HOUSE
RESEARCH
ORGANIZATION bill analysis | 4/25/2013 | HB 317 | Otto, et al.

SUBJECT:	Reducing franchise tax percentage for rent-to-own stores
COMMITTEE:	Ways and Means — favorable, without amendment
VOTE:	7 ayes — Hilderbran, Otto, Bohac, Button, Eiland, N. Gonzalez, Strama 0 nays 2 absent — Martinez Fischer, Ritster
WITNESSES:	For — Hugh Tollack, Rent-A-Center, Inc.; Alfredo Martinez; (*Registered, but did not testify:* Dwight Dumler, Rent-A-Center, Inc.; Stephanie Gibson, Texas Retailers Association; Mark Vane, Gardere Wynne Sewell) Against — (*Registered, but did not testify:* Ted Melina Raab, Texas AFT) On — (*Registered, but did not testify:* Teresa Bostick and Ed Warren, Comptroller of Public Accounts)
BACKGROUND:	Business and Commerce Code, ch. 92, governs businesses engaged in rental-purchase agreements. Tax Code sec. 171.002 authorizes a franchise tax of .5 percent for taxable entities primarily engaged in retail or wholesale trade. Otherwise, the rate of the franchise tax is 1 percent of taxable margin.
DIGEST:	HB 317 would add to the definition of "retail trade" rental-purchase agreement activities regulated by Business and Commerce Code, ch. 92. The bill would take effect January 1, 2014, and would apply only to a franchise tax report originally due on or after that date.
SUPPORTERS SAY:	HB 317 would place rent-to-own businesses on an equal tax footing with retail businesses. The current non-retail classification of rent-to-own businesses creates an unfair playing field between businesses engaged in essentially the same enterprise. The rent-to-own business model is fundamentally based on selling

products through a trial renting period. Rent-to-own businesses, such as Rent-A-Center, offer customers an option to rent a product before purchase. This allows customers to finance a purchase in installments — a good option for customers with limited or poor credit — and appeals to customers who are uncertain about a purchase and would like to try a product first.

Rent-to-own businesses are essentially no different than the retail sales enterprises with which they compete. The primary difference lies in how the customer pays for the products. Unfortunately, because the comptroller has classified rent-to-own businesses under a non-retail code in the 1987 Standard Industrial Classification Manual, they have to pay a higher franchise tax rate of 1 percent and cannot deduct cost of goods sold when calculating their taxable margin. These additional costs have a significant negative impact on these smaller-scale businesses, which are competing with large retail businesses that have a lighter franchise tax burden.

The fact that there are larger educational funding issues in the state is no reason to maintain an unfair tax classification. While the fiscal impact of HB 371 would be limited, its effect on the rent-to-own businesses that pay the higher tax would be substantial.

OPPONENTS SAY:

HB 371 would reduce taxes collected for public schools and local governments by about $5.4 million for fiscal 2014-15 and beyond. The bill would have an indirect impact on general revenue funds by reducing franchise tax funds flowing to the Property Tax Relief Fund, which was established by the Legislature in 2006 to offset reductions of school property taxes. Because revenue in the Property Tax Relief Fund is dedicated to public education, any reduction of revenue in the fund must be offset with general revenue funds.

The Legislature should not contemplate measures that reduce funds available for public education without first restoring the deep cuts it made to schools in 2011. Until these cuts are restored, any proposal to reduce revenue coming into the state that is not absolutely necessary should be cast aside.

NOTES:

In the fiscal note for HB 317, the Legislative Budget Board estimates the bill would have a negative impact of $5.4 million for fiscal 2014-15 on the Property Tax Relief Fund. Any loss to the fund would have to be made up with an equivalent amount of general revenue to fund the Foundation

School Program.

The companion bill, SB 539 by Paxton, has been referred to the Senate Finance subcommittee on Fiscal Matters.

A related bill, HB 510 by Murphy, et al., would allow taxable entities in the business of renting or leasing commercial and industrial machinery and equipment to calculate franchise tax using a tax rate of .5 percent rather than 1 percent. The bill is pending in the House Ways and Means Committee.