Reimagine Delinquent Property Tax Enforcement

How to Reduce Vacancy, Advance Racial Equity, and Improve Public Services

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Center for COMMUNITY PROGRESS
Vacant Spaces into Vibrant Places

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Cover Photo: A pair of rowhomes on the South Side of Chicago. (Photo: Center for Community Progress)

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.org

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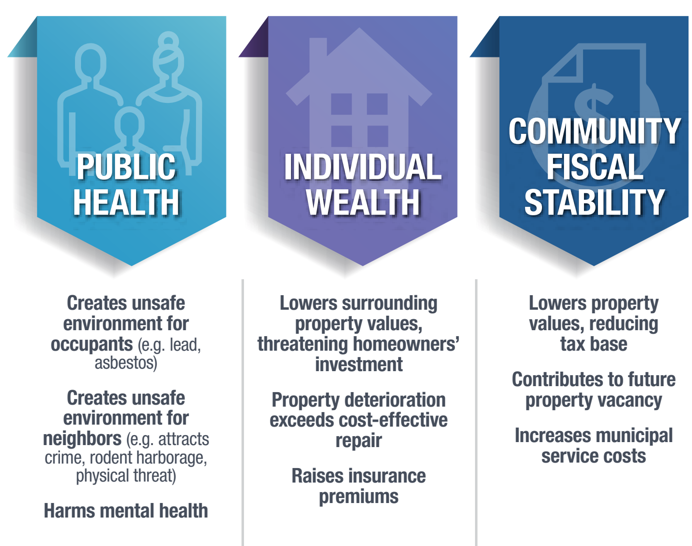
Executive Summary

In varying degrees, vacant properties exist in virtually every community. Isolated to certain neighborhoods, they can represent the legacy of unjust race-based economic and land use decisions over decades that steered investments away from communities of color. Widespread vacant properties can represent the slow but profound economic shifts that saw industries flee major urban centers. In some communities, they are the wreckage of climate change and a warning of the new normal. If vacancy becomes systemic, it changes the character of a neighborhood, deepens racial inequities, and threatens future opportunities.

Breaking this cycle requires policymakers and community leaders to identify warning signs of further destabilization and change state and local laws and practices to stabilize neighborhoods, reverse decades of injustice, and rebuild with a strong commitment to equity, inclusion, and resilience.

Property tax delinquency is a critical element of the vacant property cycle. Vacant properties, whose owners have walked away from responsibilities like basic upkeep of the property and paying property taxes, must be swiftly transitioned to new, responsible owners. However, too many communities' delinquent property tax enforcement laws and practices allow vacant properties to languish for years—all the while, no one is maintaining the property and it is not contributing to the local tax base. This hurts the economic conditions, safety, and health of individuals and communities.

Ways Vacant, Abandoned, and Deteriorated Properties Negatively Impact Communities



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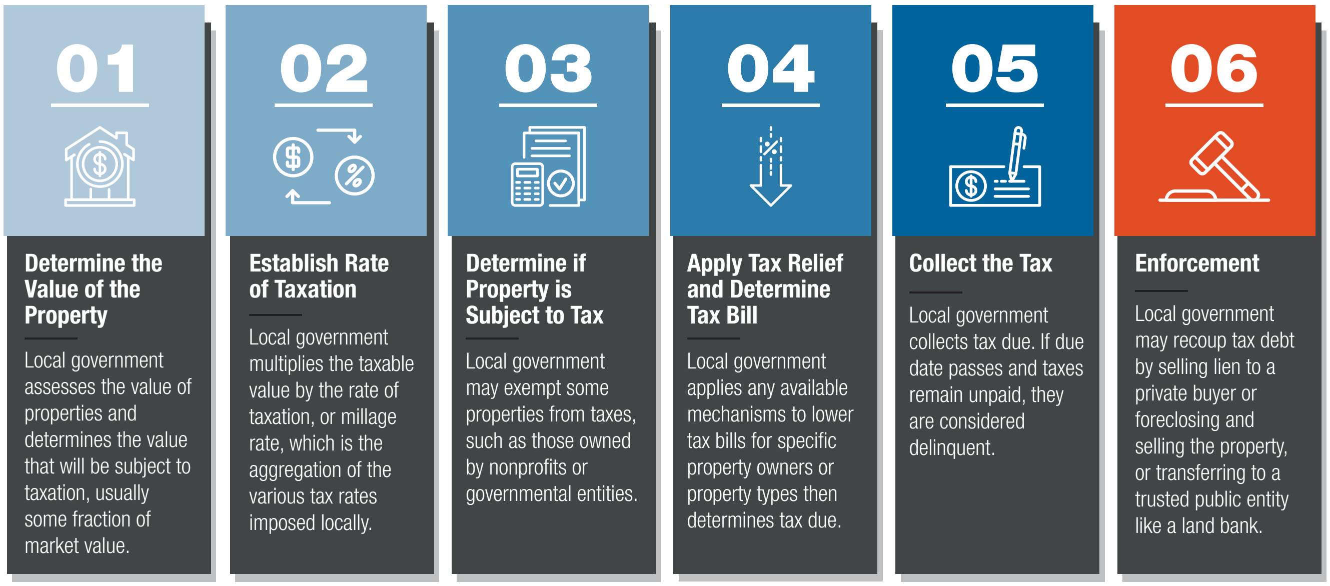
Aside from helping *address* vacant properties, the property tax system can *prevent* future vacancy. By proactively working with residents who are experiencing hardship, governments can provide support that prevents future tax delinquency and neighborhood decline while protecting the owner's equity and ability to build intergenerational wealth.

This publication lays a general foundation for understanding the **property tax system**, but specifically focuses on ways to reform the **delinquent property tax enforcement process** for vacant properties—those properties that pose the greatest harm to a community. There are hundreds of different, complex variations of tax systems across the country, therefore it is important to consult your local legal counsel to understand your state and local government's laws and practices.

Components of the Property Tax System



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In general, the property tax system has six major stages:

1. Determine the value of the property
2. Establish the rate of taxation
3. Determine if property is subject to tax
4. Apply applicable tax relief and determine the tax bill
5. Collect the tax
6. Enforce delinquent taxes

The first five stages have the greatest opportunity to prevent future vacancy and support financially insecure occupants. It is imperative communities focus on equity in these stages to prevent property loss and unintentional harm. While this publication does not focus on occupied properties, it provides some examples of supports to examine, such as:

- Ensuring property value assessments are accurate
- Providing homestead exemptions to owner occupants, and rebates or credits for financially insecure households to reduce property tax burden
- Ensuring application processes for relief programs are not burdensome, providing application assistance, and driving multi-faceted public awareness campaigns
- Offering many payment options such as monthly payments, cash payment, and payment at community locations

Every state has different laws governing what options are available in the sixth stage: when taxes become delinquent. Generally, however, when delinquent property taxes are not paid off, local governments either (1) sell the tax debt (tax lien)[1] for another private buyer to collect, or (2) sell the property (tax deed).[2]

This distinction is hugely important, as these two approaches vary greatly in terms of time frame, ability to receive insurable title, and flexibility in transferring a distressed property to a new, responsible owner.

Sale of the Tax Debt: A Harmful Practice

When a government sells the tax debt—aka the "tax lien"—they are generally selling to a private buyer the right to collect the tax, penalties, and interest due, as well as the right to foreclose and get title to the property if those debts go unpaid. That new private buyer does not have the responsibility to maintain the property since they do not own the title for that property. The upside of this approach for a local government is they get a quick infusion of cash when they sell the tax lien. However, this short-term win comes at a steep long-term cost, particularly in disinvested communities.

By transferring the local government's interest in the tax lien, and all accompanying enforcement mechanisms, to a private buyer, local governments lose the ability to force a transfer in property ownership through tax foreclosure. In areas with disinvestment, this loss of government leverage may lead to private buyers deciding to hold the lien on the property and speculate on future payments of interest and accrued penalties rather than foreclosing and selling to a responsible party. Many times, these properties remain vacant and in a state of limbo for years, all the while imposing significant costs on their neighbors and local government in terms of police, fire, and code enforcement calls, and draining future revenue since these vacant properties are not paying any new taxes to the local government.

Sale of the Property: A Better Option

If the local government instead sells the *property*, rather than the tax debt, then *they* are in control of what happens to the property and the enforcement process if the owner continues to not pay the property tax owed. The government will provide the owner a reasonable time to pay back the tax debt, after which the government will foreclose its interest in the tax lien and the owner's right of redemption. It will then seek to transfer the property to a new owner in exchange for at least the amount of the taxes owed, plus applicable interest, penalties, fees, and costs.

How the government pursues the foreclosure action is important. A foreclosure action can be pursued in a court (judicially) or without court involvement (non-judicially). Court involvement via judicial foreclosure is the most effective and efficient mechanism to transfer tax-delinquent property, since the court can provide oversight to ensure minimum constitutional standards for notice are met. When this is done, the title to the property transferred to the new owner is usually insurable, which is critical to obtain financing for purchase or repair and reduces the need for additional court action.

Lastly, if the government is pursuing a foreclosure action judicially, it will need to determine if it is seeking payment of the tax debt owed against the owner (*in personam*) or the property (*in rem*), or both.

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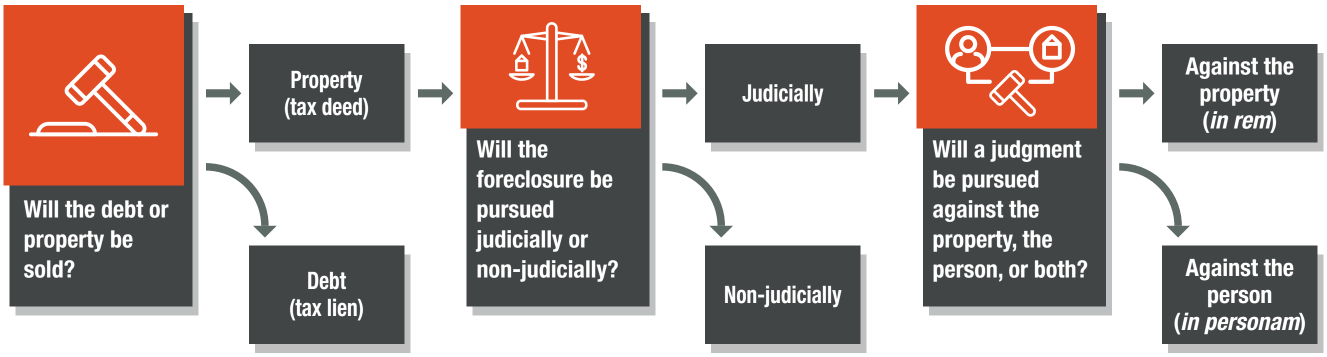
1 When we refer to the local government's sale of the "tax lien," we mean that the local government is selling or transferring its interest in the tax lien to a third party. Depending on state law, this includes transferring the local government's right to collect the taxes and other amounts due, including interest and costs, as well as the right to foreclose. Many jurisdictions use the term "tax lien certificate" or "tax certificate" instead of the term "tax lien" to reflect the instrument used to convey the local government's interest in the lien to a private buyer at such a sale. In this publication, references to the sale of the tax lien are synonymous with the sale of a tax lien certificate or tax certificate.

2 Many jurisdictions use the term "tax deed" differently. In this publication, the term "tax deed" refers to a deed showing the transfer of title to real property sold for the nonpayment of taxes.

Paths in the Property Tax Foreclosure Process



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- In an *in personam* action, the government pursues any amounts not recovered from the foreclosure sale against the individual owner.
- An *in rem* action means that the liability extends only to the property—once the property is sold via the court-ordered public sale or transferred to the foreclosing governmental unit, the entire matter is resolved. For this reason, *in rem* actions are more efficient resolutions for the foreclosure action.

When tax foreclosure is conducted in a court setting with judicial oversight ensuring minimum constitutional standards for notice are met, resulting in the new owner acquiring insurable title, and when the case is primarily focused on imposing liability against the property (*in rem*), the process is called “judicial *in rem* tax foreclosure.” **Judicial *in rem* tax foreclosure is the optimal mechanism to address vacant, tax-delinquent properties, particularly those that are causing harm to the community.**

To break the continued cycle of vacancy and abandonment, communities must examine their delinquent property tax enforcement processes to identify where they are inequitable, ineffective, or inefficient, and doggedly pursue policy reform. Local and state governments in Maryland, New York, Missouri, and West Virginia are just a few that have pursued delinquent property tax reform and serve as informative case studies.

Recognizing comprehensive reform can take time, local governments can take steps to build momentum, such as:

- **Expediting the time frame for vacant properties first.** For example, shortening the time period from delinquency to foreclosure only for vacant properties.
- **Ending tax lien sales for vacant properties** and instead pursuing an *in rem* foreclosure action to bring the distressed property under local control.
- **Adding abatement costs to the tax bill** ensuring that the costs the government incurred from mowing grass, boarding a property, removing trash, and other services are recorded as a lien against the property and added to the minimum cost private buyers must pay at tax sale.
- **Eliminating post-tax sale redemption periods** will ensure the local government expends resources to move the property through foreclosure *only if and after* the owner fails to redeem. This also provides more certainty to private buyers at tax sale.
- **Reforming noticing provisions to ensure insurable title** by providing constitutionally adequate notice and reducing the need for costly quiet title actions after tax sales.

Communities should also look both upstream and downstream of tax enforcement for additional reform opportunities, particularly as it relates to vacant properties. Other tools, such as housing and building code enforcement and land banking, are critical to prevent decline, acquire vacant properties, and responsibly return them to productive use according to community goals. More information on these other tools and how to use them can be found on the Center for Community Progress website (**communityprogress.org**).

Introduction

Property taxes are the lifeblood of and most flexible source of revenue for local governments. As other sources of state and federal funding have steadily declined over the years,[3] property tax revenues continue to repair our streets and parks, pay for schools and senior centers, and fund services that keep our communities healthy and safe.

All fifty states and the District of Columbia assess and collect property taxes on **real property**.[4] While property tax collection mechanisms vary from place to place, the primary tool used to ensure property owners pay the property tax is generally the same: the **tax lien**. The amount of property taxes owed for any given property is secured by a lien against the property and in most states, this tax lien is given **first priority status**, meaning it needs to be paid back before almost any other debts, such as a mortgage. If the owner fails to pay the taxes by the due date, resulting in **delinquent taxes**, the local government can seek to enforce nonpayment of the tax lien in a variety of ways, including through **foreclosure** and a sale of the property.

In most of the Center for Community Progress' work across the country helping local governments tackle systemic vacancy, we have seen firsthand that tax delinquency is an early warning sign of a property's decline. The local government's authority to enforce nonpayment of the property tax lien—or "delinquent property tax enforcement"—is a powerful tool in the fight to prevent and address vacancy and deterioration.

Take, for example, a residential home where the owner has long since walked away. For years the local

3 Frank S. Alexander, "All You Never Wanted to Know About Property Tax Enforcement," (presentation for Center for Community Progress, VAD Academy, May 14, 2019).

4 Many states also assess and collect property taxes against personal and other property, but this publication focuses entirely on taxes assessed against real property.

Key Definitions

Property tax: A tax levied on the property owner, usually based on the property's value.

Real property: Land and permanent improvements to land, like buildings.

Tax lien: A lien imposed by law on a property to secure the payment of taxes.

First-priority lien: A lien that takes priority over most other interests in or liens against a property, except for certain federal liens (e.g., IRS) and covenants and easements that run with the land. If the property is sold, a first-priority lien holder is paid from the proceeds before all other parties.

Delinquent taxes: Property taxes that are unpaid after the payment due date, which is usually determined by state law.

Foreclosure: A legal process that terminates an owner's and others' interests in a property, instituted by a party with a lien or other security interest in the property to either force the sale of the property or to take title to the property to satisfy an unpaid debt secured by the property.

government has had to step in and remove garbage dumped in the yard, board up the doors and windows, and respond to calls about illicit activity on the property. The local government places a **lien** on the property for the cost of these services, but those go unpaid, along with the property taxes. Eventually, the total debt becomes greater than what the property could sell for. When properly designed, a **delinquent property tax enforcement** process can swiftly transfer this property to a new, responsible owner with **insurable title**, a critical component of property ownership that will allow a new owner to secure financing to repair the property.

But in many places, delinquent property tax enforcement is inequitable, ineffective, and inefficient. Aside from it being a massive impediment to clean up and reactivate vacant properties, delinquent property tax enforcement can exploit the most vulnerable homeowners and replicate the unjust and racist history of displacing residents and eliminating generational wealth. When delinquent property tax enforcement is used purely as a financial collection mechanism, governed by short-term budget needs, it can negatively impact a community for years to come.

