

SUBJECT: Redemption-period affidavits for property sold at a tax sale

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Oliveira, Otto, Bohac, Hartnett, Hilderbran, C. Howard, P. King, Paxton, Taylor, Villarreal

0 nays

1 absent — Pena

WITNESSES: For — (*Registered, but did not testify:* Duane Force, Linebarger Goggin Blair & Sampson, LLP; Daniel Gonzalez, Texas Association of Realtors; Betsy Price)

Against — None

BACKGROUND: Property owners who are delinquent on their property or real estate taxes may have their property seized by the county tax assessor-collector and sheriff or constable. When that occurs, the county or other taxing entity, such as an incorporated city or town, a school district, a fire prevention district, or any other political unit authorized to impose property taxes, holds a tax sale on the property. Tax Code, sec. 34.21 allows the former real property owner to redeem the property by paying the purchaser the amount the purchaser bid for the property, along with any penalties, interest, taxes, or other costs the purchaser paid.

For property that was used as a homestead or for agricultural purposes, or any mineral interests sold through a tax sale, the former owner has up to two years from the date the property's deed is filed to redeem the property. All other property must be redeemed within 180 days of the deed being filed.

If the purchaser from either the tax sale or any subsequent resale cannot be found after a diligent search, the purchaser is not a resident of the county in which the property is located, the purchaser and former owner cannot agree on the amount of redemption money due, or the purchaser refuses to give the former owner a quitclaim deed to the property, the former owner may file an affidavit stating as such and pay the required redemption

amount with the assessor-collector of the county in which the property is located. The assessor-collector then must provide the owner with a signed receipt witnessed by two other people and pay the money received to the purchaser on demand.

DIGEST: HB 1407 would require former property owners who lost their property in a tax sale and are seeking to redeem that property with a county assessor-collector to submit an affidavit asserting that the time period for redeeming the property has not expired.

The county assessor-collector would be required to accept the affidavit as true and would not be held liable if the information was later found to be incorrect.

The bill would take effect September 1, 2009.

SUPPORTERS SAY: By requiring former property owners seeking redemption to affirm that the time limit on payment has not expired, HB 1407 would eliminate future disputes between those former owners and tax sale purchasers. The bill would make the job of assessor-collector much easier by shifting liability onto those redeeming the property. Some counties already require these affidavits, so the bill would make this practice uniform across the state.

OPPONENTS SAY: No apparent opposition.

NOTES: The companion bill, SB 1469 by Davis, has been referred to the Senate Finance Committee.