

By: Davis of Dallas

H.B. No. 117

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 (a) A franchise tax is imposed on:

8 (1) each corporation that does business in this state  
9 or that is chartered in this state; ~~and~~

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

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

15 (A) is doing business in this state;

16 (B) is carrying on activities in this state;

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

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

22 SECTION 2. Section 171.001(b)(3), Tax Code, is amended to  
23 read as follows:

24 (3) "Corporation" includes:

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

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

4 (C) a banking corporation; and

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

8 (i) is doing business in this state;

9 (ii) is carrying on activities in this  
10 state;

11 (iii) has capital or property employed or  
12 used in this state; or

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

16 SECTION 3. (a) Subject to other provisions of this section,  
17 this Act takes effect for initial, annual, or final reports  
18 originally due on or after January 1, 2006.

19 (b) For an entity becoming subject to the franchise tax  
20 under this Act, income or losses occurring before January 1, 2005,  
21 may not be considered for purposes of the earned surplus component.

22 (c) For entities in existence on January 1, 2005, that would  
23 have been subject to the franchise tax had this Act been in effect  
24 on January 1, 2005, the first report due under this Act will be  
25 either a final report, if applicable, or an annual report due May  
26 15, 2006.

27 (d) For entities that would have become subject to the

1 franchise tax after January 1, 2005, had this Act been in effect on  
2 January 1, 2005, the first report due under this Act will be an  
3 initial report or a final report, if applicable.

4 SECTION 4. This Act takes effect January 1, 2006.