

TAX CODE CHAPTER 34. TAX SALES AND REDEMPTION

TAX CODE

TITLE 1. PROPERTY TAX CODE

SUBTITLE E. COLLECTIONS AND DELINQUENCY

CHAPTER 34. TAX SALES AND REDEMPTION

SUBCHAPTER A. TAX SALES

Sec. 34.01. SALE OF PROPERTY. (a) Real property seized under a tax warrant issued under Subchapter E, Chapter 33, or ordered sold pursuant to foreclosure of a tax lien shall be sold by the officer charged with selling the property, unless otherwise directed by the taxing unit that requested the warrant or order of sale or by an authorized agent or attorney for that unit. The sale shall be conducted in the manner similar property is sold under execution except as otherwise provided by this subtitle.

(b) On receipt of an order of sale of real property, the officer charged with selling the property shall endorse on the order the date and exact time when the officer received the order. The endorsement is a levy on the property without necessity for going upon the ground. The officer shall calculate the total amount due under the judgment, including all taxes, penalties, and interest, plus any other amount awarded by the judgment, court costs, and the costs of the sale. The costs of a sale include the costs of advertising, and deed recording fees anticipated to be paid in connection with the sale of the property. To assist the officer in making the calculation, the collector of any taxing unit that is party to the judgment may provide the officer with a certified tax statement showing the amount of the taxes included in the judgment that remain due that taxing unit and all penalties, interest, and attorney's fees provided by the judgment as of the date of the proposed sale. If a certified tax statement is provided to the officer, the officer shall rely on the amount included in the statement and is not responsible or liable for the accuracy of the applicable portion of the calculation. A certified tax statement is not required to be sworn to and is sufficient if the tax collector or the collector's deputy signs the statement.

(c) The officer charged with the sale shall give written

notice of the sale in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended, or that rule's successor to each person who was a defendant to the judgment or that person's attorney.

(d) An officer's failure to send the written notice of sale or a defendant's failure to receive that notice is insufficient by itself to invalidate:

- (1) the sale of the property; or
- (2) the title conveyed by that sale.

(e) A notice of sale under Subsection (c) must substantially comply with this subsection. The notice must include:

- (1) a statement of the authority under which the sale is to be made;
- (2) the date, time, and location of the sale; and
- (3) a brief description of the property to be sold.

(f) A notice of sale is not required to include field notes describing the property. A description of the property is sufficient if the notice:

- (1) states the number of acres and identifies the original survey;
- (2) as to property located in a platted subdivision or addition, regardless of whether the subdivision or addition is recorded, states the name by which the land is generally known with reference to that subdivision or addition; or
- (3) by reference adopts the description of the property contained in the judgment.

(g) For publishing a notice of sale, a newspaper may charge a rate that does not exceed the greater of:

- (1) two cents per word; or
- (2) an amount equal to the published word or line rate of that newspaper for the same class of advertising.

(h) If there is not a newspaper published in the county of the sale, or a newspaper that will publish the notice of sale for the rate authorized by Subsection (g), the officer shall post the notice in writing in three public places in the county not later than the 20th day before the date of the sale. One of the notices must be posted at the door of the county courthouse.

(i) The owner of real property subject to sale may file with the officer charged with the sale a written request that the property be divided and that only as many portions be sold as necessary to pay the amount due against the property, as calculated under Subsection (b). In the request the owner shall describe the desired portions and shall specify the order in which the portions should be sold. The owner may not specify more than four portions or a portion that divides a building or other contiguous improvement. The request must be delivered to the officer not later than the seventh day before the date of the sale.

(j) If a bid sufficient to pay the lesser of the amount calculated under Subsection (b) or the adjudged value is not received, the taxing unit that requested the order of sale may terminate the sale. If the taxing unit does not terminate the sale, the officer making the sale shall bid the property off to the taxing unit that requested the order of sale, unless otherwise agreed by each other taxing unit that is a party to the judgment, for the aggregate amount of the judgment against the property or for the market value of the property as specified in the judgment, whichever is less. The duty of the officer conducting the sale to bid off the property to a taxing unit under this subsection is self-executing. The actual attendance of a representative of the taxing unit at the sale is not a prerequisite to that duty.

(k) The taxing unit to which the property is bid off takes title to the property for the use and benefit of itself and all other taxing units that established tax liens in the suit. The taxing unit's title includes all the interest owned by the defendant, including the defendant's right to the use and possession of the property, subject only to the defendant's right of redemption. Payments in satisfaction of the judgment and any costs or expenses of the sale may not be required of the purchasing taxing unit until the property is redeemed or resold by the purchasing taxing unit.

(l) Notwithstanding that property is bid off to a taxing unit under this section, a taxing unit that established a tax lien in the suit may continue to enforce collection of any amount for which a former owner of the property is liable to the taxing unit,

including any post-judgment taxes, penalties, and interest, in any other manner provided by law.

(m) The officer making the sale shall prepare a deed to the purchaser of real property at the sale, to any other person whom the purchaser may specify, or to the taxing unit to which the property was bid off. The taxing unit that requested the order of sale may elect to prepare a deed for execution by the officer. If the taxing unit prepares the deed, the officer shall execute that deed. An officer who executes a deed prepared by the taxing unit is not responsible or liable for any inconsistency, error, or other defect in the form of the deed. As soon as practicable after a deed is executed by the officer, the officer shall either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the order of sale, which shall file the deed for recording with the county clerk. The county clerk shall file and record each deed filed under this subsection and after recording shall return the deed to the grantee.

