



Ohio Revised Code

Section 5721.33 Negotiating sale of number of tax certificates.

Effective: October 16, 2009

Legislation: House Bill 1 - 128th General Assembly

(A) A county treasurer may, in the treasurer's discretion, negotiate the sale or transfer of any number of tax certificates with one or more persons, including a county land reutilization corporation. Terms that may be negotiated include, without limitation, any of the following:

(1) A premium to be added to or discount to be subtracted from the certificate purchase price for the tax certificates;

(2) Different time frames under which the certificate holder may initiate a foreclosure action than are otherwise allowed under sections 5721.30 to 5721.43 of the Revised Code, not to exceed six years after the date the tax certificate was sold or transferred;

(3) The amount to be paid in private attorney's fees related to tax certificate foreclosures, subject to section 5721.371 of the Revised Code;

(4) Any other terms of the sale or transfer that the county treasurer, in the treasurer's discretion, determines appropriate or necessary for the sale or transfer.

(B) The sale or transfer of tax certificates under this section shall be governed by the criteria established by the county treasurer pursuant to division (E) of this section.

(C) The county treasurer may execute a tax certificate sale/purchase agreement and other necessary agreements with a designated purchaser or purchasers to complete a negotiated sale or transfer of tax certificates.

(D) The tax certificate may be sold at a premium to or discount from the certificate purchase price. The county treasurer may establish as one of the terms of the negotiated sale the portion of the certificate purchase price, plus any applicable premium or less any applicable discount, that the purchaser or purchasers shall pay in cash on the date the tax certificates are sold and the portion, if



any, of the certificate purchase price, plus any applicable premium or less any applicable discount, that the purchaser or purchasers shall pay in noncash consideration and the nature of that consideration.

The county treasurer shall sell such tax certificates at a certificate purchase price, plus any applicable premium and less any applicable discount, and at a certificate rate of interest that, in the treasurer's determination, are in the best interests of the county.

(E)(1) The county treasurer shall adopt rules governing the eligibility of persons to purchase tax certificates or to otherwise participate in a negotiated sale under this section. The rules may provide for precertification of such persons, including a requirement for disclosure of income, assets, and any other financial information the county treasurer determines appropriate. The rules also may prohibit any person that is delinquent in the payment of any tax to the county or to the state, or that is in default in or on any other obligation to the county or to the state, from purchasing a tax certificate or otherwise participating in a negotiated sale of tax certificates under this section. The rules may also authorize the purchase of certificates by a county land reutilization corporation, and authorize the county treasurer to receive notes in lieu of cash, with such notes being payable to the treasurer upon the receipt or enforcement of such taxes, assessments, charges, costs, penalties, and interest, and as otherwise further agreed between the corporation and the treasurer. The eligibility information required shall include the tax identification number of the purchaser and may include the tax identification number of the participant. The county treasurer, upon request, shall provide a copy of the rules adopted under this section.

(2) Any person that intends to purchase a tax certificate in a negotiated sale shall submit an affidavit to the county treasurer that establishes compliance with the applicable eligibility criteria and includes any other information required by the treasurer. Any person that fails to submit such an affidavit is ineligible to purchase a tax certificate. Any person that knowingly submits a false or misleading affidavit shall forfeit any tax certificate or certificates purchased by the person at a sale for which the affidavit was submitted, shall be liable for payment of the full certificate purchase price, plus any applicable premium and less any applicable discount, of the tax certificate or certificates, and shall be disqualified from participating in any tax certificate sale conducted in the county during the next five years.



(3) A tax certificate shall not be sold to the owner of the certificate parcel or to any corporation, partnership, or association in which such owner has an interest. No person that purchases a tax certificate in a negotiated sale shall assign or transfer the tax certificate to the owner of the certificate parcel or to any corporation, partnership, or association in which the owner has an interest. Any person that knowingly or negligently transfers or assigns a tax certificate to the owner of the certificate parcel or to any corporation, partnership, or association in which such owner has an interest shall be liable for payment of the full certificate purchase price, plus any applicable premium and less any applicable discount, and shall not be entitled to a refund of any amount paid. Such tax certificate shall be deemed void and the tax lien sold under the tax certificate shall revert to the county as if no sale of the tax certificate had occurred.

