

By: Rodriguez

H.B. No. 765

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the terms and conditions of an ad valorem tax abatement  
3 agreement and the consequences of noncompliance by a property owner  
4 with a tax abatement agreement.

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

6 SECTION 1. Section 312.205, Tax Code, is amended to read as  
7 follows:

8 Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT  
9 AGREEMENT. (a) An agreement made under Section 312.204 or  
10 312.211 must:

11 (1) list the kind, number, and location of all  
12 proposed improvements or repairs of the property;

13 (2) provide access to and authorize inspection of the  
14 property by municipal employees to ensure that the improvements or  
15 repairs are made according to the specifications and conditions of  
16 the agreement;

17 (3) limit the uses of the property consistent with the  
18 general purpose of encouraging development or redevelopment of the  
19 zone during the period that property tax exemptions are in effect;

20 (4) provide for recapture by the municipality of the  
21 ~~[recapturing]~~ property tax revenue lost as a result of the  
22 agreement if the owner of the property fails to comply with each  
23 term of ~~[make the improvements or repairs as provided by]~~ the  
24 agreement;

1 (5) contain each term agreed to by the owner of the  
2 property;

3 (6) require the owner of the property to certify  
4 annually to the governing body of each taxing unit that the owner is  
5 in compliance with each ~~[applicable]~~ term of the agreement; ~~[and]~~

6 (7) provide for modification of the agreement by  
7 ~~[that]~~ the governing body of the municipality and the owner of the  
8 property; and

9 (8) provide for cancellation of the agreement by the  
10 governing body of the municipality ~~[may cancel or modify the~~  
11 ~~agreement]~~ if the ~~[property]~~ owner of the property fails to comply  
12 with each term of the agreement.

13 (b) An agreement made under Section 312.204 or 312.211 may  
14 include, at the option of the governing body of the municipality,  
15 provisions for:

16 (1) improvements or repairs by the municipality to  
17 streets, sidewalks, and utility services or facilities associated  
18 with the property, except that the agreement may not provide for  
19 lower charges or rates than are made for other services or  
20 properties of a similar character;

21 (2) an economic feasibility study, including a  
22 detailed list of estimated improvement costs, a description of the  
23 methods of financing all estimated costs, and the time when related  
24 costs or monetary obligations are to be incurred;

25 (3) a map showing existing uses and conditions of real  
26 property in the reinvestment zone;

27 (4) a map showing proposed improvements and uses in

1 the reinvestment zone;

2 (5) proposed changes of zoning ordinances, the master  
3 plan, the map, building codes, and city ordinances; and

4 (6) penalties or interest, or both, on the recapture  
5 of [all or a portion of] property tax revenue lost as a result of the  
6 agreement if the owner of the property fails to comply with each  
7 term of the agreement [create all or a portion of the number of new  
8 jobs provided by the agreement, if the appraised value of the  
9 property subject to the agreement does not attain a value specified  
10 in the agreement, or if the owner fails to meet any other  
11 performance criteria provided by the agreement, and payment of a  
12 penalty or interest, or both, on that recaptured property tax  
13 revenue].

14 SECTION 2. Subchapter B, Chapter 312, Tax Code, is amended  
15 by adding Section 312.212 to read as follows:

16 Sec. 312.212. ACTION BY TAXING UNIT ON  
17 NONCOMPLIANCE. (a) If a property owner fails to comply with each  
18 term of a tax abatement agreement before the fifth anniversary of  
19 the date the agreement is entered into, the governing body of the  
20 taxing unit shall:

- 21 (1) cancel the agreement; and  
22 (2) take all appropriate measures to recapture any  
23 property tax revenue lost as a result of the agreement.

24 (b) Cancellation of a tax abatement agreement under this  
25 section does not negate the property owner's duty under the  
26 agreement to pay any property taxes the owner did not pay as a  
27 result of the agreement.

1 SECTION 3. Section 312.402(e), Tax Code, is amended to read  
2 as follows:

3 (e) An agreement made under this section by a county or  
4 other taxing unit may be canceled, modified, or terminated in the  
5 same manner and subject to the same limitations as provided by  
6 Sections [~~Section~~] 312.208 and 312.212 for an agreement made under  
7 Subchapter B.

8 SECTION 4. Section 379.004, Local Government Code, is  
9 amended to read as follows:

10 Sec. 379.004. ADDITIONAL POWERS. (a) A municipality  
11 may:

12 (1) waive or adopt fees related to the construction of  
13 buildings in the zone, including fees related to the inspection of  
14 buildings and impact fees;

15 (2) enter into agreements, for a period of not more  
16 than 10 years, for the purpose of benefiting the zone, for sales tax  
17 refunds or abatements of municipal sales tax on sales made in the  
18 zone;

19 (3) enter into agreements abating municipal property  
20 taxes on property in the zone subject to the duration limits of  
21 Section 312.204, Tax Code; and

22 (4) set baseline performance standards, such as the  
23 Energy Star Program as developed by the Department of Energy, to  
24 encourage the use of alternative building materials that address  
25 concerns relating to the environment or to building costs,  
26 maintenance, or energy consumption.

27 (b) Sections 312.205(a)(4), (7), and (8) and (b)(6) and

1 312.212, Tax Code, apply to a property tax abatement agreement  
2 entered into under Subsection (a)(3) of this section.

3 SECTION 5. Section 379.005(a), Local Government Code, is  
4 amended to read as follows:

5 (a) A business that operates in a zone and receives benefits  
6 as a result of a municipality's action under Section 379.004(a)(1)  
7 [~~379.004(1)~~], (2), or (3) shall make a good faith effort to hire  
8 individuals receiving NAFTA transitional adjustment assistance  
9 under 19 U.S.C. Section 2331.

10 SECTION 6. Section 381.004(g), Local Government Code, is  
11 amended to read as follows:

12 (g) The commissioners court may develop and administer a  
13 program authorized by Subsection (b) for entering into a tax  
14 abatement agreement with an owner or lessee of a property interest  
15 subject to ad valorem taxation. The execution, duration, and other  
16 terms of the agreement are governed, to the extent practicable, by  
17 [~~the provisions of~~] Sections 312.204, 312.205, [~~and~~] 312.211, and  
18 312.212, Tax Code, as if the commissioners court were the [~~a~~]  
19 governing body of a municipality.

20 SECTION 7. This Act applies only to a tax abatement  
21 agreement entered into on or after the effective date of this Act.  
22 A tax abatement agreement entered into before the effective date of  
23 this Act is governed by the law as it existed immediately before the  
24 effective date of this Act, and that law is continued in effect for  
25 that purpose.

26 SECTION 8. This Act takes effect September 1, 2003.