

## BILL ANALYSIS

Senate Research Center  
81R7367 JD-F

S.B. 2201  
By: Wentworth  
Jurisprudence  
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### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 32.06 (Transfer of Tax Lien), Tax Code, authorizes a person to pay the real property taxes of a property owner. In so doing, the tax liens on the real property are transferred from a taxing unit to the transferee. This section was significantly amended by S.B. 1520, 80th Legislature, Regular Session, 2007, to clarify tax lien transfer procedures. That legislation failed to address the situation where a taxing unit and a transferee both possess tax liens on the same property but for different tax years and a taxing unit files suit for foreclosure of the lien it has. Local taxing units must have a way to account for liens held by transferees when foreclosing their own tax liens. If left with a foreclosure that is subject to the transferred liens, the taxing units will be severely hampered in their effort to deliver free and clear titles at foreclosure sales.

As proposed, S.B. 2201 requires a taxing unit to also join a tax lien transferee when it files suit to foreclose its own lien for delinquent property taxes. Once joined, a transferee is entitled to foreclose its lien, notwithstanding the current law that generally prohibits the same within one year of the date on which the lien is recorded and regardless of whether the loan secured by the lien is delinquent. Alternatively, S.B. 2201 authorizes a transferee to pay all taxes, penalties, interest, court costs, and attorney's fees owing to the taxing units in the suit.

### 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 Section 32.06(i), Tax Code, to create an exception as provided by Section 33.445.

SECTION 2. Amends Subchapter C, Chapter 33, Tax Code, by adding Section 33.445 as follows:

Section 33.445. JOINDER OF TAX LIEN TRANSFEREE. (a) Requires a taxing unit acting under Section 33.44(a) (relating to a taxing unit filing suit to foreclose a tax lien on real property) to also join each transferee of a tax lien against the property that may appear of record under Section 32.06 (Transfer of Tax Lien). Authorizes the transferee of the tax lien, after the joinder, to file its claim and seek foreclosure in the suit for all amounts owed the transferee that are secured by the transferred tax lien, regardless of when the original transfer of tax lien was recorded or whether the original loan secured by the transferred tax lien is delinquent. Authorizes the transferee, in the alternative, to pay all taxes, penalties, interest, court costs, and attorney's fees owing to the taxing unit that filed the foreclosure suit and each other taxing unit that is joined.

(b) Requires each joining taxing unit, in consideration of the payment by the transferee of those taxes and charges, to transfer its tax lien to the transferee in the form and manner provided by Section 32.06(b) (relating to the requirement of the collector to issue a tax receipt to a transferee) and to enter its disclaimer in the suit.

(c) Authorizes the transferee, on transfer of all applicable tax liens, to seek to foreclose the tax liens in the pending suit or in any other manner provided by

Section 32.06, regardless of when the original transfer of tax lien was recorded or whether the original loan secured by the transferred tax lien is delinquent. Authorizes the foreclosure to include all amounts owed to the transferee, including any amount secured by the original transfer of tax lien.

(d) Provides that all liens held by a transferee who is joined under this section but fails to act in the manner provided by this section are extinguished and requires the court's judgment to reflect the extinguishment of those liens.

SECTION 3. Provides that Section 33.445, Tax Code, as added by this Act, applies to a suit for foreclosure of an ad valorem tax lien that is pending on the effective date of this Act or that is brought on or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2009.