

BILL ANALYSIS

Senate Research Center
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S.B. 773
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Finance
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

While current law provides a homestead exemption for elderly homeowners, some homeowners are unaware that they are also entitled to a tax exemption when they reach age 65. As proposed, S.B. 773 makes the elderly exemption automatic, with no request necessary. This bill also prohibits taxing entities from conducting foreclosure sales, filing suits requesting a foreclosure sale, or threatening to file suit against an owner for property taxes owed on property where the owner has an elderly or disability exemption.

S.B. 773 requires tax entities and their lawyers to place a conspicuous notice on all notices of delinquent taxes, threats of foreclosure sales, or threats of a suit requesting a foreclosure sale, that an owner of property that is the owner's homestead is entitled to a tax deferment if the owner is over age 65 or eligible to receive disability benefits.

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 6.035(a), Tax Code to make a conforming change.

SECTION 2. Amends Section 6.412(a), Tax Code to make a conforming change.

SECTION 3. Amends Section 11.43, Tax Code, by adding Subsections (l) and (m), as follows:

(l) Requires that the form for an application under Section 11.13 (Residential Homestead), include a space for the applicant to state the applicant's date of birth. Provides that failure to provide the date of birth does not affect the applicant's eligibility for an exemption under that section, other than an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older, if the applicant has not previously provided the individual's date of birth to the appraisal district.

(m) Provides that, notwithstanding Subsections (a) and (k), a person who receives an exemption under Section 11.13 other than an exemption under Section 11.13(c) or (d) for an individual 65 years or older, in a tax year is entitled to receive an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older in the next tax year on the same property without applying for the exemption if the person becomes 65 years of age in that next year as shown by information in the records of the appraisal district. Provides that this subsection is inapplicable if the chief appraiser determines that the individual is no longer entitled to any exemption under Section 11.13 on the property.

SECTION 4. Amends Subchapter A, Chapter 33, Tax Code, by adding Section 33.045, as follows:

Sec. 33.045. NOTICE OF PROVISIONS AUTHORIZING DEFERRAL OR ABATEMENT. Requires a tax bill, notice of tax delinquency, notice of intent to foreclose a tax lien delivered to a person by a collector for a taxing unit or by an attorney or other agent of a collector to include a conspicuous statement reasonably designed to notify the person of the provisions of Section 33.06 (Deferred Collection of Taxes on

Residence Homestead of Elderly or Disabled Person), including the method by which a disabled individual may obtain a deferral or abatement under that section, and of the provisions of Section 33.061, including the automatic deferral or abatement under that section.

SECTION 5. Amends the heading to Section 33.06, Tax Code, to read as follows:

Sec. 33.06. DEFERRED COLLECTION OF TAXES ON RESIDENCE HOMESTEAD OF DISABLED PERSON.

SECTION 6. Amends Sections 33.06(a) and (b), Tax Code, as follows:

- (a) Deletes existing text relating to an individual being 65 years of age or older.
- (b) Prohibits a taxing unit, after an affidavit has been filed under this subsection, from filing or threatening to file suit to collect delinquent taxes on the property or take other action against the individual to collect delinquent taxes on the property.

SECTION 7. Amends Subchapter A, Chapter 33, Tax Code, by adding Section 33.061, as follows:

Sec. 33.061. AUTOMATIC DEFERRAL OR ABATEMENT OF COLLECTION OF TAXES ON RESIDENCE HOMESTEAD OF ELDERLY PERSON. (a) Provides that this section applies only to property that an individual who is 65 years of age or older owns and occupies as a residence homestead.

(b) Prohibits a taxing unit from filing or threatening to file suit to collect delinquent taxes on the property or taking other action against the individual to collect delinquent taxes on the property and prohibits the property from being sold at a sale to foreclose the tax lien until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead.

(c) Authorizes the property owner, if property is sold in violation of this section, to file a motion to set aside the sale under the same cause number and in the same court as a judgment referenced in the order of sale. Requires the motion to be filed during the applicable redemption period as set forth in Section 34.21(a) (Right of Redemption), Tax Code, or, if the property is bid off to a taxing unit, on or before the 180th day following the date the taxing unit's deed is filed of record, whichever is later. Provides that this right is not transferable to a third party.

(d) Sets forth that a tax lien remains on the property and interest continues to accrue during the period that collection of taxes is deferred or abated under this section. Sets forth that the annual interest rate during the period of deferral or abatement is eight percent instead of the rate provided by Section 33.01 (Penalties and Interest). Sets forth that interest and penalties that accrued or that were incurred or imposed under Section 33.01 or 33.07 (Additional Penalty For Collection Costs For Taxes Due Before June 1), Tax Code before the date the individual attained the age of 65 are preserved. Provides that a penalty under Section 33.01 is not incurred during a period of deferral or abatement. Provides that the penalty under Section 33.07 may be imposed and collected only if the taxes for which collection is deferred or abated remain delinquent on or after the 181st day after the date the period of deferral or abatement expires. Provides that a plea of limitation, laches, or want of prosecution does not apply against the taxing unit because of a deferral or abatement of collection under this section.

(e) Requires the chief appraiser for each appraisal district to publicize in a manner reasonably designed to notify all residents of the district or county of the provisions of this section each year.

(f) Provides that if the individual who is 65 years of age or older dies, the deferral or abatement of the collection of taxes on the property continues in effect until the

181st day after the date the surviving spouse of the individual no longer owns and occupies the property as a residence homestead if certain criteria is met.

(g) Authorizes an individual to elect not to receive a deferral or abatement under this section. Requires an individual who elects not to receive the deferral or abatement to file with the chief appraiser for the appraisal district in which the property is located a written statement signed by the individual affirmatively stating that the individual elects not to receive the deferral or abatement. Provides that the election is effective on the date the chief appraiser receives the individual's written statement. Requires the chief appraiser to notify each taxing unit participating in the district of the individual's election.

SECTION 8. Amends Section 33.43(a), Tax Code, to provide that a petition initiating a suit to collect a delinquent property tax is sufficient if it alleges that the attorney signing the petition or a person acting on the attorney's behalf has reviewed the records of the appraisal district and determined that the person sued is not entitled to a deferral of a suit to collect delinquent taxes on the property under Section 33.06 and 33.061. Makes a conforming change.

SECTION 9. Amends Section 403.302(d), Government Code, to redefine "taxable value."

SECTION 10. Makes application of Section 11.43(m), Tax Code, as added by this Act, prospective to January 1, 2006.

SECTION 11. Effective date: September 1, 2005.