

# DEPARTMENT OF TAXATION

## 2006 Fiscal Impact Statement

1. **Patron** Riley E. Ingram

2. **Bill Number** HB 1421

**House of Origin:**

☐ **Introduced**

☐ **Substitute**

☐ **Engrossed**

3. **Committee** Senate Finance

4. **Title** Real Property Tax; Judicial Sales of Tax  
Delinquent Real Properties with  
Easements; Nonjudicial Sales of Tax  
Delinquent Real Properties of Minimal  
Size and Value.

**Second House:**

☒ **In Committee**

☐ **Substitute**

☐ **Enrolled**

### 5. **Summary/Purpose:**

This bill would provide detailed rules concerning nonjudicial sales of tax delinquent real properties of minimal size and value, including requirements that (1) each parcel shall be sold at public auction, (2) the sale shall be free and clear of the tax lien, but shall not affect any easements recorded prior to the date of sale, (3) the treasurer shall convey the parcel by a treasurer's deed, (4) if the sale proceeds are insufficient to pay the taxes in full, the remaining delinquent taxes remain the personal liability of the former owner, (5) the sale proceeds shall be applied first to the costs of sale, then to the taxes, penalty and interest due on the parcel, and then to any other taxes or other charges owed by the former owner to the jurisdiction, (6) any excess proceeds remain the property of the former owner and shall be kept by the treasurer in an interest-bearing escrow account, (7) if no claim for payment of excess proceeds is made by the former owner within two years after the date of sale, the treasurer shall deposit the excess proceeds in the jurisdiction's general fund, and (8) if the sale does not produce a successful bidder, the treasurer shall add the costs of sale to the delinquent real estate account. This bill would also declare that judicial sales of real property do not affect easements recorded prior to the sale.

The effective date of this bill is not specified.

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

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

### 8. **Fiscal implications:**

This bill would have no impact on state revenues. As this bill would simply provide detailed rules concerning nonjudicial sales of tax delinquent real properties of minimal size and value, it should have no revenue impact on localities.

### 9. **Specific agency or political subdivisions affected:**

All localities.

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

**11. Other comments:**

Nonjudicial Sale of Tax Delinquent Real Properties of Minimal Size and Value

Under current law, local treasurers may 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 (1) less than 4,000 square feet (.0918 acre, which would be a 63.25' x 63.25' lot), or (2) 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 treasurer 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.

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.

Proposed Legislation

This bill would provide detailed rules concerning nonjudicial sales of tax delinquent real properties of minimal size and value:

- The treasurer shall sell each parcel that has not been redeemed by the owner to the highest bidder at public auction.
- The sale shall be free and clear of the tax lien, but shall not affect any easements recorded prior to the date of sale.
- The treasurer shall convey the parcel by a treasurer's deed.
- If the sale proceeds are insufficient to pay the taxes in full, the remaining delinquent taxes remain the personal liability of the former owner.
- The sale proceeds shall be applied first to the costs of sale, then to the taxes, penalty and interest due on the parcel, and then to any other taxes or other charges owed by the former owner to the jurisdiction.
- Any excess proceeds remain the property of the former owner and shall be kept by the treasurer in an interest-bearing escrow account. If no claim for payment of excess proceeds is made by the former owner within two years after the date of sale, the treasurer shall deposit the excess proceeds in the jurisdiction's general fund.

- If the sale does not produce a successful bidder, the treasurer shall add the costs of sale to the delinquent real estate account.

This bill would also declare that judicial sales of real property do not affect easements recorded prior to the sale.

**House Bill 194** would provide that in cases where there is no dispute as to title or value of the real estate, the circuit court may authorize the sale of tax delinquent real estate without a report by a commissioner in chancery upon receipt of 1) proper service of process on all parties defendant, 2) a written real estate title certificate and 3) the written report of a licensed real estate appraiser.

Date: 02/21/2006 JEM