

By: Rodriguez

H.B. No. 1148

Substitute the following for H.B. No. 1148:

By: Edwards

C.S.H.B. No. 1148

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the exemption of the residence homesteads of elderly
3 persons from ad valorem taxation and the deferral or abatement of
4 the collection of delinquent taxes on the residence homesteads of
5 elderly and disabled persons.

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

7 SECTION 1. Section 6.035(a), Tax Code, is amended to read as
8 follows:

9 (a) An individual is ineligible to serve on an appraisal
10 district board of directors and is disqualified from employment as
11 chief appraiser if the individual:

12 (1) is related within the second degree by
13 consanguinity or affinity, as determined under Chapter 573,
14 Government Code, to an individual who is engaged in the business of
15 appraising property for compensation for use in proceedings under
16 this title or of representing property owners for compensation in
17 proceedings under this title in the appraisal district; or

18 (2) owns property on which delinquent taxes have been
19 owed to a taxing unit for more than 60 days after the date the
20 individual knew or should have known of the delinquency unless:

21 (A) the delinquent taxes and any penalties and
22 interest are being paid under an installment payment agreement
23 under Section 33.02; or

24 (B) a suit to collect the delinquent taxes is

1 deferred or abated under Section 33.06, 33.061, or 33.065.

2 SECTION 2. Section 6.412(a), Tax Code, is amended to read as
3 follows:

4 (a) An individual is ineligible to serve on an appraisal
5 review board if the individual:

6 (1) is related within the second degree by
7 consanguinity or affinity, as determined under Chapter 573,
8 Government Code, to an individual who is engaged in the business of
9 appraising property for compensation for use in proceedings under
10 this title or of representing property owners for compensation in
11 proceedings under this title in the appraisal district for which
12 the appraisal review board is established; or

13 (2) owns property on which delinquent taxes have been
14 owed to a taxing unit for more than 60 days after the date the
15 individual knew or should have known of the delinquency unless:

16 (A) the delinquent taxes and any penalties and
17 interest are being paid under an installment payment agreement
18 under Section 33.02; or

19 (B) a suit to collect the delinquent taxes is
20 deferred or abated under Section 33.06, 33.061, or 33.065.

21 SECTION 3. Section 11.43, Tax Code, is amended by adding
22 Subsections (l) and (m) to read as follows:

23 (l) The form for an application under Section 11.13 must
24 include a space for the applicant to state the applicant's date of
25 birth. Failure to provide the date of birth does not affect the
26 applicant's eligibility for an exemption under that section, other
27 than an exemption under Section 11.13(c) or (d) for an individual 65

1 years of age or older.

2 (m) Notwithstanding Subsections (a) and (k), a person who
3 receives an exemption under Section 11.13, other than an exemption
4 under Section 11.13(c) or (d) for an individual 65 years of age or
5 older, in a tax year is entitled to receive an exemption under
6 Section 11.13(c) or (d) for an individual 65 years of age or older
7 in the next tax year on the same property without applying for the
8 exemption if the person becomes 65 years of age in that next year as
9 shown by information in the records of the appraisal district that
10 was provided to the appraisal district by the individual in an
11 application for an exemption under Section 11.13 on the property or
12 in correspondence relating to the property. This subsection does
13 not apply if the chief appraiser determines that the individual is
14 no longer entitled to any exemption under Section 11.13 on the
15 property.

16 SECTION 4. Subchapter A, Chapter 33, Tax Code, is amended by
17 adding Section 33.045 to read as follows:

18 Sec. 33.045. NOTICE OF PROVISIONS AUTHORIZING DEFERRAL OR
19 ABATEMENT. (a) A tax bill mailed by an assessor or collector under
20 Section 31.01 and any written communication delivered to a property
21 owner by an assessor or collector for a taxing unit or an attorney
22 or other agent of a taxing unit that specifically threatens a
23 lawsuit to collect a delinquent tax shall contain the following
24 explanation in capital letters: "IF YOU ARE 65 YEARS OF AGE OR OLDER
25 OR ARE DISABLED AND THE PROPERTY DESCRIBED IN THIS DOCUMENT IS YOUR
26 RESIDENCE HOMESTEAD, YOU SHOULD CONTACT THE APPRAISAL DISTRICT
27 REGARDING ANY ENTITLEMENT YOU MAY HAVE TO A POSTPONEMENT IN THE

1 PAYMENT OF THESE TAXES".

2 (b) This section does not apply to a communication that
3 relates to taxes that are the subject of pending litigation.

