



Tax Lien Lending: Empowering Consumer Choice

House Bill 2832

by Bill Peacock, *Vice President of Research, Director of Center for Economic Freedom*

Tax lien lending, or transfers, is a specialized lending practice that offers Texas property owners a reasonable means to take control of their outstanding tax debt by negotiating a short-term loan with a licensed tax lender and then transferring the tax lien that the government automatically attaches to the property as collateral for the loan. This allows property owners to spread out their tax obligation over several years rather than paying in a lump sum as is typically demanded by state law. Even when taxing districts offer payment plans, tax lien lending usually offers more flexible payments tailored to the property owner's needs.

Over the past few years, Texas taxpayers have expressed a strong demand for property tax lending services, driven in large part by sharp increases in Texas property taxes, which have risen almost three times faster than household income. That demand will not dissipate so long as property taxes continue to overburden Texas taxpayers.

Nevertheless, despite the high demand for tax lien transfers, and despite their appreciable benefit to Texas taxpayers, an ensemble of special interests that profit when property owners are delinquent on their taxes have incited fears over business practices within the tax lending market and have pushed for legislation that restricts, if not eliminates, taxpayers' access to much needed tax assistance. In fact, they have supported legislation that forces homeowners seeking to use tax lien transfers into default on their mortgages and delinquency on their taxes.

Prior to 2005, property owners who couldn't pay their property taxes on their own could use a tax lien transfer to pay their taxes before they were delinquent. However, in 2005 the Legislature passed HB 2491 that prohibited property owners from accessing tax lien transfers unless their property taxes were delinquent. Testifying or registering in support of HB 2491 were representatives from the mortgage lending and tax collection industries. The next session the Legislature changed this provision; SB 1520 allowed those who do not have mortgages to access tax lien transfers before their taxes were delinquent. But those who have mortgages are still forced, by a Texas law supported by the mortgage lenders, to wait until their taxes are delinquent before using a tax lien transfer.

It is important to note this because one of the key points that mortgage bankers use today in support of further restrictions on tax lien lending is that their clients who use tax lien lending are in default on their mortgage because they haven't paid their property taxes. While this is generally true, in many cases it is true only because mortgage lenders have used the legislative process to force their customers into default.

The Facts

- The Office of Consumer Credit Commissioner reports that 72 licensed lenders issued 14,526 property tax loans in 2012.
- Property taxes climbed 205 percent statewide from 1991 to 2010 or an average of 6.3 percent per year. Conversely, personal income increased by only 70 percent or an average of 2.7 percent per year.
- The delinquency rate in Travis County has jumped from 5.1 percent in 2000 to 10.6 percent in 2013.
- After one year of delinquency, a property owner will have added 12 percent in interest, 12 percent in late penalties, and somewhere between 15 and 20 percent in collection fees onto their original tax bill.
- The Finance Commission reports that a tax lien transfer could cost a taxpayer significantly less than remaining in delinquency: \$13,156 as compared to \$16,608 over five years.

Recommendations

- Amend §32.06 (a-2) of the Texas Tax Code to eliminate its two-tier treatment of Texans with mortgaged properties, specifically the requirement that these property owners wait until their taxes have become delinquent before initiating a tax lien transfer.
- Make no attempt to eliminate or alter the tax lien's high priority status after it's been transferred to a third party.
- Refrain from enacting any additional barriers to tax lien lending that restrict and/or deny Texas property owners access to market-based tax relief.

Resources

Tax Lien Transfers: A Reasonable Means of Rectifying Property Tax Obligations by Kathleen Hunker, Texas Public Policy Foundation (Dec. 2014).

Tax Lien Lending is a Cost-Effective Way to Manage Property Tax Debt by Bill Peacock, Texas Public Policy Foundation (May 2014). ★

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