

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 699  
By: Davis, John (Taylor)  
Business & Commerce  
5/14/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In recent years, there has been growth in the number of sales and sale attendees that has resulted in overcrowding at courthouse sales of real property in some counties. Some have raised concerns about safety and security issues that can occur as part of the auction process.

C.S.H.B. 699 amends current law relating to the location of certain public sales of real property.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 34.041, Civil Practice and Remedies Code, as follows:

Sec. 34.041. SALE AT PLACE OTHER THAN COURTHOUSE DOOR. (a) Creates this subsection from existing text. Requires that sales under this chapter (Execution on Judgments), if the public sale of real property, rather than land, is required by court order or other law to be made at a place other than the courthouse door, be made at the place designated by that court order or other law.

(b) Authorizes the commissioners court of a county to designate an area other than an area at the county courthouse where public sales of real property under this chapter 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. Requires the commissioners court to record that designation in the real property records of the county. Provides that a designation by a commissioners court under this section is not a ground for challenging or invalidating any sale. Requires that a sale, except for a sale under Subsection (a), 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. Authorizes the commissioners court to by order authorize a county official or employee to identify separate locations within the designated area for the conduct of sales under this section and for the conduct of sales by peace officers under other laws.

SECTION 2. Amends Section 51.002(h), Property Code, as follows:

(h) Authorizes the commissioners court of a county, for the purposes of Subsection (a) (relating to requiring a sale of real property under a power of sale conferred by a deed of trust or other contract lien to be a public sale at auction), to designate an area other than an area at the county courthouse where public sales of real property 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. Requires the commissioners court to record that designation in the real property records of the county. Provides that a designation by a commissioners court under this section (Sale of Real Property Under Contract Lien) is

not a ground for challenging or invalidating any sale. Requires a sale to be held, rather than prohibits a sale from being held, at an area designated under this subsection if the sale is held on or after, rather than before, the 90th day after the date the designation is recorded.

SECTION 3. Amends Section 34.01(r), Tax Code, as follows:

(r) Authorizes the commissioners court of the county to 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. Requires the commissioners court to record that designation in the real property records of the county. Provides that a designation by the commissioners court under this section is not a ground for challenging or invalidating any sale. Requires a sale to 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.

Deletes existing text authorizing the commissioners court of the county to designate an area in the county courthouse or another location in the county where sales under this section are required to take place and requires the commissioners court to record any designated area or other location in the real property records of the county. Deletes existing text requiring a sale to occur in that area or at that location if the commissioners court designates an area in the courthouse or another location in the county for sales. Deletes existing text requiring a sale to occur in the same area in the courthouse that is designated by the commissioners court for the sale of real property under Section 51.002, Property Code, if the commissioners court does not designate an area in the courthouse or another location in the county for sales.

SECTION 4. Effective date: October 1, 2013.