

By: Hefner

H.B. No. 3691

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the exemption from ad valorem taxation of certain  
3 property owned by a charitable organization that is engaged in  
4 providing housing and related facilities and services to persons  
5 who are at least 62 years of age.

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

7 SECTION 1. Section 11.18(d), Tax Code, is amended to read as  
8 follows:

9 (d) A charitable organization must be organized exclusively  
10 to perform religious, charitable, scientific, literary, or  
11 educational purposes and, except as permitted by Subsections (h)  
12 and (l), engage exclusively in performing one or more of the  
13 following charitable functions:

14 (1) providing medical care without regard to the  
15 beneficiaries' ability to pay, which in the case of a nonprofit  
16 hospital or hospital system means providing charity care and  
17 community benefits in accordance with Section 11.1801;

18 (2) providing support or relief to orphans, delinquent  
19 or [7] dependent[7 or handicapped] children in need of residential  
20 care, children with disabilities in need of residential care,  
21 abused or battered spouses or children in need of temporary  
22 shelter, the impoverished, or victims of natural disaster without  
23 regard to the beneficiaries' ability to pay;

24 (3) providing support without regard to the

1 beneficiaries' ability to pay to:

2 (A) elderly persons, including the provision of:

3 (i) recreational or social activities; and

4 (ii) facilities designed to address the  
5 special needs of elderly persons; or

6 (B) persons with disabilities [~~the handicapped~~],  
7 including training and employment:

8 (i) in the production of commodities; or

9 (ii) in the provision of services under 41  
10 U.S.C. Sections 8501-8506;

11 (4) preserving a historical landmark or site;

12 (5) promoting or operating a museum, zoo, library,  
13 theater of the dramatic or performing arts, or symphony orchestra  
14 or choir;

15 (6) promoting or providing humane treatment of  
16 animals;

17 (7) acquiring, storing, transporting, selling, or  
18 distributing water for public use;

19 (8) answering fire alarms and extinguishing fires with  
20 no compensation or only nominal compensation to the members of the  
21 organization;

22 (9) promoting the athletic development of boys or  
23 girls under the age of 18 years;

24 (10) preserving or conserving wildlife;

25 (11) promoting educational development through loans  
26 or scholarships to students;

27 (12) providing halfway house services pursuant to a

1 certification as a halfway house by the parole division of the Texas  
2 Department of Criminal Justice;

3 (13) providing permanent housing and related social,  
4 health care, and educational facilities for persons who are 62  
5 years of age or older:

6 (A) without regard to the residents' ability to  
7 pay; or

8 (B) as an organization described by Section  
9 11.1802;

10 (14) promoting or operating an art gallery, museum, or  
11 collection, in a permanent location or on tour, that is open to the  
12 public;

13 (15) providing for the organized solicitation and  
14 collection for distributions through gifts, grants, and agreements  
15 to nonprofit charitable, education, religious, and youth  
16 organizations that provide direct human, health, and welfare  
17 services;

18 (16) performing biomedical or scientific research or  
19 biomedical or scientific education for the benefit of the public;

20 (17) operating a television station that produces or  
21 broadcasts educational, cultural, or other public interest  
22 programming and that receives grants from the Corporation for  
23 Public Broadcasting under 47 U.S.C. Section 396, as amended;

24 (18) providing housing for low-income and  
25 moderate-income families, for unmarried individuals 62 years of age  
26 or older, for ~~handicapped~~ individuals with disabilities, and for  
27 families displaced by urban renewal, through the use of trust

1 assets that are irrevocably and, pursuant to a contract entered  
2 into before December 31, 1972, contractually dedicated on the sale  
3 or disposition of the housing to a charitable organization that  
4 performs charitable functions described by Subdivision (9);

5 (19) providing housing and related services to persons  
6 who are 62 years of age or older in a retirement community, if the  
7 retirement community provides independent living services,  
8 assisted living services, and nursing services to its residents on  
9 a single campus:

10 (A) without regard to the residents' ability to  
11 pay; ~~or~~

12 (B) in which at least four percent of the  
13 retirement community's combined net resident revenue is provided in  
14 charitable care to its residents; or

15 (C) as an organization described by Section  
16 11.1802;

17 (20) providing housing on a cooperative basis to  
18 students of an institution of higher education if:

19 (A) the organization is exempt from federal  
20 income taxation under Section 501(a), Internal Revenue Code of  
21 1986, as amended, by being listed as an exempt entity under Section  
22 501(c)(3) of that code;

23 (B) membership in the organization is open to all  
24 students enrolled in the institution and is not limited to those  
25 chosen by current members of the organization;

26 (C) the organization is governed by its members;

27 and

1 (D) the members of the organization share the  
2 responsibility for managing the housing;

3 (21) acquiring, holding, and transferring unimproved  
4 real property under an urban land bank demonstration program  
5 established under Chapter 379C, Local Government Code, as or on  
6 behalf of a land bank;

7 (22) acquiring, holding, and transferring unimproved  
8 real property under an urban land bank program established under  
9 Chapter 379E, Local Government Code, as or on behalf of a land bank;

10 (23) providing housing and related services to  
11 individuals who:

12 (A) are unaccompanied and homeless and have a  
13 disabling condition; and

14 (B) have been continuously homeless for a year or  
15 more or have had at least four episodes of homelessness in the  
16 preceding three years;

17 (24) operating a radio station that broadcasts  
18 educational, cultural, or other public interest programming,  
19 including classical music, and that in the preceding five years has  
20 received or been selected to receive one or more grants from the  
21 Corporation for Public Broadcasting under 47 U.S.C. Section 396, as  
22 amended; or

23 (25) providing, without regard to the beneficiaries'  
24 ability to pay, tax return preparation services and assistance with  
25 other financial matters.

