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FISCAL IMPACT STATEMENT

LS 6170
BILL NUMBER: SB 155

NOTE PREPARED: Jan 21, 2011
BILL AMENDED: Jan 20, 2011

SUBJECT: Tax Liens.

FIRST AUTHOR: Sen. Steele
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill requires the Department of State Revenue (DOR) to release a judgment if: (1) it has been fully satisfied; or (2) the tax assessment or issuance of the tax warrant was erroneous.

The bill provides that a tax lien on real property is void if the person owing the tax provides written notice to the DOR to file an action to foreclose the lien, and the DOR fails to file an action to foreclose the lien not later than 180 days after receiving the notice.

The bill also specifies that a complaint to foreclose a homeowners association lien may not be filed earlier than 90 days after recording, unless a person files a notice to foreclose the lien, or another person files an action to foreclose the property that is the subject of the lien.

Effective Date: July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues: *Foreclosure of Liens:* This bill provides that if the DOR does not foreclose on a lien on real property within 180 days after receiving a notice to foreclose the lien, then the lien would be released. Any taxes, interest, penalties, and collection fees associated with the tax liens would be released and would not be collected. The impact of these provisions is indeterminable.

(Revised) *Court Fee Revenue:* This bill also would allow individuals to file complaints to foreclose homeowners association liens beginning 90 days after recording if notice was filed to foreclose the liens in

the manner provided by this bill, or another person files an action to foreclose the property that is the subject of the lien. Current statute provides that complaints to enforce homeowners association liens may not be filed until one year after the lien was recorded.

If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: (Revised) *Foreclosure of Liens*: This bill provides that if a person provides written notice to the DOR to file an action to foreclose a lien on real property and the DOR fails to file an action to foreclose the lien within 180 days after receiving the notice, then the person may file an affidavit of service of the notice with the appropriate circuit court clerk in order to release the real property from the lien. After the affidavit is received, the circuit court clerk must make an entry showing the release of the judgment lien in the judgment records for tax warrants. These provisions may increase the workload of circuit court clerks.

The affidavit filed with the circuit court clerk must state: the facts of the notice; that more than 180 days have passed since the notice was received by the DOR; that no action for foreclosure of the lien is pending; and that no unsatisfied judgment has been rendered on the lien.

Explanation of Local Revenues: *Foreclosure of Liens*: Any unpaid sheriff's costs and/or clerk costs associated with tax liens that would be released by this bill would not be collected. The impact of this provision is indeterminable.

(Revised) *Court Fee Revenue*: The local portion of court filing fees could be increased if more complaints are filed as a result of this bill. (See *Explanation of State Revenues*). If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Circuit court clerks; trial courts; city and town courts.

Information Sources:

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