LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

February 28, 2013

TO: Honorable John Carona, Chair, Senate Committee On Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **SB247** by Carona (Relating to the transfer of an ad valorem tax lien; providing an administrative penalty.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Section 1 of the bill would amend Section 351.0021 of the Finance Code to prohibit a successor in interest, rather than just a property tax lender, from charging certain fees or amounts of interest on property tax loans.

Section 2 of the bill would amend Section 351 of the Finance Code to add new Section 351.0022 to prohibit a property owner from waiving or limiting a legal requirement imposed on a property tax lender and to require notices to the property owner that their tax office may offer delinquent tax installment plans that may be less costly. The bill also would prohibit false advertising by property tax lenders and would require certain specifications and restrictions in their advertisements. The finance commission would be authorized to adopt rules to enforce the requirements and restrictions on property tax lenders and to assess penalties against a property tax lender who violates the requirements and restrictions.

Section 3 of the bill would amend Section 351.003 of the Finance Code, regarding property tax lenders, to prohibit a lender from selling, transferring, assigning, or releasing rights related to a property tax loan to a person who is not licensed under this chapter. The finance commission would be required to adopt rules to implement this section.

Section 4 of the bill would amend Section 351.051 of the Finance Code to clarify that the requirements and restrictions on property tax lenders do not apply to a person who is related to the property owner within the second degree of consanguinity or affinity, except for provisions relating to secondary market transactions.

Section 5 of the bill would make a clarifying amendment.

Section 6 of the bill would make a clarifying amendment to the heading of Section 32.06 of the Tax Code.

Section 7 of the bill would amend Section 32.06 of the Tax Code to change the definition of a property tax lien transferee to mean a person who is licensed under Chapter 351 of the Finance Code, or is exempt from the licensing requirement and is authorized to pay the taxes of another, or is a successor in interest to a legally transferred tax lien.

Section 8 of the bill would strike the authorization for a tax lien transfer for taxes that are due but not delinquent at the time of payment if a transfer authorized by the property owner has been executed and recorded for one or more prior years on the same property. The bill would prohibit a person who is age 65 or older from authorizing a transfer of a tax lien on their residence homestead. The finance commission would be required to prescribe the form and content of a lender's request for a payoff statement on a property for which the lender holds an existing lien, and to prescribe the form, content, and deadline for the transferee's response to the request. The bill would prescribe procedures regarding payoff statements, lien transfer fees, and lien transfer contracts; and would require the finance commission to adopt a rule regarding these matters. The consumer credit commissioner would be authorized to assess a penalty against a lien transferee who violates the rule. Tax lien transfers to authorized persons paying taxes for the property owner would be prohibited if the real property has been financed with a grant or below market rate loan provided by a governmental program or nonprofit organization and is subject to the grant or loan covenants. The bill would strike the right of a lender or successor in interest to foreclose a lien in the manner specified in Section 51.002 of the Property Code or Section 32.065 of the Tax Code after the lender or a successor in interest obtains a court order for foreclosure under Rule 736, Texas Rules of Civil Procedure. A property owner would be prohibited from waiving or limiting any requirement of this section unless specifically permitted.

Section 9 of the bill would amend Section 32.065 of the Tax Code to specify that an agreement that attempts to create a lien for the payment of taxes that are not delinquent or due at the time the property owner legally executes the sworn document is void and makes other clarifying and conforming changes.

Section 10 of the bill would repeal Section 32.06(c-1) of the Tax Code related to the foreclosure of a tax lien.

The bill would not affect taxable property values, tax rates, collection rates, or any other variable which might affect the revenues of units of local governments or the state.

The fiscal impacts of costs and revenues that may be generated in association with implementing the provisions of the bill for the Department of Banking, Office of Consumer Credit Commissioner, and the Department of Savings and Mortgage Lending are not considered in this analysis because any fiscal impacts for these agencies would be realized outside of the Treasury due to the agencies being Self-Directed and Semi-Independent.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2013.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner, 469 Credit Union Department, 304 Comptroller of Public Accounts

LBB Staff: UP, RB, SD, SJS