(F) The purchaser in a negotiated sale under this section shall deliver the certificate purchase price or other consideration, plus any applicable premium and less any applicable discount and including any noncash consideration, to the county treasurer not later than the close of business on the date the tax certificates are delivered to the purchaser. The certificate purchase price, less any applicable discount, or portion of the price, that is paid in cash shall be deposited in the county's general fund to the credit of the account to which ad valorem real property taxes are credited and further credited as provided in division (G) of this section. Any applicable premium that is paid shall be, at the discretion of the county treasurer, apportioned to and deposited in any authorized county fund. The purchaser also shall pay on the date the tax certificates are delivered to the purchaser the fee, if any, negotiated under division (J) of this section. If the purchaser fails to pay the certificate purchase price, plus any applicable premium and less any applicable discount, and any such fee, within the time periods required by this section, the county treasurer shall retain the tax certificate and may attempt to sell it at any auction or negotiated sale conducted at a later date.

(G) Upon receipt of the full payment from the purchaser of the certificate purchase price or other agreed-upon consideration, plus any applicable premium and less any applicable discount, and the negotiated fee, if any, the county treasurer, or a qualified trustee whom the treasurer has engaged for such purpose, shall issue the tax certificate and record the tax certificate sale by entering into a tax certificate register the certificate purchase price, any premium paid or discount taken, the certificate rate of interest, the date the certificates were sold, the name and address of the certificate holder or, in the case of issuance of the tax certificates in a book-entry system, the name and address of the nominee, and any other information the county treasurer considers necessary.



The county treasurer may keep the tax certificate register in a hard-copy format or an electronic format. The name and address of the certificate holder or nominee may be, upon receipt of instructions from the purchaser, that of the secured party of the actual purchaser, or an agent or custodian for the purchaser or secured party. The county treasurer also shall transfer the tax certificates to the certificate holder. The county treasurer shall apportion the part of the cash proceeds from the sale representing taxes, penalties, and interest among the several taxing districts in the same proportion that the amount of taxes levied by each district against the certificate parcels in the preceding tax year bears to the taxes levied by all such districts against the certificate parcels in the preceding tax year, and credit the part of the proceeds representing assessments and other charges to the items of assessments and charges in the order in which those items became due. If the cash proceeds from the sale are not sufficient to fully satisfy the items of taxes, assessments, penalties, interest, and charges on the certificate parcels against which tax certificates were sold, the county treasurer shall credit the cash proceeds to such items pro rata based upon the proportion that each item of taxes, assessments, penalties, interest, and charges bears to the aggregate of all such items, or by any other method that the county treasurer, in the treasurer's sole discretion, determines is equitable. Upon issuing the tax certificates, the delinquent taxes that make up the certificate purchase price are transferred, and the superior lien of the state and its taxing districts for those delinquent taxes is conveyed intact to the certificate holder or holders.

(H) If a tax certificate is offered for sale under this section but is not sold, the county treasurer may strike the corresponding certificate parcel from the list of parcels selected for tax certificate sales. The lien for taxes, assessments, charges, penalties, and interest against a parcel stricken from the list thereafter may be foreclosed in the manner prescribed by section 323.25, 5721.14, or 5721.18 of the Revised Code unless, prior to the institution of such proceedings against the parcel, the county treasurer restores the parcel to the list of parcels selected for tax certificate sales.

(I) Neither a certificate holder nor its secured party, if any, shall be liable for damages arising from a violation of sections 3737.87 to 3737.891 or Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 6111. of the Revised Code, or a rule adopted or order, permit, license, variance, or plan approval issued under any of those chapters, that is or was committed by another person in connection with the parcel for which the tax certificate is held.



(J) When selling or transferring a tax certificate under this section, the county treasurer may negotiate with the purchaser of the certificate for fees paid by the purchaser to the county treasurer to reimburse the treasurer for any part or all of the treasurer's costs of preparing for and administering the sale of the tax certificate and any fees set forth by the county treasurer in the tax certificate sale/purchase agreement. Such fees, if any, shall be added to the certificate purchase price and shall be paid by the purchaser on the date of delivery of the tax certificate. The county treasurer shall deposit the fees in the county treasury to the credit of the tax certificate administration fund.

(K) After selling tax certificates under this section, the county treasurer shall send written notice by certified mail to the last known tax-mailing address of the owner of the certificate parcel. The notice shall inform the owner that a tax certificate with respect to such owner's parcel was sold or transferred and shall describe the owner's options to redeem the parcel, including entering into a redemption payment plan under division (C)(2) of section 5721.38 of the Revised Code. However, the county treasurer is not required to send a notice under this division if the treasurer previously has attempted to send a notice to the owner of the parcel at the owner's last known tax-mailing address and the postal service has returned the notice as undeliverable.