

By: Riddle, Elkins

H.B. No. 1044

Substitute the following for H.B. No. 1044:

By: Hegar

C.S.H.B. No. 1044

A BILL TO BE ENTITLED

AN ACT

relating to the exemption from ad valorem taxation of certain property used to provide low-income or moderate-income housing.

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

SECTION 1. The heading to Section 11.182, Tax Code, is amended 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. Section 11.182, Tax Code, is amended by adding Subsections (j) and (k) to read as follows:

(j) An organization may not receive an exemption under Subsection (b) or (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.

(k) An organization that receives an exemption under this section for property the organization owns may apply for an exemption under Section 11.1825 for the property. The organization must submit only the evidence required to meet any requirements for an exemption under that section that are not imposed under this section, except that the chief appraiser may require the organization to submit additional information to establish the

1 organization's eligibility for the exemption under Section 11.1825
2 if the chief appraiser learns of any reason the organization is no
3 longer eligible for an exemption under this section. The chief
4 appraiser shall approve or deny the application not later than the
5 30th day after the date the application is received. If the chief
6 appraiser approves the application, the organization may not
7 receive an exemption under this section and Section 11.1825 for the
8 property in the same tax year.

9 SECTION 3. Subchapter B, Chapter 11, Tax Code, is amended by
10 adding Sections 11.1825 and 11.1826 to read as follows:

11 Sec. 11.1825. ORGANIZATIONS CONSTRUCTING OR REHABILITATING
12 LOW-INCOME HOUSING: PROPERTY NOT PREVIOUSLY EXEMPT. (a) In this
13 section:

14 (1) "Department" means the Texas Department of Housing
15 and Community Affairs.

16 (2) "Uniform service region" means a region
17 established by the comptroller under Section 120, Article V,
18 Chapter 19, Acts of the 72nd Legislature, 1st Called Session, 1991
19 (the General Appropriations Act).

20 (b) An organization is entitled to an exemption from
21 taxation of real property owned by the organization that the
22 organization constructs or rehabilitates to provide housing to
23 individuals or families meeting the income eligibility
24 requirements of this section.

25 (c) To receive an exemption under this section, an
26 organization must meet the following requirements:

27 (1) for at least the preceding three years, the

1 organization:

2 (A) has been exempt from federal income taxation
3 under Section 501(a), Internal Revenue Code of 1986, as amended, by
4 being listed as an exempt entity under Section 501(c)(3) of that
5 code;

6 (B) has met the requirements of a charitable
7 organization provided by Sections 11.18(e) and (f); and

8 (C) has had as its purpose providing low-income
9 housing; and

10 (2) a majority of the members of the board of directors
11 of the organization have their principal place of residence in this
12 state.

13 (d) Notwithstanding Subsection (c), an owner of real
14 property that is not an organization described by that subsection
15 is entitled to an exemption from taxation of property under this
16 section if the property otherwise qualifies for the exemption and
17 the owner is:

18 (1) a general partnership or limited partnership and
19 each general partner is an organization that meets the requirements
20 of Subsection (c);

21 (2) a limited partnership, 100 percent of the interest
22 in each general partner of the limited partnership is controlled by
23 an organization that meets the requirements of Subsection (c), and
24 each general partner is allocated at least 10 percent of the cash
25 flow of the limited partnership; or

26 (3) an entity the parent of which is an organization
27 that meets the requirements of Subsection (c).

1 (e) If the owner of the property is an entity described by
2 Subsection (d), the entity must:

3 (1) be organized under the laws of this state; and
4 (2) have its principal place of business in this
5 state.

6 (f) A reference in this section to an organization includes
7 an entity described by Subsection (d).

8 (g) For property to be exempt under this section, the
9 organization must own the property for the purpose of constructing
10 or rehabilitating a housing project on the property and renting the
11 housing to individuals or families whose median income is not more
12 than 60 percent of the median income of individuals or families in
13 the applicable uniform service region as determined by the
14 department.

15 (h) Property may not receive an exemption under this section
16 unless:

17 (1) at least 50 percent of the dwelling units in the
18 housing project are reserved for individuals or families described
19 by Subsection (g), if the project is located in a county in which
20 the median income of individuals or families as determined by the
21 department is less than the median income of individuals or
22 families in the applicable uniform service region as determined by
23 the department; or

24 (2) at least 60 percent of the dwelling units in the
25 project are reserved for individuals or families described by
26 Subsection (g), if the project is located in a county not covered by
27 Subdivision (1).

