

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 1007

2022 Regular Session

Phelps

TAX/PROPERTY: Provides relative to tax sale property

### Synopsis of Senate Amendments

1. Removes provisions that exempted any foreclosure action brought by a creditor holding a mortgage on the tax sale property from the provisions of proposed law.
2. Provides that proposed law shall not limit the rights of a person who acquires the property at a judicial sale conducted pursuant to a writ of fieri facias, writ of seizure and sale, or other court order, or to a successor in interest to such a person.
3. Adds penalties for an acquiring person who violates the provisions of proposed law and specifies that proposed law does not limit the rights of a tax debtor who is the owner of and residing in the tax sale property to recover rental or lease payments paid in violation of proposed law.

### Digest of Bill as Finally Passed by Senate

Present law provides that a tax sale confers on the tax sale purchaser, or on the political subdivision to which the tax sale property is adjudicated, only tax sale title.

Present law further provides that if the tax sale property is not redeemed within the redemptive period, then at the termination of the redemptive period, tax sale title transfers to its holder ownership of the tax sale property, free of the ownership and other interests, claims, or encumbrances held by all duly notified persons. Tax sale title is fully transferable and heritable, but any successor of a tax sale title takes it subject to any existing right to redeem the property, or to assert a nullity, to the extent and for the period of time that the right would have existed in the absence of the transfer or succession.

Proposed law provides that tax sale title does not confer on the tax sale purchaser the right of possession of tax sale property that is occupied by the owner and does not confer on the tax sale purchaser the right to make improvements to the property or to charge rental or lease payments to the owner or occupants occupying the tax sale property.

Present law provides that the rights in minerals, pipeline servitudes, predial servitudes, building restrictions, and dedications in favor of political subdivisions, the public or public utilities shall not be terminated pursuant to present law to the extent the interests remain effective against third parties and are filed with the appropriate recorder prior to the filing of the tax sale certificate.

Proposed law retains present law and provides that the right of possession and occupancy of the owner of tax sale property shall not be terminated pursuant to present law.

Present law (R.S. 47:2121 et seq.) provides the procedures for the payment and collection of property taxes, including the procedures for the sale of property for the collection of delinquent ad valorem property taxes.

Present law (R.S. 47:2122) provides for definitions which include definitions for "acquiring person", "adjudicated property", "redemptive period", "tax debtor", "tax sale", and "tax sale property".

Proposed law retains present law.

Present law (R.S. 47:2158) provides that when necessary to comply with an order of a political subdivision for the purpose of enforcing property standards, upon the presentation of the order and a certified copy of a tax sale certificate for immovables to a judge of a competent jurisdiction, the judge shall grant ex parte an order of seizure and possession, commanding the sheriff to seize the property and place the purchaser in actual possession.

Present law further provides that the purchaser may take actual possession without the order with the consent or acquiescence of the tax debtor or otherwise, provided no force or violence is used.

Proposed law (R.S. 47:2158.1) retains present law but also prohibits a tax debtor who is an owner of and who is residing in the tax sale property from being subject to any eviction proceeding or a writ of possession pursuant to present law during the redemptive period.

Present law (R.S. 47:2231) provides that after the tax sale certificate is filed, the political subdivision may institute a suit in the district court of the parish in which the property is located to obtain possession of the adjudicated property. Authorizes the suit to be tried by summary proceeding and with costs of court being paid out of the first revenue received from the sale of the tax sale property.

Proposed law (R.S. 47:2231.1) retains present law but also prohibits a tax debtor who is an owner of and who is residing in the tax sale property adjudicated to a political subdivision from being subject to any eviction proceeding or suit to obtain possession pursuant to present law during the redemptive period.

Proposed law (R.S. 47:2158.1 and 2231.1) prohibits the acquiring person from charging any rental or lease payments from the owner or occupants and prohibits constructions and improvements during the redemptive period by the acquiring person to the tax sale property.

Proposed law adds a penalty for violations of proposed law payable by an acquiring person of 5% of the price paid by the acquiring person for tax title and 5% of any amounts paid by the tax debtor who is the owner of and who is residing in the tax sale property for rental or lease payments. Further provides that the penalty shall accrue from the time the acquiring person took possession of the property until the time the property is redeemed. Provides that proposed law does not limit the rights of a tax debtor who is the owner of and who is residing in the tax sale property to recover rental or lease payments paid to an acquiring person in violation of proposed law.

Proposed law provides that proposed law (R.S. 47:2158.1 and 2231.1) does not limit the rights of a person who acquires the property at a judicial sale conducted pursuant to a writ of fieri facias, writ of seizure and sale, or other court order, or to a successor in interest to such a person.

Present law (C.C.P. Arts. 4701-4735) provides the procedures for evictions, including notice to occupants, rule to show cause for delivery of possession, trial, judgment, warrant for possession, execution of warrant, and appeals.

Proposed law retains present law and also provides that proposed law is subject to the prohibition of eviction as provided by proposed law (R.S. 47:2158.1 and 2231.1).

(Amends R.S. 47:2121(C)(1) and (3); Adds R.S. 47:2158.1 and 2231.1 and C.C.P. Art. 4736)