

BILL ANALYSIS

Senate Research Center
79R2802 SMH-D

S.B. 652
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Finance
4/15/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, a number of elderly and disabled homeowners who are not very sophisticated fail to take full advantage of tax mechanisms due to current provisions in the Tax Code and end up paying too much in property taxes or losing their homes.

Although elderly homeowners have homestead tax exemptions, many are unaware that they are also entitled to an elderly tax exemption when they reach 65 years of age. This problem becomes increasingly troublesome since current law prevents a homeowner from requesting an elderly exemption in advance so that it will apply when they reach 65 years of age.

Foreclosure of homesteads is prohibited when owners have requested deferral of taxes because they are 65 or older or when owners are receiving disability benefits. While some are aware of the tax exemption, threatening letters received by the elderly provide many owners with erroneous perceptions of losing their homes unless taxes are paid. Consequently, elderly and disabled owners often lose their homes to tax foreclosures or premature home sales, as well as experience other adverse consequences, such as electing to pay their taxes instead of purchasing necessary medication or food, or paying for utilities.

Although those with an elderly or disability exemption are entitled to defer taxes to avoid the foreclosure of their homes, current law does not require notices of delinquency or threats of lawsuit to mention this right.

S.B. 652 addresses the aforementioned problems by providing for an automatic elderly homestead exemption; protection to those claiming elderly or disability exemptions from foreclosure sales and suits thereof; and clear notice of tax liability and deferrals for the elderly and disabled. S.B. 652 does not make any changes to the amount of taxes people owe.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 6.035(a), Tax Code, to amend existing exception under this section to include that a suit to collect the delinquent taxes is deferred or abated under Section 33.06, 33.061, or 33.065.

SECTION 2. Amends Section 6.412(a), Tax Code, to make a conforming change.

SECTION 3. Amends Section 11.43, Tax Code, by adding Subsections (l) and (m), as follows:

(l) Requires the form for an application for a residence homestead exemption to include a space for the applicant to state the applicant's date of birth. Provides that failure to provide the date of birth does not affect the applicant's eligibility for an exemption under that section, with certain exceptions.

(m) Entitles a person, notwithstanding Subsections (a) and (k), who receives a residence homestead exemption under Section 11.13, Tax Code, other than an exemption under Section 11.13(c) or (d), Tax Code, for an individual 65 years of age or older, in a tax year

to receive an exemption under Section 11.13(c) or (d), Tax Code, for an individual 65 years of age or older in the next tax year on the same property without applying for the exemption if the person becomes 65 years of age in that next year as shown by the information in the records of the appraisal district that was provided by the individual to the appraisal district. Provides that this subsection does not apply if the chief appraiser determines that the individual is no longer entitled to any exemption under Section 11.13, Tax Code, on the property.

SECTION 4. Amends Subchapter A, Chapter 33, Tax Code, by adding Section 33.045, as follows:

Sec. 33.045. NOTICE OF PROVISIONS AUTHORIZING DEFERRAL OR ABATEMENT. Requires a tax bill, notice of tax delinquency, notice of intent to sue to collect a delinquent tax, or notice of intent to foreclose a tax lien delivered to a person by a collector for a taxing unit or by an attorney or other agent of a collector to include a conspicuous statement reasonably designed to notify the person of the provisions of Section 33.06, Tax Code, including the method by which a disabled individual may obtain a deferral or abatement under that section, and of the provisions of Section 33.061, Tax Code, including the automatic deferral or abatement under that section.

SECTION 5. Amends the heading to Section 33.06, Tax Code, to read as follows:

Sec. 33.06. DEFERRED COLLECTION OF TAXES ON RESIDENCE HOMESTEAD OF DISABLED PERSON.

SECTION 6. Amends Sections 33.06(a) and (b), Tax Code, to provide that an individual is entitled to defer collection of a tax, abate a suit to collect a delinquent tax, or abate a sale to foreclose a tax lien if the individual is disabled as defined by Section 11.13(m), Tax Code, rather than if the individual is 65 years of age or older or is disabled as defined by Section 11.13(m), Tax Code. Prohibits a taxing unit, after an affidavit is filed under this section, from filing or threatening to file suit to collect delinquent taxes on the property or taking other action against the individual to collect delinquent taxes on the property.

SECTION 7. Amends Subchapter A, Chapter 33, Tax Code, by adding Section 33.061, as follows:

Sec. 33.061. AUTOMATIC DEFERRAL OR ABATEMENT OF COLLECTION OF TAXES ON RESIDENCE HOMESTEAD OF ELDERLY PERSON. (a) Provides that this section applies only to property that an individual who is 65 years of age or older owns and occupies as a residence homestead.

(b) Prohibits a taxing unit from filing or threatening to file suit to collect delinquent taxes on the property or taking other action against the individual to collect delinquent taxes on the property and prohibits the property from being sold at a sale to foreclose the tax lien until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead.

(c) Authorizes a property owner, if property is sold in violation of this section, to file a motion to set aside the sale under the same cause number and in the same court as a judgment referenced in the order of the sale. Sets forth requirements for filing such a motion.

(d) Provides that a tax lien remains on the property and interest continues to accrue during the period that collection of taxes is deferred or abated under this section. Sets forth guidelines and provisions for interest and penalties under this section.

(e) Requires the chief appraiser for each appraisal district, each year, to publicize in a manner reasonably designed to notify all residents of the district or county of the provisions of this section.

(f) Provides that, if the individual who is 65 years of age or older dies, the deferral or abatement of the collection of taxes on the property continues in effect until the 181st day after the date the surviving spouse of the individual no longer owns and occupies the property as a residence homestead, if certain criteria are met.

(g) Authorizes an individual to elect not to receive a deferral or abatement under this section. Requires an individual who so chooses to file with the chief appraiser for the appraisal district in which the property is located a written statement signed by the individual affirmatively stating that the individual elects not to receive the deferral or abatement. Provides that the election is effective on the date the chief appraiser receives the written statement and requires the chief appraiser to notify each taxing unit participating in the district of the individual's election.

SECTION 8. Amends Section 33.43(a), Tax Code, to provide that a petition initiating a suit to collect a delinquent property tax is sufficient if it alleges that, in addition to existing requirements, the attorney signing the petition or a person acting on the attorney's behalf has reviewed the records of the appraisal district and determined that the person sued is not entitled to a deferral of a suit to collect delinquent taxes on the property under Section 33.06 or 33.061, Tax Code.

SECTION 9. Amends Section 403.302(d), Government Code, to make a conforming change.

SECTION 10. Makes application of Section 11.43(m), Tax Code, as added by this Act, prospective to January 1, 2006.

SECTION 11. Effective date: September 1, 2005.