

BILL ANALYSIS

S.B. 1203
By: Madla
Local Government Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There is currently a strong difference in the interpretation of Section 1.111(f), Tax Code, between major county tax offices and the larger independent school districts (ISDs). As proposed, C.S.S.B. 1203 strengthens the legislative directive to tax offices and eliminates disparate treatment among homeowner/taxpayers who reside in different counties or live in counties where the county tax office and the local ISD have different interpretations. A more precise definition will provide a clear direction to the local tax office that all refunds are to be paid to the homeowner/taxpayer or a specifically-designated agent. The legislation should also help curtail the practice of sending refunds to mortgage companies or mortgage loan processors. This has resulted in a litany of stories where the homeowner/taxpayer never received credit in their escrow accounts or any acknowledgment of a reduction in the amount withheld by the mortgage company. When refunds are sent to mortgage companies, the homeowner/taxpayer often does not receive the refunded amounts while the refunds end up in a suspense file which eventually is recognized as income for the mortgage company. When homeowner/taxpayers sell or refinance their homes, the checks that are not sent to the designated agent or homeowner are often received by entities or individuals that are essentially strangers to the refund and are never received by the proper homeowner/taxpayer.

In addition, some taxing authorities require a separate refund application even though the appraisal district has approved the changes to the certified tax roll which identify the refund should be paid. S.B. 1203 prevents taxing authorities from requiring homeowner/taxpayers to make additional applications for refunds clearly approved by the appraisal districts. This additional application is not authorized by the legislature and is merely a creature of the vagaries of a few tax offices. Essentially, the clarification will streamline the process for making payments to homeowners that may be delayed by unnecessary additional approvals instituted by some taxing authorities and not authorized by the legislature.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 1.111, Tax Code, by amending Subsection (f) and adding Subsection (f-1), as follows:

(f) Requires a written instrument directing delivery of certain tax related communications to clearly identify the property owner by name and give the person's address to which those items, rather than all notices, tax bills, orders, and other communications, are to be delivered. Authorizes the instrument to also direct an appraisal district or taxing unit to deliver tax refunds relating to the property to the specified person. Requires an instrument directing an appraisal district or taxing unit to deliver a tax refund to a specified person or agent to specify the refunds to which the direction applies, including identification of the property to which the refund applies and the tax year for which the refund it to be made. Makes conforming changes.

(f-1) Requires a specified person or agent to notify the property owner that the refund was delivered to that person or agent not later than the 30th day after the date an appraisal

district or taxing unit delivers a tax refund to the specified person or agent designated by a property owner under Subsection (f).

SECTION 2. Amends Section 11.431(b), Tax Code, to provide that a person is not required to apply for a refund under this subsection to receive the refund.

SECTION 3. Amends Section 26.15(f), Tax Code, to provide that a person is not required to apply for a refund under this subsection to receive the refund.

SECTION 4. Amends Section 31.11, Tax Code, by adding Subsection (h), to provide that this section does not apply to an overpayment caused by a change of exemption status or correction of a tax roll. Provides that such an overpayment is covered by Section 26.15 (Correction of Tax Roll) or 42.43 (Refund), as applicable.

SECTION 5. Effective date: September 1, 2005.

EFFECTIVE DATE

September 1, 2005