

By: Puente

H.B. No. 2491

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the transfer of an ad valorem tax lien and to a contract
3 for foreclosure of an ad valorem tax lien.

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

5 SECTION 1. Section 32.06, Tax Code, is amended by amending
6 Subsections (a), (b), and (e) and adding Subsections (j) and (k) to
7 read as follows:

8 (a) A person may authorize another person to pay the taxes
9 imposed by a taxing unit on the person's real or personal property
10 by filing with the collector for the unit a sworn document stating
11 the authorization, naming the other person authorized to pay the
12 taxes, and describing the property.

13 (b) If a person authorized to pay another's taxes pursuant
14 to Subsection (a) pays the taxes and any penalties and interest
15 imposed, the collector shall issue a tax receipt to the person
16 paying the taxes. In addition, the collector or a person designated
17 by the collector shall certify on the sworn document that payment of
18 the taxes and any penalties and interest on the described property
19 has been made by a person other than the person liable for the taxes
20 when imposed and that the taxing unit's tax lien is transferred to
21 the person paying the taxes. The collector shall attach to the
22 document the collector's seal of office or sign the document before
23 a notary public and deliver the document to the person paying the
24 taxes. The collector shall keep a record of all tax liens

1 transferred as provided by this section.

2 (e) A person holding a tax lien transferred as provided by
3 this section may not charge a greater rate of interest than 18
4 percent a year on the taxes, penalties, interest, closing costs,
5 and recording expenses paid to acquire and record the lien.

6 (j) A person who owns or holds a first lien on property sold
7 under this section is entitled to redeem the property from the
8 purchaser by paying the purchaser the foreclosure sale purchase
9 price plus costs, fees, and interest to the date of redemption at
10 the rate of 18 percent per year, or 125 percent of the purchase
11 price during the first year of the redemption period or 150 percent
12 of the purchase price during the second year of the redemption
13 period, whichever is less. The right of redemption may be exercised
14 on or before the second anniversary of the date on which the
15 purchaser's deed is filed of record if the property sold was the
16 residence homestead of the owner, was land designated for
17 agricultural use, or was a mineral interest. For any other
18 property, the right of redemption must be exercised not later than
19 the 180th day after the date on which the purchaser's deed is filed
20 of record.

21 (k) If a person redeems property under Subsection (j), the
22 purchaser at the foreclosure sale shall deliver a deed to the person
23 redeeming the property. If that person was the owner of the
24 property at the time of foreclosure, any lien existing on the
25 property at the time of the foreclosure sale remains in effect to
26 the extent not paid from the proceeds of the foreclosure sale.

27 SECTION 2. Section 32.065, Tax Code, is amended by amending

1 Subsections (a)-(c) and adding Subsections (g) and (h) to read as
2 follows:

3 (a) Section 32.06 does not abridge the right of an owner of
4 real property to enter into a contract for the payment of taxes to a
5 taxing unit and for the transfer of a tax lien from the taxing unit
6 in the manner provided by Sections 32.06(a)-(d) with [the holder of
7 a lien on the property, including] a transferee under Section 32.06
8 or this section. Section 32.06 does not authorize a claim to a tax
9 lien transferred under this section [r] or affect a contract
10 between the owner and holder of a lien for the payment of taxes on
11 the property.

12 (b) A contract entered into under Subsection (a) shall be
13 secured by a priority tax lien and may provide for:

- 14 (1) an event of default; ~~and~~
15 (2) notice of acceleration;
16 (3) closing costs and fees;
17 (4) funding incident to an escrow agreement;
18 (5) interest at a rate not to exceed 18 percent on any
19 money advanced; and
20 (6) nonjudicial foreclosure sale.

21 (c) In addition to each right or remedy included in a
22 contract authorized by this section and notwithstanding
23 [Notwithstanding] any other provision of this code, a transferee of
24 a tax lien is subrogated to and is entitled to exercise any right or
25 remedy possessed by the transferring taxing unit, including or
26 related to foreclosure or judicial sale.

27 (g) A person who owns or holds a first lien on property sold

1 under this section is entitled to redeem the property from the
2 purchaser by paying the purchaser the foreclosure sale purchase
3 price plus costs, fees, and interest to the date of redemption at
4 the rate of 18 percent per year, or 125 percent of the purchase
5 price during the first year of the redemption period or 150 percent
6 of the purchase price during the second year of the redemption
7 period, whichever is less. The right of redemption may be exercised
8 on or before the second anniversary of the date on which the
9 purchaser's deed is filed of record if the property sold was the
10 residence homestead of the owner, was land designated for
11 agricultural use, or was a mineral interest. For any other
12 property, the right of redemption must be exercised not later than
13 the 180th day after the date on which the purchaser's deed is filed
14 of record.

15 (h) If a person redeems property under Subsection (g), the
16 purchaser at the foreclosure sale shall deliver a deed to the person
17 redeeming the property. If that person was the owner of the
18 property at the time of foreclosure, any lien existing on the
19 property at the time of the foreclosure sale remains in effect to
20 the extent not paid from the proceeds of the foreclosure sale.

21 SECTION 3. Sections 32.06(f) and (i), Tax Code, are
22 repealed.

23 SECTION 4. The changes in law made by this Act apply only to
24 the transfer of a tax lien that occurs on or after the effective
25 date of this Act or to a contract for the transfer of a tax lien
26 entered into on or after that date. The transfer of a tax lien that
27 occurred or a contract for the transfer of a tax lien that was

1 entered into before the effective date of this Act is covered by the
2 law in effect when the tax lien was transferred or the contract
3 entered into, and the former law is continued in effect for that
4 purpose.

5 SECTION 5. This Act takes effect September 1, 2005.