

By: Elkins, Hegar

H.B. No. 2176

Substitute the following for H.B. No. 2176:

By: McReynolds

C.S.H.B. No. 2176

A BILL TO BE ENTITLED

AN ACT

relating to ad valorem tax sales of real and personal property following foreclosure or seizure of the property; authorizing a sale by on-line auction.

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

SECTION 1. Section 33.25, Tax Code, is amended to read as follows:

Sec. 33.25. ~~[NOTICE OF]~~ TAX SALE: NOTICE; METHOD;
DISPOSITION OF PROCEEDS. (a) After ~~[Except as provided by~~
~~Subsection (c), after]~~ a seizure of personal property, the collector shall make a reasonable inquiry to determine the identity and to ascertain the address of any person having an interest in the property other than the person against whom the tax warrant is issued. The collector shall provide in writing the name and address of each other person the collector identifies as having an interest in the property to the peace officer charged with executing the warrant. The peace officer shall deliver as soon as possible a written notice stating the time and place of the sale and briefly describing the property seized to the person against whom the warrant is issued and to any other person having an interest in the property whose name and address the collector provided to the peace officer. The posting of the notice and the sale of the property shall be conducted:

(1) in a county other than a county to which

1 Subdivision (2) applies, by the peace officer in the manner
2 required for the sale under execution of personal property; or
3 (2) in a county having a population of three million or
4 more:

5 (A) by the peace officer or collector, as
6 specified in the warrant, in the manner required for the sale under
7 execution of personal property; or

8 (B) under an agreement authorized by Subsection
9 (b).

10 (b) The commissioners court of a county having a population
11 of three million or more by official action may authorize a peace
12 officer or the collector for the county charged with selling
13 property under this subchapter by public auction to enter into an
14 agreement with a person who holds an auctioneer's license to
15 advertise the auction sale of the property and to conduct the
16 auction sale of the property. The agreement may provide for on-line
17 bidding and sale.

18 (c) The commissioners court of a county that authorizes a
19 peace officer or the collector for the county to enter into an
20 agreement under Subsection (b) may by official action authorize the
21 peace officer or collector to enter into an agreement with a service
22 provider to advertise the auction and to conduct the auction sale of
23 the property or to accept bids during the auction sale of the
24 property under Subsection (b) using the Internet.

25 (d) The terms of an agreement entered into under Subsection
26 (b) or (c) must be approved in writing by the collector for each
27 taxing unit entitled to receive proceeds from the sale of the

1 property. An agreement entered into under Subsection (b) or (c) is
2 presumed to be commercially reasonable, and the presumption may not
3 be rebutted by any person.

4 (e) Failure to send or receive a ~~the~~ notice required
5 ~~provided~~ by this section does not affect the validity of the sale
6 or title to the seized property.

7 (f) The proceeds of a sale of property under this section
8 shall be applied to:

9 (1) any compensation owed to or any expense advanced
10 by the licensed auctioneer under an agreement entered into under
11 Subsection (b) or a service provider under an agreement entered
12 into under Subsection (c);

13 (2) all usual costs, expenses, and fees of the seizure
14 and sale, payable to the peace officer conducting the sale;

15 (3) all additional expenses incurred in advertising
16 the sale or in removing, storing, preserving, or safeguarding the
17 seized property pending its sale;

18 (4) all usual court costs payable to the clerk of the
19 court that issued the tax warrant; and

20 (5) taxes, penalties, and interest included in the
21 application for warrant.

22 (g) The peace officer or licensed auctioneer conducting the
23 sale shall pay all proceeds from the sale to the collector
24 designated in the tax warrant for distribution as required by
25 Subsection (f).

26 (h) ~~(e)~~ After a seizure of personal property defined by
27 Sections 33.21(d)(2)-(5), the collector shall apply the seized

1 property toward the payment of the taxes, penalties, and interest
2 included in the application for warrant and all costs of the seizure
3 as required by Subsection (f).

4 SECTION 2. Sections 34.01(a) and (r), Tax Code, are amended
5 to read as follows:

6 (a) Real property [~~Property~~] seized or ordered sold
7 pursuant to foreclosure of a tax lien shall be sold by the officer
8 charged with selling the property, unless otherwise directed by the
9 taxing unit that requested the order of sale or by an authorized
10 agent or attorney for that unit. The sale shall be conducted in the
11 manner similar property is sold under execution except as otherwise
12 provided by this subtitle.

13 (r) Except as provided by this subsection, a [~~A~~] sale of
14 real property under this section must take place at the county
15 courthouse in the county in which the land is located. The
16 commissioners court of the county may designate an [~~the~~] area in the
17 county courthouse or another location in the county where sales
18 under this section must take place and shall record any designated
19 area or other location in the real property records of the county.
20 If the commissioners court designates an area in the courthouse or
21 another location in the county for sales, a sale must occur in that
22 area or at that location. If the commissioners court does not
23 designate an area in the courthouse or another location in the
24 county for sales, a sale must occur in the same area in the
25 courthouse that is designated by the commissioners court for the
26 sale of real property under Section 51.002, Property Code.

27 SECTION 3. This Act takes effect September 1, 2003, and

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1 applies only to the sale of tax foreclosed property pursuant to an
2 order of sale issued on or after the effective date of this Act.