

By: Elkins

H.B. No. 2924

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the seizure and sale of property pursuant to an ad
3 valorem tax warrant.

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

5 SECTION 1. Section 33.23(c), Tax Code, is amended to read as
6 follows:

7 (c) After a tax warrant is issued, the [~~collector or~~] peace
8 officer shall take possession of the property pending its sale. The
9 person against whom a tax warrant is issued or another person having
10 possession of property of the person against whom a tax warrant is
11 issued shall surrender the property on demand. Pending the sale of
12 the property, the [~~collector or~~] peace officer may secure the
13 property at the location where it is seized or may move the property
14 to another location.

15 SECTION 2. Section 33.25, Tax Code, is amended by amending
16 Subsections (a)-(d) and (f) and adding Subsection (i) to read as
17 follows:

18 (a) After a seizure of personal property, the collector
19 shall make a reasonable inquiry to determine the identity and to
20 ascertain the address of any person having an interest in the
21 property other than the person against whom the tax warrant is
22 issued. The collector shall provide in writing the name and address
23 of each other person the collector identifies as having an interest
24 in the property to the peace officer charged with executing the

1 warrant. The peace officer shall deliver as soon as possible a
2 written notice stating the time and place of the sale and briefly
3 describing the property seized to the person against whom the
4 warrant is issued and to any other person having an interest in the
5 property whose name and address the collector provided to the peace
6 officer. The posting of the notice and the sale of the property
7 shall be conducted:

8 (1) in a county other than a county to which
9 Subdivision (2) applies, by the peace officer in the manner
10 required for the sale under execution of personal property; or

11 (2) in a county having a population of three million or
12 more:

13 (A) by the peace officer [~~or collector, as~~
14 ~~specified in the warrant,~~] in the manner required for the sale under
15 execution of personal property; or

16 (B) under an agreement authorized by Subsection
17 (b).

18 (b) The commissioners court of a county having a population
19 of three million or more by official action may authorize a peace
20 officer [~~or the collector~~] for the county charged with selling
21 property under this subchapter by public auction to hold,
22 advertise, and conduct an on-line auction on the Internet, to enter
23 into an agreement with a person who holds an auctioneer's license to
24 advertise and conduct the auction sale of the property, or do both
25 [~~and to conduct the auction sale of the property~~]. An [~~The~~]
26 agreement may provide for on-line bidding and sale.

27 (c) The commissioners court of a county that authorizes a

1 peace officer [~~or the collector~~] for the county to conduct an
2 on-line auction on the Internet or to enter into an agreement under
3 Subsection (b) may by official action authorize the peace officer
4 [~~or collector~~] to enter into an agreement with a service provider to
5 advertise the auction and to conduct the auction sale of the
6 property or to accept bids during the auction sale of the property
7 under Subsection (b) using the Internet.

8 (d) [~~The terms of an agreement entered into under Subsection~~
9 ~~(b) or (c) must be approved in writing by the collector for each~~
10 ~~taxing unit entitled to receive proceeds from the sale of the~~
11 ~~property.~~] An agreement entered into under Subsection (b) or (c) is
12 presumed to be commercially reasonable, and the presumption may not
13 be rebutted by any person.

14 (f) The proceeds of a sale of property under this section
15 shall be applied in the order prescribed by this subsection to:

16 (1) all usual costs, expenses, and fees of the seizure
17 and sale, payable to the peace officer conducting the sale;

18 (2) any compensation owed to or any expense advanced
19 by the licensed auctioneer under an agreement entered into under
20 Subsection (b) or a service provider under an agreement entered
21 into under Subsection (c);

22 [~~(2) all usual costs, expenses, and fees of the~~
23 ~~seizure and sale, payable to the peace officer conducting the~~
24 ~~sale,~~]

25 (3) all additional expenses incurred in advertising
26 the sale or in removing, storing, preserving, or safeguarding the
27 seized property pending its sale;

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

3 (5) taxes, penalties, and interest included in the
4 application for warrant.

5 (i) To the extent of a conflict between this section and a
6 provision of the Texas Rules of Civil Procedure that relates to an
7 execution, this section prevails.

8 SECTION 3. The changes in law made by this Act apply only to
9 the seizure and sale of property pursuant to an ad valorem tax
10 warrant that is issued on or after the effective date of this Act.

11 SECTION 4. This Act takes effect September 1, 2005.