

BILL ANALYSIS

Senate Research Center

S.B. 1402
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Finance
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DIGEST

Currently, the Texas Tax Code is in need of revision. S.B. 1402 would set forth provisions for procedural and technical corrections of the Texas Tax Code and the Texas Finance Code; notices of sale; orders of sale; proceeds of sale; excess proceed of sale; redemptions in delinquent tax suits; collection of taxes on sale of business; additional penalty on taxes with delayed delinquency date and on delinquent standby fees; notices of delinquency; subrogation of purchasers at void or defective resales; taxes to be included in judgments; jurisdictional provisions for tax claims against certain estates in probate; service of process on corporations following forfeiture of corporate privileges; and repeals of overlapping and duplicate provisions in the Tax Code.

PURPOSE

As proposed, S.B. 1402 sets forth provisions for procedural and technical corrections of the Texas Tax Code and the Texas Finance Code; notices of sale; orders of sale; proceeds of sale; excess proceed of sale; redemptions in delinquent tax suits; collection of taxes on sale of business; additional penalty on taxes with delayed delinquency date and on delinquent standby fees; notices of delinquency; subrogation of purchasers at void or defective resales; taxes to be included in judgments; jurisdictional provisions for tax claims against certain estates in probate; service of process on corporations following forfeiture of corporate privileges; and repeals of overlapping and duplicate provisions in the Tax Code.

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 25.06, Tax Code, to require property subject to an installment contract of sale to be listed under the name of the seller if the installment contract is not filed in the real property records of the county, unless otherwise directed in writing under Section 1.111(f) of this code.

SECTION 2. Amends Section 31.03, Tax Code, by adding Subsections (d) and (e), as follows:

(d) Authorizes the governing body of a taxing unit or appraisal district which has by official action imposed the additional penalty provided by Section 33.07 of this code, and which taxing unit or appraisal district has also provided for the split payment under this section, to further provide, in the manner required by law for official action by the body, that taxes subject to this section and becoming delinquent on July 1, incur an additional penalty on the date provided by Subsection (e) of this section, if the taxing unit or appraisal district or another taxing unit that collects taxes for the unit has contracted with an attorney pursuant to Section 6.30 of this code. Provides that a penalty is to defray costs of collection. Prohibits the amount of a penalty from exceeding 15 percent of the amount of taxes, penalty, and interest due.

(e) Provides that upon delivery by the tax collector of a notice of delinquency and of the additional penalty to the property owner, a penalty is incurred on the first day of the next month following the delinquency that will provide a period of at least 21 days after the date of delivery of the notice. Provides that a tax lien attached to the property on which the tax is imposed to secure payment of the additional penalty. Prohibits neither a taxing unit nor an appraisal district from recovering attorney's fees in a suit to collect delinquent taxes subject to a penalty, if a taxing unit or appraisal district provides for the additional penalty under this section.

SECTION 3. Amends Section 31.031, Tax Code, by adding Subsections (e) and (f), as follows:

(e) Authorizes the governing body of a taxing unit or appraisal district which has by official action imposed an additional penalty provided by Section 33.07 of this code to further provide, in the manner required by law for official action by the body, that the taxes to which this section applies and which become delinquent on or after June 1, incur an additional penalty on the date provided by Subsection (f) of this section, if the taxing unit or appraisal district or another taxing unit that collects taxes for the unit has contracted with an attorney pursuant to Section 6.30 of this code. Makes a conforming change.

(f) Makes a conforming change.

SECTION 4. Amends Section 31.032, Tax Code, by redesignating Subsections (f) and (g) as Subsections (h) and (I) respectively, and by adding new Subsections (f) and (g), as follows:

(f) Authorizes the governing body of a taxing unit or appraisal district which has by official action imposed an additional penalty provided by Section 33.07 of this code to further provide, in the manner required by law for official action by the body, that the taxes to which this section applies and which become delinquent on or after June 1, incur an additional penalty on the date provided by Subsection (g) of this section, if the taxing unit or appraisal district, or another taxing unit that collects taxes for the unit has contracted with an attorney pursuant to Section 6.30 of this code. Makes a conforming change.

(g) Makes conforming changes.

SECTION 5. Amends Section 31.04, Tax Code, by adding Subsections (f) and (g), to make conforming changes.

