

SENATE AMENDMENTS

2nd Printing

By: Legler, Deshotel, Sheffield, Eiland,
Guillen, et al.

H.B. No. 1257

A BILL TO BE ENTITLED

AN ACT

relating to the payment in installments of ad valorem taxes on certain property owned by a business entity and located in a disaster area.

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

SECTION 1. Section 31.032, Tax Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) This section applies only to:

(1) real property that:

(A) is:

(i) the residence homestead of the owner or consists of property that is used for residential purposes and that has fewer than five living units; or

(ii) owned or leased by a business entity that had not more than the amount calculated as provided by Subsection (h) in gross receipts in the entity's most recent federal tax year or state franchise tax annual period, according to the applicable federal income tax return or state franchise tax report of the entity;

(B) is located in a disaster area; and

(C) has been damaged as a direct result of the disaster; ~~and~~

(2) tangible personal property that is owned or leased by a business entity described by Subdivision (1)(A)(ii); and

1 (3) taxes that are imposed on the property by a taxing
2 unit before the first anniversary of the disaster.

3 (h) For the 2009 tax year, the limit on gross receipts under
4 Subsection (a)(1)(A)(ii) is \$5 million. For each subsequent tax
5 year, the comptroller shall adjust the limit to reflect inflation
6 by using the index that the comptroller considers to most
7 accurately report changes in the purchasing power of the dollar for
8 consumers in this state and shall publicize the adjusted limit.
9 Each collector shall use the adjusted limit as calculated by the
10 comptroller under this subsection to determine whether property is
11 owned or leased by a business entity described by Subsection
12 (a)(1)(A)(ii).

13 SECTION 2. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2009.

ADOPTED

MAY 19 2009

FLOOR AMENDMENT NO. 1

Letay Spaw
Secretary of the Senate

BY: *Jackson*

1 Amend H.B. No. 1257 (Senate committee printing) by adding the
2 following SECTION to the bill, appropriately numbered, and
3 renumbering existing SECTIONS accordingly:

4 SECTION _____. (a) Subchapter B, Chapter 11, Tax Code, is
5 amended by adding Section 11.135 to read as follows:

6 Sec. 11.135. CONTINUATION OF RESIDENCE HOMESTEAD EXEMPTION
7 WHILE REPLACEMENT STRUCTURE IS CONSTRUCTED; SALE OF PROPERTY. (a)
8 If a qualified residential structure for which the owner receives
9 an exemption under Section 11.13 is rendered uninhabitable or
10 unusable by a casualty or by wind or water damage, the owner may
11 continue to receive the exemption for the structure and the land and
12 improvements used in the residential occupancy of the structure
13 while the owner constructs a replacement qualified residential
14 structure on the land if the owner does not establish a different
15 principal residence for which the owner receives an exemption under
16 Section 11.13 during that period and intends to return and occupy
17 the structure as the owner's principal residence. To continue to
18 receive the exemption, the owner must begin active construction of
19 the replacement qualified residential structure or other physical
20 preparation of the site on which the structure is to be located not
21 later than the first anniversary of the date the owner ceases to
22 occupy the former qualified residential structure as the owner's
23 principal residence. The owner may not receive the exemption for
24 that property under the circumstances described by this subsection
25 for more than two years.

26 (b) For purposes of Subsection (a), the site of a
27 replacement qualified residential structure is under physical
28 preparation if the owner has engaged in architectural or
29 engineering work, soil testing, land clearing activities, or site

1 improvement work necessary for the construction of the structure or
2 has conducted an environmental or land use study relating to the
3 construction of the structure.

4 (c) If an owner receives an exemption for property under
5 Section 11.13 under the circumstances described by Subsection (a)
6 and sells the property before the owner completes construction of a
7 replacement qualified residential structure on the property, an
8 additional tax is imposed on the property equal to the difference
9 between the taxes imposed on the property for each of the years in
10 which the owner received the exemption and the tax that would have
11 been imposed had the owner not received the exemption in each of
12 those years, plus interest at an annual rate of seven percent
13 calculated from the dates on which the differences would have
14 become due.

15 (d) A tax lien attaches to property on the date a sale under
16 the circumstances described by Subsection (c) occurs to secure
17 payment of the additional tax and interest imposed by that
18 subsection and any penalties incurred. The lien exists in favor of
19 all taxing units for which the additional tax is imposed.

