

By: Haggerty

H.B. No. 2675

A BILL TO BE ENTITLED

AN ACT

relating to the sale of ad valorem tax liens.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 32, Tax Code, is amended by adding Sections 32.08-32.17 to read as follows:

Sec. 32.08. SALE OF TAX LIENS. (a) A taxing unit may sell a tax lien that exists in favor of the taxing unit or another taxing unit for which it collects taxes and that secures the payment of delinquent taxes owed to the taxing unit or the other taxing unit at a private sale. Consent to the sale of the tax lien by any other taxing unit that holds a tax lien on the property subject to the lien is not required.

(b) A tax lien may not be sold for an amount that is less than the lesser of:

(1) the appraised value of the property as shown on the appraisal roll for the most recent tax year for which the taxes secured by the tax lien were imposed; or

(2) the total amount of the taxes, penalties, and interest imposed on the property on the date the tax lien is sold.

Sec. 32.09. NOTICE OF SALE. (a) At least 30 days before the date on which the sale of a tax lien is scheduled to occur, the collector for the taxing unit shall send a notice by certified mail to the owner of the property at the owner's address as it appears on the current or most recent delinquent tax roll, as applicable.

1 (b) The notice must identify the property to which the tax
2 lien is attached and be in substantially the following form:

3 PROPOSED SALE OF TAX LIEN

4 The property identified in this notice is subject
5 to an ad valorem tax lien in favor of
6 _____ (name of taxing unit) for _____
7 (year) tax year in the total amount of \$_____.

8 According to the current or most recent
9 delinquent tax roll, you own an interest in this
10 property. You are advised that on or after
11 _____ (proposed date of sale), the tax lien on
12 this property may be sold.

13 If you wish to pay the delinquent taxes and
14 penalties and interest before the date of the sale, you
15 may contact _____ (name, title,
16 business address, and telephone number of applicable
17 collector).

18 After this tax lien is sold, the purchaser of the
19 lien will have the right to collect and enforce the
20 delinquent taxes, penalties, interest, and collection
21 fees on the property identified in this notice.

22 Sec. 32.10. CERTIFICATE OF SALE. (a) On the sale of a tax
23 lien under Section 32.08, the collector for the applicable taxing
24 unit shall issue and deliver to the purchaser of the tax lien a
25 certificate that identifies the property to which the lien is
26 attached and the total amount secured by the lien on the date of the
27 sale, including taxes, penalties, interest, and collection fees.

1 (b) The collector shall:

2 (1) impress the certificate with the collector's seal
3 of office; and

4 (2) retain a copy of each certificate issued under
5 Subsection (a).

6 (c) A certificate issued under this section constitutes
7 prima facie evidence that each condition precedent to the sale of
8 the tax lien described by the certificate has been satisfied.

9 Sec. 32.11. RECORD OF PURCHASE. To be enforceable by the
10 purchaser of a tax lien purchased under Section 32.08, the
11 purchaser of the lien must record the tax lien in the deed of
12 records of each county in which the property to which the lien is
13 attached is located.

14 Sec. 32.12. INTEREST, PENALTIES, AND FEES. A person who
15 purchases a tax lien may seek to collect the amount secured by the
16 tax lien, including interest, penalties, and any collection fees
17 that the applicable taxing units would have been entitled to
18 recover.

19 Sec. 32.13. PREEXISTING LIENS. (a) Not later than six
20 months after the date on which a tax lien is recorded under Section
21 32.11, the holder of a preexisting lien on the property may pay the
22 purchaser of the purchased tax lien the total amount the purchaser
23 paid for the lien, plus any penalty or interest that would have
24 subsequently accrued had the tax lien not been sold, and recording
25 expenses.

26 (b) On payment of the appropriate amount under Subsection
27 (a), the holder of the preexisting lien is subrogated to all rights

1 in the lien.

2 Sec. 32.14. SUBSEQUENTLY IMPOSED TAXES. The purchaser of a
3 tax lien under Section 32.08 may voluntarily elect to pay any taxes
4 imposed on the property, timely or otherwise.

