

## **BILL ANALYSIS**

C.S.H.B. 770  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

For the purpose of establishing eligibility for a residence homestead property tax exemption, current law defines a residence homestead to include both a structure and a piece of land. By that definition, if the structure is destroyed by a natural disaster or other event not within the homeowner's control, the property no longer qualifies for a residence homestead exemption. This bill seeks to provide some relief for Texans who have lost their homes due to a casualty or wind or water damage.

C.S.H.B. 770 authorizes the continuation of a residence homestead exemption for a qualified residential structure destroyed by a casualty, wind, or water damage under certain circumstances.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 770 amends the Tax Code to authorize an owner, if a qualified residential structure for which the owner receives a residence homestead exemption is rendered uninhabitable or unusable by a casualty or by wind or water damage, to continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land, if the owner does not establish a different principal residence for which the owner receives a residence homestead exemption during that period and intends to return and occupy the structure as the owner's principal residence. The bill requires the owner, in order to continue to receive the exemption, to begin active construction of the replacement structure, or other physical preparation of the site on which the structure is to be located, not later than the first anniversary of the date the owner ceases to occupy the former qualified residential homestead as the owner's principal residence. The bill prohibits the owner from receiving an exemption as described above for more than two years. The bill specifies that the site of a replacement qualified residential structure is under physical preparation if the owner has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the structure or has conducted an environmental or land use study relating to the construction of the structure.

C.S.H.B. 770 specifies that an additional tax is imposed on the property if an owner receives such an exemption as described above and sells the property before the owner completes the construction of a replacement structure on the property. The bill specifies that the additional tax is calculated by subtracting from the amount of tax that would have been imposed had the owner not received the exemption the amount of taxes imposed on the property for each of the years in which the owner received the exemption and adding to that difference interest at an annual rate of seven percent calculated from the dates on which the differences would have become due. The bill attaches a lien to property on the date a sale under the circumstances described above occurs, to secure payment of the additional tax and interest and any penalties incurred, and

specifies that the lien exists in favor of all taxing units for which the additional tax is imposed. The bill specifies that a determination that a sale of property under the circumstances described above has occurred is made by the chief appraiser. The bill requires the chief appraiser to deliver a notice of the determination to the owner of the property as soon as possible after making the determination and requires inclusion in the notice of an explanation of the owner's right to protest the determination. The bill requires the assessor for each taxing unit, if the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, to prepare and deliver a bill for the additional taxes plus interest as soon as practicable. The bill specifies that the taxes and interest are due, become delinquent, and incur penalties and interest as provided by law for property taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the property. The bill makes these sanctions inapplicable if the sale is for right-of-way or is to the state or a political subdivision to be used for a public purpose.

C.S.H.B. 770 requires the comptroller of public accounts to adopt rules and forms to implement the continuation of a residence homestead exemption while a replacement structure is constructed.

C.S.H.B. 770 specifies that the school tax freeze on residence homesteads of the elderly or disabled does not expire if the owner of the structure qualifies for a continuation of residence homestead exemption as described above. The bill specifies that, for the purposes of that freeze, an improvement to property that would otherwise cause an increase in appraised property value is not treated as such if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. The bill specifies that, for purposes of appraising such property in the tax year in which the structure would have constituted an increase in appraised property value, the replacement structure is considered to be an improvement only if the square footage of the structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred, or if the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure. The bill makes the above provisions applicable also to the county, municipal, or junior college district tax freezes on homesteads of the elderly or disabled.

C.S.H.B. 770 amends provisions relating to the limitation on appraised value increases, as applied to a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. The bill establishes that, for purposes of appraisal in the tax year in which the structure would have constituted a new improvement, the appraised value the property would have had in the preceding tax year if the casualty or damage had not occurred is considered to be the appraised value of the property for that year. The bill applies, to the same provisions, the use of a replacement structure's square footage, exterior construction quality, and composition in determining whether a replacement structure is considered to be a new improvement.

#### **EFFECTIVE DATE**

January 1, 2010.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 770 creates an exemption from property taxation for certain residential structures rendered uninhabitable or unusable by a casualty or wind or water damage, rather than by a casualty or mold or water damage as in the original, and makes comparable changes referring to wind, rather than mold, in other provisions relating to tax freezes and limitations on increases in appraised values. The substitute prohibits an owner from receiving the exemption for more than two years, rather than more than three years as in the original. The substitute adds a condition not in the original under which the replacement structure is considered a new improvement if the exterior of the replacement structure is of higher quality construction and composition than that

of the replaced structure.