

TAXED OUT

PROPERTY TAX FORECLOSURES AND THE FIGHT FOR HOMEOWNER EQUITY

National Consumer Law Center
Fighting Together for Economic Justice

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EXECUTIVE SUMMARY

In 2012, the National Consumer Law Center (NCLC) released *The Other Foreclosure Crisis: Property Tax Lien Sales*, a report about the increase in property tax foreclosures nationwide. At the time, the unprecedented rate of home mortgage foreclosure filings had prompted federal legislation, inspired the creation of foreclosure mitigation programs, and spurred local and state efforts to preserve homeownership. Another type of foreclosure was also threatening households: property tax lien foreclosures.

In the years since the mortgage foreclosure crisis of 2008 ended, homeowners have continued to face the loss of their homes from property tax lien foreclosures. The COVID-19 pandemic resulted in devastating job loss, decreased income, and increasing prices of food, fuel, and home maintenance. At the same time, housing values have grown unevenly, causing property taxes to increase sharply in certain gentrifying areas. As homeowners now navigate a difficult job market, continuing sharp increases in the cost of living, and rising property insurance costs, many struggle to pay their increasing property taxes. Annual property tax delinquencies amount to approximately $22 billion.[1]

Annual property tax delinquencies amount to approximately $22 billion.

This report examines the structure, consequences, and equity implications of property tax foreclosure laws across the United States, with a particular focus on how these laws affect people with fixed or limited incomes. We begin by explaining the various tax foreclosure systems used across states, including tax lien certificate sales, tax deed sales, and strict foreclosures. We describe the steps of the process, including lien imposition, tax sales, redemption periods, and the final transfer of ownership. These mechanisms differ widely in their fairness, transparency, and homeowner protections.

The report highlights how racial and age-based factors in property tax billing and assessments have disproportionately harmed Black and Latino households and older adults. We also discuss the structural barriers to obtaining property tax relief for owners of inherited homes.

We then analyze the constitutional limits on property tax foreclosures as expressed by the U.S. Supreme Court in *Tyler* and *Pung*. Two U.S. Supreme Court decisions in the past three years have rewritten the rules of what is constitutionally permitted in state tax foreclosure processes. Until recently, homeowners in many states were not entitled to any of the proceeds from the tax sale of their home, even proceeds that were in excess of what

was owed in property taxes. In 2023, the Supreme Court's unanimous decision in *Tyler v. Hennepin County*[2] ruled that states cannot retain the surplus equity from tax foreclosure sales beyond what is owed in taxes and fees. This landmark case has accelerated efforts in several states to reevaluate and reform their property tax foreclosure laws. Although the Supreme Court's 2026 decision in *Pung v. Isabella*[3] established limits on the reach of *Tyler*, homeowners in certain states are constitutionally entitled to retain more surplus equity and receive more due process in tax sale foreclosures than they have historically received.

We review early policy changes arising out of these constitutional challenges, such as new laws in Illinois, Maine, Massachusetts, and Oregon, which aim to preserve homeowner equity and provide reasonable pathways to avoid foreclosure.

Finally, the report offers a comprehensive set of policy recommendations to state and local governments. These include:

- Enhancing exemption and deferral programs for low-income and older homeowners;
- Permitting monthly payments on both current and delinquent property taxes;
- Increasing the up-take of property tax exemptions and discounts, including through targeted outreach to the communities most at risk of tax lien foreclosure;
- Ensuring clear and timely notices at all stages of the foreclosure process;
- Capping excessive interest and fees; and
- Requiring municipalities to adopt minimum bid requirements for auctions or sell properties through real estate professionals to maximize value and reduce the loss of homeowner wealth.

The report concludes that while municipalities must retain effective mechanisms to collect property taxes, these mechanisms must be designed and administered in ways that are fair and transparent and that protect homeowners and their equity. Equitable tax foreclosure reform is not only a legal imperative in the wake of *Tyler* and *Pung*, but it is also a necessity for preserving stable communities and supporting generational wealth building for historically marginalized groups.

The consequences of property tax foreclosure are severe: families lose homes, intergenerational wealth is erased, and neighborhoods suffer from either increased blight or accelerated gentrification. This report offers a road map to improve property tax foreclosure policies to minimize these harmful consequences while supporting responsible tax collection.

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I. INTRODUCTION

This report is a follow-up to the 2012 National Consumer Law Center (NCLC) report entitled *The Other Foreclosure Crisis: Property Tax Lien Sales*. In 2012, the United States was facing an unprecedented rate of mortgage foreclosure filings that prompted federal legislation, inspired the creation of foreclosure mitigation programs, and spurred local and state efforts to help homeowners save their homes. At the same time, property tax lien foreclosures were also threatening stable homeownership.

Property taxes are a primary source of funding for local governments, used to support essential services such as education, infrastructure, and public safety. When homeowners fall behind on these taxes, state laws authorize municipalities to impose liens and eventually sell homes through foreclosure—often without judicial oversight or sufficient homeowner protections. The foreclosure process can be triggered by relatively modest tax debts and frequently results in homeowners losing not only their property, but also the accumulated equity, or paying substantial fees and costs to avoid that outcome.

In the years since the mortgage foreclosure crisis of 2008 ended, new challenges have emerged for homeowners, making it more difficult to avoid property tax foreclosures. These include the COVID-19 pandemic and the subsequent surge in the cost of living and housing. Property taxes have increased with the sharp rise of housing values, especially in certain gentrifying areas, often in Black and Latino communities, as have homeowners' insurance premiums and home maintenance costs. With all of these costs surging simultaneously, it has been harder for homeowners—especially those with fixed or limited incomes—to keep up with the property tax burden.

Property taxes have risen by 27% nationally from 2019 to 2024.[4] In certain states the increase has been even more stark – Colorado, Georgia, and Florida have seen their median property taxes rise 52.9%, 51.5%, and 47.5%, respectively, over that same five-year period.[5]

Property taxes have risen by 27% nationally from 2019 to 2024.

Economic uncertainty, inflation, and a growing affordability crisis since the pandemic have led to increased financial instability for many homeowners. In 2025, the national average property tax delinquency rate was 5.1%, after hovering between 4.3 and 4.8% from 2018 to 2024. The six states with the highest property tax delinquency rates are all above 9%. States that continue to struggle with high unemployment rates since the pandemic have seen particularly high increases in property tax delinquencies, including Mississippi (13.8%), New Jersey (9.9%), West Virginia (9.9%), Washington, D.C. (9.5%), New Mexico (9.4%), and Delaware (9.3%).[6]

Between 2020 and 2025, home prices increased by 54.9% nationwide, and more than half of metro areas saw home price appreciation of greater than 54.9%.[7] Increasing home price appreciation across the board does not necessarily lead to higher property taxes, because taxing authorities adjust the millage rate[8] down as the overall tax digest[9] grows, to keep total tax revenues steady. However, when home prices appreciate unevenly, low-income neighborhoods often experience steeper relative value increases than higher-income areas, causing those residents to bear a disproportionate share of the tax burden even as the overall rate drops. These uneven increases in home values can markedly increase the property tax burden of homeowners living in gentrifying areas. One study found that intense gentrification in Philadelphia led to an average increase of over $1,040 in annual property tax bills and drove up the rate of tax delinquency, although localized relief programs in the city mitigated those effects.[10] The study found that the burden fell disproportionately on Black homeowners, who were often already experiencing higher baseline poverty rates and lower median household incomes, making these sudden tax surges far more likely to trigger housing instability and involuntary displacement.[11] Such steep tax hikes are particularly consequential for homeowners who encounter administrative barriers—such as complex applications, lack of outreach, and tangled title issues—that prevent them from successfully securing property tax abatements or relief, thereby escalating their risk of tax foreclosure and displacement.[12]

Nearly one-third of all Black (32%) and Latino (29%) homeowners were cost-burdened, compared to roughly one in five White households (22%).

The current affordability crisis has caused many homeowners to struggle with property tax payments in the context of rising costs across the board. The increased cost of everyday goods and services, including utility costs, relative to income leaves less income to cover housing-related expenses, especially for homeowners on fixed incomes or in low-income brackets. A record high of 75% of homeowners earning less than $30,000 were cost-burdened in 2024, and nearly one-third of all Black (32%) and Latino (29%) homeowners were cost-burdened, compared to roughly one in five White households (22%).[13] In addition, higher labor and material prices have greatly increased the costs of home repairs.[14]

At the same time, skyrocketing costs for homeowners' insurance have also created payment shock for homeowners. Between 2021 and 2024, the steepest increases were in Utah (59%), Illinois (50%), Arizona (48%), and Pennsylvania (44%), though rates have increased nationwide.[15] Increasing construction costs and more frequent severe weather events have changed how insurance companies calculate the price of property insurance premiums.

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Using a large dataset of over 47 million households' property insurance costs based on mortgage escrow payments from 2014-2023, one study found that average insurance premiums increased by 33% from $1,902 in 2020 to $2,530 in 2023, a 13% real increase.[16] The mean homeowner in the sample paid $2,650 per year, and those in the 90th percentile paid nearly $5,000. The study also found that homeowners pay premiums that are on average 21% of their principal and interest mortgage payments, but that share rises to over 40% at the 90th percentile, "suggesting the insurance expenditures are in some cases a large portion of the monthly outlays towards housing services."[17]

One study found that average insurance premiums increased by 33% from $1,902 in 2020 to $2,530 in 2023, a 13% real increase.

Rising insurance premiums combined with increased property taxes have made monthly housing bills unaffordable for many. One study conducted by Neighbors Bank that examined nearly 450 metropolitan markets found that, in locations where tax and insurance payments are the highest, such as in Florida, Illinois, and New York, they consume over one-third of the total monthly mortgage payment.[18] As the president of Neighbors Bank said, "[t]hese nonmortgage costs can quietly add hundreds or even thousands of dollars to monthly housing costs. As a result, many borrowers only grasp their impact once the first few payments come due."[19] Those hit hardest by the increases are first-time home buyers and others who made lower down payments through federal mortgage programs.

The goal of this report is to provide a road map for advocates and policymakers to chart a more equitable course. In Section II, we explore how property tax foreclosures work across different states, including the methods of tax sale, redemption periods, and the role of private investors. In Section III, we devote attention to the populations most affected by these sales—particularly older adults and owners of inherited homes—who are more likely to face financial challenges and systemic inequities in property tax assessments. Section IV includes a discussion of the constitutional issues addressed by the Supreme Court in *Tyler v. Hennepin County* and *Pung v. Isabella County*. We also consider how, in response to these constitutional challenges, many states are revising, or have recently revised, their laws to ensure homeowners can access surplus sale proceeds. While addressing the constitutional issues, advocates are also pushing for additional measures to prevent tax foreclosures altogether.

By analyzing the current state of foreclosure laws and practices, this report aims to inform policymakers, advocates, and stakeholders about the urgent need for reform to protect homeowners from unfair and inequitable results. We provide comprehensive

recommendations for what states can do to ensure that tax collection practices are fair, transparent, and just. These recommendations are focused on: first (in Section V(A)) preventing property foreclosures from happening in the first place, and second (in Section V(B)) ensuring that, when people do lose their home, they can access the maximum amount of their hard-earned home equity.

II. HOW PROPERTY TAX FORECLOSURES WORK

While state laws on unpaid property taxes vary greatly, most states follow these steps to foreclose on homeowners who have not paid their taxes:

1. If the homeowner does not pay unpaid taxes by a certain date, the municipality imposes a tax lien on the property and sends the homeowner notice of tax sale or taking;
2. A tax lien certificate or tax deed is sold at a tax sale, or the property is taken by the municipality;
3. The homeowner is given a certain period of time to redeem and, if they do not, the right of redemption is foreclosed;
4. The property is transferred to the municipality or a purchaser and the homeowner loses all interest in the property;
5. A high-bid auction or sale of the property (rather than the tax lien) will be conducted by the municipality or purchaser, if not done at an earlier stage; and
6. The former homeowner is given any surplus proceeds or equity from the sale, or an opportunity to claim the surplus.

In the first stage, the tax obligation becomes a lien on the property if the taxes are not paid within a certain time period. Often this is the first day of the year following the year in which the tax is assessed.[20] The creation of a tax lien generally occurs automatically by operation of state statute. A tax lien almost always has first priority over all other liens on the property, including mortgages whether created before or after the tax lien.[21]

While this report will focus primarily on tax foreclosures based on ad valorem property tax assessment liens (that is, taxes based on the value of the property), it should be noted that there are other types of governmental liens authorized by state statutes. For example, a municipality may impose a lien for unpaid water and sewer charges or for charges connected with the repair of a building after building code violations are found. The enforcement process of these liens in many states is similar or identical to the enforcement of regular ad valorem property taxes.

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In the next stage (step 2), the tax lien is sold or the property itself might be taken by the taxing authority. There are three different approaches taxing authorities use to sell tax liens during the second "tax sale" stage following nonpayment of taxes by homeowners: 1) auction, 2) negotiated bulk sale, and 3) securitization.[22] The lien auction method was the only method used until the 1990s, and it remains the most common tax sale procedure today. Following efforts to privatize government functions in other areas, some local governments have used bulk sales of tax liens as a means to shift tax collection responsibility to private entities. This same goal has been achieved by a small number of local governments through the pooling and sale of tax liens in a securitization process similar to that used in the mortgage industry for mortgage-backed securities. Although homeowner protections can be provided no matter which method is used, each approach presents different challenges for local governments and homeowners. Our focus in this report is on the auction method.

The critical period for homeowners is the redemption period (step 3) during which they can remove the tax lien and reacquire full ownership rights in the property by paying the taxes owed, plus interest, penalties, attorney fees, and costs. In some states, this period to redeem is provided before the municipality conducts the tax sale (and is therefore more accurately described as a right to "cure"). In most states, however, the redemption period comes after the tax lien sale.

These stages of the tax foreclosure process and their variations in different states are discussed in more detail below. NCLC has compiled detailed summaries of state tax foreclosure laws published in Appendix G of NCLC's *Home Foreclosures* (3d ed. 2026).

A. The Initial Tax Sale: Enforcement of a Tax Lien

Property taxes that remain unpaid for a specified time period become a lien on the property automatically by operation of law. If the taxes are not paid, the taxing authority will generally initiate a tax sale procedure that may result in the lien or the property being sold at an auction. The sale process is usually commenced when the taxing authority prepares a list of delinquent taxes, identifying the taxpayer, property, and amount of taxes due. The list is typically recorded and published in the local newspaper. All states also require some form of notice to the taxpayer before the sale. An order of sale or directive from the local municipality or taxing authority then issues commanding the appropriate government official to conduct the sale.[23]

The initial sale in most jurisdictions takes place without any involvement of a court. Most states follow one of these steps to conduct the initial sale on properties delinquent on taxes:

1. *Tax Deed Sale*

In some states, the property itself, rather than a tax lien, is sold at the tax sale auction before there is a final foreclosure. The proceeds from the sale are used to satisfy the outstanding tax bill and pay any costs of the sale to the municipality. After the auction is held, the municipality gives the purchaser a deed to the property. In states where the homeowner is given a right to redeem the property following the sale, the purchaser may not receive a deed, or the deed may not become effective, until the redemption period expires and there is a foreclosure of the redemption right. Examples of states with tax deed sales include Arizona, Arkansas, California, Delaware, Georgia, Hawaii, and North Carolina.[24]

2. *Tax Lien Certificate Sale*

In other states, something less than full title to the property is initially sold at a tax sale. The purchaser typically receives an assignment of a tax lien on the property and the lien's enforcement rights from the municipality following the sale upon payment of the delinquent taxes and costs, subject to the homeowner's right of redemption. This is often referred to as a tax lien "certificate." A tax lien certificate does not convey the property to the purchaser or divest the homeowner of title to the property. However, if the redemption period expires without payment by the homeowner of the certificate amount plus interest, the purchaser can then start a court action or administrative process to foreclose the redemption right and obtain full title to the property, stripping the homeowner of all interest in the home. The taxing authority receives the amount of the outstanding lien; the right to collect interest and penalties on the outstanding tax obligation transfers to the lien purchaser. The ability to collect interest and penalties, which can be substantial, makes these sales attractive to purchasers even if the homeowner eventually redeems the property. Examples of states with a tax lien certificate method of tax foreclosure include Colorado, Florida, Illinois, Indiana, Iowa, Maryland, New Jersey, and the District of Columbia.[25]

3. *Taking Without Sale - Strict Foreclosure*

Although rare, in some states, there is no sale at all, or it may not occur until after the property is transferred. The municipality simply executes on its tax lien by taking the property. This is similar to "strict foreclosure," a process for mortgage foreclosures that is no longer permitted in most states. After the homeowner is given notice of the tax lien and a period to pay the outstanding taxes, the local municipality takes the property free and clear of all liens if the owner does not pay the amount owed. Once the property is taken, state law generally has a procedure for final disposition of the property, usually permitting the municipality to keep the property for public use or sell it at an auction. Examples of states with strict foreclosure include Alaska, Michigan, Minnesota, New Hampshire, and New York (excluding New York City).

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B. Bidding at Tax Sale Auctions

Unlike traditional auction sales and mortgage foreclosure sales, potential buyers at a tax deed or certificate lien sale in many states do not bid based on the value of the property because the property is sold for the amount of unpaid taxes, interest, fees, penalties, and related costs. In these states that do not permit the property to be sold for more than the unpaid tax debt, there is generally no competitive, value-based bidding such as might exist at other auction sales. However, when there is more than one bidder on the property, states generally have devised some proxy for competitive bidding through three primary methods: the percentage ownership method, the interest rate method, and the overbid method. These proxy bidding procedures are not intended to recover the highest value for the property.

In the **percentage ownership method**, the "highest" bidder is the purchaser who is willing to accept the smallest proportional share or fraction of the total tax sale interest in the property that is sold. For example, in a tax deed sale in which there is bidding, the sale may result in the purchaser acquiring a 10 percent interest in the property. If the property is not redeemed by the homeowner and the tax deed is foreclosed, the homeowner would still retain a 90% interest in the property. Because fractional interests are not as marketable as full title in property, this form of bidding is generally less desirable to potential purchasers. However, for many tax sale purchasers who are interested in gaining a large return on investment in the form of interest and penalty payments upon redemption, and have no desire to obtain a full ownership interest in the property, this bidding procedure is not a deterrent. Other purchasers may view this type of sale as an opportunity to get full ownership of the property by convincing an owner, who may be cash-strapped and unfamiliar with the legal process, to sell their remaining interest in the property for a nominal sum.

