

By: Otto

H.B. No. 2187

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the exemption from ad valorem taxation of rent-to-own  
3 property not held by the lessee primarily to produce income and to  
4 the method to be used to depreciate taxable rent-to-own property  
5 for tax appraisal purposes.

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

7 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by  
8 adding Section 11.253 to read as follows:

9 Sec. 11.253. RENT-TO-OWN PROPERTY LEASED FOR PERSONAL USE.

10 (a) In this section, "rent-to-own property" means tangible  
11 personal property of a type intended for personal use within the  
12 home that is owned by a dealer engaged in the business of leasing  
13 that type of property to customers under rent-to-own contracts.

14 (b) The owner of rent-to-own property that is subject to a  
15 rent-to-own contract is entitled to an exemption from taxation of  
16 the property if:

17 (1) the lessee does not hold the property for the  
18 production of income; and

19 (2) the property is used primarily for activities that  
20 do not involve the production of income.

21 (c) For purposes of this section, rent-to-own property is  
22 presumed to be used primarily for activities that do not involve the  
23 production of income if the majority of the time the property is  
24 used in a year it is used for non-income producing purposes.

1       (d) The comptroller by rule shall establish exemption  
2 application requirements and appropriate procedures to determine  
3 whether rent-to-own property subject to a rent-to-own contract  
4 qualifies for an exemption under Subsection (b).

5       (e) In connection with the requirements and procedures  
6 under Subsection (d), the comptroller by rule shall adopt a form to  
7 be completed by the lessee of rent-to-own property for which the  
8 owner of the property may apply for an exemption under Subsection  
9 (b). The form shall require the lessee to provide the lessee's name  
10 and address and to certify under oath that the lessee does not hold  
11 the property for the production of income and that the property is  
12 used primarily for activities that do not involve the production of  
13 income. The comptroller shall include on the form a notice of the  
14 penalties prescribed by Section 37.10, Penal Code, for making a  
15 false statement on the form.

16       (f) The owner of rent-to-own property that is subject to a  
17 rent-to-own contract shall maintain the form completed by the  
18 lessee of the property and make the form available for inspection  
19 and copying by the chief appraiser of the applicable appraisal  
20 district at all reasonable times. If the owner does not maintain a  
21 completed form relating to the property, the owner:

22               (1) must render the property for taxation in the  
23 applicable rendition statement or property report filed by the  
24 owner under Chapter 22; and

25               (2) may not file an application for an exemption under  
26 Subsection (b) for the property.

27       (g) The governing body of a municipality by ordinance

1 adopted before January 1, 2006, may provide for the taxation of  
2 rent-to-own property otherwise exempted under Subsection (b). If  
3 the governing body of a municipality provides for the taxation of  
4 rent-to-own property under this subsection, the exemption provided  
5 by Subsection (b) does not apply to the taxation of the property by  
6 that municipality.

7 (h) In addition to the requirements of Subsections (d) and  
8 (e), the comptroller by rule shall prescribe a property report form  
9 to be completed by the lessor of rent-to-own property describing  
10 the rent-to-own property that the lessor owns that is subject to  
11 rent-to-own contracts. The property report form shall require the  
12 lessor to list each item of rent-to-own property the lessor owns  
13 that is subject to a rent-to-own contract on January 1, to provide a  
14 description of each item, and to provide the name of the lessee, the  
15 address at which the property is kept, and an indication of whether  
16 the lessee has designated the property as not held for the  
17 production and not used for the production of income.

18 (i) The lessor shall provide the chief appraiser with the  
19 completed property report form adopted by the comptroller in the  
20 manner provided by Subchapter B, Chapter 22.

21 SECTION 2. Section 22.07, Tax Code, is amended by amending  
22 Subsection (c) and adding Subsection (c-1) to read as follows:

23 (c) The chief appraiser may request, either in writing or by  
24 electronic means, that the property owner provide a statement  
25 containing supporting information indicating how the value  
26 rendered under Section 22.01(a)(5) was determined. The statement  
27 must:

1           (1) summarize information sufficient to identify the  
2 property, including:

3                   (A) the physical and economic characteristics  
4 relevant to the opinion of value, if appropriate; and

5                   (B) the source of the information used;

6           (2) state the effective date of the opinion of value;  
7 and

8           (3) explain the basis of the value rendered.

9           (c-1) Except as otherwise provided by this subsection, if  
10 ~~[If]~~ the property owner is a business with 50 employees or less, the  
11 property owner may base the estimate of value on the depreciation  
12 schedules used for federal income tax purposes. If the property is  
13 described by Section 23.12(g), the property owner shall base the  
14 estimate of value on the depreciation method prescribed by that  
15 section.

16           SECTION 3. Section 23.12, Tax Code, is amended by adding  
17 Subsection (g) to read as follows:

18           (g) In appraising an inventory of tangible personal  
19 property of a type intended for personal use within the home that is  
20 owned by a dealer engaged in the business of leasing that type of  
21 property to customers under rent-to-own contracts, the chief  
22 appraiser shall depreciate the property by using the straight-line  
23 method and a recovery period of three years.

24           SECTION 4. This Act applies only to the appraisal of  
25 property for ad valorem tax purposes for a tax year beginning on or  
26 after the effective date of this Act.

27           SECTION 5. This Act takes effect January 1, 2006, but only

1 if the constitutional amendment proposed by the 79th Legislature,  
2 Regular Session, 2005, authorizing the legislature to exempt from  
3 ad valorem taxation rent-to-own property not held by the person  
4 renting the property primarily to produce income and to prescribe  
5 the method to be used to depreciate taxable rent-to-own property  
6 for tax appraisal purposes is approved by the voters. If that  
7 amendment is not approved by the voters, this Act has no effect.