

By: Goodman

H.B. No. 3071

Substitute the following for H.B. No. 3071:

By: Elkins

C.S.H.B. No. 3071

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration and collection of ad valorem taxes;
3 making procedural and technical corrections and clarifications to
4 the Tax Code, Property Code, and Civil Practice and Remedies Code.

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

6 SECTION 1. Section 1.07(b), Tax Code, is amended to read as
7 follows:

8 (b) The official or agency shall address the notice to the
9 property owner, the person designated under Section 1.111(f) to
10 receive the notice for the property owner, if that section applies,
11 or, if appropriate, the property owner's agent at the agent's ~~[his]~~
12 address according to the most recent record in the possession of the
13 official or agency. However, if a property owner files a written
14 request with the appraisal district that notices be sent to a
15 particular address, the official or agency shall send the notice to
16 the address stated in the request.

17 SECTION 2. Section 1.11(b), Tax Code, is amended to read as
18 follows:

19 (b) To be effective, a [A] request made under ~~[pursuant to]~~
20 this section must be filed with the appraisal district. A request
21 remains in effect until revoked by a written revocation filed with
22 the appraisal district by the owner.

23 SECTION 3. Section 22.28, Tax Code, is amended by amending
24 Subsection (b) and adding Subsection (c) to read as follows:

1 (b) The chief appraiser shall certify to the assessor for
2 each taxing unit participating in the appraisal district that
3 imposes taxes on the property that the chief appraiser has imposed
4 ~~[may retain a portion of]~~ a penalty ~~[collected]~~ under this section
5 ~~[, not to exceed 20 percent of the amount of the penalty, to cover~~
6 ~~the chief appraiser's costs of collecting the penalty]~~. The
7 assessor ~~[chief appraiser]~~ shall add the amount of the penalty to
8 the original amount of tax imposed on the property and shall include
9 that amount in the tax bill for that year. The penalty becomes part
10 of the tax on the property and is secured by the tax lien that
11 attaches to the property under Section 32.01 ~~[distribute the~~
12 ~~remainder of the penalty to each taxing unit participating in the~~
13 ~~appraisal district that imposes taxes on the property in proportion~~
14 ~~to the taxing unit's share of the total amount of taxes imposed on~~
15 ~~the property by all taxing units participating in the district]~~.

16 (c) To help defray the costs of administering this chapter,
17 a collector who collects a penalty imposed under Subsection (a)
18 shall remit to the appraisal district that employs the chief
19 appraiser who imposed the penalty an amount equal to five percent of
20 the penalty amount collected.

21 SECTION 4. Section 25.25(d), Tax Code, is amended to read as
22 follows:

23 (d) At any time prior to the date the taxes become
24 delinquent, a property owner or the chief appraiser may file a
25 motion with the appraisal review board to change the appraisal roll
26 to correct an error that resulted in an incorrect appraised value
27 for the owner's property. However, the error may not be corrected

1 unless it resulted in an appraised value that exceeds by more than
2 one-third the correct appraised value. If the appraisal roll is
3 changed under this subsection, the property owner must pay to each
4 affected taxing unit a late-correction penalty equal to 10 percent
5 of the amount of taxes as calculated on the basis of the corrected
6 appraised value. Payment of the late-correction penalty is secured
7 by the lien that attaches to the property under Section 32.01 and is
8 subject to enforced collection under Chapter 33. The roll may not be
9 changed under this subsection if:

10 (1) the property was the subject of a protest brought
11 by the property owner under Chapter 41, a hearing on the protest was
12 conducted in which the property owner offered evidence or argument,
13 and the appraisal review board made a determination of the protest
14 on the merits; or

15 (2) the appraised value of the property was
16 established as a result of a written agreement between the property
17 owner or the owner's agent and the appraisal district.

18 SECTION 5. Section 26.11(c), Tax Code, is amended to read as
19 follows:

20 (c) If the amount of prorated taxes determined to be due as
21 provided by this section is tendered to the collector for the unit,
22 the collector [~~he~~] shall accept the tender. The payment absolves:

23 (1) the transferor of liability for taxes by the unit
24 on the property for the year of the transfer; and

25 (2) the taxing unit of liability for a refund in
26 connection with taxes on the property for the year of the transfer.

