

BILL ANALYSIS

Senate Research Center
82R3754 CAE-F

S.B. 582
By: Harris
Jurisprudence
3/3/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current statute authorizes the service of process through the Office of the Secretary of State (SOS) on foreign business entities which are required to appoint a registered agent for the service of citation but fail to do so. The current Business Organizations Code states that a foreign business entity that merely owns real estate or holds a lien on real estate is not deemed to be engaged in transacting business in Texas; therefore, the entity is not required by the provisions of the Business Organizations Code to register with SOS and appoint a registered agent for service of process in Texas.

The proposed amendment to the Civil Practices and Remedies Code facilitates the service of process on nonresident defendants who own an interest in property or have a lien against property which is the subject of a suit to collect delinquent property taxes.

The proposed amendment to the Business Organizations Code facilitates the service of process in a lawsuit to collect delinquent property taxes against property owned by a limited liability company whose right to transact business in this state has been forfeited.

This bill will allow delinquent tax collection lawsuits involving nonresident defendants to be brought to a conclusion more rapidly and will facilitate the efficient collection of delinquent property taxes by Texas schools, cities, and counties.

As proposed, S.B. 582 amends current law relating to service of process on certain domestic and foreign entities for the collection of delinquent property taxes.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5.257, Business Organizations Code, as follows:

Sec. 5.257. SERVICE OF PROCESS BY POLITICAL SUBDIVISION. (a) Authorizes a process, notice, or demand required or permitted by law to be served by a political subdivision of this state or by a person, including another political subdivision or an attorney, acting on behalf of a political subdivision in connection with the collection of a delinquent ad valorem tax to be served on a domestic or foreign corporation whose corporate privileges are forfeited under Section 171.251 (Forfeiture of Corporate Privileges), Tax Code, a domestic or foreign limited liability company (LLC) whose right to transact business in this state is forfeited under Section 171.2515 (Forfeiture of Right of Taxable Entity to Transact Business in this State), Tax Code, or a corporation or LLC that is involuntarily terminated under Chapter 11 (Winding Up and Termination of Domestic Entity) or whose registration is revoked under Chapter 9 (Foreign Entities) by delivery of the process, notice, or demand to any officer or director of the corporation or manager or member of the LLC, as listed in the most recent records of the secretary of state.

(b) Authorizes service on a corporation or LLC, if the officers or directors of the corporation or the managers or members of the LLC are unknown or cannot be found, to be made in the same manner as service is made on unknown shareholders under law.

(c) Provides that, notwithstanding any disability or reinstatement of a corporation or LLC, service of process under this section is sufficient for a judgment against the corporation or LLC or a judgment in rem against any property to which the corporation or LLC holds title.

SECTION 2. Amends Section 17.091, Civil Practices and Remedies Code, by amending Subsection (a) and by adding Subsection (f), as follows:

(a) Makes a nonsubstantive change.

(f) Defines "nonresident" in this section.

SECTION 3. Makes application of Section 5.257, Business Organizations Code, as amended by this Act, and Section 17.091, Civil Practice and Remedies Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2011.