

## **BILL ANALYSIS**

Senate Research Center

H.B. 3546  
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Engrossed

### **DIGEST AND PURPOSE**

Acts of the 75th and 77th Texas Legislatures created the Community Housing Development Organization (CHDO) exemption whereby a non-profit organization organized under an unrelated federal statute could be exempted from paying ad valorem taxes on property offered in furtherance of providing affordable housing to low-income and moderate-income individuals and families. H.B. 3546 eliminates the former CHDO exemption and institutes more stringent guidelines for future exemptions. This bill also provides a grandfather exception for an organization currently receiving an exemption under Section 11.182, Tax Code.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 11.182, Tax Code, to read as follows:

Sec. 11.182. COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS IMPROVING PROPERTY FOR LOW-INCOME AND MODERATE-INCOME HOUSING: PROPERTY PREVIOUSLY EXEMPT.

SECTION 2. Amends Section 11.182, Tax Code, by adding Subsection (j), to prohibit an organization from receiving an exemption under Subsection (b) or under Subsection (f), as added by Chapter 1191, Acts of the 77th Legislature, Regular Session, 2001, for property for a tax year beginning on or after January 1, 2004, unless the organization received an exemption under that subsection for that property for the 2003 tax year.

SECTION 3. Amends Subchapter B, Chapter 11, Tax Code, by adding Sections 11.1825 and 11.1826, as follows:

Sec. 11.1825. ORGANIZATIONS CONSTRUCTING OR REHABILITATING LOW-INCOME HOUSING: PROPERTY NOT PREVIOUSLY EXEMPT. (a) Provides that an organization is entitled to an exemption from taxation of real property owned by the organization that the organization constructs or rehabilitates and uses to provide housing to individuals or families meeting the income eligibility requirements of this section.

(b) Requires an organization, to receive an exemption under this section, to meet certain requirements.

(c) Provides that notwithstanding Subsection (b), an owner of real property that is not an organization described by that subsection is entitled to an exemption from taxation of property under this section if the property otherwise qualifies for the exemption and the owner meets certain criteria.

(d) Requires the entity, if the owner of the property is an entity described by Subsection (c), to meet certain guidelines.

- (e) Provides that a reference in this section to an organization includes an entity described by Subsection (c).
- (f) Requires the organization, for property to be exempt under this section, to own the property for the purpose of constructing or rehabilitating a housing project on the property and to perform certain acts.
- (g) Prohibits property from receiving an exemption under this section unless at least 50 percent of the total square footage of the dwelling units in the housing project is reserved for individuals or families described by Subsection (f).
- (h) Prohibits the annual total of the monthly rent charged or to be charged for each dwelling unit in the project reserved for an individual or family described by Subsection (f) from exceeding 30 percent of the area median family income for the household's place of residence, as adjusted for family size and as established by the United States Department of Housing and Urban Development.
- (i) Provides that for each dwelling unit rented to a public school employee, a peace officer of a county or municipality, a person serving on active duty as a member of the armed forces of the United States, an honorably discharged veteran of the armed forces of the United States, or a person 65 years of age or older, a dwelling unit of equal square footage is considered to have been reserved for an individual or family described by Subsection (f) for purposes of determining certain factors.
- (j) Provides that property owned for the purpose of constructing a housing project on the property is exempt under this section only if certain criteria exists.
- (k) Provides that for purposes of Subsection (j)(2), a housing project is under physical preparation if the organization has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the project or has conducted an environmental or land use study relating to the construction of the project.
- (l) Prohibits an organization from receiving an exemption for a housing project constructed by the organization if the construction of the project was completed before the effective date of this section.
- (m) Requires certain acts to be performed if the property is owned for the purpose of rehabilitating a housing project on the property:
- (n) Provides that beginning with the 2005 tax year, the amount of the reserve required by Subsection (m)(4)(B) is increased by an annual cost-of-living adjustment determined in the manner provided by Section 1(f)(3), Internal Revenue Code of 1986, as amended, substituting "calendar year 2004" for the calendar year specified in Section 1(f)(3)(B) of that code.
- (o) Requires a reserve to be established for each dwelling unit in the property, regardless of whether the unit is reserved for an individual or family described by Subsection (f). Requires the reserve to be maintained on a continuing basis, with certain permitted withdrawals.
- (p) Defines "capital improvement."
- (q) Requires the organization, if the organization acquires the property for the purpose of constructing or rehabilitating a housing project on the property, to be renting or offering to rent the applicable square footage of dwelling units in the property to individuals or families described by Subsection (f) not later than the third anniversary of the date the organization acquires the property.