1 (i) The monthly rent charged or to be charged for each
2 dwelling unit in the project may not exceed 30 percent of the
3 monthly income of the individual or family renting the unit at the
4 time the lease is entered into.

5 (j) The organization must give preference to public school
6 teachers and administrators, peace officers of counties or
7 municipalities, persons serving on active duty as members of the
8 armed forces of the United States, and honorably discharged
9 veterans of the armed forces of the United States in renting at
10 least three percent of the dwelling units in the housing project.
11 The rent charged for those units must be at least 10 percent less
12 than the rent charged for other comparable units in the project.

13 (k) If the property is owned for the purpose of constructing
14 a housing project on the property:

15 (1) the property must be used to provide housing to
16 qualifying individuals or families; or

17 (2) the housing project must be under active
18 construction or other physical preparation.

19 (1) For purposes of Subsection (k)(2), a housing project is
20 under physical preparation if the organization has engaged in
21 architectural or engineering work, soil testing, land clearing
22 activities, or site improvement work necessary for the construction
23 of the project or has conducted an environmental or land use study
24 relating to the construction of the project.

25 (m) An organization may not receive an exemption for a
26 housing project constructed by the organization if the construction
27 of the project was completed before the effective date of this

1 section.

2 (n) If the property is owned for the purpose of
3 rehabilitating a housing project on the property:

4 (1) the original construction of the housing project
5 must have been completed at least 10 years before the date the
6 organization began actual rehabilitation of the project;

7 (2) the person from whom the organization acquired the
8 project must have owned the project for at least five years, if the
9 organization is not the original owner of the project; and

10 (3) the organization must provide the chief appraiser
11 and, if the project was financed with bonds, the issuer of the
12 bonds, with a certificate prepared by a certified public accountant
13 stating that the organization has spent on rehabilitation costs at
14 least \$10,000 or the amount required by the entity that provided the
15 financing for the project, whichever is less, for each dwelling
16 unit in the project.

17 (o) If the organization acquires the property for the
18 purpose of constructing or rehabilitating a housing project on the
19 property, the organization must rent or offer to rent the property
20 to individuals or families who meet the income eligibility
21 requirements of this section not later than the third anniversary
22 of the date the organization acquires the property.

23 (p) If property qualifies for an exemption under this
24 section, the chief appraiser shall use the income method of
25 appraisal as provided by Section 23.012 to determine the appraised
26 value of the property. In appraising the property, the chief
27 appraiser shall:

1 (1) consider the restrictions provided by this section
2 on the income of the individuals or families to whom the dwelling
3 units of the housing project may be rented and the amount of rent
4 that may be charged for purposes of computing the actual rental
5 income from the property or projecting future rental income; and

6 (2) use the same capitalization rate that the chief
7 appraiser uses to appraise other rent-restricted properties.

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

13 (r) The amount of the exemption under this section from
14 taxation is:

15 (1) for a school district, 50 percent of the appraised
16 value of the property; and

17 (2) for a taxing unit other than a school district:

18 (A) 75 percent of the appraised value of the
19 property if at least 75 percent of the dwelling units in the housing
20 project are reserved for individuals or families described by
21 Subsection (g); and

22 (B) 65 percent of the appraised value of the
23 property if Paragraph (A) does not apply.

24 (s) Notwithstanding Section 11.43(c), an exemption under
25 this section does not terminate if:

26 (1) the property is foreclosed on for any reason and,
27 not later than the 30th day after the date of the foreclosure sale,

1 the owner of the property submits evidence to the chief appraiser
2 that the property is owned by:

3 (A) an organization that meets the requirements
4 of Subsection (c); or

5 (B) an entity that meets the requirements of
6 Subsections (d) and (e); or

7 (2) in the case of property owned by an entity
8 described by Subsections (d) and (e), the organization meeting the
9 requirements of Subsection (c) that is or controls the general
10 partner of or is the parent of the entity as described by Subsection
11 (d) ceases to serve in that capacity and, not later than the 30th
12 day after the date the cessation occurs, the owner of the property
13 submits evidence to the chief appraiser that the organization has
14 been succeeded in that capacity by another organization that meets
15 the requirements of Subsection (c).

