BILL ANALYSIS

C.S.H.B. 3757
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Constituents in House District 20 brought forward concerns that current law does not give local taxing entities the proper authority to provide a tax freeze for seniors or citizens with disabilities. Current law only allows for a county, municipality, or junior college district to provide a tax freeze on homesteads of elderly individuals and individuals with disabilities. C.S.H.B. 3757 seeks to address this issue by allowing a taxing unit, other than a public school district, county, municipality, or junior college district, to provide taxing limitations on the homesteads of certain low-income individuals who are elderly or disabled. The bill provides for the continued eligibility for the limitation of an otherwise eligible surviving spouse of a person who qualified for the limitation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3757 amends the Tax Code to prohibit a taxing unit other than a public school district, county, municipality, or junior college district that establishes a limitation on the total amount of taxes that may be imposed by the taxing unit on a residence homestead of an eligible individual, defined by the bill as an individual whose household income does not exceed 200 percent of the federal poverty level, and who is disabled or is 65 years of age or older from taking the following actions:

- from increasing the total annual amount of property taxes the taxing unit imposes on the residence homestead of such an eligible individual above the amount of the taxes the taxing unit imposed on the residence homestead in the first tax year in which the eligible individual was an eligible individual and qualified that residence homestead for the residence homestead property tax exemption provided by a school district based on the person's age or disability; and
- if the eligible individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the exemption for the next year, and if the taxes imposed by the taxing unit on the residence homestead in the next year are less than the amount of those taxes imposed in that first year, from subsequently increasing the total annual amount of property taxes it imposes on the residence homestead above the amount it imposed on the residence homestead in the year immediately following the first year for which the individual qualified that residence homestead for the exemption and was an eligible individual.

The bill requires the tax officials to appraise the residence homestead of an eligible individual who is disabled or is 65 years of age or older and calculate taxes on that residence homestead in the same manner as other residence homesteads, but if the tax so calculated exceeds the limitation provided by the bill, the tax imposed is the amount of the tax as limited, except as otherwise provided by the bill's provisions.

C.S.H.B. 3757 authorizes the qualifying taxing unit, if an eligible individual who is disabled or is 65 years of age or older makes improvements to the individual's residence homestead, other than repairs and other than improvements required to comply with governmental requirements, to increase the amount of taxes on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate of the qualifying taxing unit to the difference between the appraised value of the homestead with the improvements and the appraised value the homestead would have had without the improvements. The limitation provided by the bill's provisions then applies to the increased amount of taxes on the residence homestead until more improvements, if any, are made. The bill establishes that an improvement to property that would otherwise constitute such an improvement is not treated as an improvement 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. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement, the replacement structure is considered to be an improvement only if the square footage of the replacement 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.

C.S.H.B. 3757 establishes that the limitation on tax increases as provided by the bill's provisions expires if any of the following circumstances exist on January 1:

- none of the owners of the structure who qualify for the residence homestead exemption provided by a school district for an individual who is disabled or is 65 years of age or older and who owned the structure when the limitation first took effect are using the structure as a residence homestead;
- none of the owners of the structure qualify for the exemption; or
- none of the owners of the structure are eligible individuals.

The bill establishes that the limitation on tax increases provided by the bill does not expire because the owner of an interest in the structure conveys the interest to a qualifying trust, as defined by reference to statutory provisions relating to residence homestead exemptions, if the owner or the owner's spouse is a trustor of the trust and is entitled to occupy the structure.

C.S.H.B. 3757 requires the tax assessor for the applicable county, if the appraisal roll provides for taxation of appraised value for a prior year because a residence homestead exemption for an eligible individual who is disabled or is 65 years of age or older was erroneously allowed or because an individual was erroneously considered to be an eligible individual, to add, as back taxes due, the positive difference, if any, between the tax that should have been imposed for that year and the tax that was imposed by qualifying taxing units on homesteads of low-income individuals who are disabled or elderly.

C.S.H.B. 3757 entitles the surviving spouse of an eligible individual who qualified for a limitation on tax increases under the bill to the limitation on taxes imposed by the qualifying taxing unit on the residence homestead of the individual under the following circumstances:

- the surviving spouse is disabled or is 55 years of age or older when the individual died and is an eligible individual; and
- the residence homestead of the individual is the residence homestead of the surviving spouse on the date that the individual died and remains the residence homestead of the surviving spouse.

C.S.H.B. 3757 provides for the following with respect to an eligible individual who receives a limitation on tax increases under the bill, including a surviving spouse who receives a limitation, and who subsequently qualifies a different residence homestead for a residence homestead exemption:

- if the different homestead is in the same qualifying taxing unit, prohibits the taxing unit from imposing property taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes the taxing unit would have imposed on the subsequently qualified homestead in the first year in which the individual receives that exemption for the subsequently qualified homestead had the limitation on tax increases not been in effect, multiplied by a fraction the numerator of which is the total amount of taxes imposed on the former homestead by the taxing unit in the last year in which the individual received that exemption for the former homestead and the denominator of which is the total amount of taxes that would have been imposed on the former homestead by the taxing unit in the last year in which the individual received that exemption for the former homestead had the limitation on tax increases not been in effect; and
- entitles the eligible individual or an agent of the individual to receive from the chief appraiser of the appraisal district in which the former homestead was located a written certificate providing the information necessary to determine whether the individual may qualify for a limitation on the subsequently qualified homestead and to calculate the amount of taxes the qualifying taxing unit may impose on the subsequently qualified homestead.

