme Court, which reasoned that owners and lienholders may be presumed to know that the land will be sold for non-payment of taxes.)²⁰

A Comparison Of Delinquent Property Tax Rates For Major Kentucky Cities (1977)



CURRENT KENTUCKY LAW

As with so many of our laws dealing with cities, the Kentucky statutes pertaining to city real estate tax delinquency are numerous and not readily assimilated. They comprise a complicated amalgam of often dissimilar statutes enacted over the years and made applicable to various of the six classes of cities, as the following will show:

A. Louisville

Statutes pertaining to property taxes for Louisville, the only city of the first class in the Commonwealth, are to be found in Chapter 91 of the Kentucky Revised Statutes. Property tax bills are payable in January, after they are listed with the city tax receiver for collection, and become delinquent on May 1, after which they bear interest at .5 percent for every month until paid. After July 1, a penalty of ten percent of the face of the bill is added to all unpaid tax bills (KRS 91.430).

The statutes direct the tax receiver, upon the filing of the lists of unpaid tax bills, to "distrain" (i.e., seize) and sell a sufficient amount of the delinquent taxpayer's *personal* property (i.e., not real estate) to pay the tax, penalties and interest (KRS 91.470). If sufficient personal property is not available, "the tax receiver shall sell, for cash, a sufficient amount of the *real* property belonging to the taxpayer to pay the tax, penalties, interest and costs" (KRS 91.480 [emphasis added]). Further, as a condition to such a sale, the purchaser is required to improve and repair the property so as to bring it up to code specifications (KRS 91.480).

Such tax "sale" must be at public auction at the city hall door, after public notice by advertisement or posting and after certified mail notice to the taxpayer, if his address can be ascertained. Mortgagees and other lienholders are similarly notified (KRS 91.480).

If, at the tax sale, no one will purchase the property, the tax receiver is required to "purchase the property for the city for the amount of the taxes, interest, penalties, costs of sale and advertising." The city may thereupon, after receiving a deed, sell the property at public auction. The city may not hold property for more than five years, unless it is "proper and necessary for public purposes . . . and if it does not sell and convey the property within that time the title shall escheat to the state" (KRS 91.500).

THE LAND REUTILIZATION CONCEPT

Many state and local governments throughout the nation have changed their foreclosure procedures in recent years to meet the growing problem of inner city tax delinquency. "The most common approach has been to accelerate foreclosure—either by improving administrative processing to meet the minimum legal time limits or by changing the state enabling legislation to shorten those time limits."¹⁵ Of these, the St. Louis reforms are perhaps the most noteworthy. [The St. Louis Land Reutilization Law, The Ohio Land Reutilization Program, and The Louisville Vacant Lots Recycling Program are available through the LRC Library.]

A. The St. Louis Experience

Due in part to its "precipitous" population decline, and legislation which froze the city limits to their present extent of 61 square miles in 1876, "The problems of the urban crisis in St. Louis are considerably more intense than in most American cities."¹⁶ Among these problems is a very high tax delinquency and abandonment rate.

Using language which could well be employed in discussing our own Kentucky statutes in the area, an observer has written that

Property tax legislation in the State of Missouri can best be described as a hodge-podge of statutes, each applicable to different jurisdictions in the state, classified on the basis of size and type (city or county). These laws reflect piecemeal adjustments from sparsely populated rural areas to urban areas. Under laws passed in the late nineteenth and early twentieth centuries, tax collection was based on rural experience where the original owner had many rights of redemption. This was satisfactory for farm land but not urban real estate.¹⁷

Such laws provided St. Louis, faced with increasing tax delinquency and abandonment, only with costly and time-consuming procedures to collect back real estate taxes. Consequently, they were seldom utilized and the problem grew worse. In 1971, however, the Missouri legislature passed the landmark Municipal Land Reutilization Law (§§92.700-92.920, Revised Statutes of Missouri), applicable to St. Louis. A statement of purpose was included:

The experience of the various cities of the second class with these statutes has varied. Except in Covington, relatively few of the tax claims are "sold" to third parties. In many, if not all, cases, real estate tax delinquency is not actively pursued beyond selling the tax claims; i.e., they are not pursued to the extent of foreclosure on the certificate of delinquency and actual sale of the property (Table D below). This does not mean, however, that less formal or drastic means of collection, such as dun letters, are not utilized.

