

BILL ANALYSIS

Senate Research Center
79R5681 SMH-D

H.B. 2080
By: Paxton (Fraser)
Finance
5/16/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

In 1997, the legislature revised the Tax Code to clarify the definition of a continuing care retirement community (CCRC). Chapter 11.18(d)(19), Tax Code, clarified that CCRC's must meet certain qualifications.

However, that section is silent on the question of whether "entry fees" to a CCRC are exempt from taxation. Entry fees are collected by the CCRC and used to assist in project financing, and to cover a portion of the operating cost off the CCRC, including charitable care. The license agreement specifying that entry fees will be paid neither grants rights to the occupant, nor creates any leasehold or possessory real property interest for the occupant. For that reason, the service or entry fee paid as a deposit should not be taxable, regardless of whether it is or is not refunded.

H.B. 2080 clarifies language regarding the non-taxable status of CCRC residents who have a license to occupy a dwelling unit in a tax-exempt retirement community.

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 Subchapter B, Chapter 23, Tax Code, by adding Section 23.135, as follows:

Sec. 23.135. LICENSE TO OCCUPY DWELLING UNIT IN TAX-EXEMPT RETIREMENT COMMUNITY. Provides that a license to occupy a dwelling unit in a retirement community that is exempt from taxation under Section 11.18(d)(19) is not a taxable leasehold or other possessory interest in real property regardless of whether the occupant of the dwelling unit is required to pay a refundable or nonrefundable deposit or a periodic service fee under the contract granting the occupant the license to occupy the dwelling unit.

SECTION 2. Effective date: upon passage or September 1, 2005.