

## **BILL ANALYSIS**

C.S.H.B. 1118  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In foreclosing property for delinquent taxes, a taxing unit must on occasion bid the property in at tax sale when there are no bids received from the public at the auction. The taxing unit is then charged with reselling the property in an effort to recover the taxes awarded to the unit by the underlying judgment. Once the property is actually bid in by the taxing unit, the property is exempt from taxation until such time as the taxing unit resells the property.

However, post-judgment taxes may accrue between the signing of the judgment and the actual tax sale enforcing that judgment. In many cases, these properties are distressed from the outset, and the post-judgment taxes that accrue before the tax sale only add to the burden, such that the judgment amount plus the post-judgment taxes combined may exceed the property's actual value. While a resale by the taxing unit to a purchaser will discharge and extinguish the liens for taxes in the judgment, the post-judgment taxes remain as a lien against the property, thereby serving as an impediment in reselling the property in light of the liens burdening it.

C.S.H.B. 1118 seeks to help taxing units to clear their inventories of tax foreclosed properties being held for resale that they cannot market because of the post-judgment liens and to get distressed properties into the hands of willing buyers and subject to taxation once again by authorizing the resale of such properties for their current appraised value, or for a greater amount, free and clear of any post-judgment taxes under certain conditions.

### **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. 1118 amends the Tax Code to authorize a taxing unit that is a party to a judgment foreclosing tax liens on real property to sell the property sold to the taxing unit at a private sale, in lieu of a public sale, for an amount equal to or greater than its market value, as shown by the most recent certified appraisal roll, if the sum of the amount of the judgment, plus post-judgment taxes, penalties, and interest owing against the property exceeds the market value and each taxing unit entitled to receive proceeds of the sale consents to the sale for that amount. The bill establishes that such a sale discharges and extinguishes all liens foreclosed by the judgment and, with the exception of the prorated tax for the current year, the liens for post-judgment taxes that accrued from the date of judgment until the date the taxing unit purchased the property. The bill requires the presiding officer of a taxing unit selling real property in a private sale to execute a deed to the property conveying to the purchaser the right, title, and interest acquired or held by each taxing unit that was a party to the judgment foreclosing tax liens on the property. The bill subjects the conveyance to any remaining right of redemption at the time of the sale and to the purchaser's obligation to pay the prorated taxes for the current year. The bill requires the deed to recite that the liens foreclosed by the judgment and the post-judgment tax liens are discharged and extinguished by virtue of the conveyance.

C.S.H.B. 1118 makes a taxing unit that does not consent to a private sale liable to the taxing unit that purchased the property for a pro rata share of the costs incurred by the purchasing unit in maintaining the property, including the costs of preventing the property from becoming a public nuisance, a danger to the public, or a threat to public health. The bill establishes that the nonconsenting unit's share of such costs is calculated from the date the unit fails to consent to the sale and is equal to the percentage of the proceeds from a sale of the property to which the nonconsenting unit would be entitled multiplied by the costs incurred by the purchasing unit to maintain the property. The bill makes a conforming change.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1118 differs from the original by establishing that a resale, at a private sale, of property previously purchased by a taxing unit at a tax sale discharges and extinguishes the liens for post-judgment taxes that accrued from the date of judgment until the date the taxing unit purchased the property; whereas the original establishes that such a resale discharges and extinguishes the liens for post-judgment taxes.