C.S.H.B. 3757 establishes the following with respect to the limitation on tax increases provided by the bill:

- if an eligible individual who is 65 years of age or older and qualifies for the limitation dies in the first year in which the individual qualified for the limitation and the individual first qualified for the limitation after the beginning of that year, the amount to which the surviving spouse's taxes are limited is the amount of taxes imposed by the qualifying taxing unit on the residence homestead in that year determined as if the individual qualifying for the exemption had lived for the entire year;
- if in the first tax year after the year in which an eligible individual who is 65 years of age or older dies under those circumstances, the amount of taxes imposed by the qualifying taxing unit on the residence homestead of the surviving spouse is less than the amount of taxes imposed by the taxing unit in the preceding year as limited in a subsequent tax year the surviving spouse's taxes imposed by the taxing unit on that residence homestead are limited to the amount of taxes imposed by the taxing unit in that first tax year after the year in which the individual dies;
- the limitation does not expire if the owner of the structure qualifies for a residence homestead exemption under circumstances rendering the residential structure uninhabitable or unusable by a casualty or by wind or water damage; and
- an heir property owner who qualifies heir property as the owner's residence homestead under Tax Code provisions relating to taxable property and exemptions is considered the sole owner of the property.

The bill authorizes the chief appraiser for an appraisal district in which a qualifying taxing unit participates to require an individual to provide any information that is reasonably necessary for the chief appraiser to determine whether the individual is an eligible individual.

C.S.H.B. 3757 includes the limitation on tax increases by qualifying taxing units on homesteads of low-income individuals who are disabled or elderly among the purposes for which a separate appraisal of certain interests is made with respect to property occupied by stockholders of a corporation incorporated under the state Cooperative Association Act. The bill establishes, for purposes of statutory provisions relating to assessments, that the current total value and last year's total value for a taxing unit other than a district, county, municipality, or junior college district excludes the total value of homesteads that qualify for a tax limitation on residence homesteads of low-income individuals who are disabled or elderly. The bill includes last year's taxable value for such a taxing unit, excluding the total value of homesteads that qualified for that limitation, in determining what constitutes last year's levy for purposes of those assessment provisions.

C.S.H.B. 3757 applies only to property taxes imposed for a tax year beginning on or after the bill's effective date.

EFFECTIVE DATE

January 1, 2024, if the constitutional amendment authorizing a limitation on the total amount of property taxes that a political subdivision other than a school district, county, municipality, or junior college district may impose on the residence homesteads of certain low-income persons who are disabled or elderly and their surviving spouses is approved by the voters.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3757 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced extended to all taxing units, other than a school district, the applicability of statutory provisions implementing a limitation on property taxes that currently apply to counties, municipalities, and junior college districts that establish a limitation on the amount of property taxes that may be imposed on the residence homestead of an individual who is disabled or is 65 years of age or older and their surviving spouse, the substitute sets out provisions in substantially the same manner as those statutory provisions limiting the property taxes that may be imposed by a taxing unit, other than a school district, county, municipality, or junior college district, that establishes a limitation on the amount of property taxes that may be imposed on the residence homestead of an individual who is disabled or is 65 years of age or older and whose household income does not exceed 200 percent of the federal poverty level and such an individual's surviving spouse. In those provisions set out in the substitute, the substitute includes provisions that were not in the introduced that do the following:

- establish that a limitation on tax increases expires if on January 1 none of the owners of the structure are eligible individuals;
- provide for back taxes due for an individual who was erroneously considered to be an eligible individual;
- establish that a limitation on tax increases does not expire because the owner of an interest in the structure conveys the interest to a qualifying trust if the owner or the owner's spouse is a trustor of the trust and is entitled to occupy the structure;
- establish that an improvement to property that would otherwise constitute an improvement 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 and provides considerations for determining whether the replacement structure is considered an improvement for appraisal purposes;
- establish that an heir property owner who qualifies heir property as the owner's residence homestead is considered the sole owner of the property for purposes of the limitation; and
- authorize the chief appraiser for an applicable appraisal district to require an individual to provide any information that is reasonably necessary for the chief appraiser to determine whether the individual is eligible for the limitation.

The substitute includes provisions that were not in the introduced that do the following:

- include the limitation on tax increases by qualifying taxing units on homesteads of low-income individuals who are disabled or elderly among the purposes for which a separate appraisal of certain interests is made with respect to property occupied by stockholders of a corporation incorporated under the state Cooperative Association Act;

- establish, for purposes of statutory provisions relating to assessments, that the current total value and last year's total value for a taxing unit other than a district, county, municipality, or junior college district excludes the total value of homesteads that qualify for a tax limitation on residence homesteads of low-income individuals who are disabled or elderly; and
- include last year's taxable value for such a taxing unit, excluding the total value of homesteads that qualified for that limitation, in determining what constitutes last year's levy for purposes of those assessment provisions.

The substitute changes the bill's January 1, 2024, effective date from being contingent on voter approval of the constitutional amendment to authorize a political subdivision other than a school district to establish a limitation on the amount of property taxes that the political subdivision may impose on persons who are disabled or elderly and their surviving spouses, as in in the introduced, to being contingent on approval of the constitutional amendment to authorize a limitation on the total amount of property taxes that a political subdivision other than a district, county, municipality, or junior college district may impose on the residence homesteads of certain low-income persons who are disabled or elderly and their surviving spouses.