

By: Walle

H.B. No. 3725

A BILL TO BE ENTITLED

AN ACT

relating to the priority of a transferred ad valorem tax lien.

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

SECTION 1. Sections 32.05(b) and (b-1), Tax Code, are amended to read as follows:

(b) Except as provided by Subsections (b-1) and [Subsection] (c)(1), a tax lien provided by this chapter takes priority over:

(1) the claim of any creditor of a person whose property is encumbered by the lien;

(2) the claim of any holder of a lien on property encumbered by the tax lien, including any lien held by a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime under a restrictive covenant, condominium declaration, master deed, or other similar instrument that secures regular or special maintenance assessments, fees, dues, interest, fines, costs, attorney's fees, or other monetary charges against the property; and

(3) any right of remainder, right or possibility of reverter, or other future interest in, or encumbrance against, the property, whether vested or contingent.

(b-1) The priority given to a tax lien by Subsection (b) prevails, regardless of whether the debt, lien, future interest, or

1 other encumbrance existed before attachment of the tax lien, except  
2 that a tax lien is inferior to a debt, lien, future interest, or  
3 other encumbrance that existed before the attachment of the tax  
4 lien if the tax lien is transferred to a transferee and:

5 (1) the closing costs of the loan secured by the  
6 transferred tax lien exceeded \$500; or

7 (2) discount points were charged in connection with  
8 the loan secured by the transferred tax lien.

9 SECTION 2. Section 32.065(b), Tax Code, is amended to read  
10 as follows:

11 (b) Notwithstanding any agreement to the contrary, a  
12 contract entered into under Subsection (a) between a transferee and  
13 the property owner under Section 32.06 that is secured by a  
14 [~~priority~~] lien on the property shall provide for foreclosure in  
15 the manner provided by Section 32.06(c) and:

16 (1) an event of default;

17 (2) notice of acceleration; and

18 (3) recording of the deed of trust or other instrument  
19 securing the contract entered into under Subsection (a) in each  
20 county in which the property is located.

21 SECTION 3. The change in law made by this Act applies only  
22 to a tax lien transferred on or after the effective date of this  
23 Act. A tax lien transferred before the effective date of this Act  
24 is governed by the law in effect immediately before the effective  
25 date of this Act, and that law is continued in effect for that  
26 purpose.

27 SECTION 4. This Act takes effect September 1, 2017.