SECTION 6. Amends Chapter 31, Tax Code, by adding Section 31.081, as follows:

Sec. 31.081. PROPERTY TAX COLLECTION ON TERMINATION OR SALE OF BUSINESS. Requires a successor to a seller or a seller's assignee to withhold an amount of the purchase price sufficient to pay all of the personal property taxes, penalties, and interest due until the seller provides a receipt from the tax collector showing that the taxes, penalties, and interest have been paid or a tax credit certificate under Section 31.08 of this code stating no amount is due, if a person who is liable under this title for the payment of taxes assessed against personal property used in the operation of a business sells the business inventory of the business or quits the business. Provides that a purchaser of a business or inventory who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price. Authorizes a purchaser of a business or inventory to request that the tax collector issue a tax certificate stating that no tax is due or issue a statement of the amount required to be paid in order to have a certificate that no tax is due. Requires the tax collector to issue a certificate or statement within 10 days after receiving a request. Provides that if a tax collector fails to mail a certificate or statement within a 10-day period provided by Subsection (c) of this section, a purchaser is released from the obligation to withhold the purchase price or pay the amounts due. Requires any action to enforce an obligation of a purchaser under this section to be brought not later than four years after the day the former owner of a business sells the business inventory. Provides that an action to enforce a purchaser's obligation under this section is further subject to a limitation plea by the purchaser as to any taxes more than four years delinquent as of the date of issuance of the tax collector's statement under Subsection (c) of this section. Requires this section to not operate so as to absolve a seller of personal liability under this title for the payment of taxes. Defines "sale of a business," "sale of the inventory," and "value of the purchase price."

SECTION 7. Amends Subsection (a), Section 31.12, Tax Code, to provide that if a refund of a tax provided by Section 11.431(b), 26.07(g), 26.15(f), or 31.11 is paid before the 90th day, rather than the 60th day, after the date the liability for the refund arises, no interest is due on the amount refunded. Makes a conforming change.

SECTION 8. Amends Section 32.01, Tax Code, to redesignate the existing Subsection (c) as Subsection (d), and by adding a new Subsection (c), as follows:

(c) Authorizes a description, with respect to an owner's real property, to be ascertained with certainty by metes and bounds contained in instruments of conveyance, and part of which constitutes the owner's residence homestead taxed separately and apart from the remainder of the property, the liens under this section securing the taxes imposed on both the homestead and the remainder of the property owned extend in solido to the owner's entire property as described in the instrument or instruments of conveyance. Makes a conforming change.

SECTION 9. Amends Section 32.015(b), Tax Code, to provide that any lien for which a notice is not filed by such date is unenforceable against a bona fide purchaser for value who is without notice and actual knowledge, and a holder of a lien recorded on the manufactured home document of title.

SECTION 10. Amends Section 32.05, Tax Code, by adding Subsections (d) and (e), as follows:

(d) Provides that in Subsection (b) of this section, "holder of a lien" includes a property owners' association which claims a lien perfected under recorded restrictive covenants running with the land encumbered by the tax lien.

(e) Prohibits, in subsection (a) of this section, "recorded restrictive covenants" from being construed to include a lien perfected under those restrictive covenants and held by a property owners' association or homeowners' association.

SECTION 11. Amends Subsections (e) and (g), Section 32.07, Tax Code, as follows:

(e) Provides that an individual who controls or supervises the collection of tax or money from another person, or an individual who controls or supervises the accounting for and payment of the tax or money, and who willfully fails to pay or cause to be paid, the tax or money, is liable as a responsible individual for an amount equal to the tax or money, plus all interest, penalties, and costs, not paid or caused to be paid.

(g) Defines "the person who owns or acquires the property."

SECTION 12. Amends Section 33.011(a), Tax Code, to authorize the governing body of a taxing unit to delegate to the tax assessor-collector, the authority to waive penalties and interest pursuant to this subsection and subject to any provisions by the governing body for limitations or restrictions on that authority.

SECTION 13. Amends Section 33.04, Tax Code, by adding Subsections (b) and (c) and adding Subsections (d), (e), and (f), as follows:

(b) Requires, in addition to the notice required by Subsection (a) of this section, the tax collector for each taxing unit in each year divisible by five to deliver by mail a written notice of delinquency to each person whose name and address is listed on the most recent certified appraisal roll if the property so listed on that roll is shown by the tax collector's records as having, rather than who owes a tax that has, been delinquent more than one year; and each person who owes a tax that has been delinquent more than one year on personal property or on an interest in a mineral estate which is no longer listed on the current appraisal roll under that person's name, but whose name and mailing address are known to the collector.

