By: Brown of Brazos, et al. (Senate Sponsor - Nelson) H.B. No. 136

(In the Senate - Received from the House May 6, 2003; May 8, 2003, read first time and referred to Committee on Finance; May 23, 2003, reported favorably by the following vote: Yeas 13, Nays 0; May 23, 2003, sent to printer.)

A BILL TO BE ENTITLED

AN ACT

relating to limiting the amount of county, municipal, or junior college district ad valorem taxes that may be imposed on the residence homesteads of the disabled and of the elderly and their surviving spouses.

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

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

Sec. 11.261. LIMITATION OF COUNTY, MUNICIPAL, OR JUNIOR COLLEGE DISTRICT TAX ON HOMESTEADS OF DISABLED AND ELDERLY. (a) This section applies only to a county, municipality, or junior college district that has established a limitation on the total amount of taxes that may be imposed by the county, municipality, or junior college district on the residence homestead of a disabled individual or an individual 65 years of age or older under Section 1-b(h), Article VIII, Texas Constitution.

(b) The tax officials shall appraise the property to which the limitation applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation provided by this section, the tax imposed is the amount of the tax as limited by this section, except as otherwise provided by this section. The county, municipality, or junior college district may not increase the total annual amount of ad valorem taxes the county, municipality, or junior college district imposes on the residence homestead of a disabled individual or an individual 65 years of age or older above the amount of the taxes the county, municipality, or junior college district imposed on the residence homestead in the first tax year, other than a tax year preceding the tax year in which the county, municipality, or junior college district established the limitation described by Subsection (a), in which the individual qualified that residence homestead for the exemption provided by Section 11.13(c) for a disabled individual or an individual 65 years of age or older. If the individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the exemption for the next year, and if the county, municipal, or junior college district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a county, municipality, or junior college district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed on the residence homestead in the year immediately following the first year, other than a tax year preceding the tax year in which the county, municipality, or junior college district established the limitation described by Subsection (a), for which the individual qualified that residence homestead for the exemption.

(c) If an individual makes improvements to the individual's residence homestead, other than repairs and other than improvements required to comply with governmental requirements, the county, municipality, or junior college district may increase the amount of taxes on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference between the appraised value of the homestead with the improvements and the appraised value it would have had without the improvements. A limitation provided by this section then applies to the increased amount of county, municipal, or junior college district taxes on the residence homestead until more improvements, if any, are made.

(d) A limitation on county, municipal, or junior college district tax increases provided by this section expires if on January 1:

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

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

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

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

(g) Except as provided by Subsection (c), if an individual who receives a limitation on county, municipal, or junior college district tax increases provided by this section subsequently qualifies a different residence homestead in the same county, municipality, or junior college district for an exemption under Section 11.13, the county, municipality, or junior college district may not impose ad valorem taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes the county, municipality, or junior college district would have imposed on the subsequently qualified homestead in the first year in which the individual receives that exemption for the subsequently qualified homestead had the limitation on tax increases provided by this section not been in effect, multiplied by a fraction the numerator of which is the total amount of taxes the county, municipality, or junior college district imposed on the former homestead in the last year in which the individual received that exemption for the former homestead and the denominator of which is the total amount of taxes the county, municipality, or junior college district would have imposed on the former homestead in the last year in which the individual received that exemption for the former homestead had the limitation on tax increases provided by this section not been in effect.

(h) An individual who receives a limitation on county, municipal, or junior college district tax increases under this section and who subsequently qualifies a different residence homestead in the same county, municipality, or junior college district for an exemption under Section 11.13, or an agent of the individual, is entitled to receive from the chief appraiser of the appraisal district in which the former homestead was located a written certificate providing the information necessary to determine whether the individual may qualify for a limitation on the subsequently qualified homestead under Subsection (g) and to calculate the amount of taxes the county, municipality, or junior college district may impose on the subsequently qualified homestead.

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

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

(2) the residence homestead of the individual:

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

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

(j) If an individual who is 65 years of age or older and qualifies for a limitation on county, municipal, or junior college district tax increases for the elderly under this section 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, except as provided by Subsection (k), the amount to which the surviving spouse's county, municipal, or junior college district taxes are limited under Subsection (i) is the amount of taxes imposed by the county, municipality, or junior college district, as applicable, on the residence homestead in that year determined as if the individual qualifying for the exemption had lived for the entire year.

(k) If in the first tax year after the year in which an individual who is 65 years of age or older dies under the circumstances described by Subsection (j) the amount of taxes imposed by a county, municipality, or junior college district on the residence homestead of the surviving spouse is less than the amount of taxes imposed by the county, municipality, or junior college district in the preceding year as limited by Subsection (j), in a subsequent tax year the surviving spouse's taxes imposed by the county, municipality, or junior college district on that residence homestead are limited to the amount of taxes imposed by the county, municipality, or junior college district in that first tax year after the year in which the individual dies.

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

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

(g) A tax bill or a separate statement accompanying the tax bill to a cooperative housing corporation for which interests of stockholders are separately appraised under this section must state, in addition to the information required by Section 31.01 [~~of this code~~], the appraised value and taxable value of each interest separately appraised. Each exemption claimed as provided by this title by a person entitled to the exemption shall also be deducted from the total appraised value of the property of the corporation. The total tax imposed by a school district, county, municipality, or junior college district shall be reduced by any amount that represents an increase in taxes attributable to separately appraised interests of the real property and improvements that are subject to the limitation of taxes prescribed by Section 11.26 or 11.261 [~~of this code~~]. The corporation shall apportion among its stockholders liability for reimbursing the corporation for property taxes according to the relative taxable values of their interests.

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

(6) "Current total value" means the total taxable value of property listed on the appraisal roll for the current year, including all appraisal roll supplements and corrections as of the date of the calculation, less the taxable value of property

exempted for the current tax year for the first time under Section 11.31, except that:

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

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

(ii) [~~(B)~~] new property value of property that is subject to an agreement entered into under Chapter 313; and

(B) the current total value for a county, municipality, or junior college district excludes the total value of homesteads that qualify for a tax limitation provided by Section 11.261.

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

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

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

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

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

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

(A) last year's taxable value for a school district excludes the total value of homesteads that qualified for a tax limitation as provided by Section 11.26; and

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

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

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