

BILL ANALYSIS

Senate Research Center

H.B. 3504
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Engrossed

DIGEST AND PURPOSE

Currently, over-65 or disabled persons cannot defer residence homestead taxes until after the taxes become delinquent. H.B. 3504 allows the deferral of property taxes before they become delinquent. There is also, in current statute, no grace period to pay the amount of taxes, penalties, and interest deferred or abated after the individual no longer owns and occupies the property as a residence homestead. Taxing units may file suit to collect or move to foreclose at any time after the date the deferral period expires. The additional penalty under Section 33.07, of the Tax Code can also be imposed and collected 91 days after the expiration date.

If an over-65 or disabled individual dies and the individual's will must be probated, heirship must be determined or the house must be sold in order to make payment of the deferred or abated taxes. H.B. 3504 provides that the additional penalty cannot be imposed and collected, a suit to collect may not be filed, or a move to foreclose may not occur until the expiration of 181 days after the qualifying individual no longer owns and occupies the property as a residence homestead.

Some taxing units are currently interpreting Section 33.06 to allow the foreclosure on a tax judgment obtained prior to a qualifying individual obtaining a deferral or abatement of delinquent taxes. H.B. 3504 clarifies that a taxing unit may not foreclose the tax lien through tax sale until the expiration of 181 days after the qualifying individual no longer owns and occupies the property as a residence homestead.

Currently, the surviving spouse of an over-65 or disabled individual who has obtained a deferral or abatement of delinquent property taxes does not qualify to continue the deferral or abatement. H.B. 3504 allows the surviving spouse who is 55 years old or older and occupies the property as a residence homestead to qualify for the continuation of the deferral or abatement. Until the expiration of 181 days after the surviving spouse no longer occupies the property as a residence homestead.

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 33.06(a), Tax Code, as amended by Chapters 892 and 1430, Acts of the 77th Legislature, Regular Session, 2001, 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 meets certain conditions. Makes a nonsubstantive change.

SECTION 2. Amends Section 33.06, Tax Code, by amending Subsections (b)-(d) and adding Subsections (c-1) and (f), as follows:

- (b) Requires an individual, to obtain a deferral, to file with the chief appraiser for the appraisal district in which the property is located an affidavit stating the facts required to be established by Subsection (a), rather than by Subsection (a) of this section. Prohibits a taxing unit, after an affidavit is filed under this subsection, to file suit 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) Requires an individual, to obtain an abatement of a pending suit, to file in the court in which suit is pending an affidavit stating the facts required to be established by Subsection (a). Makes conforming changes.

(c-1) Requires an individual, to obtain an abatement of a pending sale to foreclose a tax lien, to deliver an affidavit stating the facts required to be established by Subsection (a) to certain individuals not later than the fifth day before the date of the sale. Prohibits the property, after an affidavit is delivered under this subsection, from being sold at a tax sale until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead. Authorizes the property owner, if the 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 reference in the order of sale. Requires the motion to be filed during the applicable redemption period as set forth in Section 34.21(a), or if the property is bid off to a taxing entity, on or before the 180th day following the date the taxing unit's deed is filed of record, whichever is later. Provides that this right is not transferrable to a third party.

(d) Authorizes the additional penalty under Section 33.07 to be imposed and collected only if the taxes for which collection is deferred or abated remain delinquent on or after the 181st, rather than 91st, day after the date the deferral or abatement period expires.

(f) Provides that notwithstanding the other provisions of this section, if an individual who qualifies for a deferral or abatement of collection of taxes on property as provided by this section dies, the deferral or abatement 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 conditions apply.

SECTION 3. Effective date: September 1, 2003.