20 (e) A determination that a sale of property under the
21 circumstances described by Subsection (c) has occurred is made by
22 the chief appraiser. The chief appraiser shall deliver a notice of
23 the determination to the owner of the property as soon as possible
24 after making the determination and shall include in the notice an
25 explanation of the owner's right to protest the determination. If
26 the owner does not file a timely protest or if the final
27 determination of the protest is that the additional taxes are due,
28 the assessor for each taxing unit shall prepare and deliver a bill
29 for the additional taxes plus interest as soon as practicable. The
30 taxes and interest are due and become delinquent and incur
31 penalties and interest as provided by law for ad valorem taxes

1 imposed by the taxing unit if not paid before the next February 1
2 that is at least 20 days after the date the bill is delivered to the
3 owner of the property.

4 (f) The sanctions provided by Subsection (c) do not apply if
5 the sale is:

6 (1) for right-of-way; or

7 (2) to this state or a political subdivision of this
8 state to be used for a public purpose.

9 (g) The comptroller shall adopt rules and forms to implement
10 this section.

11 (b) Section 11.26, Tax Code, is amended by adding
12 Subsections (n) and (o) to read as follows:

13 (n) Notwithstanding Subsection (c), the limitation on tax
14 increases required by this section does not expire if the owner of
15 the structure qualifies for an exemption under Section 11.13 under
16 the circumstances described by Section 11.135(a).

17 (o) Notwithstanding Subsections (a), (a-3), and (b), an
18 improvement to property that would otherwise constitute an
19 improvement under Subsection (b) is not treated as an improvement
20 under that subsection if the improvement is a replacement structure
21 for a structure that was rendered uninhabitable or unusable by a
22 casualty or by wind or water damage. For purposes of appraising the
23 property in the tax year in which the structure would have
24 constituted an improvement under Subsection (b), the replacement
25 structure is considered to be an improvement under that subsection
26 only if:

27 (1) the square footage of the replacement structure
28 exceeds that of the replaced structure as that structure existed
29 before the casualty or damage occurred; or

30 (2) the exterior of the replacement structure is of
31 higher quality construction and composition than that of the

1 replaced structure.

2 (c) Section 11.261, Tax Code, is amended by adding
3 Subsections (l) and (m) to read as follows:

4 (l) Notwithstanding Subsection (d), a limitation on county,
5 municipal, or junior college district tax increases provided by
6 this section does not expire if the owner of the structure qualifies
7 for an exemption under Section 11.13 under the circumstances
8 described by Section 11.135(a).

9 (m) Notwithstanding Subsections (b) and (c), an improvement
10 to property that would otherwise constitute an improvement under
11 Subsection (c) is not treated as an improvement under that
12 subsection if the improvement is a replacement structure for a
13 structure that was rendered uninhabitable or unusable by a casualty
14 or by wind or water damage. For purposes of appraising the property
15 in the tax year in which the structure would have constituted an
16 improvement under Subsection (c), the replacement structure is
17 considered to be an improvement under that subsection only if:

18 (1) the square footage of the replacement structure
19 exceeds that of the replaced structure as that structure existed
20 before the casualty or damage occurred; or

21 (2) the exterior of the replacement structure is of
22 higher quality construction and composition than that of the
23 replaced structure.

24 (d) Section 23.23(f), Tax Code, is amended to read as
25 follows:

26 (f) Notwithstanding Subsections (a) and (e) and except as
27 provided by Subdivision (2), an improvement to property that would
28 otherwise constitute a new improvement is not treated as a new
29 improvement if the improvement is a replacement structure for a
30 structure that was rendered uninhabitable or unusable by a casualty
31 or by wind [mold] or water damage. For purposes of appraising the

1 property under Subsection (a) in the tax year in which the structure
2 would have constituted a new improvement:

3 (1) the appraised value the property would have had in
4 the preceding tax ~~[last]~~ year if the casualty or damage had not
5 occurred ~~[in which the property was appraised for taxation before~~
6 ~~the casualty or damage occurred]~~ is considered to be the appraised
7 value of the property for that year, regardless of whether that
8 appraised value exceeds the actual appraised value of the property
9 for that year as limited by Subsection (a) ~~[last year in which the~~
10 ~~property was appraised for taxation for purposes of Subsection~~
11 ~~(a)(2)(A)]~~; and

12 (2) the replacement structure is considered to be a
13 new improvement only if:

14 (A) the square footage of the replacement
15 structure exceeds that of ~~[to the extent it is a significant~~
16 ~~improvement over]~~ the replaced structure as that structure existed
17 before the casualty or damage occurred; or

18 (B) the exterior of the replacement structure is
19 of higher quality construction and composition than that of the
20 replaced structure.

