

By: Davis of Harris

H.B. No. 3504

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the deferral or abatement of the collection of taxes on
3 the residence homestead of an elderly or disabled person.

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

5 SECTION 1. Section 33.06(a), Tax Code, as amended by
6 Chapters 892 and 1430, Acts of the 77th Legislature, Regular
7 Session, 2001, is reenacted and amended to read as follows:

8 (a) An individual is entitled to defer collection of a tax,
9 ~~[or]~~ abate a suit to collect a delinquent tax, or abate a sale to
10 foreclose a tax lien if the individual:

11 (1) is 65 years of age or older or is disabled as
12 defined by Section 11.13(m); and

13 (2) the tax was imposed against property that the
14 individual owns and occupies as a residence homestead.

15 SECTION 2. Section 33.06, Tax Code, is amended by amending
16 Subsections (b)-(d) and adding Subsections (c-1) and (f) to read as
17 follows:

18 (b) To obtain a deferral, an individual must file with the
19 chief appraiser for the appraisal district in which the property is
20 located an affidavit stating the facts required to be established
21 by Subsection (a) ~~[of this section]~~. The chief appraiser shall
22 notify each taxing unit participating in the district of the
23 filing. After an affidavit is filed under this subsection, a taxing
24 unit may not file suit to collect delinquent taxes on the property

1 and the property may not be sold at a sale to foreclose the tax lien
2 until the 181st day after the date the individual no longer owns and
3 occupies the property as a residence homestead.

4 (c) To obtain an abatement of a pending suit, the individual
5 must file in the court in which suit is pending an affidavit stating
6 the facts required to be established by Subsection (a) [~~of this~~
7 ~~section~~]. If no controverting affidavit is filed by the taxing unit
8 filing suit or if, after a hearing, the court finds the individual
9 is entitled to the deferral, the court shall abate the suit until
10 the 181st day after the date the individual no longer owns and
11 occupies the property as a residence homestead. The clerk of the
12 court shall deliver a copy of the judgment abating the suit to the
13 chief appraiser of each appraisal district that appraises the
14 property.

15 (c-1) To obtain an abatement of a pending sale to foreclose
16 the tax lien, the individual must deliver an affidavit stating the
17 facts required to be established by Subsection (a) to the chief
18 appraiser of each appraisal district that appraises the property,
19 the collector for the taxing unit that requested the order of sale
20 or the attorney representing that unit for the collection of
21 delinquent taxes, and the officer charged with selling the property
22 not later than the fifth day before the date of the sale. After an
23 affidavit is delivered under this subsection, the property may not
24 be sold at a tax sale until the 181st day after the date the
25 individual no longer owns and occupies the property as a residence
26 homestead. If property is sold in violation of this section, the
27 property owner may file a motion to set aside the sale under the

1 same cause number and in the same court as a judgment reference in
2 the order of sale. The motion must be filed during the applicable
3 redemption period as set forth in Section 34.21(a) or, if the
4 property is bid off to a taxing entity, on or before the 180th day
5 following the date the taxing unit's deed is filed of record,
6 whichever is later. This right is not transferable to a third
7 party.

8 (d) A tax lien remains on the property and interest
9 continues to accrue during the period collection of taxes is
10 deferred or abated under this section. The annual interest rate
11 during the deferral or abatement period is eight percent instead of
12 the rate provided by Section 33.01. Interest and penalties that
13 accrued or that were incurred or imposed under Section 33.01 or
14 33.07 before the date the individual files the deferral affidavit
15 under Subsection (b) or the date the judgment abating the suit is
16 entered, as applicable, are preserved. A penalty under Section
17 33.01 is not incurred during a deferral or abatement period. The
18 additional penalty under Section 33.07 may be imposed and collected
19 only if the taxes for which collection is deferred or abated remain
20 delinquent on or after the 181st [~~91st~~] day after the date the
21 deferral or abatement period expires. A plea of limitation,
22 laches, or want of prosecution does not apply against the taxing
23 unit because of deferral or abatement of collection as provided by
24 this section.

25 (f) Notwithstanding the other provisions of this section,
26 if an individual who qualifies for a deferral or abatement of
27 collection of taxes on property as provided by this section dies,

1 the deferral or abatement continues in effect until the 181st day
2 after the date the surviving spouse of the individual no longer owns
3 and occupies the property as a residence homestead if:

4 (1) the property was the residence homestead of the
5 deceased spouse when the deceased spouse died;

6 (2) the surviving spouse was 55 years of age or older
7 when the deceased spouse died; and

8 (3) the property was the residence homestead of the
9 surviving spouse when the deceased spouse died.

10 SECTION 3. This Act takes effect September 1, 2003.