The **interest rate method** assigns the tax lien to the bidder who accepts the lowest rate of interest due upon redemption in addition to the unpaid taxes. For example, state law may set the maximum interest to be paid by the homeowner upon redemption at 18 percent, but the winning bid may be awarded to the potential purchaser who is willing to accept redemption interest at a lower rate, such as 14 percent. This type of bidding can benefit the homeowner by reducing the costs of redemption. However, there have been reports of collusive practices between potential purchasers that prevent any effective bid down of interest rates.[26]

The last method, the **overbid method**, assigns the lien certificate or deed to the bidder who pays the highest additional amount or premium after paying the unpaid taxes on the property. For example, if the minimum bid at the auction sale is $2,500 (which represents

the delinquent taxes and costs) for a home valued at $100,000, and the highest bid at the sale is $10,000, the purchaser will obtain the home itself or a lien certificate for the property in return for payment of $10,000 to the taxing authority. The overbid amount above the tax obligation and costs of sale (which would be $7,500 in this example) is usually paid to the former owner if the property is not redeemed, or refunded to the purchaser if the property is redeemed.[27] In some states, the amount that is paid as the overbid or premium by the purchaser does not bear interest that is paid to the purchaser, and the overbid is typically not required to be paid by the owner in order to redeem the property.[28] As with other types of tax lien bidding, collusive bid rigging by purchasers can undermine the process and assure that any overbidding will be limited.[29]

Purchasers at tax sale auctions are particularly interested in the profit they can make from the interest and penalty premium they receive on the outstanding amounts that must be paid if and when the homeowner redeems, which in many states greatly exceed a typical rate of return on investment. The interest and penalties homeowners must pay to redeem their property after a tax sale are set by laws that were enacted decades ago in most states and are not adjusted to reflect current economic conditions and market rates. For example, the redemption premium in Texas is 25% of the total taxes, penalties, interest, and costs if the property is redeemed in the first year of the redemption period, and 50% if redeemed in the second year.[30] Iowa permits tax sale purchasers to recover 24% (2% per month) on the amount they paid.[31] In Mississippi, purchasers can recover interest at 18% (1.5% per month) on the past due taxes and costs due (not amounts that the purchaser may have bid above that original amount owed) plus a penalty of 5% on the original tax debt owed.[32] Purchasers in Georgia can receive a premium of 20% for the first year or fraction of a year that has elapsed, and 10% for each year or fraction of a year thereafter.[33] Connecticut,[34] Ohio,[35] Oklahoma,[36] and Wyoming[37] permit purchasers to receive interest and penalties set at 18% per annum. The director of a tax sale investor group noted that these interest rates "beat the heck out of any certificate of deposits."[38]

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C. Right of Redemption

Full rights to the property sold at a tax sale generally do not pass immediately to the purchaser. Regardless of the state's property tax foreclosure process, before the final stages of a tax foreclosure, homeowners are typically given several months or years to redeem the property and avoid a final foreclosure by paying the municipality or purchaser the taxes owed plus interest and penalties. However, the lack of adequate notice about redemption rights, the unavailability of installment payment plans, and the onerous terms of redemption can make the right to redeem illusory. Excessive

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interest charges combined with penalties, legal fees, and costs can turn an original tax debt of $1,000 into a $5,000 or $10,000 redemption obligation that is extremely difficult for many low-income homeowners to pay in a lump sum within the prescribed time period. These excessive penalties can make it impossible for some homeowners to save their homes from foreclosure. In the case of Geraldine Tyler from the *Tyler v. Hennepin County* case, the county sold her home after she entered into an assisted living facility because of a $2,300 property tax bill that ballooned to $15,000 after interest, penalties and legal fees were added to the redemption costs.

D. Failure to Redeem

If the homeowner does not pay the inflated redemption amounts, the municipality or tax purchaser is given title to the home and can then sell it. In some states that have not yet changed their laws, the municipality or purchaser keeps all of the proceeds of the sale, even when the tax amount owed is a fraction of the value of the home.

In some states the deed is issued to the purchaser automatically upon expiration of the redemption period. Some states require a tax sale purchaser to apply for the deed, which may involve simply making a request to the local taxing agency through an administrative process. In other states a tax sale purchaser must bring a court action to foreclose the right of redemption or an action to quiet title.[39]

Judicial supervision over the tax sale process varies considerably from state to state. In approximately half of the states, particularly those in which the redemption right terminates automatically, there is no court oversight of the tax sale process. Similar to non-judicial mortgage foreclosure proceedings where a lender can reclaim and sell a home after the borrower defaults without going through the court system, there is no judge reviewing the process to ensure that the law has been followed.

III. TAX FORECLOSURES IMPACT CERTAIN COMMUNITIES AT GREATER RATES

A. Communities of Color

The impacts of property tax foreclosure are devastating for any homeowner, and fall particularly hard on Black and Latino communities, older adults, and owners of inherited homes. Because Black and Latino households hold a disproportionate share of home equity in heirs property and low-income neighborhoods, uncompensated tax foreclosures strip critical equity and interrupt the transfer of generational wealth, compounding longstanding racial disparities in housing security.[40]

Property tax foreclosures are often concentrated in low-income communities with large populations of Black and Latino residents.[41] Residents of these communities are more likely to have suffered from economic shocks that made it harder to pay property taxes, but did not access or qualify for property tax relief.[42] High rates of tax delinquency and foreclosure have been linked to vacant and abandoned properties, disinvestment, and lower property values in affected communities, and adverse effects on the health of residents.[43]

Black and Latino property owners pay higher taxes than similarly situated White property owners due to inequities in the tax assessment and appeals process.

Black and Latino property owners pay higher taxes than similarly situated White property owners due to inequities in the tax assessment and appeals process. Assessed values are significantly higher for properties located in neighborhoods with lower valued homes and those with a high proportion of households of color.[44] One study found that for Black and Latino residents in aggregate, the assessment gap was 9.8%.[45] Nationally, Black residents had a nearly 13% higher property tax burden than White households in the same jurisdiction.[46] The higher effective tax rate for homeowners of color translated into an extra $300- $390 more per year in taxes. Similar patterns of over assessment have been noted in news articles or research on Chicago, New Orleans, Detroit, New York and other cities.[47]

These disparities reflect a history of intentionally discriminatory tax assessment practices against Black property owners in the Jim Crow Era and beyond. Black property owners, especially those who played key roles in resisting discrimination , were often taxed at higher effective rates than similarly situated White property owners while simultaneously being denied access to the resources and institutions supported by their tax dollars.[48] Discriminatory assessments and other practices forced Black property owners into delinquency and foreclosure and contributed to the loss of land and homes, especially in the South.[49]

The unequal property tax burden means Black and Latino households cannot build housing wealth at the same rate as White households and face a greater risk of tax foreclosure. Property taxes also add significantly to the cost of owning a home. Nearly a quarter of the disparity in homeownership costs for Black households as compared to White households is due to local property tax assessments.[50] For families living on the financial edge, higher property taxes combined with other property-related fees and costs raise the risk of tax foreclosure, displacement, and loss of generational wealth.

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This disparity is directly rooted in historical and ongoing discrimination in housing and municipal investment.[51] Decades of residential segregation concentrated Black and Latino families into disinvested neighborhoods where structural overcrowding accelerated the wear on existing housing stock. Compounding this neglect, local governments routinely denied these communities access to basic public services, from reliable sanitation and code enforcement to well-resourced fire protection. As basic services lag, property values decrease. Because local taxing authorities must still raise revenue to fund even substandard municipal services, lower property values force effective tax rates higher. The resulting dynamic is deeply regressive: marginalized residents pay higher effective tax rates on depreciating assets to finance inferior public services, accelerating a cycle of disinvestment and tax delinquency.

Tax foreclosures directly feed into this cycle of over-assessment and dispossession in these communities. The purchase of tax liens and tax foreclosed properties by institutional investors in gentrifying communities, for example, transforms a portion of the housing stock into high-end properties, forcing out low-income and older residents from once affordable neighborhoods.[52] Homeowners who remain may see their tax bills increase significantly with the rise in property values. At the other end of the spectrum, in communities that are not increasing in value, large-scale property tax foreclosures further depress property values and increase blight.

B. Older Adults

Older low-income homeowners, particularly those who are Black or Latino or have recently immigrated to the U.S., face a myriad of financial pressures that jeopardize their ability to preserve the equity they may have built up in their homes. Many have difficulty affording the costs of maintaining their homes on low fixed-incomes, including paying for property taxes and municipal services. As a result, these older homeowners are disproportionately subject to tax lien foreclosure, which can result in a devastating loss of homes and of the accumulated equity in those homes.[53] Many older adults rely on their homes for a retirement safety net and financial security, but this is all taken away in a tax foreclosure sale. Due to limited income, savings, and earning capacity, older adults struggle to respond to such a significant financial setback.

Many older adults have paid off their mortgage loan, which included a monthly escrow for property taxes and insurance, and now must pay large lump sum amounts annually or twice a year for these carrying costs. This creates a structural barrier to keeping up with their property tax payments. Coming up with a large lump sum payment on a fixed income can be much more challenging than a regular, lower monthly payment.

This problem has been well documented among older adults who have taken out a reverse mortgage. Although reverse mortgages do not require a monthly loan payment, borrowers are required to pay their property taxes directly. Many reverse mortgage borrowers are refinancing from a forward mortgage that had an escrow account, and the lack of escrow in their new loan (coupled with confusion around what they believed to be a "payment-free" loan) results in high rates of default on property charges. When borrowers fail to pay the taxes directly, servicers advance the funds, and then the reverse mortgage goes into foreclosure.[54]

In addition to lump-sum billing, a number of other factors disproportionately impact older adults' ability to pay their property taxes. These include:

- Living on a fixed income that doesn't keep up with the increase in expenses and property taxes over the years;
- The unpredictability of the increase in property taxes over the years, particularly for older adults who have a long tenure in the home, and particularly for those living in gentrifying areas;
- The death of a spouse or other contributing household member, leading to loss of income;
- The need for home modifications or assistance with activities of daily living, including difficulty finding in-home care or the need to live in assisted living or a nursing home;
- Cognitive impairment that can make keeping up with payments challenging;
- Communications about property tax bills that are confusing or worded in highly technical language rather than at a basic reading level;
- Insufficient property tax relief: While all states provide some type of tax relief for certain homeowners, many states do not provide sufficient exemptions to make the payment affordable for low-income homeowners, nor do they have adequate repayment plans for homeowners who fall behind. Property tax relief and exemptions may also be hard to access if there is inadequate notice or explanation, a confusing or complicated process to apply, having to apply online, or having to apply every year.
- Disproportionately high interest, fees, and costs on arrearage: When a homeowner falls behind, usually a substantial amount of interest, fees, and costs accrue. This causes a snowball effect, making it difficult to catch up. For example, Mrs. Tyler, in the *Tyler v. Hennepin County* case discussed below, only owed about $2,000 in actual taxes, but another $13,000 accumulated in interest and fees over a five-year period.

Property tax liens and property tax foreclosures deprive older adults of the ability to age in place, benefit from the wealth built through homeownership, and pass that wealth on to their heirs. States and municipalities must modernize property tax administration by implementing

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automatic tax relief programs, allowing current and delinquent tax bills to be paid in monthly installments, and curbing excessive interest and fees. Protecting home equity for older adults is essential not only to preserving their financial security and ability to age in place, but also to maintaining generational wealth for their families and communities.

Property tax liens and property tax foreclosures deprive older adults of the ability to age in place, benefit from the wealth built through homeownership, and pass that wealth on to their heirs.

C. Heirs Property Owners

The impact of property tax liens is especially harsh for heirs who have inherited family homes but have not yet gone through the formal probate process. Owners of "heirs property" face a number of risks and challenges because of the fractured and clouded nature of their ownership.[55]

Homeownership is an important way to build wealth, particularly across multiple generations. In areas with increasing property values, the home can capture years of appreciated value. For many households, a majority of the family's wealth is tied up in the home. Until the title is resolved, access to that wealth is restricted and at risk. Heirs cannot take full advantage of the home's value or protect that value for future generations.

Heirs may live in the home for years after the death of the original owner without going through the probate process to establish record ownership. Filing probate can be expensive, complicated, and time-consuming. For example, in Philadelphia, the cost of remedying a tangled title is about $9,200 for a home valued at the median of $88,800.[56] After probate is complete, a new deed is drafted and must be recorded on the local registry of deeds. The entire process can take years to complete. Because heirs property is disproportionately concentrated in Black and Latino communities due to historic disparities in access to legal estate planning, this lack of legal title creates a distinct barrier to housing stability.[57] Many times, heirs learn of the need to file probate when they are at their most desperate financially and cannot access various forms of assistance due to the lack of record ownership. Heirs who are not on the deed face challenges in accessing property tax and other relief programs, and at the same time, they cannot borrow against the home without a clear title. They also may not receive critical notices from the local government about the tax foreclosure process. In some urban areas, heirs' properties account for over half of tax-foreclosed single-family residential homes, systematically eroding generational wealth in communities of color.[58] With heirs' properties collectively worth billions of dollars,[59] the loss of this home equity to tax foreclosure deals an enormous blow to intergenerational wealth.

IV. *TYLER V. HENNEPIN COUNTY* AND BEYOND: A SEA CHANGE IN PROPERTY TAX FORECLOSURE LAWS

In May 2023, the U.S. Supreme Court decided the case of *Tyler v. Hennepin County*.[60] and found that state laws that do not allow a homeowner to access the surplus equity in their property (the property value left after the taxes and costs are paid) following a tax foreclosure are unconstitutional.

In the *Tyler v. Hennepin County* case, 94 year-old Geraldine Tyler moved from her condominium in Minneapolis to a senior community in 2010. Mrs. Tyler kept her condo but did not pay the property taxes on it. By 2015, she had approximately $2,000 due in unpaid taxes and $13,000 in accrued interest and penalties. Per Minnesota's property tax foreclosure laws, the county seized the condo, sold it for $40,000, and kept roughly $25,000 in surplus equity. Minnesota law allowed the local government to keep all the proceeds, even those that exceeded the amount of taxes owed, fees, and costs. As a result, Mrs. Tyler did not receive any money from the sale, nor was there a mechanism for her to seek her lost equity, other than filing a lawsuit. Under the Supreme Court's decision, this constituted an unconstitutional taking of her equity. This means that municipal and county governments can only recover the taxes owed, and not seize the remaining equity in a tax-foreclosed property. The Court shone a light on the extreme loss of equity that can happen when a homeowner owes only a small fraction of the value of the home in taxes, but it did not discuss measures to prevent a tax foreclosure or specify how former owners are to be justly compensated for their loss.

Since the *Tyler* decision, many states have been reevaluating their property tax foreclosure laws and looking to pass language that would allow a homeowner to receive the surplus equity after a tax foreclosure. Included in Appendix A is a chart entitled "Post-*Tyler* State Tax Foreclosure Analysis" that reviews states that had laws in place that did not allow a former homeowner access to the surplus proceeds after a tax sale and what they have done since *Tyler* to change these laws.[61]

The Supreme Court in *Tyler* did not address how a homeowner should be compensated when a local government takes a home at tax foreclosure and keeps the homeowner's equity after the tax debt is paid. This question was addressed just over three years after *Tyler*, in *Pung v. Isabella County*.[62] The *Pung* Court was asked to decide whether the measure of "just compensation" under the Takings Clause after a tax taking should be based on the price obtained for the property at a tax sale or its hypothetical fair market value.

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As the Pungs' family home passed from Timothy Pung to his spouse and children, the heirs who occupied the property were entitled to the Michigan primary residence tax exemption. However, the local tax assessor retroactively denied the exemption for a three-year period, based on the mistaken belief that the heirs needed to file an updated exemption application and residency affidavit. The Pungs successfully challenged the assessor's actions in court, but the tax assessor took the position that the judgment did not vacate the tax bill for one of the years, leaving a $2,241 amount owing. The county quickly proceeded with a tax foreclosure, with evidence suggesting that the county's actions were retaliatory. While the Pungs initially got an order vacating the foreclosure judgment, the county appealed and was given approval to sell the home, which was assessed at $194,400. The Pung home sold at auction for $76,008. The auction purchaser later sold the home for $195,000.

The Pungs sued in federal court to recover their lost equity. The lower courts held there was a Takings Clause violation based on *Tyler*, but awarded damages only for the difference between the auction sale price of $76,008 and the tax debt owed of $2,241. The Pungs were not compensated for the fact that the home valued at $195,000 only sold for $76,008. The Pungs sought review by the Supreme Court, arguing that the compensation awarded was inadequate.

The Supreme Court ruled against the Pungs and held that the surplus proceeds from a tax sale can be just compensation that satisfies the Fifth Amendment if there is a fairly conducted sale, consistent with our nation's history of tax sales. While the Pungs raised arguments about the unfairness of the Michigan tax sale process, the Court's opinion did not give guidance on what constitutes a fairly conducted sale. It left those issues for lower courts to decide in future litigation. While the *Pung* opinion places some limits on the precedent set in *Tyler*, it also establishes that some states may still be depriving homeowners of their surplus equity through tax sale processes that are not fairly conducted.

These legal challenges highlight the crucial interests at stake and the need to make sure state property tax foreclosure processes are constitutional. But constitutionality should not be deemed a sufficient goal. To achieve fairness, equity, and good housing policy, an interlocking set of protections must be embedded into our tax foreclosure laws. In the section that follows, we discuss preventive measures followed by key protections in the tax foreclosure process.

To achieve fairness, equity, and good housing policy, an interlocking set of protections must be embedded into our tax foreclosure laws.

