

By: Wray

H.B. No. 3917

A BILL TO BE ENTITLED

AN ACT

relating to the collection of delinquent ad valorem taxes.

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

SECTION 1. Section 31.06, Tax Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Section 31.061, taxes are payable only as provided by this section. Except as provided by Subsection (e), a [A] collector shall accept United States currency or a check or money order in payment of taxes and shall accept payment by credit card or electronic funds transfer.

(e) A collector may adopt a written policy that requires payment of taxes, penalties, interest, attorney's fees, court costs, and other costs and expenses, including costs and expenses under Section 33.48, only with United States currency, a cashier's check, or a certified check if the payment relates to:

(1) personal property seized under Subchapter B, Chapter 33;

(2) property subject to an order of sale under Subchapter C, Chapter 33; or

(3) real property seized under Subchapter E, Chapter 33.

SECTION 2. Section 33.56, Tax Code, is amended by amending Subsections (c), (d), (e), and (f) and adding Subsection (g) to read as follows:

1           (c) If ~~[The taxing unit may not file a petition if]~~ a tax  
2 sale of the property subject to a petition filed under this section  
3 has not occurred, a copy of the petition must be served in a manner  
4 authorized by Rule 21a, Texas Rules of Civil Procedure, on each  
5 party named in the judgment for foreclosure of the tax lien on the  
6 property. The court in which the petition is filed may grant the  
7 petition only if no party named in the judgment files an objection  
8 to granting the petition with the court on or before the 30th day  
9 after the date the notice is served on each party ~~[unless:~~

10                   ~~[(1) the tax sale has been vacated by an order of a~~  
11 ~~court,~~

12                   ~~[(2) the property was bid off to a taxing unit under~~  
13 ~~Section 34.01(j) and has not been resold; or~~

14                   ~~[(3) the tax sale or resale purchaser, or the~~  
15 ~~purchaser's heirs, successors, or assigns, consents to the~~  
16 ~~petition].~~

17           (d) If a tax sale of the property subject to a petition filed  
18 under this section has occurred, the court in which the petition is  
19 filed must conduct a hearing on the petition unless the purchaser of  
20 the property at the tax sale or from the taxing unit to which the  
21 property was bid off, as applicable, consents to the court's  
22 granting of the petition ~~[Consent of the purchaser to a petition may~~  
23 ~~be shown by:~~

24                   ~~[(1) a written memorandum signed by the purchaser and~~  
25 ~~filed with the court,~~

26                   ~~[(2) the purchaser's joinder in the taxing unit's~~  
27 ~~petition,~~

1           ~~[(3) a statement of the purchaser made in open court on~~  
2 ~~the record in a hearing on the petition; or~~

3           ~~[(4) the purchaser's signature of approval to an~~  
4 ~~agreed order to grant the petition].~~

5           (e) For the purpose of Subsection (d), the consent of a  
6 purchaser may be demonstrated by:

7           (1) a written memorandum or answer of the purchaser  
8 filed with the court;

9           (2) the purchaser's joinder in the petition; or

10           (3) the signature of the purchaser to an agreed order  
11 to grant the petition ~~[A copy of the petition must be served in a~~  
12 ~~manner authorized by Rule 21a, Texas Rules of Civil Procedure, on~~  
13 ~~each party to the delinquent tax suit].~~

14           (f) If the purchaser does not consent to the granting of a  
15 petition filed under this section, a copy of the petition shall be  
16 served on the purchaser in:

17           (1) the manner provided by Rule 106, Texas Rules of  
18 Civil Procedure; or

19           (2) a manner provided by the Civil Practice and  
20 Remedies Code, the Business Organizations Code, or the Estates  
21 Code.

22           (g) If a court grants a ~~the~~ petition filed under this  
23 section, the court shall enter an order providing that:

24           (1) the judgment, any tax sale based on that judgment,  
25 and any subsequent resale are vacated;

26           (2) any applicable tax deed or applicable resale deed  
27 is canceled;

1 (3) the delinquent tax suit is revived; [~~and~~]

2 (4) except in a case in which judgment is vacated under  
3 Subsection (a)(4), the taxes, penalties, interest, and attorney's  
4 fees and costs, and the liens that secure each of those items, are  
5 reinstated; and

6 (5) if the property subject to the petition has been  
7 sold at a tax sale or by the taxing unit to which the property was  
8 bid off, the purchaser is refunded the amount paid for the property  
9 at the sale or to the taxing unit not later than the 60th day after  
10 the date the order is signed.

11 SECTION 3. Section 34.01, Tax Code, is amended by amending  
12 Subsections (a), (b), (f), and (r) and adding Subsection (r-3) to  
13 read as follows:

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

22 (b) On receipt of an order of sale of real or personal  
23 property, the officer charged with selling the property shall  
24 endorse on the order the date and exact time when the officer  
25 received the order. The endorsement is a levy on the property  
26 without necessity for going upon the ground. The officer shall  
27 calculate the total amount due under the judgment, including all

1 taxes, penalties, and interest, plus any other amount awarded by  
2 the judgment, court costs, and the costs of the sale. The costs of a  
3 sale include the costs of advertising, and any deed recording fees  
4 anticipated to be paid in connection with the sale of the property.  
5 To assist the officer in making the calculation, the collector of  
6 any taxing unit that is party to the judgment may provide the  
7 officer with a certified tax statement showing the amount of the  
8 taxes included in the judgment that remain due that taxing unit and  
9 all penalties, interest, and attorney's fees provided by the  
10 judgment as of the date of the proposed sale. If a certified tax  
11 statement is provided to the officer, the officer shall rely on the  
12 amount included in the statement and is not responsible or liable  
13 for the accuracy of the applicable portion of the calculation. A  
14 certified tax statement is not required to be sworn to and is  
15 sufficient if the tax collector or the collector's deputy signs the  
16 statement.

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

20 (1) states the number of acres and identifies the  
21 original survey;

22 (2) as to property located in a platted subdivision or  
23 addition, regardless of whether the subdivision or addition is  
24 recorded, states the name by which the land is generally known with  
25 reference to that subdivision or addition; or

26 (3) by reference adopts the description of the  
27 property contained in the judgment.

1           (r) Except as provided by Subsection (a-1) and this  
2 subsection, a sale of real property under this section must take  
3 place at the county courthouse in the county in which the real  
4 property [~~land~~] is located. The commissioners court of the county  
5 may designate an area other than an area at the county courthouse  
6 where sales under this section will take place that is in a public  
7 place within a reasonable proximity of the county courthouse as  
8 determined by the commissioners court and in a location as  
9 accessible to the public as the courthouse door. The commissioners  
10 court shall record that designation in the real property records of  
11 the county. A designation by a commissioners court under this  
12 section is not a ground for challenging or invalidating any sale. A  
13 sale must be held at an area designated under this subsection if the  
14 sale is held on or after the 90th day after the date the designation  
15 is recorded.

16           (r-3) Notwithstanding Subsection (r), the sale of personal  
17 property, including a manufactured home, may be conducted at the  
18 same place as the sale of real property under Subsection (r) or at  
19 the location of the personal property.

20           SECTION 4. Section 33.56, Tax Code, as amended by this Act,  
21 applies only to a petition to vacate a judgment for foreclosure of a  
22 tax lien that is filed under that section on or after the effective  
23 date of this Act. A petition to vacate a judgment for foreclosure of  
24 a tax lien that is filed before the effective date of this Act is  
25 governed by the law in effect on the date the petition is filed, and  
26 the former law is continued in effect for that purpose.

27           SECTION 5. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2019.