27 SECTION 6. Section 31.073, Tax Code, is amended to read as

1 follows:

2 Sec. 31.073. RESTRICTED OR CONDITIONAL PAYMENTS
3 PROHIBITED. A restriction or condition placed on a check in payment
4 of taxes, penalties, or interest by the maker that limits the amount
5 of taxes, penalties, or interest owed to an amount less than that
6 stated in the tax bill or shown by the tax collector's records is
7 void unless the restriction or condition is authorized by this
8 code.

9 SECTION 7. Section 31.08(a), Tax Code, is amended to read as
10 follows:

11 (a) At the request of any person, a collector for a taxing
12 unit shall issue a certificate showing the amount of delinquent
13 taxes, penalties, ~~and~~ interest, and any known costs and expenses
14 under Section 33.48 due the unit on a property according to the
15 unit's current tax records. If the collector collects taxes for
16 more than one taxing unit, the certificate must show the amount of
17 delinquent taxes, penalties, ~~and~~ interest, and any known costs
18 and expenses under Section 33.48 due on the property to each taxing
19 unit for which the collector collects the taxes. The collector
20 shall charge a fee not to exceed \$10 for each certificate issued.
21 The collector shall pay all fees collected under this section into
22 the treasury of the taxing unit that employs the collector ~~him~~.

23 SECTION 8. Section 32.05, Tax Code, is amended by amending
24 Subsections (b) and (c) and adding Subsections (b-1), (d), and (e)
25 to read as follows:

26 (b) Except as provided by Subsection (c)(1) ~~(c) of this~~
27 ~~section~~, a tax lien provided by this chapter takes priority over:

1 (1) the claim of any creditor of a person whose
2 property is encumbered by the lien;

3 (2) ~~[and over]~~ the claim of any holder of a lien on
4 property encumbered by the tax lien, including any lien held by a
5 property owners' association, homeowners' association, condominium
6 unit owners' association, or council of owners of a condominium
7 regime under a restrictive covenant, condominium declaration,
8 master deed, or other similar instrument that secures regular or
9 special maintenance assessments, fees, dues, interest, fines,
10 costs, attorney's fees, or other monetary charges against the
11 property; and

12 (3) any right of remainder, right or possibility of
13 reverter, or other future interest in, or encumbrance against, the
14 property, whether vested or contingent ~~[not the debt or lien~~
15 ~~existed before attachment of the tax lien]~~.

16 (b-1) The priority given to a tax lien by Subsection (b)
17 prevails, regardless of whether the debt, lien, future interest, or
18 other encumbrance existed before attachment of the tax lien.

19 (c) A tax lien provided by this chapter is inferior to [~~a~~
20 ~~claim~~]:

21 (1) a claim for any survivor's allowance, funeral
22 expenses, or expenses of the last illness of a decedent made against
23 the estate of a decedent as provided by law;

24 (2) except as provided by Subsection (b)(2), ~~[under]~~ a
25 recorded restrictive covenant that runs ~~[running]~~ with the land
26 and was ~~[, other than a restrictive covenant in favor of a property~~
27 ~~owners' association or homeowners' association]~~ recorded before

1 January 1 of the year the tax lien arose; or

2 (3) [~~under~~] a valid easement of record recorded before
3 January 1 of the year the tax lien arose.

4 (d) In an action brought under Chapter 33 for the enforced
5 collection of a delinquent tax against property, a property owners'
6 association, homeowners' association, condominium unit owners'
7 association, or council of owners of a condominium regime that
8 holds a lien for regular or special maintenance assessments, fees,
9 dues, interest, fines, costs, attorney's fees, or other monetary
10 charges against the property is not a necessary party to the action
11 unless, at the time the action is commenced, notice of the lien in a
12 liquidated amount is evidenced by a sworn instrument duly executed
13 by an authorized person and recorded with the clerk of the county in
14 which the property is located. A tax sale of the property
15 extinguishes the lien held by a property owners' association,
16 homeowners' association, condominium unit owners' association, or
17 council of owners of a condominium regime for all amounts that
18 accrued before the date of sale if:

19 (1) the holder of the lien is joined as a party to an
20 action brought under Chapter 33 by virtue of a notice of the lien on
21 record at the time the action is commenced; or

22 (2) the notice of lien is not on record at the time the
23 action is commenced, regardless of whether the holder of the lien is
24 made a party to the action.

