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Tax Lien Sales: Elderly Are Losing Homes While Investors Reap Big Profits

Report Documents a Growing National Crisis; States Urged to Reform Tax Laws

Download a PDF of the full report:
http://www.nclc.org/issues/the-other-foreclosure-crisis.html

BOSTON—Outdated state laws that permit local governments to sell property through a tax lien foreclosure process if the owner falls behind on property taxes (owing as little as $400) are fueling a second nationwide foreclosure crisis, according to a report from the National Consumer Law Center (NCLC). "Homeowners throughout the nation, particularly elderly and people with cognitive challenges, have lost or stand to lose family homes along with long-term equity which may represent their sole savings and security for retirement," said National Consumer Law Center Attorney John Rao and author of *The Other Foreclosure Crisis: Property Tax Lien Sales*. "Our report is a wake-up call for states to reform tax sale laws to keep speculators from reaping huge windfalls at the expense of fragile citizens while still ensuring local governments receive much needed tax revenue."

Elderly and Disabled Most at Risk

A tax lien sale may be started over nonpayment of a small delinquent tax bill for a few hundred dollars, and then sold at a tax lien sale for simply the back taxes owed on the property. If the homeowner fails to buy back the property, the purchaser acquires the home for very little. Thus a $200,000 home might be sold for as little as $1,200, and then resold for a huge profit. Currently, annual tax lien sales total approximately $15 billion nationwide and are on the rise due to the weak job market, depressed home values, and an increase in mortgage foreclosures. Florida had nearly $2 billion in back tax liens and sold $1.8 billion of these liens in 2009. A county in Mississippi doubled the number of properties in its annual tax sale in recent years. Other states at risk include Illinois, New Jersey, New York, and Texas.

Homeowners most vulnerable are those who have fallen into default because they are incapable of managing their financial affairs, such as individuals suffering from Alzheimer's, dementia, or other cognitive disorders. And one government study found that last year property tax foreclosures in New York City were highly concentrated among low-income communities with large African American and Latino populations, groups also targeted by subprime mortgage lenders. Tax lien sales may increase the number of vacant and neglected properties, further eroding tax revenue and destabilizing entire communities.

A Windfall for Investors

Individual tax sale purchasers and large investment companies, including Bank of America and JPMorgan Chase, have used the tax sale process as a profit center. Tax liens can yield an incredible rate of return, as high as up to 50%. Many state laws permit tax lien purchasers to charge homeowners extremely high interest rates and fees to redeem their property in order avoid foreclosure. (For example, redemption penalties in Georgia, Iowa, Mississippi, New Jersey, and Texas all exceed 20%.) For these reasons, tax lien sales are often marketed as "get-rich quick" schemes on websites. Investors take advantage of the fact that the tax sale process is arcane and rarely understood by homeowners. And states do little to inform homeowners about steps they can take to avoid foreclosure. Very few states have enacted procedures to protect owners' equity interests or to avoid windfalls to purchasers, and almost no states have updated tax lien laws to reflect current economic conditions or to ensure that proper safeguards exist to avoid unnecessary loss of homeownership.

The NCLC report offers the following recommendations that state and municipalities could adopt, which reflect the goals of preserving homeownership and ensuring prompt payment of local taxes.

Key Recommendations for States

- **Make redemption costs affordable by keeping investor profits reasonable**. State laws should be reformed to limit the maximum interest or penalty rate on redemption amounts to reflect current economic conditions. The interest rate should seek to discourage speculation and promote redemption.

- **Place reasonable limitations on additional fees and costs.** States should not permit investors to pad their profits by charging homeowners unreasonable fees to redeem after the foreclosure process has been initiated. State law should establish a maximum fee schedule based on reasonable, market rates for title searches, attorneys' fees, and other fees.

- **Establish a tax sale procedure, with court supervision.** States should limit the initial tax sale to the sale of a tax lien certificate, rather than granting an entire interest in the property to a purchaser. If a homeowner fails to redeem the property, state law should require the purchaser to seek a court order authorizing final sale of the property. The court should confirm the final sale results and ensure that the sale price is fair and that any surplus funds are promptly paid to the homeowner.

Key Recommendations for Cities and Towns

- **Implement redemption payment programs.** Local tax offices should collect redemption payments to eliminate the possibility that an unscrupulous purchaser may thwart the owner's attempt to redeem. The local tax office should accept partial and installment payments.

- **Adequate notice should be given at every stage of the tax sale process.** Notifications should be used as a tool to avoid loss of homeownership. Comprehensive notices should use plain language, include information about tax exemptions, abatements, and repayment plans, and note the consequences of each stage of the tax sale process.

- **Provide detailed notice of redemption rights.** The notice should give all of the essential details on how the redemption right can be exercised, including the name and address to which the homeowner can remit payment, itemized costs, and the deadline for the redemption payment.

The full report includes additional statistics on specific states; tragic stories of real people around the nation who have lost their homes to "get rich quick" investors; a look at some improved laws and procedures adopted in Indiana, Michigan, Rhode Island and New York City; a summary of each state's current sales tax lien laws; and additional recommendations for states and local municipalities to provide more equitable treatment for their citizens.

"The consequences of homeowners not understanding their rights or the process of a tax lien sale is devastating for individuals, families, and communities," says Rao. "To date, states have done very little. Will legislators and policymakers now reform their laws to help keep elderly and other homeowners from losing their homes due to a small property tax delinquency? We certainly hope so and the sooner they act to head off this swelling problem, the better."

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