

By: Gonzales

H.B. No. 4069

A BILL TO BE ENTITLED

AN ACT

relating to the priority of transferred tax liens.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 32.05(b) and 32.05(b-1), Tax Code, are amended to read as follows:

(b) Except as provided by Subsection (c)(1) and Subsection (b-1), a tax lien provided by this chapter takes priority over:

(1) the claim of any creditor of a person whose property is encumbered by the lien;

(2) the claim of any holder of a lien on property encumbered by the tax lien, including any lien held by a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime under a restrictive covenant, condominium declaration, master deed, or other similar instrument that secures regular or special maintenance assessments, fees, dues, interest, fines, costs, attorney's fees, or other monetary charges against the property; and

(3) any right of remainder, right or possibility of reverter, or other future interest in, or encumbrance against, the property, whether vested or contingent.

(b-1) The priority given to a tax lien by Subsection (b) prevails, regardless of whether the debt, lien, future interest, or other encumbrance existed before attachment of the tax lien, unless

1 the tax lien is transferred to a transferee. Once a tax lien is
2 transferred, the tax lien is inferior to a debt, lien, future
3 interest or other encumbrance that existed before the attachment of
4 the tax lien.

5 SECTION 2. Chapter 32, Tax Code, is amended by adding
6 Section 32.066 as follows:

7 Sec. 32.066. WAIVER. A provision of a contract, agreement,
8 or other document that purports to waive a right of a property owner
9 or exempt a transferee, creditor, holder of a lien, mortgage
10 servicer, mortgagee, trustee, substitute trustee, appraisal
11 district, taxing entity or other government official from a duty
12 under Sections 32.06 and 32.065 or rules enacted under those
13 sections is void.

14 SECTION 3. This Act takes effect September 1, 2009.