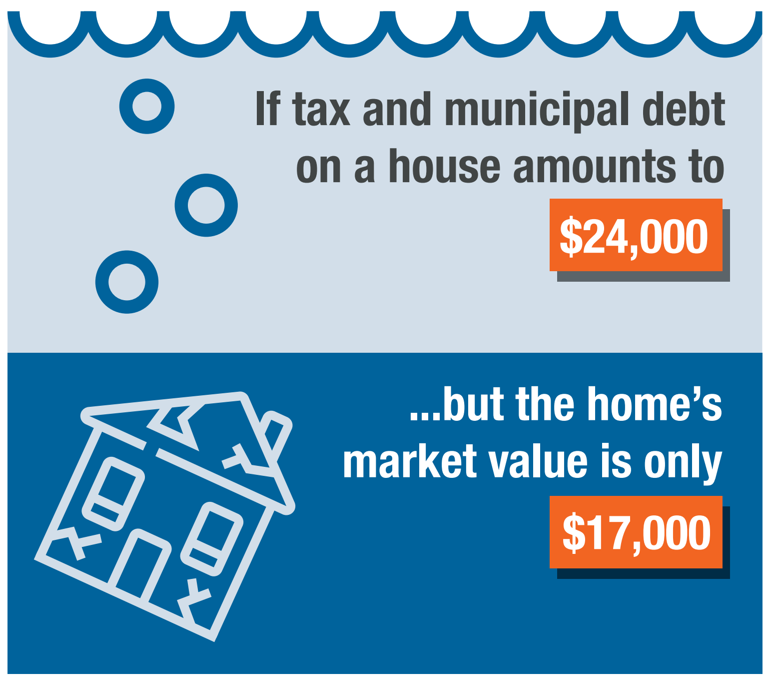
Lien: A creditor's legal right or interest in another's property.

Delinquent property tax enforcement: The process whereby government seeks the repayment of unpaid property tax. Depending on state statute, the delinquent property tax enforcement process concludes when (1) the taxpayer fully repays their tax debt, or (2) a tax foreclosure action is completed.

Insurable title: Title that a title insurance company is willing to insure with no, or minimal, exceptions to the title insurance policy coverage. If title is not insurable, the pool of interested and capable purchasers shrinks considerably given the purchaser will have little chance of securing financing to purchase or repair the property without seeking additional court action to clear title defects.

Underwater With Tax Debt

Sitting in limbo long after the owner walked away, this property has years of compounding delinquent taxes and municipal liens which far exceed the property's market value. Before this property can be transitioned to a new, responsible owner, it must go through tax foreclosure.



...would *you* buy that property?

In the District of Columbia, for instance, a series of stories revealed Black residents were disproportionately losing their homes through the local **tax foreclosure** process because of delinquent tax bills as low as a couple hundred dollars.[5] And in many communities, delinquent taxes can accrue for seven to ten years before the local government can or will carry out an enforcement action, leaving properties to deteriorate further and harm the economic and social fabric of neighborhoods.[6]

Tax foreclosure or tax lien foreclosure: A process—either conducted in court or through a non-judicial process—by which an owner and other interested parties' rights to real property are extinguished and the property is sold or transferred to a new owner to satisfy the amount of unpaid taxes, including interest, penalties, and related costs and fees.

Property tax system: The system of processes encompassing the valuation of real property, assessment of taxes, issuance of property tax bills, collection of property tax due, and enforcement of delinquent property taxes.

It is clear that the antiquated delinquent property tax enforcement process is powerful: capable of great harm but also with the potential to effectively address vacant properties and interrupt the cycle of property decline.

Our research has uncovered a few common reasons that impede **property tax systems** from being used to equitably, effectively, and efficiently address vacant properties:

1. **The property tax system disproportionately harms communities of color**. Inequitable property assessments, the lack of access to property tax relief programs (e.g., circuit breakers, tax exemptions, and other methods) and the lack of transparency in the enforcement of delinquent taxes, have resulted in disproportionately harmful outcomes for communities of color. These policies and practices have a devastating impact on the individual and the community, erasing history and opportunities to pass on generational wealth. They also perpetuate the racist legacy wherein communities of color were systemically denied property ownership. Unless we acknowledge this history and its continued impact, it will be difficult to create equitable solutions.

   Throughout this publication, we highlight some of the ways that the property tax system has inequitably impacted communities of color and we offer suggestions to infuse more equity into the system; these are indicated as "Equity Focus" callouts.

2. **Delinquent property tax enforcement processes vary from cities and towns and are difficult to understand**. Every community has a different set of state and local laws and practices governing how delinquent property taxes are structured and enforced. It is downright confusing to most people, outside of those few government employees who manage tax collection. For these reasons, this system is too often ignored or left alone to be administered by a select few, which is problematic, since property tax enforcement processes can be such a major source of harm *and* a powerful tool to advance equitable developments, inclusive neighborhoods, and resilient communities.

   This publication will help you understand the basics of the delinquent property tax enforcement process, how it relates to other critical tools to prevent vacancy and abandonment, and why it is so important to balance short-term revenue needs with long-term community development goals.

3. **There is no perfect delinquent property tax enforcement process**. However, there are key elements that can contribute to more equitable, effective, and efficient delinquent property tax enforcement processes that treat owners experiencing hardship with respect, treat land as an asset rather than a liability, and still maximize revenue to support public services. By understanding your local legal framework and the key elements of creating a better process, you can set the stage for reform in your community.

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5 Debra Cenziper, Steven Rich, and Michael Sallah, "Homes for the Taking: Liens, Loss and Profiteers," *Washington Post*, September 8, 2013, **https://www.washingtonpost.com/sf/investigative/2013/09/08/left-with-nothing/**.

6 In High Point, North Carolina, tax foreclosure actions were not initiated until a property taxpayer was seven years or more delinquent. Tarik Abdelazim, C. Tyler Mulligan, and Christopher B. McLaughlin, *Implementing a Coordinated Approach to Address the Systemic Causes of Vacancy and Abandonment in High Point, North Carolina*, (Community Progress, 2016), 28, **https://communityprogress.org/publications/implementing-a-coordinated-approach-to-address-the-systemic-causes-of-vacancy-and-abandonment-in-high-point-north-carolina/**.

This publication lays out the key elements of equitable, effective, and efficient delinquent property tax enforcement and provides a framework for how to assess your own process.

4. **Politics and the potential for personal financial gain may pose a real barrier to policy and practice change**. The property tax system has a long history of being exploited by those in power to unjustly dispossess people of land. More recently, the trend of shifting tax collection and enforcement—a core function of local government—to private entities can be a wildly profitable enterprise. Such a lucrative system will be defended vigorously by those who benefit most. As evidence, many of the communities Community Progress has worked with have expressed frustration that it is simply impossible to reform delinquent property tax enforcement, given the politics and the money at stake (e.g., in the sale of tax liens). However, by deploying some common tactics—data gathering and analysis, compelling storytelling, and linking reforms to shared priorities and goals—both incremental and systemic reforms are possible.

   This publication highlights communities that are engaging residents most impacted by the exploitive practices, provides examples of communities in different stages of reforming local and state policies to prevent further decline and advance equity, and lays out some of the most common reforms that other communities could emulate.

In short, the delinquent property tax enforcement process was created by a few stakeholders who often benefit from upholding the status quo, regardless of how harmful it is to the most vulnerable residents and whole

Property Taxes are Delinquent and Remain Unpaid. What Happens Next?

Below are two scenarios for a vacant, tax-delinquent property. On the left, a local government has privatized the collection and enforcement process by selling tax liens to private buyers. On the right, a local government retains that core function using an optimal enforcement approach to sell the property: judicial *in rem* foreclosure.

01 Tax Lien Put Up for Sale

Taxes owed are offered for sale by the local government as a tax lien to a private bidder.

02 Tax Lien Purchased

Private buyer charges current property owner interest and fees but is unlikely to collect and walks away, given debt exceeds property's market value, or forecloses on property.

OR

Tax Lien Fails to Sell

Tax lien relisted for auction year after year. Property continues to deteriorate and accumulated debt continues to exceed its market value.

03 Outcome

Property more likely to stay in limbo, harming community health and local economy.

01 Government Retains Tax Lien

Local government retains responsibility to enforce delinquent property taxes and forecloses on tax lien.

02 Property Sells at Auction

Local government sells property with insurable title at auction.

OR

Government Takes Ownership

Local government takes ownership or transfers property to a trusted entity like a land bank to return it to community-aligned use.

03 Outcome

Property more likely to be quickly returned to purposeful use in the hands of a new, responsible owner.

community. However, this publication challenges the notion that those who collect property taxes and those who witness the effects of unjust property tax collection practices are inherently in conflict with one another. Communities can maximize revenue while protecting vulnerable residents and interrupting the cycle of decline and disinvestment. The tax foreclosure process can foster inclusive community transformation.

This publication challenges you to view delinquent property tax enforcement as a community development tool, and to treat property as an asset—not a liability.

A key goal of this publication, therefore, is to help local advocates and practitioners understand the harms of maintaining the status quo and how thoughtful reforms to this key legal system can produce more equitable outcomes in support of healthier, inclusive, more vibrant neighborhoods. To inspire readers, we share stories of communities across the United States that have made intentional decisions to transition the delinquent property tax enforcement process from one driven by short-term financial goals that harm property owners and the community to one governed by equity and positive neighborhood outcomes.

Given the magnitude of this topic, we must make a couple of important disclaimers. First, it is impossible to cover everything in a single publication. Delinquent property tax enforcement is just one of several tools and strategies that must be deployed to intervene in the cycle of vacancy. Other tools such as housing and building code enforcement and land banking are also critical to prevent decline, acquire vacant properties, and responsibly return them to productive use according to community goals. More information on these other tools and how they should be aligned can be found at **communityprogress.org**.

Second, different state and local laws govern how property taxes are calculated, collected, and the various options for what happens when a property owner becomes delinquent. Therefore, consult your legal counsel before undertaking any action to better understand your local legal framework. While this publication focuses mainly on delinquent property tax enforcement for vacant properties that are causing the most harm, we provide some examples for ways communities can help vulnerable homeowners facing hard times with property tax relief, such as those mentioned in **A Primer on the Property Tax System** (pgs 11-18), and **Defining and Equitable, Effective, and Efficient Process** (pgs 26-29).

Who is This Publication For?

The **tax collectors** who are elected or hired to collect the highest amount of taxes each year but are frustrated by seeing the same deteriorated properties languish in, or cycle back into, tax delinquency.

The **code enforcement director** or **local official** charged with improving property conditions in neighborhoods, yet unable to compel any action on vacant and tax-delinquent properties.

The **land banks**, **community groups**, and **mission-driven developers** who continue to plead with their city council and county commissioners for reforms to property tax enforcement laws and practices to protect financially insecure homeowners; make more vacant properties accessible quickly and at a low cost to convert to quality, affordable housing; or to prioritize local owners instead of out-of-town private buyers who care most about extracting maximum profit.

The **school finance director** and **town manager** who face the daunting task of trying to fill the gaps in their annual budget and who rely most on the collection of property taxes to keep the lights on.

The **organizers**, **advocates**, and **neighborhood leaders** who have witnessed the equity in homes taken by a private buyer over an unpaid tax bill of just a few hundred dollars and feel justifiable mistrust and anger at the system.

This publication provides these stakeholders, and more, with common, straightforward language to understand and unpack the property tax system, dig deeper into the delinquent property tax enforcement process for vacant properties, and inspire collaboration around solutions to achieve a more equitable, effective, and efficient system.

A Primer on the Property Tax System

This publication focuses on delinquent property tax enforcement for vacant properties, but delinquent property tax enforcement is but one part of a more comprehensive approach to administering and collecting property taxes. This section establishes a shared understanding of how the property tax is generally administered, and to illustrate where in this broader system delinquent property tax enforcement sits. This section also highlights the need for practitioners interested in reforming the delinquent property tax enforcement process to understand how and where their efforts to protect vulnerable residents and elevate equitable community outcomes will require additional investigation into the larger property tax system. This may include looking further into the laws and policies related to how properties are valued, whether existing exemptions or other tools to lower or limit the tax burden on vulnerable families are sufficient, and other related concerns.

The following summary of the administration of the property tax system pulls out some of the common high-level elements of this system embedded in the hundreds of different and complex variations of property tax

Components of the Property Tax System

01 Determine the Value of the Property

Local government assesses the value of properties and determines the value that will be subject to taxation, usually some fraction of market value.

02 Establish Rate of Taxation

Local government multiplies the taxable value by the rate of taxation, or millage rate, which is the aggregation of the various tax rates imposed locally.

03 Determine if Property is Subject to Tax

Local government may exempt some properties from taxes, such as those owned by nonprofits or governmental entities.

04 Apply Tax Relief and Determine Tax Bill

Local government applies any available mechanisms to lower tax bills for specific property owners or property types then determines tax due.

05 Collect Taxes Due

Local government collects tax due. If due date passes and taxes remain unpaid, they are considered delinquent.

06 Enforcement

Local government may recoup tax debt by selling lien to a private buyer or foreclosing and selling the property, or transferring to a trusted public entity like a land bank.

administration across the country.[7] It is critically important to consult with your local legal counsel to understand the specific laws and practices that apply to your state and local government.[8]

Roles and Responsibilities

The process for how to administer the property tax is prescribed by state law, and each state's laws are different. However, with some limited exceptions, the property tax is administered by local government officials rather than that the state itself. In most states, counties play a lead role. The two primary actors in administering the property tax system are usually:

- The **assessor**, charged with valuing real property for purposes of taxation and for determining the "assessed value" of the property as prescribed by state law.
- The **treasurer** or **tax collector**, charged with calculating the total tax rates set by local governments (counties, school districts, municipalities, etc.), applying the tax rate to the assessed value to determine the taxes owed, sending the tax bill, and collecting tax payments.

The primary recipients of property tax revenue are local governments, which includes school districts (the main beneficiary of property tax revenue), as well as counties, cities, towns, and a range of other units of local government that may impose taxes on property (e.g., public water and sewer providers, fire and police protection districts, etc.).

Valuation and Assessment

State law generally requires that local governments value all real property subject to taxation at periodic intervals. For example, some local governments are required to value real property every year or every third, sixth, or tenth years. It varies by state. Only a few states do not require periodic revaluations, which can lead to inequitable and unfair assessments within a community. Assessors determine the value of the property—usually based on what a third party would pay for the property based on comparative sales and other factors—and then calculate the **assessed value**. Assessed value is different from what homeowners may be familiar with as **appraised value**, and how it is calculated differs around the country. In Illinois, for example, the assessed value of most residential real property is "33 and 1/3 percent of the fair market value."[9] In Oklahoma, assessed value is the market value of the property multiplied by an assessment ratio of between 10 and 15 percent; counties have discretion to apply different assessment ratios to different types of property.[10] In other words, it can get complicated!

Assessed value: The value of a property that is subject to property taxation; it is usually some fraction (set in state law) of the value for which property is expected to sell on the private market.

Appraised value: The value a property is expected to sell for on the private market as determined by a property appraiser.

7 For a few helpful resources summarizing the administration of the property tax, please see: "Access Property Tax Database," Lincoln Institute of Land Policy, accessed on August 28, 2022, https://www.lincolninst.edu/research-data/data-toolkits/significant-features-property-tax/access-property-tax-database; "State-by-State Property Tax at a Glance," Lincoln Institute of Land Policy, accessed August 28, 2022, https://www.lincolninst.edu/research-data/data-toolkits/significant-features-property-tax/state-state-property-tax-glance; "State and Local Backgrounders," Urban Institute, accessed on August 28, 2022, https://www.urban.org/policy-centers/cross-center-initiatives/state-and-local-finance-initiative/projects/state-and-local-backgrounders/property-taxes.

8 *50-State Property Tax Comparison Study* (Lincoln Institute of Land Policy and Minnesota Center for Fiscal Excellence, 2021), https://www.lincolninst.edu/sites/default/files/pubfiles/50-state-property-tax-comparison-for-2020-full_0.pdf.

9 "What is the tax rate for property taxes?" Illinois Department of Revenue, accessed August 28, 2022, https://www2.illinois.gov/rev/questionsandanswers/Pages/318.aspx#:~:text=There%20is%20no%20set%20rate,of%20its%20fair%20market%20value.

10 "Property Tax," Oklahoma Policy Institute, accessed August 28, 2022, https://okpolicy.org/resources/online-budget-guide/revenues/an-overview-of-our-tax-system/oklahomas-major-taxes/property-tax.

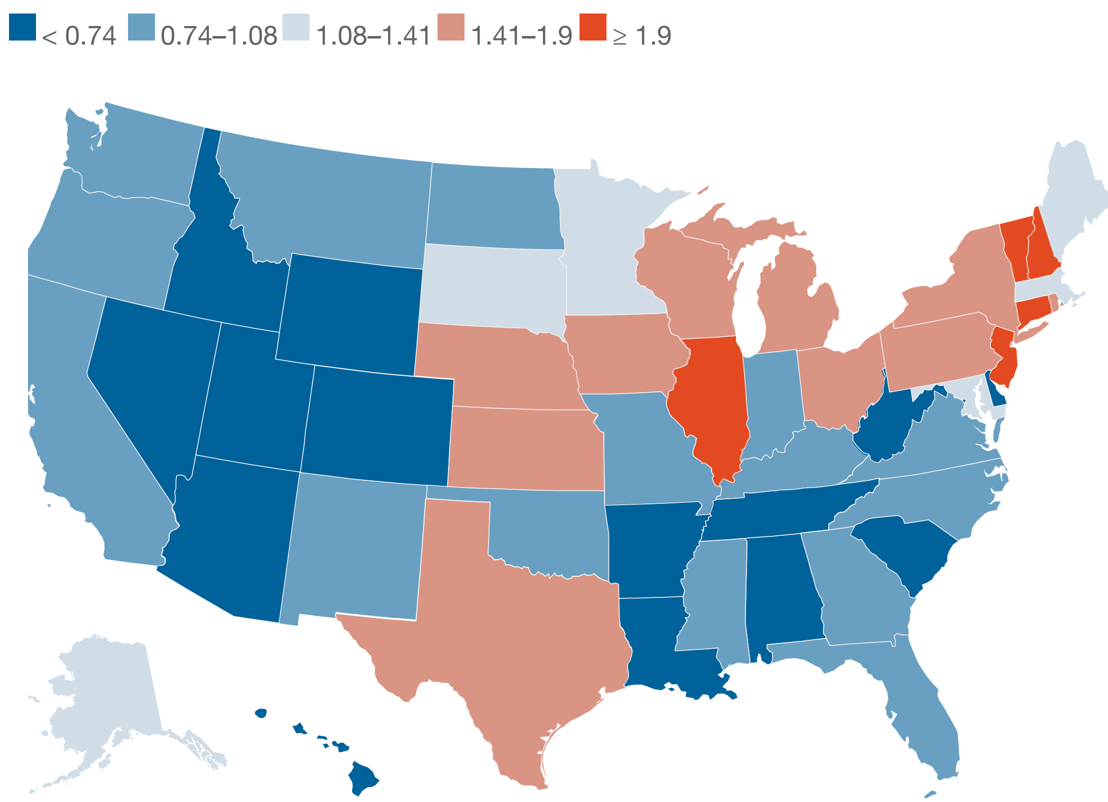
It is critical for jurisdictions to be transparent about how assessments are determined, to share that information with taxpayers, and allow taxpayers an opportunity to appeal the determination of assessed value for their property since that will have a large impact on their ultimate tax bill. Some states have also looked at assessments as a vehicle for property tax relief. For example, Michigan and California cap the amount by which assessed value—and therefore property taxes—can increase from year to year.[11]

> **Millage rate**: Tax applied to real property where each mill represents $1 of tax per $1,000 of the property's assessed value. Also called the "tax rate."

