

SUBJECT: Allowing over-65 property tax deferral before delinquency

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 9 ayes — McCall, Bonnen, Craddick, Y. Davis, Heflin, Hilbert, Keffer, T. King, Ramsay

1 nay — Sadler

1 present, not voting — Oliveira

WITNESSES: *(on original bill)*

For — Robert Ehlers; Stephen Ehlers; John Hill, American Association of Retired Persons; Kenneth Tooley, Texas Association of Life Underwriters

Against — Jayne Morrell, City of Dallas and Texas Municipal League

BACKGROUND: A person aged 65 or older is entitled to defer or abate a suit to collect delinquent property taxes on their resident homesteads. To obtain a deferral, the person must file an affidavit with the chief appraiser affirming that the person qualifies for the deferral. Once the affidavit is filed, no taxing unit can file suit to collect delinquent taxes, including a penalty assessed for being delinquent.

Because the eligibility for deferral is triggered by delinquency, people who receive a deferral are subject to financial penalties. Though interest accrues on deferred taxes at the rate of 8 percent per year, no additional penalties can be assessed during the deferral period. Once the individual no longer owns or lives in the home, all past taxes, penalties, and interest are due.

Individuals aged 65 and older are entitled to various homestead exemptions, which apply against the appraised value of the home. When an individual who has an age-65-or-older exemption dies, it transfers to a surviving spouse, so long as the spouse is aged 55 or older, has ownership of the property, and lives in the home. The exemption remains in effect for as long as the surviving spouse owns and lives in the home.

DIGEST: CSHB 374 would allow individuals aged 65 and older, whose residence homestead was appraised at \$100,000 or less, to file an affidavit seeking a deferral of property taxes before the taxes became delinquent. Individuals whose residence homestead was appraised above \$100,000 could not file their affidavit until the tax became delinquent. The bill would permit a penalty to be imposed for each month or portion of a month between the time the tax became delinquent and the time the affidavit was filed with the chief appraiser.

If an individual died during a year for which taxes were deferred, the bill would enable the individual's surviving spouse aged 55 or older to continue deferring taxes so long as the property remained the residence homestead of the surviving spouse. If probate proceedings began on the estate of a person receiving this deferral, the clerk of the court would be required to notify the chief appraiser that the recipient had died.

If an individual receiving a deferral conveyed the property to another person in a transaction conducted by a title company, the bill would require the title company to notify the chief appraiser of the conveyance.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

SUPPORTERS SAY: CSHB 374 would benefit elderly Texas by providing them with more flexibility to obtain a deferral they are entitled to receive without incurring delinquent tax penalties. Only individuals whose residence homesteads have an appraised value of \$100,000 or less would be able to file their affidavits for deferral before their taxes became delinquent. This would ensure that only elderly Texans of more limited means would be able to avoid a delinquent tax penalty.

Many Texas counties already allow homeowners who turn 65 to defer their property taxes in this manner, even though there is no specific statutory authority to do so. Other counties that want to help elder Texans in this way do not because they interpret state law as prohibiting them from accepting an affidavit before taxes become delinquent.

Most Texans would not use this deferral option. The bill simply would provide a better means of exercising that option if they choose to do so.

OPPONENTS
SAY:

CSHB 374 could result in significant short-term revenue reductions to local taxing entities, especially school districts, as older Texans opt to defer their property taxes. The intention of the over-65 deferral was to prevent the foreclosure of elderly Texans' residence homestead because of delinquent property taxes. It was never intended to provide all people over 65 the opportunity to defer all taxes on their property until after their death. Instead of protecting older Texans from foreclosure, this bill would provide an estate-planning technique that could leave local governments without tax revenue they otherwise would obtain or at least make them wait a long time to collect it.

All property owners ought to pay their property taxes when they can. The requirement that taxes be delinquent before they can be deferred ensures that Texans who can pay their taxes do. Few older Texans would accept going into delinquency to put off paying their property taxes. They already have a number of other options, including paying their taxes in installments, to pay their taxes without costing local governments funds they need to provide services.

OTHER
OPPONENTS
SAY:

The bill ought to make it permissive, rather than required, for counties to grant a deferral before taxes become delinquent. Local appraisers could determine whether such a policy makes fiscal sense for the county, school districts, cities, and other taxing units in the county.

NOTES:

The committee substitute added the \$100,000 valuation limit to qualify for the deferral before the taxes become delinquent and the provisions regarding surviving spouses and notifying the chief appraiser of probate proceedings or title transfers.