

- SUBJECT:** Disclosure of certain information in property tax refund offers
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 6 ayes — Giddings, Elkins, Bohac, Martinez Fischer, Solomons, Zedler
0 nays
3 absent — Kolkhorst, J. Moreno, Oliveira
- SENATE VOTE:** On final passage, April 25 — voice vote
- WITNESSES:** For — Buddy Winn, Texas Association of Appraisal Districts, Tax Assessor-Collectors Association of Texas.
Against — None
- BACKGROUND:** Property Code, sec. 41.0051 makes it a false, misleading, or deceptive act or practice under the Deceptive Trade Practices Act (DTPA) to deliver a written advertisement offering, for a fee, to designate property as homestead without an appropriate disclaimer. The disclaimer must be conspicuous and printed in 14-point boldface or uppercase type, stating something to the effect of: “This document is an advertisement of services. It is not an official document of the State of Texas.” A person failing to provide this warning is subject to an action brought by the attorney general under the DTPA.

A person can solicit a homeowner for the service of applying for a property tax refund from a tax appraisal district or other governmental body on behalf of someone entitled to a homestead exemption. Homeowners who pay taxes when they could have claimed an exemption have a limited time to seek reimbursement of the overpayment.
- DIGEST:** SB 853 would amend Property Code, sec. 41.0051 to require a person who solicited, solely by mail or telephone, a homeowner to pay a fee for a property tax refund service to disclose the name of the tax appraisal district or other governmental body that owed the homeowner a refund before accepting money or signing a contract for services.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

SB 853 would help protect homeowners, especially elderly homeowners to whom exemptions often pertain, by requiring property tax refund services to disclose information consumers would need to seek the refunds themselves, if they so chose. While some consumers do not realize that they are entitled to exemptions or that they have overpaid their taxes, companies offering refund services often take high percentages of tax refunds — as much as 50 percent — to do minimal work in recovering the money. By disclosing to consumers the entity that owed them taxes prior to collecting a fee, this bill would allow homeowners to properly judge the value of the service offered by the company, and to make an informed decision about whether to take the time and effort to obtain, and keep a larger portion of, the refund for themselves.

The bill also would protect homeowners who were seeking to recover refunds when they were solicited by property tax refund services. Without knowing the source of the refund, some consumers might think that notice from a property tax refund service led to an additional refund, only to discover, after paying a fee, that they had received money that they already were working to collect themselves.

While companies that notify homeowners of refunds due can provide a valuable service, consumers still have a right to information about the source of their tax refund. This would allow consumers to evaluate properly what the contract entailed and to negotiate a fair price for the proposed services, if they chose to contract with the company.

SB 853 would be no different from other laws that limit areas of business. It would not prevent a company from using a computer program to search public records and notify homeowners who had overpaid their taxes, nor would it limit how much profit these companies could make. This bill merely would help even the scales of bargaining power between property tax refund services and consumers by establishing a reasonable disclosure requirement.

**OPPONENTS
SAY:**

Companies that inform homeowners about tax refunds provide a valuable service that SB 853 would threaten. Many homeowners are unaware that they qualify for property tax exemptions or refunds, and they cannot rely on local tax assessors or collectors to notify them. Property tax refund services fill this

gap by not only notifying homeowners of refunds, but also assisting them in obtaining the refund, a process that not every homeowner understands. It is unlikely that companies would go to the effort and expense of alerting homeowners that they were entitled to refunds if these companies could not expect returns on their investments.

The service these companies provide goes well beyond mailing a form to a taxing entity. Property tax refund services use specially developed computer programs to analyze tax documents, obtained through valid open records requests, to determine which homeowners might qualify for exemptions and refunds. Requiring the disclosure under this bill likely would take away the effectiveness of these programs.

**OTHER
OPPONENTS
SAY:**

The language in SB 853 is not broad enough. It should require that companies soliciting homeowners for this service disclose that the process for receiving the tax refund is free to homeowners who seek it directly from the tax collector.