After setting the assessed value, treasurers or tax collectors then determine the amount of taxes due for each property by multiplying the assessed value by the rate of taxation (or **millage rate**). To get the total tax rate, treasurers or tax collectors aggregate each of the various tax rates imposed by local governments. The tax rate differs in each community based on several factors. In many cities and towns, the rate of taxation is high because property values are low and the cost of providing local government services remains constant or continues to rise. There is also great variation in each state's reliance on property taxes as a source of municipal revenue. For example, property taxes make up 37 percent of general revenue for state and local governments in New Hampshire, whereas Alabama relies on other sources of revenue so property taxes only make up 7 percent of that state's and local governments' general revenue.[12]

Effective Tax Rate, By State

The map below shows median residential property tax paid divided by median residential property value, illustrating how property taxes vary state by state.



Map: Center for Community Progress. Source: Policy Map, American Community Survey 2020 5-year

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11 MCL § 211.27a; Cal. Const. Art. 13A, § 1.

12 Ronald C. Fisher, "Property Taxes: What Everyone Needs to Know," (Lincoln Institute of Land Policy, 2021), **https://www.lincolninst.edu/publications/working-papers/property-taxes**.

Property taxes tend to be high in the northeast (New Jersey, Connecticut, New Hampshire, and New York) due to both higher property values and higher tax rates. Typical homeowner property taxes tend to be low in the southeast (Alabama, Arkansas, Louisiana, South Carolina, and Mississippi) for the opposite reasons.[13]

13 Fisher, "Property Taxes."

Equity Focus: Property Assessments

Given the assessment of property value is the foundation of the tax base in any community, it is critical that the process is fair, transparent, and requires periodic updates to reflect market changes. This has proven challenging given assessments are done differently across the country, subjective to local government officials, and based on continually changing market values of property.

Throughout history, many assessors intentionally overvalued properties owned by Black Americans, sometimes in direct retaliation for political action. There have been studies documenting a widespread and large racial assessment gap, whereby assessed values are significantly higher for Black residents than white residents, forcing these residents to pay more for the same bundle of public services.[14] Homeowners of color are also less likely to appeal their assessments, and less likely to win them when they do.[15] In many towns and cities, low-value properties also face higher tax assessments relative to their actual market values than do high-value properties. This tax regressivity disproportionately burdens lower-income residents.[16]

In Sapelo Island on the Georgia coast, the Gullah Geechee community, descended from enslaved people and living on the island for hundreds of years, witnessed tax hikes of up to 600 percent in one year alone. This increase came from a rise in demand and market value for vacation homes on the island, forcing many ancestral residents to lose their home, relegating them to live in the marsh areas with little to no resources like paved roads, schools, or refuse services. A lawsuit filed in 2012 resulted in a temporary reinstatement of tax assessments with an increase of 25 percent instead of up to 600 percent.[17]

Having explicit discussions with local assessors to acknowledge this unjust history and better understand the unequal tax burdens along racial and ethnic lines is imperative to directly address these long-standing assessment inequities.

14 Teresa Wiltz, "Black Homeowners Pay More Than Fair Share in Property Taxes," *Stateline* (blog), Pew Charitable Trusts, June 25, 2020, **https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/06/25/black-homeowners-pay-more-than-fair-share-in-property-taxes**; Carlos Fernando Avenancio-Leon and Troup Howard, *The Assessment Gap: Racial Inequalities in Property Taxation Working Paper* (Washington Center for Equitable Growth, 2020), **https://equitablegrowth.org/working-papers/the-assessment-gap-racial-inequalities-in-property-taxation/**.

15 Wiltz, "Black Homeowners."

16 Editorial Board, "How Lower-Income Residents Get Cheated on Property Taxes," *New York Times*, April 3, 2021, **https://www.nytimes.com/2021/04/03/opinion/sunday/property-taxes-housing-assessment-inequality.html**.

17 Kim Severson, "Taxes Threaten an Island Culture in Georgia," *New York Times*, September 25, 2012, **https://www.nytimes.com/2012/09/26/us/on-an-island-in-georgia-geechees-fear-losing-land.html**.

It is critical for jurisdictions to be transparent about how assessments are determined, share that information with taxpayers, and allow taxpayers an opportunity to appeal the determination of assessed value for their property.

Exemptions, Deductions, Credits, and Deferrals

States provide a range of mechanisms to lower or limit the tax burden for specific property owners or even specific types of property. These tools are an essential part of any community's ability to meaningfully reduce the impact of high tax burdens on lower-income, more vulnerable property owners, as well as renters. It is critical these types of tax relief are consistently applied in the valuation and assessment process to ensure owners avoid tax delinquency. They must also be regularly evaluated to ensure they are adequately available to and accessed by those who need them most. This requires a community to:

- Have an accurate understanding of their households in need (e.g. income level, homeowners or renters, ownership circumstances like **heirs' property**, and special populations like the elderly or people with disabilities),
- Update program eligibility criteria to ensure programs can reach households in need, and
- Assess the level of successful application to the program compared to the number of households in need.

Almost every state offers some kind of **exemption** or **deduction** to reduce the tax bill for homeowners, often called the homeowner or homestead exemption or deduction, and many states offer more generous exemptions or deductions for seniors, veterans, those who have disabilities, and others. Many property owners (e.g., nonprofits, governmental entities, churches) get full exemptions that reduce their property bill to zero if used for public or charitable purposes. These types of exemptions or deductions are primarily based on the identity of the owner.

Other states allow for local governments to implement **circuit breakers**. These types of tools allow local governments to provide tax relief by reducing assessed value or property tax burdens for owners who are low-income or experiencing financial or other hardship.[18] One example is Detroit's Homeowners Property Exemption (HOPE), also referred to as the Poverty Tax Exemption, which is a circuit breaker that fully exempts certain very low-income homeowners from paying property taxes.[19]

Heirs' property: Property that has been passed down to one or more family members, or heirs, upon the death of the owner without a will or other legal documents proving ownership, sometimes also referred to as "family property."

Exemption: A property tax relief tool that lowers the property tax bill by reducing either the assessed value of the property or the total millage rate (aka the tax rate) applied to the assessed/**taxable value**; generally granted by state law to certain owners or types of properties. One example of this is often referred to as a "homestead exemption" which provides tax relief specifically for owner-occupants (i.e., where the property is the owner's principal residence).

Taxable value: The value of a property that is ultimately subject to property taxation. In many cases, taxable value and assessed value are the same. Many state laws reduce the assessed value of a property for certain types of owners (e.g., homeowners, seniors) or properties. This reduced value is the "taxable value."

Deduction: Reduction in taxable value used to determine property tax bill.

Circuit breaker: An exemption, deduction, credit, or some other kind of tax relief tool that lowers the property tax bill or burden on a vulnerable owner where the level of relief is dependent on the owner's income; generally enabled by state statute.

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18 For more information on circuit breakers, see John H. Bowman, Daphne A. Kenyon, Adam Langley, and Bethany P. Paquin, *Property Tax Circuit Breakers: Fair and Cost-Effective Relief for Taxpayers*, (Lincoln Institute of Land Policy, 2009), https://www.lincolninst.edu/sites/default/files/pubfiles/property-tax-circuit-breakers-full_0.pdf.

19 "Homeowners Property Exemption (HOPE)," City of Detroit, accessed August 29, 2022, https://detroitmi.gov/government/boards/property-assessment-board-review/homeowners-property-exemption-hope. The City of Detroit also made extensive changes to how it administers the HOPE program to improve access to the program. It now allows applicants to demonstrate eligibility and renew their exemptions more easily each year, mandates that the City includes information about HOPE on the annual assessment notice sent out to taxpayers and makes the application available at the Office of the Assessor, City of Detroit Recreation Centers, Department of Neighborhood Offices and the City's website. Beyond those changes, a comprehensive effort was implemented by the City and its community partners to engage in direct outreach via door-to-door campaigns, improve educational materials, and provide application assistance.

Some forms of tax relief do not actually impact the tax bill. For example, some states offer income **tax credits** to lower-income property owners to offset higher property tax burdens (another type of circuit breaker), and in many states this credit or a similar one is available to renters.[20] Others allow certain qualified homeowners (e.g., seniors or veterans) to defer property tax payments over time, though this tool doesn't appear to be widely used.

Tax credit: A property tax relief tool that either reduces the property tax bill, or, more commonly, allows certain homeowners or renters to deduct some portion or all of the amount of property taxes paid by the owner—or the portion of property taxes assumed to have been paid by a renter—on their income taxes.

20 According to the Urban Institute ("State and Local," Urban Institute), state laws in at least eighteen states and the District of Columbia allow local governments to provide tax relief to renters in some form, usually in the form of an income tax credit.

Equity Focus: Tax Collection

Aside from examining assessments and property tax relief options, local officials should also identify ways they can improve their property tax collection processes to provide support to taxpayers, such as:

- Allowing for monthly payments or other payment installments
- Establishing payment kiosks in community locations
- Allowing cash payments
- Providing information on tax relief programs and support organizations in assessment notices and tax bills sent out to taxpayers, and translated into multiple languages based on the community's demographics
- Providing more time to pay, or deferrals, before taxes are reported as delinquent

Equity Focus: Predatory Loans

One way banks made predatory, subprime loans appear affordable in the lead-up to the mortgage foreclosure crisis was to eliminate the escrow account commonly included with a mortgage payment that the bank uses to pay property taxes. Victims of these predatory loans reported that this critical detail was not disclosed to them. Additionally, homeowners who refinanced conventional loans into subprime loans reported that they also were not informed of this, and the same is true for homeowners who agreed to reverse mortgages.[21] While homeowners saved and made their mortgage payments monthly, they were unaware they had to also be saving for and making property tax payments. As a result, homeowners fell behind on their property tax payments. Rates of tax delinquency were highest, and cases of tax foreclosure most heavily concentrated, in the same low-income Black and Latinx neighborhoods targeted by subprime and reverse mortgage lenders.[22]

Equity Focus: Tax Relief

Many state and local property tax relief programs for homeowners can provide significant cost savings and other protections, but disproportionately exclude communities of color. This results in those communities facing higher tax burdens, eroding their housing stability, and contributing to our country's vast racial divides.[23] Researchers have identified several issues resulting in lower participation rates in property tax relief programs among Black

21 John Rao, "The Other Foreclosure Crisis: Property Tax Lien Sales," (National Consumer Law Center, 2012), **https://www.nclc.org/resources/the-other-foreclosure-crisis-property-tax-lien-sales/**.

22 Andrew Kahrl, "Investing in Distress: Tax Delinquency and Predatory Tax Buying in America," *Critical Sociology* 43, no. 2 (first published online August 22, 2015): 199–219, **https://journals.sagepub.com/doi/10.1177/0896920515598565**.

23 Heather Way, "Property Tax Relief Programs Don't Reach Many Homeowners of Color," *Shelterforce*, March 7, 2022, **https://shelterforce.org/2022/03/07/disparities-in-access-to-property-tax-relief-programs/**.

and Brown homeowners, including lack of awareness about the programs and application hurdles.[24] While some property tax relief protections are automatically applied by the tax assessor, some require that homeowners affirmatively apply for the program every year in person. Communities should assess their application requirements to identify ways to make application streamlined and easier. Ongoing education and outreach from trusted community partners is critical.

For example, in Baltimore, Maryland, the Tax Sale Prevention Project utilizes pro bono attorneys to provide legal assistance, resource information, and education to homeowners at risk of foreclosure due to delinquent property taxes. Part of this outreach and engagement is also to ensure these homeowners have access to available property tax relief programs. This project is a joint effort of the Pro Bono Resource Center of Maryland and Maryland Volunteer Lawyers Service. According to those involved in this work, most of the participants in the clinic identify as seniors and African American, have no mortgage on their property, and have an income below $30,000.[25]

In San Antonio, Texas, the Homestead Exemption Community Housing Outreach (HECHO) project, staff from Texas Rio Grande Legal Aid, neighborhood groups, and other community partners review lists provided by their local tax appraisal district and conduct door-to-door outreach to homeowners who are not receiving a homestead exemption. The outreach workers educate homeowners about the benefits of the homestead exemption and provide on-the-spot assistance with their application, which results in better results.[26]

Equity Focus: Heirs' Property

Property that has been passed down to family members via inheritance (heirs' property) can be excluded from property tax relief programs given the requirement that homeowners must have a deed or other form of legal titling instrument in their name to qualify for any tax savings.[27] Communities of color or families with limited financial means do not have—and historically have not had—the support to complete the costly legal procedures required to get a deed and preserve their property ownership and associated wealth. Title and other issues with heirs' property have contributed to the loss of property owned specifically by Black families throughout the United States.[28]

Texas was one of the first states to provide clear and accessible standards for how homeowners can qualify for property tax relief on their principal residence when they have inherited their home and lack a will. Texas law now allows an heir to submit a simple affidavit to establish proof of ownership for purposes of qualifying for a homestead exemption when an heir is not specifically identified as the owner on a deed. The application requirements for heirs are spelled out in the instructions to the exemption application, and the affidavit is included in the application. The legislative reforms also provide heirs with full access to the residence homestead exemption rather than limiting access based on the heirs' ownership interest.[29]

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24 Keith Ihlanfeldt, "Property Tax Homestead Exemptions: An Analysis of the Variance in Take-Up Rates Across Neighborhoods," *National Tax Journal* 74, no. 2, **https://www.journals.uchicago.edu/doi/abs/10.1086/714168**.

25 Allison Harris, emailed Tax Sale Prevention Project Baltimore City Statistics 2021 from Pro Bono Center of Maryland, on May 31, 2022.

26 Way, "Property Tax Relief." For more info on HECHO, please visit "HECHO," **http://mycityismyhome.com/hecho**.

27 For more information about heirs' property, see Surekha Carpenter and Sonya Ravindranath Waddell, "Whose Land Is It? Heirs' Property and Its Role in Generational Land Retention," Federal Reserve Bank of Richmond, October 14, 2021, **https://www.richmondfed.org/research/regional_economy/regional_matters/2021/rm_10_14_21_property**. Also see Gaither, "Heirs' Property."

28 Cassandra J. Gaither, Ann Carpenter, Tracy Lloyd McCurty, Sara Toering, *Heirs' Property and Land Fractionation: Fostering Stable Ownership to Prevent Land Loss and Abandonment*, (U.S. Department of Agriculture Forest Service, 2017), **https://www.srs.fs.usda.gov/pubs/58543**.

29 "Have You Inherited Your Home?," (Entrepreneurship and Community Development Clinic, University of Texas At Austin Law School, 2020), **https://law.utexas.edu/wp-content/uploads/sites/11/2020/08/2020-12-ECDC-heirproperty_2pg.pdf**.

Collecting the Tax

Given local government reliance on property tax revenue, it is critical that once the total property tax has been determined, and the appropriate exemptions or deductions applied, the treasurer or tax collector sends owners the property tax bill that details the amount owed and the date the taxes are due. The bill may include special assessments or charges for things like street or water system improvements. Property tax bills may also include other public liens, such as those costs expended by local government addressing code enforcement violations on the property, something Community Progress considers a best practice to ensure full recovery of public costs.

Most states allow treasurers or tax collectors the discretion to accept payment in more than one installment—two, four, or some other number—with due dates spread out over six or more months. Some local governments have the discretion to allow certain qualified homeowners—often financially insecure or those that have experienced recent hardship—to enter into a payment plan to make smaller payments over time (e.g., monthly payments) to avoid tax delinquency. (This type of payment plan is different than those payment plans allowed after the property tax becomes delinquent.) For the most part, people pay their property tax bills on time. For example, the treasurer of Cook County, Illinois (home to Chicago) estimates that roughly 95 percent of all property tax bills are paid on time.[30]

Of course, the comparatively small percentage of property owners who are either unable or unwilling to pay their property taxes by the due date require outsize local government resources and attention to address. The enforcement process, which is critical when it comes to addressing vacant properties and interrupting the cycle of decline, is the focus of the next section.