(n) The deed vests good and perfect title in the purchaser or the purchaser's assigns to the interest owned by the defendant in the property subject to the foreclosure, including the defendant's right to the use and possession of the property, subject only to the defendant's right of redemption, the terms of a recorded restrictive covenant running with the land that was recorded before January 1 of the year in which the tax lien on the property arose, a recorded lien that arose under that restrictive covenant that was not extinguished in the judgment foreclosing the tax lien, and each valid easement of record as of the date of the sale that was recorded before January 1 of the year the tax lien arose. The deed may be impeached only for fraud.

(o) If a bid sufficient to pay the amount specified by Subsection (p) is not received, the officer making the sale, with the consent of the collector who applied for the tax warrant, may offer property seized under Subchapter E, Chapter 33, to a person described by Section 11.181 or 11.20 for less than that amount. If the property is offered to a person described by Section 11.181 or 11.20, the officer making the sale shall reopen the bidding at the amount of that person's bid and bid off the property to the highest

bidder. Consent to the sale by the taxing units entitled to receive proceeds of the sale is not required. The acceptance of a bid by the officer under this subsection is conclusive and binding on the question of its sufficiency. An action to set aside the sale on the grounds that a bid is insufficient may not be sustained, except that a taxing unit that participates in distribution of proceeds of the sale may file an action before the first anniversary of the date of the sale to set aside the sale on the grounds of fraud or collusion between the officer making the sale and the purchaser.

(p) Except as provided by Subsection (o), property seized under Subchapter E, Chapter 33, may not be sold for an amount that is less than the lesser of the market value of the property as specified in the warrant or the total amount of taxes, penalties, interest, costs, and other claims for which the warrant was issued. If a sufficient bid is not received by the officer making the sale, the officer shall bid off the property to a taxing unit in the manner specified by Subsection (j) and subject to the other provisions of that subsection. A taxing unit that takes title to property under this subsection takes title for the use and benefit of that taxing unit and all other taxing units that established tax liens in the suit or that, on the date of the seizure, were owed delinquent taxes on the property.

(q) A sale of property under this section to a purchaser other than a taxing unit:

(1) extinguishes each lien securing payment of the delinquent taxes, penalties, and interest against that property and included in the judgment; and

(2) does not affect the personal liability of any person for those taxes, penalties, and interest included in the judgment that are not satisfied from the proceeds of the sale.

(r) Except as provided by this subsection, a sale of real property under this section must take place at the county courthouse in the county in which the land is located. The commissioners court of the county may designate an area in the county courthouse or another location in the county where sales under this section must take place and shall record any designated area or other location in the real property records of the county.

If the commissioners court designates an area in the courthouse or another location in the county for sales, a sale must occur in that area or at that location. If the commissioners court does not designate an area in the courthouse or another location in the county for sales, a sale must 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.

(s) To the extent of a conflict between this section and a provision of the Texas Rules of Civil Procedure that relates to an execution, this section controls.

Acts 1979, 66th Leg., p. 2297, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 32, eff. June 15, 1989; Acts 1991, 72nd Leg., ch. 854, Sec. 2, eff. June 16, 1991; Acts 1995, 74th Leg., ch. 1017, Sec. 2, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 914, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 817, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1481, Sec. 24, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1430, Sec. 26, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 319, Sec. 8, eff. June 18, 2003.

Sec. 34.015. PERSONS ELIGIBLE TO PURCHASE REAL PROPERTY.

(a) In this section, "person" does not include a taxing unit or an individual acting on behalf of a taxing unit.

(b) An officer conducting a sale of real property under Section 34.01 may not execute a deed in the name of or deliver a deed to any person other than the person who was the successful bidder. The officer may not execute or deliver a deed to the purchaser of the property unless the purchaser exhibits to the officer an unexpired written statement issued under this section to the person by the county assessor-collector of the county in which the sale is conducted showing that:

(1) there are no delinquent 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) On the written request of any person, a county assessor-collector shall issue a written statement stating whether there are any delinquent taxes owed by the person to that county or to a school district or municipality having territory in that county. A request for the issuance of a statement by the county assessor-collector under this subsection must:

(1) sufficiently identify any property subject to taxation by the county or by a school district or municipality having territory in the county, regardless of whether the property is located in the county, that the person owns or formerly owned so that the county assessor-collector and the collector for each school district or municipality having territory in the county may determine whether the property is included on a current or a cumulative delinquent tax roll for the county, the school district, or the municipality under Section 33.03;

(2) specify the address to which the county assessor-collector should send the statement;

(3) include any additional information reasonably required by the county assessor-collector; and

(4) be sworn to and signed by the person requesting the statement.

(d) On receipt of a request under Subsection (c), the county assessor-collector shall send to the collector for each school district and municipality having territory in the county, other than a school district or municipality for which the county assessor-collector is the collector, a request for information as to whether there are any delinquent taxes owed by the person to that school district or municipality. The county assessor-collector shall specify the date by which the collector must respond to the request.

