

The Intersection of Residential Heirs' Property and Property Tax Foreclosure

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Introduction

This report presents the results from a study examining the prevalence of heirs' properties among property tax foreclosures. The study focuses on property tax foreclosures of single-family residential lots in Dallas and Tarrant Counties, two adjacent urban counties in North Texas.¹

Heirs' property consists of real property—such as a home, vacant land, or farm—that has passed down intergenerationally to family members via inheritance. A core feature of heirs' property is fractionated ownership, with multiple family members owning indivisible shares in the same home or land. Most, but not all, heirs' properties also have clouded title, arising out of the property passing down without a probated will, transfer on death deed, or other formal legal mechanism that generates a clear legal paper trail to verify the descendants' ownership. Heirs' property can be found in rural² and urban³ areas across the United States, with particularly widespread impacts in older, predominantly Black communities.⁴

Heirs' property is one of the most unstable forms of homeownership, threatening the housing stability and generational wealth building among Black, Latino, and low-income households. Both core features of heirs' property—fractionated ownership and clouded title—contribute to challenges in maintaining and managing a home, such as paying taxes and making repairs and improvements. As these challenges mount, a subset of heirs' property homes eventually fall into distress, vacancy, and abandonment,⁵ with harmful spillover impacts on neighborhood stability and municipal and state governments.⁶

Laws and government policies compound the challenges facing heirs' property owners. For example, important scholarship and media coverage has brought to light the role of partition laws in enabling speculators, developers, and others to strip millions of acres of heirs' property from Black families, including family homesteads in both rural and urban areas.⁷ Additional work has identified legal barriers that homeowners with heirs' property have faced in accessing property tax exemptions and disaster recovery aid.⁸

¹ The two largest cities in the counties, Dallas (Dallas County) and Fort Worth (Tarrant County) are, respectively, the 9th most populous and 12th most populous cities in the United States. U.S. Census, Annual Estimates of the Resident Population for Incorporated Places of 20,000 or More, Ranked by July 1, 2023 Population: April 1, 2020 to July 1, 2023 (SUB-IP-EST2023-ANNRKN).

² Bailey et al., 2019.

³ Hincken, 2021; Wagh and Sandoval, 2024.

⁴ Hincken, 2021; Wagh and Sandoval, 2024.

⁵ Caloir, 2022 (presenting on the experiences of local community development corporations and other affordable housing and community development grantees that the second biggest category of problematic vacant houses involves heirs' properties).

⁶ Immergluck, 2015; U.S. Department of Housing & Urban Development, 2014.

⁷ See, e.g., Chen, 2019; Mitchell, 2001.

⁸ See, e.g., Albritton and Williams, 2021; Dreier and Tran, 2021; Goldstein and Way, 2022; Way, 2022).

In examining the impacts of property tax foreclosures on residential heirs' properties, this report offers additional insights into the challenges and risks facing homeowners with heirs' property. The report first provides an overview of the property tax foreclosure process, followed by the methodology and the findings from the tax foreclosure study. The closing section of the report offers policy reform opportunities for reducing the vulnerability of homeowners with heirs' property to tax foreclosures and for improving the tax foreclosure process to make it fairer for heirs' property owners.

Background: Property Tax Foreclosure Process

A property tax foreclosure involves the government or government-authorized seizure of a property when the property owners fall behind on their property taxes. State laws governing the property tax foreclosure process vary widely across the country. While state laws set out the procedures governing the property tax foreclosures process, local entities administer property tax foreclosures and typically have a lot of discretion in terms of when they will proceed with a foreclosure and what types of properties they will foreclose upon.⁹

In most states, the foreclosure process typically begins with the automatic placement of a lien on the property for any taxes that become delinquent. A state's foreclosure process usually then takes one of the following two forms to the extent taxes remain delinquent: a tax deed sale or tax lien sale.¹⁰ In states with a tax deed sale process, the government forecloses upon the lien and then sells the property at a tax sale auction with the purchaser receiving a tax deed at the sale. Some states require a judicial process for the foreclosure. In states with a tax lien sale process, the government sells to a third party the lien or something else less than full title to the property. The third party receives the right to collect interest on the delinquent taxes and, if the debt remains unpaid, foreclose upon the tax lien and receive title to the property.¹¹

Some states offer homeowners the right to redeem their property after a foreclosure sale. The redemption right provides homeowners with a certain period in which they can pay off the tax debt along with a penalty, in exchange for "redeeming" the title of the property.

Tax foreclosures can have devastating impacts on homeowners, resulting in the loss of not only an individual's or family's housing but also what may be their only financial asset.¹² For many families with heirs' property, a foreclosure of an ancestral homestead also severs long-standing family and cultural ties to the property, causing an even deeper loss and anguish.

⁹ DeAngelo, 2020; Rao, 2012.

¹⁰ For a more detailed discussion of state foreclosure processes, see DeAngelo, 2020; Rao, 2012.

¹¹ Rao, 2012.

¹² DeAngelo, 2020.

Texas' Property Tax Foreclosure Process

Texas is a tax deed state, with some features of a tax lien state. Texas law provides that on January 1st of each year a tax lien attaches to the property to secure the payment of all property taxes assessed on the property later in the year, along with any penalties and interest that may be imposed for unpaid tax obligations.¹³ The failure to pay taxes in a timely manner carries steep consequences, with interest and penalties quickly mounting to 24%.¹⁴

At any time after property taxes become delinquent, any taxing entity can pursue a foreclosure of the tax lien and must join the other taxing entities that have claims for delinquent taxes.¹⁵ A foreclosure must occur through a judicial process, which begins with the filing of a tax foreclosure lawsuit in state district court and ends with the court ordering the foreclosure of the tax lien via a public sale. Counties conduct these sales on behalf of the other taxing entities.

