

By: Shine

H.B. No. 492

A BILL TO BE ENTITLED

AN ACT

relating to a temporary local option exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.35 to read as follows:

Sec. 11.35. TEMPORARY EXEMPTION FOR QUALIFIED PROPERTY DAMAGED BY DISASTER. (a) In this section, "qualified property" means property that:

(1) consists of:

(A) tangible personal property used for the production of income; or

(B) an improvement to real property;

(2) is located in an area declared by the governor to be a disaster area following a disaster;

(3) is at least 15 percent damaged by the disaster, as determined by the chief appraiser under this section; and

(4) for property described by Subdivision (1)(A), is the subject of a rendition statement or property report filed by the property owner under Section 22.01 that demonstrates that the property had taxable situs in the disaster area for the tax year in which the disaster occurred.

(b) A person is entitled to an exemption from taxation by a

1 taxing unit of a portion of the appraised value of qualified
2 property that the person owns if the exemption is adopted by the
3 governing body of the taxing unit in the manner provided by law for
4 official action by the body.

5 (c) An exemption adopted by the governing body of a taxing
6 unit under this section must:

7 (1) specify the disaster to which the exemption
8 pertains; and

9 (2) be adopted not later than the 60th day after the
10 date the governor first declares territory in the taxing unit to be
11 a disaster area as a result of the disaster.

12 (d) A taxing unit the governing body of which adopts an
13 exemption under this section shall, not later than the seventh day
14 after the date the governing body adopts the exemption, notify the
15 chief appraiser of each appraisal district in which the taxing unit
16 participates, the assessor for the taxing unit, and the comptroller
17 of the adoption of the exemption.

18 (e) On receipt of an application for the exemption
19 authorized by this section, the chief appraiser shall determine
20 whether any item of qualified property that is the subject of the
21 application is at least 15 percent damaged by the disaster and
22 assign to each such item of qualified property a damage assessment
23 rating of Level I, Level II, Level III, or Level IV, as appropriate,
24 as provided by Subsection (f). In determining the appropriate
25 damage assessment rating, the chief appraiser may rely on
26 information provided by a county emergency management authority,
27 the Federal Emergency Management Agency, or any other source the

1 chief appraiser considers appropriate.

2 (f) The chief appraiser shall assign to an item of qualified
3 property:

4 (1) a Level I damage assessment rating if the property
5 is at least 15 percent, but less than 30 percent, damaged, meaning
6 that the property suffered minimal damage and may continue to be
7 used as intended;

8 (2) a Level II damage assessment rating if the
9 property is at least 30 percent, but less than 60 percent, damaged,
10 which, for qualified property described by Subsection (a)(1)(B),
11 means that the property has suffered only nonstructural damage,
12 including nonstructural damage to the roof, walls, foundation, or
13 mechanical components, and the waterline, if any, is less than 18
14 inches above the floor;

15 (3) a Level III damage assessment rating if the
16 property is at least 60 percent damaged but is not a total loss,
17 which, for qualified property described by Subsection (a)(1)(B),
18 means that the property has suffered significant structural damage
19 requiring extensive repair due to the failure or partial failure of
20 structural elements, wall elements, or the foundation, or the
21 waterline is at least 18 inches above the floor; or

22 (4) a Level IV damage assessment rating if the
23 property is a total loss, meaning that repair of the property is not
24 feasible.

25 (g) Subject to Subsection (h), the amount of the exemption
26 authorized by this section for an item of qualified property is
27 determined by multiplying the appraised value, determined for the

tax year in which the disaster occurred, of the property by:

(1) 15 percent, if the property is assigned a Level I damage assessment rating;

(2) 30 percent, if the property is assigned a Level II damage assessment rating;

(3) 60 percent, if the property is assigned a Level III damage assessment rating; or

(4) 100 percent, if the property is assigned a Level IV damage assessment rating.

(h) If a person qualifies for the exemption authorized by this section after the beginning of the tax year, the amount of the exemption is calculated by multiplying the amount determined under Subsection (g) by a fraction, the denominator of which is 365 and the numerator of which is the number of days remaining in the tax year after the day on which the governor first declares the area in which the person's qualified property is located to be a disaster area, including the day on which the governor makes the declaration.

(i) If a person qualifies for the exemption authorized by this section after the amount of the tax due on the qualified property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, the assessor for each taxing unit that has adopted the exemption shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the

1 person's authorized agent. If the tax on the property has been
2 paid, the tax collector for the taxing unit shall refund to the
3 person who paid the tax the amount by which the payment exceeded the
4 tax due. No interest is due on an amount refunded under this
5 subsection.

6 (j) The exemption authorized by this section expires as to
7 an item of qualified property on January 1 of the first tax year in
8 which the property is reappraised under Section 25.18.

9 SECTION 2. Section 11.42(e), Tax Code, is amended to read as
10 follows:

11 (e) A person who qualifies for an exemption under Section
12 11.131 or 11.35 after January 1 of a tax year may receive the
13 exemption for the applicable portion of that tax year immediately
14 on qualification for the exemption.