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30 "Cook County Scavenger Sale Evaluation," (Harris School of Public Policy, University of Chicago, 2021), 10, **https://harris.uchicago.edu/files/scavenger_sale.pdf**.

Overview of Delinquent Property Tax Enforcement

General Stages of the Delinquent Property Tax Enforcement Process

Copyright: Center for Community Progress

Generally, when property taxes become delinquent, treasurers or tax collectors send **notice** to the owner. This notice usually includes information about the consequences of delinquency, including how interest and penalties will attach to the tax debt and how, at a certain point, the local government will enforce its lien against the property—often resulting in a loss of the property.

Some jurisdictions offer, and even include in their notice of delinquency, information about payment plans for property owners who meet certain hardship or income criteria. These plans can pause or even halt further enforcement. In most places, state or local law must expressly permit such payment plans, because once the taxes become delinquent most state laws do not allow a great deal of flexibility in payment or **redemption periods**.

Once property taxes are delinquent, local governments typically focus first on collecting the unpaid amounts from the individual owner. They may do this in-house or hire a third party.

Owners who are unable to pay—either because they have fallen on recent hardship or because they simply don't have the money—are perhaps more likely to still

Notice: Informing a party of an impending action that will affect their rights. How notice is provided will depend on the type of action and, accordingly, the method required by the US Constitution or state statute (e.g., posting a letter on a property, posting notice in a public place, putting notice in a newspaper, sending a party a letter through first-class mail, or physically handing a person a letter through "personal service.") In general, the more serious the impending action, the more intense the noticing requirement.

For tax foreclosure actions, "Mennonite notice" is considered to be the gold standard of noticing.* Mennonite notice refers to a noticing method that follows the standard outlined by the US Supreme Court in *Mennonite Board of Missions v. Adams*, 462 US 791 (1983), which requires sending notice of an impending tax foreclosure via mail or personal service to any party who may have ownership claim to the subject property.

Redemption period: Time period during which the taxpayer can repay the property tax, interest, penalties, and any associated costs and fees due and regain their ownership of the property. The length of the redemption period and the point at which the redemption period begins (i.e., before or after the foreclosure action) is determined by state statute.

* If a property tax foreclosure occurs via a process that does not use Mennonite notice, the future owner will generally need to complete a quiet title action since the noticing in the foreclosure process may be considered less than adequate, opening up the possibility that the foreclosed owner could say, after the foreclosure, that their right to due process (guaranteed by the 14th Amendment) was violated, thereby invalidating the foreclosure action and transfer of title. For greater discussion on Mennonite notice, see Frank S. Alexander, "Tax Liens, Tax Sales, and Due Process," *Indiana Law Journal* 75, Issue 3 (Summer 2000), **https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2148&context=ilj**.

occupy the property even when it becomes delinquent. While local governments should create equitable and well-administered property tax assessments, exemptions, circuit breakers and other tools to keep most of these owners out of the delinquent tax enforcement process in the first place, there will always be people who get caught up in delinquency. For this reason, there must be equitable "off ramps" for vulnerable owners who want to pay off their tax debt but are simply unable to because of lack of resources. While these interventions for occupied properties are not the focus of this publication, we do highlight some of these examples.

There is a critical distinction between owners "unable" to pay and those who are "unwilling" to pay. We generally assume that if the property is vacant and deteriorated, the owner has chosen to abandon their interest in the property and that they are "unwilling" to pay (though circumstances earlier in the process may have forced their hand). That is why we advocate for delinquent property tax enforcement processes that equitably, effectively, and efficiently seek to transfer vacant property to a new, more responsible owner to mitigate the harm the property might impose and to put it on a path to reuse.

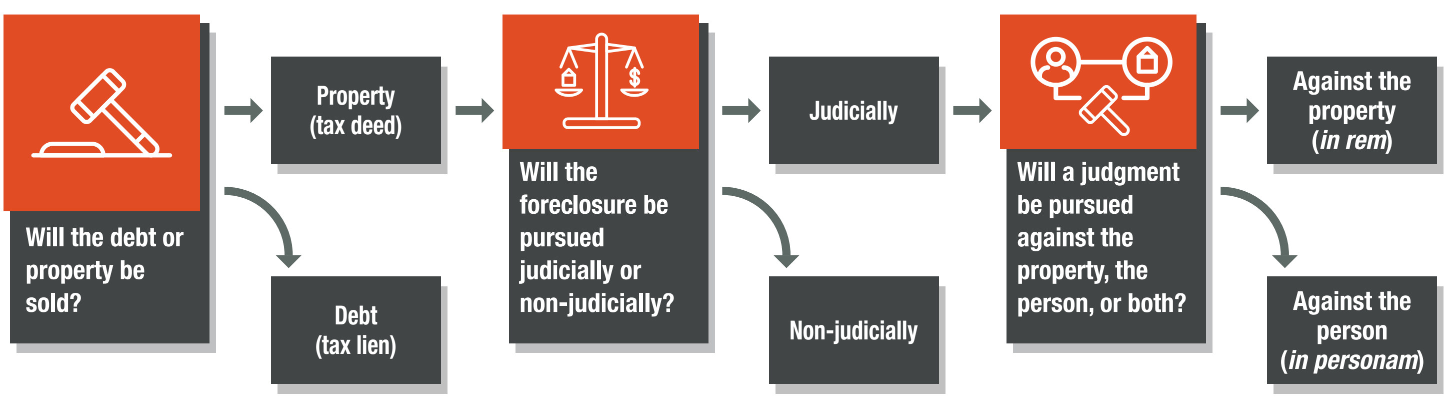
When collection efforts have failed and the delinquent tax remains outstanding, the local government will pursue enforcement in a manner that is largely determined by state law. For those who seek to better understand local practices and where there is potential for both existing harm and reform opportunities, consider using these questions to frame your local inquiry and conversations:

1. Will the tax debt (tax lien) be sold or will the property be sold (tax deed)?
2. Will the foreclosure action be pursued judicially or non-judicially?
3. Will a judgment be pursued against the owner or the property?

A government's ability to transition vacant properties to productive use vary greatly based on which practices are deployed locally, and those local "decisions" will depend entirely on what state statute permits (or expressly requires). Examining and reforming state policy is imperative to ensuring an equitable, effective, and efficient delinquent property tax reform process, discussed further in **Improving Your Delinquent Property Tax Enforcement Process** (pgs 26-29).

Below, we briefly unpack each of these three framing questions, outlining the implications of the various approaches and why some are more optimal than the others.

Paths in the Property Tax Foreclosure Process



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1. Is the Government Selling the Tax Debt or the Property?

In most jurisdictions, if the owner fails to pay the total amount of taxes due—which may include interest, penalties, and other costs or fees—by a specific date, the treasurer or tax collector will seek to enforce the unpaid tax lien via one of the following two enforcement paths:

Path 1. The Local Government Sells the Tax Debt: A Harmful Practice

The local government sells the tax debt, meaning it offers to transfer the local government's interest in the tax lien and its authority to collect the debt to a private buyer in exchange for upfront payment of the taxes owed. The private buyer's purchase usually includes the ability to earn future interest, as well as recoup related fees and costs incurred by the buyer, if the property owner pays the tax debt. The private buyer's purchase may also include the ability to foreclose on the owner's right to pay back the tax debt—called the right of redemption—and to either force a sale or take control of the property. This is, in essence, privatization of a core government function: tax collection and enforcement services.

> **Title**: The legal right to property ownership. By taking title to a property, you are assuming the bundle of rights and responsibilities that come with property ownership. Title is transferred from one person to another via a document called a "deed."

To illustrate, let's use a hypothetical community, assuming taxes for the 2021 calendar year are due in 2022 and become delinquent on October 1, 2022:

- The local government provides simple notice and offers the tax lien for sale in a public auction on December 1, 2022.
- The winning bidder agrees to pay the most money for the tax lien, starting with a minimum bid of at least the taxes owned, plus applicable interest, fees, and costs.[31] In some states, they also get the right to purchase future delinquent tax years and earn similar benefits on their investment.
- The local government sends notice to the property owner that the tax lien was sold and informs the owner that they must redeem within twenty-four months, or the tax lien purchaser will have right to foreclose and force a sale of the property—or potentially take **title**.
- If the owner does not redeem, the tax lien buyer may file a court case to foreclose and the deed is sold to the highest bidder in a sheriff's sale by April 1, 2025. Title to the property may or may not be insurable and could require a separate court case to clear title.
- Alternatively, the tax lien purchaser can choose not to foreclose and simply walk away, leaving the property to cycle through the entire system again in future years.

In light of municipal staffing cuts and increased need for revenue, jurisdictions across the country have reduced in-house property tax collection and enforcement efforts and instead transfer and sell the delinquent taxes, municipal liens, and the power of collection and enforcement to private buyers. This process can result in a quick infusion of revenue to cash-strapped jurisdictions, but can also have harmful, unintended consequences and render local governments passive observers as vacant properties and neighborhoods slide into decline.

How? By transferring tax liens and all accompanying enforcement mechanisms to a private buyer, local governments lose the ability to force a transfer in property ownership through tax foreclosure. In areas with disinvestment, this loss of government leverage can surrender a struggling neighborhood to private buyers whose primary interest is to extract profit. With distressed properties, private buyers may choose to hold the tax lien and speculate on future interest payments and accrued penalties rather than foreclosing and selling to a responsible party. Many times, these properties become or remain vacant and impose significant costs on the community and on the local government in terms of police, fire, and code enforcement calls. At any point, the tax lien buyer may walk away from their investment. Then, the clock for the enforcement process starts all over again, the cycle of decline gaining speed and force.

[31] A few jurisdictions define the successful tax lien buyer as the one who charges the lowest interest rate rather than pay the highest value for the lien.

More About... The Big Myths About Tax Lien Sales

"Don't tax lien sales bring in more revenue?"

Our research in Rochester, New York and Baltimore, Maryland and in discussions with communities across the country did not find conclusively that the sale of tax liens was the most effective mechanism to maximize public revenue. In fact, for those vacant properties where the tax lien was sold, significant public costs were required to address the public safety and physical deterioration.[32]

"Don't private buyers care about the property and not the profit?"

In discussions with communities across the country, we found that very few private buyers actually take title to the property after the lien is purchased. In fact, in an informal survey collected from counties across Maryland, less than .001 percent of private buyers foreclosed on the owner's right of redemption and took title to the property—a critical step to getting the property back to purposeful use.[33]

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32 *Analysis of Bulk Tax Lien Sale for City of Rochester* (Community Progress, 2013), **https://communityprogress.org/publications/analysis-of-bulk-tax-lien-sale**; Kim Graziani and Frank S. Alexander, *Assessment of Baltimore's Tax Sale System: Impacts on City Finances, Vacant Properties, and Vulnerable Owner Occupants* (Community Progress, 2016), **https://communityprogress.org/publications/assessment-of-baltimore-citys-tax-sale-system**.

33 Data collected through an informal survey by Community Progress. Maryland Association of Counties for "Report of the Task Force to Study Tax Sales in Maryland," (Task Force to Study Tax Sales in Maryland, 2018) **https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/022600/022602/20180151e.pdf**.

Path 2. The Local Government Sells the Property: The Better Option

The local government sells the property or forces the transfer of title to the property via tax deed, which means after the owner is given a reasonable time to pay back the tax debt, the local government forecloses its interest in the tax lien and the owner's right of redemption and seeks to transfer the property to a new owner via a **tax deed** in exchange for at least the amount of the taxes owed, plus applicable interest, penalties, fees, and costs.

Tax deed: A deed showing the transfer of title to real property sold for the nonpayment of taxes. The quality of title acquired via tax deed—meaning whether a title company is willing to provide title insurance—depends on whether the process used to transfer title (e.g., foreclosure) provides adequate notice.

Here is one way this process might look in our hypothetical community, assuming taxes for the 2021 calendar year are due in 2022 and become delinquent on October 1, 2022:

- Notice of the delinquency is sent by local government on December 1, 2022.
- The local government sends notice to the owner that it will file a case to foreclose if the owner fails to redeem by August 1, 2023, and that it will ask the court to enter a judgment and order a sale of the property if the owner fails to redeem by January 1, 2024.
- On March 1, 2024, the property may be sold in a public sale, or potentially acquired by the local government or transferred to a trusted public entity, like a land bank.

There are wide variations of each of these enforcement paths across the country. Local governments in some states, like Illinois and Florida, are required to sell the tax debt to private buyers. Many states, including Alabama, allow treasurers or tax collectors to sell tax liens to individual private buyers, and some, like Connecticut, also allow treasurers or tax collectors to bundle all their tax liens together and sell them to a single buyer in a bulk sale. Some states, like Michigan, do not permit the sale of tax liens, instead mandating that the county foreclose on the tax lien, take title to, and offer to sell the deed to tax-foreclosed properties at the end of the process.

Still other states, like Ohio, New York, and Pennsylvania, allow counties to choose some variation of either of these two enforcement paths, or a combination of both. Maryland and some other states allow the sale of tax liens for most tax-delinquent properties but have created a separate and optional judicial in rem foreclosure and sale process for properties that are vacant and abandoned.

As local governments evaluate enforcement options available to them in state law, especially as it relates to vacant properties, they should be aware of the many differences between these two approaches:

	Sale of Tax Debt (Tax Lien)	Sale of Property (Tax Deed)
Time to Transfer (if taxpayer does not redeem the property)	**Undetermined**. Once the redemption period expires, additional time may be needed to foreclose/petition for the deed, or tax lien purchaser may walk away and the cycle starts all over.	**Definitive**. Once the redemption period expires (so long as no post-sale redemption period exists in state law), the property is transferred to a new owner via sale.
Publicly Administered Enforcement Events	**At least two**, including the tax lien or certificate sale and the foreclosure and sale of the property, if the private buyer chooses to pursue title to the property.	**Ideally one**, at the point when the property is foreclosed and sold.
Notice	**Multiple times**. Many tax lien sale systems require the local government provide notice to the owner at the point of delinquency, the sale of tax liens; the private buyer then provides notice of the foreclosure of right of redemption and potential sale of the property. This adds cost to the process and, despite the multiple notices, the method of noticing is often inadequate.	**Ideally provided once**. Rather than providing inadequate notice multiple times, this process provides high-quality, full constitutional notice only once: at the filing of the foreclosure case. Though some states' tax deed processes also provide multiple layers of notice.
Quality of Title	**Weaker**. Where tax lien purchasers pursue title to the property, state laws often fail to require notice to the former owner that meets minimum legal standards and therefore require additional court action to resolve title issues and secure title insurance.	**Stronger**. The quality of title acquired via tax deed—meaning whether a title company is willing to provide title insurance—depends on whether the process used to transfer title (e.g., foreclosure) provides adequate notice. Where the local government oversees the process, and especially where a court is overseeing the foreclosure and sale, minimum legal standards for notice are more likely to be met and title acquired at the foreclosure sale is more likely to be insurable (such as with a judicial *in rem* foreclosure process).
Community or Economic Impact	**Lack of positive community impact**. Many communities have reported negative community and financial impacts, including properties in limbo where owners have walked away, and private buyer and government has no legal rights yet continue to pay to ensure public safety (fire and police calls, boarding, demolition, etc.).	**Increases the likelihood of positive community impact**. Most communities report that the most effective intervention for any vacant property is the transfer to a new owner with insurable title. Therefore, the judicial *in rem* foreclosure process is the best practice. Communities that sell the tax deed without insurable title (the likely result of using a foreclosure process without adequate notice and oversight) have reported negative community and financial impacts including tax deed purchasers creating limited liability companies (LLCs) and walking away from property once all profits are extracted.

2. Is the Government Pursuing a Foreclosure Non-Judicially or Judicially?

If the local government is selling the property, rather than the tax debt, they are in charge of moving the enforcement process forward when the property tax owed continues to go unpaid. The next question is whether or not the government will proceed with a **non-judicial foreclosure** action or a **judicial foreclosure** action. Again, the local government's ability to pursue either of these paths will be shaped by what state statute allows or requires.

> **Non-judicial foreclosure**: A foreclosure action that is not filed in court and that results in the property being sold at public auction in accordance with a state statute.

> **Judicial foreclosure**: A foreclosure action that is filed in court which results in either a court-ordered public sale of the property, or the transfer of the property to the foreclosing entity (also called strict foreclosure).

> **Quiet title action**: When there are multiple parties who may have a claim to a potential stake in a property's ownership, due to a lien being placed on a property or a question as to how title has transferred from one party to another, that can be referred to a "cloud" or a "defect" on the title. Essentially it means there is a question as to who the owner is. These questions of ownership can be eliminated through a "quiet title action" which is a court process whereby a judge hears from all parties who may have a claim to ownership and determines the ownership interests in the property.

Path 1. The Local Government Pursues a Non-Judicial Foreclosure

This type of foreclosure action is not filed in court. It will result in the property being sold at public auction. Since this foreclosure action happens without the oversight of a court, it may lead to questions of whether minimum legal standards for notice had been met in the foreclosure process. This is a concern because when these legal standards for notice are not met, title to the property is usually not insurable and a separate court case (known as a "**quiet title action**") to resolve those issues may be required.

Since title insurance is generally necessary to secure any type of mortgage or other financing to purchase or make improvements to a property, a foreclosure action that may limit the future owner's ability to gain financing, or at the very least will add costs to pursue financing, is a concern for vacant properties which often already have steep costs associated with rehabilitation.

