

1-1 By: Lucio S.B. No. 1056
1-2 (In the Senate - Filed March 7, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 25, 2005, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 25, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the forced sale of an owner's interest in certain real
1-9 property.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 29, Property Code, is amended to read as
1-12 follows:

1-13 CHAPTER 29. FORCED SALE OF OWNER'S INTEREST IN CERTAIN REAL
1-14 PROPERTY AS REIMBURSEMENT FOR PROPERTY TAXES PAID BY CO-OWNER ON
1-15 OWNER'S BEHALF

1-16 Sec. 29.001. APPLICATION OF CHAPTER. This chapter applies
1-17 only to real property that is not exempt from forced sale under the
1-18 constitution or laws of this state and is:

1-19 (1) received by a person as a result of the death of
1-20 another person:

1-21 (A) by inheritance;

1-22 (B) under a will;

1-23 (C) by a joint tenancy with a right of
1-24 survivorship; or

1-25 (D) by any other survivorship agreement in which
1-26 the interest of the decedent passes to a surviving beneficiary
1-27 other than an agreement between spouses for community property with
1-28 a right of survivorship; or

1-29 (2) owned in part by a nonprofit organization that is
1-30 exempt from federal income tax under Section 501(a), Internal
1-31 Revenue Code of 1986, and its subsequent amendments, by being
1-32 listed as an exempt organization under Section 501(c)(3), Internal
1-33 Revenue Code of 1986, and its subsequent amendments, that:

1-34 (A) has been incorporated in this state for at
1-35 least one year;

1-36 (B) has a corporate purpose to develop affordable
1-37 housing that is stated in the nonprofit corporation's original or
1-38 restated articles of incorporation or charter;

1-39 (C) has at least one-fourth of its board of
1-40 directors residing in the county in which the property is located;
1-41 and

1-42 (D) engages primarily in the building, repair,
1-43 rental, or sale of housing for low-income individuals or families.

1-44 Sec. 29.002. PETITION FOR FORCED SALE. (a) A person,
1-45 including a nonprofit organization, that owns an undivided interest
1-46 in real property to which this chapter applies may file in the
1-47 district court in a county in which the property is located a
1-48 petition for a court order to require another owner of an undivided
1-49 interest in that property to sell the other owner's interest in the
1-50 property to the person if:

1-51 (1) the person has paid the other owner's share of ad
1-52 valorem taxes imposed on the property for any three years in a
1-53 five-year period or, in the case of a nonprofit organization, has
1-54 paid the other owner's share of current or delinquent ad valorem
1-55 taxes imposed on the property for any two years in a three-year
1-56 period that may precede the date when the nonprofit corporation
1-57 acquired an interest in the property; and

1-58 (2) the other owner has not reimbursed the person for
1-59 more than half of the total amount paid by the person for the taxes
1-60 on the owner's behalf.

1-61 (b) The petition must contain:

1-62 (1) a description of the property;

1-63 (2) the name of each known owner of the property;

1-64 (3) if known, the interest held by each known owner of

2-1 the property;

2-2 (4) the total amount paid by the petitioner for the
2-3 defendant's share of ad valorem taxes imposed on the property; and

2-4 (5) if applicable, the amount paid by the defendant to
2-5 the petitioner to reimburse the petitioner for paying the
2-6 defendant's share of ad valorem taxes imposed on the property.

2-7 (c) Any defendant whose identity is unknown or whose
2-8 identity is known but whose address is unknown to the petitioner may
2-9 be served by publication in accordance with the Texas Rules of Civil
2-10 Procedure, or by another method of publication or service
2-11 authorized by the court, if requested.

2-12 Sec. 29.003. HEARING ON PETITION FOR FORCED SALE. (a) At a
2-13 hearing on a petition filed under Section 29.002, the petitioner
2-14 must prove by clear and convincing evidence that:

2-15 (1) the petitioner has paid the defendant's share of ad
2-16 valorem taxes imposed on the property that is the subject of the
2-17 petition for any three years in a five-year period or, in the case
2-18 of a nonprofit organization, the petitioner has paid the
2-19 defendant's share of current or delinquent ad valorem taxes imposed
2-20 on the property that is the subject of the petition for any two
2-21 years in a three-year period that may precede the date the nonprofit
2-22 corporation acquired an interest in the property;

2-23 (2) before the date on which the petition was filed the
2-24 petitioner made a demand that the defendant reimburse the
2-25 petitioner for the amount of the defendant's share of ad valorem
2-26 taxes imposed on the property paid by the petitioner; and

2-27 (3) the defendant has not reimbursed the petitioner
2-28 more than half of the amount of money the petitioner paid on the
2-29 defendant's behalf for the defendant's share of ad valorem taxes
2-30 imposed on the property.

