

SUBJECT: Two-year redemption period for mineral interests sold at a tax sale

COMMITTEE: Local Government Ways and Means — favorable, without amendment

VOTE: 7 ayes — Hill, Hegar, Laubenberg, McReynolds, Mowery, Puente, Quintanilla
0 nays

WITNESSES: For — David P. Vinson, National Association of Royalty Owners - Texas
Against — None

BACKGROUND: Art. 8, sec. 13 of the Texas Constitution creates a right of redemption for former owners of land and other property sold at a tax sale. Within two years of the date the purchaser's deed is filed for record, former owners of residence homesteads or land designated for agricultural use that was sold for unpaid taxes may redeem the property by buying it back. Former owners of other types of property have six months to exercise their right of redemption. All property formerly had a two-year right-of-redemption period until a constitutional amendment approved in 1993 (SJR 19 by Ellis) limited the two-year period to residence homesteads and agricultural property.

Under Art. 8, sec. 13 and Tax Code, sec. 34.21, if an owner of a residence homestead or agricultural property exercises the redemption right within one year, the former owner must pay the purchaser the amount of money paid for the property, a tax deed recording fee, the amount paid by the purchaser in taxes, penalties, interest, and costs on the property, plus up to 25 percent of the aggregate total. If the right is exercised in the second year, the former owner must pay up to 50 percent in addition to the purchase price plus the costs. Former owners of other types of property that has a six-month redemption period must pay the purchase price and costs, plus 25 percent of the total.

DIGEST: HJR 51 would amend Art. 8, sec. 13 of the Constitution to grant former owners of mineral interests a two-year right of redemption period, subject to

the same purchase requirements as former owners of a residence homestead or agricultural property.

If approved by the voters, the amendment would take effect on January 1, 2004, and would establish a two-year right of redemption period for former owners of mineral interests. It would apply only to redemptions of mineral interests for which purchaser's deeds were filed for record on or after that date.

The proposed constitutional amendment would be presented to the voters at an election on Tuesday, November 4, 2003. The ballot proposal would read: "The constitutional amendment to establish a two-year period for the redemption of a mineral interest sold for unpaid ad valorem taxes at a tax sale."

**SUPPORTERS
SAY:**

By increasing from six months to two years the right-of-redemption period for former owners of mineral interests sold at tax sales, HJR 51 and the enabling legislation, HB 1125 by Flores, would correct an inequity in the treatment of property owners who might not know that their royalty interests in oil and gas had become delinquent and been sold. Unlike most property records that are collected and maintained at taxpayer expense in the courthouse, records regarding mineral interests are kept by private entities, such as oil companies. Generally, these companies provide mineral interest records to tax appraisal districts as a courtesy, but often these data are preliminary or inaccurate. No statewide standards direct how appraisal districts assimilate such data into their tax rolls. Owners usually find out about tax forfeitures months later when their royalty payments are withheld, and the six-month limitation often bars them from reclaiming their rightful property.

The 1993 constitutional amendment limiting the two-year right of redemption period to residence homesteads and agricultural property originally was intended to foster redevelopment of vacant and underutilized land within urban areas. Mineral interests were included only inadvertently in the provision. Before the amendment, the two-year redemption period applied to all property and tended to discourage purchase and rehabilitation of low-value real estate and houses because investors were reluctant to make substantial improvements if they faced the risk of the property being reclaimed.

Mineral interests, however, are not like rent houses. They can be transferred easily and require no subsequent investment to generate cash flow, so increasing the right-of-redemption period should have little or no impact on purchasers seeking to buy such interests at a tax sale. The higher premium of 50 percent that former owners of mineral interests would have to pay to redeem their interest during the second year of the redemption period could even encourage purchasers of such interests at tax sales.

**OPPONENTS
SAY:**

Extending from six months to two years the period for redemption for former owners of mineral interests sold to cover delinquent taxes could discourage purchasers from buying such interests at tax sales. Waiting two years for a former mineral-interest owner to turn up and buy back the interest, even at a premium, may not be worth the effort for many potential purchasers. This could make it more difficult for school districts, cities, counties, and other political subdivisions to sell property seized for nonpayment of taxes, and having fewer potential purchasers could hold down the sales price.

NOTES:

HB 1125 by Flores, the enabling legislation for HJR 51, was set on the House calendar for April 22. The identical companion bill, SB 832 by Staples, was referred to the Senate Finance Committee on March 10.

The companion joint resolution, SJR 31 by Staples, was referred to the Senate Natural Resources Committee on March 17.