

2022 Regular Session

HOUSE BILL NO. 1007

BY REPRESENTATIVE PHELPS

TAX/PROPERTY: Provides relative to tax sale property

1 AN ACT

2 To amend and reenact R.S. 47:2121(C)(1) and (3) and to enact R.S. 47:2158.1 and 2231.1

3 and Code of Civil Procedure Article 4736, relative to tax sale property; to provide

4 relative to certain persons residing in tax sale property; to provide relative to the

5 rights of owners of tax sale property; to provide for the right of possession and

6 occupancy; to prohibit evictions of certain persons under certain circumstances; to

7 prohibit the taking of possession of tax sale property under certain circumstances;

8 to prohibit the charging of rental or lease payments under certain circumstances; to

9 prohibit certain actions on tax sale property under certain circumstances; to provide

10 for exceptions; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 47:2121(C)(1) and (3) are hereby amended and reenacted and R.S.

13 47:2158.1 and 2231.1 are hereby enacted to read as follows:

14 §2121. Purpose; principles; property rights

15 * * *

16 C. Tax sale title. (1) A tax sale confers on the tax sale purchaser, or on the

17 political subdivision to which the tax sale property is adjudicated, only tax sale title.

18 Tax sale title does not confer on the tax sale purchaser the right of possession of tax

19 sale property that is occupied by the owner and does not confer on the tax sale

20 purchaser the right to charge rental or lease payments to the owner occupying the tax

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

8 * * *

9 (3)(a) Notwithstanding any provision in this Chapter to the contrary, the
10 following interests affecting immovable property shall not be terminated pursuant
11 to this Chapter to the extent the interests remain effective against third parties and
12 are filed with the appropriate recorder prior to the filing of the tax sale certificate:

- 13 ~~(a)~~(i) Mineral rights.
- 14 ~~(b)~~(ii) Pipeline servitudes.
- 15 ~~(c)~~(iii) Predial servitudes.
- 16 ~~(d)~~(iv) Building restrictions.
- 17 ~~(e)~~(v) Dedications in favor of political subdivisions, the public, or public
18 utilities.

19 (b) Notwithstanding any provision in this Chapter to the contrary, the right
20 of possession and occupancy of the owner of tax sale property shall not be
21 terminated pursuant to this Chapter.

22 * * *

23 §2158.1. Prohibition of certain actions; exceptions

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

27 B. The acquiring person shall not be entitled to or charge any rental or lease
28 payments to the owner and shall not place any constructions on or make any
29 improvements to the tax sale property during the redemptive period.

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 charge rental or lease payments to the owner 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. 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 the acquiring person from charging any rental or lease payments from the owner and 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).

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