V. MAKING THE TAX FORECLOSURE PROCESS MORE FAIR: PROBLEMS AND TARGETED SOLUTIONS

The property tax foreclosure process plays a critical role in funding local governments, but without proper safeguards, it can lead to unjust outcomes. In many states, outdated or overly harsh foreclosure laws have resulted in people losing their homes—and in some cases, all of their equity—over relatively small tax debts.[63] To address these issues and promote a more balanced system, state-level policy reforms are needed to ensure fairness, transparency, and protection for property owners.

Although we have not attempted a comparative evaluation of each state law in this report, the following section discusses certain problem areas that make it more likely that a homeowner will lose a home to a tax sale. We also provide recommendations to state policy makers on how these problems may be addressed. The recommended policies aim to improve the foreclosure process while still preserving local governments' ability to collect essential revenue.

In the wake of the *Tyler* and *Pung* decisions, states have an opportunity to engage in holistic relief for homeowners by ensuring relief options are available to prevent property tax foreclosures and ensure homeowners receive the maximum amount of equity possible for their homes if they do face a tax foreclosure. Local communities also benefit from changes that help homeowners avoid tax foreclosures, by reducing the amount of vacant and abandoned properties.

A. Problems and Solutions Related to Prevention of Tax Foreclosures

1. Property taxes are too expensive overall, with insufficient discounts for owner-occupants as well as special populations.

All states have programs that reduce or forgive property taxes for certain homeowners, such as older adults, people with disabilities, low-income homeowners, or owner-occupants, but in some states, property tax relief programs are very limited. Homeowners who need relief the most, such as older adults, people with disabilities, and low-income households, typically pay the greatest share of their income in property taxes.[64]

▶ **RECOMMENDATION: Expand tax exemptions and discounts for all owner-occupants, with enhanced, targeted relief for older adults, veterans, individuals with disabilities, and low-income residents**

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To address the most fundamental root causes of tax foreclosure for those most impacted, states should provide more generous exemptions and discounts. These should be directed at owner-occupants, people with disabilities, and older and low-income homeowners. Such policies include:

- **Circuit Breakers** limit the amount of property tax a low-income homeowner pays.[65] This could be applied to both homeowners and renters. A **Property Tax Circuit Breaker** is a tax refund given to low income homeowners whose property tax bill is a large percentage of their yearly income. Circuit breaker programs prevent low income households from being overloaded with tax burden. Like all tax refunds, relief is given after the property taxes are paid. This allows the local government to collect the revenue up front, and the state government passes down relief for those property taxes that are paid.
  - **Threshold Circuit Breakers** are used after property taxes reach a certain threshold. The homeowner can then access relief equal to the amount of property taxes paid above the threshold. This type of circuit breaker is the most popular in states.
  - **Sliding Scale Circuit Breakers** use income brackets to reduce property taxes regardless of the amount of property tax. The tax relief provided is the same within each tax bracket, with greater relief provided to the lowest income bracket.
- **Targeted Exemptions** establish generous exemptions for certain categories of homeowners who may need the assistance most, such as people with disabilities, people with low incomes, older adults, and veterans, that provide greater relief for those with lower incomes. In 17 states for example, disabled veterans may receive a full property tax exemption if they are 100% disabled and meet certain additional requirements.[66] In Massachusetts, seniors age 65 and older can file for a Senior Circuit Breaker tax credit of over $2,500 if they meet certain income and residency requirements.[67]
- **Payment Deferrals** of taxes on a primary residence owned by someone below a certain income level, regardless of age or disability status allow delinquent taxes to be paid at a later date. A homeowner who has experienced a temporary hardship may be back on their feet, allowing them to pay ongoing taxes but not a large sum of accumulated past due taxes, interest, and fees. Many states, such as California,[68] Texas,[69] and Maine,[70] allow eligible homeowners to postpone paying their property taxes until a triggering event—such as selling the home, transferring title, moving out, or upon the homeowner's death. Most states, however, only apply this relief to seniors or disabled individuals.

2. *Many homeowners struggle to make large lump-sum payments for current or delinquent property taxes.*

Property taxes in most states are paid annually or bi-annually. Local practice or state law may prevent the tax collector from accepting monthly payments on tax bills. Many homeowners who do not have a mortgage with an escrow account have difficulty making large lump-sum tax payments once a year. This problem has become more acute with the significant increase in property taxes nationwide.

For homeowners who fall behind on property taxes, the situation becomes much worse. Excessive interest charges combined with penalties, legal fees, and costs can make it extremely difficult for low-income homeowners to pay in a lump sum either the pre-sale tax debt or the redemption amount within the prescribed time period.

▶ RECOMMENDATIONS:

- **Require municipalities to allow tax bills to be paid in monthly installments.**

  In the past, the cost of administering payment processing was seen as the reason municipalities would not accept installment payments. A growing number of municipalities now are successfully offering online installment payments, and the remaining local governments should follow suit—especially given how widely electronic funds transfers (EFTs) and third-party processors are now utilized elsewhere in government.

  For example, the city of Milwaukee permits homeowners to pay property taxes in monthly installments using an EFT payment agreement.[71] In Maine, many towns offer "Tax Clubs" that divide annual bills into eight to twelve interest-free monthly payments processed through local online payment portals.[72] In Cook County, Illinois, the Treasurer's Office has developed a Payment Plan Calculator that homeowners can use to make monthly payments on their tax delinquency.[73] All owners with a delinquent tax balance of $100 or more can use this tool to make partial payments monthly or twice monthly, making it easier to manage their budget and avoid the annual tax sale. As an optional feature, owners can sign up for email or text message reminders to make their partial payments.

- **Require municipalities to enter into payment plans to cure tax defaults and pay redemption amounts.**

  In addition to making installment payment plans available to pay the amounts needed to cure tax defaults and redeem the property, state law should encourage successful

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outcomes with these plans by requiring that a certain amount of interest and penalties be waived or capped if the homeowner completes the plan. This relief could be available only to homeowners who meet certain income guidelines. For example, Massachusetts law permits municipalities to offer repayment plans for up to 10 years with a downpayment of just 10% of the tax bill.[74] Municipalities can also waive up to 100% of the accrued interest. Likewise, Michigan law gives local tax collectors authority to enter into installment payment plans with "financially distressed" homeowners, and if completed successfully, any additional interest on the delinquent taxes must be waived.[75] These laws could be improved by making the provisions mandatory and eliminating the discretion of the municipality.

- **Lower the interest rates on the past due taxes.**

  State laws should be reformed to set the maximum interest or penalty rate on redemption amounts at a fair rate that reflects current economic conditions. The law should provide for automatic annual adjustment of the interest rate based on a readily available benchmark, such as the prime rate published by the Federal Reserve Board. Many states limit the interest that can accrue on court judgments to protect individuals from unmanageable debt, yet past-due property taxes are often subjected to exorbitant rates. Aligning tax interest caps with judgment rates is a logical and necessary reform. The interest rate should seek to discourage speculation and promote redemption.

- **Set 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.

3. Low uptake: Many homeowners do not obtain homestead property tax relief for which they are eligible.

Homestead property tax exemptions can reduce the taxable value of a homeowner's primary residence, resulting in lower taxes. For example, if a home is assessed at $400,000 and the homeowner qualifies for a $50,000 homestead property exemption,[76] the property taxes will be calculated on a value of $350,000 instead of $400,000. The specifics of these exemptions, including eligibility and the amount of the exemption, vary significantly by state and even by county.

Because the homestead property tax exemption is not automatically applied to the primary residence, not all of the people who are eligible for the relief obtain it. In fact, the rate at

which people utilize the homestead exemption, or the "take-up rate," is not consistent across populations. A 2021 study on homestead exemption take-up rates in Florida found that residents of majority Black, Latino, and low-income neighborhoods are less likely to have access to the homestead exemption.[77] The study also found that areas that allow for online application forms have higher take-up rates than areas where homeowners need to apply in person.

Far too many homeowners who are eligible for owner-occupant property tax relief are not getting it. The result is that the property tax burden falls disproportionately on households with the least access to information and the greatest barriers to participating in bureaucratic processes.

▶ **RECOMMENDATION: Local taxing authorities should review their data to identify households that likely should be getting the basic homestead property tax exemption or special homestead exemptions, and do outreach.**

Taxing authorities have the data at their fingertips to assess whether owner-occupant tax relief is getting to those who are eligible for it. They can analyze their tax rolls as follows:

- Among residential properties, compare the property address to the tax billing address. When the tax bill is going to the property address, there is a strong presumption this is an owner-occupied property (except for condos and multi-unit buildings).
- Determine what percentage of these presumptively owner-occupied properties currently have owner-occupant tax relief.
- Determine whether certain zip codes or census blocks have particularly low uptake.

After conducting this analysis, local governments can test various strategies to increase uptake of the basic owner-occupant tax relief and any special exemptions for older adults, veterans, or people with disabilities. For example, is it more effective to send an insert related to the property tax exemption simultaneously with the annual tax bill, on the theory that homeowners may be particularly motivated at that moment to take any steps necessary to reduce the current bill or future bills. Any insert should be in English and the four most common languages spoken in the state.

▶ **RECOMMENDATION: Local governments should make homestead property tax exemptions or other owner-occupant tax relief as accessible as possible, and to the extent feasible, make relief automatic.**

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There are several options states and municipalities can adopt to ensure that all homeowners obtain the tax relief they are entitled to under the law:

- Incorporate both the **homestead property tax exemption** application (which lowers annual property taxes by reducing the taxable assessed value) and the **debtor-creditor homestead exemption** application (which protects primary home equity from judgment creditors) into the standard home closing process to ensure new owners apply automatically at the closing table, rather than having to apply separately after the purchase of their new home;
- **Provide online application portals as well as mail and in-person application options**, and make forms easy to access and understand, including translating into the four most common languages spoken in the state;
- **Collaborate with housing counseling organizations** for education, outreach and assistance to homeowners. These organizations are trusted advisors, have diverse clientele, and are underutilized for this issue
- **Keep the application window open year-round** to give residents every opportunity to apply, and notify them that they can apply in the same mailing that contains their tax assessment notice and their tax bill;
- **Minimize or eliminate** any options that require an annual renewal process;
- **Allow retroactive application of the exemption** for those who would have otherwise been eligible for relief but have not applied, going back at least three years. For example, in Cook County, Illinois, if a homeowner does not submit a timely exemption application, the homeowner is given an opportunity to redeem missing exemptions for the current tax year (and three years earlier) by using the Certificate of Error process.[78] Michigan and Texas also allow for retroactive application of a homestead property tax exemption under certain circumstances.

4. Homeowners receive inadequate notice at every stage of the process.

Many homeowners are not aware of programs that could make their property taxes more affordable. Some states have complicated procedures for applying for such relief and may require filing an application each year. If a homeowner does not know about these options or how they can apply, they are missing out on thousands of dollars per year of tax relief.

▶ RECOMMENDATION: State law should require comprehensive and clear notices of property tax relief. Specifically, states and local governments should:

- **Require comprehensive notice**, in English and the four most common languages spoken in the state, of all property tax relief programs at every stage of the tax assessment, collection, and sale process.
- **Require notice of relief programs** through property tax statements, online resources, and other mailings.
- **Create consumer materials to be distributed** to local councils on aging, community action agencies, legal services, housing counseling agencies and other community groups that provide simple descriptions of relief programs and how to access them.
- For income-dependent programs, local governments can **collaborate with other state agencies** to verify income through income tax filings or receipt of Social Security or public assistance.
- Reduce burdensome barriers by **providing easy access to programs with a simple form available online, by mail, or in-person**. Applications should not be required annually, and any renewal or recertification process should be as streamlined and simple as possible to minimize fall off. Philadelphia offers a tax freeze to prevent the annual increase of property taxes for homeowners who meet certain age and income requirements. Homeowners only apply one time for the benefit and only must reapply if their deed changes. In New York City, the Senior Citizen Homeowners' Exemption (SCHE) is available for older adults within a certain income bracket. This application must be renewed every two years, but it may be filled out online and the Department of Finance will send a notice when it is time to renew.

Philadelphia offers a tax freeze to prevent the annual increase of property taxes for homeowners who meet certain age and income requirements. Homeowners only apply one time for the benefit and only must reapply if their deed changes. In New York City, the Senior Citizen Homeowners' Exemption (SCHE) is available for older adults within a certain income bracket. This application must be renewed every two years, but it may be filled out online and the Department of Finance will send a notice when it is time to renew.

▶ **RECOMMENDATION: State law should require detailed, clear, early notice of the tax sale process and options to avoid tax foreclosure.**

The tax foreclosure process is highly complex and confusing for the average homeowner. As a result, familiarity with local procedures is almost entirely confined to professional tax-sale

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purchasers and real estate investors. Different legal rights and responsibilities for homeowners apply at the various stages: pre-sale stage, tax sale and redemption stage, and final foreclosure stage. Homeowners often do not know at which point in the process they will lose their legal interest in the property or what steps they can take to preserve or regain ownership. The language used in notices is often required by statutes that were enacted decades ago, and so arcane as to make the notices virtually incomprehensible. For example, Delaware still requires that homeowners get notices using Latin phrases such as "*praecipe for monition*," that tell them the tax collector will apply for a "writ of *venditioni exponas*" from the "office of the prothonotary" if they do not pay their taxes.[79]

Delaware still requires that homeowners get notices using Latin phrases such as "*praecipe for monition*," that tell them the tax collector will apply for a "writ of *venditioni exponas*" from the "office of the prothonotary" if they do not pay their taxes.

While most states try to ensure that pre-sale notices satisfy minimum due process requirements by informing the homeowner of the time and place of an initial tax sale, many states have failed to address the need for information about the post-sale foreclosure process that can lead to a final loss of the property. Pre-sale notices often do not describe the post-sale procedure, and homeowners are not told how much time they have to redeem, how much it will cost, and what will happen if they do not redeem. In some states, the first official notice of the redemption right comes only at the very end of the process when a formal administrative or court action is filed to foreclose the right of redemption. By this time, accumulating interest and redemption costs may make redemption impossible.

In addition to requiring comprehensive notice, in English and the four most common languages spoken in the state or county, the following practices should be incorporated at the earliest stages of tax delinquency:

- **Notice should be given at every stage** in the tax foreclosure process, describing in plain language the process used by the municipality for conducting any initial tax sale, for the homeowner to redeem the property, and by the municipality or purchaser to take the property at the final stage.
- **Notices should describe the consequences of each stage** of the tax sale process and the steps the homeowner can take to avoid a final foreclosure.

New York recently enacted a law requiring that a "homeowner warning notice" be sent at the beginning of the process in the following form:

YOU MAY BE AT RISK OF FORECLOSURE ON A PROPERTY TAX LIEN. PLEASE READ THE FOLLOWING NOTICE CAREFULLY.

As of (enter date), your property taxes have not been paid for the following years and amounts each year: (enter years and amounts)

The total needed to pay off all tax arrears as of the date of this notice is: (enter amount due)

If you wish, you may also contact our office directly to discuss possible payment plans and other options.

While we cannot assure that a mutually agreeable resolution is possible, we encourage you to take immediate steps to try to achieve a resolution….

The longer you wait, the fewer options you may have.

If you have not taken any actions to resolve this matter within ninety days from the date this notice was mailed, we may commence legal action or other remedies against you to foreclose the tax lien, which may eventually result in eviction from your home.

Under New York State law, you may be barred from entering into a payment plan or from being permitted to make any payment to save your home after the "Redemption Date". In your case, the "Redemption Date" is tentatively set as (enter date).

IMPORTANT: You have the right to remain in your home until you receive a court order telling you to leave the property; however, you may lose the right to continue ownership of your home after the Redemption Date. If a foreclosure action is filed against you in court, you still have the right to remain in the home until a court orders you to leave.

This notice is not an eviction notice, and a foreclosure action has not yet been commenced against you.[80]

- Notices about the right of redemption should state explicitly how much the homeowner will need to pay to redeem, including interest and costs, with instructions on where and to whom the payment must be made.

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- If the municipality offers an installment payment option for paying the redemption amount, that should be described in the notice. For example, in Ohio, the notice sent to the owner after the sale of a tax lien certificate must describe the redemption options, including the right to enter into a redemption payment plan with the county treasurer or certificate purchaser.[81]
- In states where the redemption period extends for several years, multiple reminder notices should be sent that inform the homeowner about redemption rights and the final deadline for making the redemption payment.

Massachusetts recently amended its tax foreclosure law to require that homeowners be sent after the initial tax sale a uniform notice prepared by the state commissioner of revenue, in language understandable by the least sophisticated consumer, together with a notice in the seven most commonly spoken languages in the commonwealth that the notice affects important legal rights and should be translated immediately, stating:

- That a complaint to foreclose the tax title may be filed on or after a specific date;
- That the tax title has been sold to a purchaser of tax receivables;
- Why the property was taken and that the owner may redeem the property up until the property is foreclosed by a judgment issued on a proceeding before the land court;
- The components of the amount as of the date of the notice, subject to accumulating taxes, fees and charges, required to redeem the property and the procedure for redemption;
- That if a complaint to foreclose the tax title is filed and the owner does not respond by filing an answer, the court may enter an order defaulting the owner;
- That if a complaint to foreclose the tax title is filed, the owner may respond by filing an answer that requests that the court set the terms by which the owner may redeem the property;
- That if the property is not redeemed, the purchaser is entitled to receive a judgment from the land court that transfers title to the property to the town or purchaser and permanently eliminates any title rights the owner has in the property; and
- That following a foreclosure of the property, the former owner shall be entitled to any excess equity in the property, upon written request to the municipality or purchaser of tax receivables, pursuant to section 64A.[82]

- Every notice related to tax delinquency and foreclosure should provide information on resources as well as any exemptions or other relief available to help homeowners. For example, part of the New York required notice states:

> Under New York State law, we are required to send you this notice to inform you that you are at risk of losing your home.
>
> Attached to this notice is a list of government approved housing counseling agencies in your area which provide free counseling. You can also call the NYS Office of the Attorney General's Homeowner Protection Program (HOPP) toll-free consumer hotline to be connected to free housing counseling or legal services in your area at ……., or visit their website. A statewide listing by county is also available at the website of the New York State Department of Financial Services. Qualified free help is available; watch out for companies or people who charge a fee for these services.
>
> Housing counselors from New York-based agencies listed on the website above are trained to help homeowners who are having problems making their tax payments and can help you find the best option for your situation…
>
> You should also be aware that if you are a senior citizen, a person with a physical disability and/or a veteran, you may be entitled to a partial exemption from property taxes. If you are not already receiving one or more of these exemptions and would like information about the eligibility and application requirements, please contact your local assessor's office.

