

BILL ANALYSIS

Senate Research Center
82R8096 SMH-F

S.B. 1385
By: Lucio
Intergovernmental Relations
4/11/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires that an appraisal on dealer inventory for motor vehicles, outboard vessels, and heavy equipment be based on sales from the prior year. Dealers are required to file a monthly dealer's motor vehicle inventory tax statement, listing the vehicles sold and prepaying property taxes for each vehicle.

Several penalties, including misdemeanors, liens, and fines, can be imposed if a dealer does not file the monthly tax statement by the tenth day of the following month. The law does not allow for waiver of a penalty, even if the failure was due to a reasonable cause.

S.B. 1355 authorizes an ad valorem tax collector to waive a certain penalty if the collector determines that the dealer or retailer exercised reasonable diligence to comply with or has substantially complied with the requirements of certain sections of the Tax Code, as applicable. The bill sets forth the procedure for obtaining such a waiver.

As proposed, S.B. 1385 amends current law relating to the authority of the chief appraiser of an appraisal district or the collector for a taxing unit to waive penalties for failing to file certain documents.

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 Subchapter B, Chapter 23, Tax Code, by adding Section 23.129, as follows:

Sec. 23.129. WAIVER OF CERTAIN PENALTIES. (a) Provides that subject to Subsection (b):

(1) a chief appraiser is authorized to waive a penalty imposed by Section 23.121(k) (requiring a dealer who fails to file or fails to timely file a declaration required by this section, in addition to other penalties provided by law, to forfeit a penalty), 23.1241(j) (requiring a dealer who fails to file or fails to timely file a declaration required by Subsection (f), in addition to other penalties provided by law, to forfeit a penalty), or 23.127(k) (providing that in addition to other penalties provided by law, a retailer who fails to file or fails to timely file a declaration required by Subsection (f) is liable for a penalty in the amount of \$1,000 for each month or part of a month in which a declaration is not filed or timely filed after it is due); and

(2) a collector is authorized to waive a penalty imposed by Section 23.122(n) (requiring a dealer who fails to file or fails to timely file a statement as required by this section, in addition to other penalties provided by law, to forfeit a penalty), 23.1242(m) (requiring an owner

who fails to remit unit property taxes due as required by this section to pay a penalty of five percent of the amount due), or 23.128(m) (providing that in addition to other penalties provided by law, a retailer who fails to file or fails to timely file a statement as required by this section is liable for a penalty in the amount of \$500 for each month or part of a month in which a statement is not filed after it is due).

(b) Authorizes a chief appraiser or collector to waive a penalty under Subsection (a) only if:

(1) the taxpayer seeking the waiver files a written application for the waiver with the chief appraiser or collector, as applicable, not later than the 30th day after the date the declaration or statement, as applicable, was required to be filed;

(2) the taxpayer's failure to file or failure to timely file the declaration or statement was a result of:

(A) a natural disaster that made it effectively impossible for the taxpayer to comply with the filing requirement; or

(B) an event beyond the control of the taxpayer that destroyed the taxpayer's property or records; and

(3) the taxpayer is otherwise in compliance with this chapter.

SECTION 2. Effective date: September 1, 2011.