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ELDERS AND DISABLED AT RISK: NCLC STATEMENT REGARDING THE STATE OF TAX LIEN SALES ON FORECLOSURES

(BOSTON) More than one year after the National Consumer Law Center (NCLC) released its report *The Other Foreclosure Crisis: Property Tax Lien Sales*, a new investigative series by the *Washington Post* sends another wake-up call for states, cities, and towns across the nation to reform laws that would help citizens, especially the elderly and people with cognitive disabilities, to remain in their homes while still bringing in needed tax revenue. Local studies have shown that property tax foreclosures are highly concentrated among low-income communities of color.

"Cities and towns need to collect property taxes in a timely manner yet shouldn't they also assist their citizens, especially those most vulnerable, from risk of unneeded foreclosure and also protect the local government's own interest?" asked National Consumer Law Center attorney John Rao and author of NCLC's report. "Most laws still favor the tax lien purchaser and encourage get-rich quick schemes. We hope that this second wake-up call will motivate state and local governments to reform tax lien laws to make homeowners better able to repay property taxes and avoid foreclosure, changes that work in the interest of citizens and government rather than as a profit-making machine for investors. Focusing on repayment of taxes by homeowners rather than property loss could actually save a municipality and taxpayer money by avoiding expenses related to homelessness, neighborhood blight, and potential fires as homeowners are evicted and homes left vacant."

Since the NCLC report was released in July 2012, only a handful of states or municipalities have made positive change to its tax lien laws. Many more states need to take similar action. NCLC's report offered the following key 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 that homeowners need to pay to buy back their property from investors. The interest rate for these redemption amounts should reflect current economic conditions (not 21% or more as in some states) and 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 reform tax sale procedures so that if there is a foreclosure it should not result in a loss of a homeowner's hard-earned equity as a windfall to an investor. If a homeowner fails to redeem the property, state law should require the investor to seek a court order authorizing final sale of the property. The court should ensure that the sale price is fair and that any surplus funds are promptly paid to the homeowner rather than an investor.

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 about 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.

Related Materials

The *Washington Post* investigative series on government tax lien sales:
9/8/13: Left with Nothing (how small unpaid property tax bills lead to foreclosure of homes and profiteers): http://www.washingtonpost.com/sf/investigative/2013/09/08/left-with-nothing/?hpid=z2
9/9/13: Less than 1 in 1,000 (bid rigging and collusion leads to companies getting tax liens on homes for little money):
http://www.washingtonpost.com/sf/investigative/2013/09/09/suspiciousbidding/?utm_campaign=2013-09-09-Stateline-Daily.htm&utm_medium=email&utm_source=Eloqua
9/10/13: She Lost Her Home (Government errors lead to improper sale of tax liens, foreclosures of homes and evictions of vulnerable citizens)
http://www.washingtonpost.com/sf/investigative/2013/09/10/mistakes-put-homes-in-peril/?hpid=z2

NCLC's report *The Other Foreclosure Crisis: Property Tax Lien Sales*, and the full list of key recommendations for state and local government are available at:
http://www.nclc.org/issues/the-other-foreclosure-crisis.html

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