▶ RECOMMENDATION: State law should require notice that is effective at reaching the homeowner.

State tax foreclosure laws should ensure that homeowners are given the most effective form of notice of ongoing proceedings so that they can make informed decisions in response. The additional costs for enhanced notice to owner-occupants are reimbursed to the municipality as part of the redemption payment or the final sale price if the property is sold. No homeowner should lose their home because they did not get proper and timely notice.

The method used in most states for notifying property owners of a tax sale and subsequent tax foreclosure events is a letter sent by regular and certified mail. While many states require the much more effective form of notice in which legal documents are hand-delivered by a process server or court official (in-hand personal service) for other proceedings, such as rental evictions and debt collection actions, these states permit a home to be taken in a

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tax foreclosure without in-hand personal service. In fact, most states do not require in-hand personal service at any point during the tax foreclosure process. For some owners, notice by mail does not convey to them the seriousness of the situation. When notices are returned to the municipality as undeliverable, often the routine additional steps that municipalities take to notify the owner are not effective even though other methods that are better designed to reach owners are available. Inadequate methods of notifying property owners can create additional problems when the owner-occupant is an heir to the former taxpayer.

- **States should require enhanced notices for certain at-risk homeowners.**

  In some states, local social service agencies contact homeowners if records indicate the homeowner is older or disabled. Enhanced notice can help avoid property loss by individuals who may be at greater risk due to conditions affecting their ability to handle financial matters. This outreach is particularly important to prevent at-risk homeowners from losing their homes to scammers that exploit the threat of tax foreclosure. When homeowners are targeted, legal representation or housing counseling assistance can make the difference between losing everything and holding onto the family home. For example, Rhode Island requires that if the homeowner is listed in the tax records as receiving or having applied for
  a property tax exemption based on age, then a copy of the tax sale notice must also be sent to the Office of Healthy Aging.[83] In addition, a homeowner age 65 and older, or disabled, may designate a family member, friend, or any other third party to receive notices from the tax assessor.[84]

The District of Columbia requires that the notice of tax delinquency be sent to property owners with the following:

YOU MAY BE ELIGIBLE FOR ASSISTANCE, INCLUDING A HARDSHIP FORBEARANCE OR FREE LEGAL SERVICES. PLEASE SEE THE NEXT PAGE FOR ADDITIONAL INFORMATION.

Should you have additional questions, please call the Customer Service Center for the Office of Tax and Revenue at ……..

RESOURCES FOR REAL PROPERTY TAXPAYERS IN THE DISTRICT OF COLUMBIA

Real Property Tax Ombudsman. Homeowners and other interested parties may be eligible for assistance from the Real Property Tax Ombudsman. If you need assistance with a tax sale or related property tax matters, contact the Real Property Tax Ombudsman at .....

Classification Disputes. If your real property is classified as vacant or blighted and you believe this classification is incorrect, contact the Vacant Building Enforcement Unit of the Department of Buildings at ..... for information on how to appeal the property classification.

Hardship Forbearance. You may be eligible to defer, or postpone, payment of the past due amount. For information on how to apply for this deferral, please contact the Office of Tax and Revenue at.....

Senior Citizen and Low-Income Tax Relief. Senior citizens and low-income households may have additional rights to defer property taxes. If you think you may be eligible for this tax relief, please contact the Office of Tax and Revenue at..... for more information.

Additional Legal Services. Free and reduced-cost legal services may be available to low-and moderate-income households. You can get a list of service providers from the Real Property Tax Ombudsman (above).

Housing Counseling Services. The U.S Department of Housing and Urban Development ("HUD") sponsors housing counseling agencies throughout the country that can provide advice on buying a home, renting, defaults, foreclosures, and credit issues. You can get a list of HUD-approved housing counseling agencies from the Real Property Tax Ombudsman (above).

D.C. Code Ann. § 47-1341.

- **State law should require meaningful additional actions to locate owners when notices are returned as undeliverable.**

  When notices sent by mail are returned as undeliverable, state law should specify the additional steps the taxing authority must take to locate the property owner. These laws often are not updated to reflect recent technological changes, including that many public records held by courts, land record offices, and state agencies are maintained electronically and accessible through internet searches. For example, state law may still require the municipality to check the current county telephone directory.[85] At a minimum, local tax collectors should be required to check with all other local and state government departments and agencies, and conduct an internet search, for current location information for the owner. If these additional steps show that the owner (or former owner) is deceased, or the municipality is otherwise aware that the owner is deceased, a search of probate court and land records should be done to locate heirs who have an interest in the property.

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- **State law should require in-hand personal service of the final foreclosure notice.**

  To satisfy meaningful due process and prevent unnecessary home loss, municipalities should require actual personal service rather than passive posting or mailings, ensuring that legal warnings are delivered directly into the homeowner's hands. In Michigan, for example, the initial notice of the tax foreclosure court action is sent by the municipality ("foreclosing governmental unit") by certified mail. The municipality or its agent must also make a personal visit to the property to determine whether the property is occupied. If the property is occupied, the municipality must attempt personal service of the notice of foreclosure court hearing.[86]

  Physical delivery alone is insufficient, however, if the document contains legal jargon that is difficult to understand. Municipalities must require that process servers provide a plain-language summary that clearly states the property is at risk, specifies the cure amount and critical deadlines, and directs the owner to free legal aid. Furthermore, the law must establish immediate safeguards when it is evident that a homeowner cannot comprehend the notice due to cognitive decline, acute distress, or language barriers. In such cases, delivery should not be treated as complete; instead, process servers should be required to note these barriers on the return of service, triggering an automatic stay of the proceedings, mandatory referral to a court navigator or social services agency, and the appointment of an ombudsman, guardian, or certified language interpreter to ensure the resident's rights are genuinely protected before any sale can proceed.

5. Owners of inherited homes lack access to owner-occupant tax relief and are at significant risk of property tax foreclosure.

Heirs property can result in ownership becoming very fractured, divided among many heirs. Moreover, because a probate filing has not been completed, the heirs' names may not be on the deed to the property. While they may be the rightful owner of the property through state intestate succession and inheritance laws, they may lack the clearest form of proof of ownership. This can create hurdles when heirs try to access owner-occupant tax relief, because most taxing authorities stop a person at the door if their name is not on the deed.

Heirs' property owners unable to obtain the homestead or homeowner-occupant exemption face ballooning tax debt that can lead quickly to tax foreclosure, a structural crisis that disproportionately strips generational wealth from Black and Latino families, as well as rural and low-income communities where heirs' property is most concentrated.[87] Heirs may not even be aware of the property tax burden or the catastrophic implications of nonpayment. By the time heirs realize there is a problem, it is often just before or even after the sale date, and options are limited. The amounts owed include past-due taxes, interest, and penalties that are usually too high to pay in one lump sum to stop the sale or to redeem the property.

Selling the property before a tax sale for fair market value to cover the tax debt is often unfeasible due to clouded title or conflicting co-heir interests. The upcoming tax sale is also usually advertised in public records, creating a target list for predatory investors who may try to take advantage of family members by offering a “solution” that is really an equity theft scam: buying out a fractional heir's share for pennies on the dollar or offering deceptive 'rescue' financing designed to strip the home's accumulated equity and trigger an involuntary partition or tax sale.

By requiring a deed as the only acceptable proof of ownership, and preventing people not currently listed on the deed from even applying for tax relief, many states exclude legal heirs from property tax relief options that could and should lower their tax burden and help them save the home. This practice disproportionately threatens Black and Latino families, who rely heavily on heirs property as a mechanism for intergenerational wealth, yet are far more likely to face property tax delinquency and administrative barriers to relief.[88]

▶ RECOMMENDATIONS:[89]

- **Accept flexible proof of ownership, and allow heirs to be eligible for the same tax relief options before their name is on the deed.** If an heir would be eligible for a senior circuit breaker exemption, for example, because they live in the home and meet the income and other requirements, they should be entitled to receive this relief by providing alternative forms of proof of ownership other than a deed. This could include an affidavit, court record, or other evidence to prove ownership such as birth and death certificates and proof of occupancy.[90]
- **Provide full relief.** States should permit an heir-owner-occupant applying for property tax relief programs to receive the full benefit as an owner-occupant, regardless of their percent ownership of the property.
- **Better notice.** Local governments should increase their efforts to notify heirs property owners of their right to apply for the homestead property tax exemption, including through the kinds of methods discussed in the prior section.
- **No backwards penalty.** States and localities should prohibit taxing authorities from retroactively revoking a homestead or property tax exemption simply because the record owner is deceased. If an heir continues to occupy the property, tax adjustments should apply strictly prospectively—commencing no earlier than the current tax year in which the death is identified. Furthermore, taxing authorities should never claw back historical exemptions or assess back taxes, penalties, or interest unless the occupant heir is granted an equal opportunity to retroactively establish their own eligibility for the homestead or circuit-breaker exemptions they would have qualified for during those past tax years.

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- **Stay tax foreclosure proceedings for homeowners who are in the process of probating an estate.** Because the probate process in many states requires a significant amount of time and money to complete, heirs should be provided with sufficient time to come up with the necessary funds, navigate the system, establish documented title, and pay the back taxes or the redemption amount without fear of losing their home in the meantime.

6. *Homeowners have difficulty accessing legal and community assistance because there are not enough of such services to meet the need.*

The difficulty in accessing legal assistance for property tax issues stems from a "perfect storm" of structural barriers: homeowners have no constitutional right to a public defender in civil tax matters, and the specialized administrative nature of tax law often falls outside the scope of traditional, overburdened eviction-defense clinics. Many at-risk owners are house-rich but cash-poor, lacking the thousands of dollars required to retain a private attorney. Furthermore, the high-stakes deadlines and dense bureaucratic jargon in tax notices often overwhelm homeowners, leaving them unable to navigate the system before their equity is permanently extinguished by a foreclosure.

▶ RECOMMENDATION: Increased funding for housing advocates, legal aid, and law school clinics.

Providing funding for housing advocates, legal services, and law school clinics is a critical upstream intervention to prevent the loss of homes. Legal clinics can work with homeowners to provide strategies and solutions to keeping the home or making a graceful exit and keeping their hard-earned equity. For example, Philadelphia funds the Save Your Home Philly Hotline and a network of legal services and housing counseling agencies to provide free representation to vulnerable homeowners facing tax sales. Through this program, legal advocates assist low-income residents and older adults with navigating tangled title issues, securing Owner-Occupied Payment Agreements (OOPAs), and applying for tax relief programs to keep families stably housed.[91]

The Low Income Taxpayer Clinic (LITC) at the University of Maryland Carey School of Law works closely with the Pro Bono Resource Center of Maryland to staff Tax Sale Clinics that help homeowners in Baltimore navigate the tax lien certificate process, which is notoriously aggressive. They also specialize in helping families clear tangled titles so they have the legal standing to pay their taxes or claim exemptions.

Legal advocates provide the specialized expertise needed to navigate complex administrative bureaucracies, apply for exemptions, or challenge unconstitutional home equity theft under the *Tyler v. Hennepin* precedent. NCLC, together with legal advocates

in the field, created a **Tax Lien Clinic Intake Form** to help advocates begin the process of assisting homeowners facing tax foreclosure, found in Appendix B.[92]

B. Problems and Solutions Related to the Foreclosure Sale Processes and Maximizing Homeowner Surplus

In the section that follows, we examine the most significant problems, and potential solutions, related to minimizing the loss of wealth that homeowners experience when a tax foreclosure sale cannot be prevented. For homeowners who are unable to prevent a tax foreclosure, additional changes are needed to ensure a process that is fair and provides an opportunity to maximize the surplus equity they receive from sale of the home. First, state laws should not overly burden or limit homeowners' right to claim the surplus equity. Second, state laws should be structured to maximize the sale price of homes that sell through tax foreclosure.

1. Some states impose an overly burdensome process or overly limiting timeframe for claiming surplus equity.

While several states following the Supreme Court decision in *Tyler* revamped their property tax laws to provide access to surplus equity after a tax sale, some of these laws included burdensome administrative hurdles for homeowners including tight filing deadlines, hyper-technical notice mandates, and mandatory forfeiture provisions if the owner does not follow the precise procedures. The only option for homeowners who live in states with laws that impose such strict requirements is to bring a lawsuit to challenge the changes made after *Tyler* as unconstitutional. This creates a considerable hurdle for homeowners who have just lost their home and have limited financial and emotional resources to engage an attorney and bring a lawsuit against the government.

In New Jersey, for example, there is a very limited time for homeowners to try to recover their equity, and they have to do so by filing documents in court *before* a final judgment is entered in the action to foreclose the right of redemption. The homeowner must request in a written court filing that the private party who purchased a tax sale lien certificate on the property be required to sell the property through a judicial sale or through an internet auction by the county sheriff's office. If the owner or owner's heirs do not hire an attorney to file the court documents, or figure out how to do so without an attorney, no judicial sale or internet auction will be held, and the certificate holder may proceed with the process to get a deed to the property and can keep any equity.[93] If a homeowner succeeds in jumping through all of the different obstacles, the surplus sale proceeds received through the auction are presumed to be the fair market value of the property, cutting off any legal challenges that the auction may not have been conducted fairly.

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In Michigan, an owner seeking surplus proceeds must notify the foreclosing governmental unit *before* the property is taken at foreclosure.[94] The notice must be sent by certified mail, be notarized, and include certain required information. The form must be received by July 1 immediately following the foreclosure date. The July 1 deadline is strictly enforced and forms postmarked by July 1, but not received by the county by July 1, are not processed. The owner must then file a court motion after the property is sold or transferred, and must appear at a hearing to get a court judgment for the surplus.[95] If the owner does not strictly follow all these procedural steps, the government will keep the surplus. Many owners have not been able to get a surplus under this new law.[96] While these procedures might technically provide a homeowner with "access" to a surplus, the procedures create significant hurdles for homeowners.

▶ **RECOMMENDATION: States should require a procedure that provides easy and fair access to the surplus equity for homeowners, and should not require a request for the surplus to occur before the auction takes place.**

Local governments must ensure that homeowners have a direct, fair opportunity to claim the surplus proceeds after a sale. If the procedure for returning excess equity to the former property owner involves a public auction, state law should ***not*** require the former owner to request an auction or request any surplus before the auction even takes place. The auction should be held in all cases.

In Massachusetts, the new property tax foreclosure law provides that, within 30 days of the sale, the buyer has to provide an accounting of the proceeds of the sale to the former owners of the property and notify them of their right to claim the surplus.[97] The claim can be provided to the new owner or the local collector's office. If the surplus amount is not claimed within 19 months, it is transferred to the unclaimed property fund, giving the former owner additional opportunities to claim the surplus.

2. Properties are sold through a process that does not allow a fair chance for the homeowner to receive the highest value for the property.

As discussed above, the Supreme Court decision in *Pung v. Isabella County*[98] held that the proceeds from a tax sale can be just compensation to the former owner, but only if the tax sale is fairly conducted considering our country's history of tax sales. The historical examples given by the Court, such as federal and state statutes from the 18th and 19th centuries, and two of its own decisions from the 19th century,[99] all refer to the former owner being refunded the surplus from the sale of the property itself, not a tax lien. The historical examples in *Pung* suggest that selling only a tax lien without any subsequent auction of absolute title to the property may not provide a constitutionally adequate mechanism to compensate former owners for the taking of their property.

In almost half of the states (and the District of Columbia), the tax foreclosure process begins with the local municipality conducting a tax sale of a limited interest in the property, either a tax lien certificate or tax deed. This lien interest does not give the purchaser absolute title to the property. Rather, the purchaser is given a conditional interest in the property, subject to the owner's right of redemption. This means that the purchaser does not have the right to occupy or use the property, and is not permitted to collect rents, during the redemption period. While a tax lien certificate or deed carries with it some possibility that the purchaser could eventually get full ownership of the property months or years after the tax sale, if the owner does not redeem, the amount a potential purchaser may bid reflects the limited interest that is purchased.

In almost half of the states (and the District of Columbia), the tax foreclosure process begins with the local municipality conducting a tax sale of a limited interest in the property, either a tax lien certificate or tax deed.

In assessing what to bid at a tax lien auction, potential purchasers also must consider that their outlay of capital invested for the lien purchase price will be tied up over months and years without use of the property. In addition, purchasers typically incur additional costs in navigating the final foreclosure process, including costs for conducting title searches, providing notice of redemption rights to interested parties,[100] and legal fees in states that require a court proceeding. It can be expected that these potential costs are factored into what a buyer will bid at a tax lien sale.

In addition to these practical considerations, the local taxing authority may not seek the highest monetary bid for the tax lien at the tax sale. In many states that sell tax liens, there generally is no competitive, value-based bidding. Often, the amount bid for the tax lien is no more than the delinquent taxes, penalties, interest and costs.[101] In other states, the winning bid is not based on the property's value but rather the lowest rate of interest the bidder is willing to accept upon redemption in addition to the unpaid taxes (interest rate method)[102] or the smallest share or fraction of the total interest in the property the bidder is willing to accept (percentage ownership method).[103]

Despite the limited interest being purchased and the restrictions on bidding, in some states (and the District of Columbia) that sell tax liens, no other public auction of absolute title to the property is held after the tax lien auction.[104] Bidding at the pre-taking tax lien sales in these states typically result in sale prices that have no relation to the property's fair market value.[105] When the government conducts a tax sale before final foreclosure, and the only

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interest offered is a tax lien, which remains subject to the owner's right of redemption and confers no possessory right, the sale is not designed to reflect the fair market value of the property and it does not maximize surplus sale proceeds. As a result, this right to an illusory surplus from the sale proceeds cannot adequately compensate former owners for the loss of their equity, and is not the "just compensation" that the Constitution requires.[106] Without a high-bid public auction of absolute title to the property that occurs after the owner's redemption rights are foreclosed, these states do not provide a constitutionally adequate mechanism to compensate former owners for the taking of their property.