Texas law requires that foreclosure sales be held on the first Tuesday of each month via an auction held at the courthouse in the county where the property is located or, alternatively, by online auction and bidding.¹⁶ Properties with a senior or disabled homestead exemption are exempt from foreclosure if the homeowners file and remain eligible for a property tax deferral.¹⁷

At any time prior to the tax sale, an owner can redeem the property by paying the amount of the foreclosure judgment, including the back taxes, interest, penalties, attorney's fees and court costs.¹⁸ Texas law also gives property owners the right to redeem a property after it goes through the tax foreclosure sale for an additional fee.¹⁹ The redemption right is two years after the foreclosure sale for residential homestead properties and six months for other properties.²⁰

A homeowner in Texas who falls behind on their taxes can secure a loan to pay the property taxes through a state-regulated process, which results in a transfer of the local government's tax lien to the lender. The laws governing the foreclosure of these privately-held tax liens are the same as those governing the foreclosure of government-held tax liens.²¹

Methodology

The data collection and analysis for this study involved four steps: (1) collecting and cleaning the records for tax foreclosed properties in Tarrant and Dallas Counties; (2) incorporating the county appraisal district's property characteristics for the foreclosed properties; (3) determining which

¹³ Tex. Tax Code, § 32.01(a).

¹⁴ Tex. Tax Code § 33.01.

¹⁵ Tex. Tax Code §§ 33.41(a); 33.44(a).

¹⁶ Tex. Tax Code §§ 34.01(a), 34.01(r-1).

¹⁷ Tex. Tax Code § 33.06.

¹⁸ Tex. Tax Code § 33.43; 33.48.

¹⁹ Tex. Tax Code § 33.421.

²⁰ *Id.*

²¹ Tex. Tax Code § 32.06(c).

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of the properties were heirs' properties at the time of the foreclosure sale; and (4) for Tarrant County only, conducting a deeper examination of the characteristics of foreclosed single-family residential properties and debts in foreclosure sales, utilizing county appraisal district and tax foreclosure records.

Steps 1 and 2: Collecting and cleaning tax foreclosure records and incorporating the county appraisal district records

For the analysis of foreclosures in Tarrant County, the Tarrant County District Attorney's Office provided data for all tax foreclosure sales that occurred from 2019 through 2022. There were 353 of these sales. The research team merged this data with the 2019–2022 property records from the Tarrant County Appraisal District (TAD), using each property's data for the year in which the property was sold via the tax foreclosure. The property data set was filtered to include only single-family residences and single-family vacant lots, utilizing the appraisal district's classification, resulting a total of 290 foreclosed properties.

Using the appraisal district data for the year in which the property is sold via a tax foreclosure sale allows for a comparison of each property's characteristics in the tax records at the time of the foreclosure sale. Texas law requires that tax appraisals be based on the property's characteristics as of January 1 in the appraisal year.²² For example, if a single-family home is sold at a tax foreclosure sale in July 2022 and the home is subsequently demolished in October 2022, the law requires the 2022 appraisal of the property to reflect the tax parcel's status as a single-family residential property as of January 1, 2022.²³

For the analysis of tax foreclosed properties in Dallas County, the study utilizes records from the Dallas County Sheriff's Department, which handles the tax foreclosure sales for all the taxing jurisdictions. For Dallas County, the study's analysis is limited to tax foreclosure sales that occurred from April 2021 through December 2022. The Sheriff's Department reported that it did not have digital records prior to April 2021 and that a lot of the records prior to that time were missing or otherwise unavailable. In addition, the Department reported that most tax foreclosures were put on hold in 2020 because of the COVID-19 pandemic.

The Sheriff's Department provided records for all tax foreclosure sale postings for the months of April 2021 through December 2022, including properties that were withdrawn prior to the foreclosure sale. The research team filtered this list to remove properties that were withdrawn at the foreclosure sale, which can happen for a variety of reasons, such as redemption of the property by the owner prior to the sale by paying off the tax liens on the property.

The study's final data set of foreclosed properties for Dallas County totals 556 properties. The dataset includes 66 properties that were struck off to a local taxing entity, which is a mechanism where the title to the property is transferred to a taxing entity because no eligible bids were

²² Tex. Tax Code § 23.01.

²³ *Id.*

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received at the foreclosure sale. The following discussion of foreclosure sales, unless otherwise noted, includes the struck off properties for Dallas County. The struck off properties are included in the study since, as with a foreclosure sale, a struck off property involves the government's seizure of the property.²⁴

The data obtained from the Sheriff's Department does not include the property's account number with the Dallas County Appraisal District. As a result, the research team did not incorporate the appraisal district's data for the Dallas County foreclosed properties, including property type, until after the research team completed the heirs' identification analysis.

Step 3: Heirs' Property Analysis

Identifying which foreclosed properties were heirs' properties at the time of the foreclosure sale required a time-intensive examination of the foreclosure records and range of other records. The study classifies a property as an heirs' property if the record title owners of the foreclosed property—as identified in the county deed records—were deceased at the time of the foreclosure sale.

In Tarrant County, the research team reviewed all 290 residential properties that underwent a tax foreclosure sale anytime from 2019 through 2022. For many of the properties, the grantor names in the Constable's deed provided reliable evidence of the property's heirs' status. A Constable's deed is Tarrant County's name for the legal document transferring the foreclosed property's title from the prior owner (the "foreclosed grantor") to the purchaser at the foreclosure sale. A legal secretary with the law firm handling the vast majority of the foreclosure sales for Tarrant County confirmed that designations such as "deceased," "estate of" and similar notations next to the names of the foreclosed grantors in the Constable's deed reflected the law firm's determination that the property was heirs' property.