(c) Requires the tax collector to state in the notice required by Subsection (b) of this section, the amount of the delinquent tax, penalties, and interest due, the description of the property on which the tax was imposed, and the year for which the tax is delinquent. Authorizes any notices required by Subsection (b), rather than if the person owes delinquent taxes, for more than one year or on more than one property, to be included in a single notice. Deletes text authorizing the collector to include all the delinquent taxes the person owes in a single notice.

(d) Provides that a failure by the collector to deliver the notice required by Subsection (b) of this section constitutes an affirmative defense available to the person entitled to the notice in any suit brought against that person for the enforced collection of penalties and interest on taxes delinquent more than five years or a multiple of five years. Deletes text regarding penalties and interest on a tax delinquent more than five years or a multiple of five years being canceled and prohibited from being collected. Deletes text regarding the calculation, in each year divisible by five following the

date on which the tax first became delinquent for one year.

(e) Requires, notwithstanding the provisions of Subsection (d) of this section, interest and penalty on a tax to resume and to be collected by the tax collector if, subsequent to any failure to deliver the notice required by Subsection (b), the tax collector thereafter delivers the notice in any year divisible by five. Provides that the resumption of interest and penalty on the tax is prospective only and begins to accrue at the rates provided by Section 33.01 on the first day of the next month following the delivery of the notice which will provide a period of at least 21 days after the date of delivery.

(f) Provides that a notice under this section is presumed to be delivered when it is deposited in regular first class mail, with postage pre-paid, and addressed to the person designated under Subsection (b). Prohibits, notwithstanding the provisions of Section 1.07 of this code, the presumption of delivery under this section from being rebutted with evidence of failure to receive the notice.

SECTION 14. Amends Section 33.47(a), Tax Code, to provide that in a suit to collect a delinquent tax, the taxing unit's current tax roll and delinquent tax roll, or certified copies of the entries showing the property and the amount of the tax, penalties, and interest imposed constitute prima facie evidence that each person charged with a duty relating to the imposition of the tax, penalties, and interest has complied with all requirements of law, and that the amount of tax, penalties, and interest alleged to be delinquent against the property is the correct amount.

SECTION 15. Amends Section 33.50(b), Tax Code, to require the order of sale to further specify that the property may not be sold to a person owing an interest in the property or to any party to the suit that is not a taxing unit unless certain conditions are met.

SECTION 16. Repealer: Section 33.51, Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 914, Section 6 (Writ of Possession).

SECTION 17. Repealer: Section 33.51, Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 1111, Section 2 (Writ of Possession).

SECTION 18. Amends Section 33.52, Tax Code, as follows:

Sec. 33.52. New heading: TAXES TO BE INCLUDED IN JUDGMENT. Requires only taxes that are delinquent on the date of a judgment to be included in the amount recovered by the taxing units. Provides that in lieu of stating the aggregate total of tax, penalties, and interest due as a liquidated sum, a judgment is sufficient if it merely sets out the base tax due for each year and provides that penalties and interest accrue on the unpaid balance pursuant to Subchapter A of this chapter. Requires, for the purposes of calculating penalties and interest due pursuant to a judgment, a presumption to be made that the delinquency date is February 1 of the year following the year in which the tax was imposed unless otherwise stated in the judgment. Prohibits a taxing unit's claim to taxes that become delinquent after the date of a judgment from being affected by the entry of a judgment or any sale conducted pursuant to such judgment and may be collected by any of the remedies provided by this code.

SECTION 19. Repealer: Section 33.52, Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 906, Section 8 (Judgment for Current Taxes).

SECTION 20. Repealer: Section 33.52, Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 981, Section 2 (Judgment for Current Taxes and Postjudgment Taxes, Penalties, and Interest).

SECTION 21. Repealer: Section 33.52, Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 1111, Section 3 (Judgment for Current Taxes).

SECTION 22. Amends Section 33.53(a), Tax Code, to require the district clerk, upon application by any taxing unit that is a party to a judgment, to prepare an order to an officer authorized to conduct execution sales, ordering the sale of the property. Authorizes the taxing unit to specify particular parcels of the property sold, if multiple parcels are included in the judgment; and to request more than one order of sale, if necessary to collect all amounts due under the judgment. Requires the order of sale to be returnable to

the district clerk as unexecuted, if not executed within 180 days after issuance. Authorizes the order of sale to be accompanied with an attached copy of a judgment and a bill of costs and may incorporate the terms of either by reference. Provides that it is not required that the attached copies of a judgment and bill of costs be certified.