Below, we outline five legislative reforms aimed at maximizing the sale price of homes sold in tax foreclosure, in order to minimize the amount of homeowner wealth that is lost through the process.

(a) States should require local governments to first list the property with a licensed real estate broker.

Some states have already implemented procedures that ensure the property has a fair chance of receiving the highest sale price possible through a requirement that the property first be listed with a licensed real estate agent or broker. Licensed real estate agents must follow specific procedures—set by state law, licensing rules, professional standards—when they market, advertise, show, and sell a home.[107] While procedures vary slightly by state, the core requirements are consistent nationwide and ensure that transactions are fair, transparent, and legally compliant.

A real estate-agent-listed sale of a tax-foreclosed property offers the strongest chance of achieving fair market value because it mirrors the conditions of a normal open-market transaction.[108] Unlike a forced auction sale, a sale through a real estate agent is not under an urgent time constraint and allows for comprehensive marketing of the property and more exposure to buyers.[109] Listing through the Multiple Listing Service (MLS), which is a private database used by real estate agents, exposes the property to a wide pool of potential buyers who can view, inspect, and finance the purchase. While access to the property may be limited if the former owner is still occupying the property and not cooperating with the listing realtor, this open-market approach reduces risk to buyers and allows for competitive offers based on comparable sales rather than the steep discounts common in cash-only foreclosure auctions. With adequate marketing time, full disclosure, and the ability to negotiate terms, an agent-listed sale creates the competitive, informed environment that best produces a true market value.[110] To avoid lowball offers, the listing price should be set based on the current value of the property determined either through the current assessment or a new, professional appraisal rather than the tax debt.

Maine,[111] Massachusetts,[112] and Oregon[113] all recently passed laws that require a tax foreclosed property to be listed by a real estate agent for at least 12 months. The requirement in Maine was first enacted in 2018 after a couple with disabilities in their 80s was evicted from their shorefront home worth $70,000 - $80,000 due to nonpayment of taxes and sold by the town through a sealed bid for only $6,500.[114] The 2018 law allowed income and asset-eligible residents of a homesteaded property 65 years of age or older to apply to have the home sold through a real estate broker.[115] The law was further refined in 2023 and again in 2024 when a legislative working group concluded that the realtor sale process should be provided automatically for all residential properties to provide a "fairer and an easier process for former owners."[116]

Maine, Massachusetts, and Oregon all recently passed laws that require a tax foreclosed property to be listed by a real estate agent for at least 12 months.

Recognizing that some tax foreclosed properties will not be able to be listed with a real estate agent and some that are will not result in a sale, particularly if the former owner does not cooperate with a showing of the property, Maine,[117] Massachusetts, and Oregon provide that the property may be sold at a public auction if the listing with a realtor does not result in a sale within a specified time period.

An analysis of the implementation of property tax foreclosure reforms in Maine demonstrates that transitioning from traditional auctions to open-market, real estate agent listings significantly improves financial outcomes for displaced homeowners.[118] By leveraging the MLS, municipalities can attract a broader buyer pool of primary residents and local contractors, successfully driving out institutional speculators and commanding purchase prices closer to fair market value. Across a sample of 10 completed open-market sales in Maine, the process preserved meaningful equity, returning an average of $23,020.28—or 35% of the assessed value—to former owners. Real-world examples highlight this open-market effect: a vacant, mold-remediable home in Rockland with an assessed value of $110,100 was listed conservatively at $39,000 but triggered 16 competing offers to close at $73,000, ultimately yielding a $50,000 equity surplus. One home in severe physical disrepair listed at $24,900 managed to fetch $10,000 on the open market, clearing its $3,034.06 tax debt and returning $4,244.24 to the owner, whereas a traditional auction likely would have resulted in total asset forfeiture. Furthermore, because municipalities are permitted to deduct direct expenses from the final sale price, they are highly incentivized to execute pre-sale maintenance like mowing lawns or removing debris, which actively mitigates neighborhood blight and enhances the home's final selling price.

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Looking at how these laws actually play out provides insight into how to make them stronger in Maine and in other states looking at similar amendments. Here are three practical recommendations to make the process work better.

- Legislatures should establish a statutory procedure that enables municipalities to provide a Warranty Deed backed through a pre-sale title-clearing mechanism, rather than relying on standard quitclaim deeds. Quitclaim deeds render titles virtually uninsurable, restricting the buyer pool to cash-only investors and artificially depressing sale values; a mandatory warranty deed opens the market to traditional buyers utilizing standard mortgage financing.
- States should establish a mandatory minimum property value for determining the listing price that is set to the home's current municipal assessment or a recent professional appraisal, ensuring that listing prices reflect actual asset worth rather than the underlying tax debt.
- Policymakers must shorten excessively long statutory post-sale challenge periods—such as Maine's five-year window—which counterintuitively harm homeowners by forcing purchasers to discount their offers due to lingering title risks. Implementing these value-maximizing statutory protections will ensure the foreclosure system treats vulnerable consumers fairly while providing a transparent, efficient mechanism for municipal debt collection.

(b) State law should require a minimum bid at an auction along with comprehensive online notice of and access to the auction.

For states that currently sell only a tax lien at a tax sale, they should amend their tax foreclosure law to require a public auction of the property itself after the owner's redemption right is foreclosed. Arizona, New Jersey and South Dakota are examples of states that amended their tax sale procedure after *Tyler* to require an additional high-bid auction of absolute title to the property.[119]

All states that conduct public auctions of tax taken property should consider ways to maximize sale proceeds for former owners. Not all tax foreclosure auctions are created equal. Most states require as a minimum bid for participating in a tax foreclosure auction only the amounts owed for the tax debt, plus fees and costs incurred by the local government, even if that amount is just a few thousand dollars. Having this be the floor for a minimum bid hinders achieving fair market value because it removes a fair baseline that protects the property from being sold at a price far below market conditions. Without a fair minimum, bidders may submit very low offers, especially for distressed or tax-foreclosed properties, knowing they face little risk of being outbid. This can lead to artificially depressed

starting points, reducing the need to bid up to the assessed or appraised value. Additionally, buyers may exploit the absence of a reasonable floor by submitting minimal bids only for the tax amounts due, anticipating the local government may be forced to accept them, which further drives the final sale price below the true value of the property. In short, an artificially low minimum bid increases the likelihood that the property sells at a discounted, below-market price, undermining the goal of a fair, value-reflective sale.

A minimum bid based on the amount owed creates unique problems for tax foreclosures, because the tax debt owed to the municipality is typically a small fraction of the property's assessed or market value. This problem is largely avoided in mortgage foreclosure auctions, where mortgage lenders typically bid at least what they are owed at the auction to limit their losses, which is referred to as a "credit bid." Because the outstanding mortgage balance at foreclosures is usually much closer to the property's value, this serves as a check against properties being sold at drastically low prices. No similar safeguard exists with tax auctions conducted in many states.

Some states have taken steps to address this problem. In Massachusetts and Oregon, if the property is not sold within 12 months of listing with a realtor, it will then be sold at auction with a minimum bid of two-thirds of the appraised or assessed value of the property, both determined with specific requirements.[120] In Florida, there is an opening bid requirement of "an amount equal to one-half of the assessed value" if the property has been assessed as a homestead property.[121]

In Montana, the minimum bid that the county treasurer may accept at auction is the amount of the delinquent taxes, penalties, interest, and costs, plus an amount equal to one-half of either the most recent assessed value of the property or the value of the property as determined by an independent appraisal.[122] If an independent appraisal is used, it must be provided to the county treasurer, meet state-specific standards, and have been conducted within six months of the auction date.

Setting a minimum bid based on the appraised value, determined by a licensed appraiser, establishes a baseline price, ensuring the property cannot sell for an unreasonably low amount. Similar to real estate agents, licensed appraisers must follow a set of ethical and professional standards that provide guidelines for fair appraisals including transparency, the use of

Setting a minimum bid based on the appraised value, determined by a licensed appraiser, establishes a baseline price, ensuring the property cannot sell for an unreasonably low amount.

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appropriate comparable sales, review of market conditions and trends, a physical inspection, and an independent, unbiased review.[123] A minimum bid set at two-thirds, or even one-half of the appraised value threshold for that auction is low enough to attract multiple bidders, encouraging competitive bidding that pushes the final sale price closer to market value, yet high enough to prevent extreme discounting often seen in tax auctions.

To further attract multiple bidders and enhance competition at the auction, comprehensive online notices, together with online auctions, provide an opportunity for a higher price at a tax auction.[124] Providing complete and accurate pre-sale information—such as detailed property descriptions, assessed values, lien amounts, any encumbrances, and the procedures for bidding on properties—enables buyers to make informed, timely bids. Online notice should also include the date, time, and place of the intended sale, including the electronic address if the sale is by a public online auction.[125] Maintaining an up-to-date online list of all properties for sale and offering internet-based auction options expands the bidder pool geographically.[126] Certain counties such as Los Angeles, San Diego, and Orange Counties in California publish full tax-defaulted property lists and run online auctions.[127] Texas counties including Harris and Dallas maintain searchable online delinquent-tax/tax-sale listings and run online sheriff's auctions.[128] Pennsylvania's large counties publish delinquent lists or datasets and advertise upcoming sales online or via county portals.[129]

Publishing tax-sale notices online and conducting online auctions improves the opportunity to achieve fair market value because it dramatically expands the pool of potential bidders, making the sale accessible to investors, homeowners, nonprofits, and ordinary buyers who would otherwise never see a newspaper-only legal advertisement or courthouse-only notice. Online posting allows for transparency, enables buyers to research properties in advance, provides continuous access to updates, and provides accurate information that increases participation. When more bidders with better information compete, prices tend to move closer to true market value, reducing the risk of properties selling for artificially low amounts due to limited advertising or information that doesn't make potential buyers aware of the sale.[130] Online posting and online auctions increase engagement which can lead to an increase in the price paid for the property.[131]

Online posting and online auctions increase engagement which can lead to an increase in the price paid for the property.

(c) State law should ensure that purchasers get a warranty deed or marketable title.

As discussed earlier, another factor that drives what potential purchasers are willing to bid at an auction is whether the process results in acquiring marketable title. A purchaser will

offer more if they receive clear, unencumbered title to the property that permits them to obtain title insurance. All states, even those that do not adopt a real estate-agent-listed sale procedure, should ensure that the purchaser receives a deed that removes any clouds on the title and is the equivalent of a warranty deed. This can be done through the tax foreclosure process because local governments generally must give proper notice to all parties with an interest in the property before any redemption rights are foreclosed. However, conveyance of clear title is best accomplished when title is transferred through a court-supervised process, as discussed below.

All states, even those that do not adopt a real estate-agent-listed sale procedure, should ensure that the purchaser receives a deed that removes any clouds on the title and is the equivalent of a warranty deed.

For example, Louisiana recently amended its tax foreclosure process to require that tax liens be enforced through a judicial sale of the property. The legislation provides that the sale terminates all interests in the property.[132] While there are a few exceptions of interests that survive, such as for existing mineral rights, the statute ensures that the purchaser gets clear title to the property.

(d) States should require court involvement for title transfers.

Several states require the municipality or certificate holder to file a tax foreclosure action in court. In Maryland, Massachusetts, and Rhode Island, for example, tax collectors or lien buyers must file a petition in Superior Court to foreclose the right of redemption.[133] Court oversight in the tax foreclosure sale process increases certainty, transparency, and marketability of the title, all of which should reduce bidder risk and therefore encourage bidders to pay a higher price for the property. When a court reviews the foreclosure, confirms that notice was proper, and issues a judgment extinguishing all redemption rights and junior interests, bidders know they are purchasing a property with clear and defensible title. For example, Roanoke County, Virginia, acknowledges that, as part of the judicial tax sale proceedings, the property is transferred free and clear of any encumbrances such as mortgages and other liens upon the confirmation of the sale by the court.[134] In contrast, Brevard County, Florida, confirms that a tax deed sale does not guarantee a clear title and the buyer is responsible to determine what liens exist and how to remove them.[135] Most buyers, therefore, would discount the price of the property for such uncertainty and extra work needed to clear the title.

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A 2011 study suggests that, in the mortgage foreclosure process, stronger legal oversight helps preserve the market value of properties by showing that states with judicially supervised foreclosure procedures experienced fewer distressed sales, which in turn reduced a downward pressure on housing prices.[136] The study examines the use of judicial and non-judicial law as an instrument for foreclosures, and finds that foreclosures lead to a large decline in house prices, residential investment, and consumer demand.[137] Court-supervised processes also typically involve more formalized procedures for notice, appraisal, and sale confirmation, which expand participation and limit irregularities.Together, these features produce an environment in which buyers have the confidence to bid closer to true fair market value.

(e) States should require municipalities to pay the owner fair market value for properties transferred to a land bank or nonprofit entity.

Sometimes states elect to create a process whereby properties that are up for tax foreclosure can be transferred to a special entity, such as a land bank, instead of being sold at public auction. The justification for this practice is that such an entity may convert properties into new affordable housing units or use the land for other public purposes.

However, the absence of a public sale creates a structural risk that homes transferred in this way may have value over and above the amount of the taxes, interest, and penalties owed. Even if the goals of a land bank may advance the public good, they should not be financed by uncompensated equity extractions from distressed homeowners. If a municipality retains a tax-delinquent property or conveys it directly to a land bank without a competitive public auction, it must provide the owner standard constitutional protections: paying the former owner the property's appraised fair market value minus the delinquent taxes, interest, and statutory fees. Applying traditional just-compensation principles ensures that land banks can fulfill their revitalization missions without subjecting vulnerable homeowners to uncompensated takings.

VI. CONCLUSION

The process local governments use to assess and collect property taxes should be fair and reasonable. They should include fair assessments, including ensuring that people receive the tax discounts they are entitled to, provide reasonable and effective advance notice, and allow reasonable opportunities to cure the default. States should create simple homestead property tax exemption applications, tax delinquency noticing, and payment plan systems that result in homeowners avoiding tax foreclosure whenever possible. Keeping current homeowners stably housed is the most readily available supply of existing affordable housing.

Fairness requires that governments take only what is necessary to pay the tax debt from the homeowners. States must create property tax foreclosure processes that do not convert the homeowner's surplus equity into a windfall for tax lien investors. The foreclosure process should be designed to sell the home for as close as possible to its true fair market value, and return the surplus equity to the homeowner. This is good policy as well, as homeowners who go through tax foreclosure can use that converted home equity to secure new housing and minimize dislocation.

Significant reform is still needed to bring property tax foreclosure systems into alignment with basic principles of fairness. As this report demonstrates, many states have already taken meaningful steps toward a more equitable process, and commonsense reforms remain well within the reach of every state.

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APPENDIX A: POST-*TYLER* STATE TAX FORECLOSURE ANALYSIS

Statutory Compliance, Auction Mechanisms, and Equity Protections Across Selected States

Following the U.S. Supreme Court's landmark decision in *Tyler v. Hennepin County* (2023), which established that home equity in excess of a tax debt constitutes private property protected under the Takings Clause, states across the nation have faced significant pressure to overhaul their tax foreclosure and surplus disbursement procedures. This report synthesizes tax sale mechanisms, surplus availability, statutory citations, and remaining compliance gaps across 27 key jurisdictions.

- **Total Jurisdictions Analyzed:** 27
- **Statutory Changes Still Needed:** 18 States
- **Fully Compliant / Reformed:** 9 States

Are statutory changes still needed?

Arizona ..... yes	Massachusetts ..... no	New York ..... yes
Colorado ..... maybe	Michigan ..... yes	North Dakota ..... no
District of Columbia ..... yes	Minnesota ..... yes	Ohio ..... yes
Illinois ..... no	Mississippi ..... yes	Oregon ..... no
Indiana ..... yes	Missouri ..... yes	Rhode Island ..... yes
Iowa ..... yes	Montana ..... yes	South Dakota ..... no
Louisiana ..... yes	Nebraska ..... no	West Virginia ..... yes
Maine ..... no	New Hampshire ..... yes	Wisconsin ..... no
Maryland ..... yes	New Jersey ..... no	Wyoming ..... no

Arizona

Pre-*Tyler* Status / Issue Type: Tax lien sold and investor took full ownership of the property for just the cost of the back taxes

Current Initial Enforcement Type (Certificate vs. Direct): Tax lien certificate sale then request public auction

Current Auction / Sale Process & Requirements: Court-ordered public sale: County sells tax lien certificates. After 3 years, if owner has not redeemed, lienholder files judicial foreclosure, then property is sold by public judicial sale to the highest bidder only if owner requests sale and court finds that sale is reasonable.

Statutory Citation: A.R.S. § 42-18204; § 42–18231 to § 42–18236

Surplus Availability and Access: "Opt-In" Motion Requirement: Former owner must file request for sale, provide estimate of market value, and get court to rule that sale would be reasonable. Surplus proceeds are determined from public judicial sale of property and deposited in court but are not remitted automatically. Former owners must proactively navigate formal judicial motions in court to claim equity.

Are statutory changes still needed: **Yes, due to opt-in requirement.**

Colorado

Pre-*Tyler* Status / Issue Type: Strict forfeiture mechanism: private tax investor took the entire home value simply for the cost of paying the back taxes, with any surplus overbid paid to county general fund

Current Initial Enforcement Type (Certificate vs. Direct): Tax lien certificate sale then mandatory public auction

Current Auction / Sale Process & Requirements: Online Treasurer's Deed Auction: Annual tax lien sale sells a tax lien certificate to investors. If no redemption after 3 years, the investor applies for a treasurer’s deed, triggering a mandatory public online auction. Minimum bid covers debt, interest, and fees.

Statutory Citation: C.R.S. § 39-11-108 et seq.; § 39-11.5-101 et seq.

Surplus Availability and Access: Overbid surplus funds from public auction are paid to junior lien holders who file claim and then, if any remaining, to the former title owner.

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Uncertain whether notice and auction procedure result in fairly conducted tax sale of property to generate proceeds for former title owner.

Are statutory changes still needed: **Maybe, depending on auction procedures.**

District of Columbia

Pre-*Tyler* Status / Issue Type: Investors bid on tax liens by paying delinquent tax debt and sometimes more. Any overbid went into a government "Surplus Fund". If property was redeemed, surplus went to investor. If not redeemed, the original owner could only claim this specific amount after a final court foreclosure. Because there was no auction of the actual property, this surplus was very low or nonexistent. It did not represent the property's true market value or remaining equity.