Path 2. The Local Government Pursues a Judicial Foreclosure

This type of foreclosure action is filed in court. It will either result in a court-ordered public sale of the property or in the transfer of the property to the foreclosing governmental unit, also called a "strict foreclosure." When a tax foreclosure action is conducted in a court setting with judicial oversight to ensure minimum constitutional standards for notice are met, the title to the property transferred to the new owner is usually insurable. Thus, court involvement may end up being the most effective and efficient mechanism to transfer tax-delinquent property.

More About... Challenges to Clearing Title

Tax-delinquent property often has significant issues that impact title, including issues related to fractured ownership (common in heirs' or family property), unresolved public and private liens, and more. A well-designed delinquent property tax enforcement process includes provisions in state law—and local governments that follow those provisions—that require the local government or the party foreclosing on the tax lien/owner's redemption rights to provide notice to the owner that meets minimum standards to satisfy due process requirements under the US and most state constitutions. Unfortunately, many state laws fail to require notice of the tax foreclosure that meets these constitutional minimums.

More About... Redemption, Notice, and Timing

All states allow property owners to redeem before the **tax sale**, which is critical to ensure owners have the right to pay any outstanding taxes and other municipal liens to prevent their property from being sold or the property tax debt being sold to a private buyer. Many states also give property owners a chance to redeem after the tax sale, which can be problematic when the tax sale is transferring title to the property. Governments must provide sufficient attempts to inform the owner of the consequences of nonpayment and available circuit breakers for vulnerable owners, as well as a reasonable amount of time for the owner to pay back the amount owned, however, the most equitable and efficient time for this to happen is prior to the sale of the property. This is especially true for vacant properties where the owner has already walked away. In such cases, there is an urgent need to expedite the process by eliminating any post-sale redemption period to allow the immediate transfer of the property to a new, responsible owner.

3. Is the Government Pursuing a Judgment Against the Owner or the Property?

The next consideration will be whether the government will be pursuing liability (e.g., payment of the debt owed) against the owner (*in personam*) or the property (*in rem*), or both. Again, the local government's ability to pursue either of these paths will be shaped by what state statute allows or requires.

Path 1. The Local Government Pursues a Judgment Against the Owner (*in personam*)

Some state laws allow local governments to pursue any amounts not recovered from the tax foreclosure sale against the individual owner. In other words, if the local government forecloses on the property, they could also seek a judgment from the court to continue to pursue collection against the owner personally if the amount of the sale of the property failed to satisfy the total taxes that were due. Requiring personal notice, particularly for out of state owners and LLCs, takes considerable time and financial resources, often without much success. Another disadvantage to pursuing liability against the owner is that after the property has been sold, the matter is not fully resolved since the government will still need to seek the amount above and beyond the collection via the auction. The parties will still be engaged in the ongoing *in personam* matter, tying up precious few resources on the part of the local government and court.

Path 2. The Local Government Pursues a Judgment Against the Property (*in rem*)

Pursuing an *in rem* judgment means the liability extends only to the property; once the property is sold via the court-ordered public sale or transferred to the foreclosing governmental unit, the entire matter is resolved. Community Progress generally advocates for local governments to focus on *in rem* liability, since it provides an efficient resolution of the foreclosure action. Notice must be given to all interested parties as well as published and posted physically on the property.

When tax foreclosure is conducted in a court with judicial oversight ensuring minimum constitutional standards for notice are met, resulting in insurable title acquired by the new owner, and when the case is primarily focused on imposing liability against the property (*in rem*), the process is called **judicial *in rem* tax foreclosure**. Judicial *in rem* tax foreclosure is the optimal mechanism to address vacant tax-delinquent properties, particularly those causing harm to a community.

Tax sale: An auction administered administratively ("non-judicial") or through the courts ("judicial") to sell the property tax lien, tax sale certificate, tax deed, or deed (depending on state statute).

Judicial *in rem* foreclosure: When properly designed, an optimal mechanism to foreclose on the tax lien focused on imposing liability against the tax-delinquent property, not the owner, with judicial oversight, and which requires the foreclosing party to provide sufficient, mailed notice to the owner and other interested parties that meets the minimum standards for due process required by the US and state constitutions, and results in a sale or transfer of the property that gives the new owner insurable title.

Improving Your Delinquent Property Tax Enforcement Process

Following a general overview of how the entire property tax system is administered and a deeper dive into the enforcement of delinquent taxes, it is important to understand what is meant by "optimal mechanism." This section offers an explanation of the "Three E's" rubric—equitable, effective, and efficient—which Community Progress has developed to assess the key systems and processes,[34] like delinquent property tax enforcement, that local governments must utilize to tackle vacant, abandoned, and deteriorated properties.

Defining an Equitable, Effective, and Efficient Process

How does your community's delinquent property tax enforcement process measure up? This section presents questions to help you assess the degree to which your delinquent property tax enforcement process is equitable, effective, and efficient.

In addition to the questions below, another essential tool to help you assess your delinquent property tax enforcement process is to perform data analysis to answer key questions like "How long are vacant properties sitting in tax delinquency?" or "How much tax is owed on vacant, tax-delinquent properties?" To help you begin your data collection and analysis, see **Appendix A** (pgs 44-47), for initial questions for exploration and discussion with your local tax collector.

Equitable

The most critical moment to incorporate equity into a property tax process is **before the delinquency stage**. Once a property owner falls behind on property tax payments, there are far fewer support options for that owner, primarily due to prescriptive and restrictive state laws that local governments must follow. For example, it is exceedingly rare for state statute to allow for the reduction in the underlying tax due as the result of an over-assessment of the property from years prior, or for it to allow for retroactive application of a property tax exemption that a financially insecure owner should have received on a tax bill two years ago. It is imperative that advocates first examine if and how equity is infused into the early stages of the property tax system. For more on this, refer back to **A Primer on the Property Tax System** (pgs 11-18).

Even with measures put in place before the delinquency stage, the delinquent property tax enforcement process must accommodate for the inevitability of financial hardship and the rapid change in an individual's financial security. An equitable process must have proper "off-ramps" for these struggling taxpayers, allowing them to

[34] Discussion of the "Three E's," attributed to Frank S. Alexander can be found in several Community Progress reports including: Frank S. Alexander, *Alternative Strategies for an Equitable, Efficient, and Effective Code Enforcement System in Mobile, Alabama*, (Community Progress, 2016) **https://communityprogress.org/publications/alternative-strategies-for-an-equitable-efficient-and-effective-code-enforcement-system-in-mobile-alabama**.

The most critical moment to incorporate equity into a property tax process is before the delinquency stage.

successfully exit the delinquency stage. This allows for programs like deferrals, payment plans, and the reduction in interest and penalties. An equitable process should also ensure struggling taxpayers are being made aware of these off-ramps and provided support in applying for these programs.

Aside from relief programs, it is important that the delinquent property tax enforcement process provides sufficient opportunity for a taxpayer to pay off the delinquent tax debt and provides constitutionally adequate notice to meaningfully alert a taxpayer to the impending action. The sooner a taxpayer knows of the delinquency, possibility of foreclosure, and relief options available, the more likely they will be able to successfully get out of tax delinquency, since interest on taxes due can accrue on a monthly basis.

Is your delinquent property tax enforcement process equitable?

- Are there payment plans or deferrals or can interest and penalties be lowered for taxpayers experiencing financial hardship?
- Is notice provided early, and in a meaningful manner, and according to constitutional standards?
- Is there proper outreach support or legal assistance offered to taxpayers in need?

Equity Focus: Michigan

In 2015, Michigan enacted a law that allows a county treasurer to reduce yearly, cumulative interest rate on delinquent taxes from 12-18 percent to 6 percent for financially struggling owner-occupants and allows them up to five years to pay off their back taxes by entering into a payment agreement.[35]

Equity Focus: Rhode Island

The Madeline Walker Act is a Rhode Island state law designed to help homeowners who have fallen behind on their taxes or other liens avoid losing their home at tax sale. Rhode Island Housing, a state agency, purchases the delinquent tax liens from local governments if a homeowner does not pay, and holds them for at least five years. During that time, the agency reaches out to homeowners with letters, calls, and in-person visits to identify each household's unique underlying financial challenges that are preventing them from paying the bill, and to connect them to appropriate resources that address those challenges. Possible interventions include providing payment plans and connecting homeowners to pro bono legal counseling and foreclosure prevention counseling. After five years, the agency may foreclose on the property if the liens remain unpaid.[36]

35 MCL 211.78q(5).

36 "Madeline Walker Frequently Asked Questions," RIHousing, accessed August 29, 2022, **https://www.rihousing.com/wp-content/uploads/MW_FAQs_ENGLISH.pdf**.

Effective

An effective delinquent property tax enforcement process yields maximum tax payments and, for vacant properties with unpaid taxes, results in a transfer of title that is insurable to a new responsible owner in a timely manner—that is, before the property deteriorates to the point where rehabilitation or preservation is no longer feasible.

For an effective system to have a transfer of insurable title, all requirements of federal and state constitutional due process notices and hearings must be met and there must be a foreclosure event, such as a public sale or auction. All parties with an interest in the property whose names and addresses can be found based upon reasonable efforts are entitled to notice. The optimal method of meeting this constitutional standard is to conduct a comprehensive title examination, provide notice to all parties with an interest in the property, publish notice, and post notice on the property.[37]

Land bank: A public entity created pursuant to state enabling legislation which confers unique powers to them, such as the ability to acquire tax-foreclosed properties cost-effectively, clear title, hold property tax-exempt, sell properties flexibly, and generate revenue.

Right of first refusal: The ability for a public entity, like a local government or a land bank, to purchase a tax lien, tax sale certificate, tax deed, or deed (depending on state statute) before it goes up for public auction. This critical tool enables public entities to ensure tax-foreclosed properties are used in a manner that aligns with community goals.

The best way to ensure these requirements are met is to use a judicial *in rem* foreclosure process. A court reviews the adequacy of notice, provides opportunity to be heard, and if satisfied, the court orders the property to be sold at public auction. The results of the sale are reported back to the court for confirmation, at which time the court orders the foreclosure tax deed to be recorded. If title insurance companies are involved in the identification of interested parties and either conduct or review the notices, there is a high likelihood of insurable title upon recordation of the deed.[38]

Is your delinquent property tax enforcement process effective?

- Does it result in transfer of property and not sale of tax debt?
- Does it result in insurable title?
- Are there measures in place to vet purchasers and be flexible in terms of price, use, alignment with community goals and/or transfer to a trusted public entity like a **land bank**?

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37 For more on this topic, see Alexander, "Tax Liens."

38 Kim Graziani and Frank S. Alexander, *Assessment of Baltimore's Tax Sale System: Impacts on City Finances, Vacant Properties, and Vulnerable Owner Occupants*, (Community Progress, 2016), **https://communityprogress.org/publications/assessment-of-baltimore-citys-tax-sale-system/**.

More About... Moving Away from the Tax Auction (i.e., Tax Sale)

Many communities have realized the tax auction generates less than favorable outcomes, particularly for properties in neighborhoods with weak housing markets and a legacy of disinvestment.

In order to avoid the auction, some communities exercise a **right of first refusal**, bringing select properties in-house and directing them to affordable housing providers or other responsible end-users, as state laws allow.

For example, before land banks were available as a tool in New York, the City of Utica designed an alternative to the auction that generated better outcomes. The City utilized a strict foreclosure process that resulted in the City's name on the tax deed. Then, instead of holding a tax auction, the City immediately transferred the entire portfolio of tax foreclosures to the Utica Urban Renewal Agency (URA), which listed properties for a set period, vetted applicants, and transparently selected winning applicants based on both proposal and price. The land bank legislation that passed in New York in 2011 changed the game, granting land banks even more powers than those URA utilized to carry out this work. In fact, the City of Syracuse and Albany County have eliminated all tax auctions, and instead foreclose on tax-delinquent properties using the judicial *in rem* process and then transfer all properties to their respective land bank to ensure each and every one is addressed in a manner that improves neighborhood safety or aligns with local goals around equity and inclusion.

Efficient

An efficient delinquent property tax enforcement process has clarity and predictability about the priority of the tax lien, the amount of the tax lien, and the time frames for payment in a manner consistent with local government budget and revenue processes.

There are numerous points of inefficiency in many delinquent property tax enforcement processes, leading to uncertainty as to ownership, maintenance, and control of the property (as is the case when tax liens are sold to private buyers). During this uncertain period, vacant properties continue to deteriorate and harm the community.

One element that is often duplicative, costly, and time-intensive is when state law requires notice to be provided to the owner and all parties with an interest in the property at multiple stages of the enforcement process. While local governments should absolutely prioritize making sure owners are aware of any pending action and the consequences of failing to pay their taxes, due process under the US and state constitutions only requires full notice of a property tax foreclosure to be provided once, so long as required standards are met. At all other points in enforcement, simple notice to the owner of record or other easily ascertainable parties with an interest should be sufficient.

Over time, reducing inefficiencies like multiple layers of full notice can yield significant savings for local governments. A more efficient process also means the time during which vacant properties can demand fire, police, and code services is shortened, saving staff time and tax dollars.

Is your delinquent property tax enforcement process efficient?

- Are there duplicative processes that cost money and time?
- Are there measures in place to expedite the process for vacant, abandoned, and deteriorated properties?
- What are the short- and long-term savings for local government, taxpayers, residents, etc.?

More About... Moving Away from the Sale of Tax Liens

Passing Legislation: Michigan ended the sale of tax liens through Public Act 123 in 1999.[39] This law transformed the delinquent property tax enforcement process, enabling local governments to enforce unpaid taxes by allowing counties to foreclose on their lien and sell the property as opposed to the debt. PA 123 shortened the time a property would be caught up in tax delinquency from five years or more, down to three years. It also allowed for an accelerated foreclosure process for certified abandoned properties, shortening the time period to just two years. In 2003, Michigan passed state-enabling land bank legislation through Public Act 258. Land banks in the state can work with their local governments to get access to tax-foreclosed properties before they go to public auction, enabling them to steward these properties to responsible users. These two acts have given Michigan municipalities an effective tool to swiftly transition abandoned properties to productive uses in service of community goals.

Engaging Title Companies: For any community considering moving towards more comprehensive reform by moving away from the sale of tax liens to the sale of property through a judicial *in rem* foreclosure process, consider meeting with your local title companies early in the process. Judicial *in rem* foreclosure requires meeting a high bar of giving adequate notice to all parties with a legal interest in the property. Discussing any proposed reforms with local title companies can help ensure their comfort with any new and/or additional notice provisions to be able to receive marketable and insurable title insurance at the end of the foreclosure process.

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[39] Citizens Research Council of Michigan, "Changes to the Property Tax Delinquency and Reversion Process in Michigan," CRC Memorandum, No. 1052 (January 2000), **https://crcmich.org/PUBLICAT/2000s/2000/memo1052.pdf**. That memorandum summarizes the changes made by Public Act 123. Since 1999, subsequent legislation has made small changes to Michigan's property tax enforcement statutes, which can be found at MCL § 211 et seq. There have also been several state court decisions interpreting the statutes, including a recent case, *Rafaeli, LLC v Oakland County*, 505 Mich. 429 (2020), which impacts how local governments handle excess auction sale proceeds.

Get Inspired: Spotlight on Communities Championing Property Tax Enforcement Reform

The sections thus far were meant to educate and provide a better understanding of how to analyze local practices and assess the degree to which local practices, and state laws, allow for equity, effectiveness, and efficiency. This section is meant to inspire.

Baltimore, Maryland: A Patient Journey for Property Tax Reform

Baltimore is unique in that City and community leadership are incredibly knowledgeable of and open about the problems with the current tax sale system—and committed to working together to find solutions. For several years, advocates from legal services, housing nonprofits, and neighborhood-based organizations have recognized the harms of selling property tax debt on vacant properties and have successfully championed a local alternative: selling the property itself through the judicial *in rem* foreclosure process.

Determining the Challenge

Once a property is considered delinquent on property taxes and other municipal liens (such as housing and building code enforcement fines) and attempts by the City to collect this tax debt have proven unsuccessful, the amount of delinquency is auctioned for sale as a **tax certificate** to private buyers. Rationally, private buyers purchase certificates for select properties that will yield a profit, which means tax certificates for many low-value, vacant properties in distressed markets are not sold and instead end up cycling through the broken system again and again. Local governments are left with no legal rights to own, control, or manage these properties yet are still responsible to put out fires on the property or board its windows to ensure public safety.

Tax certificate: An instrument issued to the buyer at a tax sale that certifies the sale and entitles the purchaser to step into the local government's shoes, recover the amount paid for the certificate, plus any interest and applicable costs and fees, and, in many jurisdictions, to foreclose on the owner or other parties' interests in the property and either take title to or force a sale of the property. In many jurisdictions, the terms "tax certificate" and "tax lien" are used in similar ways.

With the support of local government and the Baltimore Tax Sale Working Group (a coalition of City agencies, and advocates from legal services, housing nonprofits, and neighborhood-based organizations), Community Progress analyzed the impacts of the sale of tax certificates. This analysis brought to light a conservative estimate of roughly 4,000 certificates for properties that were being cycled through the annual tax sale each year only to become further upside-down in value. Therefore, at any given time, there were a minimum of 4,000 properties in Baltimore where it was highly likely that the owners had walked away, but there was no private buyer willing to take on tax debt that exceeded the fair market value of those properties. These properties remained vacant while costs continued to accrue for local government and adjacent residents, given public safety as well as housing and building code enforcement needs.