Table D. Real Estate Tax Claims, Second Class Cities

City	1977 Delinquent Parcels	1977 Tax Claims Sold to City	1977 Tax Claims Sold to Other Parties	Further Formal Action Taken?
Owensboro	189	183	6	No
Covington	416	291	125	No
Bowling Green	280	278	2	No
Paducah	789	788*	1*	No
Ashland	1,000**
Frankfort	85	85	0	No
Newport	284	236	48	No

(Source: Interview with various city officials, 6/78-8/78.)

* Unclear

** Approximate

D. Other Cities

If no personal property is available for payment of real estate taxes in cities of the third class, and taxes are not paid within four months, "the collector may levy upon [i.e., seize] any real property in the city belonging to or listed to the delinquent taxpayer, and sell so much thereof for cash as will pay the taxes due, and costs . . . The mayor, on behalf of the city, shall bid for the property the amount of the taxes due, commissions and costs of sale, and the property shall be sold to the mayor for the city unless someone offers to pay the same amount for a smaller quantity of the property . . ." (KRS 92.680).

In cities of the fourth class, the real estate is similarly levied upon by the treasurer, if sufficient personal property is not found, and sold. If no bid is sufficient to cover the amount of taxes, interest, penalties and cost, the city purchases the property for that amount (KRS 92.690).

The statutes provide for "summary" (i.e., brief and informal) sale or foreclosure for enforcement of the tax lien in cities of the fifth and sixth classes.

A key provision of the Louisville procedure, and one typical of our statutes in this area, is the allowance of what is called "redemption:" the owner of real property sold at a tax sale

shall have the right to redeem [i.e., buy back] such property from the purchaser thereof . . . by paying to the tax receiver the amount of the purchase price at the sale, with interest thereon at the rate of one percent (1%) per month . . . from the date of the sale, and in case the land is not redeemed before April 1 next succeeding the sale, by paying a further penalty of five percent (5%) upon the purchase price, and the value of any improvements made on the property pursuant to KRS 91.500(4). In the case of an adult owner the redemption must be made within two (2) years from the date of the sale, and in the case of an infant owner it must be made within one (1) year after he becomes of age (KRS 91.510).

In other words, the person (or city) who purchases the real estate of the delinquent taxpayer will lose the property if within two years from the sale the delinquent taxpayer tenders the purchase price plus interest. This period of very uncertain, and rather theoretical, ownership could be as long as eighteen years if the delinquent taxpayer is a minor. It is only when the real estate is not redeemed within the time allowed by the statute that full title ("fee simple") vests in the purchaser, whereupon the tax receiver must convey the property to the purchaser by deed. Only at that point is the purchaser entitled to possession of the property; the purchaser may then recover it by filing a court action for possession from a delinquent taxpayer who fails to vacate or otherwise give up possession of the property (KRS 91.540).

In addition to the above described tax sale procedure, cities of the first class "may enforce collection of any tax bill due them by all remedies given for the recovery of debt in any court of this state otherwise competent for this purpose" (KRS 91.570). That is, the city may sue on its tax debt as any other creditor; it may foreclose on the lien created by the tax debt in the same way a mortgagee bank forecloses on a delinquent mortgage (KRS 91.560).

The obvious length (especially due to redemption) and complexity of the tax sale procedure no doubt go far to explain why Louisville's tax sale procedure is not extensively utilized. The city is acquiring few such properties, and there have been few, if any, foreclosures.¹³

B. Lexington-Fayette

Exercising its prerogative as Kentucky's unique urban-county government under KRS 67A.850 and 67A.060, Lexington-Fayette operates under the county property tax collection statutes in KRS Chapter 134. Whenever any taxpayer becomes delinquent, the sheriff is first required to distraint and sell for cash a sufficient quantity of the delinquent's personal property in the county to pay the tax claim. If no personal property is found, or the amount found is insufficient, "The sheriff shall . . . advertise and offer for sale the tax claims of the . . . county . . . if there is any real property subject to the [tax] lien . . ." (KRS 134.430). The sheriff, in other words, actually sells the "tax claim" of the county against the delinquent taxpayer; i.e., the *right* to money owed by the taxpayer to the county is sold, much as a car dealer may sell the car purchaser's promissory note to a bank, to whom the purchaser/debtor is then obligated.

