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Dallas residents find property tax loans a fast track to foreclosure

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By KEVIN KRAUSE / The Dallas Morning News
kkrause@dallasnews.com

Life didn't give Presley Sauls much.

But what simple pleasures the retired steelworker got out of it – family barbecues, grandkids – were mostly enjoyed out of his small Oak Cliff house.

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ELIZABETH M. CLAFFEY/DMN
In February 2005, Anthony and Luedesta Scott borrowed nearly $11,000 to pay off $7,796 in property taxes they owned on their house near Fair Park. Seven months later, their tax lender foreclosed and sold the house.

Its mortgage paid off, the $36,000 house served as home base for the family's comings and goings for nearly 20 years. But Mr. Sauls lost it a little more than a year after taking out a property tax loan.

The loan company that seized his home is part of an industry that specializes in offering high-interest loans to mostly poor homeowners who owe delinquent taxes. Such companies can be quick to foreclose when their customers miss payments.

The Saulses and others like them are an unknown statistic in Texas – hard-luck cases lost in the exuberance of the housing boom and overshadowed by the subprime mortgage meltdown.

The poor are among the hardest hit. Some have lost their homesteads over tax loans as small as $4,000. But owners of more expensive homes also have fallen victim, including a Dallas mortgage broker.

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Mr. Sauls, who died in December at age 71, had owed several years of property taxes, but the county never took action to collect. After taking out the tax loan, he fell behind in his payments and the lender foreclosed, auctioning off his home in late 2006 for about a third of its value on tax rolls.

The tax loan company "told him his house was in jeopardy of being taken. That's why he took out the loan," said his daughter, Rebecca Caldwell, who grew up in the house.

The owner of Gonzalez Financial Holdings, the San Antonio company that foreclosed on the Saulses, said he had no choice because the couple defaulted on the loan.

Tax loan companies like his offer loans with interest rates as high as 18 percent to homeowners to pay their delinquent taxes. The companies are assigned the tax liens, which trump mortgage liens. That allows them to foreclose much quicker and easier than counties and cities. Companies can foreclosure after just one missed payment and the entire process can take about a month.

Texas' property tax lending industry is relatively young, although the laws making it possible date back to the mid-1990s.

Consumer advocates say the business appears to be unique to Texas. In most other states, municipalities bundle and sell property tax liens to investors, who then can collect the taxes and foreclose if necessary.

The industry has exploded in Texas in recent years. It was largely unregulated until last year when lawmakers finally passed new laws that capped loan fees, required tax lenders to be licensed and added some consumer protections.

But low-income housing advocates say the reforms didn't go far enough and that tougher laws are needed to prevent people from losing their houses. They warn homeowners to steer clear of the tax loans if their 2007 property taxes became delinquent on Feb. 1.

Tax lenders say they are the best option for those in a bad financial situation. They say they've helped people hold on to their homes when foreclosure was inevitable.

At the root of the problem is some people get mortgages without paying monthly into an escrow account to help pay for year-end property taxes – a departure from a typical mortgage requirement. When a large, lump-sum tax payment comes due suddenly, some cannot afford it.

Housing advocates say that's when homeowners should try to work out a payment plan with their mortgage company or with the county taxing agencies if their mortgage is paid off.

But tax lenders say their loan terms are more flexible, allowing smaller payments over a three- to 10-year period. They say homeowners cannot afford to pay under short-term repayment plans offered by most taxing units and mortgage companies.

Robert Doggett, an attorney for Texas Rio Grande Legal Aid, a nonprofit that provides free legal aid to the indigent, has pushed for more consumer protections in laws governing tax loans.

He and other critics say many of the companies are predatory lenders that use misleading scare tactics to market their product. The companies, they say, prey upon the vulnerable who have fallen on hard times and don't understand how easily they can lose their home.

"A lot of people will become scared and take out a loan and lose their homes to these folks," Mr. Doggett said. "They want to get you sucked in and never get out. They want you to have to continue to use them year after year until they get the house."

Better options, he said, are setting up an escrow account or paying by credit card.

Three tax loan companies formed an association in 2006 to upgrade industry standards and create a code of conduct. It now has 11 member companies.

