

CHAPTER 53

S.B. No. 266

AN ACT

relating to defenses in suits to collect delinquent ad valorem taxes.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 42.09, Tax Code, is amended to read as follows:

Sec. 42.09. REMEDIES EXCLUSIVE. (a) *Except as provided by Subsection (b) of this section, [The] procedures prescribed by this title for adjudication of the grounds of protest authorized by this title are exclusive, and a property owner may not raise any of those grounds:*

- (1) *in defense to a suit to enforce collection of delinquent taxes; or*
- (2) *as a basis of a claim for relief in a suit by the property owner to arrest or prevent the tax collection process or to obtain a refund of taxes paid.*

(b) *A person against whom a suit to collect a delinquent property tax is filed may plead as an affirmative defense:*

(1) *if the suit is to enforce personal liability for the tax, that the defendant did not own the property on which the tax was imposed on January 1 of the year for which the tax was imposed; or*

(2) *if the suit is to foreclose a lien securing the payment of a tax on real property, that the property was not located within the boundaries of the taxing unit seeking to foreclose the lien on January 1 of the year for which the tax was imposed.*

(c) *For purposes of this section, "suit" includes a counterclaim, cross-claim, or other claim filed in the course of a lawsuit.*

SECTION 2. The change in law made by this Act applies only to a suit to collect a delinquent tax filed on or after the effective date of this Act. A suit to collect a delinquent tax filed before the effective date of this Act is governed by the law in effect when the suit was filed, and the former law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on February 26, 1987, by the following vote: Yeas 30, Nays 0.

Passed the House on April 23, 1987, by the following vote: Yeas 138, Nays 0, one present not voting.

Approved May 6, 1987.

Effective May 6, 1987.