

SUBJECT: Limiting portability of the over-65 property tax freeze

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Sadler, Dutton, Dunnam, Grusendorf, Hochberg, Lengefeld, Oliveira, Olivo, Smith

0 nays

SENATE VOTE: On final passage, Local and Uncontested Calendar, May 3 — 30-0

WITNESSES: For — Jim Robinson, Texas Association of Appraisal Districts

Against — None

BACKGROUND: Individuals aged 65 and older are entitled to a \$10,000 homestead exemption, which applies against the appraised value of the home, in addition to the state’s mandatory \$15,000 exemption. Local taxing units may at their option apply additional exemptions. When an individual who has an age-65-or-older exemption dies, the exemption transfers to a surviving spouse, so long as the spouse is at least 55 years old, owns the home, and lives in it. The exemption remains in effect for as long as the surviving spouse owns and lives in the home.

In general, the ad valorem tax imposed on the residence homestead of a person aged 65 or older cannot be increased above the amount that was imposed in the tax year when the individual first qualified for the age-65-or-older exemption. In 1997, Texas voters approved a constitutional amendment allowing senior citizens to transfer this tax freeze from one homestead to another. It is codified in Tax Code, sec. 11.26(g).

For example, an individual living in a home with a taxable value of \$85,000 that was taxed at \$1.40 per \$100 of value would owe ad valorem taxes of \$1,190. If that individual’s taxes had been frozen several years earlier, when the tax rate was \$1.25 per \$100 and the taxable value of the home was \$75,000, that person’s tax assessment would be \$937.50, roughly 79 percent of what it would be without the freeze. If that individual or a surviving spouse aged 55 or older then moved to a house with a taxable value of \$60,000, the

proportional reduction in taxes of the former residence would apply to the new residence. Therefore, that individual would owe \$661.76, or about 79 percent of \$840, the amount that would be owed without the freeze.

The portability of this tax freeze does not depend on the amount of time a person lives at the homestead.

DIGEST:

SB 1210 would require that an individual live in a particular residence homestead for at least 12 consecutive months before the individual could transfer a tax freeze to another residence homestead. This requirement would apply to each subsequently owned homestead until the individual owned and occupied a subsequently qualified homestead for at least 12 consecutive months. Once that had occurred, the taxes imposed on the former residence homestead could not be used to determine the limitation on taxes for any later residence homestead of the individual.

If the individual's homestead was under construction on January 1 of the first tax year in which the individual first qualified for the aged-65-or-older exemption, the limitation on taxes would not apply to the homestead after the first year. In that event, a school district could not impose ad valorem taxes on the homestead in the succeeding tax year that exceeded the amount of taxes that would have been imposed absent the limitation, multiplied by the fraction specified by Tax Code, sec. 11.26(g). In a tax year subsequent to the succeeding year, a school district could not impose a tax in excess of the amount for that succeeding year.

This bill would take effect January 1, 2000, and would apply to calculations of ad valorem taxation for a tax year beginning on or after that date.

**SUPPORTERS
SAY:**

SB 1210 would preserve the ability of seniors to transfer a tax freeze to another homestead while closing loopholes that allow abuse. The portability law was enacted and approved by the voters to enable seniors who need to move to a smaller house to keep their tax freeze. It was intended to make the individual, not the property, eligible for the limitation.

Some people about to turn 65 move into a temporary homestead, the appraised value of which is much closer to the \$25,000 total exemption for which they will qualify when they turn 65. Once they obtain the exemption, their property taxes are frozen at a very low level and they may take the

freeze to their new, permanent homestead. For example, a couple might claim a mobile home as their homestead, qualify for the exemption, have their taxes frozen, and then move into a house. They also may claim the exemption while their permanent house is under construction. The portability law never was intended to be applied in such cases.

SB 1210 would help prevent these abuses by requiring a person to own and occupy a residence homestead for at least 12 months before any limitation could be transferred to another homestead. It also would require people who built a new home to restart their freeze in the first full tax year after the house was completed.

**OPPONENTS
SAY:**

The portability of the tax freeze should apply only to seniors who move to a homestead with a lower taxable value. Current law is intended to help seniors who must move to another property because they cannot afford to stay in their current homestead. All of the abuses this bill seeks to address are caused by people who move to higher-valued properties. Presumably, these homeowners have more resources and thus can afford to pay their property taxes.

NOTES:

A related bill, SB 1461 by Cain, has been placed on the House General State Calendar for May 24. That bill would stipulate that the aged-65-or-older exemption takes effect as of January 1 of the tax year in which the person first qualifies for the exemption and applies to the entire tax year.