

By: Riddle

H.B. No. 1044

A BILL TO BE ENTITLED

1 AN ACT

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

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

5 SECTION 1. The heading to Section 11.182, Tax Code, is  
6 amended to read as follows:

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

10 SECTION 2. Section 11.182, Tax Code, is amended by adding  
11 Subsections (j)-(l) to read as follows:

12 (j) An organization may not receive an exemption under  
13 Subsection (b) or (f), as added by Chapter 1191, Acts of the 77th  
14 Legislature, Regular Session, 2001, for property for a tax year  
15 beginning on or after January 1, 2004, unless the organization  
16 received an exemption under that subsection for that property for  
17 the 2003 tax year.

18 (k) An organization that receives an exemption under this  
19 section for property the organization owns may apply for an  
20 exemption under Section 11.1825 for the property. The organization  
21 must submit only the evidence required to meet any requirements for  
22 an exemption under that section that are not imposed under this  
23 section, except that the chief appraiser may require the  
24 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 (1) This section expires December 31, 2011.

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

12 Sec. 11.1825. ORGANIZATIONS CONSTRUCTING OR REHABILITATING  
13 LOW-INCOME HOUSING: PROPERTY NOT PREVIOUSLY EXEMPT. (a) In this  
14 section, "department" means the Texas Department of Housing and  
15 Community Affairs.

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

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

23 (1) for at least the preceding three years, the  
24 organization:

25 (A) has been exempt from federal income taxation  
26 under Section 501(a), Internal Revenue Code of 1986, as amended, by  
27 being listed as an exempt entity under Section 501(c)(3) of that

1 code; and

2 (B) has had as its purpose providing low-income  
3 housing; and

4 (2) at least one-third of the members of the board of  
5 directors of the organization reside in this state.

6 (d) Notwithstanding Subsection (c), an owner of real  
7 property that is not an organization described by that subsection  
8 is entitled to an exemption from taxation of property under this  
9 section if the property otherwise qualifies for the exemption and  
10 the owner is:

11 (1) a general partnership or limited partnership and  
12 each general partner is an organization that meets the requirements  
13 of Subsection (c);

14 (2) a limited partnership and 100 percent of the  
15 interest in each general partner is controlled by an organization  
16 that meets the requirements of Subsection (c); or

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

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

21 (1) be organized under the laws of this state; and

22 (2) have its principal place of business in this  
23 state.

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

26 (g) For property to be exempt under this section, the  
27 organization must own the property for the purpose of constructing

1 or rehabilitating a housing project on the property and renting the  
2 housing to individuals or families whose median income is not more  
3 than 60 percent of the median income of individuals or families in  
4 this state as determined by the department.

5 (h) Property may not receive an exemption under this section  
6 unless:

7 (1) at least 60 percent of the dwelling units in the  
8 housing project are reserved for individuals or families described  
9 by Subsection (g), if the project is located in a county in which  
10 the median income of individuals or families as determined by the  
11 department is less than \$45,500; or

12 (2) at least 50 percent of the dwelling units in the  
13 project are reserved for individuals or families described by  
14 Subsection (g), if the project is located in a county not covered by  
15 Subdivision (1).

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

20 (j) The organization must give preference to public school  
21 teachers and administrators, peace officers of counties or  
22 municipalities, and persons serving on active duty as members of  
23 the armed forces of the United States in renting at least three  
24 percent of the dwelling units in the housing project. The rent  
25 charged for those units must be at least 10 percent less than the  
26 rent charged for other comparable units in the project.

27 (k) If the property is owned for the purpose of constructing

1 a housing project on the property:

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

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

6 (1) For purposes of Subsection (k)(2), a housing project is  
7 under physical preparation if the organization has engaged in  
8 architectural or engineering work, soil testing, land clearing  
9 activities, or site improvement work necessary for the construction  
10 of the project or has conducted an environmental or land use study  
11 relating to the construction of the project.

12 (m) An organization may not receive an exemption for a  
13 housing project constructed by the organization if the construction  
14 of the project was completed before January 1, 2004.

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

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

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

23 (3) the organization must provide the chief appraiser  
24 and, if the project was financed with bonds, the issuer of the  
25 bonds, with a certificate prepared by a certified public accountant  
26 stating that the organization has spent at least \$6,000 for each  
27 dwelling unit in the project on rehabilitation costs.

1       (o) If the organization acquires the property for the  
2 purpose of constructing or rehabilitating a housing project on the  
3 property, the organization must rent or offer to rent the property  
4 to individuals or families who meet the income eligibility  
5 requirements of this section not later than the third anniversary  
6 of the date the organization acquires the property.

7       (p) If property qualifies for an exemption under this  
8 section, the chief appraiser shall use the income method of  
9 appraisal as provided by Section 23.012 to determine the appraised  
10 value of the property. In appraising the property, the chief  
11 appraiser:

12               (1) shall consider the restrictions provided by this  
13 section on the income of the individuals or families to whom the  
14 dwelling units of the housing project may be rented and the amount  
15 of rent that may be charged for purposes of computing the actual  
16 rental income from the property or projecting future rental income;  
17 and

18               (2) may not use a capitalization rate that is less than  
19 11.75 percent.

