

BILL ANALYSIS

Senate Research Center
83R16015 SMH-F

C.S.S.B. 476
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Intergovernmental Relations
3/22/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Property tax lending is the practice of soliciting property owners who are delinquent in their tax payments to take out a loan to cover the tax payments. In return, the lender receives a lien on the property, allowing the lender to foreclose on the property if a sufficient number of payments are missed. As of late 2012, there were 76 registered property tax lenders and in 2011, 12,682 loans were made. These loans have become like "pay-day loans" but for homeowners.

The problem with these loans is the fees and interest. The Office of Consumer Credit Commissioner estimates that an owner taking out an \$8,000 property tax loan will end up needing between \$13,000 and \$17,000 to pay off the loan. But the huge problem is that the property tax lender has the priority right of foreclosure—even before the mortgage lender or any other lienholder. Because non-judicial foreclosure is permitted under Texas law, this foreclosure process can be completed with limited notice in as little as three or four weeks.

Although Texas has greatly increased regulation of these lenders over the last few years, property tax lenders are finding ways to evade regulation, such as originating property tax loans but then selling the loans to investment groups that are not licensed as property tax lenders.

Texas property owners need a reasonable means to rectify tax delinquency. Property owners who take out these tax loans need adequate safeguards against unfair business practices, so they do not lose their homes to foreclosure. The mortgage/banking industry is regularly having to intervene and pay off these property tax loans in order to keep their mortgage holders from being foreclosed upon. The mortgage/banking industry wants increased regulation of property tax lenders.

C.S.S.B. 476 does not target the property tax loans directly; rather, it removes the demand for property tax loans by requiring reasonable installment plans from the taxing entities and prohibiting mortgage lenders from declaring a default if a homeowner is current on a property tax installment plan.

The committee substitute changes Section 33.04(c) and adds Sections 51.0011(a), (b), and (c) to ensure that the banking industry has notice of the possible threat to its lien priority and is able to offer the borrower alternative financing on terms that may be more favorable than what is offered by a tax loan company.

C.S.S.B. 476 amends current law relating to installment agreements for the payment of delinquent ad valorem taxes.

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 33.02, Tax Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Authorizes the collector for a taxing unit to enter into an agreement with a person delinquent in the payment of the tax for payment of the tax, penalties, and interest in installments. Requires the collector for a taxing unit, on request by a person delinquent in the payment of the tax on a residence homestead, to enter into an agreement with the person for payment of the tax, penalties, and interest in installments if the person has not entered into an installment agreement with the collector for the taxing unit under this section in the preceding 24 months. Provides that an installment agreement under this section is required to be in writing, required to provide for payments to be made in equal monthly installments, required to extend for a period of at least 12 months, and prohibited from extending for a period of more than 36 months.

(b) Creates an exception as provided by Subsection (b-1) to provide that interest and a penalty accrue as provided by Sections 33.01(a) (relating to the imposition of a penalty on delinquent tax) and (c) (relating to the accrual of interest monthly on delinquent tax) on the unpaid balance during the period of the agreement.

(b-1) Provides that a penalty does not accrue as provided by Section 33.01(a) on the unpaid balance during the period of the agreement if the property that is the subject of the agreement is a residence homestead.

SECTION 2. Amends Section 33.04, Tax Code, as follows:

Sec. 33.04. NOTICE OF DELINQUENCY. (a) Creates this subsection from existing text. Makes no further changes to this subsection.

(b) Requires that a notice of delinquency contain a statement in a certain format and sets forth the required language of the statement.

(c) Requires the collector for a taxing unit to deliver a notice of delinquency to a person who is in breach of an installment agreement under Section 33.02 and to any other owner of an interest in the property subject to the agreement whose name appears on the delinquent tax roll before the collector is authorized to seize and sell the property or file a suit to collect a delinquent tax subject to the agreement.

SECTION 3. Amends Chapter 51, Property Code, by adding Section 51.0011, as follows:

Sec. 51.0011. DEFAULT ARISING FROM DELINQUENT AD VALOREM TAXES: INSTALLMENT AGREEMENTS. (a) Provides that a debtor, notwithstanding any agreement to the contrary, is not in default under a deed of trust or other contract lien on real property used as the debtor's residence for the delinquent payment of ad valorem taxes if:

(1) the debtor gave notice to the mortgage servicer of the intent to enter into an installment agreement with the taxing unit under Section 33.02 (Installment Payment of Delinquent Taxes), Tax Code, for the payment of the taxes at least 10 days before the date the debtor entered into the agreement; and

(2) the property is protected from seizure and sale and a suit is prohibited from being filed to collect a delinquent tax on the property as provided by Section 33.02(d) (relating to prohibiting property from being seized and sold and a suit from being filed to collect a delinquent tax), Tax Code.

(b) Authorizes a mortgage servicer who receives a notice described by Subsection (a)(1) to pay the taxes subject to the installment agreement at any time.

(c) Requires a mortgage servicer who receives a notice described by Subsection (a)(1) and gives the debtor notice that the mortgage servicer intends to accelerate the note securing the deed of trust or other contract lien as a result of the

delinquency of the taxes that are subject to the installment agreement to rescind the notice if the debtor enters into the agreement not later than the 30th day after the date the debtor delivers the notice.

SECTION 4. (a) Makes application of Section 33.02, Tax Code, as amended by this Act, prospective.

(b) Makes application of Section 33.04, Tax Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2013.