

SUBJECT: Liability for interest on property taxes on certain improvements

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Hilderbran, Otto, Christian, Elkins, Gonzalez, Lyne, Martinez
Fischer, Ritter, Villarreal, Woolley

0 nays

1 absent — Murphy

WITNESSES: For — Beth Carmichael, Camden Property Trust and Texas Apartment Association; Jim Robinson, Texas Association of Appraisal Districts; *(Registered, but did not testify: John Brusniak; Daniel Gonzalez, Texas Association of Realtors; Ken Hodges, Texas Farm Bureau; James LeBas, Association of Electric Companies of Texas; Randy M. Lee, Stewart Title Guaranty Company; Ned Muñoz, Texas Association of Builders; Ginny Sutton, Texas Self Storage Association)*

Against — None

BACKGROUND: Under Tax Code, sec. 26.09, if a property is subject to property taxes during a prior year in which it escaped taxation, county tax assessor-collectors are to add interest to the back taxes.

Under Tax Code, sec. 33.01, the interest penalty is 6 percent of the amount of the tax for the first calendar month it is delinquent. An additional 1 percent is added for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of 12 percent without regard to the number of months the tax has been delinquent. An additional 1 percent is added for each additional month the taxes remain delinquent.

Tax Code, ch. 41A allows property owners to appeal their property taxes through binding arbitration. Tax Code, sec. 41A.10 requires a taxpayer first to pay the amount of property taxes that are not in dispute in order to be eligible for binding arbitration.

Tax Code, ch. 42 allows property owners to appeal their property taxes through judicial proceedings in an appropriate district court. Tax Code, sec. 42.08 requires a taxpayer first to pay the lesser of either the tax on the portion of the taxable value of the property that is not in dispute or the amount of taxes due in order to be eligible to bring the property tax appeal to judicial review.

DIGEST:

HB 234 would exempt a property owner from interest on back taxes on an improvement that escaped taxation in a prior year if the appraisal district had constructive notice of the presence of the previously untaxed improvements on the property and:

- the land on which the previously untaxed improvement was located did not escape taxation in the year in which the improvement escaped taxation;
- the appraisal district had actual or constructive notice of the presence of the improvement in the year in which the improvement escaped taxation; and
- the property owner paid all back taxes due on the improvement within 120 days.

HB 234 would require a property-tax bill that was sent to a property owner giving notice of back taxes on an improvement that previously escaped taxation to state that no interest was due on those taxes if the back taxes were paid within 120 days.

A property owner owing back taxes on an improvement that escaped taxation in a prior year and for which the appraisal district had constructive notice would be considered to have paid the minimum amount due to be eligible for appeal through arbitration or judicial review.

The bill would take effect September 1, 2011, and would apply only to an omitted improvement included in a tax bill that was first sent to the owner on or after the effective date.

**SUPPORTERS
SAY:**

HB 234 would ensure that property owners did not have to pay interest on taxes owed for a property improvement the chief appraiser omitted from prior year tax rolls if the appraiser had notice of the improvement, the land on which the improvement was located did not escape taxation for the year in question, and the property owner paid all the back taxes due on the

omitted property within 120 days. The taxpayer should not have to pay interest for the mistakes of local officials.

In 2006, the Harris County Central Appraisal District (CAD) failed to properly value a multifamily property that was under construction. The appraisal district should have known about the improvements because the property owner had received permits and started construction. The district appraised the property as unimproved. After 2006, the property was valued correctly.

In 2009, the Harris County CAD realized the improvements had not been appraised in 2006 and had escaped taxation. One of the taxing entities, Alief ISD, issued a tax bill on the omitted improvement with 38 percent interest. The property owner unfairly was required to pay interest for the mistake of the local appraisal district. HB 234 would prevent this unfairness in the future.

HB 234 would not create a significant cost to local governments. According to the LBB's fiscal note, HB 234 would have no effect on either state or local finances.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The companion bill, SB 551 by Williams, was reported favorably, without amendment, by the Senate Finance Committee on March 29 and is scheduled for consideration by the Senate on today's Local and Uncontested Calendar.