

By: Goodman

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, Business & Commerce Code, and Civil
5 Practice and Remedies Code, and to the repeal of a Transportation
6 Code provision.

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

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

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

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

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

1 SECTION 3. Section 22.28(b), Tax Code, is amended to read as
2 follows:

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

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

20 (d) At any time prior to the date the taxes become
21 delinquent, a property owner or the chief appraiser may file a
22 motion with the appraisal review board to change the appraisal roll
23 to correct an error that resulted in an incorrect appraised value
24 for the owner's property. However, the error may not be corrected
25 unless it resulted in an appraised value that exceeds by more than
26 one-third the correct appraised value. If the appraisal roll is
27 changed under this subsection, the property owner must pay to each

1 affected taxing unit a late-correction penalty equal to 10 percent
2 of the amount of taxes as calculated on the basis of the corrected
3 appraised value. Payment of the late-correction penalty is secured
4 by the lien that attaches to the property under Section 32.01 and is
5 subject to enforced collection under Chapter 33. The roll may not be
6 changed under this subsection if:

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

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

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

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

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

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

24 SECTION 6. Section 31.073, Tax Code, is amended to read as
25 follows:

26 Sec. 31.073. RESTRICTED OR CONDITIONAL PAYMENTS
27 PROHIBITED. A restriction or condition placed on a check in payment

1 of taxes, penalties, or interest by the maker that limits the amount
2 of taxes, penalties, or interest owed to an amount less than that
3 stated in the tax bill or shown by the tax collector's records is
4 void unless the restriction or condition is authorized by this
5 code.

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

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

20 SECTION 8. Chapter 32, Tax Code, is amended by adding
21 Section 32.011 to read as follows:

22 Sec. 32.011. PERFECTION OF PERSONAL PROPERTY TAX LIEN
23 AGAINST OTHER PROPERTY. (a) At any time after taxes imposed on
24 personal property become delinquent, the appropriate collector may
25 file a notice of lien with the county clerk of one or more counties
26 in this state.

27 (b) A notice of lien must:

1 (1) contain the name and address of the person liable
2 for payment of the delinquent taxes, according to the most recent
3 records of the collector;

4 (2) provide a general description of the personal
5 property as it is listed on the tax roll, accompanied by any account
6 number that identifies the property;

7 (3) list each tax year for which the taxes are
8 delinquent and the amount of tax for each year, plus the rate of
9 each penalty or interest that has accrued against the delinquent
10 taxes; and

11 (4) state the name and address of the collector and the
12 name of each taxing unit for which the collector collects taxes.

13 (c) The filing, recording, and indexing of a notice under
14 Subsection (a) constitutes and perfects a lien against any real
15 property that is located in the county in which the notice is filed
16 and that is owned or subsequently acquired by the person who is
17 shown in the notice to be liable for payment of the delinquent taxes
18 on the personal property. The lien secures payment of the taxes,
19 penalties, and interest, together with any attorney's fees and
20 costs of suit that may be owed.

21 (d) Multiple perfections of more than one lien may be
22 combined in a single notice that relates to more than one person who
23 is liable for delinquent taxes imposed on personal property.

24 (e) A lien perfected under this section continues to exist
25 until the earlier of:

26 (1) the date the delinquent taxes are paid; or

27 (2) the 10th anniversary of the date the taxes became

1 delinquent.

2 (f) If the taxes secured by a lien perfected under this
3 section have been paid, the collector shall provide a sworn written
4 release of lien on the request of any person. The release may be
5 filed of record with the county clerk of any county in which the
6 notice of lien is filed. The collector and any taxing unit for
7 which the collector collects taxes are not liable for any costs or
8 fees associated with the filing of a release of lien.

9 SECTION 9. Section 32.05, Tax Code, is amended by amending
10 Subsections (b) and (c) and adding Subsections (b-1), (d), and (e)
11 to read as follows:

12 (b) Except as provided by Subsection (c)(1) [~~(c) of this~~
13 ~~section~~], a tax lien provided by this chapter takes priority over:

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

16 (2) [~~and over~~] the claim of any holder of a lien on
17 property encumbered by the tax lien, including any lien held by a
18 property owners' association, homeowners' association, condominium
19 unit owners' association, or council of owners of a condominium
20 regime under a restrictive covenant, condominium declaration,
21 master deed, or other similar instrument that secures regular or
22 special maintenance assessments, fees, dues, interest, fines,
23 costs, attorney's fees, or other monetary charges against the
24 property; and

25 (3) any right of remainder, right or possibility of
26 reverter, or other future interest in, or encumbrance against, the
27 property, whether vested or contingent [~~not the debt or lien~~

