

Sec. 33.06. DEFERRED COLLECTION OF TAXES ON RESIDENCE HOMESTEAD OF ELDERLY OR DISABLED PERSON. (a) An individual is entitled to defer collection of a tax, abate a suit to collect a delinquent tax, or abate a sale to foreclose a tax lien if the individual:

(1) is 65 years of age or older or is disabled as defined by Section 11.13(m); and

(2) the tax was imposed against property that the individual owns and occupies as a residence homestead.

(b) To obtain a deferral, an individual must file with the chief appraiser for the appraisal district in which the property is located an affidavit stating the facts required to be established by Subsection (a). The chief appraiser shall notify each taxing unit participating in the district of the filing. After an affidavit is filed under this subsection, a taxing unit may not file suit to collect delinquent taxes on the property and the property may not be sold at a sale to foreclose the tax lien until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead.

(c) To obtain an abatement of a pending suit, the individual must file in the court in which suit is pending an affidavit stating the facts required to be established by Subsection (a). If no controverting affidavit is filed by the taxing unit filing suit or if, after a hearing, the court finds the individual is entitled to the deferral, the court shall abate the suit until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead. The clerk of the court shall deliver a copy of the judgment abating the suit to the chief appraiser of each appraisal district that appraises the property.

(c-1) To obtain an abatement of a pending sale to foreclose the tax lien, the individual must deliver an affidavit stating the facts required to be established by Subsection (a) to the chief appraiser of each appraisal district that appraises the property, the collector for the taxing unit that requested the order of sale or the attorney representing that unit for the

collection of delinquent taxes, and the officer charged with selling the property not later than the fifth day before the date of the sale. After an affidavit is delivered under this subsection, the property may not be sold at a tax sale until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead. If property is sold in violation of this section, the property owner may file a motion to set aside the sale under the same cause number and in the same court as a judgment reference in the order of sale. The motion must be filed during the applicable redemption period as set forth in Section 34.21(a) or, if the property is bid off to a taxing entity, on or before the 180th day following the date the taxing unit's deed is filed of record, whichever is later. This right is not transferable to a third party.

(d) A tax lien remains on the property and interest continues to accrue during the period collection of taxes is deferred or abated under this section. The annual interest rate during the deferral or abatement period is eight percent instead of the rate provided by Section 33.01. Interest and penalties that accrued or that were incurred or imposed under Section 33.01 or 33.07 before the date the individual files the deferral affidavit under Subsection (b) or the date the judgment abating the suit is entered, as applicable, are preserved. A penalty under Section 33.01 is not incurred during a deferral or abatement period. The additional penalty under Section 33.07 may be imposed and collected only if the taxes for which collection is deferred or abated remain delinquent on or after the 181st day after the date the deferral or abatement period expires. A plea of limitation, laches, or want of prosecution does not apply against the taxing unit because of deferral or abatement of collection as provided by this section.

(e) Each year the chief appraiser for each appraisal district shall publicize in a manner reasonably designed to notify all residents of the district or county of the provisions of this section and, specifically, the method by which eligible persons may obtain a deferral or abatement.

(f) Notwithstanding the other provisions of this section, if an individual who qualifies for a deferral or abatement of collection of taxes on property as provided by this section dies, the deferral or abatement continues in effect until the 181st day after the date the surviving spouse of the individual no longer owns and occupies the property as a residence homestead if:

(1) the property was the residence homestead of the deceased spouse when the deceased spouse died;

(2) the surviving spouse was 55 years of age or older when the deceased spouse died; and

(3) the property was the residence homestead of the surviving spouse when the deceased spouse died.

(g) If the ownership interest of an individual entitled to a deferral under this section is a life estate, a lien for the deferred tax attaches to the estate of the life tenant, and not to the remainder interest, if the owner of the remainder is an institution of higher education that has not consented to the deferral. In this subsection, "institution of higher education" has the meaning assigned by Section 61.003, Education Code. This subsection does not apply to a deferral for which the individual entitled to the deferral filed the affidavit required by Subsection (b) before September 1, 2011.

Acts 1979, 66th Leg., p. 2291, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 168, ch. 13, Sec. 129, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 793, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1039, Sec. 35, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 892, Sec. 1, 2, eff. June 14, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 12, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 754, Sec. 1, 2, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 4.05, eff. June 17, 2011.