

## **BILL ANALYSIS**

Senate Research Center

H.B. 2167  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

When a person applies for ad valorem tax exemptions in Texas they are not automatically given an exemption form for ad valorem taxes; the individual must be informed of the exemptions and then must locate and obtain an application, and apply separately for the exemptions by a certain time in order to be eligible for the exemptions. As a result, many individuals seeking a tax exemption do not timely obtain the exemption. Applying for an exemption is free, but some unscrupulous companies have emerged which charge individuals exorbitant fees for applying for tax exemptions, some charge a flat fee and a significant percentage of the tax savings for future years. Other companies prey on homeowners in assisting them to "designate" their property as a homestead property. Designating a homestead by filing a document with the state does not grant the owner a homestead tax exemption and is not a requirement to receive the protections accorded under the law applicable to homesteads. Instead, if a property has a homestead tax exemption it has also been designated as a homestead under Texas law.

H.B. 2167 places certain restrictions on a person or company helping another person file a homestead exemption application.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter C, Chapter 11, Tax Code, is amended by adding Sections 11.49 and 11.50, as follows:

Sec. 11.49. FEE FOR ASSISTANCE WITH RESIDENCE HOMESTEAD APPLICATION. (a) Prohibits a person who assists another person by preparing or filing on behalf of the other person an application for an exemption under Section 11.13 (Residence Homestead) for a parcel of real property after the first anniversary of the date of the sale or transfer of the property to the other person from charging a fee of more than \$55 for that service, and requires such a person to timely file the application with chief appraiser for each appraisal district in which the property is located.

(b) Requires a fee under Subsection (a) to be paid directly by the person who receives the service. Prohibits a person from providing a service described by Subsection (a) from accepting any part of a refund of taxes on any property in payment for those services.

(c) Prohibits a person who assists another person by preparing or filing on behalf of the other person an application for an exemption under Section 11.13 for a parcel of real property from charging a fee for the service if the application is for an exemption that has already been granted to the purchaser or owner, or is submitted on or before the first anniversary of the date of the sale or transfer of the property to the purchase or owner.

(d) Provides that a person who violates this section is liable to the purchaser or owner, as applicable, for actual damages, a civil penalty in the amount of \$1,000, and reasonable court costs and attorney's fees.

Sec. 11.50. ASSISTANCE WITH RESIDENCE HOMESTEAD EXEMPTION APPLICATION. (a) Requires a settlement agent who conducts a closing on a sale or other transfer of title to a single-family residential structure or a single unit of other residential property to provide to the purchaser or other transferee as applicable a copy of the form used by each appraisal district in which the property is located for applying for residence homestead exemptions under Section 11.13, and certain other information.

(b) Provides that a person who is required to provide a form and information under this section is not liable to the purchaser or other transferee of the property for an error in the information provided or the person's failure to provide the form or information.

SECTION 2. (a) Amends Section 25.19, Tax Code, by adding Subsection (b-2) and amending Subsection (d), as follows:

(b-2) Provides that this subsection applies only to a notice of appraised value for residential real property that has not qualified for a residence homestead exemption in the current tax year. Requires the notice, if the records of an appraisal district show that a property owner has the same address as that property, in addition to containing the applicable information required by Subsection (b), (b-1), (f) to contain a certain statement. Requires the notice to be accompanied by an application form for a residence homestead exemption.

(d) Provides that failure to receive a notice required by this section does not affect the deadline for filing an application for a residence homestead exemption.

(b) Effective date, this section: January 1, 2008.

SECTION 3. Amends Section 41.0051, Property Code, by amending Subsections (a) and (c) and adding Subsections (b-1) and (d), as follows:

(a) Requires the disclaimer under this subsection to include a statement that states that it is not an official document of the State of Texas or of any county or taxing unit of the State of Texas, and that a person who currently receives a residence homestead exemption from ad valorem taxation for a parcel of real property is considered to have designated the property as the person's homestead for purposes of Texas property law and need not file a homestead designation in the county deed records.

(b-1) Prohibits a person from charging a fee to assist another person by preparing or filing on behalf of the person an application to designate property as a homestead under Section 41.005 unless certain actions are taken by the person and the application is authorized by Section 11.13, Tax Code.

(c) Provides that a person's failure to comply with the requirements of Subsection (b-1) is considered a false, misleading, or deceptive act or practice for purposes of Section 17.46(a) (declaring certain practices unlawful), Business & Commerce Code, and is subject to action by the consumer protection division of the attorney general's office as provided by Section 17.46(a), Business & Commerce Code.

(d) Provides that in addition to any other remedy provided by law, a person who violates this section is liable to the purchase or owner, as applicable, for actual damages, a civil penalty in the amount of \$1,000, and reasonable court costs and attorney's fees.

SECTION 4. Provides that Section 11.50, Tax Code, as added by this Act, applies only to a sale or other transfer of title to real property that occurs on or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2007, except as otherwise provided by this Act.