1 ~~existed before attachment of the tax lien].~~

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

5 (c) A tax lien provided by this chapter is inferior to: [~~a~~
6 ~~claim.~~]

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

10 (2) except as provided by Subsection (b)(2), [~~under~~] a
11 recorded restrictive covenant that runs [~~running~~] with the land
12 and was [~~, other than a restrictive covenant in favor of a property~~
13 ~~owners' association or homeowners' association]~~ recorded before
14 January 1 of the year the tax lien arose; or

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

17 (d) In an action brought under Chapter 33 for the enforced
18 collection of a delinquent tax against property, a property owners'
19 association, homeowners' association, condominium unit owners'
20 association, or council of owners of a condominium regime that
21 holds a lien for regular or special maintenance assessments, fees,
22 dues, interest, fines, costs, attorney's fees, or other monetary
23 charges against the property is not a necessary party to the action
24 unless, at the time the action is commenced, notice of the lien in a
25 liquidated amount is evidenced by a sworn instrument duly executed
26 by an authorized person and recorded with the clerk of the county in
27 which the property is located. A tax sale of the property

1 extinguishes the lien held by a property owners' association,
2 homeowners' association, condominium unit owners' association, or
3 council of owners of a condominium regime if:

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

7 (2) the notice of lien is not of record at the time the
8 action is commenced, regardless of whether the holder of the lien is
9 made a party to the action.

10 (e) The existence of a recorded restrictive covenant,
11 declaration, or master deed that generally provides for the lien
12 held by a property owners' association, homeowners' association,
13 condominium unit owners' association, or council of owners of a
14 condominium regime does not, by itself, constitute actual or
15 constructive notice to a taxing unit of a lien under Subsection (d).

16 SECTION 10. Sections 33.011(a), (b), and (d), Tax Code, are
17 amended to read as follows:

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

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

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

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

3 (B) [~~that qualifies the property for exemption~~
4 ~~under Section 11.20~~] before the first anniversary of the date the
5 religious organization acquires the property, the organization
6 pays the tax and qualifies the property for an exemption under
7 Section 11.20 as evidenced by the approval of the exemption by the
8 chief appraiser under Section 11.45.

9 (b) If a tax bill is returned undelivered to the taxing unit
10 by the United States Postal Service, the governing body of the
11 taxing unit shall waive penalties and interest if:

12 (1) the taxing unit does not send another tax bill on
13 the property in question at least 21 days before the delinquency
14 date to the current mailing address furnished by the property owner
15 and the property owner establishes that a current mailing address
16 was furnished to the appraisal district by the property owner for
17 the tax bill before June [~~September~~] 1 of the year in which the tax
18 is assessed; or

19 (2) the tax bill was returned because of an act or
20 omission of an officer, employee, or agent of the taxing unit or the
21 appraisal district in which the taxing unit participates and the
22 taxing unit or appraisal district did not send another tax bill on
23 the property in question at least 21 days before the delinquency
24 date to the proper mailing address.

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

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

7 SECTION 11. 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 12. Subchapter A, Chapter 33, Tax Code, is amended
15 by adding Section 33.11 to read as follows:

16 Sec. 33.11. EARLY ADDITIONAL PENALTY FOR COLLECTION COSTS
17 FOR TAXES IMPOSED ON PERSONAL PROPERTY. (a) In addition to the
18 authority granted by Section 33.07, in order to defray costs of
19 collection, the governing body of a taxing unit or appraisal
20 district in the manner required by law for official action may
21 provide that taxes imposed on tangible personal property that
22 become delinquent on or after February 1 of a year incur an
23 additional penalty on a date that occurs before July 1 of the year
24 in which the taxes become delinquent if:

25 (1) the taxing unit or appraisal district or another
26 unit that collects taxes for the unit has contracted with an
27 attorney under Section 6.30; and

1 (2) the taxes on the personal property become subject
2 to the attorney's contract before July 1 of the year in which the
3 taxes become delinquent.

4 (b) A penalty imposed under Subsection (a) is incurred by
5 the delinquent taxes on the date those taxes become subject to the
6 attorney's contract.

7 (c) The amount of the penalty may not exceed the amount of
8 the compensation specified in the contract with the attorney to be
9 paid in connection with the collection of the delinquent taxes.

10 (d) A tax lien attaches to the property on which the tax is
11 imposed to secure payment of the penalty.

12 (e) If a penalty is provided under this section, a taxing
13 unit or appraisal district may not recover attorney's fees in a suit
14 to collect delinquent taxes subject to the penalty.

