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WHAT DOES THE SALE OF PROPERTY TAX DEBT MEAN FOR WEST VIRGINIA COMMUNITIES?

A Report on Delinquent Property Tax Enforcement and Vacant Property for West Virginia Reformers

Center for Community Progress Report to the Huntington Urban
Renewal Authority and its statewide partners, including the
West Virginia Community Development Hub, and the Northern
WV Brownfields Assistance Center at West Virginia University
2017 Technical Assistance Scholarship Program Recipients



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ABOUT CENTER FOR COMMUNITY PROGRESS

The mission of Center for Community Progress is to foster strong, equitable communities where vacant, abandoned, and deteriorated properties are transformed into assets for neighbors and neighborhoods. Founded in 2010, Community Progress is the leading national, nonprofit resource for urban, suburban, and rural communities seeking to address the full cycle of property revitalization. The organization fulfills its mission by nurturing strong leadership and supporting systemic reforms. Community Progress works to ensure that public, private, and community leaders have the knowledge and capacity to create and sustain change. It also works to ensure that all communities have the policies, tools, and resources they need to support the effective, equitable reuse of vacant, abandoned, and deteriorated properties. More information is available at www.communityprogress.net.

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I. EXECUTIVE SUMMARY AND THE TECHNICAL ASSISTANCE SCHOLARSHIP PROGRAM

In early 2017 the Huntington Urban Renewal Authority (HURA) and its statewide partners, including the West Virginia Community Development Hub (the Hub), and the Northern WV Brownfields Assistance Center at West Virginia University (NBAC) collectively, the TASP Team,¹ received a Technical Assistance Scholarship from the Center for Community Progress. The Technical Assistance Scholarship Program (TASP) is a competitive, merit based scholarship program for communities that demonstrate the ability and willingness to develop and pilot innovative approaches to vacancy and abandonment, and that demonstrate the leadership necessary to push for systemic, legislative, and policy reform.²

The successful application submitted by the TASP Team recognized the importance of researching and raising awareness about the costs of vacancy and abandonment—both economic and human—for communities all over West Virginia. In addition, the TASP Team hypothesized that current delinquent property tax enforcement practices in West Virginia contribute to an increase in vacant, abandoned, and dilapidated properties, and sought Community Progress’ assistance with understanding and analyzing the system, building awareness of the system around the State, and proposing possible reforms. This resulting report and the materials attached as appendices reflect input, insight, leadership, and expertise from every member of the TASP Team. The key components of this final TASP report include:

- 1. Summarizing and visually depicting the delinquent property tax enforcement process:** Community Progress retained and worked with a team of experts from the West Virginia Land Use and Sustainable Development Law Clinic (LUSD) to research and summarize the existing West Virginia delinquent tax enforcement statutes, and

¹ For more on these leading organizations who, together, form the WV Abandoned Properties Coalition (APC), see West Virginia Hub website at: <http://wvhub.org/abandoned-properties-coalition/>.

² For more information on TASP, see the Community Progress website at: <http://www.communityprogress.net/technical-assistance-scholarship-program--tasp--pages-494.php>.

with a West Virginia graphic design team, MESH Design and Development, to reduce the entire, complicated West Virginia delinquent tax enforcement process to an easily digestible and engaging infographic. The LUSD is a critical leader in providing service and legal analysis to West Virginia local governments struggling to care for and rehabilitate troubled land. The TASP engagement offered the LUSD the resources to build and deepen its expertise in delinquent property tax enforcement, and primed the LUSD to work with and lead other stakeholders in reform efforts. The LUSD delinquent tax enforcement summary memorandum including suggestions for reform and data needed going forward, is provided in **Appendix A**. Similarly, the TASP engagement provided an avenue to deepen the expertise of MESH Design on West Virginia delinquent tax enforcement systems. The MESH infographic will be a critical tool as the TASP Team works to educate stakeholders around the state about West Virginia property tax enforcement, and the infographic can be easily edited, expanded, and manipulated to depict suggested legislative and policy reforms. The West Virginia Delinquent Property Tax Enforcement Infographic is presented in **Appendix B**.

- 2. Researching the effects of vacant and abandoned properties:** Community Progress researched the human and economic costs of vacancy and abandonment in West Virginia, with a focus on Huntington, and documented those findings. In service of this project, Community Progress facilitated a series of public community meetings in Huntington in the summer of 2017. These public meetings, attended by state and local legislators and community residents, revealed consistent identification of vacant properties as a toxic and increasing neighborhood presence. Community Progress and the TASP Team also reviewed available Huntington City fire, police, public works, and other data, and conducted a series of interviews with public officials to identify, to the extent possible, current municipal costs imposed by vacant and abandoned property in Huntington. Finally, the TASP Team conducted an online statewide survey eliciting stories from West Virginia residents about the challenges posed by vacant and abandoned properties. The survey generated nearly 50 responses in a matter of weeks. Summaries documenting these processes and their findings are presented as **Appendices C and D**.



As part of the TASP project, the West Virginia Community Development Hub created a statewide survey designed to elicit stories of how vacant, abandoned, and dilapidated properties impact West Virginia residents. The stories collected highlight the challenges, frustrations, and burdens that residents throughout the State experience as a result of vacancy and abandonment in their cities and towns, and also reveal the deep passion that West Virginians feel for their communities and the hope they have for change. For more detail on the survey, please see the following blog post on the Hub website: <http://wwhub.org/do-vacant-run-down-buildings-impact-your-life-we-need-your-story/>.

- 3. Developing educational report of recommendations:** Community Progress prepared this report which includes: a) a summary of the West Virginia delinquent property tax enforcement system told through the stories of two hypothetical properties, b) a preliminary menu of recommendations for local best practices and legislative reform to the property tax enforcement system, and c) recommendations for data needed to inform reforms that might decrease vacancy and abandonment or arrest it earlier in the life cycle of a property. A summary list of all local best practices, legislative, and data recommendations found in this report is presented in **Appendix E**.

The multiple components of the TASP engagement are presented in this single report with appendices for ease of reference and circulation. However this report and the various appendices are intended to serve as stand-alone documents, where appropriate, depending on audience. It is important to note that this report is focused on problems associated with vacant, dilapidated, and abandoned properties. We do not address here in detail, for example, critical and important programs for low-income and other vulnerable property owners. Safeguards for such individuals are typically contained in the authorized exemptions available for property taxes (for veterans, elderly, etc.) and hardship payment and other plans must be available for the vulnerable. Our focus in this analysis is on the unintended results of the current enforcement system on vacant, abandoned, and tax delinquent properties – which harm neighbors and neighborhoods.

This report is a resource for West Virginia property tax reformers in the coming months and years. The observations and analysis rest on the insight and warnings of West Virginians working on the ground with tax delinquent, vacant, abandoned, and dilapidated properties. The possibilities and opportunities for reform are inspired by the gritty commitment, creativity, and heart demonstrated by the leaders that call West Virginia home. Any errors, oversights, or omissions belong solely to the authors. Honest conversations, appetites for reform, and hope for the future belong solely to the people of West Virginia.

II. DELINQUENT TAX ENFORCEMENT AND VACANT, ABANDONED, AND DILAPIDATED PROPERTIES: CORRELATION OR CAUSATION?

Studies conducted around the country demonstrate that vacant and abandoned properties impose tremendous economic and human costs on neighbors and neighborhoods.³ Recent interviews and surveys taken from West Virginia residents and leaders, summarized in **Appendices C and D**, indicate that vacant and abandoned properties impose costs including police, fire, public works, loss of property value in surrounding properties, and costs to neighborhood morale and hope.

West Virginia property owners, neighbors, municipal leaders, and other stakeholders are seeking action on the growing and dangerous universe of vacant, abandoned, and dilapidated properties like this hypothetical 123 Cloudy Street.



123 Cloudy Street

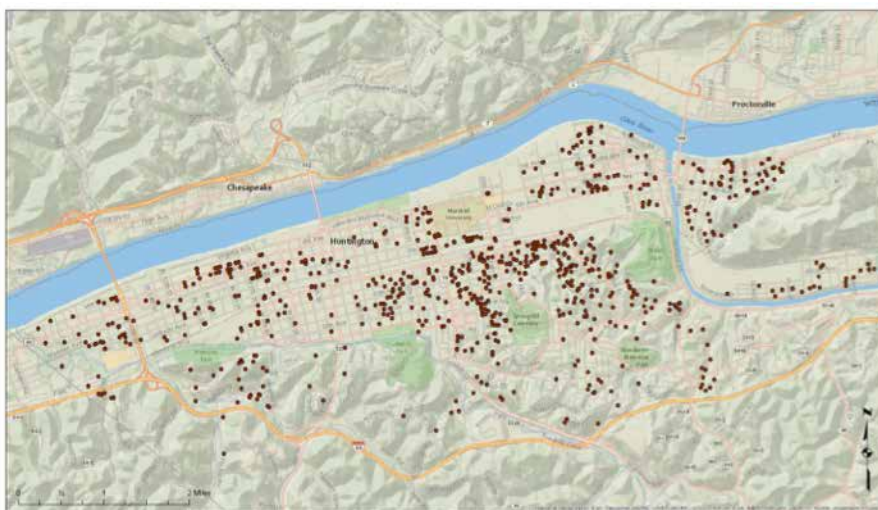
West Virginia leaders are inquiring: a) whether vacant and abandoned properties like 123 Cloudy Street correlate with tax delinquency in West Virginia, b) whether the current West Virginia property tax enforcement system might cause or exacerbate vacancy, abandonment, and deterioration and, if so, c) what reforms to the property tax enforcement system might be helpful.

³ See, for example, "Addressing Vacant and Abandoned Buildings in Oklahoma City: Prevalence, Costs and Program Proposal" GSBS Richmond Consulting, June 2013 available at <https://www.okc.gov/home/showdocument?id=2518>; "A Conservative Analysis of Costs Imposed by Vacant and Blighted Properties in Toledo: Conducted at the Invitation of the Junction Neighborhood" Community Progress and Dan Immergluck, June 2016 available at http://www.communityprogress.net/filebin/160630_TASP_LCLRC_Toledo_Cost_of_Blight_Study_Final.pdf.

⁴ Photographs provided by Huntington Department of Planning and Community Development.

A. CORRELATION OF VACANT, ABANDONED, AND DILAPIDATED PROPERTIES WITH PROPERTY TAX DELINQUENCY

Property tax delinquency and vacancy do indeed correlate in West Virginia. For example, data linking property tax delinquency and vacant, abandoned, and dilapidated property in Charleston is striking. A study undertaken by the Charleston Gazette-Mail discovered that 40% of the properties on the Charleston vacant building registry have gone through the tax sale process at least once in the last ten years.⁵ Similarly, as depicted in the map below, 788 properties in Huntington were tax delinquent in 2015 and proceeded to a tax lien sale (described in more detail below). Of those 788 tax delinquent properties, 118 were sites for police crime calls (non-EMS) in 2014, and 46 were listed on the current Huntington vacant building registry.⁶ Moreover, approximately 20% of the properties currently on the Huntington Unsafe Building Commission List—a designation indicating the property is approved for demolition—were tax delinquent as of 2015.⁷



2015 Cabell County Tax Sale



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Vacancy, abandonment, and dilapidation tend to correlate with tax delinquency. Whether or not delinquent tax enforcement systems cause vacancy and abandonment is difficult to investigate without significant data.

While data from population centers like Charleston and Huntington is informative, similar data is needed from a variety of counties, cities, and towns to determine the level of correlation in smaller and more rural portions of West Virginia.

⁵ See Elaina Sauber, September 24, 2016, "Tax-lien sales can ignore Charleston's most neglected properties" *Charleston Gazette-Mail* (<http://www.wvgazette.com/news-community/20160926/loopholes-mean-tax-lien-system-no-silver-bullet-for-vacant-buildings>).

⁶ Data provided 8/15/17 by the Huntington Office of Planning and Community Development.

⁷ Data provided 8/15/17 by the Huntington Office of Planning and Community Development.

⁸ Data provided 8/15/17 by the Huntington Office of Planning and Community Development.

B. DATA POINTS TO INFORM EXTENT OF CORRELATION BETWEEN TAX DELINQUENCY AND VACANT, ABANDONED, AND DILAPIDATED PROPERTIES

Data is needed from around the State of West Virginia to determine, to the extent possible, the precise number of tax delinquent parcels that are also vacant, abandoned, or otherwise dilapidated in a given year. A growing number of West Virginia municipalities maintain a vacant building registry, and for those that do, the overlay between tax delinquent parcels and registered vacant properties is an important data point. Additional data points are needed at the municipal level to determine the extent of correlation between property tax delinquency and vacant, abandoned, and dilapidated properties which include:

1. Overlap between tax delinquent parcels, registered vacant buildings, buildings on the local unsafe buildings commission list (if available), and trends over time.
2. Overlap between tax delinquent parcels and location of fire calls (non-EMS) and trends over time.
3. Overlap between tax delinquent parcels and the location of police calls (non-EMS) and trends over time.
4. Overlap between tax delinquent parcels and the location of utility shut-offs and trends over time.
5. Rate of total property tax delinquency and redemptions over time.

As an initial step, consider gathering data from one county with a high population count and one county with a lower population count which could be more rural in nature.

These data points, some of which may be available already in some West Virginia municipalities, will crystallize and augment the growing evidence of the links between vacant, abandoned, and dilapidated properties and property tax delinquency. These data points will also provide a dataset against which to measure progress.⁹

Throughout the country, studies have shown that vacancy, abandonment, and dilapidation *correlate* with high rates of property tax delinquency.¹⁰ Whether or not delinquent tax enforcement systems *cause* vacancy and abandonment is a premise that is difficult to investigate or prove definitively without significant data. However if a correlation between vacant, abandoned property, and tax delinquency is established, then policy analysis of existing delinquent tax enforcement processes can reveal ways in which the current system incentivizes abandonment, or traps dilapidated, vacant properties in limbo, inaccessible to responsible interested buyers. Furthermore, the delinquent tax enforcement system, its ability to affect the life cycle of a property in distress, and its applicability in every jurisdiction, renders it a logical statewide public system to utilize to move vacant property into responsible private or public hands.

⁹ For a helpful example of how such data can be used to measure progress in reducing vacancy over time, see Community Progress' 2014 State of Vacancy Report for the State of Michigan available at (http://www.communityprogress.net/filebin/2014_CCP_StateOfMichiganVacancy.pdf).

¹⁰ See "The Impact of Vacant, Tax-Delinquent, and Foreclosed Property on Sales Prices of Neighboring Homes" Whitaker, Stephan, and Thomas J. Fitzpatrick, *Federal Reserve Bank of Cleveland* (2011); "Assessment of Baltimore City's Tax Sale System: Impacts on City Finances, Vacant Properties, and Vulnerable Owner Occupants," Center for Community Progress (October 2016) available at (http://www.communityprogress.net/filebin/CCP_BaltimoreTASP_Final_Report_102616.pdf).

III. WEST VIRGINIA DELINQUENT PROPERTY TAX ENFORCEMENT SYSTEM

The delinquent property tax enforcement system—the laws and policies that ensure property owners pay their property taxes—is notoriously difficult to understand, let alone administer. This opaque and profoundly complex system requires implementation by Sheriffs in all 55 West Virginia counties, a team at the State Auditor’s Office, and a cast of characters including homeowners, property investors, and municipal officials that intersect with the system at one or more points along the enforcement path. Property tax enforcement and its success or failure ultimately affects every single individual and organization in the State of West Virginia that relies on tax revenue for public services—from garbage pick-up to public education to the promise that help arrives when 911 is called.

A. THE BIG PICTURE AND HOPE FOR REFORM

West Virginia’s property tax enforcement system is fragile and subject to mounting concern from stakeholders all over the State for two reasons. First, West Virginia’s ability to collect property taxes rests on a delicate compact between property owners and the State—that property owners will pay property taxes because the government may transfer their property to new ownership if taxes are not paid. If this compact is broken—if property owners no longer believe that they may lose their property or suffer any adverse consequences if they fail to pay property taxes—then over time tax revenue will fall and basic public services will no longer be funded. Second, West Virginia’s primary method of enforcement includes the sale of tax

Property taxes are the major portion of a county’s revenues, amounting to 63% of general fund revenues. Property taxes total about one third of school district revenues and 10% of municipal and state revenues. Local governments spend property tax revenue for a variety of purposes, with public health and public safety topping the list of categories. See Appendix A at page 11 and West Virginia Center on Budget and Policy, *Property Taxes; A West Virginia Primer*(4) (2011).

debt (a “tax lien”) to investors—rather than the sale of the property itself to new owners. This system thus relies on cash from investors who, rationally, will only offer their investment and purchase tax debt in markets that are likely to turn a profit. To the extent some West Virginia property markets are failing or deeply depressed, and to the extent that fewer and fewer property owners remain committed to paying their property taxes or redeeming delinquent taxes, even speculative investors and their cash may ultimately drop out of the enforcement process.

National estimates are that between 95-98% of delinquent property taxes are ultimately paid by delinquent taxpayers. Some local West Virginia data indicates that the payment rate of delinquent taxes in Charleston has been as low as 76% in recent years. See Elaina Sauber, September 26, 2016, “Loopholes Mean Tax Lien Sales No Silver Bullet for Vacant Buildings” *Charleston Gazette-Mail*.

