

BILL ANALYSIS

H.B. 1465
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Section 32.06, Tax Code, authorizes a person (transferee) to pay the real property taxes of a property owner. In such cases, the tax liens on the real property are transferred from a taxing unit to the transferee. The section was significantly amended by S.B. 1520, 80th Legislature, Regular Session, 2007, to clarify tax lien transfer procedures. However, that legislation failed to address the situation where a taxing unit and a transferee both possess tax liens on the same property, but for different tax years, and a taxing unit files suit for foreclosure of the lien it has. Local taxing units must have a way to account for liens held by transferees when foreclosing their own tax liens. If left with a foreclosure that is subject to the transferred liens, the taxing units will be severely hampered in their effort to deliver free and clear titles at foreclosure sales. That, in turn, will lead to a decrease in property tax revenues.

Section 33.44(a), Tax Code, sets forth the procedure for a taxing unit to join other taxing units in a suit to foreclose real property for delinquent taxes.

H.B. 1465 requires a taxing unit to also join a tax lien transferee when the taxing unit files suit to foreclose its own lien for delinquent property taxes. Once joined, a transferee would be entitled to foreclose its lien, notwithstanding the current law that generally prohibits the same within one year of the date on which the lien is recorded, and regardless of whether the loan secured by the lien is delinquent. Alternatively, this bill authorizes a transferee to pay all taxes, penalties, interest, court costs, and attorney's fees owing to the taxing units in the suit.

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

H.B. 1465 amends the Tax Code to require a taxing unit that files suit to foreclose a tax lien on real property, in addition to joining other taxing units that have a claim against all or part of the same property, to join each transferee of a tax lien against the property. The bill authorizes the transferee, after the joinder, to file its claim and seek foreclosure in the suit for all amounts owed the transferee that are secured by the transferred tax lien, regardless of when the original transfer of tax lien was recorded or whether the original loan secured by the transferred tax lien is delinquent. The bill provides that, in the alternative, the transferee may pay all taxes, penalties, interest, court costs, and attorney's fees owing to the taxing unit that filed the foreclosure suit and each other taxing unit that is joined.

H.B. 1465 requires each joined taxing unit, in consideration of the payment by the transferee of those taxes and charges, to transfer its tax lien to the transferee in the form and manner provided by law and enter its disclaimer in the suit. The bill authorizes the transferee, on transfer of all applicable tax liens, to seek to foreclose the tax liens in the pending suit or in any other manner provided by law, regardless of when the original transfer of tax lien was recorded or whether the

original loan secured by the transferred tax lien is delinquent. The bill provides that the foreclosure may include all amounts owed to the transferee, including any amount secured by the original transfer of tax lien. The bill establishes that all liens held by a transferee who is joined in such a suit but fails to act as provided by the bill are extinguished, and requires the court's judgment to reflect the extinguishment of those liens.

H.B. 1465 makes its provisions applicable to a suit for foreclosure of a property tax lien that is pending on September 1, 2009, or that is brought on or after that date.

EFFECTIVE DATE

September 1, 2009.