

## **BILL ANALYSIS**

C.S.H.B. 1328  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties observe that the residential needs of many Texans with intellectual and developmental disabilities are served by various private providers in lieu of more costly state-supported living centers. These individuals typically are served either in an intermediate care facility for individuals with intellectual disabilities (ICF/IID) or through the state Medicaid waiver program commonly referred to as the Home and Community-Based Services (HCS) program. Funds used to support the daily living arrangements of individuals served under these programs are derived from state Medicaid funds and federal matching funds. There are concerns regarding the expectation that the private provider of the HCS Medicaid service pay property taxes on the residence because it results in local property taxes being paid with state Medicaid funds. C.S.H.B. 1328 seeks to stop the cycle of paying property taxes with state Medicaid funds on homes that provide residential housing for those with developmental or intellectual disabilities.

### **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 rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 1328 amends the Tax Code to entitle a person to a property tax exemption for a portion, expressed as a dollar amount, of the appraised value of real property that the person owns and that is used as a group home operating under a federally funded Medicaid waiver program authorized under federal law or an intermediate care facility for persons with developmental, physical, or intellectual disabilities if at least 95 percent of the residents of the facility are Medicaid recipients. The bill establishes that the amount of the exemption is an amount equal to the costs incurred by the property owner in maintaining, operating, and making improvements to the property during the preceding 12-month period.

C.S.H.B. 1328 requires an application for the exemption to include an affidavit stating the costs incurred by the property owner in maintaining, operating, and making improvements to the property during the preceding 12-month period and any relevant information or documentation required by the application form. The bill requires the comptroller of public accounts to adopt rules for the administration of the bill's provisions, including rules prescribing the form of an application for the exemption and specifying the 12-month period for which the costs are used to determine the amount of the exemption.

C.S.H.B. 1328 applies only to a property tax year that begins on or after January 1, 2016.

### EFFECTIVE DATE

January 1, 2016, if the constitutional amendment authorizing the legislature to exempt from property taxation a qualifying portion of the assessed value of certain real property used to provide housing to certain persons with disabilities is approved by the voters.

### COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1328 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Chapter 31, Tax Code, is amended by adding Section 31.038 to read as follows:

Sec. 31.038. TAX CREDIT FOR CERTAIN PROPERTY USED TO PROVIDE HOUSING TO PERSONS WITH DISABILITIES. (a) In this section:

(1) "Group home" means a facility that:

(A) furnishes food, shelter, and treatment or services to four or more persons unrelated to the owner of the facility;

(B) is primarily for the diagnosis, treatment, or rehabilitation of persons with an intellectual disability or related conditions; and

(C) provides in a protected setting continuous evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each resident function at the resident's greatest ability.

(2) "Intermediate care facility for persons with developmental, physical, or intellectual disabilities" means a facility described by Chapter 252, Health and Safety Code.

(3) "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) An owner of real property is entitled to a credit against the taxes imposed in a tax year on the property by each taxing unit that taxes the property if the property is used as:

(1) a group home operating under a Section 1915(c) waiver program; or

(2) an intermediate care facility for persons with developmental, physical, or intellectual disabilities if at least 95 percent of the

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.38 to read as follows:

Sec. 11.38. REAL PROPERTY USED TO PROVIDE HOUSING TO CERTAIN PERSONS WITH DISABILITIES. (a) In this section:

(1) "Group home" means a home or an establishment that:

(A) furnishes food, shelter, and treatment or services to four or more persons unrelated to the owner of the facility;

(B) is primarily for the diagnosis, treatment, or rehabilitation of persons with intellectual disabilities or related conditions; and

(C) provides in a protected setting continuous evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each resident function at the resident's greatest ability.

(2) "Intermediate care facility for persons with developmental, physical, or intellectual disabilities" means a facility described by Chapter 252, Health and Safety Code.

(3) "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) A person is entitled to an exemption from taxation of a portion, expressed as a dollar amount, of the appraised value of real property that the person owns and that is used as:

(1) a group home operating under a Section 1915(c) waiver program; or

(2) an intermediate care facility for persons with developmental, physical, or intellectual disabilities if at least 95 percent of the

residents of the facility are recipients of medical assistance under Chapter 32, Human Resources Code.

(c) The amount of the credit to which a property owner is entitled under this section against the taxes imposed in a tax year on the property by a taxing unit is computed by:

(1) dividing the amount of taxes imposed on the property by the taxing unit by the total amount of taxes imposed on the property by all of the taxing units that tax the property; and

(2) multiplying the amount determined under Subdivision (1) by an amount equal to the costs incurred by the property owner in maintaining, operating, and making improvements to the property during the preceding 12-month period.

(d) If the amount of the credit to which a property owner is entitled under this section in any tax year exceeds the amount of tax imposed on the property in that tax year, the excess amount may be carried forward and credited against the taxes imposed in a subsequent tax year so long as the property continues to be used as a group home described by Subsection (b).

(e) A property owner must file an application with the chief appraiser of the appraisal district in which the property is located each year to receive a credit under this section. The application must include an affidavit stating the costs incurred by the property owner in maintaining, operating, or making improvements to the property during the preceding 12-month period and include any relevant information or documentation required by the application form.

(f) The chief appraiser shall forward a copy of the application to each taxing unit described by Subsection (b). The assessors for the taxing units shall consult with one another as necessary to compute the amount of the credit to be granted by each taxing unit.

(g) The comptroller shall adopt rules for the administration of this section, including rules prescribing the form of an application

residents of the facility are recipients of medical assistance under Chapter 32, Human Resources Code.

(c) The amount of the exemption authorized under this section is

an amount equal to the costs incurred by the property owner in maintaining, operating, and making improvements to the property during the preceding 12-month period.

No equivalent provision.

(d) An application for an exemption under this section must include an affidavit stating the costs incurred by the property owner in maintaining, operating, and making improvements to the property during the preceding 12-month period and include any relevant information or documentation required by the application form.

No equivalent provision.

(e) The comptroller shall adopt rules for the administration of this section, including rules prescribing the form of an application

for a credit and specifying the 12-month period for which the costs are used to calculate the credit.

for an exemption under this section and specifying the 12-month period for which the costs are used to determine the amount of the exemption.

SECTION 2. This Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 2. Section 11.38, Tax Code, as added by this Act, applies only to an ad valorem tax year that begins on or after January 1, 2016.

SECTION 3. This Act takes effect January 1, 2016, but only if the constitutional amendment proposed by the 84th Legislature, Regular Session, 2015, authorizing the legislature to provide for a credit against the ad valorem taxes imposed on qualifying real property used to provide housing to persons with disabilities is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

SECTION 3. This Act takes effect January 1, 2016, but only if the constitutional amendment proposed by the 84th Legislature, Regular Session, 2015, authorizing the legislature to exempt from ad valorem taxation a portion of the assessed value of certain real property used to provide housing to certain persons with disabilities is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.