

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB770 by Howard, Donna (Relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage and to exempting certain houses from the Open Beaches Act.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 61.018 of the Natural Resources Code to prohibit a county attorney, district attorney, criminal district attorney, or the attorney general from filing a suit to obtain a temporary or permanent court order to remove a house from a public beach, if the house is now partly on the seaward side of the natural line of vegetation but was located landward of the line of vegetation prior to a meteorological event, and the house is located on a peninsula in a county with a population of more than 250,000 and less than 251,000 that borders the Gulf of Mexico. The owner would be permitted to rebuild the house following a meteorological event that caused the destruction or damage of the house.

The bill would add new Section 11.135 to the Tax Code to require the continuation of a homestead exemption when a residence is under repair following an event that rendered the residence uninhabitable or unusable. The owner would be required to begin repairs within one year, and the exemption would be limited to two years.

The bill would impose an additional tax to recapture the difference between the amount that would have been taxed and the amount actually taxed with the exemption if the owner sells the property before the completion of a replacement qualified residential structure. The bill would require a lien to be attached to the property to secure payment of the additional tax and interest. The Comptroller would adopt rules and forms to implement this new section.

The bill would make conforming amendments to continue the limitation on tax increases during the construction period and to exclude covered renovations from treatment as improvements for the purpose of calculating any limitation on tax increases.

The number of homes that would avoid removal lawsuits under the narrow requirements of the bill is unknown. To the extent that homes remain and are repaired that would have been removed under current law, the value of the property would be increased causing a gain to local taxing units and the state.

The extent to which homeowners would return to damaged and uninhabitable residences is unknown. The extent to which appraisal districts are discontinuing homestead exemptions and homestead tax increase limitations on damaged and uninhabited homesteads is also unknown. To the extent that property tax exemptions and limitations would be continued under the bill that would have been removed under current law, there would be a loss to taxing units and to the state. The overall fiscal impact on the state and local taxing units would be insignificant.

The bill would take effect January 1, 2010, and would only apply to ad valorem taxes imposed for a tax year beginning on or after the effective date.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SJS