

BILL ANALYSIS

C.S.H.B. 3951
By: Huberty
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, certain counties, such as Harris County, have had issues with individuals bidding on real property during property auctions and then leaving before filling out any paperwork or finalizing the bid. C.S.H.B. 3951 seeks to address this issue to ensure that bidders are held accountable.

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. 3951 amends the Tax Code to authorize a commissioners court to require that, in order to be eligible to bid at a tax sale of real property seized under a tax warrant or sold pursuant to a foreclosure tax lien, a person must be registered as a bidder with the county assessor-collector before the sale begins. The bill authorizes the county assessor-collector to adopt rules governing the registration of bidders and to require a person registering as a bidder to designate the person's name and address; to provide valid proof of identification; to provide written proof of authority to bid on another person's behalf, if applicable; to provide any additional information reasonably required by the county assessor-collector; and to at least annually execute a statement on a form provided by the county assessor-collector certifying that there are no delinquent property taxes owed by the person registering as a bidder to the county or to any taxing unit having territory in the county.

C.S.H.B. 3951 requires the county assessor-collector to issue a written registration statement to a person who has registered as a bidder and makes a person ineligible to bid at a tax sale of real property unless the county assessor-collector has issued a written registration statement to the person before the sale begins. The bill limits the applicability of its provisions regarding bidder registration to a tax sale of real property conducted in a county in which the commissioners court has adopted such provisions and specifies that the applicability of statutory provisions relating to persons eligible to purchase real property in a tax sale to a county with a population of 250,000 or more, under which a person is not required to register as a condition of eligibility, is limited to such a county in which the commissioners court has not by order adopted the bill's provisions relating to bidder registration.

C.S.H.B. 3951 amends the Civil Practice and Remedies Code, with regard to the prohibition against an officer conducting a sale of real property executing or delivering a deed to the

purchaser of the property unless the purchaser exhibits to the officer a certain statement, to include as such a statement the written registration statement issued by the county assessor-collector under the bill showing that a person is a registered bidder at the sale at which the property is sold. The bill includes the written registration statement as a statement to be recited by the deed executed by the officer conducting the sale.

EFFECTIVE DATE

January 1, 2016.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3951 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. Subchapter A, Chapter 34, Tax Code, is amended by adding Section 34.011 to read as follows:

Sec. 34.011. PERSONS ELIGIBLE TO PURCHASE REAL PROPERTY. (a) This section applies only to a sale of real property under Section 34.01 conducted in:
(1) a county with a population of 250,000 or more; or

(2) a county with a population of less than 250,000 in which the commissioners court by order has adopted the provisions of this section.

(b) In this section:

(1) "Individual" does not include an individual acting on behalf of a taxing unit.

(2) "Person" does not include a taxing unit or an individual acting on behalf of a taxing unit.

(c) A county assessor-collector may require that, to be eligible to bid at a sale of real property under Section 34.01, an individual register as a bidder with the county assessor-collector before the sale begins. The county assessor-collector may require the individual:

(1) to provide valid proof of identification;

(2) to provide proof that the individual is authorized to bid for another person, if the individual may submit a bid for the other person at the sale; and

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 34, Tax Code, is amended by adding Section 34.011 to read as follows:

Sec. 34.011. BIDDER REGISTRATION. (a) This section applies only to a sale of real property under this chapter conducted in a county in which the commissioners court by order has adopted the provisions of this section.

(b) A commissioners court may require that, to be eligible to bid at a sale of real property under this chapter, a person must be registered as a bidder with the county assessor-collector before the sale begins. The county assessor-collector may adopt rules governing the registration of bidders under this section. The county assessor-collector may require a person registering as a bidder:

(1) to designate the person's name and address;

(2) to provide valid proof of identification;

(3) to provide written proof of authority to bid on behalf of another person, if applicable;

(4) to provide any additional information reasonably required by the county assessor-

(3) to at least annually execute a statement on a form provided by the county assessor-collector certifying that there are no delinquent taxes owed to the county and no delinquent ad valorem taxes owed to any taxing unit in the county by:

(A) the individual executing the certification;

(B) the person the individual may submit a bid for at the sale, if applicable; and

(C) each entity at least 10 percent of the ownership interest in which is owned by the person the individual may submit a bid for at the sale, if applicable.

(d) The county assessor-collector shall issue a written registration statement to an individual who registers as a bidder under this section. An individual is ineligible to submit a bid at a sale of real property under Section 34.01 unless the county assessor-collector has issued a written registration statement to the individual before the sale.

(e) A county assessor-collector may charge an individual registering as a bidder under this section a fee not to exceed \$10 to cover the costs associated with issuing a registration statement.

(f) An officer conducting a sale of real property under Section 34.01 is not liable to any person if the officer sells real property to an individual who has not complied with the requirements of this section.

