

A Reprint from *Tierra Grande*



Much has been written about the substantial growth in property tax rates over the past 20 years. And with the first large cohort of baby boomers reaching 65 in five years, a new concern has arisen. Will rising property taxes force Texas retirees from their homes?

Property Taxes Before Reform

Before 1978, the Texas Constitution required all property owners to pay property taxes. Exemptions were few. Government property, along with that belonging to churches, schools, and other properties exempted by federal law, were excused from taxation. Agricultural land could

qualify for lower valuation based on agricultural use if the owner could meet stringent income tests.

At that time, Texans over the age of 65 could qualify for a limited, partial exemption from some taxes on their homes. However, most other real and personal property owners were taxed on property including automobiles, household furniture,

stocks, bonds and cash in the bank. Because of the difficulty in locating, valuing and collecting taxes on these items, much legally taxable property escaped assessment.

The constitution required taxation to be equal, uniform and based on market value. However, no uniform statewide assessment level was imposed. As a result, each taxing entity set its own taxable value (a percentage of market value).

Local tax offices operated with little direction from the state beyond the instructions and limitations resulting from judicial decisions. Each jurisdiction could legally employ an assessor to appraise properties for taxation. Although the constitution mandated market value on January 1 as the basis for taxation, no statutes forced assessors to revalue properties. Local taxing authorities acted independently in creating local tax policies.

Tax offices proliferated under this system, with most cities, school districts and numerous special districts employing their own tax assessors. These assessors established their own appraisals for assessing taxes.

Property owners often faced widely varying values on the same property. For example, the school tax office might appraise a home at \$100,000, the county assessor at \$35,000 and the city assessor at \$50,000.

Protest hearings were conducted by each separate tax office.

Under this system, reappraisals occurred infrequently, if at all. A new building or expansion of an existing improvement might prompt a reworking of the appraised value, but no legal authority mandated systemwide revaluations. Most frequently, taxing units undertook reappraisals to generate additional revenue. School tax offices adopted the most aggressive stance on reappraisal and valuations in general because schools relied so heavily on property taxes for operating revenues.

Aggressive valuations eventually prompted moves to “rein in” local tax offices. Lawsuits by disgruntled property owners frequently followed attempts to revalue all of the properties in the taxing unit. Typically, suits sought to block the taxing units from using the appraisals to collect taxes, thus starving them of revenues. Assessors learned to avoid litigation by keeping appraised values low for local property owners.

School Finance Prompts Reform

State funding of local schools relies on a system that combines state general fund revenues with local property tax levies. The system is designed to provide a minimum foundation of education to all schools in Texas. The state pays for part of that base and requires the local school district to impose property taxes to provide the remainder.

The amount the state provides varies inversely with the amount of revenue available through the local property tax

base. That is, if a district has an ample amount of property wealth per student, it receives less funding from the state's general fund than a district with an impoverished tax base. Disparities in wealth among school districts resulted in legal actions aimed at equalizing access to resources. Property-poor districts petitioned the state for added funding.

Some school districts were aware that they could increase their state funding by systematically undervaluing local properties, effectively understating the taxable wealth per pupil. Consequently, as the state began to equalize access to revenues, authorities also had to review the appraisal practices of local school tax offices. The state initiated a ratio study to verify that school district assessment practices resulted in ap-

praised values that accurately reflected the market value of the local tax base.

The Governor's Office for Education Resources conducted the first study in the late 1970s. Now, the Property Tax Division of the Office of the Comptroller conducts the study annually for each school district in Texas and adjusts the amount of funding each receives based on that study. Other than court decisions from taxpayer lawsuits or Attorney General's opinions, the ratio study is the



HOMESTEAD EXEMPTIONS, limitation of school taxes on homesteads, and exemptions from foreclosure on a property tax lien are among the measures intended to protect seniors.

only real state-level control of local appraisal practices.

Partly prompted by the ratio study's effect on funding, school districts began to systematically reappraise their tax bases. When they did, accelerated rises in property values magnified the differences in appraisal values between comparable properties in the old system, which was based on never-changing values. Taxpayer discontent spread.

