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New Report Documents the Costs of Public Assistance Liens on Low-Income New Yorkers and the Critical Need for Repeal or Reform

The drain on equity haunts former recipients as they struggle to achieve financial security for their families

Today, Empire Justice Center published a report describing and quantifying the hidden costs of public assistance for recipients who own homes. The report, **"Don't Lien on Me: How New York's Public Assistance Mortgages Undermine Homeownership and Financial Stability,"** provides an comprehensive analysis of New York's use of Social Services Law §106, which allows Social Services Districts to recover public assistance paid to individuals who own their own homes, by taking a mortgage against the recipient's property. The report also chronicles the legal background of the practice, the interplay between this policy and the push for foreclosure prevention, the need for detailed recordkeeping, and makes recommendations to ensure that debt is recovered against these mortgages only in the appropriate situations and for the correct amount.

"New York and Connecticut are the only two states in the country that allow the taking a mortgage as a condition of receiving public assistance. It's an archaic practice, and it undermines the financial stability of some of our most vulnerable homeowners," said Susan Antos, a senior attorney at Empire Justice Center and primary author of the report. "These homeowners do not realize the size of the lien on their home because they do not receive a periodic accounting of the amount of public assistance paid, accrued debt or credits against the debt," she noted.

A woman from upstate New York recounts how she was overcharged tens of thousands of dollars, due to improper recordkeeping. "Twenty years ago, I was forced to turn to public assistance to provide for my family, when my marriage fell apart. Several times, I attempted to find out how much I owed for the lien on my home, yet I never receive the information. Once I was able to get back on my feet and attempted to sell my house, I tried to find out how much I owed. The county gave me a worksheet with an adding machine register tape stapled to it for an amount that was more than the remaining mortgage. Due to diligent recordkeeping on my part, and with help from Empire Justice Center, we were able to sort through erroneous and duplicate charges and uncredited child support payments to determine that I was overcharged by over $20,000," said Laurie Schaible.

Kirsten Keefe, a senior consumer Attorney at Empire Justice Center added, "welfare liens add to the foreclosure crisis. In New York, a homeowner who is trying to get a loan modification will be required to get the county to agree to subordinate their lien. This is a heavy burden for the homeowner, as it stands as an impediment to saving their home. A statewide policy is needed to ensure no homeowner loses their home because of a welfare lien."

The report also documents the extent to which Social Services Districts take mortgages on the homes of welfare recipients and how much they have recovered In response to FOIL requests sent by Empire Justice, over 90% of the counties supplied information regarding their use of the law.

According to Tamara Frazier, Policy Coordinator at Empire Justice, the data reveals the extensive use of the statute statewide. "Over 12,000 liens have been filed against public assistance recipients between January 2006 and December 2012. Even without all social services districts providing annualized data,, the report shows that counties recovered almost $25.5 million dollars – an average of $4.2 million in homeowner equity is paid back to counties each year. Ten counties across the state (Suffolk, New York City, Nassau, Erie, Broome, Onondaga, Monroe, Oneida, Niagara and Dutchess) account for over 85% of the total fiscal recoveries during this time period. The data clearly shows a continual drain of equity from homeowners who are struggling to regain financial independence."

"This lack of accountability with regard to recovered funds, along with problems faced by former public assistance recipients, makes this law ripe for repeal or substantial reform. At the very least, we need to increase transparency and accountability by providing an annual statement to homeowners, just like you would get with any other mortgage," said Kristin Brown Lilley, Empire Justice Center's VP for Policy & Government Relations.

The report's main recommendation is that Social Services Law 106 be repealed, as it drains the net worth of low-income New Yorkers and undermines the policy of self-sufficiency. Absent that, other recommendations include:

- Requiring that Social Services Districts provide an annual statement to current and former welfare recipients so they are aware of the ongoing lien on their property, can check for accuracy in the accounting and, if they are able, can pay down the debt over time.
- A complete overhaul of the welfare lien recovery system to ensure consistency across local districts, accurate accounting and transparency.

"We look forward to working with the Governor and the Legislature to address this egregious problem that is haunting current and former welfare recipients and undermining the goals of homeownership and asset building in our low income communities across the state," Brown Lilley concluded.

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Empire Justice Center is a statewide, multi-issue, multi-strategy, public interest law firm focused on changing the "systems" within which poor and low-income families live. Empire Justice protects and strengthens the legal rights of people in New York State who are poor, disabled or disenfranchised through: systems change advocacy, training and support to other advocates and organizations, and high quality direct civil legal representation. Empire Justice has four offices in Albany, Rochester, White Plains and on Long Island.