

By: Rodriguez

H.B. No. 2167

A BILL TO BE ENTITLED

AN ACT

1
2 relating to notice regarding and the application for a residence
3 homestead exemption from ad valorem taxation; imposing a civil
4 penalty.

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

6 SECTION 1. Subchapter C, Chapter 11, Tax Code, is amended by
7 adding Sections 11.49 and 11.50 to read as follows:

8 Sec. 11.49. FEE FOR ASSISTANCE WITH RESIDENCE HOMESTEAD
9 APPLICATION. (a) A person who assists another person by preparing
10 or filing on behalf of the other person an application for an
11 exemption under Section 11.13 for a parcel of real property after
12 the first anniversary of the date of the sale or transfer of the
13 property to the other person:

14 (1) may not charge a fee of more than \$55 for that
15 service; and

16 (2) must timely file the application with the chief
17 appraiser for each appraisal district in which the property is
18 located.

19 (b) A fee under Subsection (a) must be paid directly by the
20 person who receives the service. A person providing a service
21 described by Subsection (a) may not accept any part of a refund of
22 taxes on any property in payment for those services.

23 (c) A person who assists another person by preparing or
24 filing on behalf of the other person an application for an exemption

1 under Section 11.13 for a parcel of real property may not charge a
2 fee for the service if the application:

3 (1) is for an exemption that has already been granted
4 to the purchaser or owner; or

5 (2) is submitted on or before the first anniversary of
6 the date of the sale or transfer of the property to the purchaser or
7 owner.

8 (d) A person who violates this section is liable to the
9 purchaser or owner, as applicable, for:

10 (1) actual damages;

11 (2) a civil penalty in the amount of \$1,000; and

12 (3) reasonable court costs and attorney's fees.

13 Sec. 11.50. ASSISTANCE WITH RESIDENCE HOMESTEAD EXEMPTION
14 APPLICATION. (a) A settlement agent who conducts a closing on a
15 sale or other transfer of title to a single-family residential
16 structure or a single unit of other residential property shall
17 provide to the purchaser or other transferee as applicable:

18 (1) a copy of the form used by each appraisal district
19 in which the property is located for applying for residence
20 homestead exemptions under Section 11.13; and

21 (2) the following information:

22 (A) the type of residence homestead exemptions
23 available under Section 11.13 and instructions on how to file an
24 application for applicable exemptions with each appraisal district
25 in which the property is located;

26 (B) the location, including the mailing and
27 physical address, of each appraisal district in which the property

1 is located; and

2 (C) the deadline by which the appraisal district
3 must receive the application for the purchaser or other transferee
4 to qualify for any applicable residence homestead exemptions under
5 Section 11.13.

6 (b) A person who is required to provide a form and
7 information under this section is not liable to the purchaser or
8 other transferee of the property for:

9 (1) an error in the information provided; or

10 (2) the person's failure to provide the form or
11 information.

12 SECTION 2. (a) Section 25.19, Tax Code, is amended by
13 adding Subsection (b-2) and amending Subsection (d) to read as
14 follows:

15 (b-2) This subsection applies only to a notice of appraised
16 value for residential real property that has not qualified for a
17 residence homestead exemption in the current tax year. If the
18 records of an appraisal district show that a property owner has the
19 same address as that property, in addition to containing the
20 applicable information required by Subsections (b), (b-1), and (f),
21 the notice must contain the following statement in boldfaced
22 12-point type: "According to the records of the appraisal
23 district, the residential real property described in this notice of
24 appraised value is not currently being allowed a residence
25 homestead exemption from ad valorem taxation. If the property is
26 your home and you occupy it as your principal place of residence,
27 the property may qualify for one or more residence homestead

1 exemptions, which will reduce the amount of taxes imposed on the
2 property. The form needed to apply for a residence homestead
3 exemption is enclosed. Although the form may state that the
4 deadline for filing an application for a residence homestead
5 exemption is April 30, a late application for a residence homestead
6 exemption will be accepted if filed before February 1, (insert year
7 application must be filed). There is no fee or charge for filing an
8 application or a late application for a residence homestead
9 exemption." The notice must be accompanied by an application form
10 for a residence homestead exemption.

11 (d) Failure to receive a [~~the~~] notice required by this
12 section does not affect the validity of the appraisal of the
13 property, the imposition of any tax on the basis of the appraisal,
14 the existence of any tax lien, the deadline for filing an
15 application for a residence homestead exemption, or any proceeding
16 instituted to collect the tax.

17 (b) This section takes effect January 1, 2008.

18 SECTION 3. Section 41.0051, Property Code, is amended by
19 amending Subsections (a) and (c) and adding Subsections (b-1) and
20 (d) to read as follows:

21 (a) A person may not deliver a written advertisement
22 offering, for a fee, to designate property as a homestead as
23 provided by Section 41.005 unless there is a disclaimer on the
24 advertisement that is conspicuous and printed in 14-point boldface
25 type or 14-point uppercase typewritten letters that makes the
26 following statement or a substantially similar statement:

27 THIS DOCUMENT IS AN ADVERTISEMENT OF SERVICES. IT IS

1 NOT AN OFFICIAL DOCUMENT OF THE STATE OF TEXAS OR OF
2 ANY COUNTY OR TAXING UNIT OF THE STATE OF TEXAS. A
3 PERSON WHO CURRENTLY RECEIVES A RESIDENCE HOMESTEAD
4 EXEMPTION FROM AD VALOREM TAXATION FOR A PARCEL OF REAL
5 PROPERTY IS CONSIDERED TO HAVE DESIGNATED THE PROPERTY
6 AS THE PERSON'S HOMESTEAD FOR PURPOSES OF TEXAS
7 PROPERTY LAW AND NEED NOT FILE A HOMESTEAD DESIGNATION
8 IN THE COUNTY DEED RECORDS.

9 (b-1) A person may not charge a fee to assist another person
10 by preparing or filing on behalf of the other person an application
11 to designate property as a homestead under Section 41.005 unless:

12 (1) the person:

13 (A) provides the other person with written
14 materials that include the disclosure required by Subsection (a);
15 and

16 (B) complies with Section 11.49, Tax Code; and

17 (2) the application is for an exemption authorized by
18 Section 11.13, Tax Code.

19 (c) A person's failure to provide a disclaimer on an
20 advertisement as required by Subsection (a), ~~or~~ to provide the
21 disclosure required by Subsection (b), or to comply with the
22 requirements of Subsection (b-1) is considered a false, misleading,
23 or deceptive act or practice for purposes of Section 17.46(a),
24 Business & Commerce Code, and is subject to action by the consumer
25 protection division of the attorney general's office as provided by
26 Section 17.46(a), Business & Commerce Code.

27 (d) In addition to any other remedy provided by law, a

1 person who violates this section is liable to the purchaser or
2 owner, as applicable, for:

3 (1) actual damages;

4 (2) a civil penalty in the amount of \$1,000; and

5 (3) reasonable court costs and attorney's fees.

6 SECTION 4. Section 11.50, Tax Code, as added by this Act,
7 applies only to a sale or other transfer of title to real property
8 that occurs on or after the effective date of this Act.

9 SECTION 5. Except as otherwise provided by this Act, this
10 Act takes effect September 1, 2007.