The legal secretary also confirmed that if the Constable's deed did not contain one of these references (i.e., "deceased," "estate of," etc.), the property could still have been an heirs' property at the time of the foreclosure if the defendants in the foreclosure petition were listed as "unknown owners" or contained "in rem" next to their name. If the property did not have one of these designations, this meant the legal record title owner of the property had been located and was alive at the time of the foreclosure. The study designates these properties, along with properties owned by businesses, as non-heirs' properties.

The research team conducted a deeper, more holistic examination of the properties with a designation in the Constable's deed indicating a property's potential heirs' property status. This research involved reviewing a range of other online records for evidence that the property was heirs' property at the time of the foreclosure sale including court records from the foreclosure, online obituaries, deed records, and appraisal district records. When the team could not find

²⁴ The Tarrant County foreclosure records used in the study did not include struck off properties, but an additional data set obtained from Tarrant County contained four struck off properties in the study's time period.

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adequate evidence of a property's heirship status, the study identifies the property's heirship status as "unclear."

For Dallas County, the research team determined the heirship status of tax foreclosed properties by conducting a systemic sampling of the properties in the study's dataset, through a review of every fifth property record. The study relied upon a sampling of the Dallas foreclosure records because of the large volume of records and, unlike Tarrant County's records, very few of the Dallas County foreclosure deeds indicate whether a property is heirs' property. As a result, the analysis of the Dallas County foreclosure records necessitated a much more time intensive record review. In addition to types of online records used for Tarrant County, the research team also utilized Ancestry.com and Lexis Public Records for the Dallas County analysis. As with Tarrant County, for properties where the research team could not find adequate evidence of a property's heirship status, the study identifies the status as "unclear."

While conducting the heirs' analysis of the foreclosed properties in the Dallas County sample, the research team discovered that several of the foreclosures in the study's dataset involved other types of foreclosures (such as homeowners association liens or code enforcement liens), rather than property tax foreclosures. In addition, in a few cases it was unclear whether the property had undergone a foreclosure sale or the property was pulled down from the foreclosure sale, such as when the owner redeemed the property. These properties were ultimately removed from the study and do not appear in the study's final data set of 556 foreclosed properties. If such a property showed up in the sample, the research team skipped to the next record in the sample.

Ultimately, the research team analyzed the heirs' status of 122 tax-foreclosed properties in Dallas County. Of the 122 properties, 106 had gone through a foreclosure sale and 16 had been struck off to a local taxing jurisdiction.

After completing the heirs' property analysis for the sample of foreclosed properties in Dallas County, the research team incorporated the properties' appraisal district data for the year in which each property was foreclosed. Of the 122 tax foreclosed properties analyzed in the Dallas County sample, 100 were single-family properties.

Step 4: Deeper Examination of Tarrant County Tax Foreclosed Properties

After completing the heirs' identification analysis, the research team examined additional characteristics of the foreclosed residential properties in Tarrant County, beginning with the county appraisal district records for the year in which the foreclosure sale occurred. This analysis was not completed for Dallas County, given the small number of foreclosed single-family residences in the study sample.

Utilizing data from the Tarrant County District Clerk's online portal, the study also breaks down property tax related debts owed at the time of the foreclosure sale, for both single-family residences and vacant lots. The debts are broken into the following categories: (1) delinquent

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taxes, (2) penalties and interest, and (3) attorneys' fees, court costs, and other fees imposed on the property through the foreclosure process.

The records obtained from Travis County lumped together the delinquent taxes with the penalties, interest, and fees. The research team broke down these costs by conducting a manual property-by-property search of the payment receipts and business affidavits accessible through the Tarrant County District Clerk's online portal. Given the time involved in collecting this breakdown, the collection of the data was limited to a sample of 80 foreclosed properties. This sample consisted of a random selection of 20 single-family residences and 20 vacant lots that the study classifies as heirs' properties, along with 20 single-family residences and 20 vacant lots that the study classifies as non-heirs' properties.

Findings

The following are the key findings from the study.

1. Heirs' property is highly prevalent among single-family properties undergoing a property tax foreclosure sale.

Exhibits 1 and 2 present the results from the heirs' identification analysis of tax-foreclosed properties in Dallas and Tarrant Counties. In both counties, the study found that 52% of the tax-foreclosed single-family properties were heirs' properties at the time of the foreclosure sale. In Tarrant County, close to one-third (35%) of the foreclosed single-family properties involved residences, of which 49% were heirs' properties. The remaining 65% of the foreclosed properties involved vacant lots, of which 53% were heirs' properties. In Dallas County, a far smaller volume of foreclosed single-family properties—17%—involved residences. Of these properties, 41% were heirs' properties. Among the foreclosed single-family vacant lots, 54% were heirs' properties.

Exhibit 1. Tarrant County: Heirs' Property Status of Tax Foreclosed Properties, 2019–2022

| Heirs' Status | Single-Family Residences | Single-Family Vacant Lots |
|---------------|--------------------------|---------------------------|
| Yes | 50 | 100 |
| No | 40 | 46 |
| Unknown | 12 | 42 |
| Total | 102 | 188 |

Exhibit 2. Dallas County: Heirs' Property Status of Tax Foreclosed Properties, April 2021–2022

| Heirs' Status | Single-Family Residences | Single-Family Vacant Lots |
|---------------|--------------------------|---------------------------|
| Yes | 7 | 46 |
| No | 8 | 29 |
| Unknown | 2 | 10 |
| Total | 17 | 85 |

2. Tax foreclosures of single-family residences, regardless of heirs' status, are predominately small, older properties with low appraised values.

Among tax-foreclosed single-family residences in Tarrant County, heirs' and non-heirs' properties share similar characteristics. Both sets of properties consist largely of small, older homes, with a median housing age for heirs' properties of 71 years and living area of 1,059 square feet, and, for non-heirs' properties, 70 years and 1,208 square feet. Both sets of properties also have low appraised values, with a median appraised value of \$92,841 for heirs' properties and \$82,367 for non-heirs' properties. These findings are presented in Exhibit 3. The foreclosed heirs' properties are concentrated among homes built between 1940 and 1960, as depicted in Exhibit 4.

