

SENATE RESOLUTION NO. 40

BY SENATOR ALLAIN

A RESOLUTION

To urge and request the Louisiana State Law Institute to study the feasibility of authorizing tax lien sales as a replacement or alternative to tax sale certificates.

WHEREAS, the failure to pay taxes due upon real estate may result in certain legal actions being taken by a taxing authority to collect real property taxes owed; and

WHEREAS, in most states such actions include: (1) the taxing authority may sell a tax lien to a person for the amount of taxes owed, with the delinquent taxpayer having a specified time period in which to pay their tax bill and extinguish the lien; or (2) the taxing authority may sell a tax deed to a person which makes such person the owner of the property, and the delinquent taxpayer has no redemptive period in which to reacquire the property; or (3) as a "hybrid" of the first two actions, the taxing authority may sell a tax deed to a person, with the delinquent taxpayer having a statutory time period of redemption in which to pay the tax bill and reacquire the property; and

WHEREAS, along with states such as Connecticut, Georgia, Texas, and Rhode Island, Louisiana is considered to be within the third category above as a "hybrid" state, as Article 7, Section 25, of the Louisiana Constitution and related laws authorize the sale of real estate for nonpayment of real property taxes with a right of redemption, generally for three years after the date of recordation of the tax sale; and

WHEREAS, the majority of other states appear to utilize either tax lien sales or tax deed sales without right of redemption to recover tax amounts owed upon real estate; and

WHEREAS, Louisiana's current system of selling tax deeds with a right of redemption, now known as tax sale certificates, has resulted through the years in costly and protracted litigation over rights and procedures involved in such sales, including but not limited to: constitutional questions of due process in notice, advertising and sale processes; issues involving annulment, quiet title, and foreclosures and effects upon mortgages, seizing creditors and subrogation; tax sales by municipalities and adjudications to political subdivisions and post-adjudication sales; issues involving blighted, abandoned, and vacant property; liability issues; and redemption processes and effects, including effects of

adjudication upon redemption; and

WHEREAS, the complex legal questions and litigation arising from these issues have necessitated numerous revisions to laws concerning tax sale certificates, and have increased public and private uncertainty regarding the efficacy and fairness of such system as providing a practical and reasonable way of collecting tax amounts owed; and

WHEREAS, to reduce litigation and promote fair and efficient means of collecting tax amounts owed, the Louisiana State Law Institute should study the present "hybrid" system in Louisiana and the feasibility of tax lien sales as a replacement or alternative to the current "hybrid" system of relying upon tax sale certificates; and

WHEREAS, such study should include any recommended revisions to the state constitution and laws as may be necessary in the form of specific proposed legislation.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study the feasibility of authorizing tax lien sales as a replacement or alternative to tax sale certificates.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall report to the Senate regarding the study no later than February 1, 2014, and provide its findings to date, including any recommendations regarding specific proposed legislation.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

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PRESIDENT OF THE SENATE