SECTION 23. Amends Section 34.01, Tax Code, to require property seized or ordered sold pursuant to foreclosure of a tax lien to be sold by the officer charged with the sale, unless otherwise directed by the taxing unit that requested the order, its agent, or attorney. Requires the sale to be conducted in a manner similar to property which is sold under execution except as otherwise provided by this subtitle, rather than subchapter. Requires the officer charged with the sale, upon receipt of an order of sale of real property, to endorse thereon, the exact hour and day of receipt, which endorsement shall constitute a levy on the property without necessity for going upon the ground. Requires the officer to calculate the total amount due under the judgment, including taxes, penalties, and interest due, any other amounts awarded by the judgment, court costs, and the costs of the sale, including the cost of advertising under Subsection (c) of this section. Authorizes the tax assessor-collector of each taxing unit, for the purposes of making this calculation, which is party to the judgment to provide the officer with a certified tax statement showing the amount due as of the date of the proposed sale. Requires the officer, if provided, to rely on the amounts so certified by the tax assessor-collector and shall have no responsibility or liability for the accuracy of that portion of the calculation. Requires the officer charged with the sale to give written notice of the sale, in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure, and in a form which substantially conforms to the requirements of Subsection (d) of this section, to all persons who were defendants to the judgment, or their attorney, and the office shall advertise the time and place of the sale by having the notice thereof published in the English language a minimum of one time in some newspaper published in the county where the sale is to occur. Requires one such notice to appear in the publication not less than 20 days immediately preceding the day of sale. Requires neither the officer's failure to send, nor a defendant's failure to receive a written notice of sale, standing alone, to invalidate the sale or the title conveyed by the sale. Authorizes the notice of sale required by Subsection (c) of this section to contain one or more properties foreclosed by a single judgment or one or more properties foreclosed by multiple judgments in more than one cause of action, and shall contain a statement of the authority by virtue of which the sale is to be made, the date, time and place of sale, and a brief description of the property sold. Provides that in describing a property, the notice is sufficient by giving the number of acres and original survey, or, if within a platted subdivision or addition, whether recorded or not, by giving the name by which the land is generally known with reference to that subdivision or addition, or by adopting the description as contained in the judgment. Provides that it is not required that the notice contain field notes in describing the property. Requires publishers of newspapers publishing the notice to charge the rate of two cents per word for the publication, or such newspapers shall be entitled to charge for such publication at a rate equal to but not in excess of the published work or line rate of that newspaper for such class of advertising. Requires the officer to then post such notice in writing in three public places in the county, one of which shall be at the courthouse door of such county, for at least twenty days successively next before the day of sale, if there is no newspaper published in the county of a sale. Requires an owner, in the request, to describe the desired portions and shall specify the order in which the portions should be sold, provided however, that the owner may not specify portions which divide buildings or other contiguous improvements or specify more than four portions, and such request must be delivered to the officer not less than seven days prior to the date of the sale. Authorizes the taxing unit that requested an order of sale to terminate the sale at that time, if a sufficient bid is not received to pay the amount calculated under Subsection (b) of this section or the adjudged value. Requires the officer making a sale to bid the property off to the taxing unit that requested the order of sale, unless otherwise agreed by all of the taxing units that are parties to the judgment, rather than is a party to the judgment. Provides that the duty of an officer to bid off the property to a taxing unit under this Subsection is self-executing, and the actual attendance of a taxing unit representative at the sale is not a prerequisite to that party. Prohibits payments in satisfaction of the judgment and any costs or expenses of sale from being required of the purchasing taxing unit until the property is redeemed or resold by the taxing unit, rather than purchasing unit. Authorizes a taxing unit, notwithstanding that a property has been bid off to a taxing unit as herein provided, that established tax liens in the suit, to continue to enforce collection of any amount due from the owner(s), including any post-judgment taxes, penalties, and interest assessed by the taxing unit against the property, in any manner or by pursuing any other remedy provided by law. Requires the officer making the sale to prepare a deed to the purchaser of real property at the sale, to any other person whom the purchaser may specify, or to the taxing unit if the property was bid off. Authorizes the taxing unit that requested the order of sale to elect to prepare a deed and file the deed for recording with the county clerk with instructions to the county clerk to return the deed after recording to the grantee. Requires the county clerk to file such and record all such deeds without imposing any recording or other fees. Provides that

