

By: Sherman, Sr.

H.B. No. 5139

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of a taxing unit to sell certain seized or
3 foreclosed property to an owner of an abutting property without
4 conducting a public sale.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 33.43(a), Tax Code, is amended to read as
7 follows:

8 (a) A petition initiating a suit to collect a delinquent
9 property tax is sufficient if it alleges that:

10 (1) the taxing unit is legally constituted and
11 authorized to impose and collect ad valorem taxes on property;

12 (2) tax in a stated amount was legally imposed on each
13 separately described property for each year specified and on each
14 person named if known who owned the property on January 1 of the
15 year for which the tax was imposed;

16 (3) the tax was imposed in the county in which the suit
17 is filed;

18 (4) the tax is delinquent;

19 (5) penalties, interest, and costs authorized by law
20 in a stated amount for each separately assessed property are due;

21 (6) the taxing unit is entitled to recover each
22 penalty that is incurred and all interest that accrues on
23 delinquent taxes imposed on the property from the date of the
24 judgment to the date of the sale under Section 34.01 or 34.0101, or

1 under Section 253.010, Local Government Code, as applicable, if the
2 suit seeks to foreclose a tax lien;

3 (7) the person sued owned the property on January 1 of
4 the year for which the tax was imposed if the suit seeks to enforce
5 personal liability;

6 (8) the person sued owns the property when the suit is
7 filed if the suit seeks to foreclose a tax lien;

8 (9) the taxing unit asserts a lien on each separately
9 described property to secure the payment of all taxes, penalties,
10 interest, and costs due if the suit seeks to foreclose a tax lien;

11 (10) all things required by law to be done have been
12 done properly by the appropriate officials; and

13 (11) the attorney signing the petition is legally
14 authorized to prosecute the suit on behalf of the taxing unit.

15 SECTION 2. Subchapter A, Chapter 34, Tax Code, is amended by
16 adding Section 34.0101 to read as follows:

17 Sec. 34.0101. SALE OF CERTAIN PROPERTY TO OWNER OF ABUTTING
18 PROPERTY. (a) In this section:

19 (1) "Flood insurance rate map" means the most recent
20 flood hazard map published by the Federal Emergency Management
21 Agency under the National Flood Insurance Act of 1968 (42 U.S.C.
22 Section 4001 et seq.).

23 (2) "Floodway" means an area that is identified on the
24 flood insurance rate map as a regulatory floodway, including the
25 channel of a river or other watercourse and the adjacent land areas
26 that must be reserved for the discharge of a base flood, also
27 referred to as a 100-year flood, without cumulatively increasing

1 the water surface elevation more than a designated height.

2 (b) This section applies to real property:

3 (1) that is:

4 (A) seized under a tax warrant issued under
5 Subchapter E, Chapter 33; or

6 (B) ordered sold pursuant to foreclosure of a tax
7 lien; and

8 (2) that is:

9 (A) a narrow strip of land or other parcel of land
10 that because of its shape or small area cannot be used independently
11 under its current zoning classification or under applicable
12 subdivision or other development ordinances;

13 (B) landlocked without direct access to a public
14 road; or

15 (C) located in:

16 (i) an area designated by the Federal
17 Emergency Management Agency under the National Flood Insurance Act
18 of 1968 (42 U.S.C. Section 4001 et seq.) as having a .02 percent or
19 greater annual chance of flooding; or

20 (ii) a floodway.

21 (c) Sections 34.01(b), (c), (d), (e), (f), (g), (h), (i),
22 (m), (n), (q), and (s) apply to a sale of real property under this
23 section.

24 (d) Notwithstanding any other law, including Sections
25 263.001 and 272.001, Local Government Code, a taxing unit that
26 requested a tax warrant or order of sale for real property subject
27 to this section may direct the officer charged with selling the

1 property to sell the property to an owner of abutting property at a
2 private sale.

3 (e) A taxing unit is not required to offer real property
4 subject to this section for sale to the public.

5 (f) A purchaser of property under this section must meet the
6 requirements of Section 34.015.

7 (g) A taxing unit that directs the sale of real property
8 under this section may sell the property for an amount less than
9 required under Section 34.01(p). This subsection does not
10 authorize a sale of property in violation of Section 52, Article
11 III, Texas Constitution.

12 (h) A taxing unit that requested a tax warrant or order of
13 sale for real property subject to this section may sell the property
14 under this section without the consent of any taxing unit entitled
15 to receive proceeds of the sale.

16 SECTION 3. Sections 34.02(a) and (d), Tax Code, are amended
17 to read as follows:

18 (a) The proceeds of a tax sale under Section 33.94, ~~[or]~~
19 34.01, or 34.0101 shall be applied in the order prescribed by
20 Subsection (b). The amount included under each subdivision of
21 Subsection (b) must be fully paid before any of the proceeds may be
22 applied to the amount included under a subsequent subdivision.

23 (d) The officer conducting a sale under Section 33.94, ~~[or]~~
24 34.01, or 34.0101 shall pay any excess proceeds after payment of all
25 amounts due all participants in the sale as specified by Subsection
26 (b) to the clerk of the court issuing the warrant or order of sale.

27 SECTION 4. Section 33.43(a), Tax Code, as amended by this

1 Act, applies only to a petition initiating a suit to collect a
2 delinquent property tax filed on or after the effective date of this
3 Act.

4 SECTION 5. This Act takes effect September 1, 2023.