

By: Shapleigh

S.B. No. 59

A BILL TO BE ENTITLED

AN ACT

relating to ad valorem tax rebates to individuals who lease or rent their principal residences; providing a penalty.

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

SECTION 1. Title 1, Tax Code, is amended by adding Chapter 61 to read as follows:

CHAPTER 61. PROPERTY TAX REBATES FOR LESSEES AND RENTERS

Sec. 61.001. DEFINITIONS. In this chapter:

(1) "Gross rental" means the amount paid in an arm's length transaction for the right of occupancy of a residential dwelling unit for all or part of a year. Gross rental does not include amounts paid for utilities, services, or personal property provided by a landlord as part of a lease or rental agreement unless the comptroller by rule provides for including those amounts in gross rental.

(2) "Household" means an applicant for a tax rebate under this chapter and any individual, including the applicant's spouse, who resides with the applicant.

(3) "Household income" means the total income of all members of a household.

(4) "Income" means the sum of:

(A) adjusted gross income, as defined by Section 62, Internal Revenue Code of 1986; and

(B) the amounts of the following items, to the

1 extent they are not included in adjusted gross income:

2 (i) nontaxable interest earned;

3 (ii) public assistance benefit payments;

4 (iii) workers' compensation payments;

5 (iv) unemployment insurance payments;

6 (v) distributions from an individual
7 retirement account;

8 (vi) payments from an annuity or pension
9 other than a disability pension; and

10 (vii) contributions to individual
11 retirement accounts, simplified employee pension individual
12 retirement accounts, or other retirement plans that are deductible
13 from adjusted gross income.

14 (5) "Residential dwelling unit" means a structure or a
15 separately secured and occupied portion of a multiple purpose or
16 multiple residential dwelling unit structure that is designed or
17 adapted for and is used for a human residence and the land, not to
18 exceed one acre, and improvements used exclusively for the
19 residential occupancy of the structure.

20 Sec. 61.002. ELIGIBILITY FOR TAX REBATE PAYMENT. (a)
21 Except as provided by Subsection (b), to provide ad valorem tax
22 relief, an individual is eligible to receive a tax rebate payment
23 for gross rental for a residential dwelling unit in a year that
24 represents a portion of the ad valorem taxes indirectly paid by the
25 individual as part of the gross rental if:

26 (1) the individual is a resident of this state for the
27 entire year;

1 (2) the individual did not qualify a property for a
2 residence homestead exemption under Section 11.13 in that year;

3 (3) the individual leased or rented the residential
4 dwelling unit during all or part of that year;

5 (4) the residential dwelling unit was the individual's
6 principal residence during all or part of that year;

7 (5) ad valorem taxes were imposed on the residential
8 dwelling unit in that year;

9 (6) the individual was not listed as a dependent on
10 another person's federal income tax return for that year; and

11 (7) the legislature appropriates sufficient money to
12 pay tax rebates under this chapter in the state fiscal year in which
13 the individual applies for the grant to make the payment.

14 (b) Only one tax rebate payment may be made under this
15 section for a residential dwelling unit in a year. If two or more
16 individuals who are eligible for the payment jointly occupy a
17 residential dwelling unit, the individuals may apply for and
18 receive the payment jointly or may choose one individual to apply
19 for and receive the payment. If the individuals cannot agree, the
20 comptroller may determine how to allocate the payment, and the
21 comptroller's determination is final.

22 Sec. 61.003. AMOUNT OF TAX REBATE. (a) The amount of the
23 tax rebate for a tax year is the lesser of:

24 (1) \$750; or

25 (2) one-half of the amount by which the gross rental
26 paid by an eligible applicant for a year on the applicant's
27 residential dwelling unit exceeds 15 percent of the applicant's

1 total household income for that year.

2 (b) If the comptroller determines that the gross rental is
3 excessive because of collusion between the landlord and the
4 applicant, the comptroller shall adjust the applicant's rental for
5 purposes of computation of the amount of the tax rebate to a
6 reasonable amount.

7 Sec. 61.004. RESIDENCE IN RESIDENTIAL DWELLING UNIT FOR
8 ONLY PART OF YEAR. If the residential dwelling unit was not the
9 applicant's principal residence for the entire year, only that
10 portion of the gross rental equal to the proportion the number of
11 days the residential dwelling unit was the applicant's principal
12 residence bears to 365 may be used to calculate the amount of the
13 tax rebate.

14 Sec. 61.005. APPLICATION FOR TAX REBATE. (a) To receive a
15 tax rebate under this chapter, an individual must file a completed
16 application for a tax rebate payment with the comptroller on a form
17 prescribed by the comptroller.

18 (b) The applicant shall include in or attach to the form all
19 information required by the comptroller to establish eligibility
20 for and the amount of the tax rebate.

21 Sec. 61.006. FILING DEADLINE. An application for a tax
22 rebate payment must be filed with the comptroller before May 1 of
23 the year following the year in which the gross rental was paid or
24 the applicant forfeits the right to a tax rebate payment. The
25 comptroller may extend the filing deadline for a single period not
26 to exceed 30 days for an applicant who shows good cause for the
27 extension.

1 Sec. 61.007. CONFIDENTIAL INFORMATION; OFFENSE. (a) The
2 information submitted by an applicant to the comptroller under
3 Section 61.005 is confidential. The information may be used for
4 statistical purposes if the information is provided in a form that
5 does not identify a specific applicant.

6 (b) A person who recklessly discloses information made
7 confidential by this section to a person not authorized to receive
8 the information commits an offense. An offense under this
9 subsection is a Class B misdemeanor.

