

By: Rodriguez

H.B. No. 89

Substitute the following for H.B. No. 89:

By: Puente

C.S.H.B. No. 89

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of a person to charge a fee for assisting
3 another person in applying for a residence homestead tax exemption;
4 imposing a civil penalty.

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

6 SECTION 1. Subchapter C, Chapter 11, Tax Code, is amended by
7 adding Section 11.49 to read as follows:

8 Sec. 11.49. FEE FOR ASSISTANCE WITH RESIDENCE HOMESTEAD
9 APPLICATION. (a) A person who assists another person by preparing
10 or filing on behalf of the other person an application for an
11 exemption under Section 11.13 for a parcel of real property after
12 the first anniversary of the date of the sale or transfer of the
13 property to the other person:

14 (1) may not charge a fee of more than \$55 for that
15 service; and

16 (2) must timely file the application with the chief
17 appraiser for each appraisal district in which the property is
18 located.

19 (b) A fee under Subsection (a) must be paid directly by the
20 person who receives the service. A person providing a service
21 described by Subsection (a) may not accept any part of a refund of
22 taxes on any property in payment for those services.

23 (c) A person who assists another person by preparing or
24 filing on behalf of the other person an application for an exemption

1 under Section 11.13 for a parcel of real property may not charge a
2 fee for the service if the application:

3 (1) is for an exemption that has already been granted
4 to the purchaser or owner; or

5 (2) is submitted on or before the first anniversary of
6 the date of the sale or transfer of the property to the purchaser or
7 owner.

8 (d) A person who violates this section is liable to the
9 purchaser or owner, as applicable, for:

10 (1) actual damages;

11 (2) a civil penalty in the amount of \$1,000; and

12 (3) reasonable court costs and attorney's fees.

13 SECTION 2. Section 41.0051, Property Code, is amended by
14 amending Subsections (a) and (c) and adding Subsections (b-1) and
15 (d) to read as follows:

16 (a) A person may not deliver a written advertisement
17 offering, for a fee, to designate property as a homestead as
18 provided by Section 41.005 unless there is a disclaimer on the
19 advertisement that is conspicuous and printed in 14-point boldface
20 type or 14-point uppercase typewritten letters that makes the
21 following statement or a substantially similar statement:

22 THIS DOCUMENT IS AN ADVERTISEMENT OF SERVICES. IT IS
23 NOT AN OFFICIAL DOCUMENT OF THE STATE OF TEXAS OR OF
24 ANY COUNTY OR TAXING UNIT OF THE STATE OF TEXAS. A
25 PERSON WHO CURRENTLY RECEIVES A RESIDENCE HOMESTEAD
26 EXEMPTION FROM AD VALOREM TAXATION FOR A PARCEL OF REAL
27 PROPERTY IS CONSIDERED TO HAVE DESIGNATED THE PROPERTY

1 AS THE PERSON'S HOMESTEAD FOR PURPOSES OF TEXAS
2 PROPERTY LAW AND NEED NOT FILE A HOMESTEAD DESIGNATION
3 IN THE COUNTY DEED RECORDS.

4 (b-1) A person may not charge a fee to assist another person
5 by preparing or filing on behalf of the other person an application
6 to designate property as a homestead under Section 41.005 unless:

7 (1) the person:

8 (A) provides the other person with written
9 materials that include the disclosure required by Subsection (a);
10 and

11 (B) complies with Section 11.49, Tax Code; and

12 (2) the application is for an exemption authorized by
13 Section 11.13, Tax Code.

14 (c) A person's failure to provide a disclaimer on an
15 advertisement as required by Subsection (a), ~~or~~ to provide the
16 disclosure required by Subsection (b), or to comply with the
17 requirements of Subsection (b-1) is considered a false, misleading,
18 or deceptive act or practice for purposes of Section 17.46(a),
19 Business & Commerce Code, and is subject to action by the consumer
20 protection division of the attorney general's office as provided by
21 Section 17.46(a), Business & Commerce Code.

22 (d) In addition to any other remedy provided by law, a
23 person who violates this section is liable to the purchaser or
24 owner, as applicable, for:

25 (1) actual damages;

26 (2) a civil penalty in the amount of \$1,000; and

27 (3) reasonable court costs and attorney's fees.

1 SECTION 3. This Act takes effect September 1, 2005.