

1-1 By: Murphy, Middleton (Senate Sponsor - Creighton) H.B. No. 388  
 1-2 (In the Senate - Received from the House May 9, 2019;  
 1-3 May 13, 2019, read first time and referred to Committee on Property  
 1-4 Tax; May 21, 2019, reported favorably by the following vote:  
 1-5 Yeas 4, Nays 0; May 21, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Bettencourt	X			
1-8 Paxton	X			
1-9 Creighton	X			
1-10 Hancock	X			
1-11 Hinojosa			X	

1-13 A BILL TO BE ENTITLED  
 1-14 AN ACT

1-15 relating to the exemption from ad valorem taxation of real property  
 1-16 leased to and used by certain schools.

1-17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-18 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by  
 1-19 adding Section 11.211 to read as follows:

1-20 Sec. 11.211. REAL PROPERTY LEASED TO CERTAIN SCHOOLS. (a)  
 1-21 A person is entitled to an exemption from taxation of the portion of  
 1-22 the real property that the person owns and leases to an  
 1-23 open-enrollment charter school authorized by Subchapter D, Chapter  
 1-24 12, Education Code, that is qualified as provided by Section  
 1-25 11.21(d) of this code if:

1-26 (1) the portion of the real property that is leased to  
 1-27 the school is:

1-28 (A) used exclusively by the school for the  
 1-29 operation or administration of the school or the performance of  
 1-30 other educational functions by the school; and

1-31 (B) reasonably necessary for a purpose described  
 1-32 by Paragraph (A); and

1-33 (2) the owner of the portion of the real property that  
 1-34 is leased to the school certifies by affidavit to the school that:

1-35 (A) if the lease agreement requires the school to  
 1-36 pay the taxes imposed on the real property as a portion of the total  
 1-37 consideration paid to the property owner under the agreement, the  
 1-38 owner will reduce the total consideration required to be paid by the  
 1-39 school under the lease agreement by an amount equal to the amount by  
 1-40 which the taxes on the real property are reduced as a result of the  
 1-41 exemption by providing a monthly or annual credit against the total  
 1-42 consideration due under the agreement; or

1-43 (B) if the lease agreement requires the school to  
 1-44 pay the taxes imposed on the real property directly to the collector  
 1-45 for the applicable taxing unit or to the owner or the property  
 1-46 manager separately from the payment of rent to the property owner  
 1-47 under the agreement, the school is no longer required to pay the  
 1-48 taxes to the collector, owner, or property manager, as applicable,  
 1-49 and the rent charged to the school under the agreement is not  
 1-50 affected unless a term of the agreement specifically provides for a  
 1-51 change in the amount of the rent.

1-52 (b) A property owner required to provide an affidavit  
 1-53 described by Subsection (a)(2)(A) to an open-enrollment charter  
 1-54 school shall:

1-55 (1) provide the school with a disclosure document  
 1-56 stating the amount by which the taxes on the real property are  
 1-57 reduced as a result of the exemption and the method the owner will  
 1-58 implement to ensure that the total consideration for the lease of  
 1-59 the real property fully reflects the total amount of that  
 1-60 reduction; and

1-61 (2) reduce the total consideration for the lease of

2-1 the real property through a monthly or annual credit against the  
2-2 total consideration to reflect the amount by which the taxes on the  
2-3 real property are reduced as a result of the exemption.

2-4 (c) This section may not be construed as invalidating an  
2-5 exemption from taxation of real property granted to an  
2-6 open-enrollment charter school on the basis of Section 12.128,  
2-7 Education Code, before January 1, 2020.

2-8 (d) Section 25.07 does not apply to a leasehold interest in  
2-9 real property for which the owner receives an exemption under this  
2-10 section.

2-11 SECTION 2. This Act applies only to ad valorem taxes imposed  
2-12 for a tax year beginning on or after the effective date of this Act.

2-13 SECTION 3. This Act takes effect January 1, 2020, but only  
2-14 if the constitutional amendment proposed by the 86th Legislature,  
2-15 Regular Session, 2019, authorizing the legislature to exempt from  
2-16 ad valorem taxation real property leased to certain schools  
2-17 organized and operated primarily for the purpose of engaging in  
2-18 educational functions is approved by the voters. If that amendment  
2-19 is not approved by the voters, this Act has no effect.

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