25 (e) The existence of a recorded restrictive covenant,
26 declaration, or master deed that generally provides for the lien
27 held by a property owners' association, homeowners' association,

1 condominium unit owners' association, or council of owners of a
2 condominium regime does not, by itself, constitute actual or
3 constructive notice to a taxing unit of a lien under Subsection (d).

4 SECTION 9. Sections 33.011(a) and (d), Tax Code, are
5 amended to read as follows:

6 (a) The governing body of a taxing unit:

7 (1) shall waive penalties and may provide for the
8 waiver of interest on a delinquent tax if an act or omission of an
9 officer, employee, or agent of the taxing unit or the appraisal
10 district in which the taxing unit participates caused or resulted
11 in the taxpayer's failure to pay the tax before delinquency and if
12 the tax is paid not later than the 21st day after the date the
13 taxpayer knows or should know of the delinquency; and

14 (2) may waive penalties and provide for the waiver of
15 interest on a delinquent tax if:

16 (A) the property for which the tax is owed is
17 acquired by a religious organization; and

18 (B) [~~that qualifies the property for exemption~~
19 ~~under Section 11.20~~] before the first anniversary of the date the
20 religious organization acquires the property, the organization
21 pays the tax and qualifies the property for an exemption under
22 Section 11.20 as evidenced by the approval of the exemption by the
23 chief appraiser under Section 11.45.

24 (d) A request for a waiver of penalties and interest under
25 Subsection (a)(1), (b), or (h) [~~this section~~] must be made before
26 the 181st day after the delinquency date. A request for a waiver of
27 penalties and interest under Subsection (a)(2) must be made before

1 the first anniversary of the date the religious organization
2 acquires the property. To be valid, a waiver of penalties or
3 interest under this section must be requested in writing. If a
4 written request for a waiver is not timely made, the governing body
5 of a taxing unit may not waive any penalties or interest under this
6 section.

7 SECTION 10. Section 33.02(a), Tax Code, is amended to read
8 as follows:

9 (a) The collector for a taxing unit [~~that collects its own~~
10 ~~taxes~~] may enter an agreement with a person delinquent in the
11 payment of the tax for payment of the tax, penalties, and interest
12 in installments. The agreement must be in writing and may not
13 extend for a period of more than 36 months.

14 SECTION 11. Section 33.22, Tax Code, is amended by adding
15 Subsections (d) and (e) to read as follows:

16 (d) A collector is entitled to recover attorney's fees in an
17 amount equal to the compensation specified in the contract with the
18 attorney if:

19 (1) recovery of the attorney's fees is requested in the
20 application for the tax warrant;

21 (2) the taxing unit served by the collector contracts
22 with an attorney under Section 6.30;

23 (3) the existence of the contract and the amount of
24 attorney's fees that equals the compensation specified in the
25 contract are supported by the affidavit of the collector; and

26 (4) the tax sought to be recovered is not subject to
27 the additional penalty under Section 33.07 or 33.08 at the time the

1 application is filed.

2 (e) If a taxing unit is represented by an attorney who is
3 also an officer or employee of the taxing unit, the collector for
4 the taxing unit is entitled to recover attorney's fees in an amount
5 equal to 15 percent of the total amount of delinquent taxes,
6 penalties, and interest that the property owner owes the taxing
7 unit.