16 (t) The chief appraiser may extend the deadline provided by
17 Subsection (s)(1) or (2), as applicable, for good cause shown.

18 (u) Notwithstanding the other provisions of this section,
19 the governing body of a taxing unit that is located in a county with
20 a population of at least 1.4 million by official action of the
21 governing body adopted with the approval of at least two-thirds of
22 the members of the governing body in the manner required by law for
23 official action not later than the 90th day after the date this
24 section takes effect may:

25 (1) provide for taxation of property exempted under
26 this section unless the property qualifies for an exemption under
27 the criteria adopted by the governing body; or

1 (2) provide for an exemption under this section in an
2 amount other than the amount provided by Subsection (r).

3 (v) Subsection (u)(1) does not authorize a taxing unit to
4 waive the requirements of Subsections (c)(1)(A) and (B).

5 (w) If a taxing unit provides under Subsection (u)(1) for
6 taxation of property exempted under this section, the exemption
7 prescribed by this section does not apply to the taxing unit except
8 as to property that qualifies for an exemption under the criteria
9 adopted by the governing body of the taxing unit.

10 (x) To receive an exemption under this section from taxation
11 by a taxing unit that takes action under Subsection (u)(1), an
12 organization must submit a written request to the taxing unit for a
13 determination of whether the property qualifies for an exemption
14 under the criteria adopted by the governing body of the taxing unit.
15 The request must include information that permits the taxing unit
16 to determine whether the property qualifies for the exemption.

17 (y) Following submission of a written request under
18 Subsection (x), the taxing unit shall determine whether the
19 property qualifies for an exemption under the criteria adopted by
20 the governing body of the taxing unit. The taxing unit shall issue
21 a letter to the organization stating the taxing unit's
22 determination of whether the property qualifies for the exemption.
23 The taxing unit shall send a copy of the letter by regular mail to
24 the chief appraiser of the appraisal district that appraises the
25 property for the taxing unit. The taxing unit may charge the
26 organization a fee not to exceed the taxing unit's administrative
27 costs for processing the information submitted by the organization,

1 making the determination, and issuing the letter required by this
2 subsection.

3 (z) An organization seeking an exemption from taxation by a
4 taxing unit that takes action under Subsection (u)(1) shall provide
5 to the chief appraiser a copy of the letter issued by the taxing
6 unit under Subsection (y) stating the taxing unit's determination
7 that the property qualifies for an exemption under the criteria
8 adopted by the governing body of the taxing unit. The chief
9 appraiser shall accept the determination of the taxing unit as
10 conclusive evidence that the property qualifies for an exemption
11 under the criteria adopted by the governing body.

12 Sec. 11.1826. MONITORING OF COMPLIANCE WITH LOW-INCOME AND
13 MODERATE-INCOME HOUSING EXEMPTIONS. (a) In this section:

14 (1) "Corporation" means the Texas State Affordable
15 Housing Corporation.

16 (2) "Department" means the Texas Department of Housing
17 and Community Affairs.

18 (b) Not later than July 25 of each year, the chief appraiser
19 shall submit to the corporation a list of the housing projects,
20 including projects under construction or rehabilitation or to be
21 constructed or rehabilitated, in the appraisal district receiving
22 an exemption under Section 11.182 or 11.1825 in that year.

23 (c) Not later than the second anniversary of the date the
24 corporation receives a list from the chief appraiser, the
25 corporation shall conduct an audit of each listed housing project
26 to determine whether the project is in material compliance with the
27 requirements of the low income housing tax credit program under

1 Subchapter DD, Chapter 2306, Government Code. The corporation by
2 rule shall adopt guidelines for conducting compliance audits under
3 this subsection. An organization that owns, or that is or controls
4 the general partner of or is the parent of the entity that owns, a
5 project that is the subject of an audit shall pay the corporation a
6 fee to cover the cost of the audit to the extent the department does
7 not already impose a compliance audit fee in connection with the low
8 income housing tax credit program. The amount of the fee is
9 computed by multiplying \$25 by the number of dwelling units in the
10 project.

