

BILL ANALYSIS

H.B. 699
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, public sales of real property taken in execution on judgment occur at the courthouse door, which has been interpreted to mean a courthouse where district court is conducted. Interested parties assert that in recent years some counties have seen a growth in the number of sales and sale attendees, resulting in overcrowding and concerns about safety and security during the auction process. Legislation enacted within the last decade allowed certain public sales of property involving delinquent taxes or contract liens to occur at a designated location other than the courthouse door, but no such authority was granted with respect to execution sales. It has been suggested that this inconsistency should be addressed so that all such public property sales can occur in the same location.

Interested parties also have expressed concern about certain ambiguities and inconsistencies regarding the procedures for designating an alternate location for public sales of property with respect to delinquent taxes or contract liens, including a concern that a recent change now requires public sales of property with respect to delinquent taxes to be conducted inside the courthouse.

H.B. 699 seeks to address the inconsistencies surrounding the location of public property sales by allowing a commissioners court, under certain conditions, to designate a location other than the county courthouse at which public sales of property taken in execution will take place and by setting out uniform language regarding the designation of alternate locations for public sales of property involving execution, contract liens, or tax delinquency.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 699 amends the Civil Practice and Remedies Code to authorize 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 statutory provisions relating to execution on court judgments will take place that is in a public space within a reasonable proximity of the county courthouse and in a location as accessible to the public as the courthouse door. The bill requires the commissioners court to record that designation in the real property records of the county and requires a sale, except for the public sale of real property required by court order or other law to be made at a place other than the courthouse door, to be held at an area so designated but not before the 90th day after the date the designation is recorded. The bill includes a court order as a means by which the public sale of real property may be required to be made at a place other than the courthouse door.

H.B. 699 amends the Property Code to clarify that, with regard to the authority of the commissioners court of a county to designate an area other than an area at the county courthouse where certain sales of real property under a contract lien are to take place, such sales are public

and must be held at an area so designated.

H.B. 699 amends the Tax Code to specify that, in provisions effective January 1, 2014, with regard to the authority of the commissioners court of a county to designate an area other than an area at the county courthouse where sales of real property seized under a tax warrant or ordered sold pursuant to foreclosure of a tax lien will take place, such an area be 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. The bill requires such a sale to be held at an area so designated, but not before the 90th day after the date the designation is recorded, and removes a requirement relating to the location of a sale if the commissioners court does not designate an area.

H.B. 699 adds a temporary provision, set to expire September 1, 2014, to require a commissioners court that has designated an area before September 1, 2013, that will not be in compliance with the bill's provisions after December 31, 2013, to designate before January 1, 2014, a location for public sales that will comply.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2013.