4 SECTION 5. The heading to Section 33.06, Tax Code, is
5 amended to read as follows:

6 Sec. 33.06. DEFERRED COLLECTION OF TAXES ON RESIDENCE
7 HOMESTEAD OF [~~ELDERLY OR~~] DISABLED PERSON.

8 SECTION 6. Sections 33.06(a) and (b), Tax Code, are amended
9 to read as follows:

10 (a) An individual is entitled to defer collection of a tax,
11 abate a suit to collect a delinquent tax, or abate a sale to
12 foreclose a tax lien if [~~the individual~~]:

13 (1) the individual [~~is 65 years of age or older or~~] is
14 disabled as defined by Section 11.13(m); and

15 (2) the tax was imposed against property that the
16 individual owns and occupies as a residence homestead.

17 (b) To obtain a deferral, an individual must file with the
18 chief appraiser for the appraisal district in which the property is
19 located an affidavit stating the facts required to be established
20 by Subsection (a). The chief appraiser shall notify each taxing
21 unit participating in the district of the filing. After an
22 affidavit is filed under this subsection, a taxing unit may not file
23 or threaten to file suit to collect delinquent taxes on the property
24 or take other action against the individual to collect delinquent
25 taxes on the property and the property may not be sold at a sale to
26 foreclose the tax lien until the 181st day after the date the
27 individual no longer owns and occupies the property as a residence

1 homestead.

2 SECTION 7. Subchapter A, Chapter 33, Tax Code, is amended by
3 adding Section 33.061 to read as follows:

4 Sec. 33.061. AUTOMATIC DEFERRAL OR ABATEMENT OF COLLECTION
5 OF TAXES ON RESIDENCE HOMESTEAD OF ELDERLY PERSON. (a) This section
6 applies only to property that an individual who is 65 years of age
7 or older owns and occupies as a residence homestead.

8 (b) A taxing unit may not file or threaten to file suit to
9 collect delinquent taxes on the property or take other action
10 against the individual to collect delinquent taxes on the property
11 and the property may not be sold at a sale to foreclose the tax lien
12 until the 181st day after the date the individual no longer owns and
13 occupies the property as a residence homestead. This subsection
14 does not prohibit a taxing unit or an attorney or other agent of a
15 taxing unit from delivering to an individual a notice that
16 delinquent taxes are owing on the individual's residence homestead.

17 (c) If property is sold in violation of this section, the
18 property owner may file a motion to set aside the sale under the
19 same cause number and in the same court as a judgment referenced in
20 the order of sale. The motion must be filed during the applicable
21 redemption period as set forth in Section 34.21. This right is not
22 transferable to a third party.

23 (d) This section does not affect the duty of the assessor
24 for the taxing unit to prepare and mail a bill for the taxes on the
25 property as provided by Section 31.01. A tax lien remains on the
26 property and interest continues to accrue during the period that
27 collection of taxes is deferred or abated under this section. The

1 annual interest rate during the period of deferral or abatement is
2 eight percent instead of the rate provided by Section 33.01.
3 Interest and penalties that accrued or that were incurred or
4 imposed under Section 33.01 or 33.07 before the date the individual
5 attained the age of 65 are preserved. A penalty under Section 33.01
6 is not incurred during a period of deferral or abatement. The
7 additional penalty under Section 33.07 may be imposed and collected
8 only if the taxes for which collection is deferred or abated remain
9 delinquent on or after the 181st day after the date the period of
10 deferral or abatement expires. A plea of limitation, laches, or
11 want of prosecution does not apply against the taxing unit because
12 of a deferral or abatement of collection under this section.

13 (e) Each year the chief appraiser for each appraisal
14 district shall publicize in a manner reasonably designed to notify
15 all residents of the district or county of the provisions of this
16 section.

