

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** Dwight Clinton Jones

3. **Committee** House Counties, Cities & Towns

4. **Title** Nuisance Abatement; Collection of Costs

2. **Bill Number** HB 1456

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would facilitate the ability of localities to abate nuisances and dispose of tax delinquent properties, including:

- (i) expansion of instances in which an unpaid charge may constitute a lien on property,
- (ii) decreasing the time period that a locality shall wait prior to taking action to sell certain tax delinquent properties,
- (iii) expanding the ability of localities to declare a property as abandoned,
- (iv) expanding the instances in which a locality may petition for the conveyance of a deed in lieu of a sale at public auction for certain parcels, and
- (v) making corporate officers personally liable for taxes and nuisance abatement costs that remain unpaid after a judicial sale.

This bill does not specify an effective date.

6. No Fiscal Impact: (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill would have no impact on General Fund revenue or the Department's administrative costs.

To the extent that localities utilize judicial sales to collect delinquent taxes and charges for nuisance abatement, this bill would accelerate the collection of local accounts receivable.

9. Specific agency or political subdivisions affected:

All counties, cities and towns

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Any locality which has to remove, repair or secure any building, wall or structure which endangers the public may charge the owner for the cost, which may be collected in the same manner as taxes. If the charges remain unpaid, they become a lien upon the real estate involved and may be collected in the same manner as liens for taxes.

Localities have a broad array of tools to collect taxes including collection from the taxpayer's bank account, wages, or income tax refunds, suits against the taxpayer personally, and sale of the real estate to which the tax lien has attached. In order for localities to sell real estate to enforce a tax lien, the tax must have been unpaid for three years. However, when the property is assessed at \$20,000 or less the sale can occur after three years only if nuisance abatement costs are involved, otherwise the locality must wait seven years before selling the property. If the property is assessed at \$20,000 or less and is condemned or nuisance abatement costs are involved, the locality can ask the court to convey the property to the locality rather than have it sold as part of the judicial proceeding.

Proposal

This bill would allow all localities to treat all unpaid nuisance abatement charges as taxes for collection purposes. The time that taxes and nuisance abatement costs must remain unpaid before sale can occur is shortened to two years from three, and from seven years to five. The assessed value of property for purposes of specified treatment is increased to \$50,000 from \$20,000.

In addition, if the property is owned by a corporation, partnership or limited liability company, and any taxes or nuisance abatement costs remain unpaid after a judicial sale has occurred, then personal liability for the unpaid taxes or charges may be imposed upon a responsible officer. The responsible officer may be an officer or employee of a corporation, a member or employee of a partnership, or a member, manager or employee of a limited liability company. To become personally liable the person must have had a duty to make the payment on behalf of the corporation, partnership or limited liability company and (i) had actual knowledge of the failure to pay and (ii) had authority to prevent such failure to pay.

cc : Secretary of Finance

Date: 2/3/2004 JPJ