In the near term, West Virginia leaders and community members will have to confront the delinquent property tax enforcement system and make difficult decisions about whether and how it might be reformed. Confronting and addressing the property tax system will not eliminate the many other significant and urgent public health and safety needs on the ground in West Virginia. While tax delinquent, vacant, and abandoned properties are home to crime and drug abuse, reforming the property tax system will not fix the opiate addiction crisis. While tax delinquent, vacant, and abandoned properties require an outsize portion of public services (police, fire, and otherwise), reforming the property tax system will likely not plug the many gaping holes in municipal budgets. Property tax enforcement reform alone is not a sufficient balm to these challenges but it is an element of comprehensive positive change. For example:

- 1. Providing additional targeted and highly visible notice of tax delinquency to property owners earlier in the delinquent tax enforcement process may increase tax collections and reduce abandonment.** *West Virginia property tax enforcement law currently requires minimal provision of notice until late in the enforcement process. Reforms that require additional earlier and highly visible notice to property owners of tax delinquency may result in a higher rate of tax payments, less property abandonment, and fewer public costs associated with deteriorating properties.*
- 2. Reducing time periods for transfer of vacant and abandoned tax delinquent properties to new ownership could reduce dilapidation.** *Reforms that reduce the multi-year delinquent tax enforcement process for a subset of vacant, abandoned properties could result in the expedited transfer of problem properties to public or responsible private ownership.*
- 3. West Virginia property tax enforcement systems currently direct interest and fees to tax lien purchasers, and some or all of this revenue could be returned to West Virginia taxpayers and invested in neighborhood stabilization efforts.** *Reforms to the enforcement system that direct interest and other fees associated with delinquent property taxes back to the taxpayers in West Virginia communities, rather than to tax lien purchasers, could provide desperately needed revenue to West Virginia communities. Reforms ranging from small and incremental to comprehensive and radical could be piloted within West*

Virginia Land Banks, or Land Reuse Agencies some of which have decades of experience acquiring vacant, abandoned, and tax delinquent properties and putting them back into productive, tax-generating use.

B. DELINQUENT TAX ENFORCEMENT PROCESS: 123 SUNNY STREET AND 123 CLOUDY STREET

Delinquent property tax enforcement law, policy, and practice affect nearly every parcel of land in the State of West Virginia. Property taxes are, in almost every case, the first and most powerful real property debt that West Virginia property owners must satisfy each year, and the majority of West Virginians, like property owners around the country, pay property taxes in a timely and complete fashion. After all, the penalty for non-payment of property taxes includes the possible sale of the property by the government to satisfy the taxes. For the typical property owner in West Virginia, the property tax enforcement system is one that is confusing, but ultimately of little consequence given the enforcement system never kicks in when taxes are timely paid.

Delinquent property tax enforcement is the process or series of steps taken by the government to ensure property taxes are paid, or to force a sale of property if taxes are not paid. Every state has a different system governed by state law. West Virginia's primary method of enforcement includes the sale of tax debt (a "tax lien") to investors—rather than the sale of the property itself to new owners. When a property owner fails to pay property taxes, the resulting tax lien associated with the property is sold at a Sheriff Sale to a private investor or "tax lien purchaser." At this point the property owner has an additional 18 months to pay the tax lien purchaser the amount of the tax lien plus significant interest and fees. If no party purchases the tax lien at a tax sale, then the tax lien is offered again for sale at a State Sale by the State Auditor's Office. If no one purchases the tax lien at the State Sale, then the tax lien is held in limbo at the State Auditor's Office. If a tax lien purchaser buys the tax lien at either the Sheriff Sale or the State Sale, and the property owner fails to pay the taxes, interest, and costs owed, the tax lien purchaser may (but is not required to) take action to acquire the deed to the property rather than simply the debt. In the meantime, the property itself remains in the hands of the delinquent taxpayer. When a subsequent year's tax bill becomes due, the entire process begins again and a new tax lien lands in the State Auditor's Office if no investor purchases the new tax lien.

Multi-year delinquent tax enforcement timeframes are destructive and problematic for vacant and abandoned properties that deteriorate with no intervention over time.

Two primary features characterize the current West Virginia enforcement process. First, current processes involve lengthy multi-year timeframes for enforcement and redemption (payment of tax owed in full before transfer of the property). Such lengthy timeframes may be just and particularly appropriate for occupied properties. However, these same multi-year timeframes are destructive and problematic for vacant and abandoned properties that deteriorate with no intervention over time. Second, the West Virginia system was reformed in the mid-1990s to place the primary cost and research burden of providing key notices of tax delinquency on tax lien purchasers, rather than the local government. Unlike the

local government, however, tax lien purchasers are incentivized to provide as little notice as possible until the latest stage of the enforcement process, to drive up delinquent tax interest that accrues over time. Moreover, where no tax lien purchaser buys the tax lien associated with a tax delinquent property, there are few opportunities for non-profit or government entities to intervene and seek ownership of vacant, abandoned, and tax delinquent properties early in the tax enforcement process before the property is able to deteriorate beyond repair.

The stories of two hypothetical properties are offered below to trace each stage of the West Virginia delinquent tax enforcement process from the perspective of a healthy property, and the perspective of a vacant, abandoned, and dilapidated property. These hypothetical scenarios are intended to highlight possibilities for policy and legislative reform and recommendations for data collection moving forward.

Stage 1: Taxes Due, Initial Notice, and Satisfaction of Tax Debt

Property taxes are collected at the county level in West Virginia, and the Sheriff of each county is responsible for tax collection. Sheriffs and their teams begin the process of collecting taxes on July 15 each year, and mail property tax bills to all property owners.¹¹ Property owners must pay their taxes owed in two equal installments—the first due September 1, and the second due March 1. If property owners pay their tax installments on or before the September and March deadlines, they receive a 2.5% discount on the amount owed. If property owners miss these deadlines, a 9% annual interest rate is applied to the taxes owed beginning on the date of delinquency and running until the taxes are paid, or until the County Sheriff Tax Lien Sale (discussed below).

123 Sunny Street

*Owner: Mr. Smith. Est. FMV¹²: \$150,000.
2012 Taxes Due: \$2,000 (\$1,000 due
September 1, 2012 and \$1,000 due
March 1, 2013).*



123 Sunny Street and Taxes Due. Mr. Smith, the owner of the hypothetical 123 Sunny Street, is largely unconcerned or even unaware of the property tax enforcement system. Assume Mr. Smith's home has an estimated fair market value of \$150,000 and that his annual property tax bill is \$2,000, payable in two \$1,000 installments—the first due September 1, 2012 and the second due March 1, 2013. Mr. Smith will likely pay his annual property tax to avoid any possibility of the government selling his property to satisfy the debt. Mr. Smith and those West Virginia homeowners like him pay

¹¹ For the sake of simplicity and clarity, assume the hypothetical properties described in this report are not subject to any other liens. Thus mortgages etc. (holders of which are entitled to constitutional notice) are not specifically considered in this analysis.

¹² "FMV" refers to Fair Market Value.

their annual property tax bill each year, and do not think about property taxes again until the next year's bill arrives in the mail. It is also worth noting that throughout the year neither police nor fire are dispatched to 123 Sunny Street. Mr. Smith resides at 123 Sunny Street and he maintains the property. Neither the County nor City government expends any resources maintaining 123 Sunny Street.

The County Sheriff collects Mr. Smith's tax payments and satisfies the various entities that rely on those taxes to provide public services—the county, the city, towns, and school districts. Timely property tax payments by property owners like Mr. Smith in West Virginia total over \$1.4 billion per year in a most recent analysis, and are a critical source of funding for everything from public schools to police.¹³

123 Cloudy Street and Taxes Due. Assume that 123 Cloudy Street is vacant and owned by Mrs. Jones who moved out of the state many years ago. 123 Cloudy Street has an estimated fair market value of \$5000, and the total annual property taxes due are \$50. The City boarded up 123 Cloudy Street after numerous police calls to the address, and the public works crew regularly mows the grass. Emergency services, including police and fire, are dispatched to the property frequently in response to 911 calls from neighbors. None of the fines for code violations, boarding, or mowing appear on Mrs. Jones' property tax bill.

123 Cloudy Street

*Absent Owner: Mrs. Jones. Est. FMV: \$5000.
2012 Taxes Due: \$50 (\$25 due September 1,
2012 and \$25 due March 1, 2013).*



Mrs. Jones pays her \$50 tax bill, though she does not pay any of the municipal fines associated with the boarding and lawn maintenance. 123 Cloudy Street is now tax compliant and Mrs. Jones will not hear from the Sheriff again until the next year's taxes become due. City taxpayers will presumably continue to bear the cost of problems posed by 123 Cloudy Street, including boarding, possible crime and fire calls, and mowing.

Local Best Practice Recommendations: Stage 1

1. Municipalities may consider working with county governments to list any outstanding municipal liens and fees including the costs of boarding, and mowing, and demolition on the property tax bill. This simple step appears to be already authorized in West Virginia

¹³ West Virginia Center on Budget & Policy, Property Taxes: A West Virginia Primer 4 (2011), available at http://www.wvpolicy.org/downloads/WVCBP-Property_Tax_Primer042811.pdf.

law, and would not require the Sheriff to collect such debts, but may encourage property owners like Mrs. Jones to satisfy debts owed to municipalities. Listing municipal debts and fees on the tax bill may also foster increased cooperation between county and city or town governments.

2. Attach to the property tax bill and to municipal lien and fine notices, as a matter of course particularly for vulnerable homeowners, contact information for social services and financial counseling. Also include contact information for the local government assessor's office that can assist with filing property tax exemptions.
3. Attach to the property tax bill and to municipal lien and fine notices, as a matter of course, contact information for any entities that might be willing to receive properties like 123 Cloudy Street as a donation before the property becomes tax delinquent. Such entities might include organizations like land banks, land reuse agencies, or local non-profit entities.
4. In order to incentivize new responsible ownership, develop municipal policies to waive municipal debts when property is donated to a qualified non-profit or public entity.

Legislative Reform Recommendations: Stage 1

1. Amend West Virginia state law to provide that costs expended by local governments in boarding, mowing, demolishing, and otherwise ensuring the security of properties where owners fail to do so, are assessed as a lien against the property that is second in priority only to property taxes, and that is collected and enforced along with property taxes.
2. Clarify within or amend West Virginia state law to provide that business owners who own property subject to delinquent property taxes must satisfy all delinquent property taxes in order to receive a business license, or to provide that a business license may be suspended until all property taxes associated with the business owner and any related businesses are satisfied.
3. Amend West Virginia state law to provide that land banks, land reuse agencies, or urban redevelopment authorities may extinguish any existing delinquent taxes or municipal liens owed on properties donated to the land bank, land reuse agency, or urban redevelopment authority.
4. Amend West Virginia state law to shift property tax due dates such that the first installment is due in the spring around the time income tax refunds may be received rather than the current initial September deadline. Shift all subsequent deadlines accordingly.

Data Points to Inform Scope of Reform: Stage 1

1. What is the percentage of properties like 123 Sunny Street? In other words, out of the total universe of taxable parcels in West Virginia, what percentage reflect tax compliance in accordance with the September 1 and March 1 payment deadlines each year? Is there a difference between commercial and residential property numbers and percentages?
2. What number of properties are like 123 Cloudy Street? In other words, out of the total universe of taxable parcels in West Virginia, what portion reflect tax compliance in accordance with applicable deadlines, and also remain subject to municipal burdens like secure, boarding, and maintenance fees?
3. Are properties like 123 Cloudy Street clustered geographically in particular West Virginia municipalities or areas, thus implying a need for policy and legislative reforms applicable in some communities and not others?
4. Has the number and percentage of properties like 123 Sunny Street and 123 Cloudy Street in the overall tax digest increased or decreased in a significant fashion over the last few years?

Stage 2: Tax Delinquency and Notice of County Sheriff Sale of the Tax Debt

What happens to these hypothetical properties if taxes are not paid on time and thus become delinquent?

123 Sunny Street

*Owner: Mr. Smith. Est. FMV: \$150,000.
Value of 2012 Delinquent Tax Lien: \$2,000
(+ 9% annual interest + fees).*

- **May 2013:** Delinquency Notice Posted at Courthouse and Listed in Legal Publication
- **September 2013:** Delinquency Notice Sent to Mr. Smith at his last known address



123 Sunny Street Delinquency and Sheriff Sale Notice. Assume that Mr. Smith, the owner of 123 Sunny Street spent some time in the hospital and failed to pay his taxes. The taxes on 123 Sunny Street became delinquent the first day of the month after Mr. Smith missed his payment. This property tax debt is known as a “tax lien.” At this point the machinery of delinquent tax enforcement begins to operate and the Sheriff, in accordance with West Virginia law, must provide notice by May 1 of the year following delinquency to Mr. Smith that he must pay his delinquent taxes, plus 9% annual interest (“May Delinquency Notice”). The Sheriff must also inform Mr. Smith that if he fails

to pay his delinquent taxes plus interest, the property tax lien and the right to collect that debt may be sold at a public Sheriff Sale. Under West Virginia law, this initial notice that the tax lien associated with 123 Sunny Street might be sold consists of a posting on the courthouse door and a published list in the local legal newspaper.

Curiously, there does not appear to be any requirement in West Virginia law that the May Delinquency Notice be mailed to Mr. Smith or posted at 123 Sunny Street. Thus, unless Mr. Smith stops by the courthouse door at the appropriate time or reviews the local legal paper, it is entirely plausible that he may not realize by May 1 that his taxes are delinquent, or that the 123 Sunny Street tax lien will be offered for sale at a Sheriff Sale.

A County Sheriff Sale of all delinquent tax liens occurs between October 14 and November 23 in each West Virginia county. At least 30 days prior to the Sheriff sale, a final notice of the impending sale must be sent to the last known address of each delinquent tax payer (“September Delinquency Notice”) and any other individual or entity with a financial interest in the property who has sought such notice in writing from the Sheriff. In the case of Mr. Smith, this September Delinquency Notice, mailed to his home at 123 Sunny Street, might be more likely to get his attention and be more likely to generate payment by Mr. Smith than the May Delinquency Notice which is not mailed to his home.

At any point during the year of delinquency before the county Sheriff Sale, Mr. Smith may pay his delinquent taxes and ensure that 123 Sunny Street is removed from the Sheriff Sale entirely. If Mr. Smith has the means to pay his delinquent taxes in order to protect his property at 123 Sunny Street, then the highest likelihood is that he will pay the tax debt owed before the Sheriff sale and “redeem” his property. There are some anecdotal reports that large groups of taxpayers like Mr. Smith intentionally wait until the day before the Sheriff Sale to pay their delinquent tax bill—resulting in long lines at the Sheriff office, and needless expense and delay in the Sheriff Sale notices. Conversely, if Mr. Smith and those like him simply do not have the means to pay property taxes, there does not appear to be any provision in West Virginia law for him to seek hardship assistance.

123 Cloudy Street Delinquency and Sheriff Sale Notice. If the out-of-state owner, Mrs. Jones, fails to pay her property tax bill for 123 Cloudy Street, the Sheriff will proceed to try and collect the 123 Cloudy Street tax lien in exactly the same fashion as any other tax lien. Because Mrs. Jones lives out of town, she is even less likely than Mr. Smith to learn about the impending Sheriff Sale from the courthouse door or the local legal newspaper advertisement of the May Delinquency Notice. If the September Delinquency Notice is mailed simply to 123 Cloudy Street, it is likely to be returned as undeliverable and never reach Mrs. Jones.

123 Cloudy Street

*Absent Owner: Mrs. Jones. Est. FMV: \$5000.
Value of 2012 Delinquent Tax Lien: \$50
(+9% annual interest + fees)*

- **May 2013:** Delinquency Notice Posted at Courthouse and Listed in Legal Publication
- **September 2013:** Delinquency Notice Sent to 123 Cloudy Street as Mrs. Jones' last known address



Unless Mrs. Jones pays her delinquent taxes before the Sheriff Sale, the tax lien associated with 123 Cloudy Street will be offered for sale at the impending fall Sheriff Sale.

Local Best Practice Recommendations: Stage 2

1. Consider mailing the May Delinquency Notice to delinquent property owner at the last known address, in addition to the courthouse posting and newspaper publishing that is required.
2. Provide electronic notice of tax delinquency through e-mail (where available) to maximize notice to delinquent taxpayers.
3. Consider posting the May Delinquency Notice list on the County Sheriff's website, in addition to posting the list on the courthouse door and publishing it in the local legal newspaper.
4. For any mailed May Delinquency Notices that are returned undeliverable: undertake at a minimum, internet research to try to locate updated addresses for this limited universe of taxpayers (like Mrs. Jones), obituaries and heirs where relevant, or other property transferees, and send notice to newly identified addresses/owners. Update all government records with corrected addresses.

Legislative Reform Recommendations: Stage 2

1. Amend West Virginia state law to provide notice of delinquency be mailed directly to delinquent property owners in conjunction with the May Delinquency Notice, and add the cost of such mailing to the tax amount due.
2. Consider further incentivizing early payment of any delinquent taxes by amending West Virginia state law to provide for escalating monthly fees (in addition to interest) assessed to the delinquent taxpayer between the May Delinquency Notice and the date of the Sheriff Sale. Such fees should be subject to any hardship programs developed. Fees should fund the cost of administering the program and could provide funds for local government neighborhood stabilization efforts.

3. Amend West Virginia state law to provide for tax hardship plans whereby delinquent property owners may enter into a payment plan or receive property tax forgiveness before the Sheriff Sale if one or more conditions is demonstrated (medical hardship, loss of primary income, etc.). Notice of such hardship plans, along with legal, financial, and social service resources available, should be plainly posted on County Sheriff websites and County Assessor websites. Descriptions of plans and requirements should be included with the property tax bill, and included with all notices of property tax delinquency.

Data Points to Inform Scope of Reform: Stage 2

1. What is the percentage of property owners that pay delinquent taxes shortly after the May Delinquency Notice is posted at the courthouse and listed in the local legal newspaper?
2. What is the percentage of property owners that pay delinquent taxes shortly after the September Delinquency Notice is mailed to the delinquent property owner's address?
3. What is the value (and percent of the digest) of delinquent tax payments received before the Sheriff Sale each year? Of that amount, which portion represents tax debt and which portion and what amounts reflect interest and other fees?
4. What is the scope of the need for hardship programs for property taxes? For example, is there a significant universe of residential owner-occupied properties that are owned free and clear by the occupant (no mortgages) but the occupant for reasons of disability or otherwise cannot pay the taxes due? This scenario might indicate that amnesty, forgiveness, or hardship payment plans are needed.

