

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1943
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Property Tax
4/29/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Homeowners who inherit their home without a will (also known as heir property owners) are eligible for a homestead exemption under the Texas Constitution but face several difficulties when trying to secure a homestead exemption because they typically lack a deed or other legal instrument demonstrating ownership.

Heir property is a prevalent form of homeownership, particularly in low-income communities. The University of Texas Law School surveyed 1,200 homeowners in colonias and similar informal subdivisions in central and south Texas and found 89 percent of the homeowners did not have a will. The chief appraiser in Bexar County identified more than 800 heir property homeowners based on appraisal district records.

The homestead exemption provides two primary benefits to a homeowner: a property tax break, and the appraisal cap, which controls property value growth. In areas that are rapidly gentrifying, the appraisal cap is an essential tool for helping long-time residents stay in their homes as property values increase in the neighborhood.

However, there is a lack of consistency across the state about how an heir property owner qualifies for the exemption and what documentation is necessary.

S.B. 1943 clarifies that heir property homeowners are eligible for homestead exemptions under current law and outlines the proof of ownership requirements for heir property homeowners. S.B. 1943 also directs the comptroller of public accounts of the State of Texas to publish information explaining the information an heir property homeowner is authorized to furnish to secure a homestead exemption. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1943 amends current law relating to the ad valorem taxation of heir property.

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 1.04, Tax Code, by adding Subdivisions (20) and (21) to define "heir property" and "heir property owner."

SECTION 2. Amends Chapter 5, Tax Code, by adding Section 5.061, as follows:

Sec. 5.061. EXPLANATION OF INFORMATION RELATED TO HEIR PROPERTY. Requires the comptroller of public accounts of the State of Texas (comptroller) to prepare and electronically publish a pamphlet that provides information to assist heir property owners in applying for a residence homestead exemption authorized by Chapter 11 (Taxable Property and Exemptions). Requires the pamphlet to include:

(1) a list of the residence homestead exemptions authorized by Chapter 11;

- (2) a description of the process for applying for an exemption as prescribed by Section 11.43 (Application For Exemption);
- (3) a description of the documents an owner is required by Section 11.43(o) to submit with an application to demonstrate the owner's ownership of an interest in heir property;
- (4) contact information for the division of the State Bar of Texas from which a person may obtain a listing of individuals and organizations available to provide free or reduced-fee legal assistance; and
- (5) a general description of the process by which an owner is authorized to record the owner's interest in heir property in the real property records of the county in which the property is located.

SECTION 3. Amends Section 11.13(h), Tax Code, to provide that an heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole recipient of any exemption granted to the owner for the residence homestead by or pursuant to this section.

SECTION 4. Amends Section 11.26, Tax Code, by adding Subsection (p) to provide that an heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole owner of the property for the purposes of this section (Limitation of School Tax on Homesteads of Elderly or Disabled).

SECTION 5. Amends Section 11.261, Tax Code, by adding Subsection (n) to provide that an heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole owner of the property for the purposes of this section (Limitation of County, Municipal, or Junior College District Tax on Homesteads of Disabled and Elderly).

SECTION 6. Amends Section 11.41, Tax Code, by adding Subsection (c) to provide that an heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole owner of the property for the purposes of this section (Partial Ownership of Exempt Property).

SECTION 7. Amends Section 11.43, Tax Code, by amending Subsection (o) and adding Subsections (o-1) and (o-2), as follows:

(o) Deletes existing text requiring the application form for an exemption authorized by Section 11.13 (Residence Homestead) to require an applicant for an exemption under Subsection (c) (relating to entitling an adult who is disabled or is 65 or older, in addition to a certain other exemption, to an exemption from taxation by a school district of \$10,000 of the appraised value of his residence homestead) or (d) (relating to entitling an individual who is disabled or is 65 or older, in addition to certain other exemptions, to an exemption from taxation by a taxing unit of a certain portion of the appraised value of their residence homestead if the exemption is adopted by certain methods) of that section who is not specifically identified on a deed or other appropriate instrument recorded in the applicable real property records as an owner of the residence homestead to provide an affidavit or other compelling evidence establishing the applicant's ownership of an interest in the homestead. Requires the application form for a residence homestead exemption to require an applicant who is not specifically identified on a deed or other appropriate instrument recorded in the real property records of the county in which the property is located as an owner of the residence homestead, including an heir property owner, to provide:

- (1) creates this subdivision from existing text and requires the applicant to provide an affidavit establishing the applicant's ownership of an interest in the property;
- (2) a copy of the death certificate of the prior owner of the property, if the applicant is an heir property owner;

(3) a copy of the most recent utility bill for the property; and

(4) a citation of any court record relating to the applicant's ownership of the property if available.

(o-1) Prohibits the application form for a residence homestead exemption from requiring an heir property owner to provide a copy of an instrument recorded in the real property records of the county in which the property is located.

(o-2) Requires the application form for a residence homestead exemption to require:

(1) an applicant who is an heir property owner to state that the property for which the application is submitted is heir property; and

(2) each owner of an interest in heir property who occupies the property as the owner's principal residence, other than the applicant, to provide an affidavit that authorizes the submission of the application.

SECTION 8. Amends Subchapter C, Chapter 11, Tax Code, by adding Section 11.49, as follows:

Sec. 11.49. LEGAL TITLE NOT AFFECTED. (a) Provides that the grant or denial of an application by an heir property owner for a residence homestead exemption under this chapter does not affect the legal title of the property subject to the application and does not operate to transfer title to that property.

(b) Prohibits an appraisal district, chief appraiser, appraisal review board, or county assessor-collector from being made a party to a proceeding to adjudicate ownership of property described by Subsection (a) except as prescribed by this title (Property Tax Code).

SECTION 9. Amends Section 33.06, Tax Code, by adding Subsection (h) to provide that an heir property owner who qualifies heir property as the owner's residence homestead under Chapter 11 is considered the sole owner of the property for the purposes of this section (Deferred Collection of Taxes on Residence Homestead of Elderly or Disabled Person or Disabled Veteran).

SECTION 10. Amends Section 33.065, Tax Code, by adding Subsection (j) to provide that an heir property owner who qualifies heir property as the owner's residence homestead under Chapter 11 is considered the sole owner of the property for the purposes of this section (Deferred Collection of Taxes on Appreciating Residence Homestead).

SECTION 11. Requires the comptroller, not later than January 1, 2020, to make available the pamphlet required by Section 5.061, Tax Code, as added by this Act.

SECTION 12. Provides that the changes in law made by this Act apply only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 13. Effective date: September 1, 2019.