15 SECTION 3. Section 11.43, Tax Code, is amended by amending
16 Subsection (c) and adding Subsection (s) to read as follows:

17 (c) An exemption provided by Section 11.13, 11.131, 11.132,
18 11.133, 11.134, 11.17, 11.18, 11.182, 11.1827, 11.183, 11.19,
19 11.20, 11.21, 11.22, 11.23(a), (h), (j), (j-1), or (m), 11.231,
20 11.254, 11.27, 11.271, 11.29, 11.30, 11.31, ~~or~~ 11.315, or 11.35,
21 once allowed, need not be claimed in subsequent years, and except as
22 otherwise provided by Subsection (e), the exemption applies to the
23 property until it changes ownership or the person's qualification
24 for the exemption changes. However, except as provided by
25 Subsection (r), the chief appraiser may require a person allowed
26 one of the exemptions in a prior year to file a new application to
27 confirm the person's current qualification for the exemption by

delivering a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the exemption. If the person previously allowed the exemption is 65 years of age or older, the chief appraiser may not cancel the exemption due to the person's failure to file the new application unless the chief appraiser complies with the requirements of Subsection (q), if applicable.

(s) A person who qualifies for an exemption under Section 11.35 must apply for the exemption not later than the 45th day after the date the governing body of the taxing unit adopts the exemption, provided that the chief appraiser may extend the deadline for good cause shown.

SECTION 4. Section 11.45, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) If the chief appraiser approves, modifies, or denies an application for an exemption under Section 11.35, the chief appraiser shall deliver a written notice of the approval, modification, or denial to the applicant not later than the fifth day after the date the chief appraiser makes the determination. The notice must include the damage assessment rating assigned by the chief appraiser to each item of qualified property that is the subject of the application and a brief explanation of the procedures for protesting the chief appraiser's determination. The notice required under this subsection is in lieu of any notice that would otherwise be required under Subsection (d).

SECTION 5. Section 26.012(15), Tax Code, is amended to read as follows:

1 (15) "Lost property levy" means the amount of taxes
2 levied in the preceding year on property value that was taxable in
3 the preceding year but is not taxable in the current year because
4 the property is exempt in the current year under a provision of this
5 code other than Section 11.251, ~~[or]~~ 11.253, or 11.35, the property
6 has qualified for special appraisal under Chapter 23 in the current
7 year, or the property is located in territory that has ceased to be
8 a part of the taxing unit since the preceding year.

9 SECTION 6. Section 41.03(a), Tax Code, is amended to read as
10 follows:

11 (a) A taxing unit is entitled to challenge before the
12 appraisal review board:

13 (1) the level of appraisals of any category of
14 property in the district or in any territory in the district, but
15 not the appraised value of a single taxpayer's property;

16 (2) an exclusion of property from the appraisal
17 records;

18 (3) a grant in whole or in part of a partial exemption,
19 other than an exemption under Section 11.35;

20 (4) a determination that land qualifies for appraisal
21 as provided by Subchapter C, D, E, or H, Chapter 23; or

22 (5) a failure to identify the taxing unit as one in
23 which a particular property is taxable.

24 SECTION 7. Section 41.41, Tax Code, is amended by adding
25 Subsection (c) to read as follows:

26 (c) Notwithstanding Subsection (a), a property owner is
27 entitled to protest before the appraisal review board only the

following actions of the chief appraiser in relation to an exemption under Section 11.35:

(1) the modification or denial of an application for an exemption under that section; or

(2) the determination of the appropriate damage assessment rating for an item of qualified property under that section.

SECTION 8. Section 41.44(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsections (b), (c), (c-1), and (c-2), to be entitled to a hearing and determination of a protest, the property owner initiating the protest must file a written notice of the protest with the appraisal review board having authority to hear the matter protested:

(1) not later than May 15 or the 30th day after the date that notice to the property owner was delivered to the property owner as provided by Section 25.19, whichever is later;

(2) in the case of a protest of a change in the appraisal records ordered as provided by Subchapter A of this chapter or by Chapter 25, not later than the 30th day after the date notice of the change is delivered to the property owner;

(3) in the case of a determination that a change in the use of land appraised under Subchapter C, D, E, or H, Chapter 23, has occurred, not later than the 30th day after the date the notice of the determination is delivered to the property owner; ~~[or]~~

(4) in the case of a determination of eligibility for a refund under Section 23.1243, not later than the 30th day after the

1 date the notice of the determination is delivered to the property
2 owner; or

3 (5) in the case of a protest of the modification or
4 denial of an application for an exemption under Section 11.35, or
5 the determination of an appropriate damage assessment rating for an
6 item of qualified property under that section, not later than the
7 30th day after the date the property owner receives the notice
8 required under Section 11.45(e).