Stage 3: County Sheriff Sale and Post-Sale Redemption Period

Each year between October 14 and November 23, the Sheriff in each West Virginia county holds a public sale of outstanding tax liens. As described in the prior section, property owners may pay off any tax debt up until the Sheriff Sale to remove their property from the Sheriff Sale. If tax debt is not paid, then the associated tax liens are sold to the highest bidder at this public Sheriff Sale.

It is important to note that the Sheriff Sale is a sale of debt—not a sale of property. Thus, when Speculation LLC attends the County Sheriff Sale, this private tax lien buyer purchases the tax debt and the right to collect that debt—not the underlying property.

The County Sheriff Sale is a sale of the tax lien not the property.

123 Sunny Street and the Sheriff Sale. Assume Mr. Smith fails to pay the tax debt owed on 123 Sunny Street before the Sheriff Sale. Perhaps Mr. Smith never received notice of the Sheriff Sale. Perhaps Mr. Smith fell on hard times and was unable to pay the taxes. Perhaps Mr. Smith passed away and notice of the Sheriff Sale never made it to his heirs. In any event, the day of the Sheriff Sale arrives and the tax lien for 123 Sunny Street, now valued at \$3,000 including the tax debt owed plus

interest and other fees is offered for sale at this public auction. Local and out-of-state bidders often attend and bid at Sheriff Sales. Some public officials including the Sheriff, State Auditor, and county clerks are not permitted to bid, while other West Virginia elected officials at the state and local level are allowed to bid.

Before the Sheriff Sale, Speculation LLC researched all of the properties identified in the May Delinquent Notice published in the local legal newspaper. Therefore Speculation LLC knows 123 Sunny Street has an estimated fair market value of approximately \$150,000 and **thus its owner is very likely to pay any delinquent taxes owed plus interest to protect ownership in the property.** When the 123 Sunny Street tax lien is announced by the auctioneer, Speculation LLC is quick to bid \$3,000 (or more) for the 123 Sunny Street tax lien and the right to collect that debt. Because Speculation LLC is the highest bidder, this tax lien purchaser obtains the 123 Sunny Street tax lien. Within 30 days after the Sheriff Sale, the Sheriff publishes a list of tax liens sold in the local legal newspaper.

123 Sunny Street

*Owner: Mr. Smith. Est. FMV: \$150,000.
Taxes Become Delinquent in 2012*

- **October 2013:** Sheriff Sale. Value of Tax Lien Purchased by Speculation LLC: \$3,000 + 12% annual interest
- **November 2013:** First Publication that Tax Lien Sold
- **November 2014:** Speculation LLC provides Notice List to State Auditor
- **January 2015:** First Mailed Notice to Mr. Smith that tax lien sold and instructions for redemption (12+ months after Sheriff Sale-3rd Year of Delinquency)
- **April 2015:** 18 month post-Sheriff Sale redemption period ends



When Speculation LLC purchases the 123 Sunny Street tax lien, Speculation LLC has the right to collect \$3,000 plus 12% annualized interest plus other fees from Mr. Smith.

After the Sheriff Sale of any tax liens associated with West Virginia property, a new character enters the West Virginia property tax enforcement story in prominent form—the State Auditor. The State Auditor and the Deputy Commissioner in the Office of Delinquent Lands play a critical oversight role over the entire delinquent tax enforcement process and are kept informed at each stage of a property’s journey. Between May and September of the year following the Sheriff Sale (7-10 months after the Sheriff Sale), the State Auditor must send any tax lien purchasers instructions for how to acquire the property, including instructions on how to identify all those with an interest in the property who are entitled to notice of the ability to redeem before a deed to the property may be

transferred to the tax lien purchaser. If the tax lien purchaser seeks to obtain a deed to the property, and not simply the debt, then the tax lien purchaser must hire an attorney to conduct a title exam on the property and develop a Notice List, including the identities and addresses of all those entitled to notice of the possible transfer of the property. The tax lien purchaser must provide this Notice List and funds to prepare and serve the notices to the State Auditor between October 31 and December 31 of the year following the Sheriff Sale (a minimum of 13 months post-Sheriff Sale). The State Auditor then provides this notice by certified mail to all those on the Notice List by the following January, and may also provide notice in the appropriate county newspaper if anyone entitled to notice cannot be found.

Because Speculation LLC wants to make the most return on its investment possible, and because the law does not require mailed notice of the sale of a tax lien until more than a year after the Sheriff Sale, Speculation LLC does not provide a Notice List to the State Auditor until November 2014. The State Auditor then sends notice of the right to redeem to all those entitled to notice, including Mr. Smith, in January 2015. While Speculation LLC holds the tax lien, it has no responsibility for the upkeep or maintenance of the property at 123 Sunny Street. If Mr. Smith abandons the property, local government will be charged with any boarding and securing costs, maintenance costs, and otherwise. If and when Mr. Smith pays the State Auditor the \$3,000 plus 12% annualized interest plus costs, the State Auditor will pass that payment on to Speculation LLC and the tax debt will be marked satisfied. Though this fact may not be communicated to Mr. Smith until a few months before the expiration of the time-period, Mr. Smith has 18 months from the Sheriff Sale to pay the value of the tax lien plus interest, fees, and costs to avoid losing his property—a full three years after the initial date of delinquency.

123 Cloudy Street and the Sheriff Sale. Assume Mrs. Jones fails to pay her taxes on 123 Cloudy Street before the Sheriff Sale. Perhaps Mrs. Jones has simply decided to abandon 123 Cloudy Street and refrain from caring for the property or paying any debts associated with it. In any event, the day of the Sheriff Sale arrives and the tax lien for 123 Cloudy Street, now valued at \$150 including interest, costs, and other fees is offered up at this public auction. While the City has expended approximately \$4,000 in public costs (police, fire, boarding, mowing) associated with 123 Cloudy Street, none of those costs are reflected in the value of the tax lien offered at the Sheriff Sale.

The purchase of the 123 Sunny Street tax lien is a good investment for Speculation LLC—12% annual interest on its \$3,000 payment offers a much higher rate of return than most other investment vehicles. If Speculation LLC purchases tax liens like the 123 Sunny Street tax lien in bulk, then the return on investment is impressive. For example, assume Speculation LLC purchases \$200,000 worth of liens. If even half of the property owners pay their tax debts and associated interest and fees to Speculation LLC twelve months after the Sheriff Sale, Speculation LLC will have made \$12,000 on its \$200,000 Sheriff Sale investment in less than one year. With reforms to the system that revenue could be directed back to local communities for needed public services.

A visual depiction of the complicated delinquent tax enforcement system is provided in Appendix B.

123 Cloudy Street

*Absent Owner: Mrs. Jones. Est. FMV: \$5,000.
Value of 2012 Delinquent Tax Lien: \$50
(+ interest + notice fees). Value of other
Municipal Costs: \$4,000.*

- **October 2013:** Sheriff Sale Bids Received: 0
- **October 2014:** First Notice from State Auditor to Mrs. Jones that lien was certified to State Auditor (12+ months post-Sheriff Sale)
- **April 2015:** 18 month post-Sheriff Sale redemption period ends



As noted above, Speculation LLC and many other prospective tax lien purchasers researched all of the properties posted in the legal newspaper in the May Delinquency Notice. They know that 123 Cloudy Street is valued at approximately \$5,000 and thus its owner is unlikely to pay any delinquent taxes owed plus interest to protect ownership in the property. When the 123 Cloudy Street tax lien is announced at the Sheriff Sale, no bids are offered.

At this point, the tax lien associated with 123 Cloudy Street is certified to the State Auditor. West Virginia law does not appear to require notice to Mrs. Jones and those like her that the tax liens which receive no bids are transferred to the State Auditor until at least 12 months after the Sheriff Sale. Once the 123 Cloudy Street tax lien is transferred to the State Auditor, Mrs. Jones may redeem her property by paying the full amount of taxes, interest, and fees owed, including 12% annual interest that runs from the date of the certification to the State Auditor. The 123 Cloudy Street tax lien is also subject to an 18 month redemption period after the Sheriff Sale—even if this Cloudy Street tax lien is the 10th delinquent tax lien for the 10th subsequent year associated with 123 Cloudy Street.

It is at this stage of the delinquent tax enforcement process that one can begin to see the profoundly different effects of the delinquent tax enforcement system on different kinds of property.

In the case of Mr. Smith and 123 Sunny Street, the provision of notice and lengthy opportunities to satisfy the debt owed should be paramount. The current system only requires tax lien purchasers to provide notice to Mr. Smith at the time when his costs to redeem are highest—in the last few months of the 18 month redemption period. However, as long as Mr. Smith is able, he will likely satisfy any taxes and fees owed to a tax lien purchaser to protect his ownership interest in 123 Sunny Street. If he is unable to do so, there is a possibility that Speculation LLC would actually proceed with acquiring the deed to the property at 123 Sunny Street as it is valuable and could likely be sold on the open market for much more than the \$3000 paid for the 123 Sunny Street tax lien.

The current system only requires tax lien purchasers to provide notice to Mr. Smith at the time when his costs to redeem are highest—in the last few months of the 18 month redemption period.

123 Cloudy Street poses a different set of challenges. Because the tax debt owed and costs to maintain 123 Cloudy Street might outweigh the fair market value of the property itself, no private tax lien purchaser is likely to invest in 123 Cloudy Street tax debt. Current West Virginia law does not allow a land bank, land reuse agency, or a qualified nonprofit to enter the process at this stage, for example, by purchasing the 123 Cloudy Street tax lien for a nominal amount. Rather, land banks, land reuse agencies, and nonprofits must either pay the full amount of the tax lien plus interest, costs, and fees, or wait until the end of the post-Sheriff Sale 18 month redemption period for the Auditor's State Sale (described in the next section) to purchase the 123 Cloudy Street tax lien for a lesser amount. Because 123 Cloudy Street has been abandoned by its owner, the time period between tax delinquency and the first opportunity to transfer the property (rather than debt) at 123 Cloudy street stretches on to at least two years or more. During that multi-year period, the property itself deteriorates, continues to lose value, and requires more and more public investment.

Many properties like 123 Cloudy Street are tax delinquent year after year after year. No private bids are ever offered for 123 Cloudy Street tax liens at the Sheriff Sale. Thus many years of tax liens that, with interest over time, are valued at more than the property itself, are simply certified to the State Auditor each year. The tax liens associated with these serially delinquent properties are effectively uncollectible and simply pile up against the property. The current tax enforcement system does not appear to provide any clean, simple mechanism for a public entity or nonprofit to simply obtain properties like 123 Cloudy Street free and clear of any tax debt for a nominal amount so that the entity can clean up the property or demolish it or otherwise stabilize the land.

Because 123 Cloudy Street has been abandoned by its owner, the time-period between tax delinquency and the first opportunity to transfer the property (rather than debt) at 123 Cloudy street stretches on to at least two years or more.

Local Best Practice Recommendations: Stage 3

1. Consider posting a list of all tax liens sold (including amount and address to send redemptions) on the Sheriff's website and State Auditor's website immediately after the Sheriff Sale.
2. Consider having the State Auditor or Sheriff mail notice of the tax lien sale, including instructions for redemption, to at least the property owner of record immediately after the Sheriff Sale.

Legislative Reform Recommendations: Stage 3

1. Amend West Virginia state law such that municipal costs including, demolition liens, boarding, securing, and mowing costs are collected with delinquent taxes, and added to the minimum bid amount at the Sheriff Sale.
2. Amend West Virginia state law to prohibit elected and all other government officials from bidding at Sheriff Sales.

3. Amend West Virginia state law to require qualification of Sheriff Sale bidders or to prohibit individuals or entities from bidding at Sheriff Sale that either: a) own tax delinquent property or b) own property subject to municipal fines and fees.
4. Amend West Virginia state law to require tax lien purchasers to provide the Notice List to the State Auditor within an expedited timeframe of 30 days of the Sheriff Sale. Require State Auditor to provide notice of the sale of the tax lien to the delinquent taxpayer and any other interested parties, along with clear information as to redemption amounts and where to send redemption amounts, within 60 days of the Sheriff Sale.
5. Amend West Virginia state law such that land banks, land reuse agencies, or qualified nonprofits may acquire tax liens at the Sheriff Sale for \$1 in the absence of any private bids to support neighborhood stabilization.
6. Amend West Virginia state law such that land banks, land reuse agencies, or qualified nonprofits may acquire tax liens at the Sheriff Sale for \$1, even in the face of other private bids to support neighborhood stabilization.
7. Amend West Virginia state law to add a neighborhood stabilization fee to each tax lien purchased by a private tax lien purchaser, and direct those fees to the municipal government for demolition and other blight reduction efforts.
8. Amend West Virginia state law to provide that a neighborhood stabilization fee is added to each tax lien purchased by a private tax lien purchaser in counties where a land bank or land reuse agency is in operation, and direct those fees to the existing land bank or land reuse agency for operations.
9. Amend West Virginia state law to authorize land banks, land reuse agencies, or qualified nonprofits to purchase the entire tax lien digest from a municipality despite the presence of any other bidders, and to utilize the interest and fees collected for neighborhood stabilization efforts including demolitions, rehabilitation, and the provision of affordable and safe housing.
10. Amend West Virginia state law to reduce the post-Sheriff Sale redemption period from 18 months to 6 months for any liens certified to the State Auditor where the prior year's lien was also certified to the State Auditor and remains unsatisfied.
11. Amend West Virginia state law such that the post-Sheriff Sale redemption period for properties that receive no bids at Sheriff Sale is reduced from 18 months to 6 months for properties that also appear on the local vacant building registry.

Data Points Need to Inform Scope of Reform: Stage 3

1. What is the total value of tax liens sold in West Virginia each year? Of tax liens sold in a given county or municipality?

2. What is the rate of redemption on West Virginia tax liens that are sold to private tax lien purchasers? What percentage are redeemed in the month immediately following the Sheriff Sale? What percentage are redeemed at what pace prior to and immediately succeeding the first mailed notice that the tax lien was sold?
3. What is the value of tax liens sold to tax lien purchasers that are not redeemed?
4. What is the total annual amount of interest at the 12% statutory rate collected by tax lien purchasers and what are the trends over time?
5. What is the total value and number of tax liens certified to the State Auditor each year that receive no bids at the Sheriff Sale? Of tax liens certified from a given County or municipality?
6. What is the total number of properties and percentage of the digest with multiple years of tax delinquency where tax liens are simply certified to the State Auditor year after year?
7. What is the rate of redemption on West Virginia tax liens certified to the State Auditor? What percentage are redeemed in the month immediately following the Sheriff Sale? What percentage are redeemed at what pace up to and immediately succeeding the first mailed notice that the tax lien was certified?

Stage 4: State Auditor, State Sale, and State Sale Redemption Period

123 Sunny Street and the State Auditor. Assume, as described in the last section, that the property tax lien associated with 123 Sunny Street was sold to Speculation LLC. The County Sheriff must notify the State Auditor's office that the 123 Sunny Street lien was sold to Speculation LLC, and must publish the sale of the lien in the local legal newspaper. West Virginia law does not appear to require Speculation LLC nor any other entity to mail notice of the sold tax lien to Mr. Smith himself until more than a year after the Sheriff Sale.

123 Sunny Street

Est. FMV in 2012: \$150,000

- **October 2013:** Sheriff Sale. Value of 2012 Tax Lien Purchased by Speculation LLC at Sheriff Sale: \$3,000 +plus \$12% annualized interest from date of Sheriff Sale
- **November 2013:** First Publication that Tax Lien Sold in Legal Publication
- **January 2015:** First Mailed Sold Tax Lien Notice to Mr. Smith
- **April 2015:** Speculation LLC may seek a deed to the property, seek refund of any monies paid over lien amount, or allow its interest to expire



In the 18 month redemption period after the Sheriff Sale, a number of outcomes are possible for both the tax lien and the property at 123 Sunny Street. If Speculation LLC is simply interested in the debt at 123 Sunny Street and does not want the property, the alternative next steps include:

1. Mr. Smith may, at any time, pay the taxes owed plus all interest and associated costs, to the State Auditor who will then pay all of the interest and costs to Speculation LLC.
2. Speculation LLC may do nothing, and if Mr. Smith does not pay within the 18 month redemption period, Speculation LLC may write to the Sheriff and request a refund of any and all amounts paid over the \$3,000 delinquent tax amount, at which point Speculation LLC's interest in the property at 123 Sunny Street is extinguished.
3. Speculation LLC may do nothing and at the end of the 18 month redemption period its interest in the property at 123 Sunny Street is extinguished.

If Speculation LLC is interested in obtaining the property at 123 Sunny Street, Speculation LLC may hire a lawyer to conduct a comprehensive title exam to determine addresses for any individuals or entities with interest in the property at 123 Sunny Street, and send that list ("Notice List") to the State Auditor along with payment for the costs of a mailing to all of those individuals or entities. The State Auditor will then mail notice ("Sold Tax Lien Notice"), by certified mail, return receipt requested, to all of the individuals and entities provided by Speculation LLC and in the case of a property like 123 Sunny Street, to the property address itself. This notice must be sent from the State Auditor by January 15 of the second year after the Sheriff Sale. So—if the Sheriff Sale occurs in October of 2013, this notice that the tax lien was sold to Speculation LLC may not be sent until January of 2015. The Sold Tax Lien Notice must include instructions for pay-off of the delinquent tax amount plus all interest associated with the tax lien and statutory fees, and all costs associated with notices.

Parties with interest in a property revealed by a comprehensive title exam may include mortgage holders, lien holders, heirs, and others.

