

BILL ANALYSIS

Senate Research Center
82R16009

H.B. 1118
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5/13/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In foreclosing property for delinquent taxes, the taxing units must on occasion bid the property at a tax sale when there are no bids received from the public at the auction. The taxing units are then charged with reselling the property in an effort to recover the taxes awarded to them by the underlying judgment. Once the property is actually bid in by the taxing units, the property is exempt from taxation until the taxing units resell the property.

"Post-judgment taxes" are those taxes that accrue between the signing of the judgment and the actual tax sale enforcing that judgment. In many cases, these properties are distressed from the outset, and the post-judgment taxes that accrue prior to the tax sale only add the burden, such that the judgment amount plus the post-judgment taxes, when taken together, exceed the actual value of the property.

While a resale by the taxing units to a purchaser will discharge and extinguish the liens for taxes in the judgment, the post-judgment taxes remain as a lien against the property, thereby serving as an impediment in reselling the property.

H.B. 1118 enables taxing units to clear their inventories of tax foreclosed properties being held for resale, but which they cannot market due to the post-judgment liens. In getting these distressed properties into the hands of willing buyers, the property becomes subject to taxation once again and produces revenue each year for the taxing units. The bill provides that these properties may be resold for their current appraised value, or for a greater amount, and the sale will be free and clear of any post-judgment taxes so long as each taxing unit entitled to receive proceeds approves the sale. The bill does not relieve a former owner of the property of personal liability for the post-judgment taxes.

H.B. 1118 amends current law relating to the resale of property purchased by a taxing unit at a tax sale.

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 33.52(d), Tax Code, to provide that, except as provided by Section 34.05(k), a taxing unit's claim for taxes that become delinquent after the date of the judgment is not affected by the entry of the judgment or a tax sale conducted under that judgment.

SECTION 2. Amends Section 34.05, Tax Code, by adding Subsections (j), (k), and (l), as follows:

- (j) Authorizes the taxing unit that purchased the property, in lieu of a sale pursuant to Subsections (c) (relating to authorizing the taxing unit purchasing the property to request the sheriff or constable to sell the property at a public sale) and (d) (relating to requiring all public sales be conducted in the manner prescribed by the Texas Rules of Civil

Procedure for the sale of property under execution), to sell the property at a private sale for an amount equal to or greater than its market value, as shown by the most recent certified appraisal roll, if:

(1) the sum of the amount of the judgment plus post-judgment taxes, penalties, and interest owing against the property exceeds the market value; and

(2) each taxing unit entitled to receive proceeds of the sale consents to the sale for that amount.

(k) Provides that a sale under Subsection (j) discharges and extinguishes all liens foreclosed by the judgment and, with the exception of the prorated tax for the current year that is assessed under Section 26.10 (Prorating Taxes--Loss of Exemption), the liens for post-judgment taxes that accrued from the date of judgment until the date the taxing unit purchased property. Requires the presiding officer of a taxing unit selling real property under Subsection (j) to execute a deed to the property conveying to the purchaser the right, title, and interest acquired or held by each taxing unit that was a party to the judgment foreclosing tax liens on the property. Provides that the conveyance is subject to any remaining right of redemption at the time of the sale and to the purchaser's obligation to pay the prorated taxes for the current year as provided by Section 26.10. Requires that the deed recite that the liens foreclosed by the judgment and the post-judgment tax liens are discharged and extinguished by virtue of the conveyance.

(l) Provides that a taxing unit that does not consent to a sale under Subsection (j) is liable to the taxing unit that purchased the property for a pro rata share of the costs incurred by the purchasing unit in maintaining the property, including the costs of preventing the property from becoming a public nuisance, a danger to the public, or a threat to the public health. Provides that the nonconsenting unit's share of the costs described by this subsection is calculated from the date the unit fails to consent to the sale and is equal to the percentage of the proceeds from a sale of the property to which the nonconsenting unit would be entitled multiplied by the costs incurred by the purchasing unit to maintain the property.

SECTION 3. Provides that the change in law made by this Act applies to real property sold to a taxing unit that is a party to a judgment to foreclose a tax lien regardless of whether the judgment was entered before, on, or after the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2011.