Current Initial Enforcement Type (Certificate vs. Direct): Tax lien certificate sale then judicially supervised public auction if residential property

Current Auction / Sale Process & Requirements: After District sells tax lien certificates to highest bidder, a public auction of absolute title to the property is held only if District correctly designates property as residential, owner-occupied with 5 or fewer units.

Statutory Citation: D.C. Code §§ 47-1382.01; 47-1307; 47-1332(c)(2)

Surplus Availability and Access: Sale of tax lien certificate only for nonresidential property. A subsequent auction is held only for residential property with five or fewer units in which a record owner or heir had been occupying the property as his or her principal residence when the complaint to foreclose the right of redemption was filed. 10% of surplus sale proceeds or $20,000, whichever is less, is paid to the tax certificate purchaser before being paid to the former owner.

Are statutory changes still needed: **Yes, because for properties that are not correctly designated as owner-occupied, the surplus to the former owner is calculated from the lien certificate sale, not an auction of the property, and lien purchaser can keep excess equity. For owner-occupied property, a set amount of surplus proceeds are provided to the lien purchaser.**

Illinois

Pre-*Tyler* Status / Issue Type: County treasurer sold a tax certificate to private investors at an annual auction. Investors bid down the interest rate they would charge the homeowner to clear the debt. If homeowner failed to pay, investor could petition court for tax deed and investor took the property as-is and could sell or keep and retain all profit.

Current Initial Enforcement Type (Certificate vs. Direct): Tax certificate first followed by judicial tax deed auction

Current Auction / Sale Process & Requirements: Traditional annual tax certificate sales to private buyers are being phased out. A tax certificate will be acquired by the county but after tax deed transfers, there is a public auction of the property.

Statutory Citation: 35 ILCS 200/1-21-42; 35 ILCS 200/1-147-148

Surplus Availability and Access: Former owner entitled to surplus proceeds from public auction of property. Surplus Equity Fund: provides equity surplus claims or damages to former owners who lost their homes to tax deeds before statutory reforms established a judicial auction system.

Are statutory changes still needed: **No**

Indiana

Pre-*Tyler* Status / Issue Type: Statutory surplus mechanism in place prior to *Tyler* to return surplus equity to homeowner

Current Initial Enforcement Type (Certificate vs. Direct): Tax certificate first then tax deed

Current Auction / Sale Process & Requirements: Online county tax sale: Certificates sold at competitive auction. Minimum bid for taxes and costs.

Statutory Citation: Ind. Code § 6-1.1-24-7 & § 6-1.1-25-4

Surplus Availability and Access: Minimal surplus created in theory: Certificates are sold to the highest cash bidder above the delinquent debt, potentially generating an overbid. Any "tax sale surplus" is deposited into a county fund, used first to pay the taxes that come due during the redemption period, and then may be claimed by the owner by filing a claim with the county auditor within the statutory window.

No fairly conducted tax sale of property to generate proceeds for former title owner.

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Are statutory changes still needed: Yes, because the surplus to the former owner is calculated from the lien certificate sale, not an auction of the property.

Iowa

Pre-*Tyler* Status / Issue Type: Bidding conducted by offering to pay the total tax debt for the lowest interest/percentage share of property

Current Initial Enforcement Type (Certificate vs. Direct): Tax certificate first then treasurer's tax deed

Current Auction / Sale Process & Requirements: Fractional interest auction: Certificate bid down to smallest fractional undivided property interest

Statutory Citation: Iowa Code § 446.16 & § 448.1 et seq.

Surplus Availability and Access: Zero cash surplus by design: Certificates are sold for the exact amount owed. If no bidding, investor gets full ownership of property for back taxes. If bidding, investors offer to take the smallest percentage of ownership (rather than paying extra cash), generating no surplus. The owner retains title to the remaining percentage of the land, subject to uncertainty about ownership rights and potential partition litigation.

No fairly conducted tax sale of property to generate proceeds for former title owner.

Are statutory changes still needed: Yes, because the surplus to the former owner is calculated from the lien certificate sale, not an auction of the property.

Louisiana

Pre-*Tyler* Status / Issue Type: "Bid-down-of-ownership" tax sale system where investors competed by bidding down the percentage of ownership they were willing to accept in exchange for paying the tax debt. There was no secondary public auction to establish market value. Original homeowner received no surplus money.

Current Initial Enforcement Type (Certificate vs. Direct): Tax sale certificate first then tax deed / quiet title

Current Auction / Sale Process & Requirements: Now, pure tax lien certificate sale system, not fractional ownership, where holder must initiate judicial foreclosure to sell the property via sheriff's sale.

Statutory Citation: La. R.S. §§ 47:2211; 47-2121-22, 47-2154

Surplus Availability and Access: As of January 1, 2026, any person holding an interest in the property may submit an application to receive that person's portion of the excess proceeds that is held by the political subdivision for a period of one year from the date that the post-sale notice is sent, by submitting an affidavit asserting the facts necessary to prove their interest in the property and the proportion of the proceeds to which they are entitled. If no application to receive the excess bid is received timely, the excess proceeds shall revert to the selling political subdivision.

Are statutory changes still needed: Yes, due to limited time period to claim surplus proceeds and transfer of surplus proceeds to the political subdivision if not claimed in that time.

Maine

Pre-*Tyler* Status / Issue Type: Municipalities automatically took full ownership of delinquent properties and keep all equity/surplus profits

Current Initial Enforcement Type (Certificate vs. Direct): Direct property sale via real estate broker

Current Auction / Sale Process & Requirements: Open market broker listing: Automatic tax lien mortgage recorded. After 18-month redemption, municipality forecloses and must list property on the open market using a licensed real estate broker.

Statutory Citation: 36 M.R.S. § 943-C

Surplus Availability and Access: Direct remittance: Municipality deducts past-due taxes, interest, administrative fees, and listing commissions; all remaining net proceeds are paid back directly to the former owner. Surplus that is not returned or claimed is transferred to the state unclaimed property fund.

Are statutory changes still needed: No

Maryland

Pre-*Tyler* Status / Issue Type: Tax certificate sale with overbids, if any, rather than property sale proceeds, to be held in trust for the owner

Current Initial Enforcement Type (Certificate vs. Direct): Tax lien certificate first then judicial foreclosure

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Current Auction / Sale Process & Requirements: Remains the same- high-bid auction on certificate only- sold to highest bidder; requires Circuit Court foreclosure to extinguish equity.

Statutory Citation: Md. Code, Tax-Prop. § 14-818 & § 14-844

Surplus Availability and Access: Competitive overbid but on tax lien certificate only. Limited surplus might be created and any excess cash above delinquent taxes/costs is held in trust/court registry and disbursed to the property owner upon foreclosure.

No fairly conducted tax sale of property to generate proceeds for former title owner.

System challenged as unconstitutional in *Edmondson Community Organization v. Baltimore City* (Aug. 2025). In early 2026, Baltimore City formally agreed to pause parts of the lawsuit and enact independent tax sale reforms.

Are statutory changes still needed: Yes, because the surplus to the former owner is calculated from the lien certificate sale, not an auction of the property.

Massachusetts

Pre-*Tyler* Status / Issue Type: Strict equity forfeiture: strict administrative foreclosure process commonly referred to as "tax title." Resulted in the absolute forfeiture of all home equity, allowing municipalities or private investors to seize a property and keep 100% of the surplus value.

Current Initial Enforcement Type (Certificate vs. Direct): Tax title, judicial tax foreclosure and open-market sale

Current Auction / Sale Process & Requirements: Land court judicial auction: Municipality takes a "tax title" lien. Municipality or tax title purchaser files a petition in Land Court to foreclose redemption and then must list property on the open market using a licensed real estate broker.

Statutory Citation: M.G.L. c. 60, § 64

Surplus Availability and Access: Court accounting remittance: Excess proceeds above tax debt, accrued interest, and statutory legal expenses after sale of property must be accounted for by the court and remitted to the former owner. Surplus that is not returned or claimed is transferred to the state unclaimed property fund.

Are statutory changes still needed: No

Michigan

Pre-*Tyler* Status / Issue Type: Counties acted as Foreclosing Governmental Units (FGUs), seized absolute title to a home, auctioned it off, and kept 100% of the surplus profits

Current Initial Enforcement Type (Certificate vs. Direct): Judicial tax auction and statutory surplus claims process

Current Auction / Sale Process & Requirements: Annual judicial public auction: County treasurer/FGU forecloses via circuit court decree. Foreclosed property is sold at open annual public land auctions with starting bids set at tax debt plus costs.

Statutory Citation: M.C.L. § 211.78t

Surplus Availability and Access: Administrative filing burden: Owners must file a specific administrative form by a strict statutory deadline (typically July 1 prior to auction) with the foreclosing governmental unit before the property is taken at foreclosure. Owner must then file a court motion after the property is sold and must appear at the hearing to get a court judgment for surplus. If the owner does not strictly follow all these procedural steps, the government will keep the surplus.

While these procedures might technically provide a homeowner with "access" to a surplus, the procedures do not help homeowners avoid losing their equity.

Are statutory changes still needed: **Yes, due to opt-in requirement.**

Minnesota

Pre-*Tyler* Status / Issue Type: Strict equity forfeiture (Ground Zero in *Tyler*)

Current Initial Enforcement Type (Certificate vs. Direct): Direct property sale (Tax certificate abolished)

Current Auction / Sale Process & Requirements: Two-phase public auction: Tax forfeiture occurs after a 3-year redemption period. The county takes tax title and conducts a mandatory public auction. The starting bid is set at delinquent tax debt plus costs.

Statutory Citation: Minn. Stat. § 282.01 (via 2024 HF 4822)

Surplus Availability and Access: Strict time barrier: Surplus is retrievable from sale of property, but former owners must proactively file a claim within a strict statutory 6-month window post-sale, or remaining equity forfeits to the state.

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Are statutory changes still needed: Yes, due to limited time period to claim surplus proceeds and transfer of surplus proceeds to the state if not claimed in that time.

Mississippi

Pre-*Tyler* Status / Issue Type: State Supreme Court struck down equity theft in *Griffin v. Mixon* (1860)

"Overbid Tax Lien Auction" system: required private investors to buy tax liens and wait for them to "mature" into tax deeds

Current Initial Enforcement Type (Certificate vs. Direct): Tax Certificate First, Chancery Clerk Tax Deed, then Chancery Court Title Confirmation

Current Auction / Sale Process & Requirements: Public Overbid Auction of Certificates Only: Certificates sold at county tax sales to highest cash bidder. 2-year redemption. Unredeemed certificates mature directly into administrative Chancery Clerk Tax Deeds.

Statutory Citation: Miss. Code Ann. § 27-41-59, § 27-41-77 & § 27-45-1 et seq.

Surplus Availability and Access: The competitive bid is on the tax lien certificate only, resulting in minimal surplus. Any overbid surplus is deposited into escrow, which the owner can claim. Any overbid is kept by the local government if property is redeemed or if no redemption and if surplus is not claimed by former owner within 2 years.

Are statutory changes still needed: Yes, because the surplus to the former owner is calculated from the lien certificate sale, not an auction of the property. The former owner is only provided a set time to claim this limited amount and then it goes to the state.

Missouri

Pre-*Tyler* Status / Issue Type: Tax lien certificate offered at public auction returning excess proceeds; no sale of absolute title to property

Current Initial Enforcement Type (Certificate vs. Direct): Tax lien certificate first then collector's tax deed

Current Auction / Sale Process & Requirements: Private investors bid publicly on tax lien certificates, and the number of times a property has been offered at auction dictates the length of the owner's redemption period.

Statutory Citation: Mo. Rev. Stat. § 140.230 & § 140.340

Surplus Availability and Access: Excess surplus is calculated by any bid amount on the tax lien certificate paid above the total taxes, interest, and collection fees. There is no fairly conducted tax sale of the property to generate proceeds for former title owner.

Are statutory changes still needed: Yes, because the surplus to the former owner is calculated from the lien certificate sale, not an auction of the property.

Montana

Pre-*Tyler* Status / Issue Type: Pre-2019-administrative tax lien to strict forfeiture: Investors purchased county tax liens. Unredeemed liens after 3 years converted directly into a tax deed, granting the investor full ownership and 100% of the equity with no public auction.

Current Initial Enforcement Type (Certificate vs. Direct): Administrative tax lien assignment followed by mandatory public surplus auction

Current Auction / Sale Process & Requirements: Banned strict administrative forfeitures for primary residences and owner-occupied land; if the property is a residential or agricultural dwelling and remains unredeemed after 3 years, the investor cannot just take the house. The county treasurer must place the property up for a public tax deed auction.

Statutory Citation: MCA §§ 15-18-219-221

Surplus Availability and Access: Any surplus funds are legally protected and must be proactively returned directly to the former homeowner. Under MCA § 15-18-221, Montana dictates a strict distribution timeline and protocol for handling these funds. Only applies to residential, agricultural, and forest properties.

Are statutory changes still needed: Yes, as to properties that are not residential, agricultural, and forest properties.

Nebraska

Pre-*Tyler* Status / Issue Type: Strict equity forfeiture: After 3-year redemption period ran, private investor could simply apply directly to the county treasurer for a tax deed and keep 100% of equity in the property

Current Initial Enforcement Type (Certificate vs. Direct): Tax lien certificate sale first followed by judicial sheriff sale

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Current Auction / Sale Process & Requirements: Judicial sheriff sale: Counties sell tax sale certificates to investors. Post-redemption, the investor or county files a judicial foreclosure action leading to a competitive public sheriff sale of the real property.

Statutory Citation: Neb. Rev. Stat. §§ 77-1801, 77-1901 et seq.

Surplus Availability and Access: Court registry remittance: Proceeds must satisfy tax debt, interest, and court costs first. Court clerk holds surplus auction revenue and distributes it to the former property owner; applies the state's standard real estate mortgage foreclosure rules to these distributions.

Are statutory changes still needed: **No**

New Hampshire

Pre-*Tyler* Status / Issue Type: Tax deed sold for percentage of undivided interest that purchaser is willing to offer for the unpaid tax, interest and costs due

Current Initial Enforcement Type (Certificate vs. Direct): Tax deed issued to purchaser if owner does not redeem

Current Auction / Sale Process & Requirements: Unpaid property taxes trigger a municipal lien, starting a statutory 2-year redemption period for the owner. If unredeemed, title transfers directly to the municipality—not a third party—which gives the former owner a 90-day repurchase window before selling the property at public auction.

Statutory Citation: N.H. Rev. Stat. Ann. §§ 80:24, 80:38; 80:80; 80:88 & 80:89

Surplus Availability and Access: Net property sale profits from auction sale must be returned to former owners. (Note that RSA 80:89, VII, still contains old language saying the town's duty to pay the surplus expires after 3 years but the New Hampshire Supreme Court struck down paragraph VII of RSA 80:89 as unconstitutional in *Polonsky v. Town of Bedford*. Towns must always return the surplus under RSA 80:88, no matter how long they hold the property before auctioning it off.)

Municipalities routinely hire specialized auction firms to sell off their inventory of tax-deeded properties. Investors bid against each other for fee-simple title to the real estate. Properties are sold "as-is" to the highest bidder, subject to minimum reserve prices. Any proceeds after the investor pays the winning bid are returned to the former owner, but the process does not encourage substantial surplus.

If a town decides to keep a foreclosed property for conservation, affordable housing, or municipal operations, no public sale occurs, meaning no cash surplus is generated.

Are statutory changes still needed: Yes, when property is kept by the town for conservation, affordable housing, or municipal operations.

New Jersey

Pre-*Tyler* Status / Issue Type: Severe access barrier / strict equity forfeiture: auction for tax sale certificate to a private investor then, after redemption runs, the investor filed a foreclosure action in the Superior Court Office of Foreclosure. The court issued a "Strict Foreclosure Judgment" that transferred absolute, clear title to the entire property directly to the private investor or municipality.

Current Initial Enforcement Type (Certificate vs. Direct): Tax lien certificate first with optional judicial sheriff sale

Current Auction / Sale Process & Requirements: Municipality sells tax sale certificates to private investors. After 2-year redemption, the investor files a foreclosure complaint, but a competitive public sheriff sale is only triggered if the homeowner explicitly demands it within 45 days to capture surplus equity.

Statutory Citation: P.L. 2024, c. 39; N.J.S.A. 54:5-84 & 54:5-104.29 et seq.

Surplus Availability and Access: Severe legal friction: Competitive sheriff's sale only occurs upon request of former owners who must retain attorneys to file complex court motions, resolve competing mortgage/HOA lien priorities, and pay interpleader fees or defaults back to its historical "Strict Foreclosure Judgment" system.

Are statutory changes still needed: Yes, due to opt-in requirement.

New York

Pre-*Tyler* Status / Issue Type: Strict equity forfeiture / Procedural barrier: default judgments handed absolute title directly to the county: failure to file a formal court answer acted as a permanent waiver of all property rights, allowing the government to take 100% of the home equity with no mandatory public auction or surplus return.

Current Initial Enforcement Type (Certificate vs. Direct): Judicial public auction of property with mandatory surplus return to owners

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Current Auction / Sale Process & Requirements: County forecloses under RPTL Article 11. Unredeemed properties undergo judicial In Rem foreclosure, transferring title to the municipality for public auction, with any surplus proceeds generated returning to the former owner.

*For New York City, see NYC Administrative Code (Title 11, Chapter 3) & Local Laws 56 and 62: NYC issued a 6-month pause on property tax sales to review the sale of tax lien certificates to private investor trusts.

Statutory Citation: N.Y. Real Prop. Tax Law §§ 1136;1361; 1197

Surplus Availability and Access: Court-ordered surplus claim via 3-year petitions: Owners of residential properties must file a formal court motion post-sale to claim the surplus. Unclaimed funds after three years (1 year for commercial) are permanently forfeited directly to the local tax district.

Are statutory changes still needed: Yes, due to burdensome process to claim surplus.

North Dakota

Pre-*Tyler* Status / Issue Type: Pre-2021, strict equity foreclosure: county government took absolute ownership of delinquent real estate, sold it at a public auction, and retained 100% of the surplus equity.