If Mr. Smith (or others with an interest in the property) fails to pay off the amount of the tax lien plus all of the interest and other costs described in the Sold Tax Lien notice within 18 months of the original Sheriff Sale, then the State Auditor will provide a deed for 123 Sunny Street to Speculation LLC. Though Speculation LLC may need to undertake further legal steps including a "quiet title" action or otherwise to clarify its ownership in 123 Sunny Street, Speculation LLC at this point—two years after its original bid at the Sheriff Sale—is the owner of property at 123 Sunny Street. At this stage, Speculation LLC may proceed to actually enter the property, make renovations or repairs, and may be legally responsible for the care of the property.

While additional research is needed to determine how often tax lien purchasers actually pursue a tax lien through to deed ownership of the property, anecdotal evidence suggests that tax lien purchasers are seldom interested in owning property—rather they are interested in collecting the interest and costs associated with tax liens on properties like 123 Sunny Street. If the tax liens (and associated interest/costs) are never paid by property owners like Mr. Smith, then tax lien purchasers are likely to simply walk away, allow the tax lien to expire, and head to the next Sheriff Sale to purchase tax liens on properties that are more likely to be redeemed. For a property like 123 Sunny Street, the failure

of Mr. Smith to pay his 2012 tax debt (and additional years that become due) can quickly evidence abandonment of the property itself. A property owner unable or unwilling to pay tax debt is unlikely to care for and maintain the property. A likely scenario is that 123 Sunny Street deteriorates over time and begins to cost taxpayers money as abandonment, crime, fire, and dangerous conditions take root at 123 Sunny Street. 123 Sunny Street can quickly become like 123 Cloudy Street, and the current West Virginia delinquent tax enforcement process offers little means to arrest that abandonment in its tracks.

123 Cloudy Street and the State Auditor. The story of 123 Cloudy Street and the State Auditor is slightly less complicated than the story of 123 Sunny Street and the State Auditor, but perhaps more tragic. As noted above, Mrs. Jones abandoned 123 Cloudy Street and because the tax debt and maintenance costs of 123 Cloudy Street likely outweigh the fair market value, no individual or entity bid on 123 Cloudy Street at the Sheriff Sale. The Sheriff is required to certify to the State Auditor that no bids were received, and then the State Auditor holds the 123 Cloudy Street tax lien.

123 Cloudy Street

*Absent Owner: Mrs. Jones. Est. FMV: \$5000.
Value of Delinquent 2012 Tax Lien: \$50
(+ interest + notice fees). Value of other
Municipal Costs: \$4000.*



- **October 2013:** Sheriff Sale Bids Received: 0
- **November 2013:** Certification of Tax Lien to State Auditor for holding during 18 month redemption period
- **April 2015:** First Mailed State Sale Tax Lien Notice to Mrs. Jones
- **Between August 2015 and January 2016:** State Tax Lien Sale.
Bid Received at State Sale: Risk-taker LLC for \$100
- **December 2015-May 2016:** First opportunity for deed transfer to Risk-taker LLC

Once the State Auditor receives certification that no bids were received on 123 Cloudy Street, the State Auditor must—between May and October of 2015—certify the 123 Cloudy Street tax lien to the Deputy Commissioner of Delinquent and Nonentered Lands. This Deputy Commissioner appointed by the State Auditor is presented with the task of managing the property tax debts associated with properties like 123 Cloudy Street—and the thousands of similar properties throughout the state.

The Deputy Commissioner may offer the 123 Cloudy Street tax lien for sale at the annual State Sale between August and January. The Deputy Commissioner provides notice of the State Sale by publication in the legal newspaper of the county where 123 Cloudy Street is located. At the State Sale, the tax lien will be sold to the highest bidder (with a 5% discount for qualified nonprofit

bidders) and there is no requirement that the bid include the full amount of taxes due. If no bids are received for 123 Cloudy Street at the State Sale, then the Deputy Commissioner may sell the land at 123 Cloudy Street to any one at any time for any amount without any further notice. The Deputy Commissioner, if unable to sell the tax lien associated with 123 Cloudy Street, will simply hold the tax lien indefinitely.

Assume that Risk-taker LLC offers the highest bid at the State Sale for the 123 Cloudy Street tax lien for \$100. If Risk-taker LLC would like to own the property at 123 Cloudy Street (rather than simply the tax lien), Risk-taker LLC must within 45 days of the State Sale hire an attorney to perform a comprehensive title exam on 123 Cloudy Street to determine addresses for any individuals or entities with interest in the property at 123 Cloudy Street. Risk-taker LLC must then send that list (“Notice List”) to the State Auditor along with payment for the costs of providing notice to all of those individuals or entities.

The State Auditor will then mail notice (State Sale Tax Lien Notice), by certified mail return receipt requested, to all of the individuals and entities provided by Risk-taker LLC on the Notice List and in the case of a property like 123 Cloudy Street, to the property address itself. This notice must be sent by the State Auditor within 30 days of receipt of the Notice List from Risk-taker LLC, and the notice apprises Mrs. Jones and any other interested party that she has 30 days to redeem (pay all taxes owed plus interests and costs) or the property will be deeded to Risk-taker LLC. If Mrs. Jones (or others on the Notice List) fails to redeem or pay off the amount of the tax lien plus all of the interest and other costs within 30 days, then the State Auditor will provide a deed for 123 Cloudy Street to Risk-taker LLC. Though Risk-taker LLC may need to undertake further legal steps including a “quiet title” action or otherwise to clarify its ownership in 123 Cloudy Street, Risk-taker LLC at this point in the saga—years after the taxes at 123 Cloudy Street went unpaid—is the owner of 123 Cloudy Street. At this stage, Risk-taker LLC may proceed to actually enter the property, make renovations or repairs, and be responsible for the care of the property.

For 123 Cloudy Street and the thousands of abandoned properties like it in West Virginia, the State Sale does provide an opportunity for prospective purchasers to acquire the property located at 123 Cloudy Street. However, the costs associated with 123 Cloudy Street—both in terms of delinquent taxes and all of the interest and other costs associated with providing appropriate notices, and the years long process required for a purchaser to acquire the deed—can fatally burden the property from nearly the moment of delinquency.

123 Cloudy Street

*Absent Owner: Mrs. Jones. Est. FMV: \$5000.
Value of Delinquent 2012 Tax Lien: \$50
(+ interest + notice fees). Value of other
Municipal Costs: \$4,000*



- **October 2013:** Sheriff Sale. Bids Received at October 2013 Sheriff Sale: 0
- **November 2013:** Certification of Tax Lien to State Auditor for holding during 18 month redemption period
- **April 2015:** First Mailed State Sale Tax Lien Notice to Mrs. Jones
- **Between August 2015 and January 2016:** State Tax Lien Sale Bids Received: 0
Status of Property Tax Lien: Indefinite Limbo. Tax Liens that have accrued since initial 2012 Delinquency: 4. Subsequent Years of Tax Liens and Counting: 2013-2016.
Public Costs to Maintain 123 Cloudy Street: Mounting and Uncollectible.

As of October 2017, the State Auditor held 8455 tax liens that received no bids at the Sheriff Sale or the State Sale.¹⁴ Many of these tax liens represent and reflect stagnant debt that continues to accrue, year after year, and they point to property that is vacant and abandoned with no owners concerned with paying the tax debt or maintaining the property. Properties like 123 Cloudy Street are often expensive (and unrecoverable) drains on municipal budgets in terms of police, fire, boarding, securing, and other public safety costs.

Local Best Practice Recommendations: Stage 4

1. Provide for and coordinate regular circulation of a list of State Auditor held-tax liens and their associated parcel addresses available for immediate purchase to local government planning departments, existing land banks, land reuse agencies, urban renewal authorities and any qualified nonprofit organizations.
2. Coordinate regular circulation of a list of State Auditor-held tax liens and their associated parcel addresses available for immediate purchase to local government code enforcement departments for cross-listing with parcels on the Unsafe Building List. Explore public acquisition of the deed to any such parcels in advance of demolition or other remediation activity.
3. Explore development of a new State Auditor delinquent lands side-lot program, whereby volunteer attorneys would provide title research and appropriate notice for any property owners who wish to acquire the deed to an adjoining parcel that bears a lien held by the State Auditor.

¹⁴ Data provided by Office of West Virginia State Auditor October 2017.

4. Explore development of a new State Auditor land banking program, whereby volunteer attorneys provide title research and appropriate notice for any properties desired by an existing land bank, land reuse agency, or nonprofit entity for neighborhood stabilization purposes.

Legislative Reform Recommendations: Stage 4

1. Amend West Virginia state law to create a statewide public entity with internal title research and other relevant expertise authorized to acquire delinquent tax liens at the Sheriff Sale each year for an amount not to exceed the amount of delinquent taxes owed. Provide in statute that any interest received through redemptions must be utilized to acquire, demolish, and rehabilitate vacant and abandoned tax delinquent parcels and return them to productive use.
2. Amend West Virginia state law such that in counties that have a land bank or land reuse agency, such entities may purchase some or all of the available tax liens each year for the amount of delinquent taxes owed on all Sheriff Sale properties, even in the face of private bidders. Provide in statute that any interest received through redemptions must be utilized to acquire, demolish, and rehabilitate vacant and abandoned tax delinquent parcels and return them to productive use.
3. Amend West Virginia state law such that land banks and land reuse agencies may have the right of first refusal on any property tax liens offered at the annual State Sale.
4. Amend West Virginia state law such that the State Auditor will provide constitutional notice at no cost and all fees will be waived where a land bank, land reuse agency, or qualified nonprofit entity purchases a tax lien at the State Sale.

Data Points to Inform Scope of Reform: Stage 4

1. What are the number and percentage of property tax liens sold each year at the Sheriff Sale that are not redeemed, and for which the Sheriff Sale tax lien purchaser ultimately obtains a deed to the parcel?
2. Conversely, what are the number and percentage of property tax liens sold each year at the Sheriff Sale that are not redeemed, and for which the Sheriff Sale tax lien purchaser simply allows its interest to expire?
3. For those properties that are ultimately deeded to Sheriff Sale tax lien purchasers, what is the rate of subsequent tax delinquency in the hands of the new owner?
4. What are the number and percentage of property tax liens that receive no bids at the annual Sheriff Sale and are thus immediately certified to the State Auditor's Office?
5. What are the number and percentage of property tax liens that are sold each year by the Deputy Commissioner at the State Sale?

6. What are the number and percentage of property tax liens sold each year at the State Sale that are not redeemed, and for which the State Sale tax lien purchaser ultimately obtains a deed to the parcel?
7. Conversely, what are the number and percentage of property tax liens sold each year at the State Sale that are not redeemed, and for which the State Sale tax lien purchaser simply allows its interest to expire?
8. What are the number and percentage of tax liens that arise each year for which no bids are received at Sheriff Sale, and no bids are received at the subsequent State Sale?
9. Are the number and percentage of State Auditor held liens increasing year over year and at what rate?

IV. CONCLUSION

The recommendations for policy and legislative reform contained in this report are a menu of options presented for discussion and consideration. This menu provides various possible reforms that may be viewed in isolation, or in concert. Some reforms suggested are small and incremental, and other possible reforms are comprehensive. All suggested reforms are subject to the review and comment of West Virginia counsel. Similarly, suggestions for data collection should serve as a roadmap for West Virginia stakeholders and are subject to review, augmentation, or deletion by West Virginia municipal leaders. These important caveats, however, should not encourage paralysis by analysis. Suggestions for data gathering moving forward should not become obstacles for completion before any reform is attempted.

Property tax enforcement reform, and any associated reductions in vacancy, abandonment, and municipal expenditures, is typically a multi-year process that requires an iterative conversation and ongoing data review, and that relies upon the momentum built by small and incremental change. This report arrives in West Virginia as momentum for reform has already been building for a few years, as increasing numbers of leaders, advocates, and residents are sounding the alarm for change, and as various public entities are demonstrating success at remediating blight and stabilizing neighborhoods. We encourage West Virginia leaders to move forward with building awareness and working toward reform now—while thoughtfully gathering and analyzing available data and seeking additional clarity.

APPENDIX A: THE LAND USE AND SUSTAINABLE DEVELOPMENT LAW CLINIC AT WEST VIRGINIA UNIVERSITY COLLEGE OF LAW MEMORANDUM TO THE CENTER FOR COMMUNITY PROGRESS



West Virginia University

College of Law

MEMORANDUM

TO: The Center for Community Progress

FROM: The Land Use and Sustainable Development Law Clinic
West Virginia University College of Law

RE: The West Virginia Tax Lien Sale Process and Vacant, Dilapidated, and Deteriorated Properties

DATE: August 30, 2017

I. Introduction

Many communities in West Virginia struggle to address vacant, abandoned, and deteriorated properties. A common question is whether the tax lien sale process contributes to increasing numbers of dilapidated properties. Anecdotal evidence suggests that the length of the process and uncertainty over property ownership before and after a tax lien sale may contribute to increased property dilapidation. In response to the Center for Community Progress Huntington TASP Team,¹ the Land Use and Sustainable Development Law Clinic at the West Virginia University College of Law researched existing practices and identified points of confusion with the current tax lien sale process. This memorandum introduces the property tax and property tax lien sale processes in West Virginia, analyzes areas for potential reform, and identifies data needed to substantiate the connection between increased dilapidation due to the tax lien sale process.

Substantial reform last occurred in 1994, which may impact the success of reform proposals today. The 1994 reform deliberately shifted the burden and cost of due process during the tax lien sale process to the tax lien purchaser. West Virginia, along with many other states, amended laws on tax liens and tax sales after *Mennonite Board of Missions v. Adams*.² *Mennonite Board of Missions* required notice to interested parties prior to tax sale, including the sale of a tax lien. To identify those interested parties, a title search must be conducted. This title search may be costly.

¹ The Huntington Technical Assistance Scholarship Program Team includes leadership from the Huntington Urban Renewal Authority and Land Bank, Huntington Planning and Community Development departments, the West Virginia HUB, the Brownfields Assistance Center, and the Abandoned Properties Coalition. The Huntington TASP Team reflects both the Huntington local focus, and the important goal of ensuring the TASP work in Huntington can inform and benefit the rest of the state.

² 462 U.S. 791 (1983).

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Equal Opportunity/Affirmative Action Institution

The goal of the 1994 legislation was to enable the state to dispose of forfeited and delinquent property without ever acquiring fee simple title to the property.³ According to the West Virginia Law Institute, “The state can’t acquire title to the property without notifying the owner and other interested parties, and the expense of this notice is excessive in the light of the benefits of fee simple ownership—since no one had bid on the property at the sheriff’s sale, or redeemed the property prior to the sale or during the lengthy redemption period after the sale, it probably isn’t worth owning, and the state would expect to realize little or no revenue from its expense in notifying owners that it was taking the property.”⁴

II. Property Taxes in West Virginia

The real property tax is an ad valorem tax, or a charge based on value, against real property (like land and buildings). Personal property, such as an automobile, is also taxed in West Virginia. The state, counties, municipalities, and school districts all impose property taxes.

Real and personal property tax collections in West Virginia totaled \$1.4 billion in 2010.⁵ Almost half of collected property tax is from commercial real estate, equipment, and inventory and other business property, all of which is taxed at a higher rate than an owner-occupied home or farm.⁶ West Virginians pay one of the lowest property tax rates in the country on a per capita basis, ranking 45th out of 50 states in a recent study.⁷

Property taxes are the major portion of a county’s revenues, amounting to 63% of general fund revenues.⁸ Property taxes total about one third of school district revenues and 10% of municipal and state revenues.⁹ Local governments spend property tax revenue for a variety of purposes, with public health and public safety topping the list of categories.¹⁰ Real property tax proceeds fund important public structures, services, and programs. For example, public schools, police protection, public parks, and local government services are all funded by real property taxes.¹¹

³ See notes from the West Virginia Law Institute Tax Forfeited Property Project, Reporter James O. Porter, on file with Clinic and House Bill 4043 (1994)

⁴ From the West Virginia Law Institute Tax Forfeited Property Project, Reporter James O. Porter, on file with Clinic.

⁵ West Virginia Center on Budget & Policy, Property Taxes: A West Virginia Primer 4 (2011), *available at* http://www.wvpolicy.org/downloads/WVCBP-Property_Tax_Primer042811.pdf.

⁶ *Id.* at 6.

⁷ *Id.* at 10; West Virginia Center on Budget & Policy Blog, How High Are West Virginia’s Property Taxes?, <http://www.wvpolicy.org/how-high-are-west-virginias-property-taxes/>.

⁸ West Virginia Center on Budget & Policy, *supra* note 2, at 11.

⁹ *Id.* at 11–12.

¹⁰ *Id.* at 12–13.

¹¹ *Id.* at 2.

III. Overview of the Tax Lien Sale Process

Tax liens represent debt owed for taxes. The county in which a property is situated assesses property taxes. When a property owner fails to pay property tax, the county will sell a tax lien at public auction, subject to several procedural and notice requirements before and after the sale.¹²

If all procedural requirements are met, and the original owner does not pay the taxes owed within a specified time limit, the tax lien “ripens,” and a deed to the property is issued to the purchaser of the lien, at the purchaser’s option.¹³ The purchaser may decide not to take ownership of the property if they choose. In sum, after a period of about three years, a tax-delinquent property may be transferred from a delinquent owner to a new owner through the tax lien sale process.

a. Definitions

“Actual notice” is legal notification to ensure notification is in fact achieved, such as certified mail with signature confirmation or personal service of court documents by a sheriff.

“Ad valorem tax” is a tax imposed proportionally to the value of something, particularly with real property, rather than being imposed based on quantity or some other measure.

“Appraised value” is the monetary worth of something based on what constitutes a fair price.

“Assessed value”¹⁴ is the monetary worth of an asset as determined by a taxing authority for taxation purpose.

“Assessment” is the process of determining an amount that a person is officially required to pay in the form of a fine or tax.

“Certificate of sale,” similar to a receipt, is issued to a tax lien purchaser after the amount of taxes, interest, and charges are paid. A certificate of sale is also referred to as a “tax certificate” in the West Virginia Code. A certificate of sale is *not* the deed to a property. The tax lien purchaser may receive a deed only after certain procedural requirements, such as notice and redemption period requirements, are met.