21 (e) This section applies only to ad valorem taxes imposed
22 for a tax year beginning on or after the effective date of this Act.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB1257 by Legler (Relating to the payment in installments of ad valorem taxes on certain property owned by a business entity and located in a disaster area.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

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, the exemption would be limited to two years, and the exemption would not be available if the owner obtains a homestead exemption on another residence.

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 bill would amend Chapter 31 of the Tax Code, regarding the collection of property taxes, to expand an installment payment option for ad valorem taxes. Under current law, the option is available for residence homesteads and residential housing with less than five units that were damaged as the result of a disaster. This bill would extend the option to certain property damaged by a disaster and owned or leased by a business entity with \$5 million or less in annual gross receipts. The expanded installment payment option would cover real and tangible personal property.

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 tax revenue loss to taxing units and to the state. The extent to which homeowners would return to damaged and uninhabitable residences is unknown. The extent to which appraisal districts are currently discontinuing homestead exemptions and homestead tax increase limitations on damaged and uninhabited homesteads is also unknown. Because of this lack of information, the loss cannot be estimated but because of the limited circumstances in which the loss could occur, the loss is not expected to be significant.

Passage of this bill also would expand the installment payment option but would still require that taxes be paid in the year following the tax year in which they are imposed. The bill would affect the timing but not the amount of taxes collected in a given year on certain property damaged by a disaster, so there would be no fiscal impact on the state.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2009.

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 13, 2009

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

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

IN RE: HB1257 by Legler (Relating to the payment in installments of ad valorem taxes on certain property owned by a business entity and located in a disaster area.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 31 of the Tax Code, regarding the collection of property taxes.

The bill would expand an installment payment option for ad valorem taxes. Under current law, the option is available for residence homesteads and residential housing with less than five units that were damaged as the result of a disaster. The bill would extend the option to certain property damaged by a disaster and owned or leased by a business entity with \$5 million or less in annual gross receipts. The expanded installment payment option would cover real and tangible personal property.

Passage of the bill would expand the installment payment option but would still require that taxes be paid in the year following the tax year in which they are imposed. The bill would affect the timing but not the amount of taxes collected in a given year on certain property damaged by a disaster. Because the state is constitutionally prohibited from imposing a state property tax, there would be no fiscal impact on the state.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2009.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 4, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB1257 by Legler (Relating to the payment in installments of ad valorem taxes on certain property owned by a business entity and located in a disaster area.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 31 of the Tax Code, regarding the collection of property taxes.

The bill would expand an installment payment option for ad valorem taxes. Under current law, the option is available for residence homesteads and residential housing with less than five units that were damaged as the result of a disaster. The bill would extend the option to certain property damaged by a disaster and owned or leased by a business entity with \$5 million or less in annual gross receipts. The expanded installment payment option would cover real and tangible personal property.

Passage of the bill would expand the installment payment option but would still require that taxes be paid in the year following the tax year in which they are imposed. The bill would affect the timing but not the amount of taxes collected in a given year on certain property damaged by a disaster. Because the state is constitutionally prohibited from imposing a state property tax, there would be no fiscal impact on the state.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2009.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 23, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB1257 by Legler (Relating to the payment in installments of ad valorem taxes on certain property owned by a business entity and located in a disaster area.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 31 of the Tax Code, regarding the collection of property taxes.

The bill would expand an installment payment option for ad valorem taxes. Under current law, the option is available for residence homesteads and residential housing with less than five units that were damaged as the result of a disaster. The bill would extend the option to certain property damaged by a disaster and owned or leased by a business entity with \$5 million or less in annual gross receipts. The expanded installment payment option would cover real and tangible personal property.

Passage of the bill would expand the installment payment option but would still require that taxes be paid in the year following the tax year in which they are imposed. The bill would affect the timing but not the amount of taxes collected in a given year on certain property damaged by a disaster. Because the state is constitutionally prohibited from imposing a state property tax, there would be no fiscal impact on the state.

The bill would take effect immediately upon enactment, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2009.

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

April 5, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB1257 by Legler (Relating to the payment in installments of ad valorem taxes on certain property owned by a business entity and located in a disaster area.), **Committee Report 1st House, Substituted**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, MN

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

March 24, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: HB1257 by Legler (Relating to the payment in installments of ad valorem taxes on certain property owned by a business entity and located in a disaster area.), **As Introduced**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, MN

