

BILL ANALYSIS

Senate Research Center
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H.B. 2187
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Finance
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Constitution exempts from ad valorem taxes household goods not held or used for the production of income. This provision has been interpreted to not apply to a person who rents or leases household goods, even though the lessee is not using the property for the production of income. This disparate tax treatment discriminates against people who choose to purchase household goods by leasing with an option to buy.

The inventory of a merchant who leases household goods is subject to ad valorem taxation. However, each taxing district in the state determines the depreciation rate for this inventory and the rates differ from district to district. A fair and uniform depreciation rate is needed to prevent confusion and disparate treatment.

H.B. 2187 exempts from ad valorem taxation tangible personal property intended for personal use within the home that is subject to a rent to own contract. H.B. 2187 also requires the chief appraiser in each taxing district to depreciate tangible personal property intended for personal use within a home by using the straight line method over a period of three years.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Section 11.253, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.253, as follows:

Sec. 11.253. RENT-TO-OWN PROPERTY LEASED FOR PERSONAL USE. (a) Defines "rent-to-own property."

(b) Provides that the owner of rent-to-own property that is subject to a rent-to-own contract is entitled to an exemption from taxation of the property if the lessee does not hold the property for the production of income and the property is used primarily for activities that do not involve the production of income.

(c) Provides that, for purposes of this subsection, rent-to-own property is presumed to be used primarily for activities that do not involve that production of income if the majority of the time the property is used in a year it is used for non-income producing purposes.

(d) Requires the comptroller of public accounts (comptroller), by rule, to establish exemption application requirements and appropriate procedures to determine whether rent-to-own property subject to a rent-to-own contract qualifies for an exemption under Subsection (b).

(e) Requires the comptroller by rule, in connection with the requirements and procedures under Subsection (d), to adopt a form to be completed by the lessee of rent-to-own property for which the owner of the property may apply for an exemption under Subsection (b). Requires the form to require the lessee to provide the lessee's name and address and to certify under oath that the lessee

does not hold the property for the production of income and that the property is used primarily for activities that do not involve the production of income. Requires the comptroller to include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making a false statement on the form.

(f) Requires the owner of rent-to-own property that is subject to a rent-to-own contract to maintain the form completed by the lessee of the property and to make the form available for inspection and copying by the chief appraiser of the applicable appraisal district at all reasonable times. Provides penalties in the event that the owner does not maintain a completed form relating to the property.

(g) Authorizes the governing body of a municipality, by ordinance adopted before January 1, 2006, to provide for the taxation of rent-to-own property otherwise exempted under Subsection (b). Provides that, if the governing body of a municipality provides for the taxation of rent-to-own property under this subsection, the exemption provided by Subsection (b) does not apply to the taxation of the property by that municipality.

(h) Requires the comptroller by rule, in addition to the requirements of Subsections (d) and (e), to prescribe a property report form to be completed by the lessor of rent-to-own property describing the rent-to-own property that the lessor owns that is subject to rent-to-own contracts. Requires the property report form to require the lessor to list each item of rent-to-own property the lessor owns that is subject to a rent-to-own contract on January 1, to provide a description of each item, and to provide the name of the lessee, the address at which the property is kept, and an indication of whether the lessee has designated the property as not held for the production and not used for the production of income.

(i) Requires the lessor to provide the chief appraiser with the completed property report form adopted by the comptroller in the manner provided by Subchapter B, Chapter 22.

SECTION 2. Amends Section 22.07, Tax Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Redesignates part of this subsection as Subsection (c-1).

(c-1) Creates this subsection from part of existing Subsection (c). Requires a property owner, if the property is described by Section 23.12(g), to base the estimate of value on the depreciation method prescribed by that section. Makes a conforming change.

SECTION 3. Amends Section 23.12, Tax Code, by adding Subsection (g), to require the chief appraiser, in appraising an inventory of tangible property of a type intended for personal use within the home that is owned by a dealer engaged in the business of leasing that type of property to customers under rent-to-own contracts, to depreciate the property by using the straight-line method and a recovery period of three years.

SECTION 4. Makes application of this Act to the appraisal of property for ad valorem tax purposes prospective.

SECTION 5. Effective date: January 1, 2006, but only if the constitutional amendment proposed by the 79th Legislature, Regular Session, 2005, authorizing the legislature to exempt from ad valorem taxation rent-to-own property not held by the person renting the property primarily to produce income and to prescribe the method to be used to depreciate taxable rent-to-own property for tax appraisal purposes is approved by the voters. Provides that, if that amendment is not approved by the voters, this Act has no effect.