“Constructive notice” is legal notification implied or imputed by law, usually on the basis that the information is a part of a public record or file, as in the case of notice of documents that are recorded in the appropriate registry of deeds.

¹² W. Va. Code Ann. §§ 11-8-4, 11A-2-10 (West 2015); *Rebuild America, Inc. v. Davis*, 229 W. Va. 86, 92–93, 726 S.E.2d 396, 402–03 (2012); *George F. Hazelwood Co. v. Pitsenbarger*, 149 W. Va. 485, 489, 141 S.E.2d 314, 317 (1965).

¹³ W. Va. Code Ann. § 11A-3-18(d) (West).

¹⁴ See definition *infra*, note 13.

“Owner” is any party that has an interest in the property, but does not include the holder of any benefit or burden of an easement or right of way. Parties that hold liens on the property are included in the term “owner.”¹⁵

“Redemption period” is the specified time frame within which an owner of tax delinquent property may pay the taxes, interest, and fees owed to relieve the property of a tax lien.

“Sheriff’s Sale” is the first of two tax lien sales enabled by the West Virginia Code. The sale is a public auction held by the county Sheriff’s Tax Office.

“State Sale” is the second of two tax lien sales enabled by the West Virginia Code. The sale is a public auction held by the state Deputy Commissioner.

“Tax lien” is a debt imposed by law upon a property to secure the payment of taxes.

“Tax lien purchaser” is the buyer of debt owed for taxes. The tax lien purchaser is issued a certificate of sale for the purchase. In West Virginia, the purchase may take place at the Sheriff’s Sale or State Sale, or directly from the Deputy Commissioner if there are no purchasers at either sale.

b. Timeline of Property Tax Enforcement and Tax Sales

Timeline of Property Tax Enforcement and Tax Sales	
Property is appraised/reappraised	At least every 10 years ¹⁶ and on a rolling basis as new property is identified/improved
Property taxes are assessed¹⁷ & sheriff commences tax collection	July 15 ¹⁸
Property taxes are due	September 1 and March 1 ¹⁹

¹⁵ Neither the West Virginia Code nor case law defines “party with an interest in the property”. This definition is derived from existing practice.

¹⁶ W. Va. Code Ann. § 11-1A-19 (West).

¹⁷ *Id.* § 11-1A-3(a) (“‘Assessed value’ of any item of property is its assessed value after the certification of the first statewide reappraisal and shall be sixty percent of the market value of such item of property regardless of its class or species.”).

¹⁸ *Id.* § 11A-1-6.

¹⁹ *Id.* § 11A-1-3(a).

Property taxes become delinquent		October 1 and April 1 ²⁰	
SHERIFF'S SALE PROCESS	YEAR 1	Notice to Delinquent Taxpayer Sheriff prepares lists of unpaid taxes Sheriff posts lists at the courthouse Sheriff publishes lists in a Class I-O Legal Ad	May 1
		Second notice to Delinquent Taxpayer Sheriff publishes a Class III-0 Legal Ad	September 10
		Final notice to Delinquent Taxpayer before Sheriff's Sale	September 14 to October 23 (30 days prior to the Sheriff's Tax Sale)
		SHERIFF'S SALE	October 14 to November 23
		Notice to Delinquent Tax Payer that tax lien has been sold Class II-0 legal advertisement ²¹	Within 1 month of sale
	YEAR 2	Auditor sends instructions to Tax Lien Purchaser describing the required steps to notify the original property owner	May 1 to September 1
		Tax Lien Purchaser sends a list of Owner(s) to the Auditor	October 31 to December 31
	YEAR 3	Auditor sends notices to all Owner(s)	By January 15
		Owner may redeem or tax lien expires and Tax Lien Purchaser secures deed	April 14 to May 23
	If no one bid on the tax lien at the Sheriff's Sale, the lien is held by the state during the 18-month redemption period. Immediately after the Sheriff's sale, the sheriff certifies the property to the State Auditor.		
STATE SALE PROCESS	YEARS 2-3	Auditor certifies tax lien to the Deputy Commissioner	May 1 to October 1
		SHERIFF'S SALE	August 29 to January 29
	YEARS 3-4	Purchaser must provide a list of Owners to the Auditor	October 13 to March 15
		Deputy Commissioner mails notice	November 12 to April 14
	YEARS 4-5	Owner may redeem or tax lien expires and Tax Lien Purchaser secures deed²²	December 11 to May 13
		If no one bids at the State Sale, the state holds the tax lien indefinitely. Or, a tax lien purchaser may be issued a Certificate of Sale.	

²⁰ *Id.*

²¹ *Id.* § 11A-2-10a.

²² *Id.* § 11A-3-56.

IV. Areas for Potential Reform

Areas for potential reform in the tax lien sale process to address neglected properties in West Virginia are presented below, along with special considerations and recommendations for further research. Reform possibilities include shortening the length of the tax lien sale process, the addition of a fee paid by tax lien purchasers with proceeds benefiting neglected properties, enabling a requirement that demolition liens be paid with other charges at a tax lien sale, and the use of a judicial tax enforcement process.

a. Reduce the Length of the Process

One major concern with the tax lien sale process is the length of the process. The tax lien sale process itself can take potentially three years. Even after the delivery of the tax deed, an additional three-year statute of limitations allows owners to challenge the transfer of the deed. Neglected property can fall into further disrepair because of the time it takes for a new owner to obtain the deed and because there may be uncertainty over ownership during the process of obtaining the deed. This uncertainty may result from confusion over the fact that the sale of a “tax lien” is not a sale of the property, but merely the tax debt associated with that property.

Of the several requirements of the tax lien sale process, the 18-month redemption period that begins at the sheriff’s tax sale is the step that takes the longest. What happens during this 18-month redemption period?

- First, if a tax lien was purchased at the Sheriff’s Sale, the State Auditor’s office has up to 10.5 months to send instructions to the purchaser. These standard instructions describe the steps necessary to secure the deed, primarily the need to prepare a list of those entitled to notice.²³
- Second, the tax lien purchaser has up to four months to prepare the list of those entitled to notice. Preparing this list ideally includes the examination of title by a licensed attorney.
- Third, the State Auditor will have between two weeks and 2.5 months to send notice to those entitled to notice.
- Parties entitled to notice who receive notice on January 15 will have three to four months before the redemption period expires.

To reduce the length of the tax lien sale process, statutory changes could target the 18-month redemption period. For example, the Auditor could be given 30 days—instead of 10.5 months—to send standard instructions to a tax lien purchaser, reducing the length greatly. However, before recommending changes, understanding constitutional safeguards regarding notice and the quality of notice is essential.

²³ *Id.* § 11A-3-19.

b. Quality of Notice

The Fifth Amendment to the Constitution of the United States provides, in part, that “[n]o person shall . . . be deprived of life, liberty, or property, without due process of law,” thus establishing certain procedural and substantive protections for individuals from certain actions by the federal government. The Fourteenth Amendment extends those same due process protections to individuals deprived of life, liberty, or property by state governments. The tax lien sale process and the subsequent conveyance of real property to a tax lien purchaser is the kind of state deprivation of property action to which due process protections apply.

Generally, due process is defined as, “[t]he conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights.”²⁴ The primary due process consideration for the tax lien sale process is whether a tax lien purchaser provides adequate notice to owners of the right to redeem the property prior to the purchaser obtaining the deed. What constitutes adequate notice is an evolving standard at both the federal and state court levels. Current due process law for adequate notice requires “notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”²⁵

Applying these due process requirements for adequate notice specifically to the tax lien sale process, the Supreme Court of Appeals of West Virginia has stated that, “[w]here a party having an interest in the property can reasonably be identified from public records or otherwise, due process requires that such party be provided notice by mail or other means as certain to ensure actual notice.”²⁶ The Supreme Court of the United States has held that “[n]otice by publication is not reasonably calculated to inform interested parties who can be notified by more effective means such as personal service or mailed notice.”²⁷

Additional measures to the posting of notice of the sale of a tax lien and an owner’s right to redeem on the courthouse door, or publishing the same in the local newspaper, is needed to satisfy due process. Instead, a tax lien purchaser must seek to provide actual notice of the sale and right to redeem to owners by all reasonable means calculated to actually achieve such notice. Reductions in time for the tax lien sale process should consider that, as a practical matter, the tax lien purchaser needs adequate time to perform due diligence in providing notice and that owners should be given time to organize financing after receiving notice and before the end of the redemption period.

²⁴ *Black’s Law Dictionary* 610 (10th ed. 2014).

²⁵ *Jones v. Flowers*, 547 U.S. 220, 226 (2006) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)).

²⁶ Syl. Pt. 1, *Lilly v. Duke*, 376 S.E.2d 122 (W. Va. 1988).

²⁷ *Mennonite Board of Missions v. Adams*, 462 U.S. 791, 791 (1983).

Reviewing West Virginia's tax lien sale process in light of due process notice requirements, 10.5 months for the auditor to send standard instructions to tax lien purchasers is likely unnecessary. The reduction of this 10.5-month timeframe between the sheriff's tax sale and the time at which instructions are sent to the tax lien purchaser should receive further research.²⁸

In order to preserve the longer redemption period for owner-occupied tax delinquent properties, one alternative is to reduce the 18-month redemption period only for vacant or dilapidated properties. However, reliable definitions of "vacant" or "dilapidated" may be difficult to work into the tax code. One way to define vacant is to require registration under a vacant building registration program under West Virginia Code.²⁹ In order to determine vacant status, registration programs may look to non-compliance with a local building code ordinance or evidence that utilities are not in use. These types of objective criteria could reduce questions about whether a property is vacant, and determining vacant status in this way puts the burden of defining "vacant" on local officials. Currently, registries for vacant and uninhabitable buildings are only enabled for municipalities. The registration program would need to be expanded to counties prior to its use in the tax code. A primary challenge when reducing the redemption period for only a subset of properties is the administration of two different systems. Two systems could generate confusion and inconsistency and may not be favored by county tax departments in a time of budget constraint.

c. Fee for Tax Lien Purchasers

One possible approach to modifying the tax lien sale process to address neglected properties would be to assess a fee on tax lien purchasers that could be used to secure dilapidated properties, rehabilitate properties, or other purposes. At present, fees are assessed to tax lien purchasers for title searches and other essential services. These fees are relatively small.

West Virginia law would need to be amended to add this fee. Any fee would have to be applied uniformly to all purchasers, and the fee would likely need to be added to the bid price, as are the other fees, to be enforced. The tax lien purchaser would likely consider the fee when calculating a bid, possibly causing fewer or no bids on property. Some tax liens that are presently purchased might not be purchased with the addition of a fee. Therefore, the amount of the fee would need to be carefully determined in light of these considerations. Also important to consider is the balance between the benefit of reducing speculative bids³⁰ and the corresponding potential for liens to not be purchased.

²⁸ It is important to note that even with a reduced redemption period, the property may have fallen into disrepair well before the property went to tax sale.

²⁹ W. Va. Code Ann. § 8-12-16c(2)–(3) (West) "'Vacant building' means a building or other structure that is unoccupied, or unsecured and occupied by one or more unauthorized persons for an amount of time as determined by the ordinance. A new building under construction or a building that by definition is exempted by ordinance of the municipality, is not deemed a vacant building. The governing body of a municipality, on a case-by-case basis, upon request by the property owner, shall exempt a vacant building from registration upon a finding for good cause shown that the person will be unable to occupy the building for a determinate period of time." *Id.* § 8-12-16c(2). "'Vacant property' means a property on which no building is erected and no routine activity occurs." *Id.* § 8-12-16c(3).

³⁰ A "speculative bid" is a bid by a person that has no intention of ever owning the underlying property. The speculative bidder seeks the interest on the amount of property taxes due, which is presently 12%.

d. Collection of Demolition Liens at County Tax Sale

The tax lien sale process could also be modified to include the collection of demolition liens to address the cross-section of these issues as they relate to neglected properties. A demolition lien is a lien that has been placed on a property by the municipality for the amount expended to demolish the property in violation of local ordinances such as the building code. Prior to demolition, a local code official may cite violations of local ordinances and after due process is given, municipalities may take steps to demolish the structure and place a demolition lien on the property. Tax delinquent properties where a structure has been demolished can be sold to a third party after a series of steps are taken.

A few communities in West Virginia have been granted authority under the state's Home Rule Pilot Program³¹ to collect the costs of demolition liens at county tax sales, although none are actively utilizing this authority as of July 2017. The authority allows demolition liens to be added to the list of what tax lien purchasers must pay, such as interest and other charges, as part of the tax lien purchase. This method of collecting demolition liens is not currently enabled for all municipalities under state law.

One issue that arises from adding demolition liens to the tax lien purchase process is whether a municipality has the authority to compel a county employee to collect municipal demolition liens at a county tax sale. Even if the sheriff's tax office was agreeable to withholding the certificate of sale until the demolition lien is paid, what would the enforcement mechanism be if the tax lien purchaser refused?

Amending the West Virginia Code would address these authority issues. West Virginia Code Section 11A-3-14(a), which requires the sheriff at a tax sale to collect "at least the amount of taxes, interest and charges for which the tax lien on any real estate is offered for sale" before issuing a certificate of sale, could be amended to additionally require the payment of any demolition liens. Alternatively, the state code could be amended to give demolition liens the same priority as tax liens. However, before any amendments to the state code are contemplated, a discussion of the practical implications, as well as speaking to county tax offices, state agencies, and elected officials is imperative to understand the issues and any logistical considerations.

³¹ The Home Rule Pilot Program allows select communities to implement changes in all matter of local governance as long as the changes do not violate certain aspects of state and federal law. The program provides an opportunity to test whether broad based state home rule is viable, and specifically whether certain measures—such as attaching demolition liens at a county tax sale—should be enabled statewide.

e. Judicial Tax Enforcement Process

Another possible approach would be to adopt a parallel delinquent tax enforcement statute that counties could utilize at their option that provides for a judicial tax enforcement process. In a judicial tax enforcement process, simply put, the tax collector may petition the court that taxes are delinquent on a given parcel, provide notice to all those with an interest in the property, and ask the Court to order a sale. If the Court finds that property taxes are indeed delinquent, and that adequate notice has been provided to all those with an interest in the parcel, the Court can order an immediate sale of the property.

This process could involve four changes in the West Virginia law. First, and perhaps most importantly, the process would be judicial, as opposed to the present administrative system. Second, the process could reduce the redemption period. Third, the process could involve the sale of the real property itself instead of the real property tax lien. Finally, this optional process could be limited to vacant, abandoned, or other troubled properties.

Judicial sale of the property could reduce the time it takes for tax delinquent properties to transfer to new owners. However, circuit court dockets in West Virginia are busy and court delays may impede reduction of the time period. Notably, the 1994 reforms sought, in part, to shift the burdens on the court system to the tax lien purchasers.

In addition, the judicial finding that taxes are due and that constitutional notice has been provided should result in full, clear, marketable, and insurable title to the property in the hands of a new owner after the court ordered sale. However, the present process generally provides insurable title in West Virginia.

The judicial enforcement process may be simpler and less expensive than a tax lien sale process, but West Virginia courts lack authority at this time. A few years ago, a bill was introduced in West Virginia regarding the use of in rem jurisdiction to address tax delinquent properties, but the bill did not pass.

Georgia passed a judicial sale law in 1995 to combat the “inefficient, lengthy” tax foreclosure process in that state that “commonly result[s] in title to real property which is neither marketable nor insurable.”³² The Georgia legislature also passed the law to attempt to reduce the number of tax delinquent properties “which present health and safety hazards to the public.”³³

West Virginia would need to pass a law to allow judicial sale of tax delinquent properties in the state. The example from Georgia or other states could be used and modified to meet West Virginia law and circumstances.

³² Ga. Code Ann. § 48-4-75 (West 2017).

³³ *Id.*

V. Possible Needs and Avenues for Data Collection

To better establish the connection between the tax lien sale process and its effect on neglected properties, as well as the potential for the proposed areas for reform, the following data collection efforts should be considered:

- Number of delinquent properties in each county of interest, by year. A view over a specified period of years may show certain trends. The sheriff's tax office for each county may be able to provide a list of delinquent properties.
- Number of tax liens sold in each county of interest, by year, in addition to assessed value and the amount of the purchase price. This might also be determined by a review of records maintained by the sheriff's tax office.
- Number of tax liens sold that are later redeemed, by year, along with total amount of interest payments accrued to the benefit of tax lien purchasers. This might also be determined by a review of records maintained by the sheriff's tax office.
- Number of tax liens per year (either statewide or by county of interest) that are not purchased at a sheriff's sale and transferred to the State Auditor. The State Auditor likely has or could compile these numbers.
- Number of tax liens per year that the State Auditor ultimately sells. The State Auditor likely has or could compile these numbers.
- Number of tax liens that the State Auditor has retained because there was not a buyer at the sheriff's sale or state sale, either overall or for one or more counties of interest.
- Number of properties in a select community that are tax delinquent and are condemned, on vacant property registries, or are otherwise slated for demolition.
- Number of properties in "record of delinquent lands" (or similarly named volume) of record in the Office of the Clerk of the County Commission for a county or community.

VI. Action Plan for Moving Forward

This memo identified areas for potential legislative reform and identified data needed to substantiate the connection between increased dilapidation due to the tax lien sale process. Next steps include data collection and discussions with stakeholders to vet areas for potential reform.

Data Collection

As noted in Section V, data is managed by the State Auditor's Office, the County Assessor's Office, local governments, quasi-governmental bodies such as Urban Renewal Authorities and community groups such as BAD Building Teams. Here, we propose a divide and conquer communication strategy based on existing relationships of the Huntington TASP Team members. For example, the Land Use Clinic has an existing relationship with the State Auditor's Office, and the Northern Brownfield Assistance Center works with several BAD Building Teams. Additional calls should be made to the West Virginia Assessors' Association and individual county assessors' offices. Prior to conducting interviews about specific data available and the collection of data, Huntington TASP Team members can coordinate the goals of data collection and assign tasks.

