

By: Howard of Travis, Eiland, Ritter, Elkins,  
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H.B. No. 770

A BILL TO BE ENTITLED

AN ACT

relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage and to exempting certain houses from the Open Beaches Act.

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

SECTION 1. Section 61.018, Natural Resources Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-1), any [Any] county attorney, district attorney, or criminal district attorney, or the attorney general at the request of the commissioner, shall file in a district court of Travis County, or in the county in which the property is located, a suit to obtain either a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove or prevent any improvement, maintenance, obstruction, barrier, or other encroachment on a public beach, or to prohibit any unlawful restraint on the public's right of access to and use of a public beach or other activity that violates this chapter.

(a-1) A county attorney, district attorney, or criminal district attorney or the attorney general may not file a suit under Subsection (a) to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove a house from a public beach if:

1           (1) the line of vegetation establishing the boundary  
2 of the public beach has moved as a result of a meteorological event;

3           (2) the house was located landward of the natural line  
4 of vegetation before the meteorological event;

5           (3) a portion of the house continues to be located  
6 landward of the line of vegetation; and

7           (4) the house is located on a peninsula in a county  
8 with a population of more than 250,000 and less than 251,000 that  
9 borders the Gulf of Mexico.

10          (a-2) The owner of a house described by Subsection (a-1) may  
11 repair or rebuild the house following a meteorological event that  
12 causes the destruction of or damage to the house.

13          SECTION 2. Subchapter B, Chapter 11, Tax Code, is amended by  
14 adding Section 11.135 to read as follows:

15          Sec. 11.135. CONTINUATION OF RESIDENCE HOMESTEAD EXEMPTION  
16 WHILE REPLACEMENT STRUCTURE IS CONSTRUCTED; SALE OF PROPERTY. (a)  
17 If a qualified residential structure for which the owner receives  
18 an exemption under Section 11.13 is rendered uninhabitable or  
19 unusable by a casualty or by wind or water damage, the owner may  
20 continue to receive the exemption for the structure and the land and  
21 improvements used in the residential occupancy of the structure  
22 while the owner constructs a replacement qualified residential  
23 structure on the land if the owner does not establish a different  
24 principal residence for which the owner receives an exemption under  
25 Section 11.13 during that period and intends to return and occupy  
26 the structure as the owner's principal residence. To continue to  
27 receive the exemption, the owner must begin active construction of

1 the replacement qualified residential structure or other physical  
2 preparation of the site on which the structure is to be located not  
3 later than the first anniversary of the date the owner ceases to  
4 occupy the former qualified residential structure as the owner's  
5 principal residence. The owner may not receive the exemption for  
6 that property under the circumstances described by this subsection  
7 for more than two years.

8 (b) For purposes of Subsection (a), the site of a  
9 replacement qualified residential structure is under physical  
10 preparation if the owner has engaged in architectural or  
11 engineering work, soil testing, land clearing activities, or site  
12 improvement work necessary for the construction of the structure or  
13 has conducted an environmental or land use study relating to the  
14 construction of the structure.

15 (c) If an owner receives an exemption for property under  
16 Section 11.13 under the circumstances described by Subsection (a)  
17 and sells the property before the owner completes construction of a  
18 replacement qualified residential structure on the property, an  
19 additional tax is imposed on the property equal to the difference  
20 between the taxes imposed on the property for each of the years in  
21 which the owner received the exemption and the tax that would have  
22 been imposed had the owner not received the exemption in each of  
23 those years, plus interest at an annual rate of seven percent  
24 calculated from the dates on which the differences would have  
25 become due.

26 (d) A tax lien attaches to property on the date a sale under  
27 the circumstances described by Subsection (c) occurs to secure

1 payment of the additional tax and interest imposed by that  
2 subsection and any penalties incurred. The lien exists in favor of  
3 all taxing units for which the additional tax is imposed.

4 (e) A determination that a sale of property under the  
5 circumstances described by Subsection (c) has occurred is made by  
6 the chief appraiser. The chief appraiser shall deliver a notice of  
7 the determination to the owner of the property as soon as possible  
8 after making the determination and shall include in the notice an  
9 explanation of the owner's right to protest the determination. If  
10 the owner does not file a timely protest or if the final  
11 determination of the protest is that the additional taxes are due,  
12 the assessor for each taxing unit shall prepare and deliver a bill  
13 for the additional taxes plus interest as soon as practicable. The  
14 taxes and interest are due and become delinquent and incur  
15 penalties and interest as provided by law for ad valorem taxes  
16 imposed by the taxing unit if not paid before the next February 1  
17 that is at least 20 days after the date the bill is delivered to the  
18 owner of the property.