(e) If the county assessor-collector determines that there are delinquent taxes owed to the county, the county assessor-collector shall include in the statement issued under Subsection (c) the amount of delinquent taxes owed by the person to that county. If the county assessor-collector is the collector for a school district or municipality having territory in the county and the county assessor-collector determines that there are

delinquent ad valorem taxes owed by the person to the school district or municipality, the assessor-collector shall include in the statement issued under Subsection (c) the amount of delinquent taxes owed by the person to that school district or municipality.

(f) If the county assessor-collector receives a response from the collector for a school district or municipality having territory in the county indicating that there are delinquent taxes owed to that school district or municipality on the person's current or former property for which the person is personally liable, the county assessor-collector shall include in the statement issued under Subsection (c):

(1) the amount of delinquent taxes owed by the person to that school district or municipality; and

(2) the name and address of the collector for that school district or municipality.

(g) If the county assessor-collector determines that there are no delinquent taxes owed by the person to the county or to a school district or municipality for which the county assessor-collector is the collector, the county assessor-collector shall indicate in the statement issued under Subsection (c) that there are no delinquent ad valorem taxes owed by the person to the county or to the school district or municipality.

(h) If the county assessor-collector receives a response from the collector for any school district or municipality having territory in that county indicating that there are no delinquent ad valorem taxes owed by the person to that school district or municipality, the county assessor-collector shall indicate in the statement issued under Subsection (c) that there are no delinquent ad valorem taxes owed by the person to that school district or municipality.

(i) If the county assessor-collector does not receive a response from the collector for any school district or municipality to whom the county assessor-collector sent a request under Subsection (d) as to whether there are delinquent taxes on the person's current or former property owed by the person to that school district or municipality, the county assessor-collector shall indicate in the statement issued under Subsection (c) that



there are no reported delinquent taxes owed by the person to that school district or municipality.

(j) To cover the costs associated with the issuance of statements under Subsection (c), a county assessor-collector may charge the person requesting a statement a fee not to exceed \$10 for each statement requested.

(k) A statement under Subsection (c) must be issued in the name of the requestor, bear the requestor's name, include the dates of issuance and expiration, and be eligible for recording under Section 12.001(b), Property Code. A statement expires on the 90th day after the date of issuance.

(k-1) If within six months of the date of a sale of real property under Section 34.01, the successful bidder does not exhibit to the officer who conducted the sale an unexpired statement that complies with Subsection (k), the officer who conducted the sale shall provide a copy of the officer's return to the county assessor-collector for each county in which the real property is located. On receipt of the officer's return, the county assessor-collector shall file the copy with the county clerk of the county in which the county assessor-collector serves. The county clerk shall record the return in records kept for that purpose and shall index and cross-index the return in the name of the successful bidder at the auction and each former owner of the property. The chief appraiser of each appraisal district that appraises the real property for taxation may list the successful bidder in the appraisal records of that district as the owner of the property.

(l) 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 an unexpired written statement issued to the person in the manner prescribed by this section, 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; 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.

(m) If a deed contains the recital required by Subsection (1), it is conclusively presumed that this section was complied with.

(n) A person who knowingly violates this section commits an offense. An offense under this subsection is a Class B misdemeanor.

(o) To the extent of a conflict between this section and any other law, this section controls.

(p) This section applies only to a sale of real property under Section 34.01 that is 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.

Added by Acts 2003, 78th Leg., ch. 1010, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 86, Sec. 2, eff. May 17, 2005.

Acts 2005, 79th Leg., Ch. 1147, Sec. 1, eff. June 18, 2005.

Sec. 34.02. DISTRIBUTION OF PROCEEDS. (a) The proceeds of a tax sale under Section 33.94 or 34.01 shall be applied in the order prescribed by Subsection (b). The amount included under each subdivision of Subsection (b) must be fully paid before any of the proceeds may be applied to the amount included under a subsequent subdivision.

(b) The proceeds shall be applied to:

(1) the costs of advertising the tax sale;

(2) any fees ordered by the judgment to be paid to an appointed attorney ad litem;

(3) the original court costs payable to the clerk of the court;

(4) the fees and commissions payable to the officer conducting the sale;

(5) the expenses incurred by a taxing unit in determining necessary parties and in procuring necessary legal descriptions of the property if those expenses were awarded to the

taxing unit by the judgment under Section 33.48(a)(4);

(6) the taxes, penalties, interest, and attorney's fees that are due under the judgment; and

(7) any other amount awarded to a taxing unit under the judgment.

(c) If the proceeds are not sufficient to pay the total amount included under any subdivision of Subsection (b), each participant in the amount included under that subdivision is entitled to a share of the proceeds in an amount equal to the proportion its entitlement bears to the total amount included under that subdivision.

(d) The officer conducting a sale under Section 33.94 or 34.01 shall pay any excess proceeds after payment of all amounts due all participants in the sale as specified by Subsection (b) to the clerk of the court issuing the warrant or order of sale.

(e) In this section, "taxes" includes a charge, fee, or expense that is expressly authorized by Section 32.06 or 32.065. In this section, "taxes" includes a charge, fee, or expense that is expressly authorized by Section 32.06 or 32.065.

Acts 1979, 66th Leg., p. 2297, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 131, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1481, Sec. 25, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 319, Sec. 9, eff. June 18, 2003.