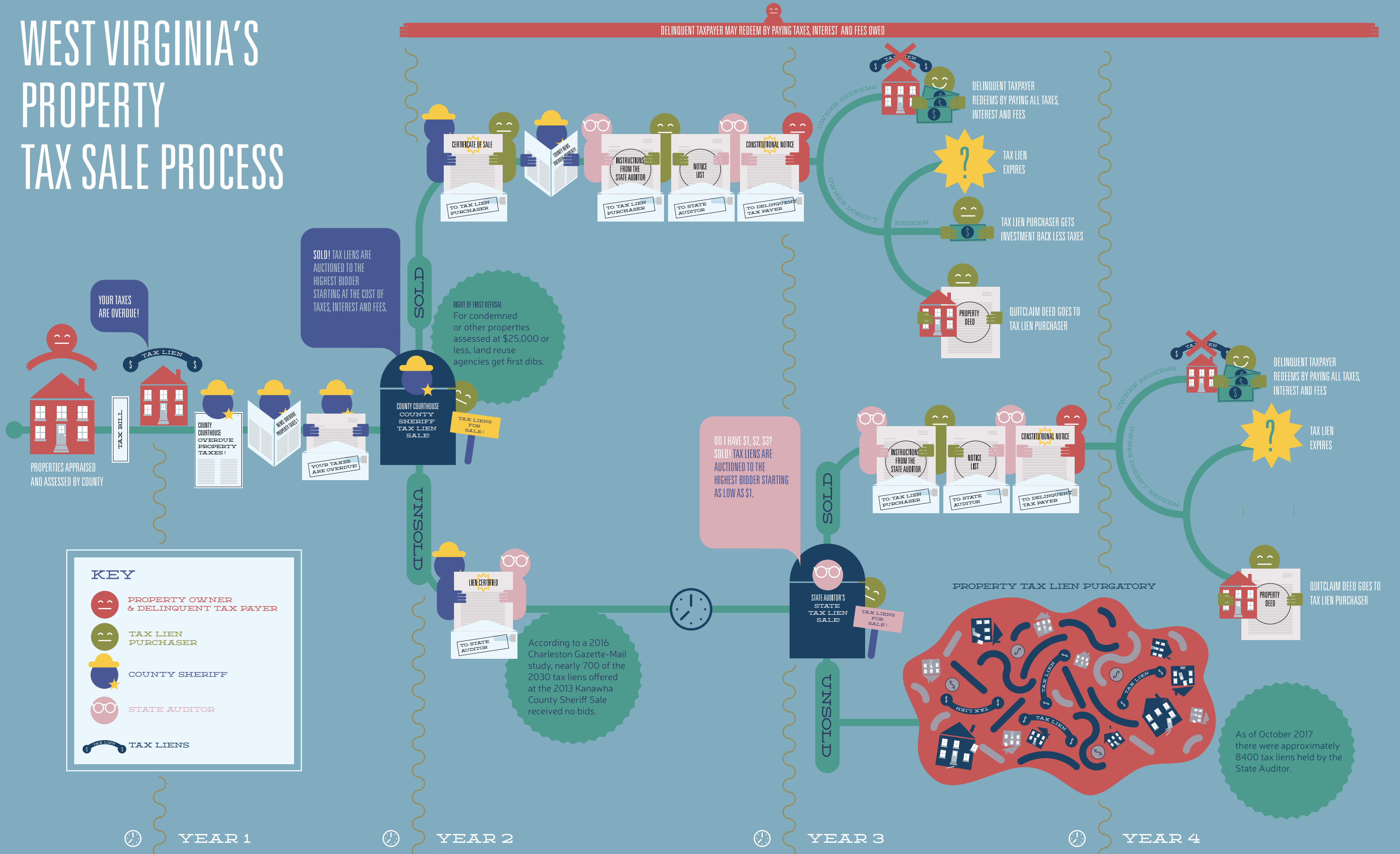
Stakeholder Input

In addition to data collection, partners should interview stakeholders about potential legislative reforms. Stakeholders include but are not limited to: the members of the Abandoned Property Coalition, the West Virginia Municipal League, the West Virginia Association of Counties, the West Virginia Association of Municipal Attorneys, the State Auditor's Office, and the West Virginia Assessors' Association. Similar to data collection, the Huntington TASP Team members can share the responsibility of communicating with stakeholder groups based on existing relationships. Prior to interviews, team members can coordinate the goals of the interviews and assign experts to interviewees.

APPENDIX B: WEST VIRGINIA DELINQUENT PROPERTY TAX ENFORCEMENT INFOGRAPHIC

WEST VIRGINIA'S PROPERTY TAX SALE PROCESS

DELINQUENT TAXPAYER MAY REDEEM BY PAYING TAXES, INTEREST AND FEES OWED



APPENDIX C: ECONOMIC AND HUMAN COSTS: VACANT PROPERTIES IN HUNTINGTON AND THROUGHOUT WEST VIRGINIA

Vacant, abandoned, and dilapidated properties impose a heavy burden on communities nationwide. The negative impact these properties have on communities crosses urban, suburban, and rural boundaries alike. From Huntington and Charleston, the largest cities in West Virginia, to Mount Hope, a much smaller and more rural community, West Virginians face significant challenges related to vacant and abandoned properties.

“I know that abandoned buildings do nothing positive for a community – from lost taxes to providing places for illicit (sic) activities. Abandoned buildings also have a distinct effect on [the] mindset of a community. An abandoned, vacant, dilapidated building says that no one cares enough to solve a problem, that no one cares about improvements, that there is no investment potential in a town.”

Katharine from Huntington

There is a need to discern in more detail the burden vacant and abandoned properties impose on communities across West Virginia. This memorandum begins to explore and highlight that burden. First, the memorandum examines the economic costs of vacancy and abandonment in Huntington by focusing on the scope of vacancy in Huntington, and the amount of money Huntington spends providing municipal services in three key areas to those vacant properties: fire services, police services, and code enforcement services. Second, the memorandum describes the reported human toll vacant and abandoned properties take on the residents of Huntington and other communities throughout West Virginia. The stories and quotes included in this report were collected from several community meetings conducted in July 2017 by Community Progress, and the Huntington Urban Renewal Authority (HURA), and from an online survey conducted by the

West Virginia Community Development Hub (the Hub) asking West Virginia residents to describe how vacant and abandoned properties impact their lives. These stories reveal how such properties have impacted the value of residents' homes and businesses, discouraged investment in communities, and lowered the morale of neighborhoods.

A NOTE ON METHODOLOGY

There is a recent and growing body of national literature that dives deep into local data and applies complex statistical analysis of data related to vacant and abandoned properties to quantify the impact of those properties in economic terms. Often called “cost of blight studies,” these reports analyze the direct costs that vacant properties require from police, fire, and code enforcement budgets, and also analyze indirect costs imposed by vacant properties including diminished fair market values for surrounding properties, decreased property tax assessments, and corresponding loss of tax revenue.¹ In order to analyze the direct and indirect costs of vacant properties in a robust fashion, two key factors must typically be present in the municipality of focus including: a) significant data sets that track relevant factors and costs over time from all relevant municipal departments, and b) large enough total parcel numbers to reveal statistically significant (or insignificant) conclusions.

Our research in Huntington, West Virginia revealed that much of the data needed to complete an accurate and reliable study of the direct costs of vacancy and abandonment in Huntington, or other areas of West Virginia is simply not available. However, the absence of sufficient data does not mean that vacant or abandoned properties do not impose significant economic and human costs on West Virginia residents and communities. The description that follows of costs rationally linked, in part, to vacant and abandoned structures in Huntington was developed in response to interviews conducted with local Huntington officials, review of limited data from the City of Huntington budget and key municipal departments, and the review of anecdotal stories shared by West Virginians around the state in response to the Hub Survey. This initial step of collating relevant information and developing hypothesis from the limited data and stories available is designed to inform Huntington and other West Virginia leaders as they consider simple improvements to data collection techniques to more accurately quantify the impact of vacant properties moving forward.

¹ See Community Progress and Immergluck, Dan (2016), A Conservative Analysis of Costs Imposed by Vacant and Blighted Properties in Toledo: Conducted at the Invitation of the Junction Neighborhood; Immergluck, Dan (2015), The Cost of Vacant and Blighted Properties in Atlanta: A Conservative Analysis of Service and Spillover Costs; GSBS Richman Consulting (2013), Addressing Vacant and Abandoned Buildings in Oklahoma City.

THE SCOPE OF VACANCY AND ABANDONMENT IN HUNTINGTON

In Huntington

In Huntington, the scope of vacancy and abandonment is believed by residents and Huntington officials to be widespread, but there is no reliable count of exactly how many vacant properties exist. According to the United States Census Bureau (“Census”), the national rate of vacancy for housing units was 12.8% in 2016.² Between 2011 and 2015, Census data compiled by PolicyMap, shows that of the more than 25,000 housing units in Huntington, 16.7% were vacant. While these numbers are helpful, they do not provide Huntington officials with a comprehensive understanding of the inventory of vacant properties in Huntington, including, for example, a breakdown of vacant buildings and vacant lots without any kind of structure.

Huntington has taken various steps to better understand and determine the inventory of vacant, abandoned, and dilapidated property. For example, in 2016, Huntington passed a vacant property registration ordinance. The ordinance requires owners to secure and maintain such properties, and mandates that owners register any building that has been vacant for more than 30 days. As of August 2017, 534 properties were registered as vacant.

Huntington also maintains a list of “unsafe” buildings. These are buildings that have been brought before Huntington’s Unsafe Building Commission by the Huntington Department of Public Works’ Code Enforcement Unit, and are often dangerous and in need of demolition or significant repair. As of January 2017, there were 297 buildings on the unsafe building list according to data provided by HURA. A recent windshield survey conducted by the Huntington Fire Department (“Fire”) found more than 650 properties that are vacant, abandoned, or dilapidated in Huntington, and the same survey found more than 300 buildings in need of demolition. Disparate and disjointed data from various Huntington municipal departments illustrates the need for more comprehensive, consistent, and coordinated data collection.

“[Vacant and abandoned property] keeps costing me money, and I’m just tired.”

Resident from Huntington

A 2017 windshield survey of Huntington property revealed 650 vacant structures, at least 300 of which appear to be deteriorated to the point of requiring demolition.

² The housing unit vacancy rate is a measure of the total number of housing units, which includes, for example, single family homes, condominium units, apartment units, or single occupied rooms, as compared to the number of housing units in which no one is living as of the time of the census interview.

Around West Virginia

The state of vacancy throughout West Virginia is also trending in the wrong direction. For example, Census data shows that the housing unit vacancy rate in West Virginia is ticking upward, with 17.7% vacancy in 2015 and 17.8% in 2016, while the national housing unit vacancy rate is ticking downward, at 12.9% vacancy in 2015 and 12.8% in

2016. Karen in Wheeling writes that through neglect and the refusal of certain owners to sell, more and more historical buildings in her community require taxpayers to intervene and demolish these once beautiful buildings. Lynn from Spring Hill notes how her town used to be a beautiful little city where families could window shop downtown and children could hang out at the local YMCA. As the downtown storefronts continue to become vacant, Lynn points out that the city's children and grandchildren leave as soon as they finish school. After all, Lynn says, “[w]hat’s to keep them here?”

“There are too many abandoned houses in this neighborhood to number.”

Marjorie from Parkersburg

Moving Forward

Community Progress suggests in this memorandum simple data tracking methods that Huntington and its partners can employ to better understand the problems vacant, abandoned, and dilapidated properties present. Each of the recommended methods to collect information can also be replicated in other communities throughout West Virginia, and in many cases simply require an investment of time, not money. It is important to remember, however, that collecting data is only useful for a very limited purpose if the intent is simply to collect it once. Tracking data like vacancy rates routinely over time will begin to show trends, including where problems have occurred and where they might occur in the future.

Improved understanding of the scale of vacancy and abandonment, coupled with a detailed understanding of how much the problem costs taxpayers in time and resources, will help state and local officials better allocate existing resources and develop solutions. Ultimately, the more solutions that can be effectively implemented, the better the chances of preserving and fostering the fierce pride that Huntington and West Virginia residents have in their communities.

VACANT PROPERTY AND FIRE COSTS

Sources like the United States Fire Administration and the National Fire Protection Association estimate that 6-7% of all residential structure fires across the United States occur in vacant properties.³ The Office of Policy Development and Research for the United States Department of Housing and Urban Development (HUD) writes that “[t]he U.S. Fire Administration estimates that there were 28,000 fires annually in vacant residences between 2006 and 2008, with half of these spreading to the rest of the building and 11 percent spreading to a nearby building. The organization also estimates that 37 percent of these fires were intentionally set and that 45 deaths, 225 injuries, and \$900 million in property damage result from these fires each year.”⁴

“Nearly 4 years ago, a home burned enough to be abandoned [on our block]... I am frustrated by the dangerous buildings that are falling in, as they pose a safety hazard to wandering children and volunteer firefighters.”

Ann from Fairmont

Vacant Property and Fire in Huntington

In Huntington, residents throughout the City’s 18 square miles are intimately familiar with the uncertainty that comes from living near a vacant and abandoned property. A recent survey conducted by the Fire found that there are 650 vacant and dilapidated buildings in Huntington that cost the City of Huntington and its taxpayers significant resources to address. Nearly 300 of those buildings are in such bad shape that they are slated for demolition, but at a minimum cost of \$5,000 per demolition, it will be a long and expensive endeavor to get them all down.

“The house next to my elderly, widowed mother, in Fairmont, has been abandoned by her deceased neighbors’ family... I worry if people were messing around in there and set a fire, it could quickly spread to my mother’s house.”

Debra from Charleston

The rise in the number of vacant buildings correlates with the number of calls for Fire services. In 2016, Fire reported 4,500 “runs,” a term used to describe Fire’s response to a call, up from the historically typical 3,600 annual runs. There does not appear to be an end to this increase; in 2017, Fire is on pace for more than 5,000 runs.⁵ There are, on average, 300 or more structure fires in Huntington each year, some of which Fire attributes to careless activity or arson in vacant structures.

³ See, for example, the U.S. Fire Administration’s Topical Fire Report Series article, “Vacant Residential Building Fires (2010 – 2012),” (March 2015), available at: <https://www.usfa.fema.gov/downloads/pdf/statistics/v15i11.pdf>; see also, the executive summary of the National Fire Protection Association’s 2009 report, “Vacant Building Fires,” available at: <http://www.nfpa.org/news-and-research/fire-statistics-and-reports/fire-statistics/fires-by-property-type/vacant-building-fires>.

⁴ Excerpt from “Vacant and Abandoned Properties: Turning Liabilities into Assets,” from the *Evidence Matters* blog on the website of The Office of Policy Development and Research for the United States Department of Housing and Urban Development (Winter 2014), available at: <https://www.huduser.gov/portal/periodicals/em/winter14/highlight1.html>.

⁵ Estimates provided by the Huntington Fire Chief and the Huntington Fire Marshall.

⁶ Chart provided by Huntington Fire Department.

YEAR	TOTAL	MEDICAL	FIRES	FALSE
2010	3685	1238	343	906
2011	3527	1305	289	902
2012	3731	1206	440	975
2013	3392	1235	284	915
2014	3452	1235	320	892
2015	3605	1370	290	937
2016	4522	2156	337	1108

Total Runs of City of Huntington Fire Department⁶

- 25% increase in overall runs between 2015 & 2016
- 57% increase in medical runs between 2015 & 2016
- 16% increase in fires between 2015 & 2016
- 18% increase in false calls between 2015 & 2016

All of the necessary attention, resources, and response time spent on structure fires by Fire costs money. Unfortunately, as the number of calls and runs has increased, Fire’s operating budget has decreased. Fire’s budget for Fiscal Year (FY) 2018 (defined as July 1, 2017 to June 30, 2018) will decrease from the FY 2017 budget by nearly \$600,000, from roughly \$14 million to \$13.4 million. Exacerbating the problem is that costs for fuel and safety gear are expected to increase by about \$25,000, while money available for training will be decreased by almost \$11,000.

A typical *fire run* in Huntington results in the dispatch of the following resources:

Equipment

- 2 Fire Engines
- 1 Rescue Truck
- 1 Tower Truck

Personnel

- 4 Fire Officers (Captains and Lieutenants)
- 8 Firefighters

Fire estimates that the average time spent on such a run is 15 to 30 minutes. The cost of the equipment, including fuel, upkeep, and wear and tear per run is not clear, but just 30 minutes of salaried time for 4 Fire Officers and 8 Firefighters comes out to nearly \$200.⁷

⁷ Hourly personnel costs calculated by reviewing the FY 2018 budget and dividing position salaries by 1820 hours per year (or 35 hours per week). Captains’ hourly rates are estimated at \$26.12/hour, Lieutenants’ at \$23.84/hour, and Firefighters’ at \$22.07/hour.

A typical *structure fire* results in the dispatch of the following resources by Fire:

Equipment

- 3 Fire Engines
- 1 Rescue Truck
- 1 Aerial Truck
- 1 Deputy Chief Car

Personnel

- 1 Deputy Chief
- 4 Fire Officers (Captains and Lieutenants)
- 10 Firefighters

Fire's estimate of the time spent responding to a structure fire, is a minimum of 2 hours. The personnel costs for 2 hours of just the salaries of the 1 Deputy Chief, 4 Fire Officers, and 10 Firefighters comes to almost \$700. Of the 337 structure fires tracked in 2016, Fire reported that 17, or more than 5%, were in vacant structures.

