

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 382 - SB 990

March 16, 2013

SUMMARY OF BILL: Removes the requirement that a taxing entity place a bid on a delinquent tax property, if the court declares the property to be insolvent as defined by the bill; and authorizes such taxing entity to open the tax sale bidding to private bidders at a minimum bid amount that shall include the total amount of ad valorem taxes, penalties, interest, fees, costs, and the total amount of other governmental liabilities secured by liens of record against the property. If private bids are not placed, the clerk may reduce the minimum bid amount in increments of ten percent until bidding begins.

Removes a local government from liability for payment of any private contractual development covenants, development fees, or assessments secured by a private entity against a property held by the local government for delinquent taxes. Authorizes a private entity to purchase the property in the amount necessary to satisfy the back taxes, costs, and fees applicable to the delinquent property sale, and a deed shall be issued in the name of the private entity. If the private entity fails to purchase the property, such failure constitutes a waiver of the private entity's claim for such fees and assessments.

ESTIMATED FISCAL IMPACT:

Decrease Local Expenditures – Exceeds \$200,000/One-Time

Other Fiscal Impact – Due to several unknown factors, the net fiscal impact to local government revenue cannot be determined.

Assumptions:

- Under current law, if no bid is placed on a delinquent tax property, the clerk of court is required to place a bid which includes the cost of what is owed for taxes, interest, and penalties. The local government will maintain liability for the property until it is sold to a private entity.
- By removing the requirement that the local government make this bid, the local government could accept bids that are lower than what is owed on the property, and while accepting these lower bids will not award the local government all revenue owed in taxes, it will allow an opportunity for the local government to realize a portion of what is owed against the property while lowering the overall liability for the property.
- Due to several unknown factors, including but not limited to, the number of delinquent tax property sales statewide, the prices for which such properties are sold, and the extent

of differences between what is owed to local government on any specific property and what is gained from the sale of such property, the net fiscal impact to local government revenue cannot be determined.

- Suits have been filed against at least two local governments by private entities for fees assessed on property obtained by a local government.
- According to information provided by Hickman County, a private entity filed suit against the county for fees assessed on property obtained by the county due to delinquent taxes. Fees and interest assessed by the private entity against the county totaled \$1,070,290.
- In 2010, a similar suit was filed against Coffee County by a private entity that resulted in the court finding the county liable for payment of fees assessed by the private entity in excess of \$200,000.
- Removing liability from a local government for fees assessed by a private entity will result in a decrease in local government expenditures; however the precise decrease in expenditures is dependent upon the amount of fees assessed by the private entity. The decrease in local government expenditures as a result of this bill is reasonably estimated to exceed \$200,000 for each applicable local government entity.

CERTIFICATION:

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



Lucian D. Geise, Executive Director

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