

By: Brown of Brazos, Brown of Kaufman,  
Gattis, McClendon, Chavez, et al.

H.B. No. 136

A BILL TO BE ENTITLED

1 AN ACT

2 relating to limiting the amount of county or municipal ad valorem  
3 taxes that may be imposed on the residence homesteads of the elderly  
4 and their surviving spouses.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by  
7 adding Section 11.261 to read as follows:

8 Sec. 11.261. LIMITATION OF COUNTY OR MUNICIPAL TAX ON  
9 HOMESTEADS OF ELDERLY. (a) This section applies only to a county  
10 or municipality that has established a limitation on the total  
11 amount of taxes that may be imposed by the county or municipality on  
12 the residence homestead of an individual 65 years of age or older  
13 under Section 1-b(h), Article VIII, Texas Constitution.

14 (b) The tax officials shall appraise the property to which  
15 the limitation applies and calculate taxes as on other property,  
16 but if the tax so calculated exceeds the limitation provided by this  
17 section, the tax imposed is the amount of the tax as limited by this  
18 section, except as otherwise provided by this section. The county  
19 or municipality may not increase the total annual amount of ad  
20 valorem taxes the county or municipality imposes on the residence  
21 homestead of an individual 65 years of age or older above the amount  
22 of the taxes the county or municipality imposed on the residence  
23 homestead in the first tax year, other than a tax year preceding the  
24 tax year in which the county or municipality established the

1 limitation described by Subsection (a), in which the individual  
2 qualified that residence homestead for the exemption provided by  
3 Section 11.13(c) for an individual 65 years of age or older. If the  
4 individual qualified that residence homestead for the exemption  
5 after the beginning of that first year and the residence homestead  
6 remains eligible for the exemption for the next year, and if the  
7 county or municipal taxes imposed on the residence homestead in the  
8 next year are less than the amount of taxes imposed in that first  
9 year, a county or municipality may not subsequently increase the  
10 total annual amount of ad valorem taxes it imposes on the residence  
11 homestead above the amount it imposed on the residence homestead in  
12 the year immediately following the first year, other than a tax year  
13 preceding the tax year in which the county or municipality  
14 established the limitation described by Subsection (a), for which  
15 the individual qualified that residence homestead for the  
16 exemption.

17 (c) If an individual makes improvements to the individual's  
18 residence homestead, other than repairs and other than improvements  
19 required to comply with governmental requirements, the county or  
20 municipality may increase the amount of taxes on the homestead in  
21 the first year the value of the homestead is increased on the  
22 appraisal roll because of the enhancement of value by the  
23 improvements. The amount of the tax increase is determined by  
24 applying the current tax rate to the difference between the  
25 appraised value of the homestead with the improvements and the  
26 appraised value it would have had without the improvements. A  
27 limitation provided by this section then applies to the increased

1 amount of county or municipal taxes on the residence homestead  
2 until more improvements, if any, are made.

3 (d) A limitation on county or municipal tax increases  
4 provided by this section expires if on January 1:

5 (1) none of the owners of the structure who qualify for  
6 the exemption provided by Section 11.13(c) for an individual 65  
7 years of age or older and who owned the structure when the  
8 limitation provided by this section first took effect is using the  
9 structure as a residence homestead; or

10 (2) none of the owners of the structure qualifies for  
11 the exemption provided by Section 11.13(c) for an individual 65  
12 years of age or older.

13 (e) If the appraisal roll provides for taxation of appraised  
14 value for a prior year because a residence homestead exemption for  
15 persons 65 years of age or older was erroneously allowed, the tax  
16 assessor for the applicable county or municipality shall add, as  
17 back taxes due as provided by Section 26.09(d), the positive  
18 difference, if any, between the tax that should have been imposed  
19 for that year and the tax that was imposed because of the provisions  
20 of this section.

21 (f) A limitation on tax increases provided by this section  
22 does not expire because the owner of an interest in the structure  
23 conveys the interest to a qualifying trust as defined by Section  
24 11.13(j) if the owner or the owner's spouse is a trustor of the  
25 trust and is entitled to occupy the structure.