the deed vests good and perfect title in the purchaser or the purchaser's assigns to the interest owned by the defendant in the property subject to the foreclosure, including the defendant's right to the use and possession of the property, subject only to the defendant's right of redemption, the terms and provisions of any recorded restrictive covenants running with the land, if such covenants were recorded prior to January 1 of the year the tax lien arose, any recorded lien arising under those restrictive covenants unless the same was extinguished in the judgment foreclosing the tax liens, and valid easements of record as of the date of the sale. Requires the sale of real property under this section to take place at the county courthouse in the county in which the land is located. Requires the sale to occur in the same area of the courthouse as designated by the commissioners court of the county for the sale of real property pursuant to Section 51.002, Property Code. Provides that to the extent the rules governing executions under the Texas Rules of Civil Procedure are in conflict with this section, the provisions of this section prevail and govern the duties of the officer conducting the sale. Deletes text regarding tax, penalties, interest, and costs adjudged due against the property. Makes conforming changes.

SECTION 24. Amends Section 34.015(a), Tax Code, to authorize, notwithstanding any other provision of this subchapter, the governing body of a municipality to provide for the manner in which land acquired by the municipality following the foreclosure of a tax lien, or by seizure in favor of the municipality may be sold if the land is sold to certain entities.

SECTION 25. Amends Sections 34.02(a), (b), and (c), Tax Code, as follows:

- (a) Requires the proceeds of a tax sale pursuant to Section 33.94 or Section 34.01 to be applied in a certain order, rather than first to the payment of costs. Requires each category to be fully paid before any funds shall be allocated to certain categories. Sets forth the allocation categories.
- (b) Provides that if the proceeds are not sufficient to pay the total amount due for any one of the four categories in Subsection (a) of this section, rather than costs and taxes, penalties, and interest due all participants in the sale, each participant in each category is entitled to a share of the proceeds in an amount equal to the proportion its entitlement, rather than taxes, penalties, and interest, bears to the total amount of that category. Makes a conforming change.
- (c) Requires the officer conducting the sale to pay any excess proceeds after payment of all amounts, rather than costs of all taxes, penalties, and interest, due all participants in the sale as set out in Subsection (b) to the clerk of the court issuing the order of sale, if the sale is pursuant to foreclosure of a tax lien.

SECTION 26. Amends Sections 34.03(a) and (b), Tax Code, as follows:

- (a) Requires the clerk of the court to keep the excess proceeds paid into court as provided by Section 34.02(c), rather than 34.02 of this code, for a period of two years, rather than seven years, after the date of the sale unless otherwise ordered by the court. Deletes text regarding Subsection (c).
- (b) Requires the clerk to distribute the excess proceeds to each taxing unit participating in the sale in an amount equal to the proportion its taxes, penalties, and interests bear to the total amount of taxes, penalties, and interest due all participants in the sale, if no claimant files a petition claiming, rather than establishes entitlement to, the proceeds as provided in Section 34.04 within two years, rather than seven years from the date of the sale.

SECTION 27. Amends Section 34.04, Tax Code, to authorize a person, including any taxing unit, to file a petition in the court that ordered the sale or seizure, setting forth a claim to the excess proceeds within two years from the date of the sale of the property. Provides that the petition need not be filed as a new lawsuit, separate from the underlying action ordering seizure or foreclosing the tax lien, but may be filed under the same cause number. Requires a copy of the petition to be served, pursuant to Rule 21a, Texas Rules of Civil Procedure, on all parties, rather than the county attorney and on all parties, to the underlying action, rather than suit that ordered the sale, if any, not later than the 20th day before the date set for a hearing on the petition. Requires the court to order that the proceeds be paid in accordance with certain priorities to those parties who may establish their claim. Sets forth the priorities to those parties who may establish their claim. Prohibits interest or costs from being allowed. Deletes text regarding if the court finds that the claimant is entitled to recover the excess proceeds. Deletes text prohibiting excess proceeds from being filed after the expiration of seven years from the date the property is sold.

SECTION 28. Repealer: Section 34.05(a), Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 906, Section 9 (Authorizes a taxing unit to sell property at any time in a certain manner).

SECTION 29. Amends Sections 34.05(c) and (d), Tax Code, as follows:

(c) Authorizes the taxing unit purchasing a property by resolution of its governing body to request the sheriff or constable to sell the property at a public sale. Makes conforming changes.

