

1-1 By: Davis of Harris (Senate Sponsor - Lindsay) H.B. No. 3504  
1-2 (In the Senate - Received from the House May 12, 2003;  
1-3 May 13, 2003, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 24, 2003, reported favorably by  
1-5 the following vote: Yeas 5, Nays 0; May 24, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the deferral or abatement of the collection of taxes on  
1-9 the residence homestead of an elderly or disabled person.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 33.06(a), Tax Code, as amended by  
1-12 Chapters 892 and 1430, Acts of the 77th Legislature, Regular  
1-13 Session, 2001, is reenacted and amended to read as follows:

1-14 (a) An individual is entitled to defer collection of a tax,  
1-15 ~~[or]~~ abate a suit to collect a delinquent tax, or abate a sale to  
1-16 foreclose a tax lien if the individual:

1-17 (1) is 65 years of age or older or is disabled as  
1-18 defined by Section 11.13(m); and

1-19 (2) the tax was imposed against property that the  
1-20 individual owns and occupies as a residence homestead.

1-21 SECTION 2. Section 33.06, Tax Code, is amended by amending  
1-22 Subsections (b)-(d) and adding Subsections (c-1) and (f) to read as  
1-23 follows:

1-24 (b) To obtain a deferral, an individual must file with the  
1-25 chief appraiser for the appraisal district in which the property is  
1-26 located an affidavit stating the facts required to be established  
1-27 by Subsection (a) ~~[of this section]~~. The chief appraiser shall  
1-28 notify each taxing unit participating in the district of the  
1-29 filing. After an affidavit is filed under this subsection, a taxing  
1-30 unit may not file suit to collect delinquent taxes on the property  
1-31 and the property may not be sold at a sale to foreclose the tax lien  
1-32 until the 181st day after the date the individual no longer owns and  
1-33 occupies the property as a residence homestead.

1-34 (c) To obtain an abatement of a pending suit, the individual  
1-35 must file in the court in which suit is pending an affidavit stating  
1-36 the facts required to be established by Subsection (a) ~~[of this~~  
1-37 ~~section]~~. If no controverting affidavit is filed by the taxing unit  
1-38 filing suit or if, after a hearing, the court finds the individual  
1-39 is entitled to the deferral, the court shall abate the suit until  
1-40 the 181st day after the date the individual no longer owns and  
1-41 occupies the property as a residence homestead. The clerk of the  
1-42 court shall deliver a copy of the judgment abating the suit to the  
1-43 chief appraiser of each appraisal district that appraises the  
1-44 property.

1-45 (c-1) To obtain an abatement of a pending sale to foreclose  
1-46 the tax lien, the individual must deliver an affidavit stating the  
1-47 facts required to be established by Subsection (a) to the chief  
1-48 appraiser of each appraisal district that appraises the property,  
1-49 the collector for the taxing unit that requested the order of sale  
1-50 or the attorney representing that unit for the collection of  
1-51 delinquent taxes, and the officer charged with selling the property  
1-52 not later than the fifth day before the date of the sale. After an  
1-53 affidavit is delivered under this subsection, the property may not  
1-54 be sold at a tax sale until the 181st day after the date the  
1-55 individual no longer owns and occupies the property as a residence  
1-56 homestead. If property is sold in violation of this section, the  
1-57 property owner may file a motion to set aside the sale under the  
1-58 same cause number and in the same court as a judgment reference in  
1-59 the order of sale. The motion must be filed during the applicable  
1-60 redemption period as set forth in Section 34.21(a) or, if the  
1-61 property is bid off to a taxing entity, on or before the 180th day  
1-62 following the date the taxing unit's deed is filed of record,  
1-63 whichever is later. This right is not transferable to a third  
1-64 party.

2-1 (d) A tax lien remains on the property and interest  
 2-2 continues to accrue during the period collection of taxes is  
 2-3 deferred or abated under this section. The annual interest rate  
 2-4 during the deferral or abatement period is eight percent instead of  
 2-5 the rate provided by Section 33.01. Interest and penalties that  
 2-6 accrued or that were incurred or imposed under Section 33.01 or  
 2-7 33.07 before the date the individual files the deferral affidavit  
 2-8 under Subsection (b) or the date the judgment abating the suit is  
 2-9 entered, as applicable, are preserved. A penalty under Section  
 2-10 33.01 is not incurred during a deferral or abatement period. The  
 2-11 additional penalty under Section 33.07 may be imposed and collected  
 2-12 only if the taxes for which collection is deferred or abated remain  
 2-13 delinquent on or after the 181st [~~91st~~] day after the date the  
 2-14 deferral or abatement period expires. A plea of limitation,  
 2-15 laches, or want of prosecution does not apply against the taxing  
 2-16 unit because of deferral or abatement of collection as provided by  
 2-17 this section.

2-18 (f) Notwithstanding the other provisions of this section,  
 2-19 if an individual who qualifies for a deferral or abatement of  
 2-20 collection of taxes on property as provided by this section dies,  
 2-21 the deferral or abatement continues in effect until the 181st day  
 2-22 after the date the surviving spouse of the individual no longer owns  
 2-23 and occupies the property as a residence homestead if:

2-24 (1) the property was the residence homestead of the  
 2-25 deceased spouse when the deceased spouse died;

2-26 (2) the surviving spouse was 55 years of age or older  
 2-27 when the deceased spouse died; and

2-28 (3) the property was the residence homestead of the  
 2-29 surviving spouse when the deceased spouse died.

2-30 SECTION 3. This Act takes effect September 1, 2003.

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