

2019-20

LEGISLATOR'S GUIDE

to the Issues



Tax Lien Lending

The Issue

Every year thousands of Texas property owners find themselves in the unenviable position of falling behind on their property taxes either because of a temporary financial setback or some other lack in liquid capital.

Fortunately, the competitive market has stepped in to offer these property owners a way to satisfy their tax debt without having to trek through the delinquency process, whose penalties, fees, and interest can add close to 50% onto a property owner's final tax bill after just one year.

Called a tax lien transfer, this specialized lending practice 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.

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 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.

The effort has had some success. The Texas Tax Code already puts up extra barriers for Texans with mortgaged properties, demanding that they wait until their taxes turn delinquent before initiating a tax lien transfer. Put differently, these Texans can only take action to resolve their tax debt after they start accumulating penalties and interest.

In addition, the Texas Legislature considered no less than eight bills last session aimed at curtailing tax lien loans, all of which failed. Proposed changes in HB 3222 and SB 1956 would have eliminated the tax lien's superior priority over other secured interests. Had it been enacted, the amendment would have effec-

tively ended tax lien lending as a sustainable commercial practice, denying Texas property owners a cost-effective means of rectifying their tax debt. Such legislation would not help Texas property owners; it would simply force them to confront the penalties and foreclosure proceedings that accompany delinquency with no prospect for relief.

The Facts

- The Office of Consumer Credit Commissioner reports that [72 licensed lenders issued 12,960 property tax loans](#) in 2016.
- [Texas' property taxes climbed 233%](#) statewide from 1996 to 2016 or an average of 6.3% per year. Conversely, [personal income increased by 199%](#) or an average of 5.7 per year.
- After one year of delinquency, a property owner will have added 12% in interest, 12% in late penalties, and somewhere between 15-20% in collection fees onto their original tax bill.
- The Finance Commission reports that a tax lien transfer could cost a taxpayer substantially less than remaining in delinquency.

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 barrier to tax lien lending that restrict and/or deny Texas property owners access to market-based tax relief.

Resources

[Property Tax Lending Consolidated Volume Report Calendar Year 2016](#), Texas Office of Consumer Credit Commissioner (Nov. 2017).

[Tax Lien Lending Benefits Property Owners and Consumers](#) by Bill Peacock, Texas Public Policy Foundation (April 2015).

[Tax Lien Transfers: A Reasonable Means of Rectifying Property Tax Debt](#) 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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