

BILL ANALYSIS

C.S.H.B. 2687
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, the attorney general recently issued an opinion indicating that the governing body of a taxing unit has no role in the transfer of its property tax liens nor is it empowered to deny the transfer of a tax lien under certain conditions. The parties contend that, because the tax lien exists in favor of the taxing unit, the taxing unit should be in control of its liens and that decisions related to the lien's transfer should not be determined by the person against whom the lien is placed. The parties further suggest that a taxing entity's approval of a tax lien transfer prevents a taxpayer from being subjected to business practices that could result in foreclosure or the breach of the terms of the mortgage loan. C.S.H.B. 2687 seeks to grant the governing body of a taxing unit a measure of control over the transfer of tax liens.

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. 2687 amends the Tax Code to require the governing body of a taxing unit, within 15 days of any action taken by the governing body pursuant to the transfer of a tax lien on property to the person who pays the taxes on behalf of the property owner for taxes that are delinquent at the time of payment or for taxes that are not delinquent at the time of payment under certain conditions, to send written notification of the action to the tax assessor-collector who collects taxes for the taxing unit. The bill authorizes the governing body of a taxing unit to prohibit, in the manner required by law for official action by the governing body, such a transfer of tax liens that exist in favor of the taxing unit.

EFFECTIVE DATE

January 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2687 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(a-2), Tax Code is amended to read as follows:
(a-2) The governing body of a taxing unit may authorize or prohibit, in the manner

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision, but see SECTION 1 below.

required by law for official action by the governing body, whether the taxing unit'sA tax lien may be transferred to the person who pays the taxes on behalf of the property owner under the authorization for:

(1) taxes that are delinquent at the time of payment; or

(2) taxes that are not delinquent at the time of payment if:

(A) the property is not subject to a recorded mortgage lien; or

(B) a tax lien transfer authorized by the property owner has been executed and recorded for one or more prior years on the same property and the property owner has executed an authorization consenting to a transfer of the tax liens for both the taxes on the property that are not delinquent and taxes on the property that are delinquent in the manner provided by Subsection (a-1).

No equivalent provision, but see SECTION 1 above.

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

(a-5) Within 15 days of any action taken by the governing body of the taxing unit pursuant to Subsection (a-2), the governing body of the taxing unit shall send written notification of the action to the tax assessor-collector who collects taxes for the taxing unit.

(b) The governing body of a taxing unit may prohibit, in the manner required by law for official action by the governing body, the transfer under Subsection (a-2) of tax liens that exist in favor of the taxing unit. If a transferee authorized to pay a property owner's taxes pursuant to Subsection (a-1) pays the taxes and any penalties and interest imposed, the collector shall issue a tax receipt to that transferee. In addition, the collector or a person designated by the collector shall certify that the taxes and any penalties and interest on the subject property and collection costs have been paid by the transferee on behalf of the property owner and, if the taxing unit has not prohibited the transfer of tax liens, transfer [that] the taxing unit's tax lien [is transferred] to that transferee. The collector shall attach to the certified statement the collector's seal of office or sign the statement before a

notary public and deliver a tax receipt and the statement, if any, attesting to the transfer of the tax lien to the transferee within 30 days. The tax receipt and statement may be combined into one document. The collector shall identify in a discrete field in the applicable property owner's account the date of the transfer of a tax lien transferred under this section. When a tax lien is released, the transferee shall file a release with the county clerk of each county in which the property encumbered by the lien is located for recordation by the clerk and send a copy to the collector. The transferee may charge the property owner a reasonable fee for filing the release.

No equivalent provision.

SECTION 2. The change in law made by this Act applies only to a tax lien created on or after the effective date of this Act. A tax lien that was created before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 2. 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 on September 1, 2013.

SECTION 3. This Act takes effect January 1, 2014.