

BILL ANALYSIS

Senate Research Center

H.B. 699
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In recent years, there has been growth in the number of sales and sale attendees that has resulted in overcrowding at courthouse sales of real property in some counties. Some have raised concerns about safety and security issues that can occur as part of the auction process.

H.B. 699 allows a commissioners court to designate a location for execution sales other than the courthouse door as long as the site is a public place within a reasonable proximity to the courthouse that is as accessible; corrects inconsistencies regarding notice and procedures; and affirms that tax sales are not required to be conducted inside the courthouse.

This legislation allows execution sales to be treated the same as tax sales and contract lien sales for the purposes of allowing an alternate location to the courthouse steps.

H.B. 699 amends current law relating to the location of certain public sales of real property.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 34.041, Civil Practice and Remedies Code, as follows:

Sec. 34.041. SALE AT PLACE OTHER THAN COURTHOUSE DOOR. (a) Creates this subsection from existing text. Requires that sales under this chapter, if the public sale of real property, rather than land, is required by court order or other law to be made at a place other than the courthouse door, be made at the place designated by that court order or other law.

(b) Authorizes the commissioners court of a county to designate an area other than an area at the county courthouse where public sales of real property under this chapter will take place that is in a public place within a reasonable proximity of the county courthouse and in a location as accessible to the public as the courthouse door. Requires the commissioners court to record that designation in the real property records of the county. Requires that a sale, except for a sale under Subsection (a), be held at an area designated under this subsection and prohibits that sale from being held before the 90th day after the date the designation is recorded.

SECTION 2. Amends Section 51.002(h), Property Code, as follows:

(h) Authorizes the commissioners court of a county, for the purposes of Subsection (a) (relating to requiring a sale of real property under a power of sale conferred by a deed of trust or other contract lien to be a public sale at auction), to designate an area other than an area at the county courthouse where public sales of real property under this section will take place that is in a public place within a reasonable proximity of the county courthouse and in a location as accessible to the public as the courthouse door. Requires

the commissioners court to record that designation in the real property records of the county. Requires a sale to be held, rather than prohibits a sale from being held, at an area designated under this subsection and prohibits the sale from being held before the 90th day after the date the designation is recorded. Provides that the posting of the notice required by Subsection (b)(1) (relating to requiring that notice of the sale be given at least 21 days before the date of sale by posting at the courthouse door of each county in which the property is located a written notice) of a sale designated under this subsection to take place at an area other than an area of the courthouse remains at the courthouse door of the appropriate county.

SECTION 3. Amends Section 34.01, Tax Code, by amending Subsection (r) and adding Subsection (r-1), as follows:

(r) Requires a sale of real property under this section, except as provided by this subsection, to take place at the county courthouse in the county in which the land is located. Authorizes the commissioners court of the county to designate an area other than an area at the county courthouse where sales under this section will take place that is in a public place within a reasonable proximity of the county courthouse and in a location as accessible to the public as the courthouse door. Requires the commissioners court to record that designation in the real property records of the county. Requires a sale to be held at an area designated under this subsection and prohibits it from being held before the 90th day after the date the designation is recorded.

Deletes existing text authorizing the commissioners court of the county to designate an area in the county courthouse or another location in the county where sales under this section is required to take place and is required to record any designated area or other location in the real property records of the county. Deletes existing text requiring a sale, if the commissioners court designates an area in the courthouse or another location in the county for sales, to occur in that area or at that location. Deletes existing text requiring a sale, if the commissioners court does not designate an area in the courthouse or another location in the county for sales, to occur in the same area in the courthouse that is designated by the commissioners court for the sale of real property under Section 51.002 (Sale of Real Property Under Contract Lien), Property Code.

(r-1) Requires the commissioners court, if a commissioners court has designated an area where public sales of real property take place under Subsection (r) before September 1, 2013, that will not be in compliance with Subsection (r) after December 31, 2013, to designate before January 1, 2014, a location for public sales that will comply with Subsection (r), as amended by H.B. 699, 83rd Legislature, Regular Session, 2013. Provides that this subsection expires September 1, 2014.

SECTION 4. Provides that Section 34.01(r), Tax Code, as amended by this Act, applies only to a sale of real property in which notice of the sale under that section is provided on or after the effective date of this Act. Provides that a sale in which notice of the sale is provided before the effective date of this Act is subject to the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 5. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2013.

(b) Effective date, Section 34.01(r), Tax Code, as amended by this Act: January 1, 2014.