

BILL ANALYSIS

C.S.H.B. 3504
By: Davis, John
Local Government Ways and Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, over-65 or disabled persons cannot defer the taxes on their residence homestead until after their taxes become delinquent. CSHB 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 Sec. 33.07 can also be imposed and collected after 91 days from the expiration date.

If an over-65 or disabled individual dies and their will must be probated, heirship must be determined or their house must be sold in order to make payment of the deferred or abated taxes. It is unlikely that payment can be made prior to imposition of the additional penalty under Section 33.07 and a suit to collect or a move to foreclose cannot be forestalled. CSHB 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.

Also, some taxing units are currently interpreting Sec. 33.06 to allow the foreclosure on a tax judgment obtained prior to a qualifying individual obtaining a deferral or abatement of delinquent taxes. CSHB 3504 makes it clear 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 individual who is over 65 or disabled and has obtained a deferral of abatement of delinquent property taxes does not qualify to continue the deferral or abatement. The deferred or abated taxes become due upon the death of the qualifying individual although the surviving spouse continues to qualify for the additional exemption of their deceased spouse. CSHB 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. It is intended by CSHB 3504 that a taxing unit may not file suit to collect or move to foreclose and the additional penalty under Section 33.07 may not be imposed or collected until the expiration of 181 days after the surviving spouse no longer occupies the property as a residence homestead.

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

Section 33.06 (a) of the Tax Code is amended to provide an individual who meets certain requirements to abate a sale to foreclose a tax lien. Section 33.06 of the Tax Code is amended to allow a disabled

person or a person over the age of 65 to defer property taxes before they become delinquent. It is also amended to prevent additional penalties from being assessed against such people until 181 days pass after they no longer occupy and own the property as a residence homestead. Subsection (c) is amended to say that a taxing unit may not foreclose a 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. A surviving spouse who is 55 years old or older and occupies the property as a residence homestead qualifies for a continuation of the deferral or abatement. A taxing unit may not file suit to collect or move to foreclose and the additional penalty under Section 33.07 may not be imposed or collected until the expiration of 181 days after the surviving spouse no longer occupies the property as a residence homestead.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. In subsection (a) duplicate language from the filed bill is condensed in Section 33.06(a)(2) with the same substantive effect.

SECTION 2. Subsection (b) of the substitute is analogous to (b) of SECTION 1 of the filed bill. There is no substantive change.

(c) No change.

(c-1) This is analogous to subsection (d) of the filed bill.

(d) This subsection is analogous to subsection (e) of the filed bill.

(f) This section is analogous to subsection (g) of the filed bill and makes no substantive changes from the filed bill.

SECTION 3. The effective date of the bill is added and is September 1, 2003.