

# DEPARTMENT OF TAXATION

## 2009 Fiscal Impact Statement

1. **Patron** H. Morgan Griffith

2. **Bill Number** HB 2651

3. **Committee** Senate Finance

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

4. **Title** Real Property Tax; Sale of Tax Delinquent  
Property

**Second House:**

  X   **In Committee**

           **Substitute**

           **Enrolled**

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

This bill would relieve a party whose interest in tax-delinquent property is secured by a properly recorded deed of trust from the requirement of filing a claim within 90 days after notice of such proceedings in order to be entitled to any proceeds from the sale.

Under current law, when real property on which county, city, or town taxes are delinquent becomes subject to sale for nonpayment of taxes, all parties with an interest in the real estate, including a lienor or person with a claim of title must file that claim within 90 days after notice of such proceedings. Parties who fail to timely file the claim are barred from making any claim to the proceeds of the sale.

The effective date of this bill is not specified.

### 6. **No Fiscal Impact.**

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

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

This bill would have no impact on state revenues. As this bill would simply exempt holders of properly secured deeds of trust from the requirement of filing claims to be eligible for proceeds from the sale within 90 days, it would have no impact on local revenues.

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

All localities

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

## 11. Other comments:

### Generally

Localities have a broad array of tools to collect delinquent taxes including collection from the taxpayer's bank account, wages, income tax refunds, suits against the taxpayer personally, and sale of the real estate to which the tax lien has attached. When taxes are delinquent on the last day of the year following the two-year anniversary date on which such taxes were due, localities may sell the real estate for the purpose of collecting all delinquent taxes on such property. Localities are required to provide notice to the property owners and all other parties who have an interest in the real property, including any trustee under a deed of trust or mortgagee. Owners of the property may redeem it at any time prior to the date of the sale by paying all accumulated delinquent taxes, penalties, reasonable attorney's fees, interest and costs, and in some instances, are permitted to set up installment payment agreements with the local treasurer for a maximum period of 24 months.

In certain instances, localities may petition the circuit court to appoint a special commissioner to convey the tax-delinquent property to the locality in lieu of the sale at public auction. In order to qualify the parcel must: 1) have delinquent real estate taxes or have a lien against the parcel for certain specified reasons; 2) have an assessed value of \$50,000 or less; and 3) the taxes or liens, together with penalty and accumulated interest, must exceed 60% of the assessed value of the parcel, or the taxes alone must exceed 25% of the assessed value of the parcel.

In order to initiate proceedings for the appointment of a special commissioner or for the sale of the real estate, the locality must file a bill in equity to subject the real estate to the lien for the delinquent taxes. All parties with an interest in the real estate are required to file a claim to the real estate within 90 days after notice of such proceedings, or are barred from filing claims in the future.

### Proposal

This bill would excuse persons whose interest in the real estate is secured by a properly recorded deed of trust from the requirement of filing a claim within 90 days after receiving notice of the proceedings.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 2/9/2009 KP  
DLAS File Name: HB2651FE161.doc