

**SUBJECT:** Seizure of personal property sold at liquidation sale for tax payment

**COMMITTEE:** Local Government Ways and Means — committee substitute recommended

**VOTE:** 5 ayes — Hill, Creighton, Elkins, C. Howard, Villarreal  
0 nays  
2 absent — Puente, Quintanilla

**WITNESSES:** For — Allen Harvey; (*Registered, but did not testify:* James Collins, Perdue, Brandon, Fielder Collins & Mott LLP)  
Against — None

**BACKGROUND:** Tax Code, sec. 33.21(b) allows a taxing unit to seize a person's personal property for payment of property taxes before the tax become delinquent if:

- the collector discovers the property for which tax is or will be owed is about to be removed from the county; and
- the collector knows of no other personal property in the county that can satisfy the tax.

**DIGEST:** CSHB 1910 would amend sec. 33.21(b) also to allow the seizure of personal property for payment of property taxes before the tax become delinquent if the collector discovered that property for which tax was or would be owed was about to be sold in a liquidation sale in connection with the cessation of a business.

The bill would take effect September 1, 2007, and would apply only to a warrant for the seizure of personal property filed on or after that date.

**SUPPORTERS SAY:** CSHB 1910 would ensure the receipt of necessary tax revenue that supports the operation of school districts, cities, counties, and other political subdivisions. Property tax liability attaches on January 1 of each year. Businesses that close during the course of the year are responsible

for the annual tax imposed on the business property. Commonly, during a business closure, personal property of the business is sold along with the real property itself. The liquidation of all assets eliminates any leverage a tax collector has in collecting outstanding taxes. There is no personal liability once the business, as incorporated, ceases to exist. Amending sec. 33.21(b) would clarify that tax collectors could seize personal business property before a business liquidation was complete and assist the entities that rely on the collection of these taxes.

**OPPONENTS  
SAY:**

Once business personal property was seized, it is not clear who would hold the “super lien.” Currently, if a business files for bankruptcy, the United States Bankruptcy Code preempts any state law with regard to the rights of creditors in a bankruptcy proceeding. However, it remains unclear in circumstances where a liquidation sale is held outside of the context of bankruptcy whose interest would be superior regarding the personal property itself. State law requires a tax collector to notify creditors that may have an interest in the personal property, but it is unclear whose interests would be served first under CSHB 1910.