

# DEPARTMENT OF TAXATION

## 2017 Fiscal Impact Statement

1. **Patron** Joseph R. Yost

2. **Bill Number** HB 1909

3. **Committee** Senate Finance

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

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

**Second House:**

  X   **In Committee**

           **Substitute**

           **Enrolled**

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

This bill would permit the nonjudicial sale of unimproved real property valued at less than \$5,000 if taxes are delinquent for at least three years. The bill would also permit the nonjudicial sale of real property valued at no less than \$5,000 but no greater than \$20,000 if taxes are delinquent for at least three years and the property (i) is unimproved and measures less than 4,000 square feet; (ii) is unimproved and has been determined to be unsuitable for building (the bill expands the bases on which unsuitability may rest); (iii) has a structure on it that has been condemned by the local building official; (iv) has been declared a nuisance by the locality; (v) contains a derelict building; or (vi) has been declared to be blighted by the locality.

The bill would require that, in addition to the existing notice requirements under current law, the treasurer must publish notice of the sale in a newspaper of general circulation within the locality between 7 and 21 days prior to the sale or, in lieu of publication where the annual taxes assessed are less than \$500, public notice may be placed on the treasurer or local government's website for at least 21 days leading up to the sale.

The bill would also remove the 12-month time limitation on agreements for the owner to pay over time. The bill also substitutes the requirement that an owner or other interested party may redeem the property by paying, in addition to all taxes, penalties, interest, and costs thereon, reasonable attorney's fees instead of costs of publication.

The bill would also provide that the sale shall be free and clear of all prior recorded liens unless the treasurer has given the lienholder written notice of the sale at least 30 days prior to the sale. The bill would also require that the property pass by special warranty deed as a result of the sale to the highest bidder. The bill would also mandate that any excess proceeds would be property of the prior owner, subject to claims of creditors, and that the evaluation of claims for such excess proceeds would be handled by the circuit court.

Current law permits the nonjudicial sale of unimproved real property valued at less than \$10,000 if taxes are delinquent for at least three years and the property (a) measures less than 4,000 square feet or (b) has been determined to be unsuitable for building. Current

law requires the treasurer conducting the sale to send notice by certified or registered mail to the owners of record, to post a notice of sale at the property and the courthouse at least 30 days before the sale, and to advertise the sale in a newspaper of general circulation between 7 and 21 days before the sale.

The effective date of this bill is not specified.

**6. Budget amendment necessary:** No.

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

**8. Fiscal implications:**

Administrative Costs

Localities may experience an unknown impact on administrative costs. This bill will not impact state administrative costs.

Revenue Impact

Localities may experience an unknown revenue impact from this bill since this bill would change the valuation thresholds for different types of nonjudicial sales of unimproved real property.

This bill will have no impact on state revenues.

**9. Specific agency or political subdivisions affected:** All localities

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

**11. Other comments:**

Local treasurers are authorized to sell at public auction small parcels of real property on which delinquent taxes have accrued for three 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 at least 30 days before the sale, and advertise the sale in a newspaper of general circulation between 7 and 21 days before the sale. The costs of posting sufficient notice may be recovered as part of the tax.

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.

Any parcel that has not been redeemed by the owner may be sold to the highest bidder at public auction. Any sale made is free and clear of the tax lien, but does not affect any easements recorded prior to the date of sale. 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 must be applied first to the costs of sale, then to the taxes, penalty and interest due on the parcel, then to any other taxes or other charges owned by the former owner to the jurisdiction. Excess proceeds remain the property of the former owner and are kept by the treasurer in an interest-bearing escrow account. The former owner has two years from the date of the sale to make a claim for payment of the excess proceeds, after which time, the treasurer must deposit the excess proceeds in the jurisdiction's general fund. If there is no successful bidder at the public auction, the treasurer must add the costs of sale incurred by the jurisdiction to the delinquent real estate account.

### Proposal

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cc : Secretary of Finance

Date: 2/8/2017 VB  
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