

SUBJECT: Allowing a taxing unit to vacate a judgment in a delinquent tax suit

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Oliveira, McCall, Bonnen, Craddick, Y. Davis, Hilbert, Keffer, T. King, Ramsay

0 nays

2 absent — Heflin, Sadler

SENATE VOTE: On final passage, Local and Uncontested Calendar, April 8 — 30-0

WITNESSES: For — Bruce W. Anderson and Eric Riester, Bexar County

Against — Buddy Winn, Brazos County

DIGEST: SB 953 would amend the Tax Code to authorize a local taxing unit to file a petition to vacate a judgment in its favor in a delinquent tax suit.

The taxing unit could file a petition to vacate judgment for failure to join or serve a person needed for just adjudication, including another taxing unit that had a claim on the foreclosed property, or for failure of the judgment to describe the foreclosed property adequately. The taxing unit would have to file the petition in the same court and under the same cause number. A copy of the petition would have to be served on each party to the suit. The delinquent tax suit would be revived if the court granted the petition vacating the judgment.

A taxing unit could not file such a petition if a tax sale of the property had occurred, unless the tax sale had been vacated by court order or the property had been sold to the taxing unit and not been resold.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:** SB 953 would allow taxing units to ask to vacate judgments that might not be correct. In a few cases around the state, taxing units have pursued delinquent tax cases and received a favorable judgment, only to discover that an error in property tax records had caused accidental foreclosure and auctioning of the properties.

Taxing units would seek to vacate judgments very rarely. Because of the expense and time involved, taxing units would not use this ability to continue refile suits.

**OPPONENTS
SAY:** SB 953 would allow delinquent-tax attorneys to file lawsuits and correct them after receiving judgment. Good lawyers should file suit against the right people, serve all of the parties, and correctly identify the property. The bill would open the door to abuse by allowing taxing units to refile suits to include additional properties or defendants in the case.

**OTHER
OPPONENTS
SAY:** The bill should place a taxing unit under a specific time limit after which its petition to vacate the judgment would not be accepted.