17 (f) For the first tax year that an individual who qualifies
18 for a deferral or abatement under this section or a person acting on
19 behalf of the individual fails to pay the taxes on the property
20 before the delinquency date, the collector for the taxing unit, not
21 later than the 15th day after the date the taxes become delinquent,
22 shall mail the individual a notice in the following form:

23 Dear Property Owner:

24 The records of (name of taxing unit) indicate that the (tax
25 year) property taxes on your home were not paid before the
26 delinquency date. The law entitles you to an automatic deferral or
27 abatement of those taxes. This means that the governmental

1 entities that impose property taxes on your home may not sue you,
2 threaten to sue you, sell your home at a tax sale, or take any other
3 action to collect the delinquent taxes if you elect not to pay them
4 for as long as you continue to own and occupy your home. Your unpaid
5 taxes will accrue interest at the rate of eight percent per year,
6 and the entire amount will become due and payable once you cease to
7 own or occupy the home.

8 You have the right to waive this deferral or abatement by
9 filing a signed statement with the chief appraiser of the (name of
10 county) appraisal district stating that you elect not to receive
11 the deferral or abatement.

12 Whether you choose to waive the deferral or abatement, you
13 may pay your property taxes voluntarily in any year. (Name of
14 taxing unit) will continue to mail you a tax bill each year so that
15 you will know your tax liability. If your home is subject to a
16 mortgage or deed of trust, you should consult with your mortgage
17 lender or the beneficiary under your deed of trust before you elect
18 to accept or waive the deferral or abatement. Failure to pay taxes
19 timely may violate your mortgage or deed of trust.

20 If you have any questions about this notice, please call or
21 write us. You may also contact the state comptroller's property tax
22 division at (current telephone number for the comptroller's
23 property tax division).

24 (g) A taxing unit shall include in a notice under Subsection
25 (f) its name, address, and telephone number and any information
26 necessary to identify the property but may not include any other
27 information. The collector for a taxing unit who mails a notice

1 under Subsection (f) to an individual who qualifies for a deferral
2 or abatement under this section and whose taxes on the property for
3 a tax year are not paid before the delinquency date may mail a
4 notice as provided by Subsection (f) for any subsequent tax year for
5 which the individual's taxes on the property are not paid before
6 that date.

7 (h) If an individual who is 65 years of age or older dies,
8 the deferral or abatement of the collection of taxes on the property
9 continues in effect until the 181st day after the date the surviving
10 spouse of the individual no longer owns and occupies the property as
11 a residence homestead if:

12 (1) the property was the residence homestead of the
13 deceased spouse when the deceased spouse died;

14 (2) the surviving spouse was 55 years of age or older
15 when the deceased spouse died; and

16 (3) the property was the residence homestead of the
17 surviving spouse when the deceased spouse died.

18 (i) An individual may elect not to receive a deferral or
19 abatement under this section. An individual who elects not to
20 receive the deferral or abatement shall file with the chief
21 appraiser for the appraisal district in which the property is
22 located a written statement signed by the individual affirmatively
23 stating that the individual elects not to receive the deferral or
24 abatement. The election is effective on the date the chief
25 appraiser receives the individual's written statement. The chief
26 appraiser shall notify each taxing unit participating in the
27 district of the individual's election.

1 SECTION 8. Section 33.43(a), Tax Code, is amended to read as
2 follows:

3 (a) A petition initiating a suit to collect a delinquent
4 property tax is sufficient if it alleges that:

5 (1) the taxing unit is legally constituted and
6 authorized to impose and collect ad valorem taxes on property;

7 (2) tax in a stated amount was legally imposed on each
8 separately described property for each year specified and on each
9 person named if known who owned the property on January 1 of the
10 year for which the tax was imposed;

11 (3) the tax was imposed in the county in which the suit
12 is filed;

13 (4) the tax is delinquent;

14 (5) penalties, interest, and costs authorized by law
15 in a stated amount for each separately assessed property are due;

16 (6) the taxing unit is entitled to recover each
17 penalty that is incurred and all interest that accrues on
18 delinquent taxes imposed on the property from the date of the
19 judgment to the date of the sale under Section 34.01 or under
20 Section 253.010, Local Government Code, as applicable, if the suit
21 seeks to foreclose a tax lien;

22 (7) the person sued owned the property on January 1 of
23 the year for which the tax was imposed if the suit seeks to enforce
24 personal liability;

25 (8) the person sued owns the property when the suit is
26 filed if the suit seeks to foreclose a tax lien;

27 (9) the taxing unit asserts a lien on each separately

1 described property to secure the payment of all taxes, penalties,
2 interest, and costs due if the suit seeks to foreclose a tax lien;

3 (10) all things required by law to be done have been
4 done properly by the appropriate officials; ~~and~~

5 (11) the attorney signing the petition or a person
6 acting on the attorney's behalf has reviewed the records of the
7 taxing unit or appraisal district and that the records reviewed do
8 not show that the property described in the petition is the
9 residence homestead of a person who is disabled or 65 years of age
10 or older; and

11 (12) the attorney signing the petition is legally
12 authorized to prosecute the suit on behalf of the taxing unit.

