

By: Clardy

H.B. No. 4328

A BILL TO BE ENTITLED

AN ACT

relating to certain property tax lenders, property tax loans, and tax liens.

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

SECTION 1. Section 32.06, Tax Code, is amended by amending Subsections (a-2), (d), (f-1), and (h) to read as follows:

(a-2) Except as provided by Subsection (a-8), a tax lien may be transferred to the person who pays the taxes on behalf of the property owner under the authorization described by Subsection (a-1) for:

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

or

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

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

or

(B) is subject to a recorded mortgage lien provided the person who pays the taxes on behalf of the property owner under the authorization pays the taxes not earlier than January 31st of the year following the year in which the taxes were imposed.

(d) A transferee shall record [a tax lien transferred as provided by this section with] the certified statement attesting to the transfer of the tax lien as described by Subsection (b) in the

1 deed records of each county in which the property encumbered by the
2 lien is located. The transferee is not required to record in the
3 deed records of a county the sworn document filed under Subsection
4 (a-1)(1), but the transferee shall retain a copy of that sworn
5 document in its records.

6 (f-1) If an obligation secured by a preexisting first lien
7 on the property is delinquent for at least 90 consecutive days and
8 the obligation has been referred to a collection specialist, the
9 mortgage servicer or the holder of the first lien may send a notice
10 of the delinquency to the transferee of a tax lien. The mortgage
11 servicer or the first lienholder is entitled, within six months
12 after the date on which that notice is sent, to obtain a release of
13 the transferred tax lien by paying the transferee of the tax lien
14 the amount of the unpaid principal, fees, and interest owed under
15 the contract between the property owner and the transferee that are
16 directly attributable to the property taxes paid by the transferee
17 or the transferee's predecessor in interest on the specific real
18 property subject to the preexisting first lien. The Finance
19 Commission of Texas by rule shall prescribe the form and content of
20 the notice under this subsection.

21 (h) A mortgage servicer who pays a property tax loan secured
22 by a tax lien transferred under this section becomes subrogated to
23 all rights in the lien. A tax lien transferee who pays the amount
24 owed under an existing property tax loan of another property tax
25 lender becomes subrogated to all rights in the tax lien if;

26 (1) the existing property tax lender executes an
27 assignment of the tax lien; and

1 (2) the assignment is recorded in the deed records of
2 each county in which the property encumbered by the lien is located.

3 SECTION 2. Section 351.0021(a), Finance Code, is amended to
4 read as follows:

5 (a) The contract between a property tax lender and a
6 property owner may require the property owner to pay the following
7 costs after closing:

8 (1) a reasonable fee for filing the release of a tax
9 lien authorized under Section 32.06(b), Tax Code;

10 (2) a reasonable fee for a payoff statement authorized
11 under Section 32.06(f-3), Tax Code;

12 (3) a reasonable fee for providing information
13 regarding the current balance owed by the property owner authorized
14 under Section 32.06(g), Tax Code;

15 (4) reasonable and necessary attorney's fees,
16 recording fees, and court costs for actions that are legally
17 required to respond to a suit filed under Chapter 33, Tax Code, [or]
18 to perform a foreclosure, or in the collection of a delinquent loan,
19 including fees required to be paid to an official and fees for an
20 attorney ad litem;

21 (5) to the extent permitted by the United States
22 Bankruptcy Code, attorney's fees and court costs for services
23 performed after the property owner files a voluntary bankruptcy
24 petition;

25 (6) a reasonable fee for title examination and
26 preparation of an abstract of title by an attorney, a title company,
27 or a property search company authorized to do business in this

1 state;

2 (7) a processing fee for insufficient funds, as
3 authorized under Section 3.506, Business & Commerce Code;

4 (8) a fee for collateral protection insurance, as
5 authorized under Chapter 307;

6 (9) a prepayment penalty, unless the lien transferred
7 is on residential property owned and used by the property owner for
8 personal, family, or household purposes;

9 (10) recording expenses incurred in connection with a
10 modification necessary to preserve a borrower's ability to avoid a
11 foreclosure proceeding; and

12 (11) fees for copies of transaction documents
13 requested by the property owner.

14 SECTION 3. Subchapter A, Chapter 351, Finance Code, is
15 amended by adding Section 351.0024 to read as follows:

16 Sec. 351.0024. AFFILIATION WITH LEGAL SERVICES PROVIDER. A
17 property tax lender may not, and an owner, employee, or agent of a
18 property tax lender may not, have an economic or beneficial
19 interest in, or receive any form of consideration other than the
20 provision of legal services directly or indirectly from, an
21 individual or entity that provides legal services to the property
22 tax lender relating to loan document production or review, loan
23 servicing, loan enforcement, loan foreclosure, or the collection of
24 the loan.

25 SECTION 4. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2019.