Sec. 34.03. DISPOSITION OF EXCESS PROCEEDS. (a) The clerk of the court shall:

(1) if the amount of excess proceeds is more than \$25, before the 31st day after the date the excess proceeds are received by the clerk, send by certified mail, return receipt requested, a written notice to the former owner of the property, at the former owner's last known address according to the records of the court or any other source reasonably available to the court, that:

(A) states the amount of the excess proceeds;

(B) informs the former owner of that owner's rights to claim the excess proceeds under Section 34.04; and

(C) includes a copy or the complete text of this section and Section 34.04; and

(2) regardless of the amount, keep the excess proceeds paid into court as provided by Section 34.02(c) for a period of two years after the date of the sale unless otherwise ordered by the court.

(b) If no claimant establishes entitlement to the proceeds within the period provided by Subsection (a), the clerk shall distribute the excess proceeds to each taxing unit participating in the sale in an amount equal to the proportion its taxes, penalties, and interests bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(c) The clerk shall note on the execution docket in each case the amount of the excess proceeds, the date they were received, and the date they were transmitted to the taxing units participating in the sale.

Acts 1979, 66th Leg., p. 2298, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, Sec. 132, eff. Jan. 1, 1982; Acts 1999, 76th Leg., ch. 1185, Sec. 1, eff. Sept. 1, 1999.

Sec. 34.04. CLAIMS FOR EXCESS PROCEEDS. (a) A person, including a taxing unit, may file a petition in the court that ordered the seizure or sale setting forth a claim to the excess proceeds. The petition must be filed before the second anniversary of the date of the sale of the property. The petition is not required to be filed as an original suit separate from the underlying suit for seizure of the property or foreclosure of a tax lien on the property but may be filed under the cause number of the underlying suit.

(b) A copy of the petition shall be served, in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended, or that rule's successor, on all parties to the underlying action not later than the 20th day before the date set for a hearing on the petition.

(c) At the hearing the court shall order that the proceeds be paid according to the following priorities to each party that establishes its claim to the proceeds:

(1) to the tax sale purchaser if the tax sale has been

adjudged to be void and the purchaser has prevailed in an action against the taxing units under Section 34.07(d) by final judgment;

(2) to a taxing unit for any taxes, penalties, or interest that have become due or delinquent on the subject property subsequent to the date of the judgment or that were omitted from the judgment by accident or mistake;

(3) to any other lienholder, consensual or otherwise, for the amount due under a lien, in accordance with the priorities established by applicable law;

(4) to a taxing unit for any unpaid taxes, penalties, interest, or other amounts adjudged due under the judgment that were not satisfied from the proceeds from the tax sale; and

(5) to each former owner of the property, as the interest of each may appear.

(d) Interest or costs may not be allowed under this section.

(e) an order under this section is appealable.

(f) A person may not take an assignment of an owner's claim to excess proceeds unless:

(1) the assignment is taken on or after the 36th day after the date the excess proceeds are deposited in the registry of the court;

(2) the assignment is in writing and signed by the assignor; and

(3) the assignment document contains a sworn statement by the assignor affirming:

(A) that the assignment was given voluntarily;

(B) the date on which the assignment was made and that the date was not earlier than the 36th day after the date the excess proceeds were deposited in the registry of the court;

(C) that the assignor has received the notice from the clerk required by Section 34.03;

(D) the nature and amount of consideration given for the assignment;

(E) the circumstances under which the excess proceeds are in the registry of the court;

(F) the amount of the claim to excess proceeds in the registry of the court;

(G) that the assignor has made no other assignments of the assignor's claim to the excess proceeds; and

(H) that the assignor knows that the assignor may retain counsel.

(g) An assignee who obtains excess proceeds without complying with Subsection (f) is liable to the assignor for the amount of excess proceeds obtained plus attorney's fees and expenses.

(h) An assignee who files a petition setting forth a claim to excess proceeds must attach a copy of the assignment document and produce the original of the assignment document in court at the hearing on the petition. If the original assignment document is lost, the assignee must obtain the presence of the assignor to testify at the hearing.

(i) A fee charged to obtain excess proceeds for an owner may not be greater than 25 percent of the amount obtained or \$1,000, whichever is less.

Acts 1979, 66th Leg., p. 2298, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 26, eff. Aug. 29, 1983; Acts 1999, 76th Leg., ch. 1185, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1481, Sec. 26, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 18.007, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 27, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 319, Sec. 10, eff. June 18, 2003.

Sec. 34.05. RESALE BY TAXING UNIT. (a) If property is sold to a taxing unit that is a party to the judgment, the taxing unit may sell the property at any time by public or private sale. In selling the property, the taxing unit may, but is not required to, use the procedures provided by Section 263.001, Local Government Code, or Section 272.001, Local Government Code. The sale is subject to any right of redemption of the former owner. The redemption period begins on the date the deed to the taxing unit is filed for record.

(b) Property sold pursuant to Subsections (c) and (d) of this section may be sold for any amount. This subsection does not authorize a sale of property in violation of Section 52, Article

III, Texas Constitution.

