

## **BILL ANALYSIS**

Senate Research Center

S.B. 1249  
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Intergovernmental Relations  
4-10-97  
Committee Report (Amended)

### **DIGEST**

Currently, in the event of foreclosure of real property by a taxing district resulting from nonpayment of ad valorem property taxes, the Property Tax Code provides a three-year period following the tax sale in which the procedural methodology of the foreclosure can be contested. For example, an unknown heir may claim a legal interest in the property, and may attest that he or she was not properly notified of the pending foreclosure action. The potential of such a claim can effectively forestall redevelopment of the property until the three-year limitations period elapses, causing abandoned properties to abound. This legislation would shorten the limitations period to one year for non-homestead properties, and to two years for homestead properties. S.B. 1249 would also enable properties to be sold at public auction for any amount, or at a private sale for an amount that is not less than the lesser of the market value specified in the foreclosure judgment or the total amount of the judgments against the property. Finally, this bill seeks to forestall frivolous claims of faulty process by requiring all taxes, penalties, interest, and costs on the property to be deposited into the registry of the court at the time such a claim is made; and by setting forth other provisions limiting challenges to the validity of a tax sale.

### **PURPOSE**

As proposed, S.B. 1249 authorizes the sale of property for delinquent ad valorem taxes.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 33.54, Tax Code, to prohibit an action relating to the title to property, except as provided by Subsection (b), from being maintained against the purchaser of the property at a tax sale unless the action is commenced before the first anniversary of the date that the deed is filed of record, or before the second anniversary date of the date the deed is filed of record, if the property was the residence homestead of the owner or land appraised under Chapter 23C or 23D, rather than within three years after the deed is filed of record. Provides that if a person other than the purchaser at the tax sale or the person's successor in interest pays taxes on the property during the applicable limitations period and until the commencement of an action challenging the validity of the tax sale and that person was not served citation in the suit to foreclose the tax lien, that limitations period does not apply. Establishes that when actions are barred by this section, the purchaser at the tax sale or the purchaser's successor in interest has, rather than being required to have, full title to the property, precluding all other claims. Makes conforming changes.

SECTION 2. Amends Section 34.05, Tax Code, by amending Subsections (b)-(d), and adding Subsections (h) and (i), to authorize property sold pursuant to Subsections (c) and (d) of this section to be sold for any amount. Deletes the provisions prohibiting property from being sold for less than a certain amount unless the property is sold pursuant to Subsections (c) and (d). Provides that this subsection does not authorize a sale of property in violation of Section 52, Article III, Texas Constitution. Provides that on receipt of a request for public sale of property, the sheriff is required to sell the property, unless the property is sold pursuant to Subsection (h) or (i) before the date set for the public sale. Deletes the provision requiring the officer conducting the sale to reject certain bids. Sets forth the terms by which the taxing unit that purchased the property, in lieu of a sale

pursuant to Subsections (c) and (d), is authorized to sell the property at a private sale for a certain amount. Authorizes the taxing unit that purchased the property, in lieu of a sale pursuant to Subsections (c) and (d), to sell the property at a private sale for an amount less than required under Subsection (h) with the consent of each taxing unit entitled to receive proceeds of the sale under the judgment. Makes conforming changes.

SECTION 3. Amends Chapter A, Tax Code, by adding Section 34.08, as follows:

Sec. 34.08. CHALLENGE TO VALIDITY OF TAX SALE. Prohibits a person from commencing an action that challenges the validity of a tax sale unless the person deposits a certain amount into the registry of the court or files an affidavit of inability to pay under Rule 145, Texas Rules of Civil Procedure. Prohibits a person from commencing an action challenging the validity of a tax sale after the time set forth in Section 33.54(a)(1) or (a)(2) against a subsequent purchaser for value who acquired the property in reliance on the tax sale. Authorizes such purchaser to presume that the tax sale was valid and requires such purchaser to have full title to the property free and clear of the right, title, and interest of any person that arose before the tax sale, subject to certain restrictions. Requires a person who is not barred from bringing an action challenging the validity of a tax sale under Subsection (b) or any other provision of this Tax Code of applicable law, to bring an action no later than a certain date to recover real property claimed by another who pays applicable taxes on the real property before overdue and claims the property under a registered deed executed pursuant to Section 34.01, with certain exceptions.

SECTION 4. (a) Makes application of this Act prospective regarding SECTIONS 1 and 3.

(b) Makes application of this Act prospective regarding SECTION 2.

SECTION 5. Emergency clause.

Effective date: upon passage.

#### **SUMMARY OF COMMITTEE CHANGES**

##### Amendment 1.

Page 4, between lines 6 and 7, insert Subsection (i), to set forth the terms by which, in lieu of a sale pursuant to Subsections (c) and (d), the taxing unit that purchased the property may sell the property at a private sale for an amount less than required under Subsection (h).

Changes the effective date from September 1, 1998 to upon passage, and moves the effective date from SECTION 4 to SECTION 5.

##### Amendment 2.

Page 1, line 23, after the word "period," insert "and until the commencement of an action challenging the validity of the tax sale".

Page 4, after line 17, insert new Subsections (b) and (c) to set forth further restrictions regarding challenges to the validity of a tax sale.