

By Judon Fambrough

**T**exans are afforded unique protection under the state's homestead laws. Creditors cannot take a person's homestead to pay debts except in limited circumstances.

In addition, homestead owners are eligible to lower their county and school property taxes. To receive the special tax treatment, the owner must file for the homestead tax exemption with the central appraisal district. Only one filing is necessary. However, the applicant must notify the central appraisal district when the dwelling no longer qualifies as a homestead.

The Texas Property Tax Code defines a residential homestead as an occupied structure with improvements and as much as 20 acres of land. The structure must be occupied as the owner's principal residence to qualify for the exemption. The appropriate filing entitles the homestead owner to the following:

- A \$3,000 exemption from the assessed value of the homestead for county purposes (Article VIII, Section 1-a, Texas Constitution)
- A \$5,000 exemption from the appraised value of the adult's homestead by a school district for school tax purposes
- An additional exemption of no less than \$5,000 where the exemption has been adopted by the governing body of the taxing unit before May 1 (Section 11.13[n], Texas Property Tax Code).

If the homestead owner is 65 years or older, additional entitlements include:

- A \$10,000 exemption from the appraised value of the homestead by a school district for school tax purposes
- Where authorized by the governing body of the taxing unit or by a favorable vote of a majority of the qualified voters in the taxing unit, a \$3,000 exemption from the appraised value of the homestead, unless a larger amount has been authorized (Section 11.13[e]). In certain situations, however, this exemption cannot be taken along with the \$3,000 exemption authorized by Article VIII, Section 1-a, cited earlier. The benefits to owners 65 years or older do not end here.

## Homesteads and the Elderly

A school district may not increase the total amount of annual ad valorem taxes imposed on the homestead beyond the amount imposed the first year the owner qualified for the 65-year-or-older exemption (Section 11.26). Additional taxes may be imposed but only to the extent subsequent repairs or improvements enhance the homestead's value.

Effective September 1, 1989, homestead owners 65 years or older may pay their taxes in quarterly installments (Section 31.031). The first installment is due before the delinquency date (generally February 1), the second is due on or before April 1, the third on or before June 1 and the last on or before August 1. Failure to make a required installment mandates a 12 percent penalty plus interest.

**A**lso, to ease the burden of paying taxes on persons of all ages, effective September 1, 1989, tax payments may be made by credit card. A collector may accept such payment if the card is duly paid or honored by the issuing company (Section 31.06). The collector shall set and collect a fee for processing the payment that is reasonably related to the expense incurred. In no event, however, can the fee exceed 5 percent of the amount of the taxes, penalties and interest being paid.

And finally, individuals who are 65 years or older may totally defer the payment of property taxes on the homestead until the person no longer owns or occupies the prop-

erty as a homestead (Section 33.06). This law insures that the elderly cannot be displaced from their homestead for failing to pay property taxes.

To obtain the deferment, owners must file an affidavit with the chief appraiser of the appraisal district. In the affidavit, they must swear they are at least 65 years old and occupy the residence as a homestead. After the affidavit is filed, a taxing unit may not file a suit to collect delinquent property taxes until the individual no longer owns or occupies the property as a homestead. (Affidavits are available at the appraisal district offices.)

However, the affidavit does not eliminate the property taxes. It only defers payment until the property no longer is owned or occupied by the elderly owner. Thereafter, the new owner or the estate of the deceased homeowner must pay the accrued tax liability to retain the property.

During the deferral, a tax lien is placed on the property and interest at 8 percent per annum is imposed on the unpaid taxes. Effective September 1, 1989, no penalty may be imposed unless the taxes are not paid within 90 days after the deferral expires.

This column is for information only; it is not a substitute for legal counsel. ☞

*Fambrough is an attorney, a member of the State Bar of Texas and senior lecturer with the Real Estate Center at Texas A&M University.*

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