

By: Harris

S.B. No. 1706

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the resale by a taxing unit of real property that is
3 sold to the taxing unit at an ad valorem tax sale.

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

5 SECTION 1. Sections 34.05(d), (e), and (i), Tax Code, are
6 amended to read as follows:

7 (d) Except as provided by this subsection, all public sales
8 requested as provided by Subsection (c) shall be conducted in the
9 manner prescribed by the Texas Rules of Civil Procedure for the sale
10 of property under execution. The notice of the sale must contain a
11 description of the property to be sold, the number and style of the
12 suit under which the property was sold at the tax foreclosure sale,
13 and the date of the tax foreclosure sale. The description of the
14 property in the notice is sufficient if it is stated in the manner
15 provided by Section 34.01(f). If applicable, the notice must
16 describe any reservation of an interest in the mineral estate in the
17 property or of an easement that will be included in the deed to the
18 property as authorized by Subsection (e). If the commissioners
19 court of a county by order specifies the date or time at which or
20 location in the county where a public sale requested under
21 Subsection (c) shall be conducted, the sale shall be conducted on
22 the date and at the time and location specified in the order. The
23 acceptance of a bid by the officer conducting the sale is conclusive
24 and binding on the question of its sufficiency. An action to set

1 aside the sale on the grounds that the bid is insufficient may not
2 be sustained in court, except that a taxing unit that participates
3 in distribution of proceeds of the sale may file an action before
4 the first anniversary of the date of the sale to set aside the sale
5 on the grounds of fraud or collusion between the officer making the
6 sale and the purchaser. On conclusion of the sale, the officer
7 making the sale shall prepare a deed to the purchaser. The taxing
8 unit that requested the sale may elect to prepare a deed for
9 execution by the officer. If the taxing unit prepares the deed, the
10 officer shall execute that deed. An officer who executes a deed
11 prepared by the taxing unit is not responsible or liable for any
12 inconsistency, error, or other defect in the form of the deed. As
13 soon as practicable after a deed is executed by the officer, the
14 officer shall either file the deed for recording with the county
15 clerk or deliver the executed deed to the taxing unit that requested
16 the sale, which shall file the deed for recording with the county
17 clerk. The county clerk shall file and record each deed under this
18 subsection and after recording shall return the deed to the
19 grantee.

20 (e) The presiding officer of a taxing unit selling real
21 property under Subsection (h) or (i), under Section 34.051, or
22 under Section 253.010, Local Government Code, or the sheriff or
23 constable selling real property under Subsections (c) and (d) shall
24 execute a deed to the property conveying to the purchaser the right,
25 title, and interest acquired or held by each taxing unit that was a
26 party to the judgment foreclosing tax liens on the property, except
27 that the deed may reserve to each of those taxing units the right,

1 title, and interest acquired or held by each of those taxing units
2 in the mineral estate in the property and may reserve on behalf of
3 any of those taxing units as necessary an easement for navigation or
4 for a water, sewer, or drainage facility. The conveyance shall be
5 made subject to any remaining right of redemption at the time of the
6 sale.

7 (i) In lieu of a sale pursuant to Subsections (c) and (d) [~~of~~
8 ~~this section~~], the taxing unit that purchased the property may sell
9 the property at a private sale for an amount less than required
10 under Subsection (h) after providing written notice to [~~of this~~
11 ~~section with the consent of~~] each taxing unit entitled to receive
12 proceeds of the sale under the judgment. This subsection does not
13 authorize a sale of property in violation of Section 52, Article
14 III, Texas Constitution.

15 SECTION 2. This Act takes effect September 1, 2007.