

BILL ANALYSIS

C.S.H.B. 1910
By: Elkins
Local Government Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The liability for a tax accrues on the first day of January of each year. A statutory tax lien attaches to personal property on January 1st to secure payment of that year's tax assessed on property. School districts, cities, counties and other political subdivisions rely upon the enforceability of the tax lien on the personal property of a business to insure the ultimate collection of the tax. If the personal property of a business is liquidated in the process of cessation of the business, as a practical matter, the tax lien becomes unenforceable and the collection of the tax is extremely problematic. If the business is a limited liability company (LLC) or a corporation, the liquidation of the personal property of the LLC or corporation makes the collection of the tax virtually impossible because there is no personal property remaining against which to enforce the tax lien and there is no personal liability for payment of the tax by the members of an LLC or the shareholders of a corporation.

Section 33.21 of the Tax Code currently provides for the collection of personal property that is about to be removed from the county in which a tax on the personal property has been or will be assessed for the current tax year. C.S.H.B. 1910 simply clarifies that this remedy applies to the personal property of a business that is being liquidated in connection with the cessation of the business. This is necessary to insure the collection of tax revenue required for the support of school districts, cities, counties, and other political subdivisions across Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill amends Section 33.21(b), Tax Code, to enhance the ability of school districts, cities, counties, and other political subdivisions to collect taxes which have been or will be assessed on the person's personal property of a business which is sold in a liquidation sale in connection with the cessation of a business.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds the word "person's" to clarify that the taxing entity can enforce collections by looking at any of the taxpayers' property that is still in the county.