

BILL ANALYSIS

Senate Research Center
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S.B. 1725
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, when seized or foreclosed real property is sold, proceeds are distributed in the order described by Subsection (b) of Section 34.02 (Distribution of Proceeds), Tax Code. Any amount in excess is paid to the clerk of the court which issued the sale.

In cases in which the excess amount is greater than \$25, within 31 days, the clerk must send written notice to the former owner of the property disclosing the excess amount and informing them of their rights to claim the funds.

S.B. 1725 would require the clerk to also provide notice to the attorney general of the excess amount, when named in rem defendant. Under Section 34.04 (Claims for Excess Proceeds), Tax Code, the attorney general, as the state's Title IV-D agency, may file claim to the excess proceeds if the former owner owes child support or owes arrearages.

In order to take a step towards ensuring full and prompt payment of child support obligations, the attorney general's office should be notified if excess proceeds exist.

As proposed, S.B. 1725 amends current law relating to notice of excess proceeds following an ad valorem 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 34.03(a), Tax Code, as follows:

(a) Requires the clerk of the court to:

(1) Makes a nonsubstantive change;

(2) Changes a reference to Section 34.02(c) (relating to the distribution of proceeds of a property tax foreclosure sale) to Section 34.02(d) (requiring the officer conducting such a tax sale to pay excess proceeds to the clerk of the court issuing the warrant or order of sale) and makes a nonsubstantive change; and

(3) regardless of the amount, send to the attorney general notice of the deposit and amount of excess proceeds if the attorney general or a state agency represented by the attorney general is named as an in rem defendant in the underlying suit for seizure of the property or foreclosure of a tax lien on the property.

SECTION 2. Provides that the change in law made by this Act applies to the disposition of excess proceeds of a property tax foreclosure sale paid into court regardless of the date on which the foreclosure sale occurred or the date on which the proceeds were paid into the court. Requires the clerk, if on the effective date of this Act the clerk of a court is retaining excess proceeds and Section 34.03(a)(3), Tax Code, as added by this Act, applies, to mail the notice

required by that subdivision as soon as practicable after the effective date of this Act. Prohibits the clerk from distributing those proceeds as provided by Section 34.03(b) (relating to the distribution of excess proceeds in a property tax foreclosure sale if no claimant establishes entitlement to the process within a certain period), Tax Code, before the second anniversary of the date the notice is mailed. Provides that a claim for the proceeds made on or before that second anniversary is considered to have been made within the period provided by Section 34.03(b), Tax Code.

SECTION 3. Effective date: September 1, 2015.