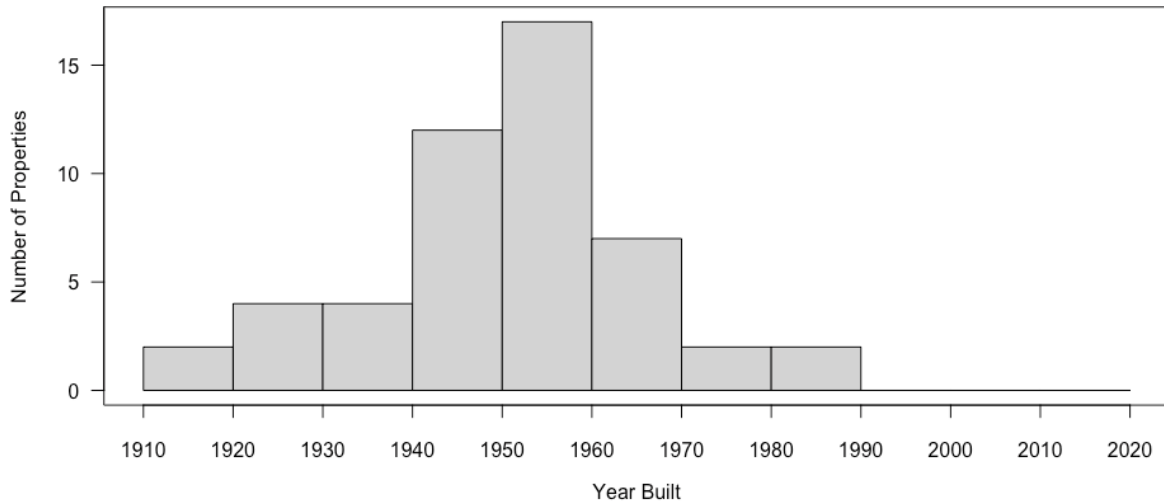
Exhibit 3. Characteristics* of Tax Foreclosed Single-Family Residences by Heirs' Property Status in Tarrant County, 2019–2022

| Heirs' Property? | Year Built | Living Area (sq ft) | Improvement Value | Total Appraised Value |
|------------------|------------|---------------------|-------------------|-----------------------|
| Yes | 1953 | 1,059 | \$80,548 | \$92,841 |
| No | 1954 | 1,208 | \$75,829 | \$82,367 |

*Median values.

Source for property characteristics: Tarrant County Appraisal District property data, 2019–2022

Exhibit 4. Distribution of Foreclosed Single-Family Heirs' Properties (2019–2022) by Year Built in Tarrant County



Source for year built: Tarrant County Appraisal District property data, 2019–2022

3. Tax foreclosures of single-family vacant lots are concentrated in properties with very low appraised values, indicative of “dead assets.”

The property characteristics for tax foreclosed single-family vacant lots in Tarrant County are also similar for both heirs' and non-heirs' properties, as depicted in Exhibit 5. Both sets of properties have very low appraised values, with a median appraised value of \$5,000. Most of these single-family lots likely had single-family homes on them at one time that were eventually torn down, either by the owners or by the city via a condemnation action, after the property deteriorated to the point it became uninhabitable.

The low appraised value of the foreclosed vacant lots indicates the vulnerability of heirs' properties turning into “dead assets,” meaning they cannot be put to productive use and will continue to sit vacant absent a foreclosure action. The clouded title of the property reduces its marketability, depressing the property's market value. When the property becomes saddled with so much debt that the tax and code enforcement liens exceed the market value of the property, even a partition action is not a viable avenue to clear the title. Typically, the only way to turn these properties into a productive use, such as a source of homeownership, is to take them through a tax foreclosure process to clear the liens and otherwise clear the title.²⁵

²⁵ Way, 2009.

Exhibit 5. Characteristics of Tax Foreclosed Single-Family Vacant Lots by Heirs' Property Status in Tarrant County, 2019–2022

| Heirs' Property? | | Appraised Value | Land (Acres) |
|------------------|--------|-----------------|--------------|
| Yes | Mean | \$11,767 | .20 |
| | Median | \$5,000 | .15 |
| | SD | \$12,126 | .19 |
| No | Mean | \$10,768 | .21 |
| | Median | \$5,000 | .16 |
| | SD | \$15,221 | .20 |

Source for property characteristics: Tarrant County Appraisal District property data, 2019–2022

4. The owners of property-tax foreclosed properties experience a significant loss of equity in the property in the form of penalties, interest, and fees.

Exhibit 6 contains the findings from the study's deeper analysis of tax delinquencies and related charges impacting tax-foreclosed single-family properties in Tarrant County from 2019–2022. This analysis covers both single-family homes and vacant lots, regardless of whether the study classifies the property as an heirs' property.

This analysis sheds light on the ways in which property owners lose wealth from tax delinquencies and tax foreclosures through penalties and other fees. Additional losses in equity likely occur as well, given the nature of the foreclosure sale process, whereby properties are sold through an off-market process that essentially limits the sale to a specialized group of buyers. These additional losses were beyond the focus of the study.

The single-family residences in the study had an average 7.28 years of delinquent taxes at the time of the foreclosure sale. In contrast, single-family vacant lots had an average of 16.15 years of delinquent taxes. Despite having a longer duration of unpaid taxes, the total amount of delinquent taxes owed on the vacant lots was still lower due to their lower appraisal values.