In addition, taxpayers began to object to dealing with so many different offices and values. Policymakers fretted over possible lawsuits challenging the legality of the unequal system, given the state's Constitutional requirement of equal and uniform property taxation. The public began to suspect that reappraisal would reduce homeowner taxes. Sentiment for reforming the system began to grow.

Property Tax Code Adopted

Adoption of the Texas Property Tax Code (Code) in the late 1970s consolidated the appraisal function of all taxing units into one office in each county (Potter and Randall counties share one single district). Known locally as the Central Appraisal District (CAD) and headed by the chief appraiser, this agency appraises each parcel of property in the county. Individual taxing units use those values to calculate tax liabilities in their jurisdictions. The chief appraiser heads a staff, prepares budgets, administers applications for exemptions, and oversees day-to-day district operations.

Initially, replacing the various assessors in a county with a single CAD created numerous problems. The chief appraiser faced the daunting task of replacing a range of assessed values used by the various separate tax offices with a single official appraisal. The alternative was to reappraise each property and assign a new official value.

Reappraisal of all properties was the most practical solution, and substantially increased total taxable values throughout the state. Many taxing units were able to cut their tax rates and still realize a sizeable increase in tax revenues because of the expanded tax base.

Reappraisal shifted property taxes from categories of property that had been appraised at relatively high market value levels to those that had been appraised below market value. Taxes on commercial, industrial, and oil and gas properties fell while taxes on residential property and open land rose. Homestead exemptions and the open-space value provisions were adopted to offer some relief to owners of these reappraised properties.

The property tax code required each chief appraiser to devise a plan to reappraise all properties at least once every four years. It also included so-called "truth-in-taxation" provisions designed to notify taxpayers when taxing units increased revenue intake beyond a specified limit. Revenue growth beyond the limit allowed local residents to petition for a rollback to that limit.

Currently, these provisions have been tightened so that any increase in the calculated effective tax rate makes the local taxing unit vulnerable to a rollback. Even so, the Texas property tax burden has grown from approximately 1 percent of value in the early 1980s to nearly 3 percent currently.

Protections for Seniors

Retirees living on fixed incomes struggled with rising property tax bills as their homes increased in value. Many grew concerned that tax increases would force them from their homes, even though they had paid off their mortgages. Prompted by these concerns, legislators devised a number of provisions designed to protect seniors. These measures range from homestead exemptions to a freeze on property taxes and exemption from foreclosure of a tax lien during the owner's lifetime.

Homestead Exemptions

Texans 65 or older qualify for both general homestead exemptions and others specifically designed to help seniors. All owners of qualifying homesteads are eligible for an exemption of at least \$3,000 from county taxes and \$15,000 from school district taxes. Seniors may qualify for an added \$10,000 exemption from school taxes, bringing their tax exemption to at least \$25,000. Other exemptions may be available for seniors if local taxing jurisdictions choose to adopt these exemptions.

Homeowners, including seniors, must file applications with the chief appraiser to receive homestead exemptions. If a qualifying individual dies, a surviving spouse can continue to

receive the exemptions if he or she is 55 or older and the property is his or her homestead.

Tax Limitation

The code provides further protection for seniors by limiting school taxes on their homesteads. Although the appraisal district continues to appraise and calculate taxes, the school taxes levied on a qualified homestead cannot exceed the amount paid in the first year the owner qualified for the over-65 homestead exemption.

School taxes cannot be increased above that amount as long as the qualifying owner maintains the property as his or her homestead. Further, as with the homestead exemption, should that taxpayer pass away, his or her qualifying, surviving spouse can continue to receive the limitation.

Owners can maintain their property without affecting the tax limit exemption. For example, they can repaint the house and do repairs. However, if the property is improved, the tax cap changes to reflect the value enhancement created by that improvement. The new tax limit becomes the old limit plus any tax attributable to the value created by the improvement.

For example, if an owner adds a swimming pool, the new limit would be increased to cover the addition to value contributed by the pool. The amount would be calculated by multiplying the pool's contribution to value by the current tax rate.

