

2024 Regular Session

HOUSE BILL NO. 851

BY REPRESENTATIVE PHELPS

CRIME: Creates the crime of tax sale property fraud

1 AN ACT

2 To enact R.S. 14:71.3.1, relative to misappropriation without violence; to create the crime
3 of tax sale property fraud; to provide for elements; to provide for penalties; to
4 provide for definitions; to provide for legislative intent; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:71.3.1 is hereby enacted to read as follows:

8 §71.3.1. Tax sale property fraud

9 A. It is unlawful for any person, in connection with the issuance of a tax sale
10 certificate or tax sale title to the property pursuant to R.S. 47:2155 or 2161 or in
11 violation of R.S. 47:2158.1 or 2231.1, to knowingly do any of the following:

12 (1) Employ a device, scheme, or artifice with intent to defraud the tax debtor.

13 (2) Make an untrue statement of material fact with intent to defraud the tax
14 debtor.

15 (3) Receive any portion of the monies, funds, credits, assets, securities, or
16 other property of the tax debtor in connection with the purchase of tax sale property
17 when the recipient knows that the proceeds or other funds were paid as a result of a
18 violation of this Section.

1 B.(1) A person who violates the provisions of this Section shall be
2 imprisoned, with or without hard labor, for not more than two years, or may be fined
3 not more than five thousand dollars, or both.

4 (2) In addition to the penalties provided in Paragraph (1) of this Subsection,
5 a person convicted under the provisions of this Section shall forfeit all rights and
6 claims to possession of the tax sale certificate and tax sale title to the property and
7 shall be ordered to make full restitution to the victim and any other person who has
8 suffered a financial loss as a result of the offense. If a person ordered to make
9 restitution pursuant to this Section is found to be indigent and therefore unable to
10 make restitution in full at the time of conviction, the court shall order a periodic
11 payment plan consistent with the person's financial ability.

12 C. For the purposes of this Section:

13 (1) "Person" means a natural or juridical person, including but not limited
14 to a sole proprietorship, corporation, company, limited liability company,
15 partnership, limited liability partnership, trust, incorporated or unincorporated
16 association, or any other individual or entity.

17 (2) "Tax debtor", "tax sale property", and "tax sale title" shall have the same
18 meanings as in R.S. 47:2122.

19 D. It is the intent of the legislature to encourage tax debtors to seek legal
20 counsel in order to protect any ownership rights adversely affected by a violation of
21 this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 851 Original

2024 Regular Session

Phelps

Abstract: Creates the crime of tax sale property fraud.

Proposed law provides that it is unlawful for any person, in connection with the issuance of a tax sale certificate or tax sale title to the property pursuant to present law to knowingly do any of the following:

(1) Employ a device, scheme, or artifice with intent to defraud the tax debtor.

- (2) Make an untrue statement of material fact with intent to defraud the tax debtor.
- (3) Receive any portion of the monies, funds, credits, assets, securities, or other property of the tax debtor in connection with the purchase of tax sale property when the recipient knows that the proceeds or other funds were paid as a result of a violation of proposed law.

Proposed law provides for a penalty of imprisonment, with or without hard labor, for not more than two years, or a fine of not more than \$5,000, or both.

Proposed law provides that in addition to the penalties provided in proposed law, a person convicted under proposed law shall forfeit all rights and claims to possession of the tax sale certificate and tax sale title to the property and shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense.

Proposed law provides that if a person ordered to make restitution pursuant to proposed law is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Proposed law defines the terms "person", "tax debtor", "tax sale property", and "tax sale title".

Proposed law provides for a statement of legislative intent.

(Adds R.S. 14:71.3.1)