

## **BILL ANALYSIS**

H.B. 356  
By: Otto  
Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, the Texas Constitution exempts from ad valorem taxes household goods not held or used for the production of income. This provision has been interpreted to not apply to a person who rents or leases household goods, even though the lessee is not using the property for the production of income. This disparate tax treatment discriminates against people who choose to purchase household goods by leasing with an option to buy.

The inventory of a merchant who leases household goods is subject to ad valorem taxation and if that inventory has not been leased to a consumer, will continue to be subject to taxation, even if this constitutional amendment passes and approved by the voters.

However, each taxing district in the state determines the depreciation rate for this inventory and the rates differ from district to district. A fair and uniform depreciation rate is needed to prevent confusion and disparate treatment.

HB 356 is the enabling legislation if HJR 35 passes and the Texas Constitution is amended. HB 356 exempts from ad valorem taxation tangible personal property intended for personal use within the home that is subject to a rent to own contract.

HB 356 also requires the chief appraiser in each taxing district to depreciate tangible personal property intended for personal use within a home by using the straight line method over a period of three years.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Comptroller in SECTION 1, Sec. 11.253 (d), (e), and (h) of this bill.

### **ANALYSIS**

Section 1: (a) Defines “rent-to-own” property as tangible personal property intended for personal use within the home that is owned by a dealer engaged in the business of leasing property under rent-to-own contracts.

(b) Grants the owner of “rent-to-own” property an exemption if:

- (1) the lessee does not use the property for the production of income;
- (2) the property is primarily used for activities not involving the production of income.

(c) Establishes a presumption that property is not used for the production of income if it is used for non-income producing purposes a majority of the year.

(d) Requires the Comptroller to establish exemption application requirements and procedures to determine qualification for exemption.

(e) Requires the Comptroller to adopt an application for exemption form with certain minimum requirements.

(f) Requires an owner of rent-to-own property subject to a rent-to-own contract to maintain the exemption form for inspection. If the owner does not maintain the form, he must render the property and may not file an application for an exemption.

(g) Allows the governing body of a municipality to adopt an ordinance before January 1, 2008, providing for taxation of rent-to-own property otherwise exempted by this legislation.

(h) Requires the Comptroller to prescribe a property report form.

(i) Requires the lessor to provide the chief appraiser with a completed property report form adopted by the Comptroller.

Section 2: Requires the owner/dealer when rendering tangible personal property intended for personal use within the home to base his estimate of value of the property on a three year straight line depreciation method.

Section 3: Requires the chief appraiser of tangible personal property of a type intended for personal use within the home that is owned by a dealer engaged in the business of leasing to customers under rent-to-own contracts, to use a three year straight line depreciation method of evaluating the property.

Section 4: Applies only to appraisal of property for a tax year beginning on or after the effective date.

Section 5: Effective January 1, 2008 only if HJR 35 is approved by the voters.

#### **EFFECTIVE DATE**

This Act takes effect January 1, 2008, only if the HJR 35 is approved by the voters.