

By: Otto, et al.

H.B. No. 356

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, 2008, 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:

5 (1) the exemption provided by Subsection (b) does not
6 apply to the taxation of the property by that municipality; and

7 (2) the owner must render the property for taxation by
8 that municipality in the applicable rendition statement or property
9 report filed by the owner under Chapter 22.

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

21 (i) The lessor shall provide the chief appraiser with the
22 completed property report form adopted by the comptroller in the
23 manner provided by Subchapter B, Chapter 22. If the lessor is
24 required to render the property described in the completed report
25 form for taxation, the lessor may satisfy the rendition requirement
26 by providing the chief appraiser with the completed property report
27 form in lieu of a rendition statement or property report as required

1 by Chapter 22 if the completed report form complies with the
2 requirements of that chapter for a rendition statement or property
3 report.

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

6 (c) The chief appraiser may request, either in writing or by
7 electronic means, that the property owner provide a statement
8 containing supporting information indicating how the value
9 rendered under Section 22.01(a)(5) was determined. The statement
10 must:

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

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

15 (B) the source of the information used;

16 (2) state the effective date of the opinion of value;
17 and

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

19 (c-1) Except as otherwise provided by this subsection, if
20 [If] the property owner is a business with 50 employees or less, the
21 property owner may base the estimate of value on the depreciation
22 schedules used for federal income tax purposes. If the property is
23 described by Section 23.12(g), the property owner shall base the
24 estimate of value on the depreciation method prescribed by that
25 section.

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

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

7 SECTION 4. This Act applies only to the taxation and
8 appraisal of property for ad valorem tax purposes for a tax year
9 beginning on or after the effective date of this Act.

10 SECTION 5. This Act takes effect January 1, 2008, but only
11 if the constitutional amendment proposed by the 80th Legislature,
12 Regular Session, 2007, authorizing the legislature to exempt from
13 ad valorem taxation rent-to-own property not held by the person
14 renting the property primarily to produce income and to prescribe
15 the method to be used to depreciate taxable rent-to-own property
16 for tax appraisal purposes is approved by the voters. If that
17 amendment is not approved by the voters, this Act has no effect.