8 SECTION 12. Section 33.23(a), Tax Code, is amended to read
9 as follows:

10 (a) A tax warrant shall direct a peace officer in the county
11 and the collector to seize as much of the person's personal property
12 as may be reasonably necessary for the payment of all taxes,
13 penalties, ~~and~~ interest, and attorney's fees included in the
14 application and all costs of seizure and sale. The warrant shall
15 direct the person whose property is seized to disclose to the
16 officer executing the warrant the name and the address if known of
17 any other person having an interest in the property.

18 SECTION 13. Section 33.25, Tax Code, is amended by amending
19 Subsections (f) and (h) and adding Subsection (i) to read as
20 follows:

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

23 (1) any compensation owed to or any expense advanced
24 by the licensed auctioneer under an agreement entered into under
25 Subsection (b) or a service provider under an agreement entered
26 into under Subsection (c);

27 (2) all usual costs, expenses, and fees of the seizure

1 and sale, payable to the peace officer conducting the sale;

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

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

7 (5) taxes, penalties, ~~and~~ interest, and attorney's
8 fees included in the application for warrant.

9 (h) After a seizure of personal property defined by Sections
10 33.21(d)(2)-(5), the collector shall apply the seized property
11 toward the payment of the taxes, penalties, ~~and~~ interest, and
12 attorney's fees included in the application for warrant and all
13 costs of the seizure as required by Subsection (f).

14 (i) After a tax warrant is issued, the seizure or sale of the
15 property may be canceled and terminated at any time by the applicant
16 or an authorized agent or attorney of the applicant.

17 SECTION 14. Section 33.48, Tax Code, is amended by adding
18 Subsection (d) to read as follows:

19 (d) A collector who accepts a payment of the court costs and
20 other expenses described by this section shall disburse the amount
21 of the payment as follows:

22 (1) amounts owing under Subsections (a)(1), (2), (3),
23 and (6) are payable to the clerk of the court in which the suit is
24 pending; and

25 (2) expenses described by Subsection (a)(4) are
26 payable to the general fund of the taxing unit or to the person or
27 entity who advanced the expense.

1 SECTION 15. Section 33.51, Tax Code, is amended to read as
2 follows:

3 Sec. 33.51. WRIT OF POSSESSION. (a) If the court orders
4 the foreclosure of a tax lien and the sale of real property, the
5 judgment shall provide for the issuance by the clerk of said court
6 of a writ of possession to the purchaser at the sale or to the
7 purchaser's assigns no sooner than 20 days following the date on
8 which the purchaser's deed from the sheriff or constable is filed of
9 record.

10 (b) The officer charged with executing the writ shall place
11 the purchaser or the purchaser's assigns in possession of the
12 property described in the purchaser's deed without further order
13 from any court and in the manner provided by the writ, subject to
14 any notice to vacate that may be required to be given to a tenant
15 under Section 24.005(b), Property Code.

16 (c) The writ of possession shall order the officer executing
17 the writ to:

18 (1) post a written warning that is at least 8-1/2 by 11
19 inches on the exterior of the front door of the premises notifying
20 the occupant that the writ has been issued and that the writ will be
21 executed on or after a specific date and time stated in the warning
22 that is not sooner than the 10th day after the date the warning is
23 posted; and

24 (2) on execution of the writ:

25 (A) deliver possession of the premises to the
26 purchaser or the purchaser's assigns;

27 (B) instruct the occupants to immediately leave

1 the premises and, if the occupants fail or refuse to comply,
2 physically remove them from the premises;

3 (C) instruct the occupants to remove, or to allow
4 the purchaser or purchaser's assigns, representatives, or other
5 persons acting under the officer's supervision to remove, all
6 personal property from the premises; and

7 (D) place, or have an authorized person place,
8 the removed personal property outside the premises at a nearby
9 location, but not so as to block a public sidewalk, passageway, or
10 street and not while it is raining, sleeting, or snowing.

11 (d) The writ of possession shall authorize the officer, at
12 the officer's discretion, to engage the services of a bonded or
13 insured warehouseman to remove and store, subject to applicable
14 law, all or part of the personal property at no cost to the
15 purchaser, the purchaser's assigns, or the officer executing the
16 writ. The officer may not require the purchaser or the purchaser's
17 assigns to store the personal property.

