

## **BILL ANALYSIS**

S.B. 475  
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Ways & Means  
Committee Report (Amended)

### **BACKGROUND AND PURPOSE**

Certain nonprofit organizations qualify for a property tax exemption, including exemptions from city, county, and school district taxes, of land and buildings used by the organization. Fraternal organizations receive this exemption only if it is adopted by either the governing body of the taxing unit or by a majority vote of the qualified voters of the taxing unit.

S.B. 475 entitles a nonprofit community business organization to an exemption from taxation of certain properties. The bill also grants an exemption to an entity under Section 501(c)(2), Internal Revenue Code of 1986, if it holds title to property for or collects income from the property for a fraternal organization and turns the entire amount of that income, less expenses, over to the fraternal organization that otherwise would qualify for a property tax exemption if it owned the property. In such cases, the fraternal organization is required to submit an application to the comptroller of public accounts to determine whether the eligibility requirements are met before the corporation is authorized to submit an application for the property tax exemption. If the comptroller determines that the corporation is eligible to receive the property tax exemption and issues a favorable determination letter, the chief appraiser is required to accept the copy of the letter as conclusive evidence that the corporation is eligible to receive a property tax exemption.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 475 amends the Tax Code to entitle a corporation that is not a qualified charitable organization to a property tax exemption applicable to organizations engaged primarily in performing charitable functions for property owned by the corporation if the corporation is exempt from federal income taxation by being listed as an exempt entity under Section 501(c)(2) of the Internal Revenue Code of 1986; the corporation holds title to the property for, collects income from the property for, and turns over the entire amount of that income, less expenses, to a qualified charitable organization; and the qualified charitable organization would qualify for a property tax exemption if the organization owned the property. The bill requires the qualified charitable organization for which the corporation holds title to the property to apply to the comptroller of public accounts for a determination of whether the organization is engaged primarily in performing certain charitable functions enumerated in statute before the corporation may submit an application for the exemption. The bill requires the application for the determination also to include an application to the comptroller for a determination of whether the corporation meets the federal exemption and title and income requirements established by the bill. The bill requires the corporation to submit with the application for the exemption a copy of the determination letter issued by the comptroller. The bill requires the chief appraiser to accept the copy of the letter as conclusive evidence as to whether the qualified charitable organization is engaged in performing a charitable function and whether the corporation meets the requirements

for an exemption. The bill requires the qualified charitable organization for which the corporation holds title to property to obtain a new determination letter and requires the corporation to reapply for the exemption in order for a corporation to continue receiving the exemption after the fifth tax year after the year in which the exemption is granted.

S.B. 475 entitles an association that qualifies as a nonprofit community business organization to an exemption for no more than three years from taxation of the buildings and tangible personal property the organization owns and uses exclusively to perform the organization's primary functions, with certain exceptions; and taxation of the real property owned by the organization consisting of an incomplete improvement that is under active construction or other physical preparation and is designed and intended to be used exclusively by qualified nonprofit community business organizations and the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement. The bill provides that the use of exempt property by persons who are not qualified nonprofit community business organizations does not result in the loss of a tax exemption if the use is incidental to use by such organizations and limited to activities that benefit the beneficiaries of the nonprofit community business organizations that own or use the property. The bill requires a nonprofit community business organization, in order to qualify for a tax exemption, to be engaged primarily in performing one or more of the following functions in the local community: promoting the common economic interests of commercial enterprises, improving the business conditions of one or more types of business, or otherwise providing services to aid in economic development. The bill specifies that an incomplete improvement is under physical preparation if the nonprofit community business organization has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement or has conducted an environmental or land use study relating to the construction of the improvement.

S.B. 475 defines "nonprofit community business organization" as an organization that has been in existence for at least the preceding five years; is a nonprofit corporation organized under the Texas Non-Profit Corporation Act or formed under the Texas Nonprofit Corporation Law; is a nonprofit organization described by Section 501(c)(6) of the Internal Revenue Code of 1986; is not a statewide organization; has maintained for at least the preceding three years a dues-paying membership of at least 50 members; has a board of directors elected by the members; does not compensate its board members for their service; with respect to its activities in Texas, is engaged primarily in performing certain economic development functions in the local community; is primarily supported by membership dues and other income from activities substantially related to its primary functions; and is not, has not formed, and does not financially support a political committee. The bill defines "building."

