

BILL ANALYSIS

Senate Research Center

H.B. 2306
By: Chisum (Unknown)
Intergovernmental Relations
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Engrossed

DIGEST AND PURPOSE

Current law does not extend residence homestead ad valorem tax exemptions to a homestead owned by a family-owned business or protect these businesses from forced sale. Exempting principal residences that are converted to family-owned businesses from this tax and protecting them from forced sale may encourage family business entrepreneurship. H.B. 2306 provides this exemption and protection.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.13(j), Tax Code, by amending Subdivision (1) and adding Subdivision (4), as follows:

- (1) Redefines “residence homestead.”
- (4) Defines “family-owned business.”

SECTION 2. Amends Section 11.26(f), Tax Code, to provide that the limitation on tax increases required by this section does not expire because the owner of an interest in the structure conveys the interest to a family-owned business as defined by Section 11.13(j) in which the owner owns an interest as long as the owner or the owner's spouse continues to reside in the structure.

SECTION 3. Amends Section 11.43, Tax Code, by adding Subsection (j), to provide that conveyance of a residence homestead by its owner to a family-owned business as defined by Section 11.13(j) in which the owner owns an interest does not constitute a change of ownership of the homestead for purposes of Subsection (c) as long as the owner or the owner's spouse continues to reside in the property.

SECTION 4. Amends Section 23.23(c), Tax Code, to provide that the limitation does not expire because the owner of the property conveys the property to a family-owned business as defined by Section 11.13(j) in which the owner owns an interest as long as the owner or the owner's spouse or surviving spouse continues to reside in the property.

SECTION 5. Amends Section 25.135, Tax Code, to read as follows:

Sec. 25.135. New heading: QUALIFYING TRUSTS; FAMILY-OWNED BUSINESSES.

- (b) Requires the interest of a family-owned business as defined by Section 11.13(j) in a residence homestead to be listed in the name of the person who occupies the homestead as the person's principal residence.

SECTION 6. Amends Section 32.07(c), Tax Code, to provide that a family-owned business and the person in whose name the residence homestead is listed are jointly and severally liable for the tax imposed on the interest of the family-owned business in a residence homestead.

SECTION 7. Amends Chapter 41A, Property Code, by adding Section 41.0035, as follows:

Sec. 41.0035. HOMESTEAD OWNED BY FAMILY-OWNED BUSINESS. (a) Defines “family-owned business.”

(b) Authorizes property owned by a family-owned business that otherwise qualifies as a homestead to constitute the homestead of an individual if the individual owns an interest in the family-owned business. Provides that the homestead rights of the individual do not affect the validity or enforceability of any conveyance, mortgage, or encumbrance of the property by the family-owned business.

(c) Authorizes the homestead claimant, if a homestead claimant conveys the homestead to a family-owned business in which the homestead claimant owns an interest, to continue to claim homestead rights in the homestead, subject to the provisions of Subsection (b).

SECTION 8. Effective date: Provides that this Act takes effect on the date on which the constitutional amendment proposed by the 77th Legislature, Regular Session, 2001, to extend residence homestead ad valorem tax exemptions and protection from forced sale to a homestead owned by a family-owned business is approved by the voters. Provides that if that amendment is not approved by the voters, this Act has no effect.