The statutes go on to provide that such tax claim shall be sold to any person for cash. When such a sale is made, the tax claim or bill becomes known as a "certificate of delinquency." In the event no "responsible bid" is put forward for the certificate of delinquency, it must be purchased by the sheriff for the county (KRS 134.450).

The certificate of delinquency continues to be a personal obligation of the taxpayer. "Any property while owned by him shall be subject to foreclosure or execution in satisfaction of a judgment pursuant to an action in rem or an action in personam, or both, to enforce the obligation" (KRS 134.470). This means that the private investor or county which has purchased the certificate of delinquency may use it either to sue the taxpayer personally ("in personam") or to bring an action against his specific real estate ("in rem") for the amount of tax owed, in the same way that the bank, in our previous example, may use the purchaser/debtor's note to sue for the delinquent car loan. No such action may be brought, however, until three years after the issuance of the certificate of delinquency, and the action must be instituted within five years after the expiration of that three-year period (KRS 134.470). Until the expiration of the three-year period, the property may be redeemed by paying the amount of taxes due at the time the property was acquired, plus costs and interest at six percent per annum. Thereafter, the owner of the certificate of delinquency may receive a deed from the master commissioner, or the property may be sold pursuant to a judgment of foreclosure (KRS 134.490; 134.510).

The above procedure is rarely, if at all, utilized to its fullest in Lexington-Fayette. After "selling" the certificates of delinquency (almost all of which are purchased by the taxing unit), the matter of

tax delinquency is generally allowed to rest; the delinquent tax is paid off when the property in question is sought to be sold (Fayette's real estate market being brisk) and the title search reveals the delinquency. In the recollection of one long-time courthouse worker, no certificate of delinquency foreclosure sale has been held in Fayette County in the past 14 or 15 years. As noted, there does not appear to be significant discontent in Lexington-Fayette with the tax delinquency and collection process.¹⁴

C. Other Second Class Cities

As soon as taxes of a city of the second class become delinquent, the city treasurer is authorized to distraint sufficient personal property of the delinquent taxpayer and sell enough of it to satisfy back taxes, penalties and interest (1978 Acts, Chapter 398, §2). Under amendments to KRS Chapter 90, enacted by the 1978 General Assembly (1978 Acts, Chapter 398), the following provisions (quite similar to the county statutes used by Lexington-Fayette) obtain with regard to real property belonging to the taxpayers delinquent in their city real estate taxes:

As soon as possible after the second Monday in December of each year, after notice and advertisement, the treasurer "shall offer for sale the tax claims of the city against each delinquent taxpayer to satisfy all unpaid taxes of the delinquent with interest and penalties thereon . . . The sale shall be made to the highest and best bidder for cash at public auction . . ." Upon sale of the tax bill, it becomes known as a certificate of delinquency. In the event no responsible bid in the amount of the tax claim is received, the treasurer purchases the certificate of delinquency for the city (1978 Acts, Chapter 398, §3). The certificates bear interest from the date of issuance until collected at the rate of 12 percent per annum (1978 Acts, Chapter 298, §4).

The certificate of delinquency constitutes a personal obligation of the taxpayer, and may be foreclosed or enforced in much the same manner as, for example, a mortgage, by a court action brought against the debtor ("in personam"), against the real estate in question ("in rem"), or against both; however, "no action may be brought to enforce a certificate of delinquency until three (3) years after the issuance thereof, and the action must be instituted within five (5) years after the expiration of that three (3) year period" (1978 Acts, Chapter 398, §5, §6). The property may be redeemed by the defendant of foreclosure action at any time until 30 days after the foreclosure sale, at which time the fee simple (i.e., full title) deed is delivered to the purchaser. The purchaser is then entitled to possession (all other taxes being paid). (1978 Acts, Chapter 398, §7, §8.)