TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 3528 - SB 3595

March 7, 2012

SUMMARY OF BILL: Specifies that a non-governmental entity holding a vested and duly recorded contractual right to payment of fees or assessments secured by property acquired by the state, a county, a municipality, or any subdivision at a tax sale retains that contractual right after the tax sale. Exempts the governmental entity from liability for the payment of any such fees or assessments during the term of government ownership not to exceed 24 months from the date of entry of the order confirming the tax sale. Limits the non-governmental entity's enforcement of such contractual rights to payment through exercise of its lien rights against the property. Specifies that no restrictive covenants of record, other than use, apply to the governmental entity during its term of ownership except for the statutory provision limiting use of such a tract of land during the redemption period to use sufficient to prevent waste. Authorizes the governmental entity, at any time during its ownership of the property, to surrender the property to the non-governmental entity claiming such lien rights in full satisfaction of any such fees or assessments. Excludes from the provisions of the bill any rights or duties that matured, liabilities or penalties that were incurred, or proceedings begun before its effective date.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – The number of properties subject to assessments that will be purchased by governmental entities and the amount of any assessments are unknown. However, the decrease in state and local expenditures is estimated to exceed $100,000.

Assumptions:

- According to the Comptroller of the Treasury, the provisions of the bill address the ruling in *Bill Travis, et al. v. Trustees of Lakewood Park v. Coffee County*, *Tennessee*, M2009-01935-COA-R3-CV (filed Sept. 3, 2010 at Nashville). In *Travis*, the county purchased subdivision lots for delinquent taxes in accordance with Tenn. Code Ann. § 67-5-2501, et seq. The original developer created and filed a trust indenture containing restrictive covenants and an annual assessment on each lot. When property owners failed to pay the assessments, the tax sale resulted. The trustees pursued collection of the assessments from the county. The court found that the restrictive covenants bind anyone who purchases the property and determined that the county was liable for the assessments (in excess of $200,000) that accrued during the county's ownership.

- Maintaining the status quo for non-governmental entities holding contractual rights to fees and assessments on property purchased by a governmental entity at a tax sale results in no state or local fiscal impact.
- Exempting a governmental entity from liability for payment of such fees or assessments during the term of government ownership (not to exceed 24 months from date of order confirming the tax sale) may reduce state or local expenditures if any governmental entity had been paying such assessments or fees in the absence of this exemption. The number of properties purchased by governmental entities subject to assessments and the amount of any given assessment are unknown. Accordingly, the amount of such a reduction in state or local expenditures is unknown, but is estimated to exceed $100,000.
- Limiting the governmental entity's use of the property during the redemption period may result in state or local expenditures to prevent waste to the property but such expenditures are estimated to be not significant.
- Any governmental entity that elects to surrender such property to the non-governmental entity in satisfaction of any such fees or assessments will do so because any fiscal impact to the state or local governmental entity would not be significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Lucian D. Geise, Executive Director

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