

BILL ANALYSIS

C.S.H.B. 4692
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Certain provisions of the Tax Code defer the collection of taxes on the residence homestead of an elderly or a disabled individual. Nonetheless, some mortgage companies send money to taxing units to hold in escrow on behalf of such an exempt party. A tax-exempt individual's mortgage payment could be increased or the term extended due to such additional money being sent to the taxing unit.

C.S.H.B. 4692 requires a taxing unit that receives payment from a mortgagee or other third party for property taxes deferred by an elderly or disabled individual to return the payment within a reasonable time and inform the mortgagee or other third party of the deferral. The bill sets out requirements relating to adjustment of an individual's escrow payment resulting from payment by a mortgage or other third party for deferred taxes.

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

C.S.H.B. 4692 amends the Tax Code to require a taxing unit that receives payment from a mortgagee or other third party for property taxes deferred by an elderly or disabled individual to return the payment within a reasonable time and inform the mortgagee or other third party of the deferral. The bill requires a mortgagee that makes a payment to a taxing unit for taxes deferred by such an individual and increases the required amount of the individual's escrow payments in connection with the mortgage as a result of the tax payment, after the taxing unit returns the tax payment to the mortgagee, to reduce the required amount of escrow payments to the appropriate amount calculated as if the tax payment had not been made. The bill prohibits a mortgagee from establishing an escrow account for the payment of taxes deferred by such an individual without the individual's consent. The bill establishes that its provisions may not be waived, voided, or modified by contract, and that the provisions apply to a mortgage issued before, on, or after the effective date of the bill.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4692 differs from the original by specifying that a taxing unit is required to return the payment within a reasonable time and to inform the mortgagee or other third party of an individual's deferral and by removing reference to the affidavit filed that entitles an individual to defer the collection of property taxes. The substitute adds provisions not included in the original requiring a mortgagee to reduce the required amount of escrow payments, prohibiting a

mortgagee from establishing an escrow account for the payment of taxes deferred by an elderly or disabled individual without the individual's consent, and establishing that its provisions may not be waived, voided, or modified by contract.

C.S.H.B. 4692 adds a provision not in the original to make the bill's effective date September 1, 2009. The substitute adds a procedural provision relating to applicability relative to the effective date of the bill and makes nonsubstantive clarifying corrections.