Due to Texas law's imposition of hefty penalties and fees on tax delinquent properties, along with the long length of the delinquency period, the amount of penalties and interest, collection fees, and other charges incurred by the time of the foreclosure sale often exceeded the delinquent taxes. Under Texas law, when a property first becomes delinquent on February 1st, the county tax collector must charge a 6% penalty and 1% interest, which both escalate each month the taxes remain delinquent.²⁶ If the taxes are still delinquent as of July 1st, the property incurs a total penalty and interest of 18%. The property also becomes subject to an additional collection fee of up to 20% of the total taxes, penalties, and interest due in counties where the tax collection is handled by an outside law firm.²⁷ Tax collection by an outside firm is the practice in Dallas

²⁶ Tex. Tax Code § 33.01.

²⁷ Tex. Tax Code § 6.30(c).

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and Tarrant Counties and most other Texas counties. By the time unpaid taxes reach the one-year delinquency mark, the total penalties, interest, and other fees can be as high as 44%. When the property goes through foreclosure, the property then incurs additional fees, including court costs, attorney ad litem fees, and foreclosure sale costs.²⁸

Among the foreclosed single-family residences in the study, the average penalties and other charges totaled \$14,106, while the average delinquent taxes totaled \$13,758. In contrast, given the longer delinquency period, the total penalties and other charges for foreclosed single-family vacant lots averaged \$6,100, while the average delinquent taxes totaled \$3,176.

Exhibit 6. Delinquent Taxes and Other Related Costs Incurred by Tax Foreclosed Properties in Tarrant County, 2019–2022

| | Single-Family Residences | | Single-Family Vacant Lots | | P-value |
|---|--------------------------|----------|---------------------------|---------|---------|
| | Median | Mean | Median | Mean | |
| Delinquent Taxes | \$7,881 | \$13,758 | \$1,680 | \$3,176 | <0.001 |
| Penalties & Interest | \$3,868 | \$8,483 | \$1,235 | \$3,095 | 0.027 |
| Attorney's Fees, Court Fees, and other Costs | \$4,570 | \$5,623 | \$2,120 | \$3,005 | <0.001 |
| Years of Delinquent Taxes | 6 | 7.28 | 14 | 16.15 | <0.001 |

Source for delinquent tax and related cost data: Tarrant County Tax Assessor's Office

Policy Recommendations

The high prevalence of heirs' property among single-family parcels undergoing tax foreclosure underscores the need for targeted policies and early interventions to assist heirs with the management and maintenance of their inherited homes. A multitude of factors contribute to these properties' heightened vulnerability to tax foreclosure, necessitating a range of interventions.

For example, the fractionated ownership associated with heirs' property can generate challenges for families in reaching an agreement on who will be responsible for paying the taxes, especially when family members have moved away and lost direct connection to the homestead.²⁹ In addition, both the fractionated and clouded titles associated with heirs' property create barriers for heirs to secure financing to repair their home, contributing to a cycle of property deterioration and, for some owners, eventual property abandonment and cessation of property tax payments.

²⁸ Tex. Tax Code § 33.48.

²⁹ Bailey et al., 2019.

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Clouded titles also prevent homeowners with heirs' property from being able to sell their homestead. For these owners, a property tax foreclosure may be the only legal mechanism for the home to be sold with clear title, unless there is enough net wealth in the property to support the high transactional costs of clearing the title.

The policies governing property tax relief programs further exacerbate the challenges heirs face in avoiding tax delinquency and foreclosure:

- When a homeowner passes away, the heirs may not receive notice of the taxes owed or have access to the decedent's bank account to pay the taxes. Meanwhile, as long as the taxes remain unpaid, the penalties and interest for the delinquent taxes rapidly mount.
- Tax exemptions and other forms of property tax relief for homeowners typically expire automatically whenever there is a change of ownership, including upon the death of the owner, triggering higher property tax burdens. If heirs are residing in the home, they may not realize they need to reapply for the exemption, or there may be a delay in applying as they go through the grieving process of losing a family member and handling the multitude of legal and financial matters that arise when a family member passes away.
- In most states, legal and programmatic barriers prevent heirs from accessing the full benefits of tax exemptions and other important property tax relief programs.³⁰ These programs, which can reduce a homeowner's property tax bill by thousands of dollars per year, depending on where the homeowner resides, have been proven to reduce a homeowner's risk of tax delinquency.³¹
- In some states, taxing jurisdictions may impose steep penalties on homeowners who do not inform the jurisdiction of a change in the homeowner's qualification for a tax exemption. These penalties can extend to heirs who do not notify the taxing jurisdiction of the prior owner's death and continue to benefit from the exemption in place under the deceased's owners name—even if the heirs were unaware of their legal obligation to inform the taxing jurisdiction or to apply for a new exemption in the heir's name.

For example, in one case in Florida, the city imposed \$10,000 in penalties for a four-year period in which an heir resided in the home he had inherited from his mother with a tax exemption still listed in his deceased mother's name. The heir, who had been residing in the home for several years prior to his mother's death, did not realize he had to file a new property tax exemption application in his name after his mother passed away.³²

³⁰ For a list of states with these barriers, see Appendix A: Survey of State Property Tax Relief Programs for Homeowners and Access Barriers for Homeowners with Heirs' Property.

³¹ Miller, 2019.

³² Stark and Williamson, 2023.

The following are some of the policy approaches that could be adopted to reduce the vulnerability of heirs' properties to property tax foreclosure.