(g) An individual who knowingly violates this section commits an offense. An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the individual has been previously convicted of an offense under this section or under former Section 34.015 as that provision existed on or before December 31, 2015. It is a defense to prosecution under this section that each delinquent tax described by Subsection (c)(3) is paid not later than the 30th day after the date the county assessor-collector mails written notification to the individual that taxes included in a statement executed under that subdivision are delinquent.

No equivalent provision. (But see SECTION 3 below.)

collector; and

(5) to at least annually execute a statement on a form provided by the county assessor-collector certifying that there are no delinquent ad valorem taxes owed by the person registering as a bidder to the county or to any taxing unit having territory in the county.

(c) The county assessor-collector shall issue a written registration statement to a person who has registered as a bidder under this section. A person is not eligible to bid at a sale of real property under this chapter unless the county assessor-collector has issued a written registration statement to the person before the sale begins.

SECTION 2. Section 34.015(p), Tax Code, is amended to read as follows:

(p) This section applies only to a sale of real

SECTION 2. Sections 34.0445(a), (c), and (e), Civil Practice and Remedies Code, are amended to read as follows:

(a) An officer conducting a sale of real property under this subchapter may not execute or deliver a deed to the purchaser of the property unless the purchaser or the individual submitting the successful bid for the purchaser exhibits to the officer an unexpired written registration statement issued to the person in the manner prescribed by Section 34.011 [34.015], Tax Code~~[-, showing that the county assessor-collector of the county in which the sale is conducted has determined that:~~

~~[(1) there are no delinquent ad valorem taxes owed by the person to that county; and~~

~~[(2) for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality].~~

(c) The deed executed by the officer conducting the sale must name the purchaser [successful bidder] as the grantee and recite that the purchaser or the individual submitting the successful bid for the purchaser [successful bidder] exhibited to that officer an unexpired written registration statement issued to the person in the manner prescribed by Section 34.011 [34.015], Tax Code~~[-, showing that the county assessor-collector of the county in which the sale was conducted determined that:~~

~~[(1) there are no delinquent ad valorem taxes owed by the person to that county;~~

property under Section 34.01 that is conducted in:

(1) a county with a population of 250,000 or more in which the commissioners court has not by order adopted the provisions of Section 34.011; or

(2) a county with a population of less than 250,000 in which the commissioners court by order has adopted the provisions of this section.

SECTION 3. Sections 34.0445(a) and (c), Civil Practice and Remedies Code, are amended to read as follows:

(a) An officer conducting a sale of real property under this subchapter may not execute or deliver a deed to the purchaser of the property unless the purchaser exhibits to the officer:

(1) an unexpired written statement issued to the person in the manner prescribed by Section 34.015, Tax Code, showing that the county assessor-collector of the county in which the sale is conducted has determined that:

(A) [(1)] there are no delinquent ad valorem taxes owed by the person to that county; and

(B) [(2)] for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality; or

(2) the written registration statement issued to the person in the manner prescribed by Section 34.011, Tax Code, showing that the person is a registered bidder at the sale at which the property is sold.

(c) The deed executed by the officer conducting the sale must name the successful bidder as the grantee and recite that the successful bidder exhibited to that officer:

(1) an unexpired written statement issued to the person in the manner prescribed by Section 34.015, Tax Code, showing that the county assessor-collector of the county in which the sale was conducted determined that:

(A) [(1)] there are no delinquent ad valorem taxes owed by the person to that county; and

and

~~[(2) for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality].~~

(e) A person who knowingly violates this section commits an offense. An offense under this section ~~[subsection]~~ is a Class A ~~[B]~~ misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the individual has been previously convicted of an offense under this section.

SECTION 3. The following provisions are repealed:

- (1) Section 34.0445(b), Civil Practice and Remedies Code; and
- (2) Section 34.015, Tax Code.

SECTION 4. The changes in law made by this Act apply only to the sale of real 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 5. (a) The change in law made by this Act to Section 34.0445(e), Civil Practice and Remedies Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) The repeal by this Act of Section 34.015, Tax Code, does not apply to an offense committed under that section before the effective date of the repeal. An offense committed before the effective date of the repeal is governed by Section 34.015, Tax Code, as it existed on the date the offense was committed, and the former law is continued in effect for that purpose.

(B) [(2)] for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality; or

(2) the written registration statement issued to the person in the manner prescribed by Section 34.011, Tax Code, showing that the person is a registered bidder at the sale at which the property is sold.

No equivalent provision. *(But see SECTION 2 above.)*

SECTION 4. Same as introduced version.

No equivalent provision.

For purposes of this section, an offense was committed before the effective date of the repeal if any element of the offense occurred before that date.

SECTION 6. This Act takes effect January 1, 2016.

SECTION 5. Same as introduced version.