

# Foreclosure of Tax Liens: An Underutilized Tool for Arizona Real Estate Investment

By Alex Baker



Tax liens on property in the Phoenix area and throughout Arizona offer the potential for guaranteed return and a low-risk windfall for investors who understand the legal requirements.

For investors looking to expand their portfolio with real estate, Arizona has long been an ideal target. The purchase of residential or commercial property is the most common type of real estate investment activity, but investors should also be aware of a third, less risky option: the purchase of tax lien certificates from the county treasurer.

Tax liens offer guaranteed returns and a potential for windfall for the investor who is successful in purchasing them.

**Background.** Every year, Arizona's county treasurers sell tax lien certificates at a public auction for all properties in which the property taxes are two years delinquent.<sup>[1]</sup> A potential investor bids an interest rate (from 0% to 16%), and the investor bidding the lowest rate wins the certificate.<sup>[2]</sup>

For the next three years after the sale, the property owner can redeem the certificate from the investor by paying the past-due taxes plus the interest rate that was bid.<sup>[3]</sup> If, by the end of the three-year period, that redemption does not occur, the investor can foreclose the property and receive the windfall of obtaining the property for a small percentage of its value.<sup>[4]</sup>

**Manageable Risk.** While this sounds like a straightforward and easy process, its procedural aspects can easily trip up the investor and potentially ruin the investment. Consider this partial list of issues that can arise:

- Arizona statutes provide a very rigid system for calculating the time periods during which the foreclosure may be filed.<sup>[5]</sup> If you (the investor) fail to provide a required notice, wait too long to do so, or otherwise file the action too early, the Courts can and will reject your claim.
- You must locate and provide notice to all interested parties. If you fail to locate any interested party, the foreclosure can be set aside, or you may obtain the property subject to the interest of that party (which, if it is a mortgage, can be financially devastating).<sup>[6]</sup>
- Arizona statutes mandate that you include certain language in the statutory notice provided to interested parties. Failure to include that language can bar you from filing the foreclosure action.
- The foreclosure action must include an accurate legal description of the subject property. Simply relying on the prior deed will not suffice. Failure to obtain the proper legal description can result in your recording an improper deed, potentially exposing you to legal liability under [A.R.S. § 33-420](#).
- Even if you properly follow all procedures, you will still need to navigate through the Court system. The specific language required by the Court in order to issue the Judgment varies from county to county. If that language is not included, the Court will not issue the Judgment, in which case the Treasurer will not issue the deed to you.
- You can minimize the risks of these pitfalls and enhance the success of the foreclosure by using an experienced attorney who is familiar with the local requirements governing tax lien foreclosure. The cost of hiring such an attorney can be justified by the likely outcomes of the transaction:
  - you will end up with the property via the foreclosure, obtaining the property at a fraction of its value; or
  - you will redeem the tax lien certificate, and the Court will force the property owner to reimburse you for the attorneys' fees and costs you incurred.<sup>[7]</sup>

In a nutshell, properly pursuing the purchase of Arizona property tax liens is a relatively risk-free opportunity that can generate significant returns and that many investors overlook as part of their real estate strategy.

<sup>[1]</sup> [A.R.S. § 42-18101](#) et seq.

[\[2\] A.R.S. § 42-18114](#)

[\[3\] A.R.S. § 42-18151](#) et seq.

[\[4\] A.R.S. § 42-18201](#) et seq.

[\[5\] A.R.S. § 42-18201](#)

[\[6\] A.R.S. § 42-18204](#)

[\[7\] A.R.S. § 42-18206](#)

### **About Alex Baker**

Alex Baker practices in the areas of real estate transactions and litigation, commercial litigation, entity formation and estate planning.

Alex has represented clients in a variety of matters, including litigation involving residential and commercial real estate, residential real estate transactions, limited liability company (LLC) formation, foreclosure avoidance, construction disputes and property tax appeals.

He is a Super Lawyers Rising Stars selectee, peer recognition for younger lawyers (under age 40, or fewer than 10 years of experience). Selection is limited to just 2.5% of eligible Arizona attorneys.

A Phoenix native, Alex earned his law degree, cum laude, and his bachelor's degree, summa cum laude, at Arizona State University. Alex and his family live in Cave Creek.