- 1. Remove legal barriers to heirs' access to property tax relief programs on homesteads.** State laws governing property tax relief programs for homeowners should be reformed to clearly allow homeowners with heirs' property to provide alternative proof of ownership to qualify for these programs. For example, as a result of recent legislative reforms, Texas' homestead exemption application form now includes an affidavit that heirs can complete to prove their ownership of the home, instead of filing a recorded deed or other formal legal title.³³ States should also remove the barriers that heirs living in the homestead face in qualifying for property tax relief programs when there are other co-owner heirs who do not live on the property.³⁴
- 2. Conduct outreach to heirs to notify them about the property tax relief programs available to homeowners in that jurisdiction.** In states where family members can access property tax relief programs on their inherited homesteads, community outreach is an important tool for helping ensure heirs are aware of how to qualify for these programs. For example, the HECHO project in San Antonio has been working with community partners to conduct door-to-door outreach in historically disadvantaged communities to assist homeowners who lack a tax exemption with the application process. Property tax offices can also help with outreach by sending notices with the tax bill about the different types of property tax relief programs available in the jurisdiction and how to qualify for them.
- 3. Conduct targeted early interventions.** Another way to support homeowners with heirs' property is through creating community-based programs that assist homeowners when they fall behind on their taxes or struggle with code violations. Both tax delinquency records and code enforcement records provide easily accessible, early warning signals of when a homeowner is struggling to maintain and manage their property. Early intervention is key, as mounting penalties and interest from both tax and code enforcement liens can quickly become unmanageable for a vulnerable homeowner. Interventions can include assistance with title clearing, tax payments, and access to property tax relief programs and government and nonprofit repair programs.
- 4. Adopt state and local policies waiving penalties and interest on delinquent taxes for at least two years after a homeowner has passed away.** Michigan is an example of a jurisdiction that allows for a waiver of tax penalties upon a showing of reasonable cause for failing to pay the taxes, including serious illness or death.³⁵ Ideally, the waiver would

³³ Texas Comptroller, Form 50-114A; Tex. Tax Code, § 11.43(o-2).

³⁴ See appendix A for a list of states with laws and policies that block homeowners with heirs' property from securing full access to the state's property tax relief programs.

³⁵ State of Michigan, Department of Treasurer, Revenue Administrative Bulletin 2022-24.

be automatic upon proof of the homeowner's passing. Notice of the waiver right should be included in the notices of tax delinquency.

5. **Adopt state policies to make property tax relief programs retroactive.** A retroactivity policy gives heirs who reside in the home time to catch up on all the work needed to get an inherited estate's legal and financial affairs in order, including probating the estate, which can take two or more years. Texas law, for example, allows homeowners to qualify for a homestead exemption retroactively and receive a refund for the back taxes for up to two years, if the property qualified as their homestead during that period.³⁶
6. **Lower property tax burdens on low-income homeowners and offer low-interest payment plans.** States have a wide array of property tax relief tools at their disposal to help homeowners avoid property tax foreclosure. These tools include circuit breaker programs, whereby property tax burdens are capped based on the homeowner's income, tax deferral rights with low interest rates and penalty waivers, and allowing quarterly payments or other payment plans. For example, Virginia law allows local tax officials to postpone tax delinquency sales and offer homeowners with heirs' property a payment plan of up to 72 months to catch up on the delinquent taxes.³⁷
7. **Eliminate punitive measures imposed on heirs for not reporting the prior change in ownership status.** State laws should be clear that heirs are not subject to penalties for failing to report the death of the prior homeowner, particularly when the heirs are residing in the home as their primary residence.
8. **Improve the foreclosure process to better protect heirs' property interests.**
 - a. Make sure heirs receive advanced notice of the institution of foreclosure proceedings and foreclosure sale (as well as the sale of tax lien certificates in states that sell tax liens) by requiring personal service or, for heirs who cannot be located, the appointment of an attorney ad litem. Create standards that an attorney ad litem must utilize when searching for unknown and unlocatable heirs, along with trainings covering the standards.
 - b. Maximize the sales proceeds from a foreclosure sale by requiring an initial attempt to sell a tax foreclosed property using a real estate agent, prior to conducting a public auction.
 - c. Establish low-barrier mechanisms for heirs to qualify for a redemption of their home after it goes through a property tax foreclosure. For heirs to qualify, redemption programs need to allow for alternative proof of ownership and limit the redemption penalty. As a related example, Detroit's Buy Back program

³⁶ Tex. Tax Code, § 11.431.

³⁷ Virginia Code, § 58.1-3965(C).

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provides an opportunity for homeowners who lost their homes through foreclosure to buy back their home from the Detroit Land Bank for \$1,000.

Conclusion

By identifying the high prevalence of heirs' property among single-family properties undergoing a property tax foreclosure, this study sheds light on why heirs' property remains one of the most unstable forms of property ownership. The fractionated and clouded titles associated with heirs' property increase heirs' vulnerability to tax foreclosure, as do government policies. For a subset of heirs' properties—particularly those with lower property values, tax and code enforcement liens, and complex tangled titles where heirs cannot be located—a tax foreclosure may become the only legal mechanism available to clear the title and rebuild housing on the lot.

Policy interventions to support generational wealth-building among Black, Latino, and low-income families need to take into account heirs' heightened vulnerability to property tax foreclosure. State and local governments, community organizations, and other institutions all have important roles to play in tackling this important issue.

Appendix A

Survey of State Property Tax Relief Programs for Homeowners and Access Barriers for Homeowners with Heirs' Property

The following 50-state survey of property tax relief programs and the legal and programmatic barriers that heirs face accessing these programs was conducted from 2020–2024, based on an examination of state laws, regulations, policy guidance, and application forms, as well as calls to state and local tax officials when there was no clear or consistent state standards.³⁸ The findings for 24 of these states was first published in the book *Heirs' Property and the Uniform Partition of Heirs Property Act: Challenges, Solutions and Historic Reforms*.³⁹

States requiring formal proof of ownership for heirs to qualify

The following states require formal proof of ownership—such as through a recorded deed or other recorded legal instrument conveying the property to the heirs—for a homeowner with heirs' property to qualify for at least one of the state's property tax relief programs for owner-occupied homesteads.