Current Initial Enforcement Type (Certificate vs. Direct): Administrative county foreclosure with mandatory surplus return

Current Auction / Sale Process & Requirements: Annual county public auction: County issues a tax deed after a 3-year redemption window. The county must sell foreclosed parcels at an annual public auction.

Requirements: Competitive bidding with minimum start bid set by county commissioners.

Statutory Citation: N.D.C.C. § 57-28-20 & § 57-45-10

Surplus Availability and Access: Direct remittance: County auditor deducts back taxes, interest, penalties, and auction expenses. Remaining surplus funds are held in trust and remitted to former title holders upon application within 90 days or transferred to unclaimed property fund.

Are statutory changes still needed: No

Ohio

Pre-*Tyler* Status / Issue Type: If property failed to sell at 2 public auctions, it forfeited to state/land bank with $0 equity return.

Current Initial Enforcement Type (Certificate vs. Direct): Direct property sale / tax lien certificate (County choice)

Current Auction / Sale Process & Requirements: Judicial sheriff sale / Land bank transfer: Public sheriff sale for debt; unsold land transferred to land bank.

Statutory Citation: Ohio Rev. Code § 5721.20 & § 5723.01 et seq., Ohio Rev. Code §§ 323.78(B)

Surplus Availability and Access: Overbid at sheriff sale vs. $0 at land bank: Standard sheriff sales might generate cash surplus overbids returned to owners. However, if no bid is received, property transfers to a land bank for $0 surplus.

Are statutory changes still needed: Yes, as to properties where no bid is received and it is transferred to a land bank.

Oregon

Pre-*Tyler* Status / Issue Type: Strict equity forfeiture: county took full title to delinquent real estate through judicial proceeding, after redemption period ran, could sell at auction and keep all proceeds.

Current Initial Enforcement Type (Certificate vs. Direct): Direct property sale via real estate broker

Current Auction / Sale Process & Requirements: County public auction: County forecloses tax liens in court. Following redemption, county takes deed title and sells real estate through a real estate agent or broker.

Statutory Citation: ORS 275.275

Surplus Availability and Access: Administrative claim channel: Counties are legally prohibited from sweeping excess auction proceeds into general county funds. Former owners file an administrative claim with the county for surplus disbursement. Surplus that is not claimed is transferred to the state unclaimed property fund.

Are statutory changes still needed: No

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Rhode Island

Pre-*Tyler* Status / Issue Type: Tax deed sold at auction to bidder who will pay tax debt for the smallest undivided part interest in the property. If no redemption by owner, purchaser retains 100% of equity.

Current Initial Enforcement Type (Certificate vs. Direct): Tax deed sale followed by court action to foreclose redemption

Current Auction / Sale Process & Requirements: Madeline Walker Act of 2006/ Housing Agency Priority (§ 44-9-8.3): For owner-occupied 1-to-3 family residential homes, Rhode Island Housing (RIHousing) holds a statutory right of first refusal to acquire tax lien at tax sale. RIHousing can step in ahead of private auction buyers, pay the tax debt, and either assist the homeowner with a repayment plan or acquire the tax title. If owner does not pay tax debt within 5 years, RIHousing can foreclose redemption rights, acquire title, and retain equity.

Statutory Citation: R.I. Gen. Laws § 44-9-1 et seq.

Surplus Availability and Access: If the owner does not redeem within 1 year, an action to foreclose the former owner's rights is brought. If court does not permit redemption, purchaser is awarded title to property and may retain any equity.

Right to surplus only in procedure not commonly used where city or town may purchase property for nonpayment of taxes and sell property without foreclosure. §§ 44-9-30, 9-36, 9-37.

Are statutory changes still needed: Yes, because no right to equity in tax foreclosure process most commonly used.

South Dakota

Pre-*Tyler* Status / Issue Type: Strict equity forfeiture: county treasurer issued tax deeds administratively and offered no mechanism to return surplus home equity to the homeowner once a tax deed was issued.

Current Initial Enforcement Type (Certificate vs. Direct): Tax lien certificate first then county deed sale to highest bidder

Current Auction / Sale Process & Requirements: County tax deed public auction: Treasurer sells tax certificates to investors. Post-redemption (3 years), county issues a tax deed and conducts a public auction.

Statutory Citation: S.D.C.L. § 10-25-1 et seq.

Surplus Availability and Access: Direct remittance: Post-*Tyler* emergency session revisions eliminated the county/investor right to absorb excess profits. Net overbid proceeds beyond taxes, interest, and costs are remitted to former owners.

Are statutory changes still needed: **No**

West Virginia

Pre-*Tyler* Status / Issue Type: Unsold properties transferred to Deputy Commissioner of Delinquent Lands and sold without equity return.

Current Initial Enforcement Type (Certificate vs. Direct): Tax lien certificate first then judicial deed

Current Auction / Sale Process & Requirements: If the property is not redeemed within specified time after tax lien certificate sale, the deputy commissioner shall upon request provide the purchaser with a quitclaim deed for the property.

Statutory Citation: W. Va. Code § 11A-3-28 & § 11A-3-64

Surplus Availability and Access: Updated code requires public auctions on tax lien and former owner is entitled only to overbids on the tax lien, not on the sale of the property, resulting in minimal surplus. Any cash above debt/costs must be deposited with the circuit court clerk for the owner.

Are statutory changes still needed: **Yes, because the surplus to the former owner is calculated from the lien certificate sale, not an auction of the property.**

Wisconsin

Pre-*Tyler* Status / Issue Type: County acquired property after redemption period had run by either administrative tax deed or in rem foreclosure proceeding in court. If county sold property, former owner entitled to surplus but if county did not sell, no surplus was calculated.

Current Initial Enforcement Type (Certificate vs. Direct): Direct property sale (Judicial In Rem foreclosure)

Current Auction / Sale Process & Requirements: Mandatory property sale: County takes title via judicial In Rem foreclosure- no longer permitted to hold on to property indefinitely

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without compensating the former owner. The county must advertise and sell the property on the open market or MLS within 180 to 240 days.

Statutory Citation: Wis. Stat. §§ 75.36 & 75.69

Surplus Availability and Access: Administrative claim window: County deducts back taxes, missed taxes during title hold, fees, and costs. Excess proceeds are remitted to the owner; unclaimed funds transfer to unclaimed property after 1 year.

Are statutory changes still needed: **No**

Wyoming

Pre-*Tyler* Status / Issue Type: Administrative tax lien certificate system: Certificates were sold for exact tax debt amount via drawing; no cash overbid was generated.

Current Initial Enforcement Type (Certificate vs. Direct):
A. Tax lien certificate lottery then judicial lien foreclosure and sheriff's sale

B. Tax lien certificate lottery then treasurer's tax deed execution (administrative transfer)

Current Auction / Sale Process & Requirements:
A. After initial lottery of tax certificate, after 4-year redemption period, lienholder files a judicial foreclosure action and court orders public auction of real estate.

B. Lienholder can bypass the courts and apply directly for an administrative Treasurer's Tax Deed after the 4-year waiting period, stripping all the former owner's equity.

Statutory Citation: Wyo. Stat. Ann. § 39-13-108(e)

Surplus Availability and Access: No surplus is created at initial tax certificate sale. Once 4-year redemption period expires, the tax lienholder seeks judicial foreclosure and property is sold at auction, generating surplus that must be returned to former owner. The former owner (or junior lienholder) has 2 years from the date the court confirms the sale to submit a claim for the surplus funds. If unclaimed, transfer to county reserve fund.

Are statutory changes still needed: **No**

APPENDIX B: PROPERTY TAX FORECLOSURE CLIENT INTAKE & ASSESSMENT FORM

See following pages. This page is intentionally left blank.

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Property Tax Foreclosure Client Intake & Assessment Form

October 2026

Questions for clients who are behind on their property taxes

Property Tax Foreclosure Client Intake & Assessment Form
Instructions for Intake Staff:
This form assists advocates in evaluating cases involving delinquent property taxes, potential tax foreclosures, and post-foreclosure equity recovery.

These questions are meant as follow-up questions after an initial intake for individuals who are behind on or having a hard time paying their property taxes.

Section 1: Immediate Deadlines & Urgent Actions
Complete this section during the initial screening, in addition to the primary intake questions asked to identify upcoming court or administrative deadlines.

- [ ] **Notice of Past Due Taxes:** Has the client received notices from the municipality or a private tax buyer/entity? [ ] Yes [ ] No
    - **Document(s) provided by client**: [ ] Yes [ ] No [ ] Other Status:
    - **Documents Not Listed Below & Any Reply Deadlines** _____

- [ ] **Tax Taking / Foreclosure Notice:** Does any notice mention a "tax taking" “auction” or "foreclosure" with a deadline to respond? [ ] Yes [ ] No
    - **If so, Response Due Date:** _____

- [ ] **Court Filings:** Has the client received a "Petition/Complaint for Foreclosure"? [ ] Yes [ ] No
    - **If so, Answer Due Date:** _____

- [ ] **Notice of Sale:** Has a notice of sale or auction been issued? [ ] Yes [ ] No
    - **Sale Date:** _____

- [ ] **Completed Foreclosure:** Has the property already gone through a tax foreclosure sale? [ ] Yes [ ] No

    - If so, is the client still occupying the property? [ ] Yes [ ] No

Section 2: Property & Title Information
Verify ownership, occupancy status, and property condition.

Title & Ownership

- **Deed Details:** Who is listed on the deed?_____
    - Is the client's name on the deed? [ ] Yes [ ] No
    - Date name was added to deed: _____

- **Inherited Property:** Did the client inherit the property? [ ] Yes [ ] No
    - How was it inherited?
        - Will (testate succession)
        - Without a will (Intestate succession)
        - Joint Tenant with Rights of Survivorship
        - Transfer on Death Deed
        - Living Trust
        - Other_____
    - If the client is not on the deed, has probate been opened? [ ] Yes [ ] No
        - Status of probate: _____

- **Co-Owners:** Are there other owners (spouses, heirs, co-tenants)?
    - Names and current addresses of co-owners: _____

Property Details & Condition

- **Property Address:** _____
- **Property Type:** [ ] Single-Family [ ] Multi-Family [ ] Commercial [ ] Other
- **Occupancy:**
    - Is the client living on the property? [ ] Yes [ ] No
    - Is this the primary residence? [ ] Yes [ ] No
    - List all current occupants: _____

- **Condition & Municipal Notices:**
    - Property condition: [ ] Good [ ] Fair [ ] Needs Major Repairs

    - Needed repairs: _____
    - Code violations or municipal fines received? [ ] Yes [ ] No

Section 3: Tax Debt & Financial Assessment

Property Tax Debt Breakdown

- **Tax Bill Name:** Is the tax bill in the client's name? [ ] Yes [ ] No
    - Prior name on tax bill (if applicable): _____
- **Annual Taxes:** $_____ / year
- **Total Past-Due Balance:** $_____
    - Years delinquent: _____
    - Date and amount of last payment made: _____
- **Cause of Delinquency:** What hardship or event led to unpaid taxes?
  _____

Valuation & Equity Calculation

- **Estimated Fair Market Value (Zillow / Realtor.com):** $_____
- **Town Assessed Value:** $_____
- **Mortgage & Escrow:**
    - Is there an active mortgage? [ ] Yes [ ] No
    - Are taxes paid through an escrow account? [ ] Yes [ ] No
    - Mortgage status: [ ] Current [ ] Delinquent (Amount behind: $_____)
    - Principal balance owed: $_____
    - Total monthly payment (including escrow): $_____

- **Other Liens:** Are there other liens or encumbrances on the registry/recorder's office? (e.g., HOA, mechanics, medical)
  _____

Section 4: Abatements, Exemptions & Remedies
Evaluate eligibility for tax reductions, deferrals, and repayment programs.

Exemptions & Eligibility Status

- **Protected Demographics:** Is the client a:
    - [ ] Senior Citizen [ ] Veteran [ ] Legally Blind / Disabled

- **Existing Exemptions:** Does the client currently have a homestead exemption or deferral? [ ] Yes [ ] No

    - If no, why not? _____

- **Abatements:** Has the client applied for an abatement or exemption? [ ] Yes [ ] No.
    - Date filed and outcome: _____

Municipal Repayment Options

- **Payment Plans:** Has the client asked for and/or has the municipality offered a payment plan? [ ] Yes [ ] No
    - Terms and status: _____
    - Down payment required: $_____

- **Interest Waivers:** Has the client requested or the municipality offered to waive delinquent interest? [ ] Yes [ ] No

- **Past Payment Plans:** Has the client been in a municipal repayment plan before? [ ] Yes [ ] No

Financial Capacity & Alternative Solutions

- **Monthly Contribution Capability:** Estimated affordable monthly payment toward past-due taxes (based on income and expenses of client): $_____
- **Alternative Income Sources:** Can the client generate additional income (e.g., renting a room/garage/basement)?
- **Other Options Explored:** Has the client evaluated traditional or potentially high-risk loans[1], reverse mortgages, or selling the property? _____
- **Bankruptcy History:** Has the client filed for bankruptcy in the past 7 years? [ ] Yes [ ] No
    - Chapter: _____ | Outcome: _____
    - *(Refer to bankruptcy counsel for consultation)*

Section 5: Post-Foreclosure Sale & Surplus Proceeds (*Tyler v. Hennepin County*)
Complete this section if the tax foreclosure sale has already taken place.

[1] Homeowners who are behind on their taxes may fall prey to foreclosure rescue scams and equity theft products. *See* NCLC's Home Equity Theft Scams—An Old Problem Takes on New Forms and NCLC Issue Brief: **Home Equity Investment Loans Are Subprime Mortgages: Federal and State Policymakers Should Update Rules to Protect Consumers**

- **Final Judgment / Sale Date:** _____
- **Financial Reconciliation:**
  - Total Sale Price Obtained: $_____
  - Total Taxes, Interest, Fees & Costs Owed: $_____
  - **Calculated Excess Equity / Surplus:** $_____
- **Proceeds Status:**
  - Has the client received any funds from the sale proceeds? [ ] Yes [ ] No
  - Has the client received notices regarding "excess equity" claims or third-party surplus collection offers? [ ] Yes [ ] No
- **Actions Taken:**
  - [ ] Provided client with instructions on requesting excess equity from the local taxing authority under *Tyler v. Hennepin County*.
  - [ ] Referred to local taxing entity for surplus claim processing.

Section 6: Additional Case Notes

_____
_____

The nonprofit National Consumer Law Center® (NCLC®) works for economic justice for low-income and other disadvantaged people in the U.S. through policy analysis and advocacy, publications, litigation, and training.

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8. The millage (or mill) rate represents the amount of property tax per $1,000 of a property's assessed or taxable valuation. One mill is equal to $1 of tax liability per $1,000 of assessed value (or 0.1% of the taxable value).
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13. Joint Ctr. for Hous. Stud. of Harvard Univ. (2026). *The State of the Nation's Housing 2026*. https://www.jchs.harvard.edu/state-nations-housing-2026.
14. With mortgage loan interest rates above 6% or higher for buyers with lower credit scores, homeowners are choosing to stay in their homes rather than move. As the median age of the housing stock rises, spending on home maintenance and repairs has expanded rapidly, growing 153% over the last decade to account for 41% of all residential construction spending in 2025 ($376 billion). *See* Joint Ctr. for Hous. Stud. of Harvard Univ. (2026). *The State of the Nation's Housing 2026*. https://www.jchs.harvard.edu/state-nations-housing-2026.
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18. Jake Vehige. (Mar. 4, 2026). *Where Taxes and Insurance Rival the Mortgage Payment*. Neighbors Bank. https://www.neighborsbank.com/learn/taxes-insurance-costs-reshaping-mortgage-affordability/; Spencer Lee. (May 5, 2026). *Taxes, insurance eat 21% of mortgage payments*, National Mortgage News.

19. *Id.*

20. *See, e.g.*, Mo. Rev. Stat. § 140.310 (on Jan. 1st any unpaid taxes become a lien on the property); N.M. Stat. Ann. § 7-38-48 (unpaid taxes become a lien on Jan. 1st for the tax year for which the taxes are imposed).

21. *E.g.*, Ky. Rev. Stat. Ann. § 134.420 (West); N.M. Stat. Ann. § 7-38-48 (tax lien is the first lien and is paramount to any other interest in the property, perfected or unperfected). See also Solarte v. Washington Mut. Bank, 2005 WL 3291813 (Cal. Ct. App. Dec. 6, 2005) (unpublished) (liens for real property taxes have priority over all private liens, regardless of time of creation).

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23. *See, e.g.*, N.M. Stat. § 7-1-44; S.C. Code Ann. § 12-45-180.

24. *See* NCLC's *Home Foreclosures* (3d ed. 2026), Appx G, https://library.nclc.org/book/home-foreclosures/introduction-summary-state-tax-lien-foreclosure-laws.

25. *See* NCLC's *Home Foreclosures* (3d ed. 2026), Appx G, https://library.nclc.org/book/home-foreclosures/introduction-summary-state-tax-lien-foreclosure-laws.

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28. *See e.g.*, Miss. Code Ann. § 27-45-3; § 21-33-61.

29. *See* Fred Schulte, Scott Calvert. (Mar. 4, 2011). *Witness says he rigged bids in property tax lien auctions in Maryland*. Center for Public Integrity. https://publicintegrity.org/inequality-poverty-opportunity/witness-says-he-rigged-bids-in-property-tax-lien-auctions-in-maryland/.