Mary Doggett, a lawyer for the Texas Property Tax Lenders Association (no relation to Mr. Doggett), said tax loan firms' interest rates and closing costs are much lower than the penalties and interest charged by county taxing entities for delinquent taxes, which can reach as high as 45 percent after one year.

Ms. Doggett said they help counties collect delinquent taxes a lot more quickly, which provides needed revenue for cities, counties and schools. The companies return about $75 million each year to tax rolls across the state, according to industry estimates

Most tax loan borrowers, she said, are in financial trouble. Paying with a credit card is not an option for some because they have bad credit, she said.

"Most people ... need a bridge to get them through their financial distress," she said. "Many times, a property tax loan is the only option for them."

Urgent notices

There is no independent data on the number of property tax loan foreclosures in Texas.

Ms. Doggett said the foreclosure rate of companies in the association is less than 1 percent.

Mr. Doggett doubts the industry's statistics and said the default rate likely is much higher. Homeowners who receive letters from tax lenders threatening foreclosure may be pushed into selling their homes, he said.

"I wish they never existed. For the four people they helped, they've hurt 400 others," he said of tax loan firms.

Don Baylor of the Austin-based nonprofit Center for Public Policy Priorities, an advocate for low-income Texans, said tax lenders have more incentive to foreclose than county taxing entities.

Dallas County deed records tell the stories of some people who lost their longtime homesteads over a relatively small amount of money.

Like others, Mr. Sauls received a mailer from a company that warned him the county could take his home because of his delinquent taxes.

Tax loan companies buy delinquent tax rolls from county tax offices to look for potential customers.

Mr. Sauls owed about $6,000 in taxes dating back to 1995. He took out a loan from Gonzalez Financial Holdings, which paid his taxes. When Mr. Sauls fell behind in his payments, the company sold his house in November 2006 to the highest bidder at the county courthouse.

Mr. Sauls didn't realize Dallas County taxing entities generally don't foreclose on a homestead and sell it for past-due taxes. David Childs, the county's tax assessor-collector, called such instances "extremely rare."

The county never filed a tax suit against Mr. Sauls. The city and school district filed a tax suit against the couple in 1989. But since then, no legal action was taken against them to collect, according to court records.

Mr. Sauls also didn't realize he qualified for a tax deferral, meaning that by signing a one-page affidavit, he wouldn't have to pay any taxes for as long as he lived in the house.

Before the new regulations, tax loan companies didn't have to tell homeowners that they are eligible for a tax deferral if they're 65 or older or disabled. Many didn't.

Mr. Sauls' ex-wife, Yvonne, who lived in the house with her son and grandkids during the past few years, said she didn't want to take out the loan, but that her former husband felt they had no other option.

"I kept telling him we didn't have to because of his age," she said.

She is now living in an apartment in Dallas. Mr. Sauls suffered a stroke the same month his house was auctioned off, his daughter said. He died a little more than a year later.

Anthony and Luedesta Scott also took out a tax loan from Gonzalez, one of the largest tax lending companies in the state.

Like the Saulses', the Scotts' mortgage was paid off. They said they inherited the house near Fair Park, valued at $45,560 on tax rolls, from his grandfather and lived there nearly 40 years.

But the couple owed $7,796 in taxes dating back to 1998. The county never took any legal action against them to collect. But in 2005, they received an "Urgent Notice" from Gonzalez, warning them of possible enforcement action by county taxing entities, including foreclosure.

Mr. Scott, 53, said he should have gone down to the tax office to work something out. Instead, the couple took out a loan for nearly $11,000 at 14 percent interest in February 2005.

Seven months later, Gonzalez foreclosed and a sister company, Sedona Pacific Properties, bought the house at a courthouse auction for about $13,000.

The Scotts are now renting an apartment. "They just railroaded me," said Mr. Scott, a mechanic.

Mrs. Scott, who was ill at the time and unable to work, said the company never told them it could take their house.

Danny Gonzalez, president of the company, said the Scotts lost their home because they didn't make their loan payments. In the case of the Saulses, he said, they were eight months delinquent.

"I don't like to foreclose on people," he said. "We have to apply the same rules that [mortgage] lenders do."

Mr. Gonzalez, a former bank examiner, said his firm's foreclosures are a fraction of the roughly 3,000 tax loans it has written in Dallas County during the past eight years. Most people pay off their loans, he said.