26 (g) Except as provided by Subsection (c), if an individual  
27 who receives a limitation on county or municipal tax increases

1 provided by this section subsequently qualifies a different  
2 residence homestead in the same county or municipality for an  
3 exemption under Section 11.13, the county or municipality may not  
4 impose ad valorem taxes on the subsequently qualified homestead in  
5 a year in an amount that exceeds the amount of taxes the county or  
6 municipality would have imposed on the subsequently qualified  
7 homestead in the first year in which the individual receives that  
8 exemption for the subsequently qualified homestead had the  
9 limitation on tax increases provided by this section not been in  
10 effect, multiplied by a fraction the numerator of which is the total  
11 amount of taxes the county or municipality imposed on the former  
12 homestead in the last year in which the individual received that  
13 exemption for the former homestead and the denominator of which is  
14 the total amount of taxes the county or municipality would have  
15 imposed on the former homestead in the last year in which the  
16 individual received that exemption for the former homestead had the  
17 limitation on tax increases provided by this section not been in  
18 effect.

19 (h) An individual who receives a limitation on county or  
20 municipal tax increases under this section and who subsequently  
21 qualifies a different residence homestead in the same county or  
22 municipality for an exemption under Section 11.13, or an agent of  
23 the individual, is entitled to receive from the chief appraiser of  
24 the appraisal district in which the former homestead was located a  
25 written certificate providing the information necessary to  
26 determine whether the individual may qualify for a limitation on  
27 the subsequently qualified homestead under Subsection (g) and to

1 calculate the amount of taxes the county or municipality may impose  
2 on the subsequently qualified homestead.

3 (i) If an individual who qualifies for a limitation on  
4 county or municipal tax increases under this section dies, the  
5 surviving spouse of the individual is entitled to the limitation on  
6 taxes imposed by the county or municipality on the residence  
7 homestead of the individual if:

8 (1) the surviving spouse is 55 years of age or older  
9 when the individual dies; and

10 (2) the residence homestead of the individual:

11 (A) is the residence homestead of the surviving  
12 spouse on the date that the individual dies; and

13 (B) remains the residence homestead of the  
14 surviving spouse.

15 (j) If an individual who qualifies for a limitation on  
16 county or municipal tax increases under this section dies in the  
17 first year in which the individual qualified for the limitation and  
18 the individual first qualified for the limitation after the  
19 beginning of that year, except as provided by Subsection (k), the  
20 amount to which the surviving spouse's county or municipal taxes  
21 are limited under Subsection (i) is the amount of taxes imposed by  
22 the county or municipality, as applicable, on the residence  
23 homestead in that year determined as if the individual qualifying  
24 for the exemption had lived for the entire year.

25 (k) If in the first tax year after the year in which an  
26 individual dies under the circumstances described by Subsection (j)  
27 the amount of taxes imposed by a county or municipality on the

1 residence homestead of the surviving spouse is less than the amount  
2 of taxes imposed by the county or municipality in the preceding year  
3 as limited by Subsection (j), in a subsequent tax year the surviving  
4 spouse's taxes imposed by the county or municipality on that  
5 residence homestead are limited to the amount of taxes imposed by  
6 the county or municipality in that first tax year after the year in  
7 which the individual dies.

8 SECTION 2. Sections 23.19(b) and (g), Tax Code, are amended  
9 to read as follows:

10 (b) If an appraisal district receives a written request for  
11 the appraisal of real property and improvements of a cooperative  
12 housing corporation according to the separate interests of the  
13 corporation's stockholders, the chief appraiser shall separately  
14 appraise the interests described by Subsection (d) [~~of this~~  
15 ~~section~~] if the conditions required by Subsections (e) and (f) [~~of~~  
16 ~~this section~~] have been met. Separate appraisal under this section  
17 is for the purposes of administration of tax exemptions,  
18 determination of applicable limitations of taxes under Section  
19 11.26 or 11.261 [~~of this code~~], and apportionment by a cooperative  
20 housing corporation of property taxes among its stockholders but is  
21 not the basis for determining value on which a tax is imposed under  
22 this title. A stockholder whose interest is separately appraised  
23 under this section may protest and appeal the appraised value in the  
24 manner provided by this title for protest and appeal of the  
25 appraised value of other property.

