

By: Wray

H.B. No. 1128

A BILL TO BE ENTITLED

AN ACT

relating to the date and time for the public sale of real property.

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

SECTION 1. The heading to Section 34.041, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 34.041. SALE AT PLACE OTHER THAN COURTHOUSE DOOR; DATE AND TIME OF SALE.

SECTION 2. Section 34.041, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) A sale of real property under this subchapter must take place between 10 a.m. and 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a month occurs on January 1 or July 4, between 10 a.m. and 4 p.m. on the first Wednesday of the month. Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with this subsection.

SECTION 3. Sections 51.002, Property Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] sale of real property under a power of sale conferred by a deed of trust or other contract lien must be a public sale at auction held between 10 a.m. and 4 p.m. of the first Tuesday of a month. Except as provided by Subsection (h), the sale must take place at the county courthouse in the county in which the land is located, or if the property is

1 located in more than one county, the sale may be made at the
2 courthouse in any county in which the property is located. The
3 commissioners court shall designate the area at the courthouse
4 where the sales are to take place and shall record the designation
5 in the real property records of the county. The sale must occur in
6 the designated area. If no area is designated by the commissioners
7 court, the notice of sale must designate the area where the sale
8 covered by that notice is to take place, and the sale must occur in
9 that area.

10 (a-1) If the first Tuesday of a month occurs on January 1 or
11 July 4, a public sale under Subsection (a) must be held between 10
12 a.m. and 4 p.m. on the first Wednesday of the month.

13 SECTION 4. Section 34.01, Tax Code, is amended by adding
14 Subsection (r-1) to read as follows:

15 (r-1) A sale of real property under this section, including
16 a sale conducted by means of a public auction using online bidding
17 and sale under Subsection (a-1), must take place between 10 a.m. and
18 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a
19 month occurs on January 1 or July 4, between 10 a.m. and 4 p.m. on
20 the first Wednesday of the month.

21 SECTION 5. Section 34.07(f), Tax Code, is amended to read as
22 follows:

23 (f) A suit filed against the taxing units under Subsection
24 (d) may not be maintained unless the action is instituted before the
25 first anniversary of the date of sale or resale. In this subsection:

26 (1) "Date of sale" means the date [~~first Tuesday of the~~
27 ~~month~~] on which the sheriff or constable conducted the sale of the

1 property under Section 34.01.

2 (2) "Date of resale" means the date on which the
3 grantor's acknowledgment was taken or, in the case of multiple
4 grantors, the latest date of acknowledgment by the grantors as
5 shown in the deed.

6 SECTION 6. The changes in law made by this Act apply only to
7 the sale of real property under Subchapter C, Chapter 34, Civil
8 Practice and Remedies Code, Section 51.002, Property Code, or
9 Section 34.01, Tax Code, for which notice is given on or after the
10 effective date of this Act.

11 SECTION 7. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2017.