

2021 Regular Session

HOUSE BILL NO. 225

BY REPRESENTATIVE PHELPS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/PROPERTY: Provides relative to tax sale property

1 AN ACT

2 To enact R.S. 47:2158.1 and 2231.1 and Code of Civil Procedure Article 4736, relative to
3 tax sale property; to provide relative to certain persons residing in tax sale property;
4 to prohibit evictions of certain persons under certain circumstances; to prohibit the
5 taking of possession of tax sale property under certain circumstances; to prohibit
6 certain actions on tax sale property under certain circumstances; to provide for
7 exceptions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:2158.1 and 2231.1 are hereby enacted to read as follows:

10 §2158.1. Prohibition of certain actions; exceptions

11 A. A tax debtor who is the owner of and who is residing in the tax sale
12 property shall not be subject to any eviction proceeding or to a writ of possession
13 pursuant to R.S. 47:2158 during the redemptive period.

14 B. The acquiring person shall not place any constructions on or make any
15 improvements to the tax sale property during the redemptive period.

16 C. The provisions of this Section shall not apply to any foreclosure action
17 brought by a creditor holding a mortgage on the tax sale property.

18 * * *

1 §2231.1. Prohibition of certain actions; exceptions

2 A. A tax debtor who is the owner of and who is residing in the tax sale

3 property adjudicated to a political subdivision shall not be subject to any eviction

4 proceeding or to a suit to obtain possession pursuant to R.S. 47:2231 during the

5 redemptive period.

6 B. The acquiring person shall not place any constructions on or make any

7 improvements to the tax sale property during the redemptive period.

8 C. The provisions of this Section shall not apply to any foreclosure action

9 brought by a creditor holding a mortgage on the tax sale property.

10 Section 2. Code of Civil Procedure Article 4736 is hereby enacted to read as follows:

11 Art. 4736. Prohibition of eviction from tax sale property

12 The procedures for eviction as provided by this Title shall be subject to the

13 prohibitions and exceptions as provided by R.S. 47:2158.1 and 2231.1.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 225 Original

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Phelps

Abstract: Prohibits eviction of the tax debtor residing in the tax sale property, prohibits construction or improvements to the tax sale property, and provides exceptions to the prohibition.

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. Present law 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 constructions and improvements during the redemptive period by the acquiring person to the tax sale property.

Proposed law provides that proposed law (R.S. 47:2158.1 and 2231.1) shall not apply to foreclosure actions brought by a creditor holding a mortgage on the tax sale property.

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).

(Adds R.S. 47:2158.1 and 2231.1 and C.C.P. Art. 4736)