Who Should NOT Get A Property Tax Loan?

By Charles E. Brown

A property tax loan should only be made for the purpose of paying property taxes if it saves the property owner money, or if it prevents the taxing unit (county, school district, etc.) from foreclosing on the property due to unpaid taxes. If the tax loan does not do one of these two things, you should not get one.

If you are eligible for a tax deferment, you do not need a property tax loan. If the property that you owe taxes on is your homestead and you are disabled or age 65 or older, you should not get a tax loan. You should go to the Tax Assessor's office and get what is known as a "deferral" of your tax bill. You are entitled to tax deferral under Texas Tax Code, § 33.06. With deferral status, you can stop paying property taxes, and the taxing unit cannot initiate a lawsuit or foreclose on your property. Also, the penalties that are normally charged to your tax account are waived and the interest rate charged on the unpaid amount is reduced to only 8%. However, the taxes do not go away; they are deferred or postponed until you no longer occupy the property, or until you are decesased. In either event, you or your heirs will have 180 days to pay the tax bill. If you have a deferment, you should still try to pay what you can on your tax bill because interest builds at 8% a year. But a deferment will keep the taxing unit from suing you and foreclosing on your property, even if you are unable to make another payment.

Avoiding a Lawsuit and Foreclosure. Eventually, if you do not pay your property taxes, the Tax Collector can sue you and then foreclose on your property. If you get a property tax loan, the property tax lender pays the Tax Collector everything that you owe the taxing unit, including all penalties, interest, attorney collection fees and any lawsuit related fees. If you are not able to pay your tax bill when due on January 31, you will be delinquent. Normally, the Tax Collector will not initiate a lawsuit prior to July of the year the taxes are due. The fees that the county incurs (to do title abstracts, court filing fees, etc.) are additional charges that will further increase the amount you will owe. Once they win the lawsuit, their next step is to sell the property at a foreclosure sale on the county courthouse steps. If you are able to pay the tax bill off by the end of June of that year, it is very unlikely that you will get foreclosed on by the Tax Collector. Accordingly, you probably do not need to get a tax loan to avoid foreclosure if you are going to be able to pay all of your taxes before July 1.

You may arrange with the taxing unit to enter into an installment agreement for the payment of your taxes. All taxing units must offer a payment plan to delinquent homestead owners and most will offer plans for non-homestead owners. No penalties apply

Your tax office may offer delinquent tax installment plans that may be less costly to you. You can request information about the availability of these plans from the tax office.

once the plan is in place unless you miss a payment, in which case the penalties are applied retroactively. Interest continues to be charged on unpaid balances at the normal rate of 1% a month. The typical payment plan requires a 25% down payment and then the balance to be paid each month for a year. You should check with your Tax Collector to see what they might offer you. If you are not able to make the large amount due up front, or pay off the balance generally within a year, an installment agreement with the Tax Collector may not be desirable for you. A tax loan may be a better option simply because the Tax Collector will not provide a payment plan with payments low enough that you can afford. If you cannot make the payments, the Tax Collector can foreclose. In this circumstance, a property tax loan may be the only option to avoid foreclosure.

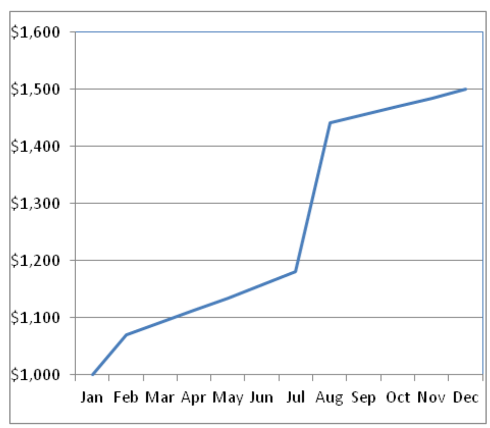
One strategy is to make as many payments as you can to the taxing units and hope that they do not foreclose before you can pay them off completely over the coming months. If they start the foreclosure process, you should immediately get a property tax loan to stop the foreclosure. This strategy is okay if you are not saving money by getting a property tax loan early on, as discussed next.

Saving Money. To understand whether you will save money on a property tax loan, you first must understand how much it will cost in penalties and interest if you are delinquent in paying your taxes. You will also need to know how much a property tax loan will cost so that you can compare the two. You typically receive your tax bill in October or November. The taxes are due by December 31 but are not delinquent until February 1 of the following year. If you pay in full before February 1, you will not have any penalties. Beginning February 1, the taxing units will charge you a substantial amount in penalties and interest on your unpaid taxes. (See graph opposite to understand how penalties and interest are charged on your account.)

The earlier you get a property tax loan, the less in penalties and interest you will lose to the taxing units. Or, another way to state it: the longer you wait to get a property tax loan, the more penalties and interest you lose to the taxing units.

But, what will a property tax loan cost and how does that compare to what the taxing units are charging? The interest rate is capped on a property tax loan under Texas law at 18% with most loans being made at a lower interest rate. Property tax lenders also charge "closing costs" which include their costs for document preparation, title abstracts, flood zone review, notary charges, etc. These charges are capped by the State of Texas. The closing costs are normally "rolled" into the loan so that the property owner does not have to pay them out of pocket. They become part of the principal of the loan. The amount of closing costs depends on the amount of taxes owed on the property and should be disclosed to you before you enter into a loan agreement. Because of the closing costs, a good rule of thumb is if you owe less than $3,000 total in property taxes, you are better off just paying the Tax Collector directly as soon as possible even though you will be penalized for late payment. If you owe less than $3,000, the cost of getting a property tax loan will outweigh the benefits.

YOUR COUNTY'S BILL FOR EACH $1,000 OWED*



* Actual first year charges vary by county.
(Travis County maximum charges are 42%.)

About the Author: Charles E. Brown is founder and CEO of Hunter-Kelsey of Texas, LLC. Mr. Brown is a Director of the Texas Property Tax Lienholders Association and holds a NMLS license. He has 25 years of experience as a Texas real estate attorney and is Board Certified by the Texas Board of Legal Specialization in Commercial and Residential Real Estate law. Feel free to direct comments or questions to Mr. Brown at *cb@hunterkelsey.com.*