

BILL ANALYSIS

Senate Research Center

S.B. 1437
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Finance
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As Filed

DIGEST

The 74th Legislature enacted legislation that allowed a surviving spouse age 55 or older of an individual age 65 or older who received a residence homestead exemption for those persons age 65 or older to continue to receive that residence homestead exemption. This exemption applied only if the death of the spouse age 65 or older occurred during a year in which the exemption was received. Exemptions generally are not "received" until the January 1, following the qualifying event, i.e., turning 65.

Nonetheless, that legislation did not address the issue of whether a surviving spouse age 55 or older would qualify for an exemption if the deceased spouse died after attaining age 65 but before the January 1 of the following year. There are concerns that this could create a hardship situation because of an expected tax exemption and then cannot take advantage of that exemption because of the death of the other spouse after attaining the qualification age of 65 but not the "receipt date" of the exemption, which is following January 1.

This bill would modify the definition of "receiving" an exemption for a person age 65 or older from the January 1 following the qualification for the exemption to immediately upon qualification, and allows the widow of a person who was qualified for the "65 and older" homestead exemption, or "freeze," on school property taxes to benefit from that exemption. S.B. 1437 sets forth additional amendments to current law regarding exemptions for a person age 65 or older.

PURPOSE

As proposed, S.B. 1437 to provide exemptions from and limitations on ad valorem taxes on the residence homestead of an individual 65 years or older and the individual's surviving spouse.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.42(b), Tax Code, to provide that an exemption authorized by Section 11.11 or by Section 11.13(c) or (d) for an individual 65 or over is effective immediately on qualification for the exemption. Makes a nonsubstantive change.

SECTION 2. Amends Section 11.13(q), Tax Code, to provide that the surviving spouse of an individual who qualifies for an exemption, rather than received an exemption, under Subsection (d) for the residence homestead of a person 65 or older is entitled to an exemption for the same property from the same taxing unit in an amount equal to that of the exemption for which, rather than received by, the deceased spouse qualified under certain conditions. Makes conforming changes.

SECTION 3. Amends Section 11.26, Tax Code, by adding Subsections (g), (h) and (i), to set forth provisions applicable if an individual who qualifies for the exemption provided by Section 11.13(c) for an individual 65 years or older dies. Sets forth provisions applicable if the individual who qualifies for an exemption provided by Section 11.13(c) for an individual 65 years or older dies in the year in which the person turned 65 years of age, except as provided by Subsection (i). Sets forth provisions applicable if, in the first tax year after the individual died, the amount of school district taxes imposed

on the residence homestead of the surviving spouse is less than the amount of school district taxes imposed in the preceding year as limited by Subsection (h).

SECTION 4. Amends Section 11.43, Tax Code, by amending Subsection (d) and adding Subsection (j), to require, except as provided by Subsection (j), a person required to claim an exemption to file a completed exemption application form before May 1 and to furnish the information required by the form. Requires a person who qualifies for the exemption authorized by Section 11.13(c) or (d) for an individual 65 years or older for a portion of a tax year to notify the chief appraiser of the person's qualification for the exemption no later than the first anniversary of the date the person qualified for the exemption.

SECTION 5. Amends Section 26.10, Tax Code, to set forth the formula for determining the tax due against property if the appraisal shows that a property is eligible for taxation at its full appraised value for only part of a year because a residence homestead for an individual 65 or older applicable on January 1 of that year terminated during the year.

SECTION 6. Amends Chapter 26, Tax Code, by adding Section 26.112, as follows:

Sec. 26.112. PRORATING TAXES--QUALIFICATION BY ELDERLY PERSON FOR 65 OR OVER RESIDENCE HOMESTEAD EXEMPTION. Sets forth the formula for determining the amount of the taxes due on the residence homestead of an individual who qualifies for the exemption under Section 11.31(c) or (d) for an individual 65 years or over after the beginning of a tax year.

SECTION 7. Provides that SECTION 5 of this Act takes effect January 1, 1998.

SECTION 8. Emergency clause.
Effective date: upon passage.