

BILL ANALYSIS

C.S.H.B. 3062
By: Kacal
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that statutory provisions relating to the sale of property for delinquent property taxes are too inflexible and unnecessarily limit participation in such sales. C.S.H.B. 3062 seeks to provide for greater flexibility in the sale of property for delinquent property taxes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 3062 amends the Tax Code to make certain procedures for the sale of real property seized under a tax warrant or ordered sold under a judgment for foreclosure of a tax lien applicable to personal property seized under a tax warrant or ordered sold under a judgment for foreclosure of a tax lien. The bill authorizes the sale of personal property, including a manufactured home, to be conducted at the same place as the sale of real property or at the location of the personal property.

C.S.H.B. 3062 includes among the persons in whose name an officer conducting a sale of real property at a tax sale may execute a deed and to whom the officer may deliver a deed a business, religious, charitable, or civic organization that has authorized in writing an individual to submit the successful bid on the organization's behalf and the legal spouse of a successful bidder, on request of the bidder, regardless of whether the spouse is physically present at the sale or has provided written authorization to the successful bidder. The bill clarifies that a certain required written statement regarding delinquent taxes owed must be exhibited for each person that will be a grantee on the deed. The bill requires the chief appraiser for an appraisal district that collects the taxes imposed by the county that established the district to perform the duties assigned to the assessor-collector for that county under statutory provisions relating to persons eligible to purchase real property.

C.S.H.B. 3062 repeals Civil Practice and Remedies Code provisions prohibiting an individual from bidding on or purchasing property in the name of any other individual under provisions relating to the sale of property under a judgment and prohibiting an officer conducting a sale of such property from executing a deed in the name of or delivering a deed to any person other than the person who was the successful bidder. The bill amends the Civil Practice and Remedies Code to make conforming changes.

C.S.H.B. 3062 repeals Section 34.0445(b), Civil Practice and Remedies Code.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3062 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 34.0445(a) and (c), Civil Practice and Remedies Code, are amended.

SECTION 2. Section 34.01, Tax Code, is amended by amending Subsections (a), (a-1), (b), (f), and (r) and adding Subsection (r-1) to read as follows:

(a) Real or personal property seized under a tax warrant issued under Subchapter E, Chapter 33, or ordered sold pursuant to a judgment for foreclosure of a tax lien shall be sold by the officer charged with selling the property, unless otherwise directed by the taxing unit that requested the warrant or order of sale or by an authorized agent or attorney for that unit. The sale shall be conducted in the manner similar property is sold under execution except as otherwise provided by this subtitle.

(a-1) The commissioners court of a county, or the board of directors of the appraisal district established for the county if the appraisal district collects taxes imposed by the county, by official action may authorize the officer charged with selling property under this section to conduct [a] public auctions [auetion] using online bidding and sale. The officer, in consultation with the assessor-collector for the county, if the commissioners court authorized the officer to conduct the auctions, or with the chief appraiser, if the board of directors of the appraisal district authorized the officer to conduct the auctions, shall propose rules governing the auctions. The governing body that authorized the officer to conduct the auctions [commissioners court] may adopt rules governing the [online] auctions, including the rules proposed by the officer [authorized under this subsection]. Rules

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Section 34.01, Tax Code, is amended by amending Subsections (a), (b), (f), and (r) and adding Subsection (r-1) to read as follows:

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adopted by a governing body [~~the commissioners court~~] under this subsection take effect on the 90th day after the date the rules are published in the real property records of the county.

(b) On receipt of an order of sale of real or personal property, the officer charged with selling the property shall endorse on the order the date and exact time when the officer received the order. The endorsement is a levy on the property without necessity for going upon the ground. The officer shall calculate the total amount due under the judgment, including all taxes, penalties, and interest, plus any other amount awarded by the judgment, court costs, and the costs of the sale. The costs of a sale include the costs of advertising, and any deed recording fees anticipated to be paid in connection with the sale of the property. To assist the officer in making the calculation, the collector of any taxing unit that is party to the judgment may provide the officer with a certified tax statement showing the amount of the taxes included in the judgment that remain due that taxing unit and all penalties, interest, and attorney's fees provided by the judgment as of the date of the proposed sale. If a certified tax statement is provided to the officer, the officer shall rely on the amount included in the statement and is not responsible or liable for the accuracy of the applicable portion of the calculation. A certified tax statement is not required to be sworn to and is sufficient if the tax collector or the collector's deputy signs the statement.

(f) A notice of sale of real property is not required to include field notes describing the property. A description of the property is sufficient if the notice:

- (1) states the number of acres and identifies the original survey;
- (2) as to property located in a platted subdivision or addition, regardless of whether the subdivision or addition is recorded, states the name by which the land is generally known with reference to that subdivision or addition; or
- (3) by reference adopts the description of the property contained in the judgment.

(r) Except as provided by Subsection (a-1) and this subsection, a sale of real property under this section must take place at the county courthouse in the county in which the real property [~~land~~] is located. The

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(r) Except as provided by Subsection (a-1) and this subsection, a sale of real property under this section must take place at the county courthouse in the county in which the real property [~~land~~] is located. The

commissioners court of the county may 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 as determined by the commissioners court and in a location as accessible to the public as the courthouse door. The commissioners court shall record that designation in the real property records of the county. A designation by a commissioners court under this section is not a ground for challenging or invalidating any sale. A sale must be held at an area designated under this subsection if the sale is held on or after the 90th day after the date the designation is recorded.

(r-1) Notwithstanding Subsection (r), the sale of personal property, including a manufactured home, may be conducted at the same place as the sale of real property under Subsection (r) or at the location of the personal property.

SECTION 3. Section 34.015, Tax Code, is amended.

SECTION 4. Section 34.0445(b), Civil Practice and Remedies Code, is repealed.

SECTION 5. The changes in law made by this Act apply only to the sale of property under Subchapter C, Chapter 34, Civil Practice and Remedies Code, or Section 34.01, Tax Code, on or after the effective date of this Act.

SECTION 6. This Act takes effect September 1, 2017.

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(r-1) Notwithstanding Subsection (r), the sale of personal property, including a manufactured home, may be conducted at the same place as the sale of real property under Subsection (r) or at the location of the personal property.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.