9 SECTION 9. Section 403.302(d), Government Code, is amended
10 to read as follows:

11 (d) For the purposes of this section, "taxable value" means
12 the market value of all taxable property less:

13 (1) the total dollar amount of any residence homestead
14 exemptions lawfully granted under Section 11.13(b) or (c), Tax
15 Code, in the year that is the subject of the study for each school
16 district;

17 (2) one-half of the total dollar amount of any
18 residence homestead exemptions granted under Section 11.13(n), Tax
19 Code, in the year that is the subject of the study for each school
20 district;

21 (3) the total dollar amount of any exemptions granted
22 before May 31, 1993, within a reinvestment zone under agreements
23 authorized by Chapter 312, Tax Code;

24 (4) subject to Subsection (e), the total dollar amount
25 of any captured appraised value of property that:

26 (A) is within a reinvestment zone created on or
27 before May 31, 1999, or is proposed to be included within the

1 boundaries of a reinvestment zone as the boundaries of the zone and
2 the proposed portion of tax increment paid into the tax increment
3 fund by a school district are described in a written notification
4 provided by the municipality or the board of directors of the zone
5 to the governing bodies of the other taxing units in the manner
6 provided by former Section 311.003(e), Tax Code, before May 31,
7 1999, and within the boundaries of the zone as those boundaries
8 existed on September 1, 1999, including subsequent improvements to
9 the property regardless of when made;

10 (B) generates taxes paid into a tax increment
11 fund created under Chapter 311, Tax Code, under a reinvestment zone
12 financing plan approved under Section 311.011(d), Tax Code, on or
13 before September 1, 1999; and

14 (C) is eligible for tax increment financing under
15 Chapter 311, Tax Code;

16 (5) the total dollar amount of any captured appraised
17 value of property that:

18 (A) is within a reinvestment zone:

19 (i) created on or before December 31, 2008,
20 by a municipality with a population of less than 18,000; and

21 (ii) the project plan for which includes
22 the alteration, remodeling, repair, or reconstruction of a
23 structure that is included on the National Register of Historic
24 Places and requires that a portion of the tax increment of the zone
25 be used for the improvement or construction of related facilities
26 or for affordable housing;

27 (B) generates school district taxes that are paid

1 into a tax increment fund created under Chapter 311, Tax Code; and

2 (C) is eligible for tax increment financing under
3 Chapter 311, Tax Code;

4 (6) the total dollar amount of any exemptions granted
5 under Section 11.251 or 11.253, Tax Code;

6 (7) the difference between the comptroller's estimate
7 of the market value and the productivity value of land that
8 qualifies for appraisal on the basis of its productive capacity,
9 except that the productivity value estimated by the comptroller may
10 not exceed the fair market value of the land;

11 (8) the portion of the appraised value of residence
12 homesteads of individuals who receive a tax limitation under
13 Section 11.26, Tax Code, on which school district taxes are not
14 imposed in the year that is the subject of the study, calculated as
15 if the residence homesteads were appraised at the full value
16 required by law;

17 (9) a portion of the market value of property not
18 otherwise fully taxable by the district at market value because of:

19 (A) action required by statute or the
20 constitution of this state, other than Section 11.311, Tax Code,
21 that, if the tax rate adopted by the district is applied to it,
22 produces an amount equal to the difference between the tax that the
23 district would have imposed on the property if the property were
24 fully taxable at market value and the tax that the district is
25 actually authorized to impose on the property, if this subsection
26 does not otherwise require that portion to be deducted; or

27 (B) action taken by the district under Subchapter

1 B or C, Chapter 313, Tax Code, before the expiration of the
2 subchapter;

3 (10) the market value of all tangible personal
4 property, other than manufactured homes, owned by a family or
5 individual and not held or used for the production of income;

6 (11) the appraised value of property the collection of
7 delinquent taxes on which is deferred under Section 33.06, Tax
8 Code;

9 (12) the portion of the appraised value of property
10 the collection of delinquent taxes on which is deferred under
11 Section 33.065, Tax Code; ~~and~~

12 (13) the amount by which the market value of a
13 residence homestead to which Section 23.23, Tax Code, applies
14 exceeds the appraised value of that property as calculated under
15 that section; and

16 (14) the total dollar amount of any exemptions granted
17 under Section 11.35, Tax Code.

18 SECTION 10. Section 23.02, Tax Code, is repealed.

19 SECTION 11. Section 11.35, Tax Code, as added by this Act,
20 applies only to ad valorem taxes imposed for a tax year that begins
21 on or after the effective date of this Act.

22 SECTION 12. This Act takes effect January 1, 2020, but only
23 if the constitutional amendment proposed by the 86th Legislature,
24 Regular Session, 2019, authorizing the legislature to provide for a
25 temporary local option exemption from ad valorem taxation of a
26 portion of the appraised value of certain property damaged by a
27 disaster is approved by the voters. If that amendment is not

H.B. No. 492

1 approved by the voters, this Act has no effect.