2-31 (b) A hearing on a petition filed under Section 29.002 may
2-32 not be held earlier than the 60th day after the date a demand for
2-33 payment is made by the petitioner or, if demand is by publication,
2-34 not earlier than the 60th day after the date of the last publication
2-35 of notice.

2-36 Sec. 29.0035. DEMAND TO UNKNOWN DEFENDANT. If the address
2-37 or identity of the defendant is unknown, the demand of the
2-38 petitioner for reimbursement from the defendant required by Section
2-39 29.003(2) may be met by publication in a newspaper in the county in
2-40 which the property is located once each week for four consecutive
2-41 weeks, with the final publication occurring not later than the 30th
2-42 day before the date on which the petition is filed. The publication
2-43 must contain the demand for reimbursement and:

2-44 (1) the street address or a general description of the
2-45 property involved;

2-46 (2) the legal description of the property [~~according~~
2-47 ~~to the survey of the property~~], including the number of the lot and
2-48 block or any other plat description that may be of record if the
2-49 property is located in a recorded subdivision [~~municipality~~];

2-50 (3) the county in which the property is located;

2-51 (4) the interest of the defendant, if known; and

2-52 (5) the name and address of the petitioner.

2-53 Sec. 29.004. COURT-ORDERED SALE. (a) On completion of the
2-54 hearing on a petition filed under Section 29.002, if the court is
2-55 satisfied that the petitioner has made the requisite proof under
2-56 Section 29.003, the court shall enter an order that:

2-57 (1) divests the defendant's interest in the real
2-58 property that is the subject of the petition;

2-59 (2) awards title and possession of the defendant's
2-60 interest in the real property that is the subject of the petition to
2-61 the petitioner; and

2-62 (3) [~~that~~] orders the petitioner to pay to the
2-63 defendant or, if the defendant is a defendant described by Section
2-64 29.002(c), into the registry of the court, an amount of money, if
2-65 any, computed by subtracting the outstanding amount of money the
2-66 defendant owes to the petitioner for payment of the defendant's
2-67 share of ad valorem taxes, including penalties and interest,
2-68 imposed on the property and all costs of court from the fair market
2-69 value of the defendant's interest in the property as determined by

3-1 ~~[an independent appraiser appointed by]~~ the court.

3-2 (b) The court's order may also direct the defendant or any
3-3 attorney ad litem appointed to represent any defendant whose
3-4 identity or location is unknown to execute and deliver to the
3-5 petitioner a deed that conveys to the petitioner the defendant's
3-6 interest in the property.

3-7 (c) A deed conveying to the petitioner the defendant's
3-8 interest in the property is not necessary to transfer title to the
3-9 petitioner. A transfer of title may be effected by the court's
3-10 order entered under Subsection (a).

3-11 (d) In determining the fair market value of the defendant's
3-12 interest in the property, the court may rely on the most recent
3-13 appraised value of the property reflected in the rolls of the
3-14 appraisal district in which the property is located and may appoint
3-15 an independent appraiser to assist the court. The court shall
3-16 consider any liens or other outstanding liabilities against the
3-17 property, including any ad valorem taxes, penalties, or interest
3-18 that remain unpaid as of the date of the hearing, in determining the
3-19 fair market value of the defendant's interest in the property.

3-20 (e) All costs of court, including any expense incurred in
3-21 appointing an attorney ad litem or appraiser, shall be taxed
3-22 against the defendant.

3-23 SECTION 2. This Act applies only to a petition for forced
3-24 sale filed on or after the effective date of this Act. A petition
3-25 for forced sale filed before the effective date of this Act is
3-26 governed by the law in effect at the time the petition for forced
3-27 sale is filed, and the former law is continued in effect for that
3-28 purpose.

3-29 SECTION 3. This Act takes effect September 1, 2005.

3-30 * * * * *