

BILL ANALYSIS

Senate Research Center
81R8429 CAE-D

H.B. 1804
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Jurisprudence
4/29/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Entities collecting taxes for local jurisdictions have a difficult time formally serving notice of a tax delinquency to nonresident owners of property who live outside of the state. Often, these owners refuse to accept a certified letter notifying them of the delinquency. Under current law, if property owners decline the certified letter, the only alternative is to use a formal process server, which is far more expensive and cumbersome.

H.B. 1804 amends Section 17.091 (Substituted Service in Delinquent Tax Cases), Civil Practice and Remedies Code, to authorize the service process for nonresident defendants in delinquent tax collection cases to be in the same manner that nonresident defendants in a suit on a business transaction or tort may currently be served under Section 17.044 (Substituted Service on Secretary of State) and 17.045 (Notice to Nonresident), Civil Practice and Remedies Code. H.B. 2297 requires the process to be forwarded by the secretary of state by certified mail to the nonresident defendant.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 17.091(a), (b), and (c), Civil Practice and Remedies Code, as follows:

(a) Provides that the secretary of state (SOS), in a suit to collect delinquent property taxes by the state or a political subdivision of the state in which a person who is a defendant in the suit is a nonresident, is an agent for service of process on that defendant if the defendant owns, has, or claims an interest in or a lien against property in this state that is the subject of the suit. Provides that this section applies regardless of whether the defendant has resided in this state.

(b) Requires that duplicate copies of the process issued by the clerk of the court in which the suit is pending be served on SOS not later than the 20th day before the date of return stated in the process. Requires the process to include the name and address of the nonresident's home or home office. Authorizes the address to be a post office box. Deletes existing text authorizing the process to be served on SOS in accordance with this section for a nonresident who was a resident at the time the cause of action accrued but has subsequently moved.

(c) Requires SOS, immediately after being served, to mail a copy of the process to the nonresident at the address provided under Subsection (b) by certified mail, return receipt requested, with the postage prepaid. Requires SOS to certify to the court that issued the process that SOS has complied with this section. Deletes existing text requiring that service of process under this section be made in the manner provided by this chapter for substituted service on nonresident motor vehicle operators, except that a copy of the process is required to be mailed by certified mail.

SECTION 2. Makes application of Section 17.091, Civil Practice and Remedies Code, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2009.