

BILL ANALYSIS

H.J.R. 35
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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.

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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 is passed 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.

HJR 35 amends the Texas Constitution by allowing the legislature to exempt from ad valorem taxation tangible personal property intended for personal use within the home that is subject to a rent to own contract. A similar Constitutional Amendment was passed several years ago for people who lease motor vehicles not held primarily for the production of income.

HJR 35 also would allow the legislature to prescribe the method to be used to depreciate tangible personal property of the type used within the home but not yet leased by a rent to own dealer. It would allow for complete depreciation of the property over a period of not less than three years.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1: Adds a new subsection (d) (4) to Section 1, Article VIII, Texas Constitution providing that the legislature may exempt from ad valorem taxation personal property of a type intended for personal use within the home that is subject to a rent to own contract, is not held primarily for the production of income by the lessee, and otherwise qualifies under general law for exemption.

Amends subsection (e) of Section 1, Article VIII, Texas Constitution by providing that the legislature may limit the right of political subdivisions to levy ad valorem taxes on rent to own property subject to a rent to own contract, is not held primarily for the production of income by the lessee, and otherwise qualifies under general law for exemption.

Adds a new subsection (j) to Section, 1, Article VIII, Texas Constitution by providing that the legislature may prescribe the method to be used to depreciate tangible personal property for the purpose of appraising the property for ad valorem taxation if the property is of a type intended

for personal use within the home and is owned by a dealer engaged in the business of leasing that type of property to customers under rent to own contracts. Provides that the method may provide for the complete depreciation over a period of not less than three years.

SECTION 2. Provides that the Constitutional Amendment will be submitted to the voters at an election held on November 6, 2007 in a proposition that reads, "The constitutional amendment authorizing the legislature to exempt from ad valorem taxation rent-to-own property not held by the person renting the property primarily to produce income and to prescribe the method to be used to depreciate taxable rent to own property for tax appraisal purposes."

EFFECTIVE DATE

The proposed constitutional amendment shall be submitted to the voters at an election to be held on November 6, 2007 in a proposition that reads "The constitutional amendment authorizing the legislature to exempt from ad valorem taxation rent-to-own property not held by the person renting the property primarily to produce income and to prescribe the method to be used to depreciate taxable rent-to-own property not held by the person renting the property primarily to produce income and to prescribe the method to be used to depreciate taxable rent-to-own property for tax purposes."