10 Sec. 61.008. AVAILABILITY OF APPLICATIONS. (a) The
11 comptroller by rule shall prescribe the form for an application for
12 a tax rebate under this chapter. The form must include:

13 (1) a brief explanation of the requirements for
14 obtaining a tax rebate;

15 (2) instructions for completing and filing the form;
16 and

17 (3) a notice of the penalties prescribed by Section
18 37.10, Penal Code, for making or filing an application containing a
19 false statement.

20 (b) The comptroller shall print a sufficient number of
21 application forms and deliver the forms to the chief appraiser for
22 each appraisal district and to each county assessor-collector. The
23 chief appraiser for each appraisal district and each county
24 assessor-collector shall make the application forms readily
25 available at no charge.

26 (c) Each year the comptroller, the chief appraiser for each
27 appraisal district, and each county assessor-collector shall

1 publicize, in a manner reasonably designed to notify all eligible
2 individuals, the availability of the application forms and the
3 requirements for obtaining a tax rebate under this chapter.

4 Sec. 61.009. ACTION ON TAX REBATE APPLICATIONS. (a) Not
5 later than the 30th day after the date the comptroller receives an
6 application for a tax rebate under this chapter, the comptroller
7 shall consider the application and any accompanying information
8 and:

9 (1) approve the application;

10 (2) modify the application and approve the application
11 as modified;

12 (3) deny the application; or

13 (4) request additional information in support of the
14 application.

15 (b) If the comptroller requests additional information, the
16 applicant must provide the information not later than the 30th day
17 after the date the request is sent or the application is considered
18 to have been withdrawn. Not later than the 30th day after the date
19 the additional information is received, the comptroller shall act
20 on the application.

21 (c) If the comptroller approves the application, the
22 comptroller shall calculate the amount of the tax rebate due and
23 send a payment in that amount to the applicant by first class mail
24 at the address shown on the application. The payment shall be made
25 from money appropriated to the comptroller for that purpose.

26 (d) If the comptroller modifies or denies the application,
27 the comptroller shall deliver written notice of the modification or

1 denial to the applicant not later than the fifth day after the date
2 the action is taken and briefly state the reasons for the action.

3 Sec. 61.010. REASONS FOR DENIAL OF APPLICATIONS. The
4 comptroller shall deny an application for a tax rebate under this
5 chapter if the comptroller determines that:

- 6 (1) the applicant is ineligible for a tax rebate; or
7 (2) the application was filed with intent to defraud
8 this state.

9 Sec. 61.011. APPEALS FROM ACTIONS ON TAX REBATE
10 APPLICATIONS. (a) An applicant aggrieved by an action of the
11 comptroller on an application for a tax rebate under this chapter
12 may appeal the action by filing a petition with the comptroller not
13 later than the 30th day after the date the applicant receives notice
14 of the action.

15 (b) Not later than the 60th day after the date the petition
16 is filed, the comptroller shall hold a hearing on the appeal. The
17 hearing is subject to Chapter 2001, Government Code.

18 Sec. 61.012. IMPROPER TAX REBATE. (a) If the comptroller
19 determines that an individual improperly received a tax rebate
20 under this chapter, the comptroller may recover the amount of the
21 improper tax rebate by:

- 22 (1) deducting the amount of the improper tax rebate
23 from the amount of any future tax rebate paid to the individual; or
24 (2) bringing an action on behalf of the state to
25 recover the amount of the improper rebate.

26 (b) The attorney general shall represent the comptroller in
27 an action under Subsection (a)(2). Venue of the action is in Travis

1 County.

2 Sec. 61.013. ELIGIBILITY FOR TAX REBATE PERSONAL. (a)
3 Except as provided by Subsection (b), the right to apply for a tax
4 rebate under this chapter is personal and does not survive the death
5 of an eligible individual.

6 (b) If an applicant dies after filing a timely application,
7 the comptroller shall pay the amount the applicant was eligible to
8 receive to the applicant's surviving spouse or, if the applicant
9 was not survived by a spouse, the applicant's estate.

10 Sec. 61.014. RULES FOR ADMINISTRATION OF TAX REBATES. The
11 comptroller shall adopt rules to implement this chapter. The rules
12 shall specify:

13 (1) any additional requirement for an application for
14 a tax rebate under this chapter;

15 (2) what constitutes good cause for purposes of
16 receiving an extension of the deadline for filing an application;
17 and

18 (3) whether amounts paid for utilities, services, or
19 personal property provided by a landlord as part of a lease or
20 rental agreement are part of gross rental.

21 Sec. 61.015. AUDIT OF APPLICATIONS. The comptroller shall
22 annually audit a representative sample of applications received
23 under this chapter.

24 Sec. 61.016. REPORT BY COMPTROLLER. (a) The comptroller
25 shall annually submit to the governor, lieutenant governor, and
26 speaker of the house of representatives a report that shows for the
27 preceding year, by income level, gross rental, and county of

1 residence of applicants:

2 (1) the number of applications for tax rebates
3 submitted under this chapter;

4 (2) the number of applications approved, approved as
5 modified, or denied; and

6 (3) the amount of tax rebates paid.

7 (b) The comptroller may not include confidential
8 information in the report.

9 (c) The comptroller shall notify the members of the
10 legislature of the availability of the report required by this
11 section and shall make the report available to members of the
12 legislature on request.

13 SECTION 2. This Act takes effect January 1, 2006, but only
14 if the constitutional amendment proposed by the 79th Legislature,
15 1st Called Session, 2005, authorizing the legislature to provide ad
16 valorem tax relief to individuals who lease or rent their principal
17 residences by rebating a portion of the taxes imposed on that
18 residential property is approved by the voters. If that amendment
19 is not approved by the voters, this Act has no effect.