(c) The taxing unit purchasing the property by resolution of its governing body may request the sheriff or a constable to sell the property at a public sale. If the purchasing taxing unit has not sold the property within six months after the date on which the owner's right of redemption terminates, any taxing unit that is entitled to receive proceeds of the sale by resolution of its governing body may request the sheriff or a constable in writing to sell the property at a public sale. On receipt of a request made under this subsection, the sheriff or constable shall sell the property as provided by Subsection (d), unless the property is sold under Subsection (h) or (i) before the date set for the public sale.

(d) Except as provided by this subsection, all public sales requested as provided by Subsection (c) shall be conducted in the manner prescribed by the Texas Rules of Civil Procedure for the sale of property under execution. The notice of the sale must contain a description of the property to be sold, the number and style of the suit under which the property was sold at the tax foreclosure sale, and the date of the tax foreclosure sale. The description of the property in the notice is sufficient if it is stated in the manner provided by Section 34.01(f). If the commissioners court of a county by order specifies the date or time at which or location in the county where a public sale requested under Subsection (c) shall be conducted, the sale shall be conducted on the date and at the time and location specified in the order. The acceptance of a bid by the officer conducting the sale is conclusive and binding on the question of its sufficiency. An action to set aside the sale on the grounds that the bid is insufficient may not be sustained in court, except that a taxing unit that participates in distribution of proceeds of the sale may file an action before the first anniversary of the date of the sale to set aside the sale on the grounds of fraud or collusion between the officer making the sale and the purchaser. On conclusion of the sale, the officer making the sale shall prepare a deed to the purchaser. The taxing unit that requested the sale may elect to prepare a deed for execution by the officer. If the taxing unit prepares the deed, the officer shall execute that deed. An officer who executes a deed prepared by the taxing unit is not

responsible or liable for any inconsistency, error, or other defect in the form of the deed. As soon as practicable after a deed is executed by the officer, the officer shall either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the sale, which shall file the deed for recording with the county clerk. The county clerk shall file and record each deed under this subsection and after recording shall return the deed to the grantee.

(e) The presiding officer of a taxing unit selling real property under Subsection (h) or (i), under Section 34.051, or under Section 253.010, Local Government Code, or the sheriff or constable selling real property under Subsections (c) and (d) shall execute a deed to the property conveying to the purchaser the right, title, and interest acquired or held by each taxing unit that was a party to the judgment foreclosing tax liens on the property. The conveyance shall be made subject to any remaining right of redemption at the time of the sale.

(f) An action attacking the validity of a resale of property pursuant to this section may not be instituted after the expiration of one year after the date of the resale.

(g) A taxing unit to which property is bid off may recover its costs of upkeep, maintenance, and environmental cleanup from the resale proceeds without further court order.

(h) In lieu of a sale pursuant to Subsections (c) and (d) of this section, the taxing unit that purchased the property may sell the property at a private sale. Consent of each taxing unit entitled to receive proceeds of the sale under the judgment is not required. Property sold under this subsection may not be sold for an amount that is less than the lesser of:

(1) the market value specified in the judgment of foreclosure; or

(2) the total amount of the judgments against the property.

(i) In lieu of a sale pursuant to Subsections (c) and (d) of this section, the taxing unit that purchased the property may sell the property at a private sale for an amount less than required under Subsection (h) of this section with the consent of each taxing



unit entitled to receive proceeds of the sale under the judgment. This subsection does not authorize a sale of property in violation of Section 52, Article III, Texas Constitution.

Acts 1979, 66th Leg., p. 2298, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 27, eff. Aug. 29, 1983; Acts 1995, 74th Leg., ch. 499, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 310, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 712, Sec. 3, 4, eff. June 17, 1997; Acts 1997, 75th Leg., ch. 906, Sec. 9, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1111, Sec. 5, 8, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1136, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1192, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 27 to 29, 42(2), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1430, Sec. 28, eff. Sept. 1, 2001.

Sec. 34.051. RESALE BY TAXING UNIT FOR THE PURPOSE OF URBAN REDEVELOPMENT. (a) A municipality is authorized to resell tax foreclosed property for less than the market value specified in the judgment of foreclosure or less than the total amount of the judgments against the property if consent to the conveyance is evidenced by an interlocal agreement between the municipality and each taxing unit that is a party to the judgment, provided, however, that the interlocal agreement complies with the requirements of Subsection (b).

(b) Any taxing unit may enter into an interlocal agreement with the municipality for the resale of tax foreclosed properties to be used for a purpose consistent with the municipality's urban redevelopment plans or the municipality's affordable housing policy. If the tax foreclosed property is resold pursuant to this section to be used for a purpose consistent with the municipality's urban redevelopment plan or affordable housing policy, the deed of conveyance must refer to or set forth the applicable terms of the urban redevelopment plan or affordable housing policy. Any such interlocal agreement should include the following:

(1) a general statement and goals of the municipality's urban redevelopment plans or affordable housing policy, as applicable;

(2) a statement that the interlocal agreement concerns only tax foreclosed property that is either vacant or distressed and has a tax delinquency of six or more years;

(3) a statement that the properties will be used only for a purpose consistent with an urban redevelopment plan or affordable housing policy, as applicable, that is primarily aimed at providing housing for families of low or moderate income;

(4) a statement that the principal goal of the interlocal agreement is to provide an efficient mechanism for returning deteriorated or unproductive properties to the tax rolls, enhancing the value of ownership to the surrounding properties, and improving the safety and quality of life in deteriorating neighborhoods; and

(5) a provision that all properties are sold subject to any right of redemption.