11 (d) On a determination that a housing project of an
12 organization is in material noncompliance with the requirements of
13 the low income housing tax credit program, the corporation shall
14 notify the organization of the results of the audit and order the
15 organization to bring the project into material compliance with the
16 program. If the organization does not comply with the order of the
17 corporation before the 90th day after the date of the order, the
18 corporation shall assess an administrative penalty on the
19 organization in the manner provided for an administrative penalty
20 under Section 2306.6023, Government Code. The amount of the
21 penalty is computed by multiplying \$200 by the number of dwelling
22 units in the project. The corporation shall impose a separate
23 penalty for each day the project fails to comply with the order of
24 the corporation. A penalty imposed by the corporation is payable to
25 the assessor-collector for the county for which the appraisal
26 district is established. The assessor-collector shall distribute
27 to each taxing unit from which the project received an exemption in

1 the year in which the list was submitted an amount equal to the
2 amount of the penalty multiplied by a fraction, the numerator of
3 which is the total dollar amount of taxes the taxing unit would have
4 imposed on the project in that year if the project had been subject
5 to taxation by that taxing unit in that year and the denominator of
6 which is the total dollar amount of taxes all of the taxing units
7 from which the project received an exemption in that year would have
8 imposed on the project in that year if the project had been subject
9 to taxation by those taxing units in that year.

10 (e) If the housing project remains in material
11 noncompliance with the requirements of the program, the corporation
12 shall notify the department, and the department shall consider the
13 noncompliance for purposes of scoring any pending or subsequent
14 application submitted by the organization under any program
15 administered by the department.

16 SECTION 4. Section 11.43(c), Tax Code, is amended to read as
17 follows:

18 (c) An exemption provided by Section 11.13, 11.17, 11.18,
19 11.182, 11.1825, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(j),
20 11.29, 11.30, or 11.31, once allowed, need not be claimed in
21 subsequent years, and except as otherwise provided by Subsection
22 (e), the exemption applies to the property until it changes
23 ownership or the person's qualification for the exemption changes.
24 However, the chief appraiser may require a person allowed one of the
25 exemptions in a prior year to file a new application to confirm the
26 person's current qualification for the exemption by delivering a
27 written notice that a new application is required, accompanied by

1 an appropriate application form, to the person previously allowed
2 the exemption.

3 SECTION 5. Sections 11.436(a) and (c), Tax Code, are
4 amended to read as follows:

5 (a) An organization that acquires property that qualifies
6 for an exemption under Section 11.181(a) or 11.1825 [~~11.182(a)~~] may
7 apply for the exemption for the year of acquisition not later than
8 the 30th day after the date the organization acquires the property,
9 and the deadline provided by Section 11.43(d) does not apply to the
10 application for that year.

11 (c) To facilitate the financing associated with the
12 acquisition of a property, an organization, before acquiring the
13 property, may request from the chief appraiser of the appraisal
14 district established for the county in which the property is
15 located a preliminary determination of whether the property would
16 qualify for an exemption under Section 11.1825 [~~11.182~~] if acquired
17 by the organization. The request must include the information that
18 would be included in an application for an exemption for the
19 property under Section 11.1825 [~~11.182~~]. Not later than the 15th
20 [~~21st~~] day after the date a request is submitted under this
21 subsection, the chief appraiser shall issue a written preliminary
22 determination for the property included in the request. A
23 preliminary determination does not affect the granting of an
24 exemption under Section 11.1825 [~~11.182~~].

25 SECTION 6. Subchapter B, Chapter 23, Tax Code, is amended by
26 adding Section 23.215 to read as follows:

27 Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED

1 FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) This section
2 applies only to real property owned by an organization:

3 (1) that on the effective date of this section was
4 rented to a low-income or moderate-income individual or family
5 satisfying the organization's income eligibility requirements and
6 that continues to be used for that purpose;

7 (2) that was financed under the low income housing tax
8 credit program under Subchapter DD, Chapter 2306, Government Code;

9 (3) that does not receive an exemption under Section
10 11.182 or 11.1825; and

11 (4) the owner of which has not entered into an
12 agreement with any taxing unit to make payments to the taxing unit
13 instead of taxes on the property.

14 (b) The chief appraiser shall appraise the property in the
15 manner provided by Section 11.1825(p) except that the
16 capitalization rate used in the appraisal may not be less than 12.5
17 percent.

18 SECTION 7. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2003.