(d) Requires the officer, upon conclusion of a sale, making the same, to prepare a deed to the purchaser, and to execute the deed and file it for recording with the county clerk accompanied by instructions to the clerk to return the deed to the purchaser following its recordation. Authorizes the taxing unit that requested the sale to elect to prepare a deed for execution by the officer. Requires the county clerk to file and record all such deeds without imposing any recording or other fees.

SECTION 30. Repealer: Section 34.05(g), Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 712, Section 3 and by Chapter 906, Section 9 (Sections 263.001 and 272.001(a), Local Government Code, do not apply to property sold by a taxing unit; however, it may elect to follow the Local Government Code provisions while reselling).

SECTION 31. Redesignates Section 34.05(h), Tax Code, as added by Acts 1997, 75th Legislature, Chapter 712, Section 4, as Subsection (g), to authorize a tax unit to which property is bid off, rather than bid in, to recover certain costs from the resale proceeds without further court order.

SECTION 32. Amends Section 34.06, Tax Code, by amending Subsections (b), (c), and (d), as follows:

(b) Sets forth the required distribution of the proceeds of a resale.

(c) Prohibits the previous owner(s) from being entitled to receive any proceeds from the resale of property.

(d) Redesignated from Subsection (c). Makes a conforming change.

SECTION 33. Repealer: Section 34.06(b), Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 906, Section 10 (Requires the purchasing unit to pay all costs and distribute the remainder of the proceeds.).

SECTION 34. Repealer: Section 34.06(b), Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 914, Section 3 (Requires the purchasing unit to pay all costs and distribute the remainder of the proceeds.).

SECTION 35. Amends Sections 34.07(a), (b), (c), and (d), Tax Code, as follows:

(a) Provides that a purchaser at a void or defective tax sale or tax resale is subrogated to the rights of the taxing unit in whose behalf the property was sold or resold.

(b) Makes conforming and nonsubstantive changes.

(c) Provides that the purchaser is subrogated to the tax lien only in the amount actually paid, rather than he paid, at the sale or resale, if the purchaser at a void or defective tax sale or tax resale paid less than the total amount of the judgment against the property.

(d) Authorizes a purchaser, in lieu of the purchaser pursuing the subrogation rights provided by this section, rather than to which he is subrogated, to elect to file an action against the taxing units to which the proceeds of the sale were distributed to recover the amount paid at the sale. Provides that a purchaser who files a suit authorized by this subsection waives all rights of subrogation, rather than to which he would, otherwise provided by this section, rather than be subrogated. Requires the court to expressly provide in its final judgment that the tax sale is vacated and set aside and that all liens are restored and reinstated on the property effective as of the date on which the liens originally attached, if the purchaser prevails in any such suit.

SECTION 36. Amends Sections 34.21(a) and (b), Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 906, Section 11, and by Acts 1997, 75th Legislature, Chapter 914, as follows:

(a) Authorizes the owner of real property sold at a tax sale to a purchaser other than a taxing unit and that was used as the residence homestead of the owner or that was land designated for agricultural use when the suit or application for warrant was filed, rather than judgment in the suit to collect the tax was rendered or when the tax warrant was issued, to redeem the property within two years.

(b) Authorizes the owner having the right of redemption, if property was used as the owner's residence homestead or was land designated for agricultural use when the suit or application for warrant, rather than to collect the tax, was filed is bid off to a taxing unit under Section 34.01(f), rather than 34.01(c) and has not been resold by the taxing unit, to redeem the property within two years.

SECTION 37. Repealer: Section 34.21(b), Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 914, Section 4 (Authorizes an owner of real property sold at a tax sale to redeem the property within a certain time period by paying the purchaser a certain amount; and requires a purchaser who is paid a certain redemption amount to deliver a certain amount to each taxing unit).

SECTION 38. Amends Sections 34.21(c) and (d), Tax Code, as follows:

(c) Requires the owner to pay the taxing unit to which the property was bid off under Section 34.01, the difference between the amount paid under part (1) above and that judgment amount and shall provide to the person from whom the property is redeemed, a receipt showing such payment, if the amount paid under part (1) above is less than the amount of the judgment under which the property was sold. Requires the taxing unit to which any such sums are paid to distribute those sums to each taxing unit which participated in the judgment and sale in an amount equal to the proportion each participant's judgment amount bears to the total amount of the aggregate judgments of the participating taxing units. Makes conforming changes.

(d) Makes conforming changes.

SECTION 39. Redesignates Section 34.21(e), Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 1111, Section 6, as Subsection (f), to redefine "land designated for agricultural use." Makes conforming changes.