(c) The deed of conveyance of property sold under this section conveys to the purchaser the right, title, and interest acquired or held by each taxing unit that was a party to the judgment of foreclosure, subject to any remaining right of redemption at the time of the sale.

(d) An action attacking the validity of a sale of property pursuant to this section may not be instituted after the expiration of one year after the date of the sale and then only after the unconditional tender into the registry of the court of an amount equal to all taxes, penalties, interest, costs, and post-judgment interest of all judgments on which the original foreclosure sale was based.

Added by Acts 1997, 75th Leg., ch. 1136, Sec. 3, eff. Sept. 1, 1997.  
Amended by Acts 2001, 77th Leg., ch. 819, Sec. 1, eff. June 14, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 29, eff. Sept. 1, 2001.

Sec. 34.06. DISTRIBUTION OF PROCEEDS OF RESALE. (a) The proceeds of a resale of property purchased by a taxing unit at a tax foreclosure sale shall be paid to the purchasing taxing unit.

(b) The proceeds of the resale shall be distributed as required by Subsections (c)-(e).

(c) The purchasing taxing unit shall first retain an amount

from the proceeds to reimburse the unit for reasonable costs, as defined by Section 34.21, incurred by the unit for:

(1) maintaining, preserving, and safekeeping the property;

(2) marketing the property for resale; and

(3) costs described by Subsection (f).

(d) After retaining the amount authorized by Subsection (c), the purchasing taxing unit shall then pay all costs of the suit and the sale of the property in the same manner and in the same order of priority as provided by Sections 34.02(b)(1)-(5).

(e) After making the distribution under Subsection (d), any remaining balance of the proceeds shall be paid to each taxing unit participating in the sale in an amount equal to the proportion each participant's taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest adjudged to be due all participants in the sale.

(f) The purchasing taxing unit is entitled to recover from the proceeds of a resale of the property any cost incurred by the taxing unit in inspecting the property to determine whether there is a release or threatened release of solid waste from the property in violation of Chapter 361, Health and Safety Code, or a rule adopted or permit or order issued by the Texas Natural Resource Conservation Commission under that chapter, or a discharge or threatened discharge of waste or a pollutant into or adjacent to water in this state from a point of discharge on the property in violation of Chapter 26, Water Code, or a rule adopted or permit or order issued by the commission under that chapter, and in taking action to remove or remediate the release or threatened release or discharge or threatened discharge regardless of whether the taxing unit:

(1) was required by law to incur the cost; or

(2) obtained the consent of each taxing unit entitled to receive proceeds of the sale under the judgment of foreclosure to incur the cost.

Acts 1979, 66th Leg., p. 2299, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 38, Sec. 1, eff. May 5, 1997; Acts 1997, 75th Leg., ch. 906, Sec. 10, eff. Jan. 1, 1998; Acts

1997, 75th Leg., ch. 914, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 30, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 319, Sec. 11, eff. June 18, 2003.

Sec. 34.07. SUBROGATION OF PURCHASER AT VOID SALE.

(a) The purchaser at a void or defective tax sale or tax resale is subrogated to the rights of the taxing unit in whose behalf the property was sold or resold to the same extent a purchaser at a void or defective sale conducted in behalf of a judgment creditor is subrogated to the rights of the judgment creditor.

(b) Except as provided by Subsection (c), the purchaser at a void or defective tax sale or tax resale is subrogated to the tax lien of the taxing unit in whose behalf the property was sold or resold to the same extent a purchaser at a void or defective mortgage or other lien foreclosure sale is subrogated to the lien of the lienholder, and the purchaser is entitled to a reforeclosure of the lien to which the purchaser is subrogated.

(c) If the purchaser at a void or defective tax sale or tax resale paid less than the total amount of the judgment against the property, the purchaser is subrogated to the tax lien only in the amount the purchaser paid at the sale or resale.

(d) In lieu of pursuing the subrogation rights provided by this section to which a purchaser is subrogated, a purchaser at a void tax sale or tax resale may elect to file an action against the taxing units to which proceeds of the sale were distributed to recover an amount from each taxing unit equal to the distribution of taxes, penalties, interest, and attorney's fees the taxing unit received. In a suit filed under this subsection, the purchaser may include a claim for, and is entitled to recover, any excess proceeds of the sale that remain on deposit in the registry of the court or, in the alternative, is entitled to have judgment against any party to whom the excess proceeds have been distributed. A purchaser who files a suit authorized by this subsection waives all rights of subrogation otherwise provided by this section. This subsection applies only to an original purchaser at a tax sale or resale and only if that purchaser has not subsequently sold the property to another person.

(e) If the purchaser prevails in a suit filed under Subsection (d), the court shall expressly provide in its final judgment that:

(1) the tax sale is vacated and set aside; and

(2) any lien on the property extinguished by the tax sale is reinstated on the property effective as of the date on which the lien originally attached to the property.

(f) A suit filed against the taxing units under Subsection (d) may not be maintained unless the action is instituted before the first anniversary of the date of sale or resale. In this subsection:

(1) "Date of sale" means the first Tuesday of the month on which the sheriff or constable conducted the sale of the property under Section 34.01.

