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OPINION COMMITTEE



Harvey Hilderbran
MEMBER

FILE # M1-46850-11
I.D. # 46850

District Office:
125 Lehmann Drive
Kerrville, Texas 78028
830-257-2333

The Texas House of Representatives
State Representative • District 53

P.O. Box 2910
Austin, Texas 78768-2910
512-463-0536

October 19, 2011

RQ-1008-GA

The Honorable Greg Abbott
Attorney General of Texas
Attention: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Re: Interpretation of Applicant Identification Procedures Set Forth in HB 252, 82nd Legislature, R.S.

Dear General Abbott:

This is a request for an opinion from your office.

Background

The 82nd Legislature, during the regular session, enacted HB 252 dealing with applications for various types of residence homestead exemptions from ad valorem property taxation. The bill, which was effective September 1, 2011, amends Sec. 11.13, Tax Code, by amending Subsection (j) and adding Subsections (n) and (o).

Subsection (j) reads as follows:

(j) In addition to the items required by Subsection (f), an application for a residence homestead exemption prescribed by the comptroller and authorized by Section 11.13 must:

- (1) list each owner of the residence homestead and the interest of each owner;
- (2) state that the applicant does not claim an exemption under that section on another residence homestead in this state or claim a residence homestead exemption on a residence homestead outside this state;
- (3) state that each fact contained in the application is true;
- (4) include a copy of the applicant's driver's license or state-issued personal identification certificate and:

- (A) a copy of the applicant's vehicle registration receipt; or
- (B) if the applicant does not own a vehicle, an affidavit to that effect signed by the applicant and a copy of a utility bill for the property subject to the claimed exemption in the applicant's name;

- (5) state that the applicant has read and understands the notice of the penalties required by Subsection (f); and
- (6) be signed by the applicant.

Subsection (n) provides that a chief appraiser may not allow an exemption provided by Section 11.13 unless the address on the driver's license or state-issued personal identification certificate provided by the applicant under Subsection (j) corresponds to the address on the applicant's vehicle registration receipt or utility bill provided under that subsection; and the address indicated in Subdivision (1) corresponds to the address of the property for which the exemption is claimed.

Chief appraisers of the several county appraisal districts have recently raised questions about interpretation of certain provisions in Subsections (j) and (n) and request guidance on how to proceed with exemption applications that may fall within the questions enumerated below.

Issues on which an opinion is requested

Due to these questions, I respectfully request an opinion from your office on the following legal issues:

- (1) Does federal law permit military personnel stationed in Texas to receive a residence homestead exemption in this state without the need of a Texas driver's license or Texas-issued identification card?
- (2) In the case of a member of the military stationed in Texas, is a driver's license or identification issued by another state or by a federal agency showing the address for which a Texas homestead exemption is sought sufficient to meet the new requirements of Tax Code Section 11.13.
- (3) In the case of applicants who are not members of the military, do the amendments to Tax Code 11.13 enacted in HB 252 that refer to a driver's license, personal identification, and motor vehicle registration receipt apply to such documents issued by another state so long as the address is the property on which a homestead exemption is sought?
- (4) May the chief appraiser grant an exemption if, due to the fact the property owner resides at an address to which mail is not delivered by the Post Office, the applicant submits a driver's license or state-issued identification card that bears a Post Office box address or 911 - Emergency Services Address?
- (5) If the homestead exemption applicant is a non-documented alien who is in the United States illegally, may the chief appraiser grant a homestead exemption if the applicant can produce neither a driver's license or state-issued identification card bearing the applicant's name and address for which the exemption is sought?
- (6) If the homestead exemption applicant has an expired Texas Driver's License, but no registered vehicle in his/her name and their utilities are in the name of a relative, may the chief appraiser grant the exemption?
- (7) If the applicant submits a driver's license, state-issued identification card, or vehicle registration receipt which is expired, may the chief appraiser still grant the exemption application?

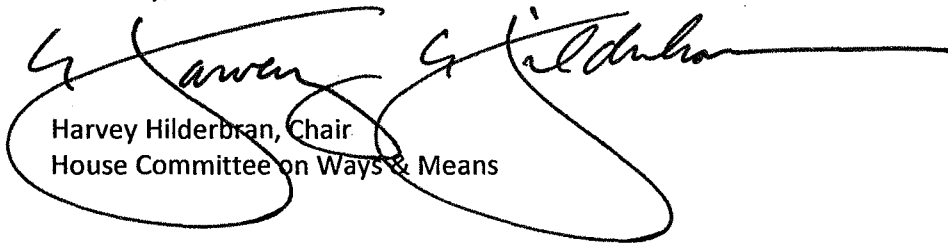
In regard to question (3), above, Chapter 502, Transportation Code, does not permit a Texas resident to operate a motor vehicle in this state for other than a temporary period unless the vehicle is registered in Texas. Section 521.029, Transportation Code, clearly requires a new resident of this state who is licensed by another state to obtain a Texas license within 90 days. For this reason, there would appear

to be no valid reason, other than possibly in the case of military personnel, for the chief appraiser to accept a driver's license issued by another state.

Regarding question (7), submission of expired identification or registration information raises the possibility that the applicant may have current documents bearing another address in perhaps another county or state.

Since chief appraisers are already dealing with homestead exemption applications that pose the issues I have noted, I very much appreciate your earliest possible attention to this important request. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Harvey Hilderbran". The signature is written in a cursive style with a long horizontal stroke extending to the right. It is positioned above the typed name and title.

Harvey Hilderbran, Chair
House Committee on Ways & Means