SECTION 40. Repealer: Sections 34.21(g), (h), and (I), Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 906 (Definitions of "residence homestead," "agricultural use," and "costs.").

SECTION 41. Amends Section 34.21, Tax Code, by adding Subsection (g), to authorize an owner who wishes to redeem a property under this section to make a written request to the purchaser, or to the taxing unit to which the property was bid off, for a written itemization of all sums spent by the purchaser or taxing unit in costs on the property. Requires the owner's request to be sent to the purchaser at the address shown for the purchaser in the purchaser's deed for the property in question or, if redeeming from the taxing unit, to the business address of the taxing unit's tax assessor-collector. Requires the purchaser, or the tax assessor-collector, as applicable, to itemize all sums expended on the property in costs and provide the same to the owner in writing within ten days of receiving the written request for same. Authorizes delivery of the itemization to the owner to be made by depositing the same in the United State mail, postage pre-paid, and addressed to the owner at the address provided in the owner's written request. Authorizes only sums itemized and provided to an owner following a written request for itemization of costs, under this Subsection to be allowed as costs for purposes of redemption.

SECTION 42. Redesignates Section 34.21(f), Tax Code, as amended by Acts 1997, 75th Legislature, Chapter 906, as Subsection (h).

SECTION 43. Amends Section 42.031(b), Tax Code, to prohibit a taxing unit from intervening in, or in any other manner from being made a party, whether as defendant or otherwise.

SECTION 44. Amends Section 304.301, Finance Code, to provide that this chapter does not apply to a judgment that earns interest at a rate set by Title 1 or Title 2, Tax Code.

SECTION 45. Amends Part 4, Chapter VIII, Probate Code, by adding Section 313A, as follows:

313A. AD VALOREM TAX CLAIMS. Requires, if a decedent's estate being administered in a pending probate proceeding owns or claims an interest in property against which there are delinquent ad valorem tax claims held by a taxing unit, then notwithstanding any provisions in this code to the contrary, the court with jurisdiction over an action for collection of the taxes to be in certain courts and certain persons under certain conditions. Sets forth certain courts and certain persons where and with whom jurisdiction over an action for collection of the taxes will occur under certain conditions.

SECTION 46. Amends Section 317(c), Probate Code, to require the foregoing provisions relative to the presentment of claims to not be so construed to apply to: any claim for delinquent ad valorem taxes against a decedent's estate being administered in probate in a county other than the county in which the tax was imposed; or any claim for delinquent ad valorem taxes against a decedent's estate being administered in the same county in which the tax was imposed, if the probate proceeding has been pending for a period of more than four years. Makes conforming changes.

SECTION 47. Amends Section 801, Probate Code, to prohibit a judgment from being rendered in favor of a claimant on any claim for money that has not been legally presented to the guardian of the estate of the ward and rejected by the guardian or by the court, in whole or in part, provided however that this provision shall not be so construed as to apply to any claim for delinquent ad valorem taxes against a ward's estate being administered in probate in a county other than the county in which the tax was imposed.

SECTION 48. Amends Article 1396-2.07, V.T.C.S., by adding Subpart D, as follows:

D. Provides that in the event that a corporation loses its privileges, by forfeiture pursuant to Section 171.251, Texas Code, or by involuntary dissolution pursuant to Article 7.01, Texas Business Corporation Act, service of any process, notice, or demand required or permitted by law upon the corporation may be had by delivery of the process, notice, or demand, to certain employees of the corporation as listed in the most recent records of the Secretary of the State. Authorizes service to be obtained upon the corporation in the same manner as service on unknown stockholders is allowed by law, if the officers or directors or the corporation are unknown or cannot be located. Requires service of process pursuant to this section to be sufficient to support the judgment, in personam or in rem, against such corporations and any property to which the corporation holds title, notwithstanding any disability or reinstatement of the corporation.

SECTION 49. Amends Article 2.11, Texas Business Corporation Act, by adding Subpart D, to make conforming changes.

SECTION 50. Amends Article 8.10, Texas Business Corporation Act, by adding Subpart E, to make conforming changes.

SECTION 51. Amends Sections 49.231, by amending Subsections (j), (k), and (l), and by adding Subsections (o) and (p), Water Code, as follows:

(j) Authorizes the governing board of a district (board) to charge interest at the rate of one percent a month and may impose a penalty on a standby fee not paid in a timely manner in accordance with the resolution or order imposing the standby fee and to refuse to provide potable water, sanitary sewer, or drainage service to the property for which the fee was assessed until all delinquent standby fees on the property plus interest, and penalty on those fees are full paid.

