

By: Howard of Travis

H.B. No. 770

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the ad valorem taxation of a residence homestead that is
3 rendered uninhabitable or unusable by a casualty or by mold or water
4 damage.

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

6 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by
7 adding Section 11.135 to read as follows:

8 Sec. 11.135. CONTINUATION OF RESIDENCE HOMESTEAD EXEMPTION
9 WHILE REPLACEMENT STRUCTURE IS CONSTRUCTED; SALE OF PROPERTY. (a)
10 If a qualified residential structure for which the owner receives
11 an exemption under Section 11.13 is rendered uninhabitable or
12 unusable by a casualty or by mold or water damage, the owner may
13 continue to receive the exemption for the structure and the land and
14 improvements used in the residential occupancy of the structure
15 while the owner constructs a replacement qualified residential
16 structure on the land if the owner does not establish a different
17 principal residence for which the owner receives an exemption under
18 Section 11.13 during that period and intends to return and occupy
19 the structure as the owner's principal residence. To continue to
20 receive the exemption, the owner must begin active construction of
21 the replacement qualified residential structure or other physical
22 preparation of the site on which the structure is to be located not
23 later than the first anniversary of the date the owner ceases to
24 occupy the former qualified residential structure as the owner's

1 principal residence. The owner may not receive the exemption for
2 that property under the circumstances described by this subsection
3 for more than three years.

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

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

22 (d) A tax lien attaches to property on the date a sale under
23 the circumstances described by Subsection (c) occurs to secure
24 payment of the additional tax and interest imposed by that
25 subsection and any penalties incurred. The lien exists in favor of
26 all taxing units for which the additional tax is imposed.

27 (e) A determination that a sale of property under the

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

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

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

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

20 (g) The comptroller shall adopt rules and forms to implement
21 this section.

22 SECTION 2. Section 11.26, Tax Code, is amended by adding
23 Subsections (n) and (o) to read as follows:

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

1 (o) Notwithstanding Subsections (a), (a-3), and (b), an
2 improvement to property that would otherwise constitute an
3 improvement under Subsection (b) is not treated as an improvement
4 under that subsection if the improvement is a replacement structure
5 for a structure that was rendered uninhabitable or unusable by a
6 casualty or by mold or water damage. For purposes of appraising the
7 property in the tax year in which the structure would have
8 constituted an improvement under Subsection (b), the replacement
9 structure is considered to be an improvement under that subsection
10 only to the extent it is a significant improvement, because of the
11 square footage of the structure or otherwise, over the replaced
12 structure as that structure existed before the casualty or damage
13 occurred.

14 SECTION 3. Section 11.261, Tax Code, is amended by adding
15 Subsections (l) and (m) to read as follows:

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

21 (m) Notwithstanding Subsections (b) and (c), an improvement
22 to property that would otherwise constitute an improvement under
23 Subsection (c) is not treated as an improvement under that
24 subsection if the improvement is a replacement structure for a
25 structure that was rendered uninhabitable or unusable by a casualty
26 or by mold or water damage. For purposes of appraising the property
27 in the tax year in which the structure would have constituted an

1 improvement under Subsection (c), the replacement structure is
2 considered to be an improvement under that subsection only to the
3 extent it is a significant improvement, because of the square
4 footage of the structure or otherwise, over the replaced structure
5 as that structure existed before the casualty or damage occurred.

6 SECTION 4. Section 23.23(f), Tax Code, is amended to read as
7 follows:

8 (f) Notwithstanding Subsections (a) and (e) and except as
9 provided by Subdivision (2), an improvement to property that would
10 otherwise constitute a new improvement is not treated as a new
11 improvement if the improvement is a replacement structure for a
12 structure that was rendered uninhabitable or unusable by a casualty
13 or by mold or water damage. For purposes of appraising the property
14 under Subsection (a) in the tax year in which the structure would
15 have constituted a new improvement:

16 (1) the appraised value the property would have had in
17 the preceding tax [last] year if the casualty or damage had not
18 occurred [in which the property was appraised for taxation before
19 the casualty or damage occurred] is considered to be the appraised
20 value of the property for that year [last year in which the property
21 was appraised for taxation for purposes of Subsection (a)(2)(A)];

22 and

23 (2) the replacement structure is considered to be a
24 new improvement only to the extent it is a significant improvement,
25 because of the square footage of the structure or otherwise, over
26 the replaced structure as that structure existed before the
27 casualty or damage occurred.

1 SECTION 5. This Act applies only to ad valorem taxes imposed
2 for a tax year beginning on or after the effective date of this Act.

3 SECTION 6. This Act takes effect January 1, 2010.