

- SUBJECT:** Authorizing tax exemption for leased rent-to-own property
- COMMITTEE:** Ways and Means —favorable, without amendment
- VOTE:** 6 ayes — Keffer, Otto, Bonnen, Y. Davis, Pena, Pitts
0 nays
3 absent — Ritter, Flores, Paxton
- WITNESSES:** For — William McCrae, Texas Association of Rental Agencies
Against — None
- BACKGROUND:** Under Texas Constitution, Art. 8, sec. 1(d), the Legislature by general law must exempt from ad valorem taxation household goods and personal effects not held or used for the production of income. The Legislature may exempt from ad valorem taxation:
- all or part of a personal property homestead exempt from forced sale for debt;
 - tangible personal property not used for the production of income; and
 - a leased vehicle not used primarily for the production of income.
- Notwithstanding a law adopted under this section of the Constitution to exempt from taxation tangible personal property and leased vehicles, a political subdivision may tax such property, except the Legislature may place limitations on the taxation of vehicles not used primarily for income production.
- Under Tax Code, sec. 23.12, rent-to-own property is taxed as inventory. The appraised value of inventory is determined by its market value selling price. Inventory value depreciates according to an appraisal district's application of generally accepted appraisal practices.

DIGEST:

HB 356 would exempt from ad valorem taxation tangible personal property leased under a rent-to-own contract that was intended for personal use within the home and did not involve the production of income the majority of the time lessee used the property. The governing body of a municipality by ordinance adopted before January 1, 2008, still could tax the property exempted by the bill.

The lessee of rent-to-own property would be required to certify under oath, by completing a form, that the property would not be used to generate income. The owner of the rent-to-own property would maintain the form for inspection by the chief appraiser. If the owner failed to maintain such a form, the owner would be required to render the rent-to-own property for taxation. The owner of rent-to-own property also would be required to complete and provide to the chief appraiser a property report form including detailed information about each piece of property subject on January 1 of each year to a rent-to-own contract. The comptroller would be required by rule to establish exemption application requirements, forms, and procedures necessary to carry out the provisions of the bill.

The bill would require chief appraisers to appraise unleased rent-to-own property inventory according to a three-year straight-line depreciation method in which the property would depreciate by one-third of its value each year.

The owner of leased property in a municipality that exercised an exemption under the bill would have to render the property in a rendition statement or property report.

If voters approve HJR 35 by Otto, a constitutional amendment to authorize the exemption of rent-to-own property from taxation, on the November 6, 2007, ballot, the bill would take effect January 1, 2008.

SUPPORTERS
SAY:

HB 356 appropriately would exempt rent-to-own property leased for personal use in homes. Under Tax Code, ch. 11.14, all tangible personal property not used for income production is entitled to an exemption. To be fair and consistent, items exclusively used for personal use, whether leased or purchased, also should be exempted from ad valorem taxation.

The bill's definition of rent-to-own property accurately would depict the true intention of most lessees, who contract with rent-to-own business to

obtain items for personal use in their homes that they otherwise could not afford, such as stereos, washing machines, and kitchen tables. HB 356 would require each lessee to specify the use of the property in a form maintained by the leasing property owner that the owner would submit to the appraiser to receive a tax exemption.

By exempting rent-to-own property, the bill would relieve many citizens who leased property under rent-to-own contracts from double-taxation. Whereas individuals who can afford cash purchases for personal items are subject only to sales tax, a lessee is taxed twice — paying sales tax and also property tax that is passed through by the property owner to the lessee.

HB 356 would not place municipalities in a financial bind by requiring them to exempt rent-to-own property from taxation. Municipalities could opt out of extending this tax relief to their citizens if the governing body decided that local circumstances required it.

The bill would apply a consistent three-year depreciation schedule to unleased rent-to-own property. Under Tax Code, ch. 23.12, chief appraisers must establish equal and uniform appraisal standards according to generally accepted appraisal practices to value inventory. However, depreciation schedules vary among districts from three years to 10 years. For federal taxation, the Internal Revenue Service already applies an accelerated depreciation schedule on such property, which calculates depreciation at a faster rate than does use of the straight-line method of depreciation. HB 356 would not accelerate depreciation, but would allow for uniform decline in value over three years, which is the product-life standard in the rent-to-own industry.

There is precedent in Texas law for exempting leased property from taxation. HB 3033 by Oliveira, enacted in 1999 by the 76th Legislature, exempts automobile dealers from property taxes on leased vehicles under justifications similar to those for this bill. In addition, during the 2005 regular session, the House overwhelmingly passed HB 2187 by Otto, which is very similar to HB 356.

**OPPONENTS
SAY:**

HB 356 would allow an inappropriate exemption from taxation of rent-to-own property used to generate income. The bill would permit exemptions for property not used to produce income for the “majority of the time the

property is used in a year,” which means that the property could be used to generate income part of the time and still be exempted.

Statutorily mandating the use of a depreciation schedule would run contrary to normal appraisal district standards. Under Tax Code, ch. 23.01, market value determines the acceptable appraisal methods and techniques used by appraisal districts. HB 356 could result in the taxation of property based on distorted values.

The fact that certain leased property already may receive exemptions under current law is not a good reason to authorize even more exemptions. By creating another exemption to ad valorem taxation of property, the bill would reduce taxable property values for most local governments, according to the fiscal note. While municipalities could deny these additional tax exemptions by ordinance, the bill would place municipal officials under great pressure to offer them. These officials already are torn by competing demands from their citizens for tax relief on the one hand and improved services on the other, and HB 356 only would worsen this dilemma for municipalities. In addition, the state would be required to offset losses of tax revenue to local school districts, which would have no authority under this bill to deny exemptions.

OTHER
OPPONENTS
SAY:

Counties, school districts, and other local taxing entities also should be allowed to opt out of the rent-to-own tax exemption just as cities could under the bill. These local taxing units would lose revenue just as cities would and should have the chance to decide whether to permit this new exemption.

NOTES:

HJR 35 by Otto et al., which would amend the Constitution to allow the Legislature to grant a tax exemption for leased rent-to-own property, is on today's Constitutional Amendments Calendar.

The companion bill, SB 733 by Carona, has been referred to the Senate Finance Committee.

During the 2005 regular session, a similar bill, HB 2187 by Otto, passed the House but died in the Senate Finance Committee.