15 (f) If the governing body of a taxing unit or appraisal
16 district provides for a penalty under this section, a tax bill
17 relating to tangible personal property that is sent under Section
18 31.01 must include a notice of the penalty and the date on which it
19 is incurred.

20 SECTION 13. Section 33.22, Tax Code, is amended by adding
21 Subsection (d) to read as follows:

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

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

27 (2) the taxing unit served by the collector contracts

1 with an attorney under Section 6.30;

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

5 (4) the tax sought to be recovered is not subject to
6 the additional penalty under Section 33.07 or 33.08 at the time the
7 application is filed.

8 SECTION 14. 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 15. Section 33.25, Tax Code, is amended by amending
19 Subsections (f) and (h) and by adding Subsections (i) and (j) to
20 read as 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) The person against whom the tax warrant is issued shall,
15 on demand by the peace officer or collector, execute all
16 instruments necessary, including any required endorsements or
17 assignments, in converting seized property defined by Sections
18 33.21(d)(3)-(5) to cash for the benefit of the applicant. A failure
19 to meet that demand, on a motion of the applicant filed with the
20 court that issued the warrant, and after notice to the person of a
21 hearing, is punishable as contempt. Notice of a motion and hearing
22 under this subsection may be given in the manner provided by Rule
23 21a, Texas Rules of Civil Procedure.

24 (j) After a tax warrant is issued, the seizure or sale of the
25 property may be canceled and terminated at any time by the applicant
26 or an authorized agent or attorney of the applicant.

27 SECTION 16. Section 33.48, Tax Code, is amended by amending

1 Subsection (a) and adding Subsection (d) to read as follows:

2 (a) In addition to other costs authorized by law, a taxing
3 unit is entitled to recover the following costs and expenses in a
4 suit to collect a delinquent tax:

5 (1) all usual court costs, including the cost of
6 serving process;

7 (2) costs of filing for record a notice of lis pendens
8 against property;

9 (3) expenses of foreclosure sale;

10 (4) reasonable expenses that are incurred by the
11 taxing unit in determining the name, identity, and location of
12 necessary parties and in procuring necessary legal descriptions of
13 the property on which a delinquent tax is due;

14 (5) attorney's fees in the amount of the compensation
15 specified in the attorney's contract with the taxing unit entered
16 into under Section 6.30 [~~15 percent of the total amount of taxes,~~
17 ~~penalties, and interest due the unit~~]; and

18 (6) reasonable attorney ad litem fees approved by the
19 court that are incurred in a suit in which the court orders the
20 appointment of an attorney to represent the interests of a
21 defendant served with process by means of citation by publication
22 or posting.

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

26 (1) amounts owing under Subsections (a)(1), (2), (3),
27 and (6) are payable to the clerk of the court in which the suit is

1 pending; and

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

5 SECTION 17. Section 33.51, Tax Code, is amended to read as
6 follows:

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

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

20 (c) The writ of possession shall order the officer executing
21 the writ to:

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

1 (2) on execution of the writ:

2 (A) deliver possession of the premises to the
3 purchaser or the purchaser's assigns;

4 (B) instruct the occupants to immediately leave
5 the premises and, if the occupants fail or refuse to comply,
6 physically remove them from the premises;

7 (C) instruct the occupants to remove, or to allow
8 the purchaser or purchaser's assigns, representatives, or other
9 persons acting under the officer's supervision to remove, all
10 personal property from the premises; and

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

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

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

27 (f) The warehouseman's lien on stored property, the

1 officer's duties, and the occupants' rights of redemption as
2 provided by Section 24.0062, Property Code, are all applicable with
3 respect to any personal property that is removed under Subsection
4 (d).

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

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

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

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

13 (i) In this section:

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

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

19 SECTION 18. Subchapter C, Chapter 33, Tax Code, is amended
20 by adding Section 33.57 to read as follows:

21 Sec. 33.57. WAIVER OF COURT-APPOINTED ATTORNEY IN CERTAIN
22 CASES. (a) If before the appointment of an attorney ad litem to
23 represent a defendant in a tax suit under this chapter a taxing unit
24 with a claim filed in the suit shows by means of affidavit and
25 certified copies of tax records that the appraised value of the
26 property, as shown on the most recent appraisal roll certified to
27 the unit, is less than the amount of taxes, penalties, interest, and

1 costs owing against the property, the court shall sign an order
2 waiving the appointment of an attorney ad litem to represent the
3 interest of any defendant who was served in the action by published
4 or posted citation, notwithstanding Rule 244, Texas Rules of Civil
5 Procedure.

