



Tax Lien Transfers



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 percent 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 nine bills last session aimed at curtailing tax lien loans, of which two passed. Although HB 1597 attempted to reduce demand by offering milder payment plans to qualified owners, SB 247 continued the legislature's usual practice of foisting additional restrictions on licensed lenders, distorting the market.

More troubling, proposed changes in SB 1449 would have eliminated the tax lien's superior priority over other secured interests. Had it been enacted, the amendment would have effectively 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 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, property owners will have added 12 percent in interest, 12 percent in late penalties, and somewhere between 15-20 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 has been transferred to a third party.
- Refrain from enacting any additional barriers to tax lien lending that restricts and/or denies Texas property owners access to market-based tax relief.

Resources

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

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