18 (e) The writ of possession shall contain notice to the
19 officer that under Section 7.003, Civil Practice and Remedies Code,
20 the officer is not liable for damages resulting from the execution
21 of the writ if the officer executes the writ in good faith and with
22 reasonable diligence.

23 (f) The warehouseman's lien on stored property, the
24 officer's duties, and the occupants' rights of redemption as
25 provided by Section 24.0062, Property Code, are all applicable with
26 respect to any personal property that is removed under Subsection
27 (d).

1 (g) A sheriff or constable may use reasonable force in
2 executing a writ under this section.

3 (h) If a taxing unit is a purchaser and is entitled to a writ
4 of possession in the taxing unit's name:

5 (1) a bond may not be required of the taxing unit for
6 issuance or delivery of a writ of possession; and

7 (2) a fee or court cost may not be charged for issuance
8 or delivery of a writ of possession.

9 (i) In this section:

10 (1) "Premises" means all of the property described in
11 the purchaser's deed, including the buildings, dwellings, or other
12 structures located on the property.

13 (2) "Purchaser" includes a taxing unit to which
14 property is bid off under Section 34.01(j).

15 SECTION 16. Subchapter C, Chapter 33, Tax Code, is amended
16 by adding Section 33.57 to read as follows:

17 Sec. 33.57. ALTERNATIVE NOTICE OF TAX FORECLOSURE ON
18 CERTAIN PARCELS OF REAL PROPERTY. (a) In this section, "appraised
19 value" means the appraised value according to the most recent
20 appraisal roll approved by the appraisal review board.

21 (b) This section may be invoked and used by one or more
22 taxing units if there are delinquent taxes, penalties, interest,
23 and attorney's fees owing to a taxing unit on a parcel of real
24 property and:

25 (1) the total amount of delinquent taxes, penalties,
26 interest, and attorney's fees owed exceeds the appraised value of
27 the parcel; or

1 (2) there are 10 or more years for which delinquent
2 taxes are owed on the parcel.

3 (c) One or more taxing units may file a single petition for
4 foreclosure under this section that includes multiple parcels of
5 property and multiple owners. Alternatively, separate petitions
6 may be filed and docketed separately for each parcel of property.
7 Another taxing unit with a tax claim against the same parcel may
8 intervene in an action for the purpose of establishing and
9 foreclosing its tax lien without further notice to a defendant. The
10 petition must be filed in the county in which the tax was imposed
11 and is sufficient if it is in substantially the form prescribed by
12 Section 33.43 and further alleges that:

13 (1) the amount owed in delinquent taxes, penalties,
14 interest, and attorney's fees exceeds the appraised value of the
15 parcel; or

16 (2) there are 10 or more years for which delinquent
17 taxes are owed on the parcel.

18 (d) Simultaneously with the filing of the petition under
19 this section, a taxing unit shall also file a motion with the court
20 seeking an order approving notice of the petition to each defendant
21 by certified mail in lieu of citation and, if the amount of
22 delinquent taxes, penalties, interest, and attorney's fees alleged
23 to be owed exceeds the appraised value of the parcel, waiving the
24 appointment of an attorney ad litem. The motion must be supported
25 by certified copies of tax records that show the tax years for which
26 delinquent taxes are owed, the amounts of delinquent taxes,
27 penalties, interest, and attorney's fees, and, if appropriate, the

1 appraised value of the parcel.

2 (e) The court shall approve a motion under Subsection (d) if
3 the documents in support of the motion show that:

4 (1) the amount of delinquent taxes, penalties,
5 interest, and attorney's fees that are owed exceeds the appraised
6 value of the parcel; or

7 (2) there are 10 or more years for which delinquent
8 taxes are owed on the parcel.