(k)-(l). Makes conforming changes.

(o) Provides that the penalty provided by Subsection (j) of this section is in the amount of six percent of the amount of the fee for the first calendar month it is delinquent plus one percent for each of the following four months or portion of any of such months the fee remains open; however, a fee remaining unpaid on the first day of the sixth month following the month in which it was due incurs a total maximum penalty of twelve percent of the amount of the fee.

(p) Authorizes the board to further provide, in accordance with the resolution or order imposing the standby fee, that a fee not paid in a timely manner is further subject to an additional penalty to defray costs of collection, if the district has contracted with an attorney for the collection, whether by suit or otherwise, of past due fees. Prohibits the amount of the additional penalty from exceeding fifteen percent of the amount of fees, interest, and penalty due, and the penalty may only be imposed if notice of the penalty is given by the district or by its attorney to the property owner at least 30 and not more than 60 days prior to the date is incurred. Provides that with regards to fees imposed for the year 2000 and subsequent years, the penalty is incurred on the first day of the sixth month following the month in which the fee was due. Provides that with regard to fees imposed for the years 1999 and prior thereto, the penalty incurred on the set by the board. Prohibits a district from recovering both the additional penalty provided by this Subsection and the attorney fees provided by Subsection (1) of this section.

SECTION 52. Effective date of SECTIONS 1, 2, 3, 4, 5, 6, 8, 9, 11, 13, and 51: January 1, 2000.

SECTION 53. Effective date of SECTIONS 7, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, and 50: September 1, 1999.

SECTION 54. Provides that the change in law made by SECTION 7 of this Act applies only to a refund of the liability for which arises on or after September 1, 1999. Makes application of this Act prospective.

SECTION 55. Provides that the change in law made by SECTION 9 of this Act applies to all liens for which notice may be filed with the Texas Department of Insurance on or after January 1, 2000. Makes application of this Act prospective.

SECTION 56. Provides that the change in law made by SECTION 13 of this Act applies to the notice required to be given by Section 33.04(b), Tax Code, in the year 2000. Makes application of this Act prospective.

SECTION 57. Provides that the changes in law made by SECTIONS 15 and 18 of this Act apply to all tax suits, regardless of when commenced, in which judgment is signed on or after September 1, 1999.

SECTION 58. Provides that the changes in law made by SECTIONS 22, 23, and 25 of this Act apply to all tax sales conducted on or after September 1, 1999 and based on judgments signed before, on or after September 1, 1999. Provides that the date on which a tax sale was conducted is deemed to be the first Tuesday of the month in which the public auction occurred.

SECTION 59. Provides that the change in law made by SECTIONS 26 and 27 of this Act applies to the disposition of excess proceeds of a property tax foreclosure or summary sale paid into court regardless of the date on which the sale occurred or the date on which the proceeds were paid into the court. Requires a clerk to distribute those proceeds as provided by Section 34.03(b), Tax Code, as amended by this Act, as soon as practicable after the effective date of this Act, if on the effective date of this Act, the clerk of a court is retaining excess proceeds that have been retained for longer than the period provided by Section 34.03(a), Tax Code.

SECTION 60. Provides that the change in law made by SECTIONS 29 and 32 of this Act applies to all resales conducted on or after September 1, 1999, and based on judgments signed before, on or after September 1, 1999. Provides that the date on which a resale was conducted is deemed to be the date on which the grantor's acknowledgment was taken or, if multiple grantors, the latest date of acknowledgment as between the various grantors.

SECTION 61. Provides that the change in law made by SECTION 35 of this Act applies to all tax resales based upon original tax sales conducted before, on or after September 1, 1999.

SECTION 62. Provides that the change in law made by SECTIONS 36, 38, 39, and 41 of this Act apply to redemption of real property sold at a tax sale conducted on or after September 1, 1999 and based on judgments entered before, on or after September 1, 1999. Makes application of this Act prospective.

SECTION 63. Provides that the change in law made by SECTIONS 45, 46, and 47 of this Act apply to the estates of all decedents, regardless of the date of death, and apply to the estates of all wards, regardless

of the date the application for appointment of a guardian was filed, and to all causes of action pending on its effective date as well as future actions.

SECTION 64. Provides that the change in law made by SECTIONS 48, 49, and 50 of this Act apply to all actions pending on September 1, 1999 and to all actions instituted thereafter.