

## **BILL ANALYSIS**

C.S.H.B. 2425  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that, despite existing regulations governing property tax loans, including lender licensing requirements and limits on who can obtain a loan, there is concern that some in the industry are taking advantage of property owners through the nonjudicial foreclosure process and fraudulent advertisements, among other mechanisms. In addition, some fear that property tax lenders are threatening market stability by using property tax liens as a bundled investment mechanism.

C.S.H.B. 2425 seeks to address this concern by making certain changes relating to the transfer of a property tax lien and providing for the assessment of an administrative penalty against a transferee who wilfully fails to provide a required payoff statement.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Finance Commission of Texas in SECTIONS 1 and 2 of this bill.

### **ANALYSIS**

C.S.H.B. 2425 amends the Tax Code to require the Finance Commission of Texas, regarding the transfer of a tax lien on real property and in addition to its other associated duties, by rule to prescribe the form and content of a request a lender with an existing recorded lien on the property in question must use in order to request a payoff statement and the transferee's response to the request, including the period within which the transferee must respond. The bill requires the transferee, at the time of providing the required disclosure statement to a property owner before the execution of a tax lien transfer, to also describe the type and approximate cost range of each additional charge or fee that the property owner may incur in connection with the transfer. The bill authorizes the lender to request a payoff statement before the tax loan becomes delinquent. The bill requires the finance commission by rule to require a transferee who receives a request for a payoff statement to deliver the statement on the prescribed form within a period prescribed by finance commission rule. The bill requires the prescribed period to allow the transferee at least seven business days after the date the request is received to deliver the statement. The bill authorizes the consumer credit commissioner to assess an administrative penalty against a transferee who wilfully fails to provide the payoff statement as prescribed by finance commission rule.

C.S.H.B. 2425 requires the finance commission to adopt rules necessary to implement the bill's provisions as soon as practicable after the bill's effective date.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2425 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

SECTION 1. Section 32.06, Tax Code, is amended by amending Subsection (a-4) and adding Subsection (a-5) to read as follows:

(a-4) The Finance Commission of Texas shall:

(1) prescribe the form and content of an appropriate disclosure statement to be provided to a property owner before the execution of a tax lien transfer;

(2) adopt rules relating to the reasonableness of closing costs, fees, and other charges permitted under this section; ~~and~~

(3) by rule prescribe the form and content of the sworn document under Subsection (a-1) and the certified statement under Subsection (b); and

(4) by rule prescribe the form and content of a request a consensual lender with an existing lien on the property must use to request a payoff statement and the transferee's response to the request, including the period within which the transferee must respond.

(a-5) Notwithstanding Subsection (f-3), a consensual lender described by Subsection (a-4)(4) may request a payoff statement before the tax loan becomes delinquent. The Finance Commission of Texas by rule shall require a transferee who receives a request for a payoff statement to deliver the requested payoff statement on the prescribed form within a period prescribed by finance commission rule. The prescribed period must allow the transferee at least seven business days after the date the request is received to deliver the payoff statement. The consumer credit commissioner may assess an administrative penalty under Subchapter F, Chapter 14, Finance Code, against a transferee who wilfully fails to provide the

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 32.06, Tax Code, is amended by amending Subsection (a-4) and adding Subsections (a-5) and (a-6) to read as follows:

(a-4) The Finance Commission of Texas shall:

(1) prescribe the form and content of an appropriate disclosure statement to be provided to a property owner before the execution of a tax lien transfer;

(2) adopt rules relating to the reasonableness of closing costs, fees, and other charges permitted under this section; ~~and~~

(3) by rule prescribe the form and content of the sworn document under Subsection (a-1) and the certified statement under Subsection (b); and

(4) by rule prescribe the form and content of a request a lender with an existing recorded lien on the property must use to request a payoff statement and the transferee's response to the request, including the period within which the transferee must respond.

(a-5) At the time the transferee provides the disclosure statement required by Subsection (a-4)(1), the transferee must also describe the type and approximate cost range of each additional charge or fee that the property owner may incur in connection with the transfer.

(a-6) Notwithstanding Subsection (f-3), a lender described by Subsection (a-4)(4) may request a payoff statement before the tax loan becomes delinquent. The Finance Commission of Texas by rule shall require a transferee who receives a request for a payoff statement to deliver the requested payoff statement on the prescribed form within a period prescribed by finance commission rule. The prescribed period must allow the transferee at least seven business days after the date the request is received to deliver the payoff statement. The consumer credit commissioner may assess an administrative penalty under Subchapter F, Chapter 14, Finance Code, against a transferee who wilfully fails to provide the

payoff statement as prescribed by finance commission rule.

SECTION 2. As soon as practicable after the effective date of this Act, the Finance Commission of Texas shall adopt rules necessary to implement the changes in law made by this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

payoff statement as prescribed by finance commission rule.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.