

By: Patrick

S.B. No. 1201

A BILL TO BE ENTITLED

AN ACT

relating to ad valorem tax lien transfers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 32.06, Tax Code, is amended by amending Subsections (a-1), (a-2), (a-4), (b-1), (f-4), and (j) and adding Subsections (a-5) and (e-3) to read as follows:

(a-1) A person may authorize another person to pay the taxes imposed by a taxing unit on the person's real property by filing with the collector for the unit:

(1) a sworn document stating:

(A) the authorization;

(B) the name and street address of the transferee authorized to pay the taxes of the property owner;

(C) a description of the property by street address, if applicable, and legal description; ~~and~~

(D) notice has been given to the property owner that if the property owner is age 65 or disabled, the property owner may be eligible for a tax deferral under Section 33.06;

(E) that the disclosure statement required by Subsection (a-4)(1) has been provided to the property owner; and

(F) that the notice required by Subsection (b-1) has been mailed by certified mail to any mortgage servicer and to each holder of a recorded first lien encumbering the property; and

(2) the information required by Section 351.054,

1 Finance Code.

2 (a-2) A tax lien may be transferred to the person who pays  
3 the taxes on behalf of the property owner under the authorization  
4 for:

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

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

9 (A) the property is not subject to a recorded  
10 mortgage lien; and ~~or~~

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

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

19 (1) prescribe the form and content of an appropriate  
20 disclosure statement to be provided to a property owner not later  
21 than the 12th day before the execution of a tax lien transfer;

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

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

1        (a-5) A transferee must include the following notice in at  
2 least 12-point boldfaced type in any advertisement or solicitation  
3 provided to a property owner by the transferee and in the disclosure  
4 statement required by Subsection (a-4)(1): "WARNING: IF YOU HAVE A  
5 MORTGAGE ON YOUR PROPERTY AND YOU TAKE OUT A PROPERTY TAX LIEN LOAN  
6 WITHOUT THE CONSENT OF YOUR LENDER, YOU MAY BE IN DEFAULT AND YOUR  
7 PROPERTY MAY BE SUBJECT TO FORECLOSURE."

8        (b-1) Not later than the 12th day before the date the  
9 property owner files the sworn document required by Subsection  
10 (a-1) with the collector for the taxing unit ~~[10th business day~~  
11 ~~after the date the certified statement is received by the~~  
12 ~~transferee]~~, the transferee shall send by certified mail ~~[a copy of~~  
13 ~~the sworn document described by Subsection (a-1)]~~ to any mortgage  
14 servicer and to each holder of a recorded first lien encumbering the  
15 property a notice that the property owner has requested that the  
16 transferee pay the taxes on the property, that the tax lien will be  
17 transferred to the transferee, and that the transferred tax lien  
18 will be superior to the mortgage. The notice ~~[copy]~~ must be sent,  
19 as applicable, to the address shown on the most recent payment  
20 invoice, statement, or payment coupon provided by the mortgage  
21 servicer to the property owner, or the address of the holder of a  
22 recorded first lien as shown in the real property records.

23        (e-3) The transfer of a tax lien as provided by this section  
24 does not affect the priority of the lien to the extent the lien  
25 secures the funds advanced by the transferee to pay taxes,  
26 penalties, interest, and collection costs as shown on the tax  
27 receipt. The priority of a tax lien transferred as provided by this

1 section is determined by the date the lien and the statement  
2 attesting to the transfer of the lien are recorded under Subsection  
3 (d) to the extent the lien secures the funds advanced by the  
4 transferee to pay closing costs, fees, and any other expenses  
5 incurred by the transferee after the date the lien is transferred.

6 (f-4) Failure to comply with Subsection (b-1), (f), or (f-1)  
7 does not invalidate a tax lien under this chapter, a contract lien,  
8 or a deed of trust. However, in the event of such a failure, the  
9 transferred tax lien is subordinate to any recorded preexisting  
10 lien on the property. The relative priority of other liens on the  
11 property is determined in accordance with the date they were  
12 recorded.

13 (j) After one year from the date on which a tax lien  
14 transferred as provided by this section is recorded in all counties  
15 in which the property is located, the transferee of the lien may  
16 foreclose the lien in the manner provided by Subsection (c) unless a  
17 contract between the holder of the lien and the owner of the  
18 property encumbered by the lien provides otherwise. Except as  
19 provided by Subsection (e-3), the [The] proceeds of a sale  
20 following a [judicial] foreclosure as provided by this subsection  
21 shall be applied first to the payment of court costs, then to  
22 payment of the judgment, including accrued interest, and then to  
23 the payment of any attorney's fees fixed in the judgment. Any  
24 remaining proceeds shall be paid to other holders of liens on the  
25 property in the order of their priority and then to the person whose  
26 property was sold at the tax sale.

27 SECTION 2. The change in law made by this Act applies only

1 to an ad valorem tax lien transferred on or after the effective date  
2 of this Act. An ad valorem tax lien transferred before the  
3 effective date of this Act is governed by the law in effect on the  
4 date the tax lien was transferred, and the former law is continued  
5 in effect for that purpose.

6 SECTION 3. This Act takes effect September 1, 2013.