Vacant Property and Fire throughout West Virginia

In the Hub statewide survey of West Virginians 9 of the nearly 50 respondents listed "arson or accidental fire" as one of the top two concerns they had about vacant and abandoned properties. Many folks mentioned how abandoned properties in their neighborhoods have increased over the last 2 or 3 decades. Marjorie and Melissa from Mount Hope both noted the danger these properties pose to children, and Veronica from Huntington describes how the building next door to her has been on fire twice, resulting in the accumulation of fire debris on her property and lowering the value of her own home. In a community meeting held in July 2017 in Huntington, some residents remarked that the rise in vacant and abandoned property increases their fear of neighboring properties catching fire and that their fear diminishes the sense of vibrancy in their community.

"Some of the hazards in these abandoned/dilapidated buildings include fire, falling debris, vermin, sharp rusty objects, dangerous machinery, mold, standing water and more. The old middle school was broken in to and set on fire! The city eventually had it torn down. This is not the town I grew up in. We were allowed to go anywhere in this town and feel safe. Now I have to worry about a building falling on my child, or them getting sick because of them."

Melissa from Mount Hope

Data Tracking Moving Forward

Through its regular data collection practices and willingness to devote staff to conduct citywide surveys to assess property conditions, Fire is already uniquely positioned in Huntington to serve as a model for how data related to vacancy and abandonment can be tracked. Below are a few simple suggestions that Fire might consider for additional data points to collect and track related to vacant, abandoned, and dilapidated properties, including for example:

"Our [neighborhood] has gone through a lot. We are ready to see change."

Resident from Huntington

1. Build on the recent survey conducted by Fire in 2017 of unsafe buildings in Huntington and intentionally conduct the same or similar survey every 6-months or every year. Work with the Huntington Planning and Development Department to map the results and then share them with all related City departments. Routine and consistent data collection can lead to the identification of trends that might prove useful in allocating local resources.
2. For all Fire runs, create a standard entry on reports identifying whether the property to which Fire has been called is vacant or occupied.
3. Track what percentage of Fire runs are to vacant properties and assess how the estimated time spent on Fire runs and structure fires to vacant properties compares to Fire runs and structure fires in occupied properties.
4. Calculate costs of Firefighter injury associated with all Fire runs and then break down such costs associated with vacant property Fire runs.
5. Ensure all data is entered into a system where it is easily accessible not just to Fire, but also to other Huntington City departments and the public.

VACANT PROPERTY AND POLICE COSTS

A rise in vacancy and abandonment in a community is often correlated with a rise in criminal activity. Properties that are abandoned and left vacant generally begin to fall into disrepair, and the signs of vacancy, like broken windows and open doors, can attract criminal activity.⁸ Sometimes such activity starts with trespassers simply stripping the property of copper or anything else of value, but as the property remains vacant and deteriorates, it can provide a haven for more serious criminal acts to occur, like drug sales and arson.

Vacant Property and Police in Huntington

One of the primary concerns facing West Virginia is public safety, with a particular concern for opioid use and overdoses. Individuals from both the statewide survey conducted by the HUB and in Community Progress'

"There are so many abandoned houses and businesses, it isn't safe to be in the communities. Graffiti, arson, drugs, vandalism, are all strong concerns in my community and neighboring ones. They give wrongdoers a place to commit crimes. Depresses a community."

Robin from Chesapeake

"We live next to a building that has been condemned yet the owner will not do (sic) anything... Squatters have been in the (sic) building... we clean the mess, drugs been done in the yard, crime (sic) on the street has gone up. [The] building makes the entire (sic) street look undesirable which affects (sic) all our property values as well as our insurance rates on property and vehicle."

Veronica from Huntington

⁸ See Charles C. Branas, David Rubin, and Wensheng Guo, "Vacant Properties and Violence in Neighborhoods," ISRN Public Health, vol. 2012, Article 10246142.

meetings with Huntington residents made a direct connection between drug activity and vacant and abandoned property. Drug overdoses are rampant, highlighted by the nearly 1,200 overdoses tracked in Huntington in 2016.

Huntington residents and various City officials noted that, in addition to overdoses, vacant properties are a haven for other criminal activities, like drug dealing, the illegal sale of alcohol, or stolen goods and arson. Current and former members of the Huntington Police Department (Police) recognize that such properties create an ideal situation for criminal activity and report the activity is certainly more prevalent not just in vacant properties, but also in the areas *near* where vacant property is located. Despite this anecdotal acknowledgment, there is no data available to gauge the percentage of calls or time spent by Police at vacant properties versus occupied properties in Huntington.

Vacant Property and Police throughout West Virginia

Roughly half of the nearly 50 respondents to the Hub Statewide Survey mentioned crime as a concern related to vacant and abandoned properties. Marjorie from Parkersburg noted the properties are “run down, dirty, trashed, vandalized, dangerous, [and] lawless.” Mimi from Bluefield/Green Valley noted that the mobile home at the entrance to her community is now completely uninhabitable except by wild animals.

Data Tracking Moving Forward

Despite stories from residents and Huntington officials detailing the high correlation of vacancy, abandonment, and criminal activity in multiple Huntington neighborhoods, data tracking this correlation is not available.

Police are in an optimal position to collect data that explores this hypothesized link between vacancy and criminal activity in Huntington. Like Fire, the Police budget for FY 2018 has decreased by almost \$500,000 from FY 2017, so staffing to collect and sort through new data is surely limited. However, the recommendations below may provide some simple cost neutral data collection steps Police might consider tracking, for example:

1. On all Police calls to property, whether the crime is property related or not, include a separate entry on every incident report detailing whether the property is vacant, occupied, and, if known, illegally occupied.
2. Add vacancy status to dropdown menu on the Record Management System at 911 call center.
3. If the owner of the property is not known, include an entry on each incident report for any information related to the owner of the property that a witness might be able to provide. Such information may prove valuable not just to the Police, but also for the purposes of future housing and building code enforcement activity.

4. Track the average cost of personnel and equipment dispatched for calls to all properties, costs of personnel injuries associated with all calls, and then further refine that by tracking the same for calls to vacant properties.
5. Track the calls where Police respond to addresses that are on the Huntington's Unsafe Buildings List. Report those calls to the Department of Development and Planning or to the Department of Public Works Code Enforcement Unit so that the information can be used to inform the priority of those cases pending before the Unsafe Buildings Commission.⁹

VACANT PROPERTY AND COSTS OF CODE ENFORCEMENT/PUBLIC WORKS

Housing and building code enforcement, in coordination with Public Works Department activity (Code Enforcement), is often the “first response” tool in a local government’s arsenal to address vacant and abandoned properties. Code Enforcement can be either a powerful and equitable tool used to encourage responsible property ownership and compliance with local property standards, or it can be a largely toothless and ineffective mechanism designed to punish owners instead of focusing on the improvement of the property. Successful Code Enforcement approaches must be flexible and adaptive to the different priorities and needs of communities and neighborhoods and those approaches should also recognize that different strategies are needed for different types of owners, for different types of property, and for different types of neighborhoods.

“People argue about the property rights of the landowners who have their garbage strewn about in the yard, but what about the property rights of the ones who have to live near these things?”

Martha from Berkley Springs

Vacant Property and Code Enforcement in Huntington

In Huntington, the costs of Code Enforcement are primarily reflected in the City’s Code Enforcement Unit, which conducts property inspections for violations like “high weeds, loose trash, junk storage, vacant and unsafe buildings and unlicensed vehicles.”¹⁰ The Code Enforcement Unit has 3 inspectors: one building inspector, one electrical inspector, and one plumbing inspector. These inspectors are tasked with ensuring that properties are up to the standards adopted by the City Huntington, and vacant and abandoned properties that fail inspection are usually brought before the Huntington Unsafe Building Commission for a hearing on what needs to be done to bring the property into

“Other houses in the area are empty, dilapidated, and bring the neighborhood down. The City has plenty of code and regulations to combat the problems but I believe budget constraints and lack of [capacity] restrict their ability to do little more than minimal enforcement.”

Resident from Huntington

⁹ The Unsafe Building Commission hears cases related to vacant, abandoned, and dilapidated properties in Huntington.

¹⁰ See, the City of Huntington’s website at: <http://www.cityofhuntington.com/i-want-to/report/code-violations>.

compliance. According to Public Works, the Code Enforcement Unit issues an average of 38 monthly notices to correct housing and building code violations, in addition to about 20 monthly verbal warnings to owners to fix or clean their property. The Director of Public Works estimates that the majority of all notices issued are for vacant and abandoned properties, and that these properties impose a significant cost and burden on the Public Works department.

Public Works staff estimates that the average cumulative time spent by inspectors on a single property is 12 to 15 hours per property. The process requires all three inspectors to inspect the property, and includes time spent inspecting, writing up reports or notices of violation, and preparing case files for hearing. At an average Huntington inspector's salary of roughly \$22.00 an hour, Public Works Code Enforcement time for each of these types of cases costs anywhere from \$264 to \$330 per property. If a property owner does not appear, or if re-inspections are needed, the time spent by an inspector increases significantly.

At roughly 12 to 15 hours per property, an average inspector salary of \$22 an hour, and multiplied by 38 inspections per month, the amount of resources dedicated just to issuing notices of violation to buildings in Huntington comes to approximately \$120,000 per year in just salary for the three inspectors, which is nearly half of the entire FY 2018 budget of the Inspections and Permits Division. If even 50% of the violations issued are to vacant properties, then that means Huntington is spending roughly \$60,000 a year just inspecting and issuing notices of violation for vacant properties which is often an exercise in frustration. Owners that abandon properties are unlikely to comply with code violation notices.

The Code Enforcement Unit's work also leads to the identification of buildings that are eventually demolished. At a minimum cost of \$5,000 to demolish a building without asbestos or any other such issues, demolition is an expensive and lengthy undertaking that requires extensive research into property ownership, notice that meets the standards of due process laid out in the U.S. Constitution, and compliance with state and federal programs that are used to fund demolition. Accordingly, Huntington's roughly \$200,000 demolition budget for FY 2018 will support demolition of only 25 structures.

Vacant Property and Code Enforcement throughout West Virginia

West Virginians surveyed by the Hub recognize the importance of Code Enforcement. But many responses highlighted frustration from what residents perceived as a lack of Code Enforcement action by local governments. Jean from Mount Hope noted that it has taken a lot longer to tear the dilapidated building down next door to her than she was told, and Jennifer from Princeton expressed frustration that there was no ordinance that could be enforced against a property with 4 foot tall grass and an abandoned boat and car parked on the lawn.

"[E]veryone around here is happy to see these abandoned buildings coming down. It means the neighborhood looks better, there is more green space, less fire hazard, fewer places for people to make or take drugs, or commit crimes, fewer rodents and bugs."

Marjorie from Parkersburg

Data Tracking Moving Forward

As described in the sections above related to Fire and Police costs, the Code Enforcement Unit has a number of opportunities to collect additional data points that might better shed some light on the true costs imposed by vacant and abandoned buildings in Huntington. As is true for most City departments, however, budget and staffing constraints are an issue for Public Works. The following suggestions to track data moving forward may help make the case for increased resources for Code Enforcement:

1. Fire and HURA should consider connecting with the Brownfields, Abandoned, and Dilapidated (BAD) Buildings Program at the Northern WV Brownfields Assistance Center at West Virginia University to conduct a comprehensive survey of all vacant property in Huntington, including vacant buildings and vacant lots. Such a survey should also track property condition, building type, and location.
2. Track the total inspector and other staff time spent on enforcement activity for vacant and abandoned property versus occupied property.
3. Track the average legal costs related to searching for the owner of properties in violation and handling property violation cases. Legal costs should include time spent by attorneys prosecuting cases in Municipal Court or preparing for and supporting hearings in front of Huntington's Unsafe Building Commission.
4. Track the amount of money recovered from Code Enforcement fines and penalties, and ensure that money is directed into the appropriate fund to support future Code Enforcement efforts. Also track all amounts that remain unpaid.

CONCLUSION AND HOPE FOR THE FUTURE

West Virginians recognize the need for intervention to mitigate the negative impacts of vacant and abandoned property on their neighborhoods, and many want to be involved in the solutions. Several persons who responded to the Hub survey, like Tim from Middleway and Stephen from Brushfork, expressed interest in acquiring vacant and abandoned properties to fix them up, but noted the difficulty in finding the owner of vacant properties. Other people, like Andrew from Fayetteville, note that local government interventions like downtown or main street investments have provided optimism that revitalization is possible. In fact, Janice from Parkersburg suggests that the City have contests for neighborhoods to look better, or sponsor “pride in our town day[s]” where the

“I pass 10 [vacant and abandoned] properties on my 6 minute drive to pick up my daughter... Beyond the financial strain on the low income/ low tax base area, how can we as West Virginians have so much pride in our state, but have such little pride for our state of affairs? How can we love our state so much but treat it so poorly and with such contempt? How can we provide to “outsiders” what our state is worth if all we have to show them is falling down structures covered in weeds and debris?”

Christine from Independence

trash and recycling trucks schedule times to come help the neighborhood pick up debris. Andrew's experience in Fayetteville has led him to "pursue small-town revitalization professionally."

Increased data demonstrating the public costs associated with vacant properties under the status-quo will lay the foundation for increased federal, state, and local resources toward the remediation of vacancy and abandonment and stabilization of West Virginia communities. Data on the sheer number of vacant and abandoned properties, and the associated public costs, will not only provide a baseline for improvements and reform, but will provide a baseline against which to measure success. West Virginia state and local government leaders are primed to take some simple steps to improve data collection, and West Virginia resident leaders are calling out for change and stepping up to be a part of the solution.

"I have acquired substandard properties (and have stabilized and fixed them up) in my neighborhood when elderly neighbors died and families tried to rid themselves of these houses however they could so."

Dwight from Hinton

APPENDIX D: RESULTS FROM WEST VIRGINIA STATEWIDE HUMAN COST OF VACANCY SURVEY

ABOUT THE SURVEY

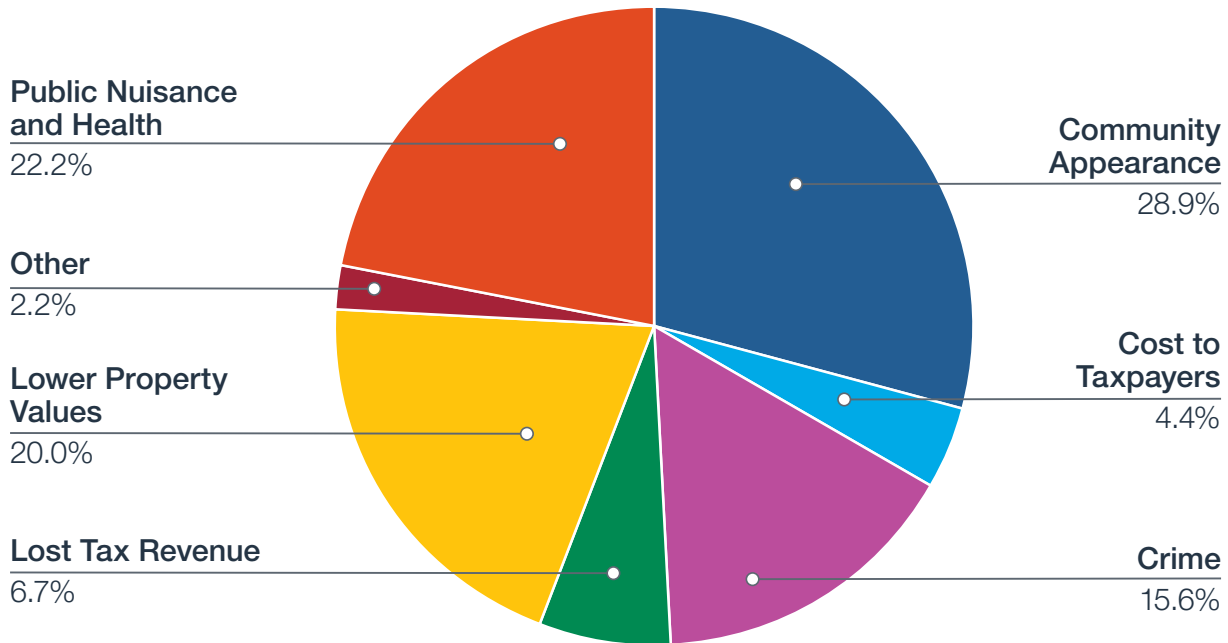
In collaboration with the Center for Community Progress and the Huntington Urban Renewal Authority through the Technical Assistance Scholarship Program, the West Virginia Community Development Hub created and distributed a statewide survey measuring the human costs of vacancy, abandonment, and dilapidation. The survey was administered electronically and shared through email and social media. The survey consisted of three main questions: the first asked participants to choose their top concern related to vacant, dilapidated, or abandoned buildings from a preset batch of responses. The second question asked participants to choose a second highest concern from the same list of responses (participants were asked to select a different response from their first choice). The third question was formatted as free response, and asked participants to share personal stories of how vacant, abandoned, or dilapidated properties (“VAD”) impact their lives.

ABOUT THE DATA

In total, the survey received 48 responses, with the plurality coming from Wheeling (nine responses). Response origins were distributed fairly evenly throughout the State with only a slight preference toward Southern West Virginia. It should be noted, however, that most responses originated from people in municipalities with physical proximity to the Interstate or other major roadways, meaning that this sample is not representative of less physically accessible rural communities.