13 SECTION 9. Section 403.302(d), Government Code, is amended
14 to read as follows:

15 (d) For the purposes of this section, "taxable value" means
16 the market value of all taxable property less:

17 (1) the total dollar amount of any residence homestead
18 exemptions lawfully granted under Section 11.13(b) or (c), Tax
19 Code, in the year that is the subject of the study for each school
20 district;

21 (2) one-half of the total dollar amount of any
22 residence homestead exemptions granted under Section 11.13(n), Tax
23 Code, in the year that is the subject of the study for each school
24 district;

25 (3) the total dollar amount of any exemptions granted
26 before May 31, 1993, within a reinvestment zone under agreements
27 authorized by Chapter 312, Tax Code;

1 (4) subject to Subsection (e), the total dollar amount
2 of any captured appraised value of property that:

3 (A) is within a reinvestment zone created on or
4 before May 31, 1999, or is proposed to be included within the
5 boundaries of a reinvestment zone as the boundaries of the zone and
6 the proposed portion of tax increment paid into the tax increment
7 fund by a school district are described in a written notification
8 provided by the municipality or the board of directors of the zone
9 to the governing bodies of the other taxing units in the manner
10 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
11 within the boundaries of the zone as those boundaries existed on
12 September 1, 1999, including subsequent improvements to the
13 property regardless of when made;

14 (B) generates taxes paid into a tax increment
15 fund created under Chapter 311, Tax Code, under a reinvestment zone
16 financing plan approved under Section 311.011(d), Tax Code, on or
17 before September 1, 1999; and

18 (C) is eligible for tax increment financing under
19 Chapter 311, Tax Code;

20 (5) the total dollar amount of any exemptions granted
21 under Section 11.251, Tax Code;

22 (6) the difference between the comptroller's estimate
23 of the market value and the productivity value of land that
24 qualifies for appraisal on the basis of its productive capacity,
25 except that the productivity value estimated by the comptroller may
26 not exceed the fair market value of the land;

27 (7) the portion of the appraised value of residence

1 homesteads of individuals who receive a tax limitation under
2 Section 11.26, Tax Code, on which school district taxes are not
3 imposed in the year that is the subject of the study, calculated as
4 if the residence homesteads were appraised at the full value
5 required by law;

6 (8) a portion of the market value of property not
7 otherwise fully taxable by the district at market value because of:

8 (A) action required by statute or the
9 constitution of this state that, if the tax rate adopted by the
10 district is applied to it, produces an amount equal to the
11 difference between the tax that the district would have imposed on
12 the property if the property were fully taxable at market value and
13 the tax that the district is actually authorized to impose on the
14 property, if this subsection does not otherwise require that
15 portion to be deducted; or

16 (B) action taken by the district under Subchapter
17 B or C, Chapter 313, Tax Code;

18 (9) the market value of all tangible personal
19 property, other than manufactured homes, owned by a family or
20 individual and not held or used for the production of income;

21 (10) the appraised value of property the collection of
22 delinquent taxes on which is deferred under Section 33.06 or
23 33.061, Tax Code;

24 (11) the portion of the appraised value of property
25 the collection of delinquent taxes on which is deferred under
26 Section 33.065, Tax Code; and

27 (12) the amount by which the market value of a

1 residence homestead to which Section 23.23, Tax Code, applies
2 exceeds the appraised value of that property as calculated under
3 that section.

4 SECTION 10. Section 11.43(m), Tax Code, as added by this
5 Act, applies only to eligibility for an exemption from ad valorem
6 taxation under Section 11.13(c) or (d), Tax Code, for an individual
7 65 years of age or older for a tax year beginning on or after January
8 1, 2006.

9 SECTION 11. This Act takes effect September 1, 2005.