The analysis also confirmed that private buyers were profiting from purchasing the most desirable tax sale certificates, a practice that left the City with only those tax sale certificates that continued to cycle through the system, demand costly public services, amass debt, and deter new responsible ownership.

Based on this analysis and findings, an immediate recommendation supported by local advocates was to stop the sale of tax certificates for vacant and abandoned properties only. This critical reform required a change in state legislation, so advocacy efforts shifted to key stakeholders in Annapolis, the state capitol of Maryland.

Solving the Challenge

The state legislature designated a task force to further study the issue and generated a report with a wide range of recommendations including tools to ensure vacant properties are put to productive use and adding protections to prevent the loss of property owned by vulnerable owners through a tax sale. A critical outcome of this work was the introduction of legislation in 2019 (Senate Bill 509), which would allow local taxing bodies the option to not sell tax certificates for vacant properties and instead enforce delinquency through the judicial *in rem* foreclosure process. In addition, unpaid water bills were removed from the tax sale and more protections were given to vulnerable homeowners. This was due in great part to the advocacy and dedication of the state task force and Baltimore advocates leveraging legal and non-legal expertise to craft an effective strategy for legislative reform.

In 2019, Senate Bill 509 was passed, allowing local jurisdictions the option to withhold tax certificates for vacant properties from the annual tax sale auction and utilize a more optimal approach, the judicial *in rem* foreclosure process, to enforce delinquent property taxes. To date, Baltimore has initiated a judicial *in rem* pilot program in which the City, in partnership with community stakeholders, strategically selects vacant properties that are underwater in value and have been cycled through the tax sale process. The tax certificates for these properties will not be sold. Instead, the new law will be utilized, allowing an efficient and effective transfer of property to a new responsible owner. This will also allow the creation of a pipeline of property to a potential land bank, which would address a concern of local government leaders regarding not wanting to own the properties on the back end.

Baltimore has the potential to be the best practice for not just Maryland but the entire country through continued collaboration and engagement of City and community leaders and implementation of available tools.

Elements for Success in Maryland

- Build and sustain a multi-sector coalition that includes governmental and nongovernmental stakeholders
- Use data to clearly communicate the financial loss and negative social impacts of maintaining the status quo
- When wholesale reform is not possible, look for incremental policy change
- Develop pilot programs to test and roll out new practices

Additional Resources

- *Assessment of Baltimore City's Tax Sale System: Impacts on City Finances, Vacant Properties, and Vulnerable Owner Occupants*, Center for Community Progress, 2016, **https://communityprogress.org/publications/assessment-of-baltimore-citys-tax-sale-system**.
- Joan Jacobson, *The Steep Price of Paying to Stay: Baltimore City's Tax Sale, the Risks to Vulnerable Homeowners, and Strategies to Improve the Process*, Abell Foundation, 2014, **https://abell.org/wp-content/uploads/2022/02/ec-taxsale1014.pdf**.
- "Report of the Task Force to Study Tax Sales in Maryland," Task Force to Study Tax Sales in Maryland, 2018, **https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/022600/022602/20180151e.pdf**.
- Senate Bill 509 (2019) **https://legiscan.com/MD/bill/SB509/2019**.

Poughkeepsie, New York: Putting Community First in Tax Reform

Poughkeepsie is the county seat of Duchess County, New York. It is located in the Hudson River Valley region, midway between the core of the New York metropolitan area and the state capital of Albany. Poughkeepsie chose to eliminate the sale of tax liens to private buyers thanks to committed political and community leadership and strong academic partners who were able to compellingly document the negative impacts of tax lien sales.

Determining the Challenge

In 2018, the Benjamin Center at State University of New York New Paltz examined the negative impacts of tax lien sales in Poughkeepsie and published a report documenting the findings. The analysis generated clear evidence that this practice was disproportionately affecting the city's communities of color and its poor and elderly residents. At the same time, the study revealed how profitable this practice is for private tax lien buyers. Tax lien buyers are entitled to 12 percent interest annually, but even bigger payouts were possible when the buyer could foreclose on the lien and quickly sell the property for market value. The report documents how one private buyer purchased a tax lien of $4,825 at the City's auction, foreclosed on it two years later, and sold the property for $115,000. The property was the long-time family home of an elderly widow who had fallen behind on taxes due to issues with dementia. Since this was one tragic example of the systemic harms caused by this practice, one of the report's key recommendations included stopping the sale of tax liens, adopting the judicial *in rem* foreclosure process, and evaluating the potential benefits of a land bank.

Local political leaders were interested in learning more and immediately invited the community to join them on this fact-finding mission. Two community forums were organized around the theme of recovering community equity, and included experts from the Benjamin Center, Community Progress, and the New York Land Bank Association. The first forum focused on tax lien sales and the second on land banks. Participants realized quickly that both topics needed to be addressed simultaneously, since a land bank receives the majority of its inventory through the tax foreclosure process. It was helpful for community members to learn that selling tax liens was the exception, not the norm, in New York, and how other communities in the state (and country) have effectively and successfully launched land banks to not only deal with vacant, tax-delinquent properties, but also advance broader community development goals, such as equity, inclusion, and resiliency.

As with many communities, there were differing opinions on tax lien sales, considering local government was dependent on this one-time cash infusion to support the general budget. However, some local leaders continued to emphasize the predatory nature of tax lien sales on communities of color and the resulting loss of generational equity. It was a thoughtful but challenging conversation about the nature of the delinquent property tax enforcement system: was it merely a financial system to generate revenue or a community development system to produce equitable outcomes?

After many community discussions and further financial analysis, it was estimated that the City would have an immediate $1.2 million dollar shortfall if they stopped the sale of tax liens. In the end, there was agreement that the intermediate and long-term benefits would more than make up for it, such as bringing the late fees and interest in-house, offering vulnerable homeowners payment plans and other supports to stay housed, cutting municipal costs for service calls to vacant properties, and, if needed, stewarding tax-foreclosed properties to more equitable outcomes that prioritized local needs and responsible ownership.

It was helpful for community members to learn that selling tax liens was the exception, not the norm, in New York.

Solving the Challenge

In December 2021, the City of Poughkeepsie passed a local ordinance to stop the sale of tax liens and switch to the judicial *in rem* foreclosure process. In anticipation of this change, and as part of this reform effort, the City and County partnered together to create the Duchess County-Poughkeepsie Land Bank (DCPOK) in 2020 to ensure they had an entity dedicated to stewarding tax-foreclosed properties to meet community needs. Due to the pandemic, the County and City have not had any tax auctions in the last two years, but the land bank is currently in discussion with both entities about receiving tax-foreclosed properties before they even go to auction, which the New York Land Bank Act allows. A $50 million competitive grant program in New York's 2022-2023 budget for the state's twenty-six land banks, including DCPOK, creates an opportunity to showcase how the City's comprehensive and complementary reform efforts can immediately deliver more equitable outcomes that benefit residents and neighborhoods.

Elements for Success in Poughkeepsie

- Bring community in on the front end when unpacking the issue
- Tell the story from a quantitative (cost of doing nothing) and qualitative (impacts on legacy residents and generational equity) perspective
- Continue to work with City administration to make the case and support the short-term trade-offs that need to be made
- Take the time to create materials that unpack the technical and legal details of the delinquent property tax enforcement process to ensure there is common understanding

Additional Resources

- Joshua Simons, *Going…Going…Gone: Tax Lien Auctions, Hidden Costs, and Missed Opportunities for the City of Poughkeepsie*, Benjamin Center at State University of New York New Paltz, 2018, **https://www.newpaltz.edu/media/the-benjamin-center/db_21_going_going_gone_tax_lien_auctions_hidden_costs_and_missed_opportunities_for_the_city_of_poughkeepsie.pdf**.
- Poughkeepsie LL-21-01, *Local Law Opting into the State Provisions for the Enforcement of Unpaid Taxes, Fees, and Assessments, and Repealing those Portions of the City's Administrative Code Providing for the Local Enforcement of Unpaid Taxes, Fees, and Assessments*, **https://communityprogress.org/wp-content/uploads/2022/09/Poughkeepsie-LL-21-01.pdf**.
- Center for Community Progress, testimony submitted to Poughkeepsie City Council in support of proposed Local Law 21-01, February 6, 2021, **https://communityprogress.org/wp-content/uploads/2022/09/210216_Community-Progress-Testimony-submitted-to-Poughkeepsie-City-Council-in-support-of-proposed-Local-Law-21-01_SUBMITTED.pdf**.

St. Louis County, Missouri: From Incremental to Comprehensive Reforms

In St. Louis County, Missouri, which includes the region's northern, inner ring suburbs, a diverse coalition of local leaders and organizations formed to explore creating a local land bank to address vacant and deteriorated properties. Recognizing the key role property tax enforcement would play in creating a successful land bank and addressing these challenges, the coalition expanded its work to include drafting statewide legislation to give all Missouri communities the option of using a judicial *in rem* foreclosure process and create a land bank.

Determining the Challenge

St. Louis City (a separate governmental entity from St. Louis County) and Kansas City, Missouri have been national leaders in reforming their property tax enforcement systems to address vacant properties, creating judicial *in rem* foreclosure systems and land banks in 1971 and 2012, respectively. But these reforms do not cover the rest of the state—including suburban St. Louis County, which still uses a tax lien sale system—nor do they allow other jurisdictions to create land banks.

The use of this antiquated delinquent property tax enforcement process in St. Louis County has exacerbated vacant property challenges, especially in the county's neighborhoods of color, and stymied neighborhood revitalization. Tax-delinquent, vacant, and abandoned properties that are unattractive to private buyers, such as those where the delinquent taxes exceed the value of the property, can linger in legal limbo for up to six years before the local government can gain control of the properties and transfer them to new uses. And even when a local government or private buyer can purchase such properties, they still need to go through the expensive and time-intensive process of clearing the title and paying off the back taxes, which discourages and delays investments and improvements in these properties.

In 2021, a diverse coalition of individuals and organizations from St. Louis County formed to explore new options, such as a land bank, to address the county's vacant property challenges. The coalition, which includes local CDCs, neighborhood associations, the board of Realtors, a housing advocacy nonprofit, legal aid, local elected and government officials, and the state representative who represents the areas of the county most affected by vacant properties, quickly realized that to create an effective land bank and ensure the county had all the tools necessary to address vacant properties, it would also have to explore potential reforms to its property tax lien sale process.

Solving the Challenge

The St. Louis County Land Bank Coalition began its work by making a deliberate investment in education. It spent about a year educating its own members and key community stakeholders about the problems with the current process and potential reform options through biweekly coalition meetings, community presentations, and one-on-one conversations. This process has not only helped it identify the reforms that would work best for the community but also helped it build local, and eventually, statewide support for potential reforms.

The coalition received technical assistance from Community Progress through its Land Bank Incubator Scholarship (LBIS) program. Community Progress served as a thought partner, highlighting best practices, and connecting the coalition to leaders across the country, and helped shape proposed reforms.

After connecting with other Missouri cities facing similar challenges, the coalition decided to draft legislation that would give all Missouri communities, not just St. Louis County, the opportunity to create land banks and use an improved tax foreclosure process. The legislation, which was introduced in the Missouri House in 2022, gives all Missouri counties the option of using an improved version of the judicial *in rem* tax foreclosure process already

Tax-delinquent, vacant, and abandoned properties that are unattractive to private buyers, can linger in legal limbo for up to six years before the local government can gain control of the properties and transfer them to new uses.

used in St. Louis and Jackson County (where Kansas City is located), on a parcel-by-parcel basis or for all tax-delinquent properties, and gives all Missouri cities and St. Louis County the option of creating a land bank.

The legislation would also create new funding mechanisms to support all land banks in the state of Missouri.

The coalition plans to reintroduce the legislation in the next legislative session, and continue its commitment to education by releasing a video to help legislators and key stakeholders from across the state understand the problem and how the legislation will ensure all Missouri communities—not just urban areas—have the tools they need to help move vacant properties to productive new uses that meet community needs.

Elements for Success in St. Louis County

- A diverse and inclusive coalition of champions anchored and coordinated by highly respected community organizations and leaders
- Shared commitment to a common goal but flexible and open to new solutions—an inquiry into land banks led to comprehensive reform proposals to the property tax system
- A deep commitment to education using a variety of tactics, platforms, and products

Additional Resources

- H.B. 2907, 101st Gen. Assembly, 2nd Regular Session (Mo. 2022), **https://house.mo.gov/Bill.aspx?bill=HB2907&year=2022&code=R**.
- "A New Idea for Addressing Vacant Properties: Why Creating a Land Bank Would be Good for St. Louis County," *This is Our House: Living in the 24:1* (blog), Beyond Housing, **https://our241.com/addressing-vacant-properties**.

West Virginia: A State Continuing to Fight a Legacy of Extractive Economy

The state of West Virginia is resilient despite a long history of poverty much due to the legacy of extractive economy, like the coal industry,[40] that historically prevented many residents from owning their own land and home through predatory land contracts and speculative land purchases. Through strong collaboration, delinquent property tax enforcement reform has opened the possibility to create a pipeline of properties for homeownership and generational wealth building for local benefit.

Over the years, some key nonprofit and academic institutions have launched and supported the Abandoned Properties Coalition (APC), a statewide coalition of community leaders and local elected officials that has worked to build a common understanding of the vacancy problem, identify appropriate solutions, and implement reforms and best practices in order “to build equitable, sustainable communities of hope and wholeness.” By crafting a narrative that works for West Virginia, and patiently building relationships across the state at all levels and across sectors, APC and allies have a series of wins, from statewide land bank legislation to comprehensive reforms to the State’s approach to delinquent property tax enforcement.

Determining the Challenge

APC quickly identified the sale of tax liens—a practice across the state—as a major contributor to the destabilization of neighborhoods and a barrier to reversing this trend. There was consensus among APC members that reforms to the tax system and the expansion of land banks in the state were needed in order to grant local governments greater control over addressing vacant, abandoned, and deteriorated properties. But there were those who benefited greatly from the tax lien sale that did not care to see the status quo disrupted and who exercised influence in the state’s politics.

APC understood this would be a patient and long journey to better solutions and focused on broad education. Initial messaging emphasized the safety benefits land banks could offer first responders during calls to abandoned structures by informing them of potential hazards. A legislative win in 2014 enabled local governments to create land banks in West Virginia with incremental reform bills in 2017 and 2020 that granted these entities a bit more power to more effectively intervene and disrupt the vacancy cycle.

During this time, APC had also applied to the Technical Assistance Scholarship Program (TASP) offered by Community Progress and requested help assessing the legal nuances of the delinquent property tax enforcement process and identifying a suite of reforms, with a strong focus on vacant properties. The final TASP report included the state’s first infographic on the entire property tax system, a unique educational resource that helped make this arcane, complicated process more accessible to the layperson. The report also included a menu of reform ideas and options that could make the system more equitable, effective, and efficient. This report become an important tool for APC members to use in a steady, persistent education campaign.

In 2021, APC found a great ally in the state auditor, whose office was ultimately in charge of the tax sale process, and the coalition’s campaign to reform the tax enforcement system gained immediate momentum. The auditor and their staff quickly realized the negative ways that the tax sale was contributing to vacant, abandoned, and deteriorated properties and partnered with APC to propose sweeping reforms, many of them informed by the TASP report.

The members of APC brought the messaging home to the state capitol and other audiences. They were patient, perseverant, and nimble in their approach, quickly changing directions if a specific policy recommendation was not moving. Their patient work, over years, finally paid off.

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[40] For more on the coal industry and the emergence of natural gas in West Virginia, see Ken Ward Jr., “The Coal Industry Extracted a Steep Price From West Virginia. Now Natural Gas Is Leading the State Down the Same Path,” *ProPublica*, April 27, 2018, **https://www.propublica.org/article/west-virginia-coal-industry-rise-of-natural-gas/amp.**

Solving the Challenge

The reform legislation passed in 2022 (Senate Bill 552) and represented a huge win. The reform bill included a number of smart provisions that will result in a more equitable, effective, and efficient delinquent property tax enforcement system. Specifically, the bill:

1. Increases the time between initial tax delinquency and the first tax lien sale, giving struggling property owners more time to pay their back taxes
2. Decreases the redemption period after the sale of a tax lien from eighteen months to three months to expedite the eventual transfer process to a new owner
3. Eliminates the second tax lien sale and creates a new entity, the West Virginia Land Stewardship Corporation (WVLSC), to receive those liens that received no bids at the first tax lien sale
4. Grants the WVLSC the authority to sell tax liens in its inventory at virtually any price and requires the auditor to prioritize residents and local governments in the disposition of such liens in this particular order:
    a. To a person vested with an ownership interest in an adjacent tract or parcel of land
    b. To the municipality in which the tract/lot is located
    c. To the county commission of the county in which the tract/lot is located
    d. To itself as part of its land bank program set forth in §31-21-11 et seq
    e. To any other party

While the reform bill represents a significant win, APC understands the work of education must continue to support and ensure effective implementation of such new practices and policies.