6 (b) If at any time between the date the order under
7 Subsection (a) is signed and the final hearing on the merits the
8 court or a taxing unit believes that the value of the property, as
9 shown on the most recent appraisal roll certified to the unit, is
10 greater than the amount of taxes, penalties, interest, and costs
11 owing against the property, the court, on its own motion or the
12 motion of the taxing unit, shall appoint an attorney ad litem as
13 otherwise required by Rule 244, Texas Rules of Civil Procedure.

14 SECTION 19. Subchapter B, Chapter 21, Property Code, is
15 amended by adding Section 21.0211 to read as follows:

16 Sec. 21.0211. PAYMENT OF AD VALOREM TAXES. A court may not
17 authorize withdrawal of any money deposited under Section 21.021
18 unless the petitioner for the money files with the court:

19 (1) a tax certificate issued under Section 31.08, Tax
20 Code, by the tax collector for each taxing unit that imposes ad
21 valorem taxes on the condemned property showing that there are no
22 delinquent taxes, penalties, interest, or costs owing on the
23 condemned property or on any larger tract of which the condemned
24 property forms a part; and

25 (2) a tax receipt issued under Section 31.075, Tax
26 Code, by the tax collector of each taxing unit that imposes ad
27 valorem taxes on the condemned property showing that the taxes for

1 the current tax year on the condemned property or on any larger
2 tract of which the condemned property forms a part, prorated under
3 Section 26.11, Tax Code, have been paid.

4 SECTION 20. Section 9.611(c), Business & Commerce Code, is
5 amended to read as follows:

6 (c) To comply with Subsection (b), the secured party shall
7 send an authenticated notification of disposition to:

8 (1) the debtor;

9 (2) any secondary obligor; and

10 (3) if the collateral is other than consumer goods:

11 (A) any other person from which the secured party
12 has received, before the notification date, an authenticated
13 notification of a claim of an interest in the collateral;

14 (B) any other secured party or lienholder that,
15 10 days before the notification date, held a security interest in or
16 other lien on the collateral perfected by the filing of a financing
17 statement that:

18 (i) identified the collateral;

19 (ii) was indexed under the debtor's name as
20 of that date; and

21 (iii) was filed in the office in which to
22 file a financing statement against the debtor covering the
23 collateral as of that date; ~~and~~

24 (C) any other secured party that, 10 days before
25 the notification date, held a security interest in the collateral
26 perfected by compliance with a statute, regulation, or treaty
27 described in Section 9.311(a); and

1 (D) any taxing unit, as defined by Section 1.04,
2 Tax Code, within the boundaries of which the collateral has or had
3 taxable situs, as provided by Section 21.02, Tax Code.

4 SECTION 21. Sections 9.615(a), (b), and (d), Business &
5 Commerce Code, are amended to read as follows:

6 (a) A secured party shall apply or pay over for application
7 the cash proceeds of disposition under Section 9.610 in the
8 following order to:

9 (1) the reasonable expenses of retaking, holding,
10 preparing for disposition, processing, and disposing and, to the
11 extent provided for by agreement and not prohibited by law,
12 reasonable attorney's fees and legal expenses incurred by the
13 secured party;

14 (2) the satisfaction of any delinquent ad valorem
15 taxes, penalties, interest, attorney's fees, and costs, together
16 with current or estimated current ad valorem taxes, imposed against
17 the debtor's personal property that constituted all or part of the
18 collateral if, before distribution of the proceeds is completed,
19 the secured party receives from the tax collector of each taxing
20 unit that imposes ad valorem taxes on the property a statement
21 showing the amounts of the taxes, penalties, interest, attorney's
22 fees, and costs imposed;

23 (3) the satisfaction of obligations secured by the
24 security interest or agricultural lien under which the disposition
25 is made;

26 (4) [~~3~~] the satisfaction of obligations secured by
27 any subordinate security interest in or other subordinate lien on

1 the collateral if:

2 (A) the secured party receives from the holder of
3 the subordinate security interest or other lien an authenticated
4 demand for proceeds before distribution of the proceeds is
5 completed; and

6 (B) in a case in which a consignor has an interest
7 in the collateral, the subordinate security interest or other lien
8 is senior to the interest of the consignor; and

9 (5) [~~(4)~~] a secured party that is a consignor of the
10 collateral if the secured party receives from the consignor an
11 authenticated demand for proceeds before distribution of the
12 proceeds is completed.

13 (b) If requested by a secured party, a holder of a
14 subordinate security interest or other lien shall furnish
15 reasonable proof of the interest or lien within a reasonable time.
16 Unless the holder does so, the secured party need not comply with
17 the holder's demand under Subsection (a)(4) [~~(a)(3)~~].

