

Help for Texas homeowners is on the way

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By Lucy Wood - Special to the American-Statesman

Two things happened recently in Texas that affect homeowners. First, the drought-busting rainfall was torrential. Second, several county appraisal districts across the state jacked up everyone's taxes, and those hardest hit in Austin were in predominantly poor areas.

We know that property taxes in Texas are regressive — they hit harder the poorer you are — and we also know that low-income people are much less likely to take advantage of the homestead exemptions that would dramatically reduce their tax burdens. For instance, this past year, University of Texas law students offering free legal services to the poor found only 1 in 4 families had obtained the exemptions for which they appeared to qualify. Those assisted by students now expect refunds of about 7 percent of their average annual income.

That's a lot of low-income people, and a lot of money left on the table.

While we celebrate the rising lake levels, it looks as if we're headed for more of the kind of weather that disproportionately devastates low-income homeowners, such as the ones crippled by hurricanes Ike and Dolly and everything else that has beaten up the flood plains in Texas during the past decade. For the poor, higher taxes and higher waters spell physical and economic disaster.

But we now have a new way to soften these blows. Gov. Greg Abbot recently signed a transfer on death deed, or TODD, law similar to what roughly half of the other states in the nation use to allow people to transfer ownership of real property — their home — often without the costs of judges or lawyers. Come September, nobody should have to shell out for a will to make sure their home winds up in good hands. They will just need to go to their county clerk's office, notarize and file a simple form.

This new tool is critical, and Texans ought to take advantage of it.

For years, low-income homeowners in informal communities and in flood plains have had their ownership fractionalized over time by their inability to access probate lawyers and courts. Under the laws of intestate succession, a family's home often gets passed in joint ownership to four or five siblings; as one or more of these passes, those shares trickle down to multiple scattered cousins. The family member who stays in the home can't get a loan to make repairs and is unable to sell or recoup any equity in what is often the only family asset or potential source of wealth. Over a generation or two, the ownership of the property in most cases becomes unknown, as nobody can identify the cousins of cousins.

Rising waters make this hidden problem apparent. When hurricanes Ike and Dolly ravished the Gulf Coast and the Rio Grande Valley in 2008, some homeowners in the flood plains had difficulty accessing rebuild money without proof of their, often partial, ownership.

And so what about the taxes? Well, unknown heirs don't pay them. And family members who have moved away don't either. Those who remain are saddled with the full debt. Ironically, these homesteaders can often only access their pro rata share of the constitutional entitlement to homestead exemption. For example, one hurricane victim living in an uninhabitable shell of a house had only 1/60 of an interest in her property. Her relatives were in four different states, and law students could not identify them. She had been paying full taxes for years with no homestead exemption in place.

But thanks to the Texas Legislature, at least we now have a new tool in the tool kit to help mitigate the effects of these problems. If you can afford a lawyer, get a will. If you can't, at least get a TODD. That way, if you so choose, only one person in the family will be in the driver's seat when the waters rise. That one person will be able to get assistance and repair loans and have access to equity. And that person will be able to pursue the full property tax exemption to which he or she is constitutionally entitled, making it that much more likely for that person to be able to hang on to the family home.

If you can, tell a family in the flood plain.

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