

BILL ANALYSIS

Senate Research Center

H.B. 1128
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that under current law, foreclosure auctions and other sales of real property are statutorily required to take place publicly on the first Tuesday of every month between 10 a.m. and 4 p.m. Oftentimes the first Tuesday of the month can fall on January 1st or July 4th. Turnout to these public auctions can be negatively affected because of the widely celebrated national holidays that can fall on those dates. H.B. 1128 amends Section 51.002, Property Code, Section 34.041, Civil Practices and Remedies Code, and Section 34.01, Tax Code, to move the statutorily required date to the first Wednesday in each month if the first Tuesday falls on January 1st or July 4th.

H.B. 1128 amends current law relating to the date and time for the public sale of real property.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Supreme Court is modified in SECTION 2 (Section 34.041, Civil Practice and Remedies Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 34.041, Civil Practice and Remedies Code, to read as follows:

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

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

(c) Requires that a sale of real property under this subchapter (Sale) take place during a certain time and date. Prohibits the Texas Supreme Court, notwithstanding Section 22.004 (Rules of Civil Procedure), Government Code, from amending or adopting rules in conflict with this subsection.

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

(a) Creates an exception under Subsection (a-1).

(a-1) Requires that a public sale under Subsection (a) (relating to certain procedures for a certain sale of real property), if the first Tuesday of a month occurs on January 1 or July 4, be held between 10 a.m. and 4 p.m. on the first Wednesday of the month.

SECTION 4. Amends Section 34.01, Tax Code, by adding Subsections (r-1) and (r-2), as follows:

(r-1) Requires that a sale of real property under this section (Sale of Property), other than a sale conducted by means of a public auction using online bidding and sale under

Subsection (a-1) (relating to authorizing the commissioners court of a county to take certain actions regarding online auctions), take place at a certain time and date.

(r-2) Authorizes a sale of real property conducted by means of a public auction using online bidding and sale under Subsection (a-1) to begin at any time and requires that the sale conclude at 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, at 4 p.m. on the first Wednesday of the month.

SECTION 5. Amends Section 34.07(f), Tax Code, to redefine "date of sale."

SECTION 6. Provides that the changes in law made by this Act apply only to the sale of real property under Subchapter C, Chapter 34 (Execution on Judgments), Civil Practice and Remedies Code, Section 51.002 (Sale of Real Property Under Contract Lien), Property Code, or Section 34.01, Tax Code, for which notice is given on or after the effective date of this Act.

SECTION 7. Effective date: September 1, 2017.