

## **BILL ANALYSIS**

Senate Research Center  
84R19408 LEH-F

H.B. 1933  
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Finance  
4/30/2015  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Last session, H.B. 1597 (Representative N. Gonzalez and Senator Hinojosa, 83rd Legislature, Regular Session, 2013) was passed to minimize the demand for property tax loans from private lenders in the property tax lending industry. Not all counties gave Texas homeowners the option of an installment agreement for unpaid property taxes. And when they did, the payment terms varied widely by county and often allowed large penalties to continue to accrue.

Because of H.B. 1597, county taxing entities are now required to offer installment plan options to residential homeowners who request them. Homeowners must pay interest but not penalties that accrue during an installment agreement.

Since enactment of this legislation, additional recommendations and clarifications have been suggested from counties statewide. H.B. 1933 is intended to provide clarity, consistency, and flexibility for both property owners and tax offices in the implementation and administration of installment plans. Additionally, the bill seeks to address a loophole in existing law.

Specifically, H.B. 1933 does the following:

- Clarifies when each installment payment is due. This section did not take into account that a delinquency date could be a date other than February 1. The amended language in H.B. 1933 makes allowances for delinquency dates other than February 1 by adding a timeline period to be used. (Sections 1 and 2)
- For delinquent payments: changes the word “amount” to “installment” in order to follow the intent of the legislation. Each delinquent "installment" is subject to penalty and interest, not the entire outstanding amount. This change is needed to close a loophole in existing law that potentially precludes some property owners from paying their property taxes in installments, while simultaneously establishing consistency among all taxpayers regarding when each installment is due. This change also reduces the potential amount of penalty and interest a property owner would pay. (Sections 1 and 2)
- Requires that a property owner have a residence homestead exemption to qualify for the mandatory installment agreement and provides that the minimum term of 12 months only applies to installment plans for residence homestead properties. This change provides flexibility to property owners and tax assessor-collectors to negotiate shorter term installment agreements (less than 12 months) on non-residence homestead property. (Section 4)
- Provides that monthly installment payments are not required to be equal. This change provides flexibility to property owners and tax assessor-collectors to structure payments that balance the needs of property owners and the taxing units. (Section 4)
- Makes a clarifying change regarding the statement provided to property owners in a Notice of Delinquency. The statement must include that the property owner contact the "Tax Collector" for the taxing unit regarding their right to enter into an installment agreement. (Section 5)

H.B. 1933 amends current law relating to installment payments of ad valorem taxes.

## **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 31.031(a-1), (a-2), and (b), Tax Code, as follows:

(a-1) Requires that the second installment payment of ad valorem taxes, if the delinquency date is February 1, be paid before April 1, the third installment be paid before June 1, and the fourth installment be paid before August 1. Requires that, if the delinquency date is a date other than February 1, the second installment be paid before the first day of the second month after the delinquency date, the third installment be paid before the first day of the fourth month after the delinquency date, and the fourth installment be paid before the first day of the sixth month after the delinquency date. Makes a nonsubstantive change.

(a-2) Authorizes an individual to whom this section applies to pay the taxes in four equal installments as provided by Subsection (a-1) if the first installment is paid and the required notice is provided before the first day of the first month after the delinquency date, rather than before March 1, notwithstanding the deadline prescribed by Subsection (a-1) for payment of the first installment.

(b) Changes references to the unpaid amount to the unpaid installment.

SECTION 2. Amends Sections 31.032(b) and (c), Tax Code, as follows:

(b) Requires that, if the delinquency date is February 1, the first installment be paid before April 1, the second installment be paid before June 1, and the third installment be paid before August 1. Requires that the first installment, if the delinquency date is a date other than February 1, be paid before the first day of the second month after the delinquency date, the second installment be paid before the first day of the fourth month after the delinquency date, and the third installment be paid before the first day of the sixth month after the delinquency date.

(c) Changes a reference to the unpaid amount to the unpaid installment.

SECTION 3. Amends Sections 33.011(d) and (i), Tax Code, to change references to Section 33.04(b) (setting forth the language of the first page of the notice if the delinquency is the result of taxes imposed on property described by a certain section) to Section 33.04(c) (requiring the collector for a taxing unit to deliver a notice of delinquency to a person who is in breach of an installment agreement before the collector may seize and sell the property or file a suit to collect a delinquent tax).

SECTION 4. Amends Section 33.02, Tax Code, by amending Subsections (a) and (b-1) and adding Subsections (a-1) and (f), as follows:

(a) Authorizes the collector for a taxing unit to enter into an agreement with a person delinquent in the payment of the tax for payment of the tax, penalties, and interest in installments. Requires the collector for a taxing unit, on request by a person delinquent in the payment of the tax on a residence homestead for which the property owner has been granted an exemption under Section 11.13 (Residence Homestead), to enter into an agreement with the person for payment of the tax, penalties, and interest in installments if the person has not entered into an installment agreement with the collector for the taxing unit under this section in the preceding 24 months.

(a-1) Creates this subsection from existing text. Provides that an installment agreement under this section is required to be in writing, is required to provide for payments to be

made in monthly installments, rather than in equal monthly installments, is required to extend for a period of at least 12 months if the property that is the subject of the agreement is a residence homestead for which the person entering into the agreement has been granted an exemption under Section 11.13, and is prohibited from extending for a period of more than 36 months.

(b-1) Provides that, except as otherwise provided by this subsection, a penalty does not accrue as provided by Section 33.01(a) (relating to penalties on delinquent tax) on the unpaid balance during the period of the agreement if the property that is the subject of the agreement is a residence homestead for which the property owner has been granted an exemption under Section 11.13.

(f) Requires the collector for a taxing unit to deliver a notice of default to a person who is in breach of an installment agreement under this section and to any other owner of an interest in the property subject to the agreement whose name appears on the delinquent tax roll before the collector is authorized to seize and sell the property or file a suit to collect a delinquent tax subject to the agreement.

SECTION 5. Amends Section 33.04, Tax Code, as amended by Chapters 935 (H.B. 1597) and 967 (H.B. 1913), Acts of the 83rd Legislature, Regular Session, 2013, as follows:

Sec. 33.04 NOTICE OF DELINQUENCY. (a) Makes no change to this subsection.

(b) Sets forth the language required to be included on a notice of delinquency under this section.

(c) Sets forth the language required to be included on the first page of the notice of delinquency if the delinquency is the result of taxes imposed on property described by Section 33.011(i) (relating to authorizing the governing body of a taxing unit to waive penalties and interest on a delinquent tax that relates to a date preceding the date on which the property owner acquired the property if certain conditions are met).

Deletes existing Subsection (c) relating to requiring the collector for a taxing unit to deliver a notice of delinquency to a person who is in breach of an installment agreement before the collector may seize and sell the property or file a suit to collect a delinquent tax. Makes nonsubstantive changes.

SECTION 6. Repealer: Section 31.031(d) (requiring the collector to extend each installment deadline by the number of months that the delinquency date was postponed if the delinquency date for taxes is postponed to May 1 or a later date), Tax Code.

Repealer: Section 31.032(e) (requiring the collector to extend each installment deadline by the number of months that the delinquency date was postponed if the delinquency date for taxes is postponed to May 1 or a later date and prohibiting the collector from extending the third installment deadline beyond December 31), Tax Code.

SECTION 7. (a) Makes application of Sections 31.031, 31.032, and 33.02, Tax Code, as amended by this Act, prospective, regarding an installment agreement.

(b) Makes application of Section 33.04, Tax Code, as amended by this Act, prospective, relating to a notice of delinquency.

SECTION 8. Provides that to the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 9. Effective date: September 1, 2015.