Elements for Success in West Virginia

- Use a statewide coalition and focus on relationship-building with local governments, nonprofits, and others across the state
- Get technical and expert support to unpack the process and develop policy recommendations
- Focus the messaging on public safety and health, and utilize key respected leaders such as firefighters, doctors who were also elected officials, and the state auditor's office
- Generate support from the key agency responsible for the tax sale process
- Use the same network and coalition to ensure implementation after the policy passed

Additional Resources

- *What Does the Sale of Property Tax Debt Mean for West Virginia Communities?* Center for Community Progress, **https://communityprogress.org/publications/what-does-the-sale-of-property-tax-debt-mean-for-west-virginia-communities**.
- Senate Bill 522 (2022), **http://www.wvlegislature.gov/Bill_Text_HTML/2022_SESSIONS/RS/bills/SB552%20SUB1%20ENR.pdf**.
- Abandoned Properties Coalition, **https://badbuildings.wvu.edu/abandoned-properties-coalition**.
- West Virginia Land Stewardship Corporation, **https://www.wvlsc.org**.
- West Virginia Community Development Hub, **https://wvhub.org**.

What Can be Done if Comprehensive Reform Seems Impossible?

All over the United States, Community Progress has helped local leaders, practitioners, and community advocates understand the harms most delinquent property tax enforcement processes impose. As the earlier examples demonstrate, there is a common thread of identifying the harms, quantifying them through data analysis, collaborating with community and local government leaders, telling compelling stories of residents, and communicating to a broader audience a clear and proven alternative.

Comprehensive reform is not easy. It is a long game demanding focus on and interest in a complicated and largely unseen process that is protected by many guardians of the status quo.

However, not all skeptics of comprehensive reform are operating in bad faith. Open, patient conversations with skeptics can uncover genuine concerns. For instance, the public servants charged with administering tax enforcement are primarily evaluated by tax collection rates—and their timely collection efforts are critical to financing the city services that maintain community health, safety, and vibrancy. Proposed changes to delinquent property tax enforcement that prioritize equitable outcomes and neighborhood revitalization goals can, at first, be perceived as threatening to a department with a one-dimensional performance metric calculated on a spreadsheet.

But our experience has shown that some of the most impressive reforms to delinquent property tax enforcement have been championed by forward-thinking tax collectors or treasurers who came to understand the harms caused by the status quo. Indeed, many local skeptics can be won over by compelling and patient educational and advocacy campaigns. As some of the previous success stories demonstrate, these efforts may take years, but with the right data, compelling stories, and narratives that connect reforms to addressing the harms of vacant properties, advancing racial equity and neighborhood stability, prioritizing local control and responsible ownership, and pursuing inclusive neighborhoods and a resilient community, nothing is ever impossible.

While advocates and champions build support for comprehensive reform, they should consider pitching and implementing incremental measures to build momentum. Many of these concepts have been implemented in states or communities, with bipartisan support, where leaders did not have the appetite for wholesale reform but understood the value of incremental adjustments.

Comprehensive reform is not easy. It is a long game demanding focus on and interest in a complicated and largely unseen process that is protected by many guardians of the status quo.

Incremental Reforms to Delinquent Property Tax Enforcement

Reforms that are limited to vacant properties

A vacant property is a powerful symbol that transcends politics, and it can be relatively easy to gather some data about how the delinquent property tax enforcement process is failing to resolve a notorious eyesore in one's community. If there is insufficient support to eliminate the sale of tax liens entirely, push instead for legislative reform that grants local governments the option to:

1. **End tax lien sales for vacant properties**. This allows a government to withhold from a public auction or sale the tax liens that are tied to vacant properties and pursue judicial *in rem* foreclosure, bringing the vacant property under local control so it no longer harms neighbors and neighborhoods.
2. **Expedite the time frame for vacant properties**. Prevent vacant properties from continuing to deteriorate by shortening the time frame from delinquency to foreclosure and creating an expedited foreclosure process.

These small reform measures tend to prove very successful, and in some cases, can help set the stage for bolder and more comprehensive reform efforts years later.

Reforms that are Fiscally Responsible and Market-Friendly

Even where there might be a strong culture in favor of individual property rights and limited government, local and state leaders have come together to pass fiscally responsible, market-friendly reforms, such as:

1. **Recapturing all the tax dollars expended to address the nuisances of an irresponsible owner**. Vacant properties drain local tax dollars, commanding a lot of code enforcement services and first-responder calls. Whether its mowing grass, boarding doors, responding to criminal activity, or removing trash and debris, local governments expend tax dollars trying to minimize the harms of a negligent owner of a vacant, deteriorated property. All of those costs (including administrative costs) should be recorded as a lien against the property and added as part of the minimum cost bidders must pay at an auction for either the tax debt or the tax deed. This reform ensures the local government can recoup its costs, and then direct these dollars to other public services that benefit the community. While many state statutes permit local governments to do this, not all do. This is a common-sense fiscal reform that protects local taxpayers.
2. **Eliminating the post-sale redemption period when selling the property**. Local governments often expend significant time and resources to move a tax-delinquent property through foreclosure and sale, at which point, depending on the state, the successful bidder may have to wait up to three years to take possession of the property because the owner is granted an additional, "post-sale" period of time to redeem. During this post-sale redemption period, the owner typically retains possession of the property. If the owner does redeem post-sale, all of the time and resources used to foreclose on and sell the property are effectively wasted, though owner does typically have to pay back costs associated with the process. This is an inefficient and frustrating process. For vacant property, it also may prevent a new, responsible owner from being able to go in and stabilize the property or make repairs. A small reform, in the name of efficiency and cost-savings, is to simply eliminate this post-sale redemption period when title to the property is transferred. There must still be sufficient attempts to inform the owner of the consequences of nonpayment and available circuit breakers for vulnerable owners, as well as a reasonable amount of time given for the owner to pay back the amount owed, however this time should happen *before* the tax sale. If the owner fails to redeem by a date certain, then the local government will expend the time and resources to move the property through foreclosure. Such a process also provides more certainty to bidders and allows the successful bidder at a tax sale to take possession of the property almost immediately.
3. **Reforming noticing provisions to ensure insurable title**. The US Supreme Court ruled in *Mennonite Board of Missions v. Adams*, 462 US 791 (1983) as to what constitutes proper noticing to property owners

who face property tax foreclosure. Unfortunately, many state statutes and local practices still don't meet this standard. The consequence is that properties that go through the foreclosure process end up with title that is uninsurable and unmarketable, also known as "cloudy title." Cloudy title will either deter potential responsible owners and private buyers altogether or force them to incur additional costs fixing the problem through a quiet title action. Small reforms developed in conjunction with local title insurance companies to improve the noticing procedures consistent with constitutional standards can be framed as market-friendly and cost-effective—and they ultimately help ensure vacant properties can be promptly returned to the tax rolls and transformed to assets that serve neighbors and neighborhoods.

Incremental Reforms to Other Systems

In addition to pursuing smaller, focused reforms to build momentum toward bold, comprehensive reforms that redesign delinquent property tax enforcement processes, local communities should look upstream and downstream of delinquent property tax enforcement for additional reform opportunities, particularly as it relates to vacant properties. Based on our experiences, housing and building code enforcement systems and land banks must be leveraged at the same time and utilized to equitably and effectively address vacant, abandoned, and deteriorated properties.

Code Enforcement: Elevating Code Enforcement and Abatement Liens to Ensure Cost Recovery or Transfer of Property to New Owner

In places where the timing is wrong for legislative action on property tax reform, and where property tax rates may be very low and therefore not the primary cause of vacancy and disinvestment, consider focusing on housing and building code enforcement. In Mobile, Alabama, for example, changes to state and local laws allowed housing and building code enforcement or abatement liens to take priority over all other liens against the property, except for property taxes, and be added to the tax bill.[41]

Working with the local treasurer or tax collector to add unpaid code enforcement or abatement costs to the property tax bill is generally the most effective way to ensure the owner will pay back the public costs to avoid losing the property. If the code liens are not paid, then the local jurisdiction is able to foreclose on those liens to acquire vacant property and transfer it to a new, responsible owner. In the absence of compliance—which is the ultimate goal of any code enforcement strategy—this is a fiscally-responsible measure that minimizes the harms to neighbors and neighborhoods.

Land Banks: Creating a Land Bank to be the Temporary and Responsible Public Steward of Tax-Foreclosed Properties

Some local governments might have access to relatively decent delinquent property tax enforcement processes, as permitted by state laws. However, they still might end up with less-than-optimal outcomes at the end of the property tax foreclosure due to a lack of responsible party to immediately acquire the property and/or act as temporary steward with the goal of ultimately transferring the properties to a long-term, responsible owner. In many communities, land banks serve this role and have been the driving factors of many successful delinquent property tax reform efforts across the country.

For instance, many communities have an inventory of tax-delinquent properties that receive no bids at auction. Some governments choose to cycle these unwanted, vacant properties through the tax sale year after year, all the while responding to calls from residents complaining about trash, overgrown weeds, criminal activity, and other

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[41] Frank S. Alexander, *Alternative Strategies for an Equitable, Efficient, and Effective Code Enforcement System in Mobile, Alabama*, (Community Progress, 2016), **https://communityprogress.org/publications/alternative-strategies-for-an-equitable-efficient-and-effective-code-enforcement-system-in-mobile-alabama**.

nuisances. This dynamic can be particularly problematic when the County is responsible for tax enforcement, but the local government incurs the cost of dealing with the nuisances of a chronically tax-delinquent property with no market value and causing great harm to the community. In this instance, and without any changes to the property tax system, a local government could decide to take a more intentional approach and explore the need for a land bank or land banking program to serve as a "safety net" to catch the vacant, deteriorated properties that fall through the tax foreclosure process without any private bids. In essence, the local government acknowledges that it has a role and responsibility to be proactive in addressing vacant properties that, if left unattended or sold to irresponsible owners, will continue to harm residents until the structures inevitably collapse or require emergency demolition.

When a public auction is the only path to disposition	When a land bank steps in to acquire and control a disposition
Results in sale to the highest bidder	Results in sale best aligned with community goals
No flexibility on sales price	Can flexibly set price to reduce purchaser's cost
Cannot select community-aligned purchaser	Can select specific community-aligned purchaser
Cannot select community-driven end use	Can select community-aligned end use
May not have insurable title	Can extinguish liens and clear title

More About... Land Banks

Land banks and land banking programs have emerged in the United States over the past forty years, with over 250 in operation across the country to date, to address tax-foreclosed vacant properties. Many land banks emerged as a result of the Great Recession and mortgage foreclosure crisis.

Land banks are public entities created pursuant to state-enabling legislation. State-enabling legislation grants a land bank special powers such that a land bank can intervene in the tax and lien enforcement process to acquire tax-delinquent property for substantially less than the amounts due on the property, extinguish past liens, and hold property in a tax-exempt status until it is sold. These laws allow land banks to market and convey properties more flexibly than local governments, prioritizing best outcome over highest offer.

Land banks are one of several tools in a larger system that impacts the life cycle of vacancy and abandonment in any given community. The primary source of inventory for most land banks is property tax foreclosure, which provides comfort to many local governments who have no interest in owning and managing real estate. Land banks typically focus on a subset of vacant properties that (1) have been altogether rejected by the private market given various legal and financial barriers, and (2) are causing the most harm to a community—creating public safety hazards, driving down property values, and draining local tax dollars.

It is important to distinguish land banks from land banking programs. Land banking programs may be operated by governmental or nonprofit entities and focus on acquiring, holding, and selling properties. However, since land banking programs are not created pursuant to state-enabling legislation, these programs do not have the special powers of a land bank, which may limit some of their utility.

Another benefit of state-enabling legislation is that it provides strategic links to the property tax collection and foreclosure process and grants land banks specific powers to intervene in the tax collection pipeline cost-effectively, efficiently, and ahead of speculators or private buyers. The assignment of tax certificates and liens and the public auction of tax-foreclosed properties may generate positive outcomes for marketable properties in strong housing markets, however, these approaches rarely, if ever, lead to positive outcomes for vacant properties in disinvested neighborhoods.

Many of the most effective land banks around the country have special powers granted by state enabling legislation that allows them to undertake their work more equitably, effectively, and efficiently than other governmental or nonprofit entities.

For more information on land banks, visit **https://communityprogress.org/resources/land-banks/**.

Land Bank Spotlight: Evansville, Indiana

In Evansville, Indiana, City leaders formed a municipal land bank pursuant to the state's 2016 Land Bank Act. They entered into an agreement with Vanderburgh County, which gave it the option to acquire any tax-delinquent properties not sold at the first auction for a nominal cost. In essence, the City was tired of seeing these properties (about 50 percent of all properties offered for first auction receive no bid) cycle through the County's tax lien sale or end up in the hands of speculators or slumlords at the second auction sale, where—by law—the properties could be offered for less than the tax debt owed. The Evansville Land Bank acquires about 100 properties a year through this partnership and has set a model of excellence in Indiana, demonstrating how the public sector, thoughtfully and proactively working for the common good, can outperform the private market when it comes to vacant properties. Some of the key elements or results of the work include:

- Strong political leadership and partnerships, united around common goal
- Commitment by City of $1 million annually to the land bank
- Through 2016-18, the land bank completed 249 demolitions and sold 320 parcels (half through the Side Lot Program to adjacent property owners)
- The land bank partnered with local affordable housing developers to support new construction, bringing in significant state and federal grant funds to increase supply of safe, affordable housing
- The land bank partnered with fire and police departments for training exercises on properties slated for demolition

Land Bank Spotlight: Augusta, Georgia

Transparency and communication are critical for successful partnerships between land banks and county treasurers or tax commissioners. In Georgia, land banks can receive property via the delinquent property tax enforcement process by (1) requesting certain properties be made available at a judicial sale and then bid on the properties, or (2) having the tax commissioner or tax collector can assign, transfer, or sell to a land bank the delinquent tax liens for a property and then the land bank forecloses on the property using judicial *in rem* foreclosure if property taxes remain unpaid.

Though the Augusta, Georgia Land Bank Authority had acquired properties through tax foreclosure, one of the key challenges identified in early conversations between the Augusta-Richmond County tax commissioner and land bank leadership was a lack of knowledge among prospective buyers on: (1) how to acquire properties through the land bank and the tax sale process, and (2) what resources were available to help foster reinvestment in those properties.

Both entities agreed to partner to organize the Land Development Conference, an annual event that brings together representatives and speakers from key government agencies and authorities and serves as a one-stop-shop for everything one might need to know about investing in the rising Augusta market. Over the years this conference has grown, and private investment has increased throughout Augusta, redeveloping tax-foreclosed properties into quality, affordable rental and homeownership options.

Conclusion

While the solutions to challenges that many communities are facing across the country are varied, there is no question the local administration of the property tax system, and delinquent property tax enforcement specifically, can actually play a role in increasing housing security, increasing production of affordable housing, prioritizing local control and ownership, and centering racial equity. The annual pipeline of properties that slide into the enforcement process represent not liabilities but assets. Our hope is that this publication equips and inspires local practitioners, residents, elected officials, and community leaders to reimagine this process. The delinquent property tax enforcement process is not just a financial collection mechanism, but a community development tool. Property is one of a community's greatest assets, thus the pipeline of vacant properties through tax foreclosure is an annual stream of possibilities to advance equity, inclusion, local control, and resiliency.

Change is hard but certainly not impossible. Reforming delinquent property tax enforcement processes alone will not solve every problem in a community, but fixing broken systems and breaking down silos between local government and the residents they serve will ensure a more comprehensive, inclusive, and sustainable approach to some of the greatest challenges facing American communities.

> **The delinquent property tax enforcement process is not just a financial collection mechanism, but a community development tool.**

Appendix A: Gathering and Using Data to Make the Case for Change

Understanding the Status Quo: Gathering the Data

As the case studies in this publication demonstrate, data is a powerful tool in assessing any property tax system, particularly when focusing on three factors:

- People – preventing displacement and loss of generational wealth and equity
- Property – monitoring and reducing vacancy and disinvestment, and
- Revenue – maximizing tax collection for public services.

The property tax system is complex, so it can be exceedingly difficult to drum up public passion needed for policy reform. Compelling data can rapidly inspire public support and be an effective tool in the fight against the variety of interests tied to ensuring the status quo.

The list below, taken from an analysis of Baltimore's sale of tax certificates,[42] provides an idea of initial datasets to gather in order to help you better understand the scale, nature, and trends related to property taxation, collection, and enforcement. Since each community's laws are different, you will need to tailor this list to the property tax system in your community. However, this list can kick off discussions with your local tax collector and other elected officials in better understanding the status of your local tax system and what reforms may be needed.

Finally, given the history of exploitation of communities of color, it would be ideal to look at this data broken down by race and ethnicity, and also by income level to support other equity goals. However, since parcel-level data on race, ethnicity and income is not typically available, consider looking at socioeconomic data at the block group or census tract level, and overlaying that with data on the property tax system, like concentrations of tax delinquency. For more on ways to examine neighborhood level data, see *Neighborhoods by Numbers: An Introduction to Finding and Using Small Area Data*.[43]

Baseline

- Total parcels
- Total taxable parcels
- Number of vacant parcels (structure or no structure, which we term "vacant lot/land")
- Condition of vacant parcels

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[42] *Assessment of Baltimore City's Tax Sale System: Impacts on City Finances, Vacant Properties, and Vulnerable Owner Occupants*, (Center for Community Progress, 2016), **https://communityprogress.org/publications/assessment-of-baltimore-citys-tax-sale-system**.

[43] Alan Mallach, *Neighborhoods by Numbers: An Introduction to FInding and Using Small Area Data*, (Center for Community Progress, 2016), **https://communityprogress.org/publications/neighborhoods-by-numbers/**.