5 Sec. 32.15. FORECLOSURE OF TAX LIEN. (a) Not earlier than
6 the 181st day after the date on which a tax lien is recorded as
7 provided by Section 32.11, the purchaser of the lien may file suit
8 to foreclose the tax lien.

9 (b) The purchaser of a tax lien and any successor in
10 interest may foreclose the lien:

11 (1) in the manner provided by law for foreclosure of a
12 tax lien by a taxing unit; or

13 (2) in the manner provided by Section 51.002, Property
14 Code.

15 (c) A person who forecloses a tax lien under Subsection
16 (b)(2) must simultaneously notify in writing each lienholder of
17 record of the foreclosure.

18 (d) If a suit is filed under Subsection (b)(1) and the
19 judgment in the suit is for foreclosure of the tax lien, the person
20 who filed the suit is entitled to recover reasonable attorney's
21 fees.

22 (e) The proceeds of a sale of the property under a judgment
23 of foreclosure shall be applied:

24 (1) first to payment of court costs;

25 (2) second to payment of the amount of the judgment,
26 including accrued interest;

27 (3) third to payment of any attorney's fees awarded in

1 the judgment;

2 (4) fourth to payment of other holders of a lien
3 attached to the property, in order of priority; and

4 (5) fifth to the owner of the property sold at the
5 sale.

6 (f) If foreclosure of the property is in the manner provided
7 by Section 51.002, Property Code, the person foreclosing may
8 recover all expenses incurred in the foreclosure. The proceeds of a
9 sale on the foreclosure shall be applied:

10 (1) first to payment of the amount due the person
11 holding the tax lien, including accrued interest and any expense of
12 foreclosure;

13 (2) second to payment of other holders of a lien
14 attached to the property in order of priority; and

15 (3) third to the owner of the property sold at the
16 sale.

17 Sec. 32.16. RIGHT OF REDEMPTION OF RESIDENCE HOMESTEAD OR
18 LAND DESIGNATED FOR AGRICULTURAL USE. (a) The owner of real
19 property sold at a sale under Section 32.15 that was used as the
20 residence homestead of the owner or that was land designated for
21 agricultural use when the suit under Section 32.15 was filed or on
22 the date of foreclosure under Section 51.002, Property Code, or a
23 person who holds a first lien that is attached to the property, may
24 redeem the property on or before the second anniversary of the date
25 on which the purchaser's deed is filed for record by paying the
26 purchaser the amount the purchaser bid for the property, the amount
27 of the deed recording fee, and the amount paid by the purchaser as

1 taxes, penalties, interest, and costs on the property, plus a
2 redemption premium of 25 percent of the aggregate total if the
3 property is redeemed during the first year of the redemption period
4 or 50 percent of the aggregate total if the property is redeemed
5 during the second year of the redemption period.

6 (b) The owner of real property sold at a tax sale other than
7 property that was used as the residence homestead of the owner or
8 that was land designated for agricultural use when the suit for
9 foreclosure under Section 32.15 was filed or on the date of
10 foreclosure under Section 51.002, Property Code, or a person who
11 holds a first lien attached to the property, may redeem the property
12 in the same manner and by paying the same amounts as prescribed by
13 Subsection (a), as applicable, except that:

14 (1) the owner's right of redemption may be exercised
15 not later than the 180th day following the date on which the
16 purchaser's deed is filed for record; and

17 (2) the redemption premium payable by the owner or
18 holder of the first lien to a purchaser may not exceed 25 percent.

19 (c) In this section, "costs," "land designated for
20 agricultural use," and "residence homestead" have the meanings
21 assigned by Section 34.21.

22 Sec. 32.17. VOID OR DEFECTIVE TAX LIEN. If the sale or
23 purchase of a tax lien under Section 32.08 is declared void or
24 defective, the taxing unit selling the tax lien shall refund to the
25 purchaser of the tax lien the total amount that purchaser paid for
26 the lien, plus any recording fees paid by the purchaser.

27 SECTION 2. This Act takes effect September 1, 2003.