

## **BILL ANALYSIS**

H.B. 2908  
By: Paxton  
Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Chapter 351, Finance Code, provides for licensure of property tax lenders by the Office of Consumer Credit Commissioner. Provisions governing the transfer of a tax lien require two documents, but uniform documents for the requirements do not exist.

H.B. 2908 clarifies the consumer credit commissioner's examination, investigation, and related authority under property tax lender licensing provisions and authorizes the Finance Commission of Texas to prescribe the form and content of documents required for the transfer of a tax lien.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 3 of this bill.

### **ANALYSIS**

H.B. 2908 amends Section 351.004, Finance Code, as added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature, Regular Session, 2007, to clarify that a property tax lender is authorized to conduct business in an office, office suite, room, or place of business in which any other business is conducted or in combination with any other business unless the consumer credit commissioner determines after a hearing that the conduct of the other business in that office, office suite, room, or place of business has concealed an evasion under the Property Tax Lender License Act and orders the lender in writing to desist from the conduct of the other business in that office, office suite, room, or place of business. The bill removes a provision establishing that the Property Tax Lender License Act is not to be construed to prevent affiliated or controlled business arrangements or loan origination services by or between a property tax lender and other professionals.

H.B. 2908 amends Subchapter A, Chapter 351, Finance Code, as added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature, Regular Session, 2007, to establish procedures for the examination of lenders by the consumer credit commissioner or the commissioner's representative. The bill provides for the examination of each place of business of each property tax lender and the investigation of the lender's transactions to the extent the transactions and records pertain to the business regulated under property tax lender licensing provisions and provisions relating to tax liens. The bill requires the property tax lender to give the commissioner or the commissioner's representative free access to the lender's office, place of business, files, safes, and vaults and to allow the commissioner or representative to make a copy of an item permitted to be investigated. The bill authorizes the commissioner or representative, during an examination, to administer oaths and examine any person under oath on any subject pertinent to a matter about which the commissioner is authorized or required to consider, investigate, or secure information. The bill establishes that information obtained is confidential and that a property tax lender's violation is a ground for the suspension or revocation of the lender's license. The bill establishes procedures for a general investigation regarding a violation or suspected violation of licensing provisions or provisions relating to tax liens regardless of

whether the person claims to not be subject to those provisions. The bill establishes that a person who advertises, solicits, or otherwise represents that the person is willing to make a property tax loan is presumed to be engaged in the authorized activity of property tax lender.

H.B. 2908 makes it a violation of licensing requirements for a property tax lender to fail or refuse to permit an examination or investigation authorized by the bill's provisions and establishes that the failure or refusal is grounds for the suspension or revocation of the lender's license. The bill authorizes the commissioner, if the commissioner questions the amount of a property tax lender's net assets, to require certification by an independent certified public accountant that the accountant has reviewed the property tax lender's books, other records, and transactions during the reporting year, that the books and other records are maintained using generally accepted accounting principles, and that the property tax lender meets the minimum assets required for a license.

H.B. 2908 amends the Tax Code to add to the duties of the Finance Commission of Texas under provisions authorizing the transfer of a tax lien for delinquent taxes that the commission by rule prescribe the form and content of the sworn document required to be filed with the tax collector by a property owner and the certified statement required of the collector on payment of the taxes and penalties and interest by the transferee.

**EFFECTIVE DATE**

September 1, 2009.