(2) "Date of resale" means the date on which the grantor's acknowledgment was taken or, in the case of multiple grantors, the latest date of acknowledgment by the grantors as shown in the deed.

Acts 1979, 66th Leg., p. 2299, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 1481, Sec. 31, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1430, Sec. 30, eff. Sept. 1, 2001.

Sec. 34.08. CHALLENGE TO VALIDITY OF TAX SALE. (a) A person may not commence an action that challenges the validity of a tax sale under this chapter unless the person:

(1) deposits into the registry of the court an amount equal to the amount of the delinquent taxes, penalties, and interest specified in the judgment of foreclosure obtained against the property plus all costs of the tax sale; or

(2) files an affidavit of inability to pay under Rule 145, Texas Rules of Civil Procedure.

(b) A person may not commence an action challenging the validity of a tax sale after the time set forth in Section 33.54(a)(1) or (2), as applicable to the property, against a subsequent purchaser for value who acquired the property in reliance on the tax sale. The purchaser may conclusively presume that the tax sale was valid and shall have full title to the

property free and clear of the right, title, and interest of any person that arose before the tax sale, subject only to recorded restrictive covenants and valid easements of record set forth in Section 34.01(n) and subject to applicable rights of redemption.

(c) If a person is not barred from bringing an action challenging the validity of a tax sale under Subsection (b) or any other provision of this title or applicable law, the person must bring an action no later than two years after the cause of action accrues to recover real property claimed by another who:

(1) pays applicable taxes on the real property before overdue; and

(2) claims the property under a registered deed executed pursuant to Section 34.01.

(d) Subsection (c) does not apply to a claim based on a forged deed.

Added by Acts 1997, 75th Leg., ch. 1136, Sec. 4, eff. Sept. 1, 1997; Acts 1997 75th Leg., ch. 1192, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1481, Sec. 32, eff. Sept. 1, 1999.

#### SUBCHAPTER B. REDEMPTION

Sec. 34.21. RIGHT OF REDEMPTION. (a) The owner of real property sold at a tax sale to a purchaser other than a taxing unit that was used as the residence homestead of the owner or that was land designated for agricultural use when the suit or the application for the warrant was filed, or the owner of a mineral interest sold at a tax sale to a purchaser other than a taxing unit, may redeem the property on or before the second anniversary of the date on which the purchaser's deed is filed for record by paying the purchaser the amount the purchaser bid for the property, the amount of the deed recording fee, and the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus a redemption premium of 25 percent of the aggregate total if the property is redeemed during the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed during the second year of the redemption period.

(b) If property that was used as the owner's residence homestead or was land designated for agricultural use when the suit

or the application for the warrant was filed, or that is a mineral interest, is bid off to a taxing unit under Section 34.01(j) or (p) and has not been resold by the taxing unit, the owner having a right of redemption may redeem the property on or before the second anniversary of the date on which the deed of the taxing unit is filed for record by paying the taxing unit:

(1) the lesser of the amount of the judgment against the property or the market value of the property as specified in that judgment, plus the amount of the fee for filing the taxing unit's deed and the amount spent by the taxing unit as costs on the property, if the property was judicially foreclosed and bid off to the taxing unit under Section 34.01(j); or

(2) the lesser of the amount of taxes, penalties, interest, and costs for which the warrant was issued or the market value of the property as specified in the warrant, plus the amount of the fee for filing the taxing unit's deed and the amount spent by the taxing unit as costs on the property, if the property was seized under Subchapter E, Chapter 33, and bid off to the taxing unit under Section 34.01(p).

(c) If real property that was used as the owner's residence homestead or was land designated for agricultural use when the suit or the application for the warrant was filed, or that is a mineral interest, has been resold by the taxing unit under Section 34.05, the owner of the property having a right of redemption may redeem the property on or before the second anniversary of the date on which the taxing unit files for record the deed from the sheriff or constable by paying the person who purchased the property from the taxing unit the amount the purchaser paid for the property, the amount of the fee for filing the purchaser's deed for record, the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus a redemption premium of 25 percent of the aggregate total if the property is redeemed in the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed in the second year of the redemption period.

(d) If the amount paid by the owner of the property under Subsection (c) is less than the amount of the judgment under which the property was sold, the owner shall pay to the taxing unit to

which the property was bid off under Section 34.01 an amount equal to the difference between the amount paid under Subsection (c) and the amount of the judgment. The taxing unit shall issue a receipt for a payment received under this subsection and shall distribute the amount received to each taxing unit that participated in the judgment and sale in an amount proportional to the unit's share of the total amount of the aggregate judgments of the participating taxing units. The owner of the property shall deliver the receipt received from the taxing unit to the person from whom the property is redeemed.

(e) The owner of real property sold at a tax sale other than property that was used as the residence homestead of the owner or that was land designated for agricultural use when the suit or the application for the warrant was filed, or that is a mineral interest, may redeem the property in the same manner and by paying the same amounts as prescribed by Subsection (a), (b), (c), or (d), as applicable, except that:

(1) the owner's right of redemption may be exercised not later than the 180th day following the date on which the purchaser's or taxing unit's deed is filed for record; and

(2) the redemption premium payable by the owner to a purchaser other than a taxing unit may not exceed 25 percent.

