

1-1 By: Shine, et al. (Senate Sponsor - Taylor) H.B. No. 492
1-2 (In the Senate - Received from the House April 23, 2019;
1-3 April 24, 2019, read first time and referred to Committee on
1-4 Property Tax; May 21, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 21, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Bettencourt	X			
1-9 Paxton	X			
1-10 Creighton	X			
1-11 Hancock	X			
1-12 Hinojosa	X			

1-14 COMMITTEE SUBSTITUTE FOR H.B. No. 492 By: Bettencourt

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to a temporary exemption from ad valorem taxation of a
1-18 portion of the appraised value of certain property damaged by a
1-19 disaster.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by
1-22 adding Section 11.35 to read as follows:

1-23 Sec. 11.35. TEMPORARY EXEMPTION FOR QUALIFIED PROPERTY
1-24 DAMAGED BY DISASTER. (a) In this section, "qualified property"
1-25 means property that:

1-26 (1) consists of:

1-27 (A) tangible personal property used for the
1-28 production of income; or

1-29 (B) an improvement to real property;

1-30 (2) is located in an area declared by the governor to
1-31 be a disaster area following a disaster;

1-32 (3) is at least 15 percent damaged by the disaster, as
1-33 determined by the chief appraiser under this section; and

1-34 (4) for property described by Subdivision (1)(A), is
1-35 the subject of a rendition statement or property report filed by the
1-36 property owner under Section 22.01 that demonstrates that the
1-37 property had taxable situs in the disaster area for the tax year in
1-38 which the disaster occurred.

1-39 (b) A person is entitled to an exemption from taxation by a
1-40 taxing unit of a portion of the appraised value of qualified
1-41 property that the person owns in an amount determined under
1-42 Subsection (e).

1-43 (c) On receipt of an application for the exemption
1-44 authorized by this section, the chief appraiser shall determine
1-45 whether any item of qualified property that is the subject of the
1-46 application is at least 15 percent damaged by the disaster and
1-47 assign to each such item of qualified property a damage assessment
1-48 rating of Level I, Level II, Level III, or Level IV, as appropriate,
1-49 as provided by Subsection (d). In determining the appropriate
1-50 damage assessment rating, the chief appraiser may rely on
1-51 information provided by a county emergency management authority,
1-52 the Federal Emergency Management Agency, or any other source the
1-53 chief appraiser considers appropriate.

1-54 (d) The chief appraiser shall assign to an item of qualified
1-55 property:

1-56 (1) a Level I damage assessment rating if the property
1-57 is at least 15 percent, but less than 30 percent, damaged, meaning
1-58 that the property suffered minimal damage and may continue to be
1-59 used as intended;

1-60 (2) a Level II damage assessment rating if the

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

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

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

(e) Subject to Subsection (f), the amount of the exemption authorized by this section for an item of qualified property is 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.

(f) 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 (e) 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.

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

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

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

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

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

(c) An exemption provided by Section 11.13, 11.131, 11.132, 11.133, 11.134, 11.17, 11.18, 11.182, 11.1827, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(a), (h), (j), (j-1), or (m), 11.231, 11.254, 11.27, 11.271, 11.29, 11.30, 11.31, ~~or~~ 11.315, or 11.35, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e), the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes. However, except as provided by

Subsection (r), the chief appraiser may require a person allowed one of the exemptions in a prior year to file a new application to 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 105th day after the date the governor declares the area in which the person's qualified property is located to be a disaster area, 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:

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

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

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

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

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

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

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

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

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

(c) Notwithstanding Subsection (a), a property owner is 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 date the notice of the determination is delivered to the property owner; or

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

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

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

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

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

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

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

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

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

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

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

(A) is within a reinvestment zone:

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

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

(B) generates school district taxes that are paid

into a tax increment fund created under Chapter 311, Tax Code; and
 (C) is eligible for tax increment financing under Chapter 311, Tax Code;

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

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

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

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

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

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code, before the expiration of the subchapter;

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

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

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

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

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

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

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

SECTION 12. This Act takes effect January 1, 2020, but only if the constitutional amendment proposed by the 86th Legislature, Regular Session, 2019, authorizing the legislature to provide for a temporary exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

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