

CONFERENCE COMMITTEE REPORT

HB 851

2024 Regular Session

Phelps

May 30, 2024

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 851 by Representative Phelps, recommend the following concerning the Engrossed bill:

1. That the set of Senate Floor Amendments by Senator Morris (#3800) be rejected.
2. That the following amendments be adopted:

AMENDMENT NO. 1

On page 1, line 2, after "R.S. 14:71.3.1" and before the comma "," insert "and 71.3.2"

AMENDMENT NO. 2

On page 1, line 3, after "sale" and before "property" insert "and tax lien"

AMENDMENT NO. 3

On page 1, line 4, after "intent;" and before "and" insert "to provide for contingent effective dates;"

AMENDMENT NO. 4

On page 2, after line 21, add the following:

"Section 2. R.S. 14:71.3.2 is hereby enacted to read as follows:

§71.3.2. Tax lien property fraud

A. It is unlawful for any person, in connection with the issuance of a tax sale certificate, tax lien certificate, or tax sale title to the property pursuant to R.S. 47:2132, 2155, or 2161, or in violation of R.S. 47:2158.1 or 2231.1, to knowingly do any of the following:

- (1) Employ a device, scheme, or artifice with intent to defraud the tax debtor.
- (2) Make an untrue statement of material fact with intent to defraud the tax debtor.

(3) Receive any portion of the monies, funds, credits, assets, securities, or other property of the tax debtor in connection with the purchase of either tax sale property or a delinquent obligation evidenced by a tax lien certificate.

B.(1) A person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than five thousand dollars, or both.

(2) In addition to the penalties provided in Paragraph (1) of this Subsection, a person convicted under the provisions of this Section shall forfeit all rights and claims to possession of the delinquent obligation, tax lien certificate, or tax sale title to the property and shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

C. For the purposes of this Section:

(1) "Delinquent obligation" means statutory impositions included in the tax bill that are not paid by the due date, plus interest and costs that may accrue in accordance with law.

(2) "Person" means a natural or juridical person, including but not limited to a sole proprietorship, corporation, company, limited liability company, partnership, limited liability partnership, trust, incorporated or unincorporated association, or any other individual or entity.

(3) "Tax debtor", tax sale certificate, "tax sale property", and "tax sale title" shall have the same meanings as in R.S. 47:2122.

D. It is the intent of the legislature to encourage tax debtors to seek legal counsel in order to protect any ownership rights adversely affected by a violation of this Section.

Section 3. R.S. 14:71.3.1 is hereby repealed in its entirety.

Section 4. This Section and Sections 1 and 5 of this Act shall become effective upon signature by the governor, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Section and Sections 1 and 5 of this Act shall become effective on the day following such approval.

Section 5. Sections 2 and 3 of this Act shall become effective if the proposed amendment to Article VII, Section 25 of the Constitution of Louisiana contained in the Act which originated as Senate Bill No. 119 of the 2024 Regular Session of the Legislature is adopted at a statewide election held on December 7, 2024, or if any proposed amendment to Article VII, Section 25 of the Constitution of Louisiana is adopted prior to January 1, 2026. If an amendment to Article VII, Section 25 of the Constitution of Louisiana is adopted, Sections 2 and 3 of this Act shall become effective on January 1, 2026."

Respectfully submitted,

Representative Tammy T. Phelps

Senator Caleb Seth Kleinpeter

Representative Nicholas Muscarello, Jr.

Senator Blake Miguez

Representative Debbie Villio

Senator John C. "Jay" Morris III

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)]

CONFERENCE COMMITTEE REPORT DIGEST

HB 851

2024 Regular Session

Phelps

Keyword and oneliner of the instrument as it left the House

CRIME: Creates the crime of tax sale property fraud

Report rejects Senate amendments which would have:

1. Made technical changes.
2. Updated terminology within proposed law to include tax lien certificates.
3. Defined the terms "delinquent obligation" and "tax sale certificate".

Report amends the bill to:

1. Provide for provisions of proposed law that contain updated terminology relative to tax lien certificates and provide that these provisions will become effective on January 1, 2026, if the proposed amendment to present constitution contained in the Act which originated as SB No. 119 of the 2024 R.S. of the Legislature is adopted at a statewide election held on Dec. 7, 2024.
2. Repeal provisions of proposed law that contain terminology relative to tax sale tiles and provide that these provisions will become inoperative on January 1, 2026, if the proposed amendment to present constitution contained in the Act which originated as SB No. 119 of the 2024 R.S. of the Legislature is adopted at a statewide election held on Dec. 7, 2024.

Digest of the bill as proposed by the Conference Committee

Proposed law provides that it is unlawful for any person, in connection with the issuance of a tax sale certificate or tax sale title to the property pursuant to present law to knowingly do any of the following:

- (1) Employ a device, scheme, or artifice with intent to defraud the tax debtor.
- (2) Make an untrue statement of material fact with intent to defraud the tax debtor.
- (3) Receive any portion of the monies, funds, credits, assets, securities, or other property of the tax debtor in connection with the purchase of tax sale property when the recipient knows that the proceeds or other funds were paid as a result of a violation of proposed law.

Proposed law provides for a penalty of imprisonment, with or without hard labor, for not more than two years, or a fine of not more than \$5,000, or both.

Proposed law provides that in addition to the penalties provided in proposed law, a person convicted under proposed law shall forfeit all rights and claims to possession of the tax sale certificate and tax sale title to the property and shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense.

Proposed law provides that if a person ordered to make restitution pursuant to proposed law is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Proposed law defines the terms "person", "tax debtor", "tax sale property", and "tax sale title".

Proposed law provides for a statement of legislative intent.

Proposed law provides for provisions of proposed law with updated terminology relative to tax lien certificates and provides that these provisions will become effective on January 1, 2026, if the proposed amendment to present constitution contained in the Act which originated as SB No. 119 of the 2024 R.S. of the Legislature is adopted at a statewide election held on Dec. 7, 2024.

(Adds R.S. 14:71.3.1)