

- SUBJECT:** Service of process for delinquent taxes on a nonresident
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Hunter, Alonzo, Branch, Hartnett, Madden, Martinez, Woolley
0 nays
4 absent — Hughes, Jackson, Leibowitz, Lewis
- WITNESSES:** For — Harvey Allen
Against — None
- BACKGROUND:** Civil Practice and Remedies Code, sec. 17.091 designates the secretary of state as an agent for substituted service of process on nonresidents in suits by the state or a political subdivision of the state to collect delinquent property taxes.
- Sec. 17.091(c) requires that a nonresident who owes delinquent taxes receive service in the same manner as a nonresident motor vehicle operator under Civil Practice and Remedies Code, secs. 17.061-069. Under these provisions, a nonresident defendant may refuse to accept delivery of the notice of service, which effectively requires the plaintiff to use a formal process server to serve the defendant.
- Civil Practice and Remedies Code, sec. 17.044 designates the secretary of state as an agent for substituted service of process for nonresidents who are a party to a suit involving a business transaction or a tort. Upon being served, the secretary of state forwards a notice of service to the nonresident's address provided in the service. Substituted service has the same legal effect as personal service and removes the need for a plaintiff to use a formal process server.
- DIGEST:** HB 1804 would authorize formal service of process for nonresident defendants in delinquent property tax collection cases through substituted service on the secretary of state, regardless of whether the defendant had previously resided in the state, and would eliminate the current

requirement that a nonresident owing delinquent taxes be served in the same manner as a nonresident motor vehicle operator.

The bill would require a clerk of the court in which a suit was pending to serve duplicate copies of the process on the secretary of state within 20 days of the date of return stated in the process. The process would have to include the name and address of the nonresident's home or home office. The address could be a post office box.

After being served, the secretary of state would have to immediately mail a copy of the process by certified mail to the nonresident at the provided address, return receipt requested, with the postage prepaid. The secretary of state would have to certify to the court that issued the process that the secretary had complied with the requirements.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

HB 1804 would authorize the same type of substituted service for nonresidents who owed delinquent property taxes as is currently allowed for suits on a business transaction or a tort. This would establish fair and equal requirements for service of process upon residents and nonresidents alike who failed to pay delinquent property taxes.

The current service requirements elevate the procedural rights of nonresidents over resident Texans by allowing a nonresident who owes property taxes to refuse delivery of service. This effectively forces a governmental entity to use a formal process server, which can be expensive and time-consuming, and increases the burden of collecting delinquent property taxes.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The companion bill, SB 2297 by Watson, was considered by the Senate Jurisprudence Committee on April 15 and left pending.