He said his company no longer sends mailings to homeowners who are 65 and older.

Mr. Gonzalez recently hired the legislative aide who drafted most of the laws that govern the tax lending industry.

Paul Powell said he resigned as chief of staff for state Rep. Ken Paxton, R-McKinney, in June and went to work in September for Gonzalez as its chief operations officer. Mr. Powell said he wanted a change.

Mr. Doggett said the hiring raises questions. He said Mr. Powell clearly favored the tax lending industry's position during the past two legislative sessions and that he was opposed to more regulation.

"It brings to mind the question of whether his positions were such that he was anticipating an offer from the industry," he said.

Mr. Powell said his position on tax lenders is consistent with his long-held belief that the state should not overregulate business. "The state should not be everybody's mother," he said.

Charges, changes

Some tax lenders have charged high closing costs that are added to the loan amount. Others lend money for taxes that aren't delinquent. The result is a loan that can be almost double what's owed in taxes.

Bank loans and credit card transactions, by contrast, come with much lower fees.

Mr. Doggett said the high fees charged are not justified because the companies hold a lien that's superior to all others. There is no risk, he said. If the borrower defaults, the companies get the house.

"It's the safest loan on the planet. You get paid first," he said.

The new rules cap closing costs at $1,000 for tax lien payments of less than $2,500. For tax lien payments of $10,000 or more, closing costs cannot exceed $2,000 or 10 percent of the payment amount, whichever is greater.

The tax lenders association wanted higher caps.

Until last fall, tax lenders could foreclose quickly, without a court order. Like mortgage companies, they would provide the required notices and then auction off the properties on the courthouse steps. They now have to seek a court order.

The process is still much faster than the one used by cities and school districts, which have to file a lawsuit in tax court and win a court judgment in order to foreclose. That process can take months to several years.

Using deed records, *The Dallas Morning News* examined several Dallas County homesteads that were foreclosed since 2004 and found that in at least 10 instances, foreclosure took place within a year of the date of the loan.

The quickest was five months. The homes ranged in value from about $36,700 to $209,000.

Mr. Baylor, of the Center for Public Policy Priorities, said the state should collect better data to follow trends and identify the bad actors of the tax loan industry and hold them accountable.

And the loans, he said, need to be examined more closely.

"It can be a real fast track to foreclosure," he said.

CASE STUDY

Low-income homeowners aren't the only ones to lose their homes to a tax lender. **Debbie Bridges**, 48, a Dallas mortgage broker who owns her own real estate business, lost the Dallas home she bought in 2003 to foreclosure after taking out a tax loan.

TAX LOAN: About $5,000 at 18 percent interest in 2004

TAX LENDER: Genesis Tax Solutions, located in Spring, near Houston

DELINQUENT TAXES: About $4,300 from the 2003 tax year

HOUSE: On Northcreek Lane off LBJ Freeway in North Dallas. Valued for tax purposes in 2007 at $150,000 ($170,500 in 2004).

FORECLOSURE: Six months after she signed the tax loan documents, Genesis initiated foreclosure proceedings. Genesis auctioned the house two months later for $55,700.

FALLOUT: Ms. Bridges sued Genesis in 2005, claiming the company wrongfully foreclosed over a $260 late payment without giving her required notice, and defrauded her out of her house. Genesis said Ms. Bridges made her first two payments and then either didn't pay or paid an incorrect amount. The company countersued for breach of contract. Genesis later settled the lawsuits out of court for undisclosed terms. "I'm sure that if the consumer is aware of what this company can do, they'd probably go out of business," she said.

TAX PROBLEMS?

If you're unable to pay your property taxes, there are alternatives to taking out a high-interest tax loan. Some suggestions:

•Pay the delinquent taxes with a personal credit card or revolving credit account, which have considerably lower fees and don't place the homestead in jeopardy if the owner defaults.

• Contact your mortgage company about setting up a tax repayment plan and an escrow account to handle future property taxes.

• If you don't have a mortgage and live in Dallas County, call the Tax Assessor-Collector's office at 214-653-7811 to arrange a payment plan.

• If you're 65 or older or disabled, ask the appraisal district about a tax deferral.

SOURCE: *Dallas Morning News* research