18 (d) If the security interest under which a disposition is
19 made secures payment or performance of an obligation, after making
20 the payments and applications required by Subsection (a) and
21 permitted by Subsection (c):

22 (1) unless Subsection (a)(5) [~~(a)(4)~~] requires the
23 secured party to apply or pay over cash proceeds to a consignor, the
24 secured party shall account to and pay a debtor for any surplus; and

25 (2) the obligor is liable for any deficiency.

26 SECTION 22. Section 17.091(a), Civil Practice and Remedies
27 Code, is amended to read as follows:

1 (a) In a suit to collect delinquent property taxes by the
2 state or a subdivision of the state in which a person who is a
3 defendant is a nonresident, the secretary of state is an agent for
4 service of process on that defendant if the defendant owns, has, or
5 claims an interest in or a lien against property in this state that
6 is the subject of the suit.

7 SECTION 23. Section 623.093(f), Transportation Code, is
8 repealed.

9 SECTION 24. Section 31.073, Tax Code, as amended by this
10 Act, applies only to payments of taxes, penalties, or interest that
11 are made on or after the effective date of this Act.

12 SECTION 25. Section 32.011, Tax Code, as added by this Act,
13 applies to all delinquent personal property taxes, regardless of
14 whether the taxes became delinquent before, on, or after the
15 effective date of this Act.

16 SECTION 26. Section 32.05, Tax Code, as amended by this Act,
17 applies to any lien, regardless of the date on which it arose, and
18 to any cause of action pending on the effective date of this Act or
19 brought after that date.

20 SECTION 27. Section 33.011, Tax Code, as amended by this
21 Act, applies only to a request for a waiver of penalty or interest
22 made on or after the effective date of this Act. A request for a
23 waiver made before the effective date of this Act is governed by the
24 law as it existed immediately before the effective date of this Act,
25 and the former law is continued in effect for that purpose.

26 SECTION 28. Section 33.02, Tax Code, as amended by this Act,
27 applies to an installment agreement entered before, on, or after

1 the effective date of this Act.

2 SECTION 29. Section 33.22, Tax Code, as amended by this Act,
3 applies only to a tax warrant proceeding pending on the effective
4 date of this Act or brought after that date.

5 SECTION 30. Section 33.23, Tax Code, as amended by this Act,
6 applies only to a tax warrant issued on or after the effective date
7 of this Act. A tax warrant issued before the effective date of this
8 Act is governed by the law as it existed immediately before the
9 effective date of this Act, and the former law is continued in
10 effect for that purpose.

11 SECTION 31. Section 33.25, Tax Code, as amended by this Act,
12 applies only to a tax warrant proceeding in which the application
13 for tax warrant was filed on or after the effective date of this
14 Act. A tax warrant proceeding commenced by application before the
15 effective date of this Act is governed by the law as it existed
16 immediately before the effective date of this Act, and the former
17 law is continued in effect for that purpose.

18 SECTION 32. Section 33.48, Tax Code, as amended by this Act,
19 applies only to a cause of action pending on the effective date of
20 this Act or brought after that date.

21 SECTION 33. Section 33.51, Tax Code, as amended by this Act,
22 applies to a writ of possession that is based on a judgment entered
23 before, on, or after the effective date of this Act.

24 SECTION 34. Section 33.57, Tax Code, as added by this Act,
25 applies only to a cause of action pending on the effective date of
26 this Act or brought after the effective date of this Act.

27 SECTION 35. Section 21.0211, Property Code, as added by

1 this Act, applies only to an eminent domain proceeding that is
2 commenced on or after the effective date of this Act. An eminent
3 domain proceeding commenced before the effective date of this Act
4 is governed by the law as it existed immediately before the
5 effective date of this Act, and the former law is continued in
6 effect for that purpose.

7 SECTION 36. Section 9.611, Business & Commerce Code, as
8 amended by this Act, applies only to a notification sent by a
9 secured creditor on or after the effective date of this Act. A
10 notification sent before the effective date of this Act is governed
11 by the law as it existed immediately before the effective date of
12 this Act, and the former law is continued in effect for that
13 purpose.

14 SECTION 37. Section 9.615, Business & Commerce Code, as
15 amended by this Act, applies only to proceeds of disposition that
16 are applied or paid over for application on or after the effective
17 date of this Act. An application or payment made before the
18 effective date of this Act is governed by the law as it existed
19 immediately before the effective date of this Act, and the former
20 law is continued in effect for that purpose.

21 SECTION 38. Section 17.091, Civil Practice and Remedies
22 Code, as amended by this Act, applies only to a cause of action
23 pending on the effective date of this Act or brought after the
24 effective date of this Act.

25 SECTION 39. This Act takes effect September 1, 2005.