30. Texas Tax Code § 34.21(a) and (e)(2) (This applies to residence homesteads, agricultural land, and mineral interests. The premium is calculated on the aggregate total of the purchase bid, deed recording fee, and all taxes, penalties, interest, and costs paid by the purchaser. If the property is non-homestead/commercial, the redemption period is restricted to 180 days, and the premium caps out at 25% under § 34.21(e)).
31. Iowa Code § 447.1.
32. Mississippi Code Annotated § 27-45-3.
33. Official Code of Georgia Annotated (O.C.G.A.) § 48-4-42(a)(3).
34. Connecticut General Statutes § 12-146. (Note that for municipal tax liens assigned/sold to outside purchasers **on or after July 1, 2026**, the maximum annual interest rate the purchaser can charge is reduced from 18% down to 12% on the delinquent principal. If the town itself executes a standard tax auction, the 18% per year rate on the auction purchase price still applies under § 12-157, but for assigned investor liens, it is now 12%.) Connecticut General Assembly. (2025). Senate Bill 1339: An act concerning the assignment of certain liens was successfully folded into and passed through the 2025 State Budget Bill, Public Act 25-16 found at https://www.cga.ct.gov/2025/act/pa/pdf/2025PA-00168-R00HB-07287-PA.pdf.
35. Ohio Revised Code § 5721.30(G) & 5721.38.(Up to 18%, but competitive bidding can lower it.)
36. Oklahoma Statutes Title 68, § 2913(B)(Oklahoma statute dictates that interest stops accruing entirely once the total accumulated interest equals 100% of the unpaid tax principal.)
37. Wyoming Statutes § 39-13-108(b)(ii) (15% interest + 3% penalty for Year 1).
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42. *Id.*
43. *See* Naseem Miller. (Aug. 3, 2021). *Death and Taxes: Research Links Neighborhood Race, Tax and Delinquency and Life Expectancy*. The Journalist's Resource. https://journalistsresource.org/home/tax-delinquency-premature-death/.
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45. Carlos Avenancio-Leon, Troup Howard. (June 2020). *The Assessment Gap: Racial Inequalities in Property Taxation*. Washington Center for Equitable Growth.

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62. *Pung v. Isabella Cnty.*, Michigan, 609 U.S. 30, 146 S. Ct. 1964, 225 L. Ed. 2d 373 (2026).

63. NCLC has reviewed the tax sale laws in every state and compiled a summary of each state's laws in NCLC's *Home Foreclosures*, Appx G, https://library.nclc.org/book/home-foreclosures/introduction-summary-state-tax-lien-foreclosure-laws. For each state we have included information about the method of tax sale, bidding and sale procedures, notice requirements, pre-sale cure rights, and post-sale redemption rights.

64. To determine which property tax relief programs are available in your state, visit the AARP Property Tax Aide website at https://ptaconsumers.aarpfoundation.org/. The dashboard allows you to search any state to determine which property tax relief options are available and whether there is a need to advocate for additional relief options.

65. For a comprehensive analysis of circuit breakers and a look at which states have the most and least helpful programs *see* Carl Davis, Brakeyshia Samms. (May 2023). *Preventing an Overload: How Property Tax Circuit Breakers Promote Housing Affordability*. Institute on Taxation and Economic Policy. https://itep.org/property-tax-affordability-circuit-breaker-credits/; Adam H. Langley, Joan Youngman. (Nov. 2021). *Property Tax Relief for Homeowners*, Lincoln Institute of Land Policy. https://www.lincolninst.edu/publications/policy-focus-reports/property-tax-relief-homeowners/.

66. *See* https://www.annuity.org/personal-finance/taxes/property/taxes-by-state/.

67. *See* https://www.mass.gov/info-details/massachusetts-tax-information-for-seniors-and-retirees.

68. Applies to seniors (62+), blind, or disabled homeowners. The Property Tax Postponement

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(PTP) allows deferral of annual taxes on primary residences; requires at least 40% home equity and the interest rate is around 5% simple interest.

69. Applies to seniors (65+), disabled individuals, or qualified disabled veterans. Under Tax Code §33.06 / §33.065, tax collection and foreclosures are paused. Accrues interest (5%–8% simple depending on section) until sale or transfer.

70. Applies to seniors (65+) or permanently disabled residents. Under the State Property Tax Deferral Program, the State pays municipal property taxes that are deferred until transfer, sale, or death.

71. https://city.milwaukee.gov/treasurer/eft.

72. *See e.g.*, Berwick: https://www.berwickmaine.gov/departments/finance/taxclub.php; Bath: https://www.cityofbathmaine.gov/Departments/Finance/Tax-Club; Gardiner: https://www.gardinermaine.gov/Government/Departments/Tax-Collector/Tax-Club.

73. Informational videos in English, Spanish, and Polish about the calculator are available at https://www.cookcountytreasurer.com/paymentplaninformationalvideos.aspx.

74. Mass. Gen. Laws ch. 60, § 62A (2024).

75. Mich. Comp. Laws Ann. § 211.78q.

76. For clarification on the term "homestead exemption," a "property tax homestead exemption" operates as a tax relief mechanism by reducing the home's taxable assessed value and lowering the owner's annual property tax assessment. In contrast, a "debtor-creditor homestead exemption" is an equity protection mechanism that exempts a specified dollar amount of equity in a primary residence from execution, attachment, or forced sale by general judgment creditors, though it typically does not protect against consensual liens (such as mortgages) or tax liens.

77. Christopher Berry. (2024). *De Jure and De Facto Property Tax Rates in Large US Cities*. 44 Pub. Budgeting & Fin. 5.

78. A Cook County Tax Assessor brochure describing the Certificate of Error process for requesting a tax bill adjustment or refund, prepared in English and the top five languages spoken in Cook County, is available at https://www.cookcountyassessoril.gov/exemptions.

79. Del. Code Ann. tit. 9, §§ 8723, 8725. While many modern Delaware county notices include standard English explanations and plain-language warnings alongside statutory documents to satisfy procedural due process, the formal statutory process and official court filings continue to be defined by terms like *praecipe*, *monition*, *Prothonotary*, and *venditioni exponas*.

80. N.Y. Real Prop. Tax Law § 1144. While this outlines the general steps involved with the property tax foreclosure process, it should be laid out more clearly that the homeowner could lose their home if they do not act in time and define redemption and how to redeem.

81. Ohio Rev. Code Ann. § 5721.32.

82. Mass. Gen. Laws Ann. ch. 60, § 2C.

83. R.I.G.L. § 44-9-10(d).

84. R.I.G.L. § 44-9-10(b).

85. Pa. Stat. Ann. § 5860.607a.

86. Mich. Comp. Laws § 211.78i(2).

87. *See* Andrea Bopp Stark, Odette Williamson. (Aug. 22, 2023). *Property Tax Foreclosures on Heirs Property: The Devastating Consequences and Recommendations for Prevention*. NCLC. https://www.nclc.org/resources/property-tax-foreclosures-on-heirs-property-the-devastating-consequences-and-recommendations-for-prevention/.

88. *Id.*

89. For additional resources on preventing tax foreclosures on owners of heirs property, NCLC has a full-length report: Andrea Bopp Stark, Odette Williamson. (Aug. 22, 2023). *Property Tax Foreclosures on Heirs Property: The Devastating Consequences and Recommendations for Prevention*. NCLC. https://www.nclc.org/resources/property-tax-foreclosures-on-heirs-property-the-devastating-consequences-and-recommendations-for-prevention/ as well as a short list of local solutions: Nketiah Berko. (Feb. 6, 2026). *Local Solutions to Protect Heirs Property Owners from Property Tax Foreclosure*. NCLC. https://www.nclc.org/resources/local-solutions-to-protect-heirs-property-owners-from-property-tax-foreclosure/.

90. *See* Jon Gorey. (July 11, 2025). *Understanding Heirs' Property*. Lincoln Inst. of Land Policy: Land Lines. https://www.lincolninst.edu/publications/land-lines-magazine/articles/understanding-heirs-property/ (recommending that states allow heirs' property owners to submit alternative documentation of ownership to access property tax relief and avoid preventable tax delinquency).

91. *See* Real Estate Tax Delinquency. City of Phila. https://www.phila.gov/services/payments-assistance-taxes/payment-plans-and-assistance/real-estate-tax-delinquency; Owner-Occupied Payment Agreement (OOPA), City of Phila. https://www.phila.gov/services/payments-assistance-taxes/payment-plans-and-assistance/owner-occupied-payment-agreement-oopa/; Save Your Home Philly Hotline. Phila. Legal Assistance. https://saveyourhomephilly.org/.

92. *See also* "Practice Tools" at NCLC's Property Tax Practice Suite at https://library.nclc.org/property-tax-foreclosures and https://library.nclc.org/companion-material/nclc-property-tax-foreclosure-client-intake-assessment-form-oct-2026.

93. N.J. Stat. Ann. § 54:5-87(b).

94. Mich. Comp. Laws § 211.78t.

95. Mich. Comp. Laws § 211.78t(4) and MCL 211.78t(12)(b)(3).

96. In a study of tax foreclosures in 2022 in Oakland County, Michigan's second largest county, only 13 properties out of 373 tax-foreclosed properties were sold at auction (the county rejected 10 claims and 350 properties had no requests made). This resulted in only about $1 of every $4 in excess proceeds being returned to property owners. *See* Kyle Sweetland, Deborah J. La Fetra. (Jan. 2026). *Shadow Equity Theft: Confusing Claims Processes Allow Wholesale Home Equity Theft to Continue*. Pacific Legal Foundation.

97. Mass. Gen. Laws ch. 60, § 64A (2022).

98. *Pung v. Isabella Cnty.*, Michigan, 609 U.S. 30, 146 S. Ct. 1964, 225 L. Ed. 2d 373 (2026).

99. *See United States v. Taylor*, 104 U.S. 216 (1881) and United States v. Lawton, 110 U.S. 146, (1884).

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100. For example, following a tax lien sale in West Virginia, the purchaser must prepare a list of all entities to be served with notice of the right to redeem, usually by conducting a title examination of the property, and then must provide the West Virginia State Auditor's Office with the funds needed to serve notice on the interested parties. W. Va. Code § 11A-3-56(a)(3); § 11A-3-52.

101. *See, e.g.*, Iowa Code § 446.16; Mo. Ann. Stat. § 140.190.

102. The interest rate method for bidding is used in five states that sell tax liens (Arizona, Florida, New Jersey, Ohio, South Dakota). Ariz. Rev. Stat. Ann. § 42-18114; Fla. Stat. § 197.432(6); N.J. Stat. Ann. § 54:5-32; Ohio Rev. Code Ann. § 5721.32; S.D. Codified Laws § 10-23-7. Ohio has an alternative procedure in which a tax deed is sold at a high-bid auction. Ohio Rev. Code Ann. § 5721.19, 5721.191.

103. The percentage ownership method is used in four states that sell tax liens (Iowa, Massachusetts, New Hampshire, Rhode Island). Iowa Code § 446.16; Mass. Gen. Laws ch. 60, § 43; N.H. Rev. Stat. Ann. § 80:24; R.I. Gen. Laws § 44-9-8.

104. *See* Appendix A for a list of states that engage in a sale of the tax lien only and base any surplus on the minimal amounts received for the tax lien sale.

105. *See* Cameron LaPoint. (Sept. 15, 2022). *Property Tax Sales, Private Capital, and Gentrification in the U.S.*, p. 1. (noting that "tax liens sell at a much larger haircut compared to mortgage foreclosed homes - for less than 10% of ex ante assessed value in over 80% of cases, with an underlying average tax debt of just $3,700"), *available at* SSRN: https://ssrn.com/abstract=4219360.

106. *See* Edmondson Community Organization. Inc. v. Mayor and City Council of Baltimore. 2025 WL 2430345, *19 (D. Md. Aug. 22, 2025). ("Plaintiffs have plausibly alleged that the auction price of the tax lien is lower than the value of the property itself, and that receiving only the difference between the sale price of the lien after their tax bill is paid, not the difference between the value of the property and their outstanding taxes, was not just compensation under the Takings Clause").

107. *See e.g.*, National Association of Realtors®. (Dec. 24, 2024). *2025 Code of Ethics & Standards of Practice*. https://www.nar.realtor/sites/default/files/2024-12/2025-COE-Standards-of-Practice-2024-12-24.pdf.

108. *See e.g.,* John Y. Campbell, Stefano Giglio, Parag Pathak. *Forced Sales and House Prices*. Nat'l Bureau of Econ. Research, Working Paper No. 14866, 2009. (reviewing Massachusetts properties and finding those sold through mortgage foreclosure or other "forced-sale" channels sold for substantially less than comparable homes sold in open-market transactions). https://www.nber.org/papers/w14866.

109. *Id.*

110. *Id.*

111. 36 M.R.S. § 943-C (2024).

112. M.G.L.A. 60 § 64A(c).

113. Oregon H.R. 2089, 2025 Reg. Sess., Ch. 475 (Or. 2025), https://olis.oregonlegislature.gov/liz/2025R1/Measures/Overview/HB2089 (Effective date Sept. 26, 2025.).

114. Amy Calder. (Feb. 6, 2018). *LePage Urges Taxation Committee to Back Bill to Protect Elderly from Property Foreclosure*. Central Maine. https://www.centralmaine.com/2018/02/06/lepage-urges-taxation-committee-to-back-bill-to-protect-elderly-from-property-foreclosure/.

115. Maine L.D. 1629, enacted as Pub. L. 2017, ch. 478 (P.L. 2017, c. 478).

116. Maine Foreclosure Working Group. (Jan. 15, 2024). *Final Report of the Foreclosure Working Group*. https://www.maine.gov/revenue/sites/maine.gov.revenue/files/inline-files/Final%20Report%20of%20the%20Foreclosure%20Working%20Group%2020240115_0.pdf.

117. 36 M.R.S. § 943-C(4-A) (the municipal offices may sell the property as authorized by the municipality's legislative body which most likely would be through a public auction).

118. Oliver Slade. (May 2026). *Policy Analysis: Property Tax Foreclosure Reforms in Maine and Massachusetts: Assessing the Transition to Open-Market*, *Real Estate Agent Sales*. (unpublished M.P.P. capstone report, University of Maryland) (on file with author).

119. Note that Arizona and New Jersey require the former owner to engage in a burdensome request before accessing any surplus from the sale. *See* Appendix A for Post-*Tyler* State Tax Foreclosure Analysis.

120. *See* M.G.L.A. 60 § 64A(c)(2); Oregon H.R. 2089, 2025 Reg. Sess., Ch. 475, Section 6(3)(c)(C).

121. Fla. Stat. § 197.542 (2025).

122. Mont. Code Ann. § 15-18-220.

123. *See* The Appraisal Foundation. "*USPAP*." (Accessed Dec. 2, 2025). https://appraisalfoundation.org/pages/uspap.

124. Francesco Mazzola. (2022). *Electronic Foreclosures*. *Available at* ERES: Conference, "Electronic Foreclosures" (explaining that electronic and online foreclosure platforms broaden bidder participation, increase competition, and tend to raise final sale prices). https://eres.architexturez.net/system/files/P_20220224170713_8136.pdf; Jung Hyun Choi, Laurie Goodman, Liam Reynolds. (Feb. 8, 2022). *Why Do So Few People Buy Affordable Properties at Auction?*. The Urban Institute. (Noting that online foreclosure auctions "make it easier for individuals … to attend" and thus broaden participation and competition, which can increase sale prices). https://www.urban.org/sites/default/files/publication/105440/why-do-so-few-people-buy-affordable-properties-at-auction_0.pdf.

125. In California, notice to the homeowner must include the electronic address of any online auction and locations of computer workstations that are available to the public with instructions on accessing the public auction and submitting bids. California Civil Code § 2924f. This same information could be provided with the online auction notice to the public to increase participation.

126. *See Id.*

127. *See* L.A. Cnty. Treasurer & Tax Collector. *Schedule of Upcoming Auctions*. (last visited Nov. 26, 2025). https://ttc.lacounty.gov/schedule-of-upcoming-auctions/.

128. Harris Cnty., Tex., Tax Office. *Harris County Delinquent Tax Sale Property Listing*. (last visited Nov. 26, 2025). https://www.hctax.net/Property/listings/taxsalelisting. (also included minimum bids); Dall. Cnty. Dep't of Pub. Works. *Property Division Tax Foreclosure Resales*. (last visited Nov. 26, 2025). https://www.dallascounty.org/departments/pubworks/property-division.php.

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129. *See e.g.*, City of Phila., Pa. *Real Estate Tax Delinquencies*. (last visited Nov. 26, 2025). https://data.phila.gov/visualizations/real-estate-tax-delinquencies.

130. *See e.g.*, Renan Tomas Grosso. (Oct. 3, 2025). *Tax Sale and Tax Deed Auctions in the U.S. Gain Global Attention Amid Digital Transformation*. J. Real Est. Pro. (the shift to online auctions " increased accessibility, transparency, and liquidity, but it also reduced the number of deeply discounted properties.") https://www.journalofrealestateprofessionals.com/article/854368079-tax-sale-and-tax-deed-auctions-in-the-u-s-gain-global-attention-amid-digital-transformation.

131. Francesco Mazzola. (2022). *Electronic Foreclosures*. *Available at* ERES: Conference, "Electronic Foreclosures" (explaining that electronic and online foreclosure platforms broaden bidder participation, increase competition, and tend to raise final sale prices). https://eres.architexturez.net/system/files/P_20220224170713_8136.pdf; Jung Hyun Choi, Laurie Goodman, Liam Reynolds. (Feb. 8, 2022). *Why Do So Few People Buy Affordable Properties at Auction?*. The Urban Institute. (Noting that online foreclosure auctions "make it easier for individuals … to attend" and thus broaden participation and competition, which can increase sale prices). https://www.urban.org/sites/default/files/publication/105440/why-do-so-few-people-buy-affordable-properties-at-auction_0.pdf.

132. La. Stat. Ann. § 47:2268.

133. Md. Code Tax-Prop. §§ 14-833, 14-835; M.G.L. ch. 60 §§ 65–66; R.I. Gen. Laws §§ 44-9-25.

134. Roanoke Cnty., VA. *Judicial Sales Frequently Asked Questions*. (last visited Dec. 3, 2025). https://www.roanokecountyva.gov/1651/Judicial-Sales-FAQ.

135. Clerk of the C. of Brevard Cnty., Fla. *FAQs - Tax Deeds / Auctions*. (last visited Dec. 3, 2025). https://www.brevardclerk.us/faqs-tax.

136. Atif Mian, Amir Sufi, Francesco Trebbi. (Jan. 2011). *Foreclosures, House Prices, and the Real Economy*. NBER Working Paper No. 16685. National Bureau of Economic Research. https://www.nber.org/system/files/working_papers/w16685/w16685.pdf.

137. *Id.*



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