HOUSE RESEARCH ORGANIZATION bill analysis | 5/19/2005 | SB 898 Carona (Hill)

SUBJECT: Tax liability for property omitted from an appraisal roll

COMMITTEE: Local Government Ways and Means — favorable, without amendment

VOTE: 6 ayes — Hill, Hamilton, Laubenberg, Puente, Quintanilla, Uresti

1 nay — Elkins

SENATE VOTE: On final passage, April 14 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: Under Tax Code, sec. 31.08, issued tax certificates reflect delinquent taxes, penalties, and interest due on a property according to the unit's current tax records. When property is transferred and the tax certificate indicates no taxes or other amounts are due, the taxing unit's lien on a property expires and the purchaser of the property is absolved of liability. Under chapter 32, the person who owned the property on January 1 in the year the tax was imposed is responsible for all relevant property taxes.

Tax certificates may not always include omitted property, which is categorized as such under sec. 25.21 when the chief appraiser discovers an omission of real property from an appraisal roll in any one of the five preceding years or an omission of personal property from an appraisal roll in one of the two preceding years. Omitted property must be appraised for each year it was omitted and entered into the appraisal records.

Current law does not explicitly absolve purchasers of transferred property from liability on omitted property.

DIGEST: SB 898 would amend Tax Code, ch. 31, to absolve purchasers of transferred property from liability for taxes on property not included in a tax certificate because it was omitted from an appraisal roll under ch. 25.

The bill also would amend ch. 32 to specify that the person who owned property on January 1 of the year a tax should have been imposed, had the property not been omitted, would be liable for the appropriate taxes.
The bill would take effect September 1, 2005.

SUPPORTERS SAY:

When a buyer in good faith receives a tax certificate with no indication of delinquencies, the purchaser essentially is cleared of any liability on past due amounts. Appraisal districts generally keep accurate records, and few omissions on tax certificates occur. However, SB 898 would add extra protection to the purchaser when an appraisal district omitted property from its appraisal roll and issued incorrect tax certificates.

This added assurance also would be helpful to title companies issuing title insurance and seeking to close real estate transactions. Title insurance protects buyers against loss that may arise in the property and covers court and attorney fees when the title is challenged. It also helps pay for a loss caused by a defect in the title, such as omitted property taxes from the property's appraisal value. Covering such losses is a significant expense to title companies, which should not be penalized for an appraisal district's mistake.

OPPONENTS SAY:

The bill would render certain delinquent taxes uncollectible. When an appraisal district was unaware of improvements made to personal property, such taxes might be omitted from the taxing certificate. If the property was transferred and the tax certificate was corrected, the purchaser would not be liable for the taxes. A taxing unit still could impose the tax without the security of a lien because the responsible person would be held personally liable, but because the tax lien expires, the taxes virtually could not be collected.