9 (f) Before filing a petition under this section, or as soon
10 afterwards as practicable, the taxing unit or its attorney shall
11 determine the address of each owner of a property interest in the
12 parcel for the purpose of providing notice of the pending petition.
13 If the title search, the taxing unit's tax records, and the
14 appraisal district records do not disclose an address of a person
15 with a property interest, consulting the following sources of
16 information is to be considered a reasonable effort by the taxing
17 unit or its attorney to determine the address of a person with a
18 property interest in the parcel subject to foreclosure:

19 (1) telephone directories, electronic or otherwise,
20 that cover:

21 (A) the area of any last known address for the
22 person; and

23 (B) the county in which the parcel is located;

24 (2) voter registration records in the county in which
25 the parcel is located; and

26 (3) where applicable, assumed name records maintained
27 by the county clerk of the county in which the parcel is located and

1 corporate records maintained by the secretary of state.

2 (g) Not later than the 45th day before the date on which a
3 hearing on the merits on a taxing unit's petition is scheduled, the
4 taxing unit or its attorney shall send a copy of the petition and a
5 notice by certified mail to each person whose address is determined
6 under Subsection (f), informing the person of the pending
7 foreclosure action and the scheduled hearing. A copy of each notice
8 shall be filed with the clerk of the court together with an
9 affidavit by the tax collector or by the taxing unit's attorney
10 attesting to the fact and date of mailing of the notice.

11 (h) In addition to the notice required by Subsection (g),
12 the taxing unit shall provide notice by publication and by posting
13 to all persons with a property interest in the parcel subject to
14 foreclosure. The notice shall be published in the English language
15 once a week for two weeks in a newspaper that is published in the
16 county in which the parcel is located and that has been in general
17 circulation for at least one year immediately before the date of the
18 first publication, with the first publication to be not less than
19 the 45th day before the date on which the taxing unit's petition is
20 scheduled to be heard. When returned and filed in the trial court,
21 an affidavit of the editor or publisher of the newspaper attesting
22 to the date of publication, together with a printed copy of the
23 notice as published, is sufficient proof of publication under this
24 subsection. If a newspaper is not published in the county in which
25 the parcel is located, publication in an otherwise qualifying
26 newspaper published in an adjoining county is sufficient. The
27 maximum fee for publishing the citation shall be the lowest

1 published word or line rate of that newspaper for classified
2 advertising. The notice by posting shall be in the English language
3 and given by posting a copy of the notice at the courthouse door of
4 the county in which the foreclosure is pending not less than the
5 45th day before the date on which the taxing unit's petition is
6 scheduled to be heard. Proof of the posting of the notice shall be
7 made by affidavit of the attorney for the taxing unit, or of the
8 person posting it. If the publication of the notice cannot be had
9 for the maximum fee established in this subsection, and that fact is
10 supported by the affidavit of the attorney for the taxing unit, the
11 notice by posting under this subsection is sufficient.

12 (i) The notice required by Subsections (g) and (h) must
13 include:

14 (1) a statement that foreclosure proceedings have been
15 commenced and the date the petition was filed;

16 (2) a legal description, tax account number, and, if
17 known, a street address for the parcel in which the addressee owns a
18 property interest;

19 (3) the name of the person to whom the notice is
20 addressed and the name of each other person who, according to the
21 title search, has an interest in the parcel in which the addressee
22 owns a property interest;

23 (4) the date, time, and place of the scheduled hearing
24 on the petition;

25 (5) a statement that the recipient of the notice may
26 lose whatever property interest the recipient owns in the parcel as
27 a result of the hearing and any subsequent tax sale;

1 (6) a statement explaining how a person may contest
2 the taxing unit's petition as provided by Subsection (j) and that a
3 person's interest in the parcel may be preserved by paying all
4 delinquent taxes, penalties, interest, attorney's fees, and court
5 costs before the date of the scheduled hearing on the petition;

6 (7) the name, address, and telephone number of the
7 taxing unit and the taxing unit's attorney of record; and

8 (8) the name of each other taxing unit that imposes
9 taxes on the parcel, together with a notice that any taxing unit may
10 intervene without further notice and set up its claims for
11 delinquent taxes.

