

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 11, 2007

TO: Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1520 by Wentworth (Relating to ad valorem tax lien transfers.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Sections 32.06 and 32.065 of the Tax Code to modify the rights and obligations of a person authorized by the owner of real property to pay property taxes on a specific property. The bill would allow a property tax lien to be transferred to the person who paid the taxes on behalf of the owner for taxes that were delinquent or not delinquent at the time the tax payments were made, if the property were not subject to a recorded mortgage lien or a prior tax lien had been transferred to the same person and had been executed and recorded.

The bill would replace the term "sworn document" with the term "certified statement," concerning the lien release document issued by the collector to the holder of the tax lien. When a tax lien was released, the transferee of the lien would be allowed to charge the owner a reasonable fee for filling a lien release. The bill would require a lien transferee before foreclosing a tax lien to allege in a foreclosure application that the foreclosure was only for payment of property taxes. The transferee would have to give the owner 60 days notice before foreclosure.

The bill would require the transferee, when a loan was secured by a transferee lien and taxes were delinquent, to send the owner notice of the delinquency on the 120th day after the delinquency date. If an owner chose to redeem the property after foreclosure, the owner would have to pay the transferee the amount of any cost incurred by the transferee relative to the foreclosed property.

The bill would require a contract for payment of property taxes entered into between a transferee and an owner to contain specific language stating that: "IF YOU HAVE A FIRST LIEN MORTGAGE PREVIOUSLY RECORDED ON THE PROPERTY SUBJECT TO THIS CONTRACT, FAILURE TO PAY YOUR TAXES ON THE PROPERTY AND ENTERING INTO THIS CONTRACT MAY CONSTITUTE A DEFAULT UNDER THE TERMS OF YOUR MORTGAGE."

The bill would repeal Sections 32.06 (a-3) and 32.065 (g) of the Tax Code, all of which would be superseded by language in the bill.

Because the state is constitutionally prohibited from imposing a state property tax, there would be no direct fiscal impact on the state. Passage of this bill would affect only the rights and obligations of persons who entered into private contracts for payment of property taxes on real property and would not affect units of local government. The bill would take effect September 1, 2007.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SJS