

SUBJECT: Including auctioneer's commission and fees in cost of real property sale

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 8 ayes — Burrows, Guillen, Bohac, Murphy, Noble, E. Rodriguez,
Shaheen, Wray

0 nays

3 absent — Cole, Martinez Fischer, Sanford

WITNESSES: For — Bruce Elfant; (*Registered, but did not testify*: Donna Warndof,
Harris County Commissioners Court; Alexis Tatum, Travis County
Commissioners Court; Idona Griffith)

Against — None

BACKGROUND: Tax Code ch. 33 subch. E allows municipalities and counties to seize an individual's real property for delinquent property taxes, penalties, and interest owed on the property and the amount secured by a lien on the property, following notification to the individual. Sec. 33.92 allows the collector for a municipality or county to apply for a tax warrant after property becomes subject to seizure. Sec. 33.93 specifies that a tax warrant directs the sheriff or a constable in a county and the collector for the municipality or the county to seize the property in the warrant.

Tax Code sec. 34.01(b) requires the officer charged with selling seized property to calculate the total amount due under the judgment, including all taxes, penalties, and interest, plus any amount awarded by the judgment, court costs, and the costs of the sale. The costs of a sale include the costs of advertising and anticipated deed recording fees.

Tax Code sec. 34.01(p) specifies that property seized under ch. 33 subch. E may not be sold for an amount less than the lesser of the market value of the property or the total amount of taxes, penalties, interest, costs, and other claims for which a warrant was issued, except when a bid sufficient

to pay this amount is not received.

Interested parties have noted that the cost of the auctioneer's commission and fees in online auctions is not included in the costs of the sale.

DIGEST:

CSHB 2650 would add an auctioneer's commission and fees to the costs of a sale of real property seized under a tax warrant or ordered to be sold pursuant to the foreclosure of a tax lien. The bill also would specify that property seized by a municipality or county could not be sold for an amount less than the lesser of the market value of the property or the total amount of taxes, penalties, interest, costs, auctioneer's commission and fees, and other claims for which a warrant was issued.

The bill would apply to the sale of real property seized under a tax warrant or ordered to be sold pursuant to the foreclosure of a tax lien for which notice was given on or after the effective date of the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.