12 (j) A person claiming a property interest in a parcel
13 subject to foreclosure may contest a taxing unit's petition by
14 filing with the clerk of the court a written response to the
15 petition not later than the seventh day before the date scheduled
16 for hearing on the petition and specifying in the response any
17 affirmative defense of the person. A copy of the response must be
18 served on the taxing unit's attorney of record in the manner
19 required by Rule 21a, Texas Rules of Civil Procedure. The taxing
20 unit is entitled on request to a continuance of the hearing if a
21 written response filed to a notice of the hearing contains an
22 affirmative defense or requests affirmative relief against the
23 taxing unit.

24 (k) Before entry of a judgment under this section, a taxing
25 unit may remove a parcel erroneously included in the petition and
26 may take a voluntary nonsuit as to one or more parcels of property
27 without prejudicing its action against the remaining parcels.

1 (1) If before the hearing on a taxing unit's petition the
2 taxing unit discovers a deficiency in the provision of notice under
3 this section, the taxing unit shall take reasonable steps in good
4 faith to correct the deficiency before the hearing. A notice
5 provided by Subsections (g)-(i) is in lieu of citation issued and
6 served under Rule 117a, Texas Rules of Civil Procedure. Regardless
7 of the manner in which notice under this section is given, an
8 attorney ad litem may not be appointed for a person with an interest
9 in a parcel with delinquent taxes, penalties, interest, and
10 attorney's fees against the parcel in an amount that exceeds the
11 parcel's appraised value. To the extent of any additional conflict
12 between this section and the Texas Rules of Civil Procedure, this
13 section controls. Except as otherwise provided by this section, a
14 suit brought under this section is governed generally by the Texas
15 Rules of Civil Procedure and by Subchapters C and D of this chapter.

16 (m) A judgment in favor of a taxing unit under this section
17 must be only for foreclosure of the tax lien against the parcel.
18 The judgment may not include a personal judgment against any
19 person.

20 (n) A person is considered to have been provided sufficient
21 notice of foreclosure and opportunity to be heard for purposes of a
22 proceeding under this section if the taxing unit follows the
23 procedures required by this section for notice by certified mail or
24 by publication and posting or if one or more of the following apply:

25 (1) the person had constructive notice of the hearing
26 on the merits by acquiring an interest in the parcel after the date
27 of the filing of the taxing unit's petition;

1 (2) the person appeared at the hearing on the taxing
2 unit's petition or filed a responsive pleading or other
3 communication with the clerk of the court before the date of the
4 hearing; or

5 (3) before the hearing on the taxing unit's petition,
6 the person had actual notice of the hearing.

7 SECTION 17. Section 12.002(e), Property Code, is amended to
8 read as follows:

9 (e) A person may not file for record or have recorded in the
10 county clerk's office a plat or replat of a subdivision of real
11 property unless the plat or replat has attached to it an original
12 tax certificate from each taxing unit with jurisdiction of the real
13 property indicating that no delinquent ad valorem taxes are owed on
14 the real property. This subsection does not apply if:

15 (1) more than one person acquired the real property
16 from a decedent under a will or by inheritance and those persons
17 owning an undivided interest in the property obtained approval to
18 subdivide the property to provide each person with a divided
19 interest and a separate title to the property; or

20 (2) a taxing unit acquired the real property for
21 public use through eminent domain proceedings or voluntary sale.

22 SECTION 18. Subchapter B, Chapter 21, Property Code, is
23 amended by adding Section 21.0211 to read as follows:

24 Sec. 21.0211. PAYMENT OF AD VALOREM TAXES. (a) A court may
25 not authorize withdrawal of any money deposited under Section
26 21.021 unless the petitioner for the money files with the court:

27 (1) a tax certificate issued under Section 31.08, Tax

1 Code, by the tax collector for each taxing unit that imposes ad
2 valorem taxes on the condemned property showing that there are no
3 delinquent taxes, penalties, interest, or costs owing on the
4 condemned property or on any larger tract of which the condemned
5 property forms a part; and

6 (2) in the case of a whole taking that occurs after the
7 date the ad valorem tax bill for taxes imposed by a taxing unit on
8 the property is sent, a tax receipt issued under Section 31.075, Tax
9 Code, by the tax collector of the taxing unit that imposes ad
10 valorem taxes showing that the taxes on the condemned property for
11 the current tax year, prorated under Section 26.11, Tax Code, have
12 been paid.

