

BILL ANALYSIS

S.B. No. 1056
By: Lucio
Business & Industry
Committee Report (Amended)

BACKGROUND AND PURPOSE

Senate Bill No. 1056 would amend Chapter 29, Property Code, pertaining to the forced sale of tax-delinquent properties.

These technical changes to Chapter 29 allow nonprofit organizations to clear title to idle property that is currently vacant, abandoned, and on which taxes are not being paid so that it can be used for affordable housing.

Senate Bill No. 1056 clarifies some vague language concerning the contacting of heirs, appraising land value, and setting time constraints for court processes. Senate Bill No. 1056 better defines procedures courts may use in proceeding with cases regarding these idle lands.

RULEMAKING AUTHORITY

It is the opinion of the Committee on Business and Industry that this bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Amends Chapter 29, Property Code, as follows:

CHAPTER 29. FORCED SALE OF OWNER'S INTEREST IN CERTAIN REAL PROPERTY AS REIMBURSEMENT FOR PROPERTY TAXES PAID BY CO-OWNER ON OWNER'S BEHALF

Sec. 29.001. APPLICATION OF CHAPTER. Provides that this chapter applies to real property that is not exempt from forced sale under the constitution or laws of this state and is owned in part by a nonprofit organization that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt organization under Section 501(c)(3), Internal Revenue Code of 1986, and its subsequent amendments, that has a corporate purpose to develop affordable housing that is stated in the nonprofit corporation's original or restated articles of incorporation or charter.

Sec. 29.002. PETITION FOR FORCED SALE. (a) Authorizes a nonprofit organization that owns an undivided interest in real property to which this chapter applies to file, in the district court in a county in which the property is located, a petition for a court order to require another owner of an undivided interest in that property to sell the other owner's interest in the property to the person if the person has paid the other owner's share of current or delinquent ad valorem taxes imposed on the property for any two years in a three-year period that may precede the date when the nonprofit corporation acquired an interest in the property.

(b) Requires the petition to contain, if known, the interest held by each owner of the property.

(c) Authorizes any defendant whose identity is unknown or whose identity is known but whose address is unknown to the petitioner to be served by publication in accordance with the Texas Rules of Civil Procedure, or by another method of publication or service authorized by the court, if requested.

Sec. 29.003. HEARING ON PETITION FOR FORCED SALE. Prohibits a hearing on a petition filed under Section 29.002 from being held earlier than the 60th day after the date a demand for payment is made by the petitioner or, if demand is made by publication, not earlier than the 60th day after the date of the last publication of notice. Makes conforming changes.

Sec. 29.0035. DEMAND TO UNKNOWN DEFENDANT. Requires the publication required under this section to contain the demand for reimbursement and the street address or a general description of the property involved, the legal description of the property, rather than the legal description of the property according to the survey of the property, including the number on the lot and block or any other plat description that may be of record if the property is located in a recorded subdivision, rather than municipality, and the interest of the defendant, if known.

Sec. 29.004. COURT-ORDERED SALE. (a) Requires the court, on completion of the hearing on a petition filed under Section 29.002 and if the court is satisfied that the petitioner has made the requisite proof under Section 29.003, to enter an order that awards title and possession of the defendant's interest in the real property that is the subject of the petition to the petitioner and orders the petitioner to pay to the defendant or, if the defendant is a defendant described by Section 29.002(c), into the registry of the court, an amount of money, if any, computed by subtracting the outstanding amount of money the defendant owes to the petitioner for payment of the defendant's share of ad valorem taxes, including penalties and interest, imposed on the property and all costs of court from the fair market value of the defendant's interest in the property as determined by the court, rather than an independent appraiser appointed by the court.

(b) Authorizes the court's order to also direct the defendant or any attorney ad litem appointed to represent any defendant whose identity or location is unknown to execute and deliver to the petitioner a deed that conveys to the petitioner the defendant's interest in the property.

(c) Provides that a deed conveying to the petitioner the defendant's interest in the property is not necessary to transfer title to the petitioner and that a transfer of title may be affected by the court's order entered under Subsection (a).

(d) Authorizes the court, in determining the fair market value of the defendant's interest in the property, to rely on the most recent appraised value of the property reflected in the rolls of the appraisal district in which the property is located and to appoint an independent appraiser to assist the court. Requires the court to consider any liens or other outstanding liabilities against the property, including any ad valorem taxes, penalties, or interest that remain unpaid as of the date of the hearing, in determining the fair market value of the defendant's interest in the property.

(e) Requires all costs of court, including any expense incurred in appointing an attorney ad litem or appraiser, to be taxed against the defendant.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.

EFFECTIVE DATE

September 1, 2005.

IMPACT OF COMMITTEE AMENDMENT

Committee Amendment No. 1 amends SECTION 1, 29.004 (e), page 6 line 16, by deleting the word "shall" and substituting "may." The effect of this change would be to grant discretion to the court to make the determination of whether the defendant should be responsible for court costs in a specific case, rather than always requiring the defendant to pay such costs.