

CHAPTER 762

H.B. No. 2302

An Act relating to the authority of the commissioners court of a county to exchange an interest in real estate for another interest in real estate.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Article 1577, Revised Statutes, is amended to read as follows:

**Art. 1577. SALE OR LEASE OF REAL ESTATE**

*Sec. 1. (a)* The Commissioners Court may, by an order to be entered on its minutes, appoint a Commissioner to sell or lease any real estate of the county at public auction, and notice of said public auction shall be advertised at least twenty (20) days before the day of sale, by the officer, by having the notice thereof published in the English language once a week for three (3) consecutive weeks preceding such sale or lease in a newspaper in the county in which the real estate is located and in the county which owns the real estate, if they are not the same.

(b) If the real estate is sold, the deed of such Commissioner made in conformity to such order for and in behalf of the county, duly acknowledged and proven and recorded, shall be sufficient to convey to the purchasers all the right, title, and interest and estate which the county may have in and to the premises to be conveyed.

(c) ~~If [Provided, however, that where]~~ abandoned seawall or highway right-of-way property is no longer needed for seawall or highway purposes and the county decides to sell or lease said right-of-way property, it shall be sold or leased with the following priorities: (1) to abutting or adjoining landowners; (2) to the original grantor, his heirs or assigns of the original tract from whence said right-of-way was conveyed; (3) for public use only to the United States Government, or to the State of Texas, or to any city within the established limits of which said property is located; or (4) at public auction as provided above; unless in the deed of conveyance under which the county originally acquired title to the property, the sale or lease thereof to the public is restricted or prohibited; provided, however, that where the Commissioners Court determines that the said abandoned seawall or highway right-of-way property shall be sold or leased to an adjoining or abutting landowner, or to the original grantor, his heirs or assigns, then the said Commissioners Court shall in addition to publication of notice of sale as provided above, appoint an appraiser who shall determine and report to the Commissioner of Sale the fair market and fair lease value of the property to be sold or leased, and the Commissioner shall not sell or lease said property for an amount less than that so determined, which said amount shall be reported to the Commissioners Court prior to sale and shall, if deemed reasonable, be approved by them prior to sale, the Commissioners Court being specifically authorized to reject any offers of purchase or sale or lease, whether at public auction or not, if deemed unreasonable, all costs of said sale, including the fee for appraisal, to be added to the price of sale and paid by the purchaser at such sale.

(d) ~~If [; provided further, whenever]~~ any real property, or interest therein, is owned by any county and is sold, leased, or exchanged hereunder and is being used by a public utility or common carrier having the right of eminent domain for right-of-way and easement purposes, the sale, lease, exchange, conveyance and surrender of possession herein provided for shall be and remain in all things subject to the right and continued use of such public utility or common carrier.

(e) The Commissioners Court may also provide for conveyance of any such real estate of the county subject to such restrictions, conditions, and limitations as the Commissioners Court may deem necessary or proper; however, every such conveyance of seawall right-of-way property shall contain a restriction that no structure may be placed within 50 feet or such greater distance as the Commissioners Court may provide of the landward boundary of the seawall right-of-way retained by the county. In the order and in the notice of public auction, the Commissioners Court shall give a substantial statement of any such restrictions, conditions, and limitations.

(f) Nothing contained in this Article shall authorize any Commissioners Court to dispose of any lands given, donated, or granted to such county for the purpose of education in any other manner than shall be directed by law.

*Sec. 2. (a) The Commissioners Court may, by an order entered on its minutes, authorize the exchange of any real estate interest of the county for any real estate interest of any private individual, corporation, or partnership or other private entity. The exchange transaction may be partly for cash and partly by the trade or exchange of the real estate interest.*

*(b) The Commissioners Court may not exchange a real estate interest under this section unless notice that the county will consider offers for an exchange of the real estate interest is published in the English language in a newspaper of general circulation in the county in which the county real estate is located and in the county that owns the real estate. The notice must be published once a week for three (3) consecutive weeks preceding the exchange, with the first publication being at least twenty (20) days preceding the exchange. The Commissioners Court may reject any and all offers made.*

*(c) Any exchange under this section may not be made for a total consideration, including any cash and real estate interest offered, that is less than the fair market value of the county real estate interest being exchanged, as determined by an appraisal of the real estate interest. The appraisal shall be obtained by the county and is conclusive of the fair market value of the real estate interest.*

*(d) The notice and publication requirements of Subsection (b) of this section do not apply, but an appraisal under Subsection (c) of this section is required, if the Commissioners Court wishes to exchange any real estate interest that the county originally acquired for the purpose of streets, rights-of-way, or easements and that the county chooses to trade or exchange as consideration for another real estate interest acquired for streets, rights-of-way, or easements, regardless of whether the transaction is partly for cash and partly by the trade or exchange.*

*(e) This section does not affect the right of a county to exchange any real estate interest for a real estate interest of the United States, this state, or a city, town, or village or other political subdivision of this state.*

*(f) A county shall not exchange lands under this section unless the land to be acquired by the county pursuant to such exchange is to be used for one or more of those public purposes for which a county may otherwise acquire land.*

**SECTION 2.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 16, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 2302 on May 27, 1985, by a non-record vote; passed by the Senate, with amendments, on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 14, 1985

Effective: August 26, 1985