(f) If the owner of the real property makes an affidavit that the owner has made diligent search in the county in which the property is located for the purchaser at the tax sale or for the purchaser at resale, and has failed to find the purchaser, that the purchaser is not a resident of the county in which the property is located, that the owner and the purchaser cannot agree on the amount of redemption money due, or that the purchaser refuses to give the owner a quitclaim deed to the property, the owner may redeem the land by paying the required amount as prescribed by this section to the assessor-collector for the county in which the property described has been redeemed. The assessor-collector receiving the payment shall give the owner a signed receipt witnessed by two persons. The receipt, when recorded, is notice to all persons that the property described has been redeemed. The assessor-collector shall on demand pay the money received by the assessor-collector to



the purchaser.

(g) In this section:

(1) "Land designated for agricultural use" means land for which an application for appraisal under Subchapter C or D, Chapter 23, has been finally approved.

(2) "Costs" includes:

(A) the amount reasonably spent by the purchaser for maintaining, preserving, and safekeeping the property, including the cost of:

(i) property insurance;

(ii) repairs or improvements required by a local ordinance or building code or by a lease of the property in effect on the date of the sale;

(iii) discharging a lien imposed by a municipality to secure expenses incurred by the municipality in remedying a health or safety hazard on the property;

(iv) dues or assessments for maintenance paid to a property owners' association under a recorded restrictive covenant to which the property is subject; and

(v) impact or standby fees imposed under the Local Government Code or Water Code and paid to a political subdivision; and

(B) if the purchaser is a taxing unit to which the property is bid off under Section 34.01, personnel and overhead costs reasonably incurred by the purchaser in connection with maintaining, preserving, safekeeping, managing, and reselling the property.

(3) "Purchaser" includes a taxing unit to which property is bid off under Section 34.01.

(4) "Residence homestead" has the meaning assigned by Section 11.13.

(h) The right of redemption does not grant or reserve in the former owner of the real property the right to the use or possession of the property, or to receive rents, income, or other benefits from the property while the right of redemption exists.

(i) The owner of property who is entitled to redeem the property under this section may request that the purchaser of the

property, or the taxing unit to which the property was bid off, provide that owner a written itemization of all amounts spent by the purchaser or taxing unit in costs on the property. The owner must make the request in writing and send the request to the purchaser at the address shown for the purchaser in the purchaser's deed for the property, or to the business address of the collector for the taxing unit, as applicable. The purchaser or the collector shall itemize all amounts spent on the property in costs and deliver the itemization in writing to the owner not later than the 10th day after the date the written request is received. Delivery of the itemization to the owner may be made by depositing the document in the United States mail, postage prepaid, addressed to the owner at the address provided in the owner's written request. Only those amounts included in the itemization provided to the owner may be allowed as costs for purposes of redemption.

(j) A quitclaim deed to an owner redeeming property under this section is not notice of an unrecorded instrument. The grantee of a quitclaim deed and a successor or assign of the grantee may be a bona fide purchaser in good faith for value under recording laws.

(k) The inclusion of dues and assessments for maintenance paid to a property owners' association within the definition of "costs" under Subsection (g) may not be construed as:

(1) a waiver of any immunity to which a taxing unit may be entitled from a suit or from liability for those dues or assessments; or

(2) authority for a taxing unit to make an expenditure of public funds in violation of Section 50, 51, or 52(a), Article III, or Section 3, Article XI, Texas Constitution.

Acts 1979, 66th Leg., p. 2300, ch. 841, Sec. 1, eff. Jan. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 33, eff. June 15, 1989; Acts 1991, 72nd Leg., ch. 419, Sec. 1, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 349, Sec. 1, eff. May 29, 1993; Acts 1997, 75th Leg., ch. 906, Sec. 11, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 914, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1111, Sec. 6, 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 33, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 231, Sec. 1, eff. May 22, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 31, eff.

Sept. 1, 2001; Acts 2003, 78th Leg., ch. 319, Sec. 12, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 510, Sec. 1, eff. Jan. 1, 2004.

Sec. 34.22. EVIDENCE OF TITLE TO REDEEM REAL PROPERTY.

(a) A person asserting ownership of real property sold for taxes is entitled to redeem the property if he had title to the property or he was in possession of the property in person or by tenant either at the time suit to foreclose the tax lien on the property was instituted or at the time the property was sold. A defect in the chain of title to the property does not defeat an offer to redeem.

(b) A person who establishes title to real property that is superior to the title of one who has previously redeemed the property is entitled to redeem the property during the redemption period by paying the amounts provided by law to the person who previously redeemed the property.

Acts 1979, 66th Leg., p. 2300, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 34.23. DISTRIBUTION OF REDEMPTION PROCEEDS. (a) If the owner of property sold for taxes to a taxing unit redeems the property before the property is resold, the taxing unit shall distribute the redemption proceeds in the manner that proceeds of the resale of property are distributed.

(b) Except as provided by Section 34.21(e), the owner of property sold for taxes to a taxing unit may not redeem the property from the taxing unit after the property has been resold.

Acts 1979, 66th Leg., p. 2300, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 906, Sec. 12, eff. Jan. 1, 1998.