20       (q) The amount of the exemption under this section from  
21 taxation is:

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

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

25                       (A) 75 percent of the appraised value of the  
26 property if at least 75 percent of the dwelling units in the housing  
27 project are reserved for individuals or families described by

1 Subsection (g); and

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

4 (r) Notwithstanding Section 11.43(c), an exemption under  
5 this section does not terminate if:

6 (1) the property is foreclosed on for any reason and,  
7 not later than the 30th day after the date of the foreclosure sale,  
8 the owner of the property submits evidence to the chief appraiser  
9 that the property is owned by:

10 (A) an organization that meets the requirements  
11 of Subsection (c); or

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

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

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

25 Sec. 11.1826. MONITORING OF COMPLIANCE WITH LOW-INCOME AND  
26 MODERATE-INCOME HOUSING EXEMPTIONS. (a) In this section,  
27 "department" means the Texas Department of Housing and Community

1 Affairs.

2 (b) Not later than July 25 of each year, the chief appraiser  
3 shall submit to the department a list of the housing projects,  
4 including projects under construction or rehabilitation or to be  
5 constructed or rehabilitated, in the appraisal district receiving  
6 an exemption under Section 11.182 or 11.1825 in that year.

7 (c) Not later than the second anniversary of the date the  
8 department receives a list from the chief appraiser, the department  
9 shall conduct an audit of each listed housing project to determine  
10 whether the project is in material compliance with the requirements  
11 of the low income housing tax credit program under Subchapter DD,  
12 Chapter 2306, Government Code. The department by rule shall adopt  
13 guidelines for conducting compliance audits under this subsection.  
14 An organization that owns, or that is or controls the general  
15 partner of or is the parent of the entity that owns, a project that  
16 is the subject of an audit shall pay the department a fee to cover  
17 the cost of the audit to the extent the department does not already  
18 impose a compliance audit fee in connection with the low income  
19 housing tax credit program. The amount of the fee is computed by  
20 multiplying \$25 by the number of dwelling units in the project.

21 (d) On a determination that a housing project of an  
22 organization is in material noncompliance with the requirements of  
23 the low income housing tax credit program, the department shall  
24 notify the organization of the results of the audit and order the  
25 organization to bring the project into material compliance with the  
26 program. If the organization does not comply with the order of the  
27 department before the 90th day after the date of the order, the



1 department shall assess an administrative penalty on the  
2 organization in the manner provided for an administrative penalty  
3 under Section 2306.6023, Government Code. The amount of the  
4 penalty is computed by multiplying \$200 by the number of dwelling  
5 units in the project. The department shall impose a separate  
6 penalty for each day the project fails to comply with the order of  
7 the department. A penalty imposed by the department is payable to  
8 the assessor-collector for the county for which the appraisal  
9 district is established. The assessor-collector shall distribute  
10 to each taxing unit from which the project received an exemption in  
11 the year in which the list was submitted an amount equal to the  
12 amount of the penalty multiplied by a fraction, the numerator of  
13 which is the total dollar amount of taxes the taxing unit would have  
14 imposed on the project in that year if the project had been subject  
15 to taxation by that taxing unit in that year and the denominator of  
16 which is the total dollar amount of taxes all of the taxing units  
17 from which the project received an exemption in that year would have  
18 imposed on the project in that year if the project had been subject  
19 to taxation by those taxing units in that year.

20 (e) If the housing project remains in material  
21 noncompliance with the requirements of the program, the department  
22 shall consider the noncompliance for purposes of scoring an  
23 application submitted by the organization under any program  
24 administered by the department.

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

27 (c) An exemption provided by Section 11.13, 11.17, 11.18,

1 11.182, 11.1825, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(j),  
2 11.29, 11.30, or 11.31, once allowed, need not be claimed in  
3 subsequent years, and except as otherwise provided by Subsection  
4 (e), the exemption applies to the property until it changes  
5 ownership or the person's qualification for the exemption changes.  
6 However, the chief appraiser may require a person allowed one of the  
7 exemptions in a prior year to file a new application to confirm the  
8 person's current qualification for the exemption by delivering a  
9 written notice that a new application is required, accompanied by  
10 an appropriate application form, to the person previously allowed  
11 the exemption.

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

14 (a) An organization that acquires property that qualifies  
15 for an exemption under Section 11.181(a) or 11.1825 [~~11.182(a)~~] may  
16 apply for the exemption for the year of acquisition not later than  
17 the 30th day after the date the organization acquires the property,  
18 and the deadline provided by Section 11.43(d) does not apply to the  
19 application for that year.

20 (c) To facilitate the financing associated with the  
21 acquisition of a property, an organization, before acquiring the  
22 property, may request from the chief appraiser of the appraisal  
23 district established for the county in which the property is  
24 located a preliminary determination of whether the property would  
25 qualify for an exemption under Section 11.1825 [~~11.182~~] if acquired  
26 by the organization. The request must include the information that  
27 would be included in an application for an exemption for the

1 property under Section 11.1825 [~~11.182~~]. Not later than the 15th  
2 [~~21st~~] day after the date a request is submitted under this  
3 subsection, the chief appraiser shall issue a written preliminary  
4 determination for the property included in the request. A  
5 preliminary determination does not affect the granting of an  
6 exemption under Section 11.1825 [~~11.182~~].

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

9 Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED  
10 FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) This section  
11 applies only to real property owned by an organization:

12 (1) that on January 1, 2004, was rented without profit  
13 to a low-income or moderate-income individual or family satisfying  
14 the organization's income eligibility requirements and that  
15 continues to be used for that purpose;

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

18 (3) that does not receive an exemption under Section  
19 11.182 or 11.1825; and

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

23 (b) The chief appraiser shall appraise the property in the  
24 manner provided by Section 11.1825(p) except that the  
25 capitalization rate used in the appraisal may not be less than 12.5  
26 percent.

27 SECTION 7. This Act takes effect January 1, 2004, and

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1 applies only to ad valorem taxes imposed for a tax year beginning on  
2 or after that date.