

By: Carona

S.B. No. 247

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of an ad valorem tax lien.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 351.003, Finance Code, is amended to read as follows:

Sec. 351.003. SECONDARY MARKET TRANSACTIONS. (a) Except as provided by Subsection (b), this ~~[This]~~ chapter does not prohibit a property tax lender from receiving compensation from a party other than the property tax loan applicant for the sale, transfer, assignment, or release of rights on the closing of a property tax loan transaction.

(b) A property tax lender may not sell, transfer, assign, or release rights related to a property tax loan to a person who is not licensed under this chapter.

SECTION 2. Section 32.06(c), Tax Code, is amended to read as follows:

(c) Except as otherwise provided by this section, the transferee of a tax lien and any successor in interest licensed under Chapter 351, Finance Code, is entitled to foreclose the lien~~+~~

~~[(1)]~~ in the manner provided by law for foreclosure of tax liens~~+, or~~

~~[(2) in the manner specified in Section 51.002, Property Code, and Section 32.065, after the transferee or a~~

1 ~~successor in interest obtains a court order for foreclosure under~~  
2 ~~Rule 736, Texas Rules of Civil Procedure, except as provided by~~  
3 ~~Subsection (c-1) of this section, if the property owner and the~~  
4 ~~transferee enter into a contract that is secured by a lien on the~~  
5 ~~property].~~

6 SECTION 3. Section 32.065(b), Tax Code, is amended to read  
7 as follows:

8 (b) Notwithstanding any agreement to the contrary, a  
9 contract entered into under Subsection (a) between a transferee and  
10 the property owner under Section 32.06 that is secured by a priority  
11 lien on the property shall provide for ~~[a power of sale and]~~  
12 foreclosure in the manner provided by Section 32.06(c)  
13 ~~[32.06(c)(2)]~~ and:

14 (1) an event of default;  
15 (2) notice of acceleration;  
16 (3) recording of the deed of trust or other instrument  
17 securing the contract entered into under Subsection (a) in each  
18 county in which the property is located;

19 (4) recording of the sworn document and affidavit  
20 attesting to the transfer of the tax lien;

21 (5) requiring the transferee to serve foreclosure  
22 notices on the property owner at the property owner's last known  
23 address ~~[in the manner provided by Section 32.06(c)(2) or]~~ by a  
24 commercially reasonable delivery service that maintains verifiable  
25 records of deliveries for at least five years from the date of  
26 delivery; and

27 (6) requiring, at the time the foreclosure notices

1 required by Subdivision (5) are served on the property owner, the  
2 transferee to serve a copy of the notice of sale in the same manner  
3 on the mortgage servicer or the holder of all recorded real property  
4 liens encumbering the property that includes on the first page, in  
5 14-point boldfaced type or 14-point uppercase typewritten letters,  
6 a statement that reads substantially as follows: "PURSUANT TO  
7 TEXAS TAX CODE SECTION 32.06, THE FORECLOSURE SALE REFERRED TO IN  
8 THIS DOCUMENT IS A SUPERIOR TRANSFER TAX LIEN SUBJECT TO RIGHT OF  
9 REDEMPTION UNDER CERTAIN CONDITIONS. THE FORECLOSURE IS SCHEDULED  
10 TO OCCUR ON THE (DATE)."

11 SECTION 4. Section 32.06(c-1), Tax Code, is repealed.

12 SECTION 5. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2013.