

BILL ANALYSIS

C.S.H.B. 1148
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, many elderly homeowners have their homestead tax exemption, however, some are unaware they are also entitled to an elderly tax exemption when they reach 65. The law does not allow a homeowner to request the elderly exemption in advance so that it will apply when they reach 65.

Additionally, the current law forbids foreclosure of a homestead in the case that the owner has requested a deferral of taxes because the person is 65 or older, or in the case that the person is receiving disability benefits. While some may be aware they are entitled to a tax exemption, some believe they could lose their home unless the taxes are paid. Some of these homeowners believe this because of the threatening letters they receive. This results in elderly and disabled homeowners losing their home to tax foreclosure, a premature sale of a home, expensive home equity lending, or other adverse consequences such as putting the homeowner to a choice between paying their taxes and purchasing needed medication, food or utilities. Current law does not require notices of delinquency or threats of lawsuits to mention this deferment right, and many notices by lawyers written on behalf of taxing units do not mention this right.

The purpose of C.S.H.B. 1148 is to make the elderly exemption automatic, so no request is needed, when property is homesteaded by an owner known to be 65 or older and to prohibit taxing entities for conducting foreclosure for property taxes owed on property sales against an owner, who has an elderly exemption according to the appraisal district records. C.S.H.B. 1148 would also require tax entities and their lawyers to place a bold and conspicuous notice on all notices of delinquent taxes, threats of foreclosure sale, or threats of a suit requesting a foreclosure sale, that an owner of property that is his homestead is entitled to a tax deferment if he is over 65 or eligible to receive disability benefits.

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

C.S.H.B. 1148 requires the standard homestead exemption form to include a space for the applicant to state his date of birth, and automatically grants an elderly exemption to the person if the person already has a homestead exemption on the property and that person has turned 65 or older according to the records of the appraisal district.

The bill requires all tax collectors to include in the tax bill or any other written communication by a collector or an attorney or other agent that specifically threatens a lawsuit to collect a delinquent tax an explanation. The bill sets forth what is required in the explanation. This section does not apply to a communication that relates to taxes that are the subject of pending litigation.

The bill provides for the automatic deferral of property tax payments for an elderly owner. The bill prohibits a tax collector from filing suit, threatening to file suit, or taking any other action against an owner who has filed for a disability deferment or against an owner who is 65 or older and owns or occupies the property as his homestead. If the property is sold in violation of Section 33.061, then the owner has a right to redeem the property. The bill provides that taxes continue to accrue if account is deferred and that the chief appraiser for each district must

publicize the provisions of this section. For the first tax year that an individual who qualifies for a deferral or abatement under this section, the bill requires that the tax collector mail a notice. The bill sets forth the requirements of the notice. The bill sets forth the events triggering when the deferral or abatement of the collection of taxes ends. The bill authorizes a homeowner to decline the automatic abatement and deferral of property tax payments when the person turns 65.

The bill requires a lawsuit filed against a person, for purposes of this bill, to include a statement that the attorney signing the lawsuit has reviewed the records of the appraisal district and that the records reviewed do not show that the property described in the petition is the residence homestead of a person who is disabled or 65 years of age or older.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute adds language setting forth the requirements of the notice to be contained in the tax bill or a communication threatening a lawsuit for delinquent taxes, exempting taxes that are the subject of pending litigation from those the notice requirements, providing that the temporary prohibition against taxing units threatening to file lawsuit does not prohibit a taxing unit or an attorney from delivering to an individual a notice that delinquent taxes are owed, and requiring notice during the first tax year that an individual qualifies for the exemption.