

## **BILL ANALYSIS**

H.B. 136  
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Local Government Ways and Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

In 1978, Texas citizens voted to freeze the amount of ad valorem taxes on homesteads of the elderly. Ten years later, in 1988, Texas citizens voted to extend the ad valorem tax freeze to surviving spouses of the elderly and to allow the elderly and their surviving spouses to port their tax freeze of ad valorem taxation from one taxing jurisdiction to another. The freeze on such taxes only applies to taxes imposed by school districts. House Bill 136 provides a local option for a county or municipality to adopt an ad valorem tax limitation on homesteads of the elderly and their surviving spouses.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

House Bill 136 amends the Tax Code to set forth provisions relating to the limitation of a county or municipal tax on homesteads of the elderly. The bill applies only to a county or municipality that has established a limitation on the total amount of taxes that may be imposed by the county or municipality on the residence homestead of an individual 65 years of age or older.

Tax officials would continue to appraise property, however, the taxes to be paid will be subject to the limitation. Counties and municipalities are prohibited from increasing ad valorem taxes on residences for the elderly above that of the first year in which the individual qualified other than a tax year preceding that in which the limitation was established by the county or municipality.

The bill authorizes the county or municipality to increase taxes based on the appraisal if an individual makes improvements to the homestead that are not required by the government. The tax is calculated by determining the difference between the homestead with and without the improvements. The limitation then applies to the increased amount of taxes based on the improvements until more improvements are made.

The limitation expires if, on January 1st, none of the owners of the structure who qualify for the exemption and who owned the structure when the limitation first took effect is using the structure as a residence homestead or none of the owners of the structure qualifies for the exemption.

The bill requires the tax assessor to add back taxes if the exemption was erroneously allowed.

The limitation does not expire if the owner of an interest conveys the interest to a qualifying trust if the owner or the spouse created the trust and is entitled to occupy the structure.

If an individual qualifies for a second residence homestead in the same county or municipality in the same year, the county or municipality would be prohibited from imposing taxes above the taxes without the limitation that would have been assessed in the first year the person received the limitation. To calculate the

taxes the taxing entity would multiply the taxes for the subsequently qualified residence homestead by a fraction. The numerator of the fraction is the total amount of taxes the county or municipality imposed on the former homestead in the last year in which the individual received that exemption. The denominator is the total amount of taxes the county or municipality would have imposed on the former homestead in the last year in which the individual received that exemption had the tax limitation not been in effect.

An individual or the individual's agent who receives a limitation on county or municipality tax increases, and who subsequently qualifies for a different residence homestead exemption in the same county or municipality, is entitled to receive a certificate from the chief appraiser of the appraisal district in which the former homestead was located providing the information necessary to determine whether the individual may qualify for a limitation on the subsequently qualified homestead and to calculate the amount of taxes that may be imposed.

A surviving spouse of an individual qualifying for the limitation would also qualify if the surviving spouse is 55 years of age or older at the time of death, the residence homestead of the deceased is also that of the surviving spouse on the date of death, and it remains the residence homestead of the surviving spouse.

If an individual who qualifies for a limitation dies in the first year in which the individual qualified for the limitation and the individual first qualified for the limitation after the beginning of that year, the surviving spouses' taxes are limited to the amount imposed by the county or municipality as if the deceased had lived for the entire year.

If, in the first tax year after the year in which an individual dies, the amount of taxes imposed by a county or municipality on the residence homestead of the surviving spouse is less than the amount imposed in the preceding year, the surviving spouse's taxes imposed by the county or municipality on that residence homestead are limited to the amount of taxes imposed in the first tax year after the death in subsequent tax years.

#### **EFFECTIVE DATE**

January 1, 2004, if the constitutional amendment to permit a county or municipality to establish an ad valorem tax freeze on residence homesteads of the elderly and their spouses is approved by the voters. If that amendment is not approved by the voters, the Act has no effect.