

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** Riley E. Ingram

2. **Bill Number** HB 925

House of Origin:

 Introduced

 Substitute

 Engrossed

3. **Committee** Senate Finance

4. **Title** Taxation; Nonjudicial Sales of
Tax Delinquent Real Property

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would permit the local treasurer to sell tax delinquent unimproved real estate in a nonjudicial sale if it is assessed at less than \$10,000, and it is less than 4,000 square feet or it is not a buildable lot.

This bill does not specify an effective date.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

7. **Budget amendment necessary:** No.

8. Fiscal implications:

This bill has no impact on state revenue or administrative costs. Localities that utilize the proposed nonjudicial sale process may collect delinquent real estate tax revenue that would not be economically feasible to collect under the existing judicial sale procedures.

9. Specific agency or political subdivisions affected:

Local Treasurers or other officers responsible for collecting taxes

10. **Technical amendment necessary:** No.

11. Other comments:

The current judicial sale process was adopted in 1973 to relieve problems associated with nonjudicial sales of tax delinquent real estate. The cost of judicial sales is prohibitive for parcels of small value. The law allows several small parcels to be sold in a single judicial proceeding, but smaller localities may not have enough delinquent parcels to make the process economical.

This bill would establish a procedure to sell small parcels on which delinquent taxes have accrued for five years or more. The parcels must be assessed at less than \$10,000 and

be either (i) less than 4,000 square feet (.0918 acre, which would be a 63.25' x 63.25' lot), or (ii) a parcel of any size that the locality's zoning administrator has determined to be unsuitable for building due to the size, shape, zoning or soils of the parcel.

The officer conducting the sale must send notice by certified or registered mail to the owners of record and anyone else appearing to have an interest in the property, such as mortgage or judgment lien holders, post a notice of sale at the property and the courthouse, and advertise the sale. This is comparable to the notice requirements of a judicial sale. The treasurer may use his own records to determine the size of the parcel and the last known address of the owners and other interested parties.

The owner may redeem the property at any time before the sale by paying the delinquent taxes, penalties, interest, and pro-rata cost of advertising the sale. The treasurer may enter into an installment payment agreement with the owner for up to 12 months to pay the full redemption amount.

Purchasers at a nonjudicial sale would be entitled to some of the same protections as purchasers at judicial sales. For example, land placed in the land book as unsurveyed acreage may turn out to be much smaller than estimated when surveyed. If the owner sells the parcel using the actual surveyed acreage but does not record the survey, or otherwise indicate that he is selling the whole parcel, the Commissioner of the Revenue may subtract the acreage sold from the original estimated acreage and continue assessing land in the name of the original owner. Since the original owner no longer owns any land, he stops paying taxes. If this parcel of nonexistent land is later sold at a judicial sale or using the proposed nonjudicial sale process, the purchaser would be entitled to a refund because the parcel was improperly listed in the land book.

Although the notice procedures of the proposed nonjudicial sale process are comparable to the judicial sale process, the nonjudicial sale process will not have the finality of a judicial sale.

cc : Secretary of Finance

Date: 2/10/2004 JPJ