(r) Requires the chief appraiser, if property qualifies for an exemption under this section, to use the income method of appraisal as provided by Section 23.012 to determine the appraised value of the property. Requires the chief appraiser, in appraising the property, to perform certain acts.

(s) Requires the appraisal district, not later than January 31 of each year, to give public notice in the manner determined by the district, including posting on the district's website if applicable, of the capitalization rate to be used in that year to appraise property receiving an exemption under this section.

(t) Provides that the amount of the exemption under this section from taxation is a certain amount.

(u) Provides that notwithstanding Section 11.43(c), an exemption under this section does not terminate because of a change in ownership of the property if certain conditions exist.

(v) Authorizes the chief appraiser to extend the deadline provided by Subsection (u)(1) or (2), as applicable, for good cause shown.

(w) Authorizes the governing body of a taxing unit any part of which is located in a county with a population of at least 1.4 million, by official action of the governing body adopted with the approval of at least two-thirds of its members in the manner required by law, notwithstanding any other provision of this section, to require an organization to obtain the approval of the governing body to receive an exemption under this section from taxation by the taxing unit. Authorizes the governing body of a taxing unit that takes action under this subsection to perform certain acts.

(x) Requires an organization, to receive an exemption under this section from taxation by a taxing unit for which the approval of the governing body of the taxing unit is required under Subsection (w), to submit to the taxing unit a written request for approval by the governing body of the exemption from taxation of the property described in the request.

(y) Requires the governing body of the taxing unit, following submission of a written request under Subsection (x), to determine whether to approve the exemption of the property from taxation and the amount of the exemption. Requires the governing body to issue a letter to the organization stating the governing body's determination and to send a copy of the letter by regular mail to the chief appraiser of each appraisal district that appraises the property for the taxing unit. Authorizes the governing body to charge the organization a fee not to exceed the administrative costs of processing the request of the organization, making the determination, and issuing the letter required by this subsection. Requires the chief appraiser to grant the exemption in the amount approved by the governing body, if the chief appraiser determines that the property qualifies for an exemption under this section and the governing body of the taxing unit approves the exemption.

**Sec. 11.1826. MONITORING OF COMPLIANCE WITH LOW-INCOME AND MODERATE-INCOME HOUSING EXEMPTIONS. (a) Defines "department."**

(b) Prohibits property from being exempted under Section 11.1825 for a tax year unless the organization owning or controlling the owner of the property has an audit prepared by an independent auditor covering the organization's most recent fiscal year. Requires the audit to be conducted in accordance with generally accepted accounting principles. Requires the audit to include an opinion on whether certain factors exist.

(c) Requires the organization, not later than the 180th day after the last day of the organization's most recent fiscal year, to deliver a copy of the audit to the Texas Department of Housing and Community Affairs (TDHCA) and the chief appraiser of the appraisal district in which the property is located.

(d) Authorizes the organization, notwithstanding any other provision of this section, if the property contains not more than 36 dwelling units, to deliver to TDHCA and the chief appraiser a detailed report and certification as an alternative to an audit.

(e) Prohibits property from being exempted under Section 11.182 for a tax year unless the organization owning or controlling the owner of the property complies with this section, except that the audit required by this section must address compliance with the requirements of Section 11.182.

(f) Provides that all information submitted to TDHCA or the chief appraiser under this section is subject to required disclosure, is excepted from required disclosure, or is confidential in accordance with Chapter 552, Government Code, or other law.

**SECTION 4.** Amends Sections 11.436(a) and (c), Tax Code, as follows:

(a) Authorizes an organization that acquires property that qualifies for an exemption under Section 11.181(a) or 11.1825, rather than 11.182(a), to apply for the exemption for the year of acquisition not later than the 30th day after the date the organization acquires the property, and the deadline provided by Section 11.43(d) does not apply to the application for that year.

(c) Authorizes an organization, before acquiring the property, to facilitate the financing associated with the acquisition of a property, to request from the chief appraiser of the appraisal district established for the county in which the property is located a preliminary determination of whether the property would qualify for an exemption under Section 11.1825, rather than 11.182, if acquired by the organization. Requires the chief appraiser, not later than the 45th, rather than 21st, day after the date a request is submitted under this subsection, to issue a written preliminary determination for the property included in the request. Makes conforming changes.

**SECTION 5.** Amends Subchapter B, Chapter 23, Tax Code, by adding Section 23.215, as follows:

**Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED FOR LOW-INCOME OR MODERATE-INCOME HOUSING.** (a) Provides that this section applies only to real property owned by a certain organization.

(b) Requires the chief appraiser to appraise the property in the manner provided by Section 11.1825(r).

**SECTION 6.** Effective date: upon passage or September 1, 2003.