26 SECTION 2. Subchapter B, Chapter 11, Tax Code, is amended by  
27 adding Section 11.1802 to read as follows:

1        Sec. 11.1802. REQUIREMENTS FOR CERTAIN CHARITABLE  
2 ORGANIZATIONS PROVIDING HOUSING AND SERVICES TO THE ELDERLY. (a)

3 In this section:

4        (1) "Charitable housing and services" means the  
5 following provided by a charitable organization to a person 62  
6 years of age or older in financial need:

7            (A) housing, including as an independent living  
8 facility, assisted living facility, or nursing facility; and

9            (B) any service designed to meet the unique needs  
10 of a person 62 years of age or older, including:

11                    (i) independent living services;

12                    (ii) assisted living services;

13                    (iii) nursing facility services;

14                    (iv) social services;

15                    (v) health services, including subsidized  
16 health services;

17                    (vi) services provided through a  
18 government-sponsored program, including through Medicaid or  
19 another federal, state, or local indigent health care program based  
20 on financial need;

21                    (vii) educational services; and

22                    (viii) donations.

23        (2) "Net resident revenue" means a charitable  
24 organization's total revenue from providing housing and services to  
25 residents of a facility operated by the organization who are 62  
26 years of age or older, less all allowances and discounts on  
27 residents' accounts, including:

- 1           (A) debts that are in default;
- 2           (B) contractual adjustments;
- 3           (C) teaching allowances;
- 4           (D) policy discounts;
- 5           (E) administrative adjustments; and
- 6           (F) other deductions from revenue.

7           (3) "Very low-income" has the meaning assigned by 12  
8 U.S.C. Section 1701q(k)(8).

9           (b) To qualify as a charitable organization under Section  
10 11.18(d)(13)(B) or (19)(C), an organization must:

11           (1) except as provided by Subsection (c), provide  
12 charitable housing and services in an unreimbursed amount that is  
13 not less than four percent of the charitable organization's net  
14 resident revenue;

15           (2) be located in a county with a population of less  
16 than 58,000 in which the entire county or the population of the  
17 entire county has been designated a health professionals shortage  
18 area; or

19           (3) operate a housing development restricted to very  
20 low-income persons who are 62 years of age or older.

21           (c) A charitable organization described by Subsection  
22 (b)(1) of this section that qualified for an exemption under  
23 Section 11.18(d)(13)(B) or (19)(C) in the preceding tax year and  
24 otherwise qualifies for the exemption in the current tax year is  
25 entitled to the exemption if the organization demonstrates that:

26           (1) a reduction in the amount of charitable housing  
27 and services prescribed by Subsection (b)(1) is necessary:

1           (A) to maintain financial reserves at a level  
2 required by a debt obligation;

3           (B) to prevent the organization from endangering  
4 its ability to continue operating; or

5           (C) in response to a natural or other disaster;  
6 or

7           (2) subject to Subsection (e), through unintended  
8 miscalculation, the organization failed in the preceding tax year  
9 to provide charitable housing and services in the amount prescribed  
10 by Subsection (b)(1).

11           (d) Subject to Subsection (e), a charitable organization  
12 that failed to provide charitable housing and services in the  
13 preceding tax year in the amount prescribed by Subsection (b)(1) of  
14 this section as described by Subsection (c)(2) of this section is  
15 entitled to an exemption under Section 11.18(d)(13)(B) or (19)(C)  
16 for the current tax year, but not for more than one tax year in each  
17 five tax years.

18           (e) A charitable organization to which Subsection (d)  
19 applies is not entitled to an exemption under Section  
20 11.18(d)(13)(B) or (19)(C) in the tax year following the current  
21 tax year unless the organization in the current tax year provides  
22 charitable housing and services in an amount at least equal to the  
23 sum of:

24           (1) the amount prescribed by Subsection (b)(1) for the  
25 current tax year; and

26           (2) the amount for the preceding tax year by which the  
27 organization failed to meet the requirement prescribed by



1 Subsection (b)(1).

2 (f) A charitable organization that fails to satisfy the  
3 requirements prescribed by Subsection (e) for the current tax year  
4 is liable for the amount of the tax, plus penalties and interest,  
5 that would have otherwise been imposed for both the preceding and  
6 current tax years, calculated as if the taxes were delinquent on  
7 February 1 of the tax year following the tax year for which the tax  
8 would otherwise have been imposed.

9 SECTION 3. The changes in law made by this Act apply only to  
10 an ad valorem tax year that begins on or after the effective date of  
11 this Act.

12 SECTION 4. This Act takes effect January 1, 2024.