

SUBJECT: Limiting taxpayer liability for delinquent ad valorem taxes after a tax sale

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 7 ayes — Craddick, Wolens, Finnell, Heflin, Holzheuser, Horn, Oliveira

0 nays

4 absent — T. Hunter, Marchant, Place, Romo

WITNESSES: *(On original version)*

For — Ray M. Cornett, Tax Assessor/Collector Association of Texas; Roy C. Powers

Against — Jeanine Cadena, Texas Municipal League

BACKGROUND: Article 8, sec. 15, of the Texas Constitution provides that the property of a delinquent taxpayer may be seized and sold for the payment of taxes and penalties due. Chapters 33 and 34 of the Tax Code outline the procedures for the sale of property seized as a result of a tax lien.

A taxing unit may file suit to foreclose the lien securing payment of the tax on a delinquent property, to enforce personal liability for the tax, or both.

DIGEST: CSHJR 106 would amend Article 8, sec. 15, of the Texas Constitution to extinguish a taxpayer's liability for delinquent taxes, penalties and interest upon the sale of the property at a tax lien sale, regardless of whether the proceeds from the sale were sufficient to satisfy the judgment. The Legislature could establish limitations on avoidance of a tax sale and could provide the a purchaser could conclusively rely on the validity of the tax sale to foreclose all interests in the property, subject to the prior owner's right of redemption.

The proposed constitutional amendment would be presented to voters at an election on November 7, 1995. The ballot proposal would read: "The constitutional amendment to extinguish a taxpayer's liability for delinquent ad valorem taxes following a tax sale."

**SUPPORTERS
SAY:**

This proposal would extinguish a property owner's liability for delinquent taxes owed on a property that a taxing authority has seized and sold. Now, a taxing unit can enforce personal liability for the unpaid taxes after seizing the property. If the taxing unit believes that it will not recoup the value of the delinquent taxes and penalties owed at a sale, it can hold the property owner responsible for the taxes owed. This is a hardship for the person who has lost the property and is unfair.

The amendment would not limit a taxing unit's ability to collect its taxes; it would merely create a more equitable enforcement process by local taxing authorities.

**OPPONENTS
SAY:**

This proposal would allow a delinquent taxpayer's tax responsibility to be extinguished, forcing honest taxpayers to pay more than their fair share. If a taxing unit forecloses on a property for nonpayment of taxes and the property is sold for less than the value of the delinquent taxes, the property owner should still be held liable for the taxes owed. There is little reason to let a delinquent taxpayer who could pay off a debt walk away from it.

NOTES:

CSHB 2596 by Harris, which would amend the Tax Code to implement HJR 106, was set on Tuesday's general state calendar.

The original version would have forced taxing units to choose between foreclosing on the lien or enforcing the taxpayer's personal liability for the taxes and penalties, but not both.