

BILL ANALYSIS

C.S.H.B. 2365
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed confusion about certain aspects of the purchase of real property at a tax sale. The parties note that persons eligible to purchase real property at a tax sale do so for the amount of taxes due at the time of judgment, but depending on when a tax sale occurs, real property purchases are sometimes made after post-judgment taxes have been attached on top of the delinquent taxes that were due at the time of judgment. This leaves the purchaser liable for any new taxes due on the purchased property, which the purchaser may not have known about at the time the purchase was made. C.S.H.B. 2365 seeks to remedy the issue by amending the applicable law relating to tax sales.

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. 2365 amends the Tax Code to require the officer charged with selling seized real property, on receipt of an order of sale of the property, to include any accrued post-judgment taxes, penalties, and interest in the officer's calculation of the total amount due under the judgment. The bill, in a provision prohibiting property seized by a municipality or county from being sold for an amount that is less than the lesser of the market value of the property as specified in the warrant of seizure or the total amount of taxes, penalties, interest, costs, and other claims for which the warrant was issued, to include in the latter amount any post-judgment taxes, penalties, and interest.

C.S.H.B. 2365 includes any post-judgment taxes, penalties, and interest that accrued after the date of the judgment among the amounts to which the proceeds of a tax sale of seized real property are required to be applied.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2365 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Sections 34.0445(a) and (c),	No equivalent provision.

83R 22406

13.103.400

Substitute Document Number: 83R 18291

Civil Practice and Remedies Code, are amended to read as follows:

(a) An officer conducting a sale of real property under this subchapter may not execute or deliver a deed to the purchaser of the property unless the purchaser exhibits to the officer:

(1) an unexpired written statement issued to the person in the manner prescribed by Section 34.015, Tax Code, showing that the county assessor-collector of the county in which the sale is conducted has determined that:

(A) [~~(1)~~] there are no delinquent ad valorem taxes owed by the person to that county; and

(B) [~~(2)~~] for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality; and

(2) a tax certificate, as described by Section 31.08, Tax Code, showing that no taxes are due on the purchased property.

(c) The deed executed by the officer conducting the sale must name the successful bidder as the grantee and recite that the successful bidder exhibited to that officer:

(1) an unexpired written statement issued to the person in the manner prescribed by Section 34.015, Tax Code, showing that the county assessor-collector of the county in which the sale was conducted determined that:

(A) [~~(1)~~] there are no delinquent ad valorem taxes owed by the person to that county; and

(B) [~~(2)~~] for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality; and

(2) a tax certificate showing that no taxes are due on the purchased property.

SECTION 2. Sections 34.015(b), (k-1), and (l), Tax Code, are amended to read as follows:

(b) An officer conducting a sale of real property under Section 34.01 may not execute a deed in the name of or deliver a deed to any person other than the person who was the successful bidder. The officer may not execute or deliver a deed to the purchaser of the property unless the

No equivalent provision.

purchaser exhibits to the officer:

(1) an unexpired written statement issued under this section to the person by the county assessor-collector of the county in which the sale is conducted showing that:

(A) ~~[(1)]~~ there are no delinquent taxes owed by the person to that county; and

(B) ~~[(2)]~~ for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality; and

(2) a tax certificate, as described by Section 31.08, showing that no taxes are due on the purchased property.

(k-1) If within six months of the date of a sale of real property under Section 34.01, the successful bidder does not exhibit to the officer who conducted the sale an unexpired statement that complies with Subsection (k) and a tax certificate showing that no taxes are due on the purchased property, the officer who conducted the sale shall provide a copy of the officer's return to the county assessor-collector for each county in which the real property is located. On receipt of the officer's return, the county assessor-collector shall file the copy with the county clerk of the county in which the county assessor-collector serves. The county clerk shall record the return in records kept for that purpose and shall index and cross-index the return in the name of the successful bidder at the auction and each former owner of the property. The chief appraiser of each appraisal district that appraises the real property for taxation may list the successful bidder in the appraisal records of that district as the owner of the property.

(l) The deed executed by the officer conducting the sale must name the successful bidder as the grantee and recite that the successful bidder exhibited to that officer:

(1) an unexpired written statement issued to the person in the manner prescribed by this section, showing that the county assessor-collector of the county in which the sale was conducted determined that:

(A) ~~[(1)]~~ there are no delinquent ad valorem taxes owed by the person to that county; and

(B) ~~[(2)]~~ for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that

school district or municipality; and
(2) a tax certificate showing that no taxes
are due on the purchased property.

No equivalent provision.

SECTION 1. Sections 34.01(b) and (p), Tax Code, are amended to read as follows:

(b) On receipt of an order of sale of real property, the officer charged with selling the property shall endorse on the order the date and exact time when the officer received the order. The endorsement is a levy on the property without necessity for going upon the ground. The officer shall calculate the total amount due under the judgment, including all taxes, penalties, and interest, plus any other amount awarded by the judgment, court costs, ~~and~~ the costs of the sale, and any accrued post-judgment taxes, penalties, and interest. The costs of a sale include the costs of advertising, and deed recording fees anticipated to be paid in connection with the sale of the property. To assist the officer in making the calculation, the collector of any taxing unit that is party to the judgment may provide the officer with a certified tax statement showing the amount of the taxes included in the judgment that remain due that taxing unit, ~~and~~ all penalties, interest, and attorney's fees provided by the judgment, and all accrued post-judgment taxes, penalties, and interest as of the date of the proposed sale. If a certified tax statement is provided to the officer, the officer shall rely on the amount included in the statement and is not responsible or liable for the accuracy of the applicable portion of the calculation. A certified tax statement is not required to be sworn to and is sufficient if the tax collector or the collector's deputy signs the statement.

(p) Except as provided by Subsection (o), property seized under Subchapter E, Chapter 33, may not be sold for an amount that is less than the lesser of the market value of the property as specified in the warrant or the total amount of taxes, penalties, interest, costs, ~~and~~ other claims for which the warrant was issued, and any post-judgment taxes, penalties, and interest. If a sufficient bid is not received by the officer making the sale, the officer shall bid off the property to a taxing unit in the manner specified by Subsection (j) and subject to the other provisions of that

subsection. A taxing unit that takes title to property under this subsection takes title for the use and benefit of that taxing unit and all other taxing units that established tax liens in the suit or that, on the date of the seizure, were owed delinquent taxes on the property.

No equivalent provision.

SECTION 2. Section 34.02(b), Tax Code, is amended to read as follows:

- (b) The proceeds shall be applied to:
- (1) the costs of advertising the tax sale;
 - (2) any fees ordered by the judgment to be paid to an appointed attorney ad litem;
 - (3) the original court costs payable to the clerk of the court;
 - (4) the fees and commissions payable to the officer conducting the sale;
 - (5) the expenses incurred by a taxing unit in determining necessary parties and in procuring necessary legal descriptions of the property if those expenses were awarded to the taxing unit by the judgment under Section 33.48(a)(4);
 - (6) the taxes, penalties, interest, and attorney's fees that are due under the judgment; ~~and~~
 - (7) any post-judgment taxes, penalties, and interest that accrued after the date of the judgment; and
 - (8) any other amount awarded to a taxing unit under the judgment.

SECTION 3. The change in law made by this Act applies only to a public sale of real property conducted on or after the effective date of this Act. A public sale of real property conducted before the effective date of this Act is governed by the law in effect on the date the sale was conducted, and the former law is continued in effect for that purpose.

SECTION 3. Same as introduced version.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 4. Same as introduced version.