

2024 Regular Session

HOUSE BILL NO. 851

BY REPRESENTATIVE PHELPS

1 AN ACT

2 To enact R.S. 14:71.3.1 and 71.3.2 and to repeal R.S. 14:71.3.1, relative to misappropriation
3 without violence; to create the crime of tax sale and tax lien property fraud; to
4 provide for elements; to provide for penalties; to provide for definitions; to provide
5 for legislative intent; to provide for contingent effective dates; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

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

9 §71.3.1. Tax sale property fraud

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

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

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

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

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

23 (2) In addition to the penalties provided in Paragraph (1) of this Subsection,
24 a person convicted under the provisions of this Section shall forfeit all rights and

1 claims to possession of the tax sale certificate and tax sale title to the property and
 2 shall be ordered to make full restitution to the victim and any other person who has
 3 suffered a financial loss as a result of the offense. If a person ordered to make
 4 restitution pursuant to this Section is found to be indigent and therefore unable to
 5 make restitution in full at the time of conviction, the court shall order a periodic
 6 payment plan consistent with the person's financial ability.

7 C. For the purposes of this Section:

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

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

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

17 Section 2. R.S. 14:71.3.2 is hereby enacted to read as follows:

18 §71.3.2. Tax lien property fraud

19 A. It is unlawful for any person, in connection with the issuance of a tax sale
 20 certificate, tax lien certificate, or tax sale title to the property pursuant to R.S.
 21 47:2132, 2155, or 2161, or in violation of R.S. 47:2158.1 or 2231.1, to knowingly
 22 do any of the following:

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

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

26 (3) Receive any portion of the monies, funds, credits, assets, securities, or
 27 other property of the tax debtor in connection with the purchase of either tax sale
 28 property or a delinquent obligation evidenced by a tax lien certificate.

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 delinquent obligation, tax lien certificate, or tax sale title
 7 to the property and shall be ordered to make full restitution to the victim and any
 8 other person who has suffered a financial loss as a result of the offense. If a person
 9 ordered to make restitution pursuant to this Section is found to be indigent and
 10 therefore unable to make restitution in full at the time of conviction, the court shall
 11 order a periodic payment plan consistent with the person's financial ability.

12 C. For the purposes of this Section:

13 (1) "Delinquent obligation" means statutory impositions included in the tax
 14 bill that are not paid by the due date, plus interest and costs that may accrue in
 15 accordance with law.

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

20 (3) "Tax debtor", tax sale certificate, "tax sale property", and "tax sale title"
 21 shall have the same meanings as in R.S. 47:2122.

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

25 Section 3. R.S. 14:71.3.1 is hereby repealed in its entirety.

26 Section 4. This Section and Sections 1 and 5 of this Act shall become effective upon
 27 signature by the governor, if not signed by the governor, upon expiration of the time for bills
 28 to become law without signature by the governor, as provided by Article III, Section 18 of
 29 the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the

1 legislature, this Section and Sections 1 and 5 of this Act shall become effective on the day
2 following such approval.

3 Section 5. Sections 2 and 3 of this Act shall become effective if the proposed
4 amendment to Article VII, Section 25 of the Constitution of Louisiana contained in the Act
5 which originated as Senate Bill No. 119 of the 2024 Regular Session of the Legislature is
6 adopted at a statewide election held on December 7, 2024, or if any proposed amendment
7 to Article VII, Section 25 of the Constitution of Louisiana is adopted prior to January 1,
8 2026. If an amendment to Article VII, Section 25 of the Constitution of Louisiana is
9 adopted, Sections 2 and 3 of this Act shall become effective on January 1, 2026.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____