- **Alaska:** Must be a record title owner (e.g., name on deed) to qualify for the state's senior citizen exemption.
- **Arizona:** Must be a record title owner to qualify for the state's tax exemption, senior freeze, and tax deferral programs.
- **California:** Must be a record title owner to qualify for the state's homestead exemptions and property tax deferral programs.
- **Colorado:** Must be a record title owner to qualify for the state's senior citizen exemption.
- **Connecticut:** Must be a record title owner to qualify for the state's elderly/disabled circuit breaker tax relief program, with one very narrow exception when there is a will going through estate administration.
- **Delaware:** Must be a record title owner to qualify for the state's senior school property tax relief credit and county senior exemption programs.
- **Florida:** Must be a record title owner to qualify for the state's homestead exemption programs and assessment cap.
- **Georgia:** Must be a record title owner to qualify for the state's homestead exemption programs.

³⁸ The following law students at The University of Texas School of Law provided invaluable assistance to this 50-day survey: Amy Das, Thomas Mason Grist, Ruthie Goldstein, Lauren Richter, Eric Newman, and Alex Rigby.

³⁹ Way, 2022.

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- **Iowa:** Must be a record title owner to qualify for homestead and senior/disabled credits; an heir can also qualify while the estate is actively being administered.
- **Maryland:** Must be a record title owner to qualify for the state's homestead credit and assessment cap.
- **Michigan:** Applicant's name must be on a recorded deed, will or trust, or probate court papers to qualify for the state's homestead exemptions.
- **Minnesota:** Must be a record title owner to qualify for the state's homestead credit refund program; an heir can qualify for the market residential exclusion while the estate is being administered in probate court, but only if the deceased record title owner is the heir's parent.
- **Missouri:** Generally, the state requires record title to qualify for the state's property tax credit, but on a case-by-case basis an applicant may be able to qualify with other documentation.
- **Montana:** Must be a record title owner to qualify for the state's elderly homestead tax credit, property tax assistance program, and property tax rebate program.
- **Nebraska:** Proof of ownership must be recorded in the public records, with more flexibility as to what is recorded, such as a will, death certificate or court order if an heir demonstrates in a recorded memorandum of understanding that the heir will become the owner of record.
- **Nevada:** Must be a record title owner to qualify for the state's tax abatement and deferral programs.
- **New Hampshire:** Must be a record title owner to qualify for the state's senior and disability exemptions; the ownership requirements for the state's deferral program are more ad hoc, whereby the heir must convince the local tax officials on a case-by-case basis.
- **New York:** Must be a record title owner to qualify for the state's homestead exemptions.
- **Oklahoma:** Must be a record title owner to qualify for the state's homestead exemption and tax freeze.
- **Oregon:** Must be a record title owner to qualify for the state's property tax deferral programs for disabled and senior homeowners. Persons with disabilities have up to two years from the date of the previous participant's death to obtain a recorded deed to the home.
- **Pennsylvania:** Must be listed on a deed or other recorded legal instrument to qualify for the state's property tax rebate and local homestead exemptions. Philadelphia provides a conditional homestead exemption for heirs without record title.

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- **South Carolina:** Must be listed on the deed or other recorded legal instrument to qualify for the state's homestead exemption, 4% assessment ratio, and school tax credit.
- **South Dakota:** Must be a record title owner to qualify for the state's property tax assessment freeze, deferral, and municipal property tax reduction programs.
- **Utah:** Must be a record title owner to qualify for the state's tax credit and indigent abatement and deferral programs.
- **Vermont:** Must be a record title owner to qualify for the state's homestead declaration and property tax credit programs.
- **West Virginia:** Must be a record title owner to qualify for the state's homestead exemption program.
- **Wisconsin:** Must be a record title owner or have a probated will to qualify for the state's homestead credit program for low-income households.
- **Wyoming:** Must be a record title owner to qualify for the state's property tax refund program.

States with ad hoc proof of ownership requirements

The following states do not have clear legal guidance regarding what heirs must produce for proof of ownership to qualify for at least one of the state's property tax relief programs for owner-occupied homesteads, resulting in ad hoc requirements applied at the local level.

- **Alabama:** Varying requirements at the local level to qualify for the homestead exemption and 10% assessment ratio, with several counties requiring a deed or other formal legal instrument establishing the applicant's ownership.
- **Arkansas:** Varying requirements at the local level to qualify for homestead tax credit and assessment caps, with several counties requiring a deed or other formal legal instrument establishing the applicant's ownership.
- **Hawaii:** At least three county-specific exemption programs require the heirs' names to be on the title.
- **Idaho:** Varying requirements at local level for types of proof of ownership accepted for heirs' property, with several counties requiring a deed conveying title to the applicant.
- **Illinois:** No clear proof of ownership requirements for general homestead, senior homestead exemption, and senior citizen assessment freeze, with at least some counties requiring a recorded deed or a will.
- **Indiana:** Inconsistent proof of ownership requirements applied at the local level for the state's homestead exemptions and assessment caps.