19 (f) The sanctions provided by Subsection (c) do not apply if  
20 the sale is:

21 (1) for right-of-way; or

22 (2) to this state or a political subdivision of this  
23 state to be used for a public purpose.

24 (g) The comptroller shall adopt rules and forms to implement  
25 this section.

26 SECTION 3. Section 11.26, Tax Code, is amended by adding  
27 Subsections (n) and (o) to read as follows:

1       (n) Notwithstanding Subsection (c), the limitation on tax  
2 increases required by this section does not expire if the owner of  
3 the structure qualifies for an exemption under Section 11.13 under  
4 the circumstances described by Section 11.135(a).

5       (o) Notwithstanding Subsections (a), (a-3), and (b), an  
6 improvement to property that would otherwise constitute an  
7 improvement under Subsection (b) is not treated as an improvement  
8 under that subsection if the improvement is a replacement structure  
9 for a structure that was rendered uninhabitable or unusable by a  
10 casualty or by wind or water damage. For purposes of appraising the  
11 property in the tax year in which the structure would have  
12 constituted an improvement under Subsection (b), the replacement  
13 structure is considered to be an improvement under that subsection  
14 only if:

15               (1) the square footage of the replacement structure  
16 exceeds that of the replaced structure as that structure existed  
17 before the casualty or damage occurred; or

18               (2) the exterior of the replacement structure is of  
19 higher quality construction and composition than that of the  
20 replaced structure.

21       SECTION 4. Section 11.261, Tax Code, is amended by adding  
22 Subsections (l) and (m) to read as follows:

23       (l) Notwithstanding Subsection (d), a limitation on county,  
24 municipal, or junior college district tax increases provided by  
25 this section does not expire if the owner of the structure qualifies  
26 for an exemption under Section 11.13 under the circumstances  
27 described by Section 11.135(a).

1        (m) Notwithstanding Subsections (b) and (c), an improvement  
2 to property that would otherwise constitute an improvement under  
3 Subsection (c) is not treated as an improvement under that  
4 subsection if the improvement is a replacement structure for a  
5 structure that was rendered uninhabitable or unusable by a casualty  
6 or by wind or water damage. For purposes of appraising the property  
7 in the tax year in which the structure would have constituted an  
8 improvement under Subsection (c), the replacement structure is  
9 considered to be an improvement under that subsection only if:

10            (1) the square footage of the replacement structure  
11 exceeds that of the replaced structure as that structure existed  
12 before the casualty or damage occurred; or

13            (2) the exterior of the replacement structure is of  
14 higher quality construction and composition than that of the  
15 replaced structure.

16        SECTION 5. Section 23.23(f), Tax Code, is amended to read as  
17 follows:

18        (f) Notwithstanding Subsections (a) and (e) and except as  
19 provided by Subdivision (2), an improvement to property that would  
20 otherwise constitute a new improvement is not treated as a new  
21 improvement if the improvement is a replacement structure for a  
22 structure that was rendered uninhabitable or unusable by a casualty  
23 or by wind [~~mo-l-d~~] or water damage. For purposes of appraising the  
24 property under Subsection (a) in the tax year in which the structure  
25 would have constituted a new improvement:

26            (1) the appraised value the property would have had in  
27 the preceding tax [~~last~~] year if the casualty or damage had not

1 occurred [~~in which the property was appraised for taxation before~~  
2 ~~the casualty or damage occurred~~] is considered to be the appraised  
3 value of the property for that year, regardless of whether that  
4 appraised value exceeds the actual appraised value of the property  
5 for that year as limited by Subsection (a) [~~last year in which the~~  
6 ~~property was appraised for taxation for purposes of Subsection~~  
7 ~~(a)(2)(A)~~]; and

8 (2) the replacement structure is considered to be a  
9 new improvement only if:

10 (A) the square footage of the replacement  
11 structure exceeds that of [~~to the extent it is a significant~~  
12 ~~improvement over~~] the replaced structure as that structure existed  
13 before the casualty or damage occurred; or

14 (B) the exterior of the replacement structure is  
15 of higher quality construction and composition than that of the  
16 replaced structure.

17 SECTION 6. Section 61.018, Natural Resources Code, as  
18 amended by this Act, applies to a meteorological event regardless  
19 of whether the event occurred before, on, or after the effective  
20 date of this Act.

21 SECTION 7. This Act applies only to ad valorem taxes imposed  
22 for a tax year beginning on or after the effective date of this Act.

23 SECTION 8. This Act takes effect January 1, 2010.