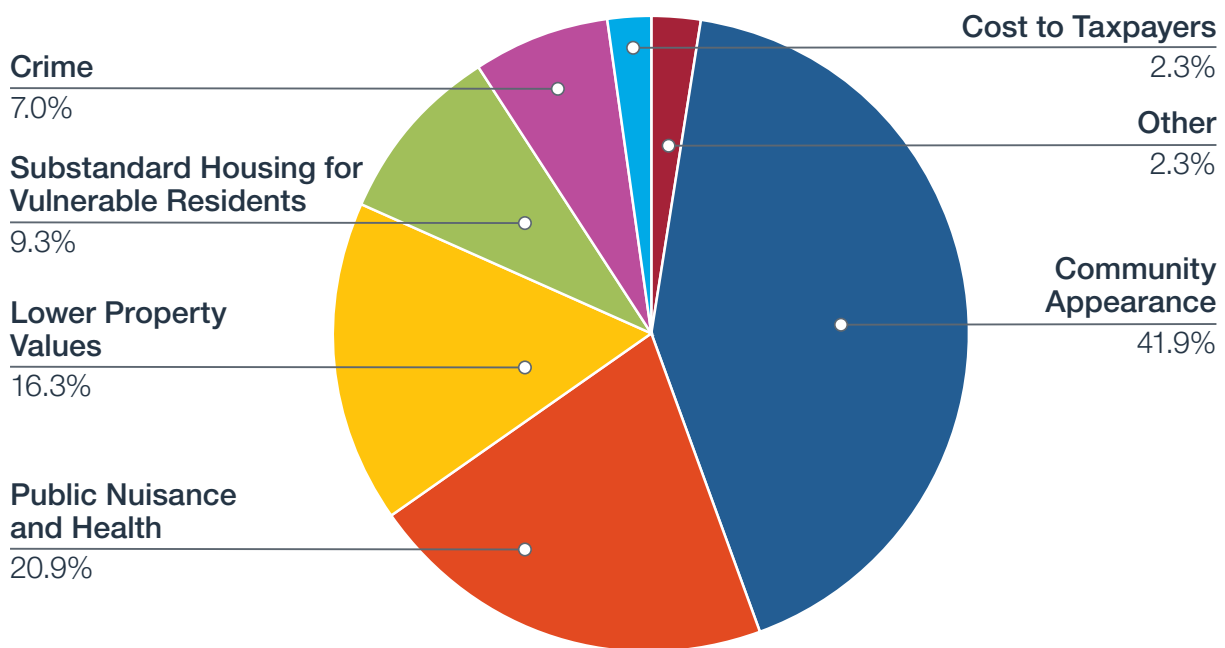
QUESTION 1:

What is your top concern related to vacant, abandoned, or dilapidated buildings?



QUESTION 2:

What is your second highest concern related to vacant, abandoned, or dilapidated buildings?



QUESTION 3:

Each of the 48 respondents to the statewide survey shared a personal story of how VAD properties have affected them. Our analysis grouped each response under one or more categories.

- 25 of 48 respondents consider VAD properties a **major public safety issue**.
- 11 of 48 respondents said that **absentee ownership** presents a major challenge to addressing VAD properties.
- 17 of 48 respondents shared that struggles with VAD properties sparked them to **get involved** in their community to mitigate them.
- 14 of 48 respondents said that nearby VAD properties make them **worry about a decline in the value of their property**.
- 14 of 48 respondents specifically noted the **pride** they feel in their community.
- 4 of 48 respondents said that the **cost** of removal of VAD structures has prevented their town from taking action.
- 11 of 48 respondents stated that VAD properties are a **barrier to economic development** where they live.
- 5 of 48 respondents mentioned concern for **preserving the history** of their community.
- 14 of 48 respondents said that VAD properties created **eyesores** near where they lived.
- 11 of 48 respondents said they have **felt sad, depressed, or angry** because of unmitigated VAD properties near where they live.
- 6 of 48 respondents reported feeling **neglected** by their local government due to lack of action in response to their complaints about VAD structures.
- 7 of 48 respondents say they have participated in **rehabilitation** of previously VAD structures.
- 2 of 48 respondents reported feeling concerned about the **property rights** of the owners of VAD properties.

APPENDIX E: COLLATED LIST OF LOCAL BEST PRACTICE RECOMMENDATIONS, LEGISLATIVE REFORM RECOMMEN- DATIONS, AND DATA POINTS TO INFORM SCOPE OF REFORM.

A. DATA POINTS TO INFORM EXTENT OF CORRELATION BETWEEN TAX DELINQUENCY AND VACANT, ABANDONED, AND DILAPIDATED PROPERTIES

1. Overlap between tax delinquent parcels, registered vacant buildings, buildings on the unsafe buildings commission list (if available), and trends over time.
2. Overlap between tax delinquent parcels and location of fire calls (non-EMS) and trends over time.
3. Overlap between tax delinquent parcels and the location of police calls (non-EMS) and trends over time.
4. Overlap between tax delinquent parcels and the location of utility shut-offs and trends over time.
5. Rate of total property tax delinquency and redemptions over time.

B. STAGE 1: THE LOCAL BEST PRACTICE RECOMMENDATIONS, LEGISLATIVE REFORM RECOMMENDATIONS, AND DATA POINTS TO INFORM SCOPE OF REFORM

Local Best Practice Recommendations: Stage 1

1. Municipalities may consider working with county governments to list any outstanding municipal liens and fees including the costs of boarding, and mowing, and demolition on the property tax bill. This simple step appears to be already authorized in West Virginia law, and would not require the Sheriff to collect such debts, but may encourage property owners like Mrs. Jones to satisfy debts owed to municipalities. Listing municipal debts and fees on the tax bill may also foster increased cooperation between county and city or town governments.
2. Attach to the property tax bill and to municipal lien and fine notices, as a matter of course particularly for vulnerable homeowners, contact information for social services and financial counseling. Also include contact information for the local government assessor's office that can assist with filing property tax exemptions.
3. Attach to the property tax bill and to municipal lien and fine notices, as a matter of course, contact information for any entities that might be willing to receive properties like 123 Cloudy Street as a donation before the property becomes tax delinquent. Such entities might include organizations like land banks, land reuse agencies, or local non-profit entities.
4. In order to incentivize new responsible ownership, develop municipal policies to waive municipal debts when property is donated to a qualified non-profit or public entity.

Legislative Reform Recommendations: Stage 1

1. Amend West Virginia state law to provide that costs expended by local governments in boarding, mowing, demolishing, and otherwise ensuring the security of properties where owners fail to do so, are assessed as a lien against the property that is second in priority only to property taxes, and that is collected and enforced along with property taxes.
2. Clarify within or amend West Virginia state law to provide that business owners who own property subject to delinquent property taxes must satisfy all delinquent property taxes in order to receive a business license, or to provide that a business license may be suspended until all property taxes associated with the business owner and any related businesses are satisfied.
3. Amend West Virginia state law to provide that land banks, land reuse agencies, or urban redevelopment authorities may extinguish any existing delinquent taxes or municipal liens owed on properties donated to the land bank, land reuse agency, or urban redevelopment authority.
4. Amend West Virginia state law to shift property tax due dates such that the first installment is due in the spring around the time income tax refunds may be received rather than the current initial September deadline. Shift all subsequent deadlines accordingly.

Data Points to Inform Scope of Reform: Stage 1

1. What is the percentage of properties like 123 Sunny Street? In other words, out of the total universe of taxable parcels in West Virginia, what percentage reflect tax compliance in accordance with the September 1 and March 1 payment deadlines each year? Is there a difference between commercial and residential property numbers and percentages?
2. What number of properties are like 123 Cloudy Street? In other words, out of the total universe of taxable parcels in West Virginia, what portion reflect tax compliance in accordance with applicable deadlines, and also remain subject to municipal burdens like secure, boarding, maintenance fees?
3. Are properties like 123 Cloudy Street clustered geographically in particular West Virginia municipalities or areas, thus implying a need for policy and legislative reforms applicable in some communities and not others?
4. Has the number and percentage of properties like 123 Sunny Street and 123 Cloudy Street in the overall tax digest, increased or decreased in a significant fashion over the last few years?

C. STAGE 2: THE LOCAL BEST PRACTICE RECOMMENDATIONS, LEGISLATIVE REFORM RECOMMENDATIONS, AND DATA POINTS TO INFORM SCOPE OF REFORM

Local Best Practice Recommendations: Stage 2

1. Consider mailing the May Delinquency Notice to delinquent property owners at the last known address, in addition to the courthouse posting and newspaper publishing that is required.
2. Provide electronic notice of tax delinquency through e-mail (where available) to maximize notice to delinquent taxpayers.
3. Consider posting the May Delinquency Notice list on the County Sheriff's website, in addition to posting the list on the courthouse door and publishing it in the local legal newspaper.
4. For any mailed May Delinquency Notices that are returned undeliverable: undertake at a minimum, internet research to try to locate updated addresses for this limited universe of taxpayers (like Mrs. Jones), obituaries and heirs where relevant, or other property transferees, and send notice to newly identified addresses/owners. Update all government records with corrected addresses.

Legislative Reform Recommendations: Stage 2

1. Amend West Virginia state law to provide notice of delinquency be mailed directly to delinquent property owners in conjunction with the May Delinquency Notice, and add the cost of such mailing to the tax amount due.
2. Consider further incentivizing early payment of any delinquent taxes by amending West Virginia state law to provide for escalating monthly fees (in addition to interest) assessed to the delinquent taxpayer between the May Delinquency Notice and the date of the Sheriff Sale. Such fees should be subject to any hardship programs developed. Fees should fund the cost of administering the program and could provide funds for local government neighborhood stabilization efforts.
3. Amend West Virginia state law to provide for tax hardship plans whereby delinquent property owners may enter into a payment plan or receive property tax forgiveness before the Sheriff Sale if one or more conditions is demonstrated (medical hardship, loss of primary income, etc.). Notice of such hardship plans, along with legal, financial, and social service resources available, should be plainly posted on County Sheriff websites and County Assessor websites. Descriptions of plans and requirements should be included with the property tax bill, and included with all notices of property tax delinquency.

Data Points to Inform Scope of Reform: Stage 2

1. What is the percentage of property owners that pay delinquent taxes shortly after the May Delinquency Notice is posted at the courthouse and listed in the local legal newspaper?
2. What is the percentage of property owners that pay delinquent taxes shortly after the September Delinquency Notice is mailed to the delinquent property owner's address?
3. What is the value (and percent of the digest) of delinquent tax payments received before the Sheriff Sale each year? Of that amount, which portion represents tax debt and which portion and what amounts reflect interest and other fees?
4. What is the scope of the need for hardship programs for property taxes? For example, is there a significant universe of residential owner-occupied properties that are owned free and clear by the occupant (no mortgages) but the occupant for reasons of disability or otherwise cannot pay the taxes due? This scenario might indicate that amnesty, forgiveness, or hardship payment plans are needed.

D. STAGE 3: THE LOCAL BEST PRACTICE RECOMMENDATIONS, LEGISLATIVE REFORM RECOMMENDATIONS, AND DATA POINTS TO INFORM SCOPE OF REFORM

Local Best Practice Recommendations: Stage 3

1. Consider posting a list of all tax liens sold (including amount and address to send redemptions) on the Sheriff's website and State Auditor's website immediately after the Sheriff Sale.
2. Consider having the State Auditor or Sheriff mail notice of the tax lien sale, including instructions for redemption, to at least the property owner of record immediately after the Sheriff Sale.

Legislative Reform Recommendations: Stage 3

1. Amend West Virginia state law such that municipal costs including, demolition liens, boarding, securing, and mowing costs are collected with delinquent taxes, and added to the minimum bid amount at the Sheriff Sale.
2. Amend West Virginia state law to prohibit elected and all other government officials from bidding at Sheriff Sales.
3. Amend West Virginia state law to require qualification of Sheriff Sale bidders or to prohibit individuals or entities from bidding at Sheriff Sale that either: a) own tax delinquent property or b) own property subject to municipal fines and fees.
4. Amend West Virginia state law to require tax lien purchasers to provide the Notice List to the State Auditor within an expedited timeframe of 30 days of the Sheriff Sale. Require State Auditor to provide notice of the sale of the tax lien to the delinquent taxpayer and any other interested parties, along with clear information as to redemption amounts and where to send redemption amounts, within 60 days of the Sheriff Sale.

5. Amend West Virginia state law such that land banks, land reuse agencies, or qualified nonprofits may acquire tax liens at the Sheriff Sale for \$1 in the absence of any private bids to support neighborhood stabilization.
6. Amend West Virginia state law such that land banks, land reuse agencies, or qualified nonprofits may acquire tax liens at the Sheriff Sale for \$1, even in the face of other private bids to support neighborhood stabilization.
7. Amend West Virginia state law to add a neighborhood stabilization fee to each tax lien purchased by a private tax lien purchaser, and direct those fees to the municipal government for demolition and other blight reduction efforts.
8. Amend West Virginia state law to provide that a neighborhood stabilization fee is added to each tax lien purchased by a private tax lien purchaser in counties where a land bank or land reuse agency is in operation, and direct those fees to the existing land bank or land reuse agency for operations.
9. Amend West Virginia state law to authorize land banks, land reuse agencies, or qualified nonprofits to purchase the entire tax lien digest from a municipality despite the presence of any other bidders, and to utilize the interest and fees collected for neighborhood stabilization efforts including demolitions, rehabilitation, and the provision of affordable and safe housing.
10. Amend West Virginia state law to reduce the post-Sheriff Sale redemption period from 18 months to 6 months for any liens certified to the State Auditor where the prior year's lien was also certified to the State Auditor and remains unsatisfied.
11. Amend West Virginia state law such that the post-Sheriff Sale redemption period for properties that receive no bids at Sheriff Sale is reduced from 18 months to 6 months for properties that also appear on the local vacant building registry.

Data Points Need to Inform Scope of Reform: Stage 3

1. What is the total value of tax liens sold in West Virginia each year? Of tax liens sold in a given County or municipality?
2. What is the rate of redemption on West Virginia tax liens that are sold to private tax lien purchasers? What percentage are redeemed in the month immediately following the Sheriff Sale? What percentage are redeemed at what pace prior to and immediately succeeding the first mailed notice that the tax lien was sold?
3. What is the value of tax liens sold to tax lien purchasers that are not redeemed?
4. What is the total annual amount of interest at the 12% statutory rate collected by tax lien purchasers and what are the trends over time?
5. What is the total value and number of tax liens certified to the State Auditor each year that receive no bids at the Sheriff Sale? Of tax liens certified from a given county or municipality?
6. What is the total number of properties and percentage of the digest with multiple years of tax delinquency where tax liens are simply certified to the State Auditor year after year?
7. What is the rate of redemption on West Virginia tax liens certified to the State Auditor? What percentage are redeemed in the month immediately following the Sheriff Sale? What percentage are redeemed at what pace up to and immediately succeeding the first mailed notice that the tax lien was certified?

E. STAGE 4: THE LOCAL BEST PRACTICE RECOMMENDATIONS, LEGISLATIVE REFORM RECOMMENDATIONS, AND DATA POINTS TO INFORM SCOPE OF REFORM

Local Best Practice Recommendations: Stage 4

1. Provide for and coordinate regular circulation of a list of State Auditor held-tax liens and their associated parcel addresses available for immediate purchase to local government planning departments, existing land banks, land reuse agencies, urban renewal authorities and any qualified nonprofit organizations.
2. Coordinate regular circulation of a list of State Auditor-held tax liens and their associated parcel addresses available for immediate purchase to local government code enforcement departments for cross-listing with parcels on the Unsafe Building List. Explore public acquisition of the deed to any such parcels in advance of demolition or other remediation activity.
3. Explore development of a new State Auditor delinquent lands side-lot program, whereby volunteer attorneys would provide title research and appropriate notice for any property owners who wish to acquire the deed to an adjoining parcel that bears a lien held by the State Auditor.

4. Explore development of a new State Auditor land banking program, whereby volunteer attorneys provide title research and appropriate notice for any properties desired by an existing land bank, land reuse agency, or nonprofit entity for neighborhood stabilization purposes.

Legislative Reform Recommendations: Stage 4

1. Amend West Virginia state law to create a statewide public entity with internal title research and other relevant expertise authorized to acquire delinquent tax liens at the Sheriff Sale each year for an amount not to exceed the amount of delinquent taxes owed. Provide in statute that any interest received through redemptions must be utilized to acquire, demolish, and rehabilitate vacant and abandoned tax delinquent parcels and return them to productive use.
2. Amend West Virginia state law such that in counties that have a land bank or land reuse agency, such entities may purchase some or all of the available tax liens each year for the amount of delinquent taxes owed on all Sheriff Sale properties, even in the face of private bidders. Provide in statute that any interest received through redemptions must be utilized to acquire, demolish, and rehabilitate vacant and abandoned tax delinquent parcels and return them to productive use.
3. Amend West Virginia state law such that land banks and land reuse agencies may have the right of first refusal on any property tax liens offered at the annual State Sale.
4. Amend West Virginia state law such that the State Auditor will provide constitutional notice at no cost and all fees will be waived where a land bank, land reuse agency, or qualified nonprofit entity purchases a tax lien at the State Sale.

Data Points to Inform Scope of Reform: Stage 4

1. What are the number and percentage of property tax liens sold each year at the Sheriff Sale that are not redeemed, and for which the Sheriff Sale tax lien purchaser ultimately obtains a deed to the parcel?
2. Conversely, what are the number and percentage of property tax liens sold each year at the Sheriff Sale that are not redeemed, and for which the Sheriff Sale tax lien purchaser simply allows its interest to expire?
3. For those properties that are ultimately deeded to Sheriff Sale tax lien purchasers, what is the rate of subsequent tax delinquency in the hands of the new owner?
4. What are the number and percentage of property tax liens that receive no bids at the annual Sheriff Sale and are thus immediately certified to the State Auditor's Office?
5. What are the number and percentage of property tax liens that are sold each year by the Deputy Commissioner at the State Sale?
6. What are the number and percentage of property tax liens sold each year at the State Sale that are not redeemed, and for which the State Sale tax lien purchaser ultimately obtains a deed to the parcel?
7. Conversely, what are the number and percentage of property tax liens sold each year at the State Sale that are not redeemed, and for which the State Sale tax lien purchaser simply allows its interest to expire?
8. What are the number and percentage of tax liens that arise each year for which no bids are received at Sheriff Sale, and no bids are received at the subsequent State Sale?
9. Are the number and percentage of State Auditor held liens increasing year over year and at what rate?



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