

A black and white photograph of the Texas State Capitol dome, showing the top of the dome with the Statue of Liberty on top, set against a cloudy sky. The image is positioned on the left side of the slide.

# **Chapter 312 Overview**

**Committee on Ways & Means  
Texas House of Representatives**

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# What is Chapter 312?

**Chapter 312 of the Tax Code is the Property Redevelopment and Tax Abatement Act, which authorizes local taxing units, other than school districts, at their discretion to offer **temporary** property tax exemptions for improvements to existing property.**

# Texas Property Tax Economic Development Incentive Programs

	<b>Tax Code Chapter 312</b>	<b>Tax Code Chapter 313</b>
Taxing Units	Counties, Cities, and Special Districts	School Districts
Taxpayer Benefit	Up to 10 year property tax exemptions at an amount up to 100%	Partial property tax exemptions, limiting appraised values, up to 10 years
State Fiscal Impact	None	No state funding reduction to school districts based on non-taxed value
Expiration	September 1, 2019	December 31, 2022

# History of Chapter 312

- Enacted in 1987 as SB 888 and applicable to all local taxing units (prior law was V.A.C.S. 1066f)
- Review by the Sunset Advisory Commission added in 1989
- Amended in 1991 to create an expiration date of September 1, 1995, rather than Sunset review
- Reauthorized in 1995, 2001, and 2009
- School districts effectively excluded in 1993 and statutorily prohibited in 2001 when Chapter 313 (Texas Economic Development Act) was enacted to allow school districts to offer appraised value limitations for certain projects

# Constitutional Authorization

## Article VIII, Section 1-g

(a) The Legislature by general law may authorize cities, towns, and other taxing units to **grant exemptions** or other relief from ad valorem taxes on property located in a reinvestment zone for the purpose of **encouraging development or redevelopment and improvement of the property.**

(b) The Legislature by general law may authorize an incorporated city or town to issue bonds or notes to finance the development or redevelopment of an unproductive, underdeveloped, or blighted area within the city or town and to pledge for repayment of those bonds or notes increases in ad valorem tax revenues imposed on property in the area by the city or town and other political subdivisions.

# A Project Must Provide:

- Specific improvements or repairs to real property, including residential, commercial, industrial, and outdoor advertising property;
- New facilities or expansion or modernization of existing facilities; and
- A benefit to existing property that would contribute to the economic development of the area

# Existing Abatement Projects

- 1,176 active projects reported
- 165 new city and county projects reported for 2016 and 2017:
  - 143 commercial and industrial
  - 76 new businesses
- Over half of the businesses receiving abatements--less than 100 employees

Information from the Texas Comptroller of Public Accounts: *Biennial Registries of Reinvestment Zones for Tax Abatements and Tax Increment Financing 2018*

# Chapter 312 Basic Steps

1. Designation of reinvestment zones by cities or counties
2. Adoption of guidelines and criteria for abatement eligibility by participating taxing units
3. Agreement in writing between any taxing unit, except for a school district, and property owner to exempt from property taxation all or part of the value of new construction or improvements to existing property and personal property for a period not to exceed 10 years
4. Application for exemption submitted to and approved by the appraisal district



Step 1:

# **REINVESTMENT ZONE DESIGNATION**

# Reinvestment Zone Creation

- By city ordinance or county order only
- Must be created before other steps are taken
- Specific boundaries described
- Notice published 7 days before required public hearing and delivered to presiding officer of governing body of each taxing unit in the zone
- Must include a finding that improvements sought in the zone are feasible and practical and would benefit the land and the city or county after the expiration of an abatement agreement
- Expires after 5 years and may be renewed for periods not to exceed 5 years

# Step 2:

## **GUIDELINES AND CRITERIA**

# Guideline Requirements

- Created and adopted by each participating taxing unit before entering abatement agreements, but after reinvestment zone designation by a city or county
- Must adopt a resolution stating that the taxing unit elects to become eligible to participate in tax abatement
- Generally, must allow new facilities and structures and expansion or modernization of existing facilities and structures
- Effective for 2 years from adoption
- May only be amended or repealed by a  $\frac{3}{4}$  vote of the members of the taxing unit governing body

# Step 3:

## **ABATEMENT AGREEMENTS**

# Agreement Requirements

- Must be in writing with the owner of taxable real property or leasehold located in the reinvestment zone and approved by a majority vote of governing body of any taxing unit, except a school district, in a public meeting
- May not be an improvement project financed by tax increment bonds
- May include tangible personal property that was not located on the real property before an agreement with a municipality; may include more in county agreements
- Term of no more than 10 years
- Any percentage exemption amount authorized (up to 100%)

# Notice of Abatement Agreement to Other Taxing Units

- Not later than 7 days before the date on which a city or county enters an agreement
- Delivery to presiding officer of other taxing units in the reinvestment zone
- Notice of intent to enter an agreement
- Copy of agreement attached
- Failure to deliver notice does not affect the validity of the agreement.

# Agreement Requirements

- Specify improvements or repairs
- Must conform to comprehensive zoning ordinances
- Identical terms for the amount of value and duration of the exemption for agreements with property owners in a reinvestment zone
- Different terms permitted for each taxing unit
- “Claw-back” taxes for non-compliance and annual certification of compliance required
- Prohibition against agreements with owners who are members of governing body of a municipality, zoning/planning board, or county (with exception for existing agreements)



# Modification or Termination of Agreement

- May be modified to include other provisions or delete provisions that were not necessary to the agreement
- Same procedure as approval and execution of the original agreement required
- May not be modified to extend beyond 10 years from the date of the original agreement
- Termination by mutual consent of the parties in the same manner of the agreement's approval and execution

Step 4:

# **APPLICATION FOR EXEMPTION**

# Exemption Application

- Exemption authorization (Tax Code Section 11.28)
- Annual application with appraisal district (Tax Code Section 11.43(a) and (c))
- Application required before May 1 each year (Tax Code Section 11.43(d))
- Model Comptroller Form 50-116 application
- Appraisal district approval of application each year required for agreement to be effective

# Application Provisions

- Property description
- List of each taxing unit granting the abatement
- Duration of agreement
- Amount of exemption provided in agreement
- Copies of abatement agreements required
- Statement describing exemption amount if not a lump sum or percentage
- Explanation of noncompliance with agreement, if applicable

# Reporting

- Information provided to appraisal district by property owner in **annual exemption application** prescribed by Comptroller
- Chief appraiser **reporting to Comptroller** before July 1 of each year concerning reinvestment zones created, copies of abatement agreements, and other information required by the Comptroller
- Comptroller **submission of report to Legislature** by December 31 of even-numbered years summarizing information provided by chief appraisers

If you have any questions or comments,  
please feel free to contact TTARA staff.

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