

SENATE BILL REPORT

HB 1634

As of March 21, 2019

Title: An act relating to requiring property sold in tax lien foreclosure proceedings to be sold as is.

Brief Description: Requiring property sold in tax lien foreclosure proceedings to be sold as is.

Sponsors: Representatives Goehner and Eslick.

Brief History: Passed House: 3/09/19, 96-0.

Committee Activity: Local Government: 3/21/19.

Brief Summary of Bill

- Requires all property sold by a county treasurer in a tax lien foreclosure sale to be sold as is, without any guarantee or warranty of any kind.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Staff: Greg Vogel (786-7413)

Background: Tax Lien Foreclosure Sales. The county treasurer may begin foreclosure proceedings to recover past due property taxes three years after the date of a property tax delinquency. The first step in the process is issuing a certificate of delinquency, for the total amount of unpaid taxes, interest, and assessments, which is then filed with the clerk of the court.

Notice and summons are served or given to the owners and any person having a recorded interest in, or recorded lien upon, the property, notifying them to appear within 30 days of service to defend the action or pay the amount due. Following court proceedings, the court gives judgment for such taxes, interest, and costs as appear to be due and issues an order for the sale of the property against which judgment is made. This order provides authority for the sale of the property.

The county treasurer must sell the property to the highest and best bidder. The minimum bid is the total amount of taxes, interest, and costs. Property may be redeemed at any time before the close of business the day before the sale by payment of the amount for which the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

certificate of delinquency was issued, together with interest, and any taxes, interest and costs accruing after issuance of the certificate of delinquency. If the sale is for more than the minimum bid, the excess must be refunded to the record owner of the property if a refund application is made. If the county does not receive the required minimum bid, the county acquires title.

Summary of Bill: Any property sold by a county treasurer in a tax lien foreclosure sale must be sold as is. There is no guarantee or warranty of any kind, express or implied, relative to title, eligibility to build upon or subdivide the property, zoning classification, size, location, fitness for any use or purpose, or any other feature or condition of a foreclosed property.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The bill simply expands the verbiage in the code to make sure anyone considering buying a property in foreclosure knows there are no implied warranties. The historic legal practice for treasurers when selling foreclosed property is to sell the property as is. This practice was upheld by a court of appeals division two case. Codifying this practice ensures that the process is uniform throughout the state and provides clarity for those not familiar with the common law.

Persons Testifying: PRO: Representative Keith Goehner, Prime Sponsor; Doug Lasher, citizen.

Persons Signed In To Testify But Not Testifying: No one.