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New York State Legislature 2021 Joint Legislative Budget Hearing - Taxes

My name is Joseph Kelemen and I am the Executive Director of the Western New York Law Center in Buffalo, NY. I appreciate this opportunity to present comments for the Joint Legislative Budget Hearing on Taxes.

The Western New York Law Center has been providing free representation to homeowners facing foreclosure in Western New York since the 1990s. Additionally, our office holds walk-in consumer clinics in four counties in Western New York (currently conducted through zoom), offers clinics helping low-income entrepreneurs in Erie and Niagara Counties (again, now held through zoom and through in-person meetings when necessary), and works on the problem of vacant and abandoned properties through contracts with several municipalities in Western New York to assist them with addressing vacant and abandoned properties.

I would first like to address the plan in the Executive Budget to close the Enhanced STAR Exemption to new applicants. In addition to closing the exemption to new applicants, the budget document proposes that if a property owner is listed on an assessment roll used to levy school district taxes for a school year prior to the 2021-2022 school year, the owner will no longer age into an Enhanced STAR Exemption but must apply for Enhanced STAR. Those not applying for Enhanced STAR maintain their place in the Basic STAR Exemption Program but cannot receive the enhanced exemption.

These changes will prevent many homeowners from taking full advantage of STAR. The Executive Budget proposal will give affected homeowners a credit on their State income taxes, but low-income homeowners may not have the money to front for their taxes. Even if they do have the money, they may not have enough income to take advantage of the tax credit.

At the Law Center, we have for years represented homeowners who are facing tax foreclosures and we believe this proposal will have many unintended consequences for the communities we represent. We oppose the inclusion of this proposal in the New York State budget for the following reasons:

- Denying homeowners their STAR exemptions will increase their tax bills and make it harder for them to stay current on their taxes and keep their homes.
- Interest on back taxes across NYS varies between 12% and 18% depending on the county and the increased tax bills will force homeowners to pay more in interest to stay current on their taxes.
- The increased tax bills and subsequent interest will strip generational wealth from low-income communities through the removal of equity from homes.
- The proposal will negatively impact vulnerable populations on fixed incomes.
- Homeowners with Reverse Mortgages will be impacted greatly and the removal of the STAR exemption will make it more difficult for those homeowners to save their homes.
- Eliminating the STAR exemption for struggling homeowners will harm homeownership rates in low-income communities.
- Many tax delinquent properties become vacant and a burden on local governments. Making it more difficult for homeowners to pay their taxes could result in an increase in abandoned and vacant properties.

Homeowners do not fall behind on taxes by choice. At the Law Center, we have assisted homeowners who have fallen behind on their taxes because of medical emergencies in their families, injuries at work, and job losses. Denying the STAR exemption to people with little income will just ensure that they will never be able to pay their taxes.

We understand that the state needs revenue but ending the Enhanced STAR Exemption is a harsh way to address the revenue problem. We have an alternate suggestion. We believe that NYS should take steps to deny the STAR exemption to properties that are vacant and abandoned. Vacant properties are not eligible for the STAR exemption, but the STAR exemption is often automatically applied to a tax bill year after year if a property and homeowner are eligible, even if the property becomes vacant. Last year, a proposal in the Executive Budget required localities to report tax delinquents to the Department of Taxation and Finance so that a STAR credit or exemption could be withheld. Under current law and regulations, banks and mortgage servicers are required to report vacant and abandoned properties to the Department of Financial Services (DFS). DFS should be asked to report vacant and abandoned properties to the Department of Taxation and Finance. Steps should be taken by the State to ensure that the STAR Exemption is not automatically applied to properties that are not eligible. Taking this step, we believe, would save the State money.

The issue of interest on back taxes is one that directly impacts the ability of our clients to get current after falling behind. As we have noted, many taxpayers fall behind on their property taxes because of medical emergencies, temporary unemployment, and other issues. Unfortunately, once taxpayers fall behind on property taxes, they have a hard time catching up because they are charged up to 18% interest on the back taxes. The authority for this charge is found in the New York Consolidated Laws, Real Property Tax Law - RPT § 924a - *Interest rate on late payment of taxes and delinquencies.* That section applies the interest rate set by the NYS Commissioner of Taxation and Finance to property taxes and provides an exception only to a County that has authorized the collection of property taxes in installments. Erie County and many other counties do not allow the collection of taxes in installments. Doing so would raise issues of short-term borrowing and cause other financial problems.

Because of the high interest rate on unpaid property taxes, once a homeowner falls behind on his or her taxes, interest quickly becomes a major part of the tax bill. The interest rate of 18% on unpaid property taxes may have been appropriate in the 1980s when home mortgages were in the double digits, but with mortgage interest rates at historic lows, an 18% interest rate on unpaid back taxes for someone on a limited income who falls behind on property taxes is just a guarantee that the taxpayer will become homeless.

This is a statewide problem and interest rages on back taxes range from 12% to 18% statewide. The Law Center is researching the effect on interest rates on the ability of low-income taxpayers to remain in their homes and we will share our research with you when it has been completed.

Additionally, the New York State Tax Act allows for a county or municipality foreclosing on a property for back taxes to take title to the property prior to auction. This is done in a large part of the state, and the municipality or county often keeps the surplus, any money raised from the auction above what is owed in taxes and fees, and the homeowner is left with nothing. We have seen cases locally where municipalities have taken properties for $5,000 in back taxes, sell the property for $50,000, and keep the additional $45,000. This practice is unjust and robs communities of earned equity in their homes. This practice is particularly common in low income and rural areas. This form of equity theft has been tolerated for far too long and it is time that this practice be banned and replaced to notice requirements to ensure surplus funds are returned to the families who have earned that equity.

Thank you for considering these comments.

Joseph Kelemen
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