26 (g) A tax bill or a separate statement accompanying the tax  
27 bill to a cooperative housing corporation for which interests of

1 stockholders are separately appraised under this section must  
2 state, in addition to the information required by Section 31.01 [~~of~~  
3 ~~this code~~], the appraised value and taxable value of each interest  
4 separately appraised. Each exemption claimed as provided by this  
5 title by a person entitled to the exemption shall also be deducted  
6 from the total appraised value of the property of the corporation.  
7 The total tax imposed by a school district, county, or municipality  
8 shall be reduced by any amount that represents an increase in taxes  
9 attributable to separately appraised interests of the real property  
10 and improvements that are subject to the limitation of taxes  
11 prescribed by Section 11.26 or 11.261 [~~of this code~~]. The  
12 corporation shall apportion among its stockholders liability for  
13 reimbursing the corporation for property taxes according to the  
14 relative taxable values of their interests.

15 SECTION 3. Sections 26.012(6), (13), and (14), Tax Code,  
16 are amended to read as follows:

17 (6) "Current total value" means the total taxable  
18 value of property listed on the appraisal roll for the current year,  
19 including all appraisal roll supplements and corrections as of the  
20 date of the calculation, less the taxable value of property  
21 exempted for the current tax year for the first time under Section  
22 11.31, except that:

23 (A) the current total value for a school district  
24 excludes:

25 (i) [~~(A)~~] the total value of homesteads  
26 that qualify for a tax limitation as provided by Section 11.26; and

27 (ii) [~~(B)~~] new property value of property

1 that is subject to an agreement entered into under Chapter 313; and

2 (B) the current total value for a county or  
3 municipality excludes the total value of homesteads that qualify  
4 for a tax limitation provided by Section 11.261.

5 (13) "Last year's levy" means the total of:

6 (A) the amount of taxes that would be generated  
7 by multiplying the total tax rate adopted by the governing body in  
8 the preceding year by the total taxable value of property on the  
9 appraisal roll for the preceding year, including:

10 (i) taxable value that was reduced in an  
11 appeal under Chapter 42; and

12 (ii) all appraisal roll supplements and  
13 corrections other than corrections made pursuant to Section  
14 25.25(d), as of the date of the calculation, except that last year's  
15 taxable value for a school district excludes the total value of  
16 homesteads that qualified for a tax limitation as provided by  
17 Section 11.26 and last year's taxable value for a county or  
18 municipality excludes the total value of homesteads that qualified  
19 for a tax limitation as provided by Section 11.261; and

20 (B) the amount of taxes refunded by the taxing  
21 unit in the preceding year for tax years before that year.

22 (14) "Last year's total value" means the total taxable  
23 value of property listed on the appraisal roll for the preceding  
24 year, including all appraisal roll supplements and corrections,  
25 other than corrections made pursuant to Section 25.25(d) [~~of this~~  
26 ~~code~~], as of the date of the calculation, except that:

27 (A) last year's taxable value for a school



1 district excludes the total value of homesteads that qualified for  
2 a tax limitation as provided by Section 11.26; and

3 (B) last year's taxable value for a county or  
4 municipality excludes the total value of homesteads that qualified  
5 for a tax limitation as provided by Section 11.261 [~~of this code~~].

6 SECTION 4. This Act takes effect January 1, 2004, and  
7 applies only to ad valorem taxes imposed on or after that date, but  
8 only if the constitutional amendment to permit a county or  
9 municipality to establish an ad valorem tax freeze on residence  
10 homesteads of the elderly and their spouses is approved by the  
11 voters. If that amendment is not approved by the voters, this Act  
12 has no effect.