

BILL ANALYSIS

C.S.H.B. 89
By: Rodriguez
Local Government Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

When a person applies for ad valorem tax exemptions in Texas they are not automatically given an exemption form for ad valorem taxes; the individual must be informed of the exemptions and then must locate, obtain and apply separately for the exemptions at a certain time in order to be eligible for the exemptions. As a result many Texans do not timely obtain the exemptions they deserve which often increases their taxes. While applying for an exemption is free, some unscrupulous companies have emerged which charge individuals exorbitant fees for applying for tax exemption and some charge the individual a flat fee and a significant percentage of the tax savings for future years. Other companies prey on homeowners in assisting them to “designate” their property as a homestead property. Merely designating a homestead by filing a document with the state does not grant the owner a homestead tax exemption, and in fact is not required to receive the protections accorded under the law applicable to homesteads. In fact the law states that if a property has a homestead tax exemption it has also been designated as a homestead under Texas law. C.S.H.B.89 addresses all these problems.

The bill as substituted removes language that requires persons who prepare closing documentation to provide the exemption form and instructions on how to use it when the homeowner obtains the property. Also removes a maximum charge on assisting a person with applying for these exemptions at this stage at \$25.

The bill as substituted allows persons to assist homeowners with their exemptions after one year from the date of the transfer of the property with certain restrictions. The bill limits the fee that can be charged in this instance to no more than flat fee of \$55, and does not allow the fee to be charged if the exemption has already been granted. The bill does not allow the person to collect a refund or a percentage of any refund. While \$55 is a significant fee, it is only going to be charged after a person has located a homeowner who has failed to obtain their exemption in the first year, and the homeowner agrees to pay for the service. It is very likely that the assistance will save the homeowner a significant sum.

The bill as substituted also tightens the restrictions on persons that assist Texans with “designating” their property as a homestead. A person can no longer charge a Texan by merely assisting them with designating the property as their home, but will instead require that the Texan benefit by obtaining a homestead tax exemption that was not previously present. If the homeowner already has a homestead exemption for the property, then the person cannot charge any fee for also designating the property as a homestead since Texas law already mandates this protection to homeowners.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 11, Tax Code, by adding Section 11.49-11.0051 relating to the charge of a fee for assisting a person with preparing or filing an application for exemptions; and where a fee is charged, the person must file the application for the exemptions with the appraisal district.

C.S.H.B. 89 79(R)

SECTION 2. Section 11.49, Tax Code, as add applies only to a sale, encumbrance or transfer of real property that occurs on or after the effective date of the Act.

SECTION 3. This Act takes effect September 1, 2005

EFFECTIVE DATE

This Act takes effect September 1, 2005. However, Section 11.49, Tax Code only applies to property sales, transfers or encumbrances that occur after the effective date

COMPARISON OF ORIGINAL TO SUBSTITUTE

Removes section from the bill that requires persons who prepare closing documentation to provide the exemption form and instructions on how to use it when the homeowner obtains the property. The bill sets a maximum charge on assisting a person with applying for these exemptions at this stage at \$25.