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- **Kansas:** The state's application form for the homestead property tax refund program states that the owner's name must be on the deed; the Department of Revenue will consider other proof on a case-by-case basis.
- **Kentucky:** Varying proof of ownership requirements applied at the local level to qualify for a homestead tax exemption; state law does not require recorded title, but the local tax assessor offices contacted require a deed conveying the property to the applicant.
- **Louisiana:** Varying proof of ownership requirements applied at the local level to qualify for a homestead tax exemption, with several parish tax assessors requiring a deed or other recorded legal instrument establishing applicant's ownership.
- **Maine:** Varying proof of ownership requirements applied at the local level to qualify for homestead exemptions and property tax credits; a deed in applicant's name is typically required, although some jurisdictions accept probate documents.
- **Massachusetts:** Cities and counties apply varying standards for proof of ownership, with several requiring the applicant to be the record title owner.
- **New Mexico:** Varying proof of ownership requirements applied at the local level to qualify for the state's homestead exemption; several county assessor offices require a deed or other recorded legal instrument conveying the property to the applicant.
- **North Carolina:** Varying proof of ownership requirements applied at the local level to qualify for the state's homestead exemption and property tax deferral programs. Generally, the applicant's name must appear on the deed or other legal instrument conveying title to the applicant.
- **North Dakota:** Each county decides what proof of ownership to require for the state's homestead tax credit program.
- **Ohio:** Varying proof of ownership requirements applied at the local level to qualify for a homestead tax exemption. A deed in the applicant's name is typically required, but a local taxing office may allow alternative supporting documents.
- **Rhode Island:** Varying local standards for the proof of ownership required to qualify for the state-authorized local tax exemptions and tax freezes, with Providence requiring an applicant's name to be on the deed.
- **Tennessee:** Ad hoc and inconsistent standards as to the proof of ownership required for an heir to qualify for the state's property tax relief program and local tax freeze for low-income seniors.
- **Virginia:** Varying requirements at the local level for the proof of ownership accepted for homestead exemptions, tax freezes, and deferrals.
- **Washington:** Must have some proof of ownership recorded to qualify for the state's property tax exemption for low-income seniors and persons with disabilities; counties

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vary in formality as to what type of recorded proof is accepted, such as a deed or affidavit of heirship.

States imposing other access barriers

The following states impose other legal barriers that prevent heirs and other co-tenants from accessing the full property tax relief available to individuals on their owner-occupied homestead. These barriers include, for example, applying a partial tax exemption in proportion to an heir's co-ownership interest and requiring the heirs not residing in the home to also meet the program's eligibility requirements such as income limits.

- **Alaska:** The state's senior citizen exemption is applied in proportion to an applicant's co-tenancy interest.
- **Arizona:** The state considers the combined income of all co-owners to qualify for a senior tax freeze.
- **California:** All record title owners must qualify for the property tax deferral program, except for spouses, domestic partners, and "direct-line relatives."
- **Colorado:** A homeowner must own and occupy property for at least 10 years to qualify for the state's senior citizen exemption.
- **Connecticut:** The elderly/disabled circuit breaker tax relief program is applied pro rata based on the applicant's co-tenancy interest.
- **Delaware:** The state's senior school property tax relief credit and county senior exemption are applied pro rata based on the applicant's co-tenancy interest.
- **Florida:** Heirs and other co-owners qualify for only a partial homestead exemption and assessment cap.
- **Idaho:** The state's property tax credit and homestead exemption programs are applied in proportion to the applicant's co-tenancy interest.
- **Indiana:** The combined income of all the heirs must fall below the income cap for the low-income senior citizen homestead exemption. If one or more of the heirs is younger than 65, the exemption is applied in proportion to the qualifying heir's co-tenancy interest.
- **Iowa:** The state's senior/disabled credit is prorated in proportion to the applicant's co-tenancy interest.
- **Kansas:** The state's homestead property tax refunds are prorated in proportion to the applicant's co-tenancy interest.
- **Kentucky:** The homestead exemption for seniors and persons with disabilities is capped for co-tenants by the amount of the co-tenant's assessed value interest in the property.

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- **Minnesota:** The state's market value exclusion and homestead credit programs are applied in proportion to the applicant's co-tenancy interest.
- **New Hampshire:** The state's senior/disabled exemption is applied in proportion to the applicant's co-tenancy interest.
- **New York:** To qualify for the local-option senior citizen homeowners' exemption (1) all co-tenants must occupy the property as their primary residence, (2) all the co-tenants other than the siblings and spouse must be 65 or older, and (3) the combined income of all the co-tenants cannot exceed the eligibility cap.
- **North Carolina:** To qualify for the state's circuit breaker property tax deferral program for low-income seniors and persons with disabilities, each co-tenant must meet the program's income limits, be 65 or older or disabled, and have occupied the property as their permanent residence for at least the past five years. The state's senior and disabled homestead exemptions are capped by the co-tenant's proportionate share of the property's valuation.
- **North Dakota:** The state's homestead tax program is applied in proportion to the applicant's co-tenancy interest.
- **Oklahoma:** The state's general, disabled, and senior homestead exemptions are applied in proportion to the applicant's co-tenancy interest.
- **Oregon:** An applicant cannot qualify for a senior or disability deferral unless all the co-tenant also apply and meet the program's qualifications.
- **Pennsylvania:** For the state's property tax rebate program for low-income seniors and persons with disabilities, a co-tenant's rebate is limited by the percentage of the co-tenant's ownership interest.
- **Rhode Island:** Varying local standards as to when property tax exemptions are applied in full or in proportion to an heir's co-tenancy interest.
- **South Carolina:** The state's senior and disabled homestead exemptions are limited to the percentage of the co-tenant's ownership interest. For the state's 4% assessment ratio, state law is unclear, with several counties applying the lower assessment ratio only to the co-tenant's interest. County tax offices vary in how they apply the school operating tax exemption to co-tenants, with at least some counties applying the exemption in proportion to the co-tenant's ownership interest in the property.
- **Tennessee:** All the co-owners' must meet the income limits for the state's property tax relief program and local tax freeze for low-income seniors.
- **Utah:** Varying local standards as to how the state's low income homeowner's tax credit and indigent abatement and deferral programs are applied to heirs. Salt Lake City provides tax relief only in proportion to an heir's co-tenancy interest.

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- **Vermont:** The state's homestead declaration and property tax credit programs are applied in proportion to the applicant's co-tenancy interest.
- **Virginia:** Standards vary at local level and include proration of exemption based on a co-tenant's ownership interest and requiring all the co-tenants to meet the programs' eligibility requirements, including occupancy of the property.
- **Washington:** The state's property tax exemption for low-income seniors and persons with disabilities is applied in proportion to the applicant's co-tenancy interest.

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