

BILL ANALYSIS

Senate Research Center
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S.B. 525
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Property rights are among the most fundamental principles held by our society. Most Texans can only obtain property by entering into a mortgage to buy their homes. The financial partnership between homeowner and bank or mortgage company is a fundamental driver of the Texas economy.

At present, property taxes have a "super priority" lien status, meaning they are paid first when a property is sold. Property owners can take out high-interest loans from third-party property tax lenders to pay their delinquent tax bills. Once the contract with the third-party property tax lender (transferee) is signed, that third-party takes a super-priority lien position on the property. This position usurps the position of any preexisting mortgage lender on the property.

S.B. 525 preserves the property owner/lender relationship because it introduces a cooling off period for property owners interested in taking out tax lien loans. The bill requires the transferee to provide notice of the potential transfer to any mortgage lender/servicer not later than the 12th day before the property owner completes the transfer.

This cooling off period is modeled after the Constitution's home equity 12-day pre-closing notice requirement, and allows a property owner necessary time to research other payment options that may be available. The payment options available include payment plans offered by the taxing authorities, loans from banks, entering into escrow arrangements with banks, and others.

S.B. 525 also amends existing law as it relates to the rights of a preexisting lienholder to obtain payoff information on a tax lien loan. Current law provides that a borrower must be delinquent on the underlying mortgage for at least 90 days before the lender has a right to pay off a tax lien loan on the property. S.B. 525 gives lenders the right to obtain payoff information on a tax lien loan as soon as the borrower defaults on the underlying mortgage. This saves delinquent property owners three months of unnecessary fees.

As proposed, S.B. 525 amends current law relating to ad valorem tax lien transfers.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Finance Commission of Texas is modified in SECTION 1 (Section 32.06, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 32.06(a-1), (a-4), (b-1), and (f-1), Tax Code, as follows:

(a-1) Authorizes a property owner to authorize another person to pay the taxes imposed by a taxing unit on the owner's real property by executing and filing with the collector for the taxing unit a sworn document stating that the disclosure statement required by Subsection (a-4)(1) has been provided to the property owner, and that the notice required by Subsection (b-1) has been mailed by certified mail to any mortgage servicer and to each holder of a recorded preexisting lien encumbering the property. Makes a nonsubstantive change.

(a-4) Requires the Finance Commission of Texas to prescribe the form and content of an appropriate disclosure statement to be provided to a property owner not later than the 12th day before the execution of a tax lien transfer.

(b-1) Requires the transferee, not later than the 12th day before the date the property owner files the sworn document required by Subsection (a-1) with the collector for the taxing unit, to send by certified mail to any mortgage servicer and to each holder of a recorded preexisting lien encumbering the property a notice that the property owner has requested that the transferee pay the taxes on the property, that the tax lien will be transferred to the transferee, and that the transferred tax lien will be superior to the mortgage, rather than requiring the transferee, not later than the 10th business day after the date the certified statement is received by the transferee, to send by certified mail a copy of the sworn document described by Subsection (a-1) to any mortgage servicer and to each holder of a recorded first lien encumbering the property. Changes a reference to copy to notice and a reference to first lien to preexisting lien.

(f-1) Provides that if an obligation secured by a preexisting first lien on the property is delinquent, rather than delinquent for at least 90 consecutive days, and the obligation has been referred to a collection specialist, the mortgage servicer or the holder of the first lien may send a notice of the delinquency to the transferee of a tax lien.

SECTION 2. Makes application of this Act prospective, regarding the transfer of an ad valorem tax lien.

SECTION 3. Effective date: September 1, 2015.