

By: Rodriguez

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, if the applicant has not previously provided
2 the individual's date of birth to the appraisal district.

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

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

17 Sec. 33.045. NOTICE OF PROVISIONS AUTHORIZING DEFERRAL OR
18 ABATEMENT. A tax bill, notice of tax delinquency, notice of intent
19 to sue to collect a delinquent tax, or notice of intent to foreclose
20 a tax lien delivered to a person by a collector for a taxing unit or
21 by an attorney or other agent of a collector must include a
22 conspicuous statement reasonably designed to notify the person of
23 the provisions of Section 33.06, including the method by which a
24 disabled individual may obtain a deferral or abatement under that
25 section, and of the provisions of Section 33.061, including the
26 automatic deferral or abatement under that section.

27 SECTION 5. The heading to Section 33.06, Tax Code, is

1 amended to read as follows:

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

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

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

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

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

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

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

27 Sec. 33.061. AUTOMATIC DEFERRAL OR ABATEMENT OF COLLECTION

1 OF TAXES ON RESIDENCE HOMESTEAD OF ELDERLY PERSON. (a) This section
2 applies only to property that an individual who is 65 years of age
3 or older owns and occupies as a residence homestead.

4 (b) A taxing unit may not file or threaten to file suit to
5 collect delinquent taxes on the property or take other action
6 against the individual to collect delinquent taxes on the property
7 and the property may not be sold at a sale to foreclose the tax lien
8 until the 181st day after the date the individual no longer owns and
9 occupies the property as a residence homestead.

10 (c) If property is sold in violation of this section, the
11 property owner may file a motion to set aside the sale under the
12 same cause number and in the same court as a judgment referenced in
13 the order of sale. The motion must be filed during the applicable
14 redemption period as set forth in Section 34.21(a) or, if the
15 property is bid off to a taxing unit, on or before the 180th day
16 following the date the taxing unit's deed is filed of record,
17 whichever is later. This right is not transferable to a third
18 party.

19 (d) A tax lien remains on the property and interest
20 continues to accrue during the period that collection of taxes is
21 deferred or abated under this section. The annual interest rate
22 during the period of deferral or abatement is eight percent instead
23 of the rate provided by Section 33.01. Interest and penalties that
24 accrued or that were incurred or imposed under Section 33.01 or
25 33.07 before the date the individual attained the age of 65 are
26 preserved. A penalty under Section 33.01 is not incurred during a
27 period of deferral or abatement. The additional penalty under

1 Section 33.07 may be imposed and collected only if the taxes for
2 which collection is deferred or abated remain delinquent on or
3 after the 181st day after the date the period of deferral or
4 abatement expires. A plea of limitation, laches, or want of
5 prosecution does not apply against the taxing unit because of a
6 deferral or abatement of collection under this section.

7 (e) Each year the chief appraiser for each appraisal
8 district shall publicize in a manner reasonably designed to notify
9 all residents of the district or county of the provisions of this
10 section.

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

16 (1) the property was the residence homestead of the
17 deceased spouse when the deceased spouse died;

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

20 (3) the property was the residence homestead of the
21 surviving spouse when the deceased spouse died.

22 (g) An individual may elect not to receive a deferral or
23 abatement under this section. An individual who elects not to
24 receive the deferral or abatement shall file with the chief
25 appraiser for the appraisal district in which the property is
26 located a written statement signed by the individual affirmatively
27 stating that the individual elects not to receive the deferral or

1 abatement. The election is effective on the date the chief
2 appraiser receives the individual's written statement. The chief
3 appraiser shall notify each taxing unit participating in the
4 district of the individual's election.

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

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

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

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

15 (3) the tax was imposed in the county in which the suit
16 is filed;

17 (4) the tax is delinquent;

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

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

26 (7) the person sued owned the property on January 1 of
27 the year for which the tax was imposed if the suit seeks to enforce

1 personal liability;

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

4 (9) the taxing unit asserts a lien on each separately
5 described property to secure the payment of all taxes, penalties,
6 interest, and costs due if the suit seeks to foreclose a tax lien;

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

9 (11) the attorney signing the petition or a person
10 acting on the attorney's behalf has reviewed the records of the
11 appraisal district and determined that the person sued is not
12 entitled to a deferral of a suit to collect delinquent taxes on the
13 property under Section 33.06 or 33.061; and

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

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

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

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

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

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

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

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

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

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

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

25 (6) the difference between the comptroller's estimate
26 of the market value and the productivity value of land that
27 qualifies for appraisal on the basis of its productive capacity,

1 except that the productivity value estimated by the comptroller may
2 not exceed the fair market value of the land;

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

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

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

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

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

24 (10) the appraised value of property the collection of
25 delinquent taxes on which is deferred under Section 33.06 or
26 33.061, Tax Code;

27 (11) the portion of the appraised value of property

1 the collection of delinquent taxes on which is deferred under
2 Section 33.065, Tax Code; and

3 (12) the amount by which the market value of a
4 residence homestead to which Section 23.23, Tax Code, applies
5 exceeds the appraised value of that property as calculated under
6 that section.

7 SECTION 10. Section 11.43(m), Tax Code, as added by this
8 Act, applies only to eligibility for an exemption from ad valorem
9 taxation under Section 11.13(c) or (d), Tax Code, for an individual
10 65 years of age or older for a tax year beginning on or after January
11 1, 2006.

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