TEXAS PUBLIC POLICY FOUNDATION

BillAnalysis

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Center for Economic Freedom

Reducing Access to Capital for Texas Homeowners

HB 2832

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Key Points

- Do not limit homeowners' access to capital through tax lien lending by imposing new notification requirements.
- Amend §32.06 (a-2) of the Texas Tax Code to eliminate its two-tier treatment of Texans with mortgaged properties.
- 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.

HB 2832, if passed, would limit property owners' access to credit. It requires property owners who are struggling to pay their property taxes to notify their mortgage servicer, then wait ten days before being able to obtain a tax lien loan to pay their taxes. This follows similar legislation (HB 2491) in 2005 that forced homeowners to wait until their taxes were delinquent before they could obtain a tax lien loan. The practical effect of HB 2832 would be that property owners will either be denied access to tax lien lending or incur additional late fees before getting access.

Texas taxpayers have expressed a strong demand for property tax lending services over the past few years, driven in large part by sharp increases in Texas property taxes, which have risen almost three times faster than household income. Tax lien lending 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.

Mortgage lenders and delinquent property tax collectors have opposed tax lien lending. Mortgage lenders do not like the fact that the tax lien lender has a priority lien on the property. But this lien already exists with the government—it is simply transferred to the lender. No harm comes to the lender because of this transfer. Mortgage lenders also claim that property owners seeking tax lien loans are in default on their mortgage agreement because they have not paid their taxes. But it is the 2005 legislation that forces property owners to wait until they are delinquent before they can access a tax lien loan.

Consumers benefit from tax lien lending by being able to work through tough economic times. Governments benefit from tax lien lending because they receive tax payments in a more timely fashion. Even mortgage lenders benefit from tax lien lending because their customers, with an affordable payment plan for their taxes, are better able to make mortgage payments.

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.

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- 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

- Do not limit homeowners access to capital through tax lien lending by imposing new notification requirements.
- 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).

About the Author

Bill Peacock is the vice president of research and director of the Texas Public Policy Foundation's Center for Economic Freedom. He has been with the Foundation since February 2005. Bill has extensive experience in Texas government and policy on a variety of issues including, economic and regulatory policy, natural resources, public finance, and public education. His work has focused on identifying and reducing the harmful effects of regulations on the economy, businesses, and consumers.

Prior to joining the Foundation, Bill served as the Deputy Commissioner for Coastal Resources for Commissioner Jerry Patterson at the Texas General Land Office. Before he worked at the GLO, he was a legislative and media consultant, working with groups like Citizens for a Sound Economy and Putting Children First. Bill also served as the Deputy Assistant Commissioner for Intergovernmental Affairs for Commissioner Rick Perry at the Texas Department of Agriculture, as a legislative aide to Rep. John Culberson in the Texas House of Representatives, and as an analyst for the Texas Senate Committee on Education.

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