13 (b) For purposes of Subsection (a)(2), a "case of a whole
14 taking" means a case in which the location, size, and boundaries of
15 the property assessed for ad valorem taxes are identical to that of
16 the condemned property.

17 SECTION 19. Section 17.091(a), Civil Practice and Remedies
18 Code, is amended to read as follows:

19 (a) In a suit to collect delinquent property taxes by the
20 state or a subdivision of the state in which a person who is a
21 defendant is a nonresident, the secretary of state is an agent for
22 service of process on that defendant if the defendant owns, has, or
23 claims an interest in or a lien against property in this state that
24 is the subject of the suit.

25 SECTION 20. Section 31.073, Tax Code, as amended by this
26 Act, applies only to payments of taxes, penalties, or interest that
27 are made on or after the effective date of this Act.

1 SECTION 21. Section 32.05, Tax Code, as amended by this Act,
2 applies to any lien, regardless of the date on which it arose, and
3 to any cause of action pending on the effective date of this Act or
4 brought after that date.

5 SECTION 22. Section 33.011, Tax Code, as amended by this
6 Act, applies only to a request for a waiver of penalty or interest
7 made on or after the effective date of this Act. A request for a
8 waiver made before the effective date of this Act is governed by the
9 law as it existed immediately before the effective date of this Act,
10 and the former law is continued in effect for that purpose.

11 SECTION 23. Section 33.02, Tax Code, as amended by this Act,
12 applies to an installment agreement entered before, on, or after
13 the effective date of this Act.

14 SECTION 24. Section 33.22, Tax Code, as amended by this Act,
15 applies only to a tax warrant proceeding pending on the effective
16 date of this Act or brought after that date.

17 SECTION 25. Section 33.23, Tax Code, as amended by this Act,
18 applies only to a tax warrant issued on or after the effective date
19 of this Act. A tax warrant issued before the effective date of this
20 Act is governed by the law as it existed immediately before the
21 effective date of this Act, and the former law is continued in
22 effect for that purpose.

23 SECTION 26. Section 33.25, Tax Code, as amended by this Act,
24 applies only to a tax warrant proceeding in which the application
25 for tax warrant was filed on or after the effective date of this
26 Act. A tax warrant proceeding commenced by application before the
27 effective date of this Act is governed by the law as it existed

1 immediately before the effective date of this Act, and the former
2 law is continued in effect for that purpose.

3 SECTION 27. Section 33.48, Tax Code, as amended by this Act,
4 applies only to a cause of action pending on the effective date of
5 this Act or brought after that date.

6 SECTION 28. Section 33.51, Tax Code, as amended by this Act,
7 applies to a writ of possession that is based on a judgment entered
8 before, on, or after the effective date of this Act.

9 SECTION 29. Section 33.57, Tax Code, as added by this Act,
10 applies only to a cause of action pending on the effective date of
11 this Act or brought after the effective date of this Act.

12 SECTION 30. Section 12.002(e), Property Code, as amended by
13 this Act, applies only to a plat or replat of a subdivision that is
14 filed for recordation on or after the effective date of this Act. A
15 plat or replat of a subdivision that was filed for recordation
16 before the effective date of this Act is governed by the law in
17 effect immediately before the effective date of this Act, and the
18 former law is continued in effect for that purpose.

19 SECTION 31. Section 21.0211, Property Code, as added by
20 this Act, applies only to an eminent domain proceeding that is
21 commenced on or after the effective date of this Act. An eminent
22 domain proceeding commenced before the effective date of this Act
23 is governed by the law as it existed immediately before the
24 effective date of this Act, and the former law is continued in
25 effect for that purpose.

26 SECTION 32. Section 17.091, Civil Practice and Remedies
27 Code, as amended by this Act, applies only to a cause of action

1 pending on the effective date of this Act or brought after the
2 effective date of this Act.

3 SECTION 33. This Act takes effect September 1, 2005.