

SUBJECT: Requiring notice to mortgage servicers of property tax lien transfers

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Oliveira, Shine, Collier, Romero, Villalba, Workman

1 nay — Stickland

WITNESSES: For — Brian Engel, Barrett Daffin Frappier Turner and Engel LLP; Wes Hoskins, Texas Bankers Association; John Fleming, Texas Mortgage Bankers Association; (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas; Micah Rodriguez, Credit Union Coalition of Texas; Stephen Scurlock, Independent Bankers Association of Texas; David Emerick, JPMorgan Chase; Daniel Gonzalez and Julia Parenteau, Texas Association of Realtors; Celeste Embrey, Texas Bankers Association; Jeff Huffman, Texas Credit Union Association; Charlie Duncan and Nate Walker, Texas Low Income Housing Information Service)

Against — Matt Longhofer, Jack Nelson, and Peter Squier, Texas Property Tax Lienholders Association; Bill Peacock, Texas Public Policy Foundation; (*Registered, but did not testify*: Paul Halstead, Ovation Services)

BACKGROUND: Tax Code, sec. 32.06 authorizes property owners who owe delinquent taxes or owe taxes due on property not subject to a mortgage lien to transfer their tax lien to another party.

Finance Code, sec. 351.054 requires the party taking over the tax lien to provide certain notice of the transfer to the collector of the relevant taxing unit.

To transfer a property tax lien under sec. 32.06, property owners must file the following information with their collector:

- authorization for another party to pay the property owner's taxes;

- the name and street address of the transferee;
- a description of the property, including a legal description and the street address, if applicable;
- a statement that the property owner received notice that if disabled, he or she may be eligible for tax deferral; and
- the information included in the transferee's required notice to the collector.

**DIGEST:** HB 2832 would require a property owner transferring a property tax lien to mail a notice to all relevant mortgage servicers stating that the property owner intended to enter into a contract for transfer of tax lien to pay delinquent taxes. Property owners would be required to send this notice by certified mail at least 10 days before executing the contract.

The bill would require transferring property owners to file with their collector a statement that this notice had been mailed to all relevant mortgage servicers.

The bill would take effect September 1, 2017, and would apply only to a contract entered into on or after that date.

**SUPPORTERS SAY:** HB 2832 would ensure mortgage lenders were provided with adequate notice before a property owner made a lien transfer that would put the mortgage lender in a secondary lien position. Banks and other mortgage lenders have the right to know when property owners plan to make substantial changes to an agreement in which they are invested. Lien transfers also can violate the owner's contractual obligation to protect the lien position of their mortgage lender.

The bill could save property owners money and protect them from predatory property tax lenders by providing the mortgage company with a chance to make a competing offer before transfer. Property tax lenders do not provide consumers with the same information that federal law would afford to other mortgage borrowers.

The bill would not hurt municipalities' ability to collect property taxes

because property owners would be free to proceed with transactions if notice was provided. The bill would help municipalities collect property taxes by increasing options for paying delinquent property taxes, and lower-interest agreements with mortgage servicers would increase the likelihood that the owner could pay.

HB 2832 would not interfere with free market competition and would not prohibit any loan agreement. It simply would require notice to the mortgage servicer. It would increase competition and consumer options by allowing mortgage lenders and property owners a chance to negotiate different terms.

The bill would not overly burden property owners. Because property tax bills are issued in October and not due until January, the 10-day notice window would provide adequate time for property owners to plan delinquent tax refinancing. The potential penalty for violating the notice requirement is outweighed by the increased cost of refinancing through property tax lenders.

OPPONENTS  
SAY:

HB 2832 could hurt municipalities that rely on property tax by creating barriers for property owners to access a critical refinancing tool. When property taxes go unpaid, a tax bill can increase and leave taxpayers bearing the cost of delinquent taxes. Property tax liens are an important option for consumers struggling to pay taxes and should not be discouraged.

The bill could distort the tax loan market by encouraging mortgage servicers to unfairly edge out property tax lenders. The burden to notify mortgage lenders should not fall on property owners. Mortgage lenders already can freely access borrowers' tax delinquency information or require a notice provision in contracts with property owners.

The 10-day window of notice before a property tax lien transfer could proceed would unduly burden property owners. Most such transfers are enacted in the last 10 days of the month to avoid foreclosures and further penalties. The 10-day requirement would prevent some property owners

from receiving the property tax payment mechanisms currently available.

NOTES:

A companion bill, SB 1397 by Nichols, was referred to the Senate Committee on Business and Commerce on March 16.