S.B. 475 repeals Section 11.184(b), Tax Code, prohibiting an exemption for an organization engaged primarily in performing charitable functions from being granted unless the exemption is adopted either by the governing body of the taxing unit or by a favorable vote of a majority of the qualified voters of the taxing unit.

### **EFFECTIVE DATE**

January 1, 2010.

### **EXPLANATION OF AMENDMENTS**

Committee Amendment No. 1.

S.B. 475, as amended, creates an additional exemption for a community housing development organization that is entitled to an exemption from taxation of real property owned by the organization that it constructs or rehabilitates and uses to provide housing to individuals or families meeting applicable income eligibility requirements. The amendment entitles the

organization to an exemption of the buildings and other real and tangible personal property that it owns and that, except as provided below, are used exclusively by the organization in the administration of its acquisition, building, repair, sale, or rental of property, or are used exclusively by Texas political subdivisions that are eligible for a property tax exemption and are exempt from federal income taxes or have their revenue exempted from federal income taxes under specified provisions of the Internal Revenue Code. The amendment establishes that use of such property by persons not qualifying for the new exemption does not result in the loss of the exemption if such use is incidental to or furthers the exempt purposes of the owner or the community housing development organization.

Committee Amendment No. 2.

S.B. 475, as amended, strikes a provision establishing that the bill applies only to property taxes imposed for a tax year that begins on or after the bill's effective date.

S.B. 475, as amended, reenacts and amends Section 11.18(d), Tax Code, as amended by Chapters 1034 (H.B. 1742) and 1341 (S.B. 1908), Acts of the 80th Legislature, Regular Session, 2007, to clarify that, among the charitable functions that qualify a charitable organization for a property tax exemption, provision of support to the handicapped includes the provision of training and employment under the federal Javits-Wagner-O'Day Act, relating to the blind and severely disabled, in the production of commodities or in the provision of services.

Committee Amendment No. 3.

S.B. 475, as amended, entitles a disabled veteran to an exemption from property taxation of the total appraised value of the veteran's residence homestead if the veteran receives from the U.S. Department of Veterans Affairs, or its successor, 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability. The amendment establishes that the entitlement to the exemption from property taxation for a 100 percent disabled veteran applies to a tax year beginning on or after January 1, 2009. The amendment includes such an exemption among those that, once allowed, need not be claimed in subsequent years, and that apply to the property until it changes ownership or the person's qualification for the exemption changes, but for which the chief appraiser may require a person allowed such an exemption to file a new application to confirm qualification for the exemption. The amendment specifies that the chief appraiser's requirement to accept and approve or deny a late application for a residence homestead exemption, if filed not later than one year after the tax delinquency date, includes an application for a disabled veteran's residence homestead exemption. The amendment establishes that such provisions apply to a tax year beginning on or after January 1, 2009.

S.B. 475, as amended, revises the disability rating schedule to increase, from \$5,000 to \$7,500, the property tax exemption for a property designated by a veteran with a disability rating of 30 percent, and to increase, from \$7,500 to \$10,000, the exemption for a property designated by a veteran with a disability rating of 50 percent, and from \$10,000 to \$12,000, the exemption for property designated by a veteran with a disability rating of 70 percent. The amendment adds a provision to the Government Code removing residence homesteads owned by veterans with a disability rating of 100 percent from being considered as taxable property in the comptroller's annual determination of school district property values.

S.B. 475, as amended, defines "disabled veteran" and "residence homestead" by reference.

S.B. 475, as amended, adds a second effective date provision for the bill in addition to the January 1, 2010, effective date in the bill as engrossed by the senate, providing that the bill takes effect on passage, or, if it does not receive the necessary vote, takes effect September 1, 2009.