A city, town, county or junior col-

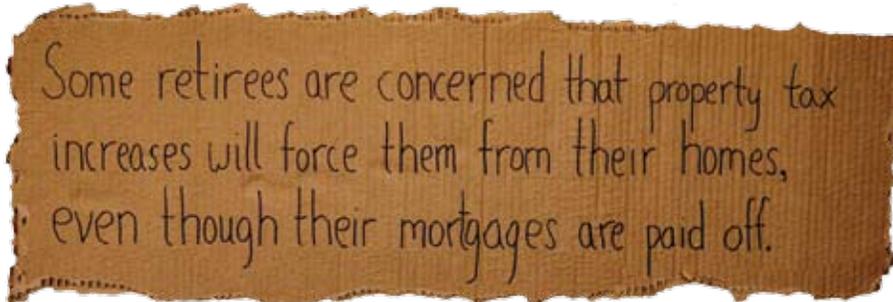
lege district may opt to impose a similar tax limit on property owned by people 65 and older. Unlike the mandatory school tax freeze, this limitation only becomes available after the taxing unit specifically adopts it. Alternatively, 5 percent of registered voters in the jurisdiction can petition to force an election to adopt the limitation.

Once qualified, an owner may transfer the tax limitation to another qualifying property. The limit on the new homestead would transfer in the form of a percentage of regular tax liability. For example, suppose a qualifying owner would have paid \$4,000 in school taxes without the limitation, but pays only 37.5 percent of that amount, or \$1,500, with the limitation. If that owner moved to a new homestead where school taxes would total \$6,000 without the limit, his or her actual school tax liability would be \$2,250, or 37.5 percent of the new tax amount. Tax limitations for city, town, county or junior college district taxes also are transportable.

Collection Options for Seniors

From paying taxes in installments to deferring tax collections, the property tax code contains further provisions to soften the property tax burden on seniors.

Seniors may pay tax payments on a quarterly schedule without incurring delinquent tax penalty and interest. The qualifying owner must pay one-fourth of the taxing unit's taxes before the delinquency date, usually February 1. The remaining amount can be paid in three equal installments, one before April 1, another before June 1 and a final payment before August 1.



Some retirees are concerned that property tax increases will force them from their homes, even though their mortgages are paid off.

If the tax burden becomes too onerous, seniors may defer collection of taxes, stop a delinquent tax suit or even stop the impending tax sale of their homestead. To do so, the owner must file an affidavit stating that he or she is 65 or older and that the property is a residence homestead. This deferral also applies to the qualifying surviving spouse.

A tax lien still applies to the property and the unpaid tax accrues interest at 8 percent per year, but further penalties and the delinquent tax interest is waived. Delinquent tax penalty and interest liabilities incurred before the owner filed for the deferral remain.

This type of deferral continues until 180 days after the property no longer qualifies as the individual's homestead. Activating this deferral could forestall tax collection until an elderly owner dies, at which time the owner's estate would face a potentially sizable tax bill plus all accrued interest. Still, the provision offers some assurance that the elderly will not be forced from their homes to satisfy property tax liens.

Services in Lieu of Taxes

In some special cases, seniors may be able to exchange their services for property taxes. The governing body of a taxing entity may elect to allow some elderly taxpayers to contract with them to perform specified services to the taxing entity instead of paying part or all of their taxes.

The agreement must specify when the taxpayer will provide the approved number of hours of service. Credit against the owner's tax liability accrues at the federal hourly minimum wage rate. The taxpayer must execute the contract before the delinquency date. The tax liability scheduled to be extinguished by the contracted service will not become delinquent even if the scheduled service occurs after the delinquency date.

All of these measures help to shield senior Texans from escalating tax burdens in retirement. The sum of mandatory and optional homestead exemptions can substantially lower taxes.

This line of defense may become more and more important as increasing numbers of Texans reach 65 and property tax rates continue to rise. A word of caution, though — if taxing units encounter budget shortfalls, the optional over-65 homestead exemptions may be rescinded. 🗳️

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THE TAKEAWAY

Texas tax laws provide seniors protection against rising tax levies. The need to raise revenue for schools has driven property tax reform since 1970.



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