

By: Davis of Dallas

H.B. No. 694

A BILL TO BE ENTITLED

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AN ACT

relating to the application of the franchise tax to certain entities.

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

SECTION 1. Section 171.001(a), Tax Code, is amended to read as follows:

(a) A franchise tax is imposed on:

(1) each corporation that does business in this state or that is chartered or authorized to do business in this state; ~~and~~ ~~and~~

(2) each limited liability company that does business in this state or that is organized under the laws of this state or is authorized to do business in this state; and

(3) a business trust, limited liability company, or other entity that, for federal income tax purposes, is classified as a corporation and that:

(A) is doing business in this state;

(B) is carrying on activities in this state;

(C) has capital or property employed or used in this state; or

(D) owns property in this state, by or in the name of itself or any person, partnership, association, limited partnership, joint-stock association, or corporation.

SECTION 2. Section 171.001(b)(3), Tax Code, is amended to

1 read as follows:

2 (3) "Corporation" includes:

3 (A) a limited liability company, as defined under  
4 the Texas Limited Liability Company Act;

5 (B) a savings and loan association; ~~and~~

6 (C) a banking corporation; and

7 (D) a business trust, limited liability company,  
8 or other entity that, for federal income tax purposes, is  
9 classified as a corporation and that:

10 (i) is doing business in this state;

11 (ii) is carrying on activities in this  
12 state;

13 (iii) has capital or property employed or  
14 used in this state; or

15 (iv) owns property in this state, by or in  
16 the name of itself or any person, partnership, association, limited  
17 partnership, joint-stock association, or corporation.

18 SECTION 3. (a) Subject to other provisions of this section,  
19 this Act takes effect for initial, annual, or final reports  
20 originally due on or after January 1, 2004.

21 (b) For an entity becoming subject to the franchise tax  
22 under this Act:

23 (1) income or losses occurring before January 1, 2003,  
24 may not be considered for purposes of the earned surplus component;

25 (2) for entities in existence on January 1, 2003, that  
26 would have been subject to the franchise tax had this Act been in  
27 effect on January 1, 2003, the first report due under this Act will

1 be either a final report, if applicable, or an annual report due May  
2 15, 2004; and

3 (3) for entities that would have become subject to the  
4 franchise tax after January 1, 2003, had this Act been in effect on  
5 January 1, 2003, the first report due under this Act will be an  
6 initial report or a final report, if applicable.

7 SECTION 4. This Act takes effect January 1, 2004.