

SUBJECT:	Providing homestead exemptions to a surviving spouse with a life estate
COMMITTEE:	Ways and Means — favorable, without amendment
VOTE:	11 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Martinez Fischer, Murphy, Parker, Springer, C. Turner, Wray 0 nays
WITNESSES:	For — (<i>Registered, but did not testify</i> : Daniel Gonzalez, Texas Association of Realtors) Against — None
BACKGROUND:	<p>A life estate is a legal concept in which property is given to a third party, but assigned to a “life tenant,” who retains most rights and duties relating to the property, including the payment of property taxes and upkeep of the structures. Under the terms of most life estates, all rights to the property are granted to the third party upon the death of the life tenant.</p> <p>Tax Code, sec. 11.13 (j)(1) provides several requirements for a property to be considered a residence homestead. Specifically, a structure on the property must be:</p> <ul style="list-style-type: none">• owned by one or more individuals, either directly or through a beneficial interest in a qualifying trust;• designed or adapted for human residence and used as a residence; and• occupied as the individual’s principal residence by an owner or, for property owned through a beneficial interest in a qualifying trust, by a trustor or beneficiary of the trust who qualifies for the exemption.
DIGEST:	HB 1022 would expand the definition of a residence homestead to include residences occupied by an owner’s surviving spouse who held a life estate in the property.

This bill would take effect January 1, 2016, and would apply only to a tax year that began on or after that date.

**SUPPORTERS
SAY:**

HB 1022 would clarify that a homestead exemption transferred to the surviving spouse in the event that the residence was in a life estate. Current law grants surviving spouses of totally disabled veterans a homestead exemption for the entire value of the residence but does not mention life estates. Because of this, a minority of appraisal districts do not transfer the homestead exemption to the surviving spouse of a disabled veteran if the residence is owned through a life estate, because ownership of the life estate is shared in some respects with a third party ineligible for the exemption. However, the life tenant is responsible for the payment of property taxes.

Life tenants often assume a number of costs associated with the death of their spouses, including funeral costs and a loss of income. They should not also face a tax increase because of the death of their spouse, as some life tenants do because of the lack of clarity in current law about their rights to the homestead exemption.

Because current law is interpreted differently by some appraisal districts, similar situations are treated differently. This bill would create a uniform approach across the state. In many appraisal districts, it is common practice to transfer to surviving spouses who are life tenants exemptions that would transfer to surviving spouses who were actual owners. As a result, this bill would affect only a few districts, so any cost to the Foundation School Fund would be minimal but would have an important impact on those who qualified for the exemption.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The Legislative Budget Board's fiscal note indicates that additional homestead exemptions provided under this bill would create a cost to the Foundation School Fund, but that the cost could not be estimated because

the number of surviving spouses who would qualify is unknown.