- Percentage of taxable parcels that are vacant
- Status of occupancy (vacant, owner-occupied, and non-owner occupied by location or number of parcels)
- Percentage of taxable parcels that are owner-occupied

Tax Collection (where the property is sold)

- Percent, number of (total, vacant, owner-occupied) parcels and dollar amount that have all taxes paid prior to the end of the first year of delinquency, second year of delinquency, and third year of delinquency
- The number of (total, vacant, owner-occupied) parcels each year that have tax foreclosure proceedings initiated
- Number of (total, vacant, owner-occupied) properties that are taken to the tax auction for the last few years and the corresponding number of properties that do not receive a bid, if any
- Percentage and number of (total, vacant, owner-occupied) parcels that re-entered delinquency after exiting through sale or redemption

Tax Collection (where the debt, or lien, is sold)

- Percent, number of (total, vacant, owner-occupied), and dollar amount of tax liens offered for sale over last three years, how many sold and dollar amount
    - Percent, number, and dollar amount of vacant taxable parcels offered at tax lien sale over last three years, how many sold and dollar amount
    - Percent, number, and dollar amount of owner-occupied taxable parcels offered at tax lien sale over last three years, how many sold and dollar amount
- Percent, number, and dollar amount of liens sold that were redeemed and those that were foreclosed
- Percentage and number of (total, vacant, owner-occupied) parcels that re-entered delinquency after exiting through sale or redemption

Making the Case for Change: Analyzing the Data

The above list can appear daunting, and at times, those who guard the status quo may respond that such data is not available or that it may be onerous to pull together such data. However, our experience has shown that most data points—and at least the baseline data points—are almost always readily available.

Below are three examples that illustrate the data gathering and analysis phases need not be massive undertakings. We encourage those interested in engaging local officials to consider even using these as examples for the kind of information that could be helpful and relevant.

Example 1: Gary, Indiana

The City of Gary partnered with Community Progress to carry out a general assessment of their code enforcement practices. There was anecdotal evidence that housing and building code enforcement officers

Table 2

Results of Lake County Tax Lien Sales, from 2009 – 2014, as provided by SRI Incorporated, the private firm that handles nearly all tax sales in the state of Indiana.

YEAR	Parcels Certified for Auction	Parcels Paid Prior to Auction	Parcels Offered at Sale	Parcels Sold at Sale	Parcels Not Sold	Percent Not Sold
2014	21,606	2,896	15,926	630	15,296	**96%**
2013	7,338	2,087	4,484	1,356	3,129	**70%**
2012	19,950	3,826	14,980	852	14,128	**94%**
2011	15,229	1,417	13,284	458	12,826	**97%**
2010	18,178	1,835	13,000	510	12,490	**96%**
2009	11,034	977	8,474	204	8,270	**98%**

were expending a significant amount of time citing owners of properties that never responded. In an effort to differentiate between negligent owners and those that had long abandoned their property, Community Progress requested outcomes from five years of tax lien sales in Lake County. A private firm, SRI Incorporated, manages and administers the process through a contract with Lake County, and quickly provided the data. While project stakeholders expected to hear that a significant inventory received no bids, they were shocked to discover that approximately 95 percent received no bids each year. Digging deeper into the data, we identified parcels that were chronically tax-delinquent (five years or more), mapped this inventory, and defined this as the City's abandoned inventory. Clearly, the property tax enforcement process was not working to transition these abandoned properties to new owners, and the City and County had to brainstorm and implement new approaches to address this sizable inventory of significantly distressed properties.

To read the full report: **https://communityprogress.org/publications/building-a-strategic-data-driven-code-enforcement-program-for-gary-indiana**.

Example 2. Ogdensburg, New York

A small community in northern New York, Ogdensburg requested help from Community Progress to conduct a general assessment of all their policies and practices as it relates to vacant, abandoned, and deteriorated properties. The City had long engaged in the sale of tax liens, and the finance director—who acknowledged this approach had disadvantages—was very helpful in gathering data to help assess the outcomes and trends of this approach. The data revealed some trends: more and more tax liens were defaulting to the City because of the absence of any private bids and thus the amount of debt collected through the tax lien sale was declining. Moreover, the City was losing control over some key, distressed properties that could have been part of block-wide revitalization strategies. The data helped advance conversations and build consensus on ending the sale of tax liens, shifting to a judicial *in rem* foreclosure process, and creating a municipal land bank to responsibly steward tax-foreclosed properties back to productive use in a predictable manner that aligns with community priorities.

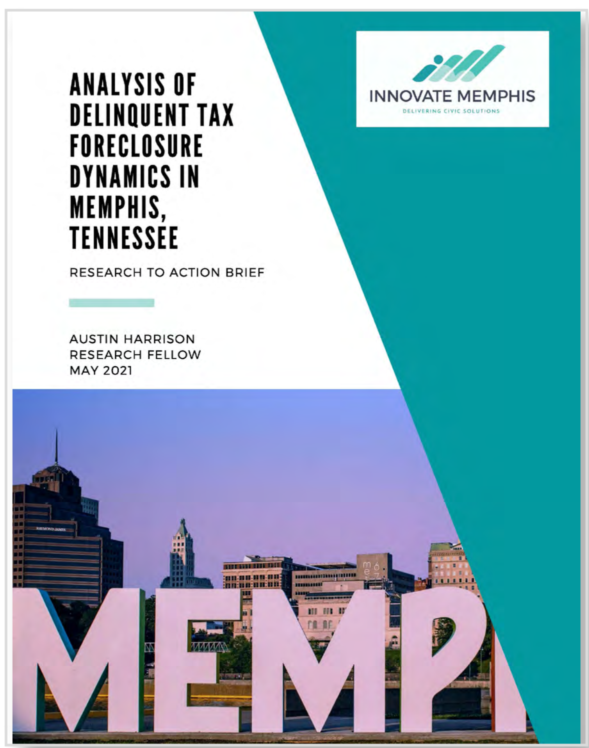
To read full report: **https://communityprogress.org/publications/preliminary-assessment-of-vacancy-and-abandonment-challenges-in-ogdensburg-new-york**.

Tax Sale Comparison	Year 2018 Tax Sale for unpaid 2017 taxes		Year 2017 Tax Sale for unpaid 2016 taxes		Year 2016 Tax Sale for unpaid 2015 taxes	
	# Properties	$ Amount	# Properties	$ Amount	# Properties	$ Amount
Unpaid taxes on day of the sale	273	711,068.69	286	670,865.59	273	733,746.05
Withheld from sale:						
Bankruptcies	2	4,102.79	3	47,437.98	3	7,940.24
City Owned	36	43,417.00	29	17,250.11	26	186,749.14
City Interest	6	69,699.26	17	42,452.97	17	52,898.11
Total withheld from sale	44	117,219.05	49	107,141.06	46	247,587.49
Offered at lien sale	229	593,849.64	237	563,724.53	227	486,158.56
Paid by bidders (see detail)	108	375,858.77	145	420,318.50	163	415,373.35
Default bid by City	121	217,990.87	92	143,406.03	64	70,785.21
Summary						
Taxes paid at Sale	108	375,858.77	145	420,318.50	163	415,373.35
Taxes unpaid at conclusion of Sale	165	335,209.92	141	250,547.09	110	318,372.70
	273	711,068.69	286	670,865.59	273	733,746.05

Example 3. Memphis, Tennessee

The Blight Authority of Memphis (BAM) requested assistance from Community Progress to help develop a three-year action plan for the land bank. Community Progress saw value in partnering with Innovate Memphis, a dynamic nonprofit that focuses on delivering civic solutions with a strong focus on data-driven learning and decision-making. Some local leaders questioned why a land bank was needed, since they alleged the approach to delinquent property tax enforcement was working well. The project team put this question to the test using publicly available data, and the findings were eye-opening. Most importantly, 73 percent of properties offered for sale at the tax auction received no private bids and defaulted to the Shelby County Land Bank. A short but powerful policy brief published by Innovate Memphis helped build a common understanding that the status quo was not working, better outcomes were possible, and BAM—with unique powers granted by the state's land bank legislation—could play an important role in partnership with City and County officials to steward vacant, tax-foreclosed properties in support of more equitable outcomes that benefit neighbors and neighborhoods.

To download the three-page policy brief:
https://innovatememphis.com/tax-sale-research-brief-highlights-systemic-challenges-and-opportunities.



Appendix B: Glossary

Appraised value: The value a property is expected to sell for on the private market as determined by a property appraiser.

Assessed value: The value of a property that is subject to property taxation; it is usually some fraction (set in state law) of the value for which property is expected to sell on the private market.

Circuit breaker: An exemption, deduction, credit, or some other kind of tax relief tool that lowers the property tax bill or burden on a vulnerable owner where the level of relief is dependent on the owner's income; generally enabled by state statute.[44]

Credit: A property tax relief tool that either reduces the property tax bill,[45] or, more commonly, allows certain homeowners or renters to deduct some portion or all of the amount of property taxes paid by the owner—or the portion of property taxes assumed to have been paid by a renter—on their income taxes.

Deduction: Reduction in taxable value used to determine property tax bill.

Delinquent property tax enforcement: The process whereby government seeks the repayment of unpaid property tax. Depending on state statute, the delinquent property tax enforcement process concludes when (1) the taxpayer fully repays their tax debt, or (2) a tax foreclosure action is completed.

Delinquent taxes: Property taxes that are unpaid after the payment due date, which is usually determined by state law.

Exemption: A property tax relief tool that lowers the property tax bill by reducing either the assessed value of the property or the total millage rate (aka the tax rate) applied to the assessed/taxable value; generally granted by state law to certain owners or types of properties. One example of this is often referred to as a "homestead exemption" which provides tax relief specifically for owner-occupants (i.e., where the property is the owner's principal residence).

First-priority lien: A lien that takes priority over most other interests in or liens against a property, except for certain federal liens (e.g., IRS) and covenants and easements that run with the land. If the property is sold, a first-priority lien holder is paid from the proceeds before all other parties.

Foreclosure: A legal process that terminates an owner's and others' interests in a property, instituted by a party with a lien or other security interest in the property to either force the sale of the property or to take title to the property to satisfy an unpaid debt secured by the property.

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44 For more information on circuit breakers, see John H. Bowman, Daphne A. Kenyon, Adam Langley, and Bethany P. Paquin, *Property Tax Circuit Breakers: Fair and Cost-Effective Relief for Taxpayers*, (Lincoln Institute of Land Policy, 2009), **https://www.lincolninst.edu/sites/default/files/pubfiles/property-tax-circuit-breakers-full_0.pdf**.

45 For example, Baltimore County, Maryland offers a Homestead Property Tax Credit. More information on this credit is available at "Homestead Property Tax Credit," Baltimore County Government, accessed August 17, 2022, **https://www.baltimorecountymd.gov/departments/budfin/taxpayerservices/taxcredits/homestead.html**.

Heirs' property: Property that has been passed down to one or more family members, or heirs, upon the death of the owner without a will or other legal documents proving ownership, sometimes also referred to as "family property."[46]

Insurable title: Title that a title insurance company is willing to insure with no, or minimal, exceptions to the title insurance policy coverage. If title is not insurable, the pool of interested and capable purchasers shrinks considerably given the purchaser will have little chance of securing financing to purchase or repair the property without seeking additional court action to clear title defects.

Judicial foreclosure: A foreclosure action that is filed in court which results in either a court-ordered public sale of the property, or the transfer of the property to the foreclosing entity (also called strict foreclosure).

Judicial in rem foreclosure: When properly designed, an optimal mechanism to foreclose on the tax lien focused on imposing liability against the tax-delinquent property, not the owner, with judicial oversight, and which requires the foreclosing party to provide sufficient, mailed notice to the owner and other interested parties that meets the minimum standards for due process required by the US and state constitutions, and results in a sale or transfer of the property that gives the new owner insurable title.

Land bank: A public entity created pursuant to state enabling legislation which confers unique powers to them, such as the ability to acquire tax-foreclosed properties cost-effectively, clear title, hold property tax-exempt, sell properties flexibly, and generate revenue.

Land banking program: A program that may be operated by governmental or nonprofit entity and focuses on acquiring, holding, and selling properties. However, since land banking programs are not created pursuant to state-enabling legislation, these programs do not have the special powers of a land bank, which may limit some of their utility.[47]

Lien: A creditor's legal right or interest in another's property.

Mennonite notice: Considered to be the gold standard of noticing in property tax foreclosure actions, Mennonite notice refers to a noticing method that follows the standard outlined by the US Supreme Court in Mennonite Board of Missions v. Adams, 462 US 791 (1983).[48] It requires sending notice of an impending tax foreclosure via mail or personal service to any party that may have an ownership claim to the property subject to foreclosure. If a property tax foreclosure occurs via a process that does not use the Mennonite standard of notice, the future owner will generally be required to complete a quiet title action since the noticing in the foreclosure process may be considered less than adequate, opening up the possibility that the foreclosed owner could say, after the foreclosure, that their right to due process (guaranteed by the 14th Amendment) was violated, thereby invalidating the foreclosure action and transfer of title.

Millage rate: Tax applied to real property where each mill represents $1 of tax per $1,000 of the property's assessed value. Also called the "tax rate."

Non-judicial foreclosure: A foreclosure action that is not filed in court and that results in the property being sold at public auction in accordance with a state statute.

Notice: Informing a party of an impending action that will affect their rights. How notice is provided will depend the type of action that will occur and, accordingly, the method then required by the US Constitution or state statute

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46 For more information about heirs' property, see Surekha Carpenter and Sonya Ravindranath Waddell, "Whose Land Is It? Heirs' Property and Its Role in Generational Land Retention," Federal Reserve Bank of Richmond, October 14, 2021, **https://www.richmondfed.org/research/regional_economy/regional_matters/2021/rm_10_14_21_property**. Also see Gaither, "Heirs' Property."

47 For more information about land banks and land banking, see "Land Banks," Center for Community Progress, accessed August 17, 2022, **https://communityprogress.org/resources/land-banks**.

48 If a property tax foreclosure occurs via a process that does not use Mennonite notice, the future owner will generally need to complete a quiet title action since the noticing in the foreclosure process may be considered less than adequate, opening up the possibility that the foreclosed owner could say, after the foreclosure, that their right to due process (guaranteed by the 14th Amendment) was violated, thereby invalidating the foreclosure action and transfer of title. For greater discussion on Mennonite notice, see Frank S. Alexander, "Tax Liens, Tax Sales, and Due Process," *Indiana Law Journal* 75, Issue 3 (Summer 2000), **https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2148&context=ilj**.

(e.g., it could take the form of posting a letter on a property, posting a notice in a public place, putting the notice in a newspaper, sending a party a letter through first-class mail, or physically handing a person a letter through “personal service.”) In general, the more serious the impending action, the more intense the noticing requirement will be.

Property tax: A tax levied on the owner of property, usually based on the property’s value.

Property tax system: The system of processes encompassing the valuation of real property, assessment of taxes, issuance of property tax bills, collection of property tax due, and enforcement of delinquent property taxes.

Quiet title action: When there are multiple parties who may have a claim to a potential stake in a property’s ownership, due to a lien being placed on a property or a question as to how title has transferred from one party to another, that can be referred to a “cloud” or a “defect” on the title. Essentially it means there is a question as to who the owner is. These questions of ownership can be eliminated through a “quiet title action” which is a court process whereby which a judge hears from all parties who may have a claim to ownership and determines the ownership interests in the property.

Real property: Land and permanent improvements to land, like buildings.

Redemption period: Time period during which the taxpayer can repay the property tax, interest, penalties, and any associated costs and fees due and regain their ownership of the property. The length of the redemption period and the point at which the redemption period begins (i.e., before or after the foreclosure action) is determined by state statute.

Right of first refusal: The ability for a public entity, like a local government or a land bank, to purchase a tax lien, tax sale certificate, tax deed, or deed (depending on state statute) before it goes up for public auction. This critical tool enables public entities to ensure tax-foreclosed properties are used in a manner that aligns with community goals.

State statute: Law that governs actions throughout a state.

Tax certificate: An instrument issued to the buyer at a tax sale that certifies the sale and entitles the purchaser to step into the local government’s shoes, recover the amount paid for the certificate, plus any interest and applicable costs and fees, and, in many jurisdictions, to foreclose on the owner or other parties’ interests in the property and either take title to or force a sale of the property. In many jurisdictions, the terms “tax certificate” and “tax lien” are used in similar ways.

Tax deed: A deed showing the transfer of title to real property sold for the nonpayment of taxes. The quality of title acquired via tax deed—meaning whether a title company is willing to provide title insurance—depends on whether the process used to transfer title (e.g., foreclosure) provides adequate notice.

Tax foreclosure or tax lien foreclosure: A process—either conducted in court or through a non-judicial process—by which an owner and other interested parties’ rights to real property are extinguished and the property is sold or transferred to a new owner to satisfy the amount of unpaid taxes, including interest, penalties, and related costs and fees.

Tax lien: A lien imposed by law on a property to secure the payment of taxes.

Tax sale: An auction administered administratively (“non-judicial”) or through the courts (“judicial”) to sell the property tax lien, tax sale certificate, tax deed, or deed (depending on state statute).

Taxable value: The value of a property that is ultimately subject to property taxation. In many cases, “taxable value” and “assessed value” are the same. Many state laws reduce the assessed value of a property for certain types of owners (e.g., homeowners, seniors) or properties. This reduced value is the “taxable value.”

Title: The legal right to property ownership. By taking title to a property, you are assuming the bundle of rights and responsibilities that come with property ownership. Title is transferred from one person to another via a document called a “deed.”

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