

1-1 By: Howard of Travis, et al. H.B. No. 770
1-2 (Senate Sponsor - Jackson)
1-3 (In the Senate - Received from the House May 8, 2009;
1-4 May 8, 2009, read first time and referred to Committee on Finance;
1-5 May 25, 2009, reported adversely, with favorable Committee
1-6 Substitute by the following vote: Yeas 11, Nays 0; May 25, 2009,
1-7 sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 770 By: Deuell

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the ad valorem taxation of a residence homestead that is
1-12 rendered uninhabitable or unusable by a casualty or by wind or water
1-13 damage.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by
1-16 adding Section 11.135 to read as follows:

1-17 Sec. 11.135. CONTINUATION OF RESIDENCE HOMESTEAD EXEMPTION
1-18 WHILE REPLACEMENT STRUCTURE IS CONSTRUCTED; SALE OF PROPERTY. (a)
1-19 If a qualified residential structure for which the owner receives
1-20 an exemption under Section 11.13 is rendered uninhabitable or
1-21 unusable by a casualty or by wind or water damage, the owner may
1-22 continue to receive the exemption for the structure and the land and
1-23 improvements used in the residential occupancy of the structure
1-24 while the owner constructs a replacement qualified residential
1-25 structure on the land if the owner does not establish a different
1-26 principal residence for which the owner receives an exemption under
1-27 Section 11.13 during that period and intends to return and occupy
1-28 the structure as the owner's principal residence. To continue to
1-29 receive the exemption, the owner must begin active construction of
1-30 the replacement qualified residential structure or other physical
1-31 preparation of the site on which the structure is to be located not
1-32 later than the first anniversary of the date the owner ceases to
1-33 occupy the former qualified residential structure as the owner's
1-34 principal residence. The owner may not receive the exemption for
1-35 that property under the circumstances described by this subsection
1-36 for more than two years.

1-37 (b) For purposes of Subsection (a), the site of a
1-38 replacement qualified residential structure is under physical
1-39 preparation if the owner has engaged in architectural or
1-40 engineering work, soil testing, land clearing activities, or site
1-41 improvement work necessary for the construction of the structure or
1-42 has conducted an environmental or land use study relating to the
1-43 construction of the structure.

1-44 (c) If an owner receives an exemption for property under
1-45 Section 11.13 under the circumstances described by Subsection (a)
1-46 and sells the property before the owner completes construction of a
1-47 replacement qualified residential structure on the property, an
1-48 additional tax is imposed on the property equal to the difference
1-49 between the taxes imposed on the property for each of the years in
1-50 which the owner received the exemption and the tax that would have
1-51 been imposed had the owner not received the exemption in each of
1-52 those years, plus interest at an annual rate of seven percent
1-53 calculated from the dates on which the differences would have
1-54 become due.

1-55 (d) A tax lien attaches to property on the date a sale under
1-56 the circumstances described by Subsection (c) occurs to secure
1-57 payment of the additional tax and interest imposed by that
1-58 subsection and any penalties incurred. The lien exists in favor of
1-59 all taxing units for which the additional tax is imposed.

1-60 (e) A determination that a sale of property under the
1-61 circumstances described by Subsection (c) has occurred is made by
1-62 the chief appraiser. The chief appraiser shall deliver a notice of
1-63 the determination to the owner of the property as soon as possible

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

2-12 (f) The sanctions provided by Subsection (c) do not apply if
 2-13 the sale is:

2-14 (1) for right-of-way; or

2-15 (2) to this state or a political subdivision of this
 2-16 state to be used for a public purpose.

2-17 (g) The comptroller shall adopt rules and forms to implement
 2-18 this section.

2-19 SECTION 2. Section 11.26, Tax Code, is amended by adding
 2-20 Subsections (n) and (o) to read as follows:

2-21 (n) Notwithstanding Subsection (c), the limitation on tax
 2-22 increases required by this section does not expire if the owner of
 2-23 the structure qualifies for an exemption under Section 11.13 under
 2-24 the circumstances described by Section 11.135(a).

2-25 (o) Notwithstanding Subsections (a), (a-3), and (b), an
 2-26 improvement to property that would otherwise constitute an
 2-27 improvement under Subsection (b) is not treated as an improvement
 2-28 under that subsection if the improvement is a replacement structure
 2-29 for a structure that was rendered uninhabitable or unusable by a
 2-30 casualty or by wind or water damage. For purposes of appraising the
 2-31 property in the tax year in which the structure would have
 2-32 constituted an improvement under Subsection (b), the replacement
 2-33 structure is considered to be an improvement under that subsection
 2-34 only if:

2-35 (1) the square footage of the replacement structure
 2-36 exceeds that of the replaced structure as that structure existed
 2-37 before the casualty or damage occurred; or

2-38 (2) the exterior of the replacement structure is of
 2-39 higher quality construction and composition than that of the
 2-40 replaced structure.

2-41 SECTION 3. Section 11.261, Tax Code, is amended by adding
 2-42 Subsections (l) and (m) to read as follows:

2-43 (l) Notwithstanding Subsection (d), a limitation on county,
 2-44 municipal, or junior college district tax increases provided by
 2-45 this section does not expire if the owner of the structure qualifies
 2-46 for an exemption under Section 11.13 under the circumstances
 2-47 described by Section 11.135(a).

2-48 (m) Notwithstanding Subsections (b) and (c), an improvement
 2-49 to property that would otherwise constitute an improvement under
 2-50 Subsection (c) is not treated as an improvement under that
 2-51 subsection if the improvement is a replacement structure for a
 2-52 structure that was rendered uninhabitable or unusable by a casualty
 2-53 or by wind or water damage. For purposes of appraising the property
 2-54 in the tax year in which the structure would have constituted an
 2-55 improvement under Subsection (c), the replacement structure is
 2-56 considered to be an improvement under that subsection only if:

2-57 (1) the square footage of the replacement structure
 2-58 exceeds that of the replaced structure as that structure existed
 2-59 before the casualty or damage occurred; or

2-60 (2) the exterior of the replacement structure is of
 2-61 higher quality construction and composition than that of the
 2-62 replaced structure.

2-63 SECTION 4. Section 23.23(f), Tax Code, is amended to read as
 2-64 follows:

2-65 (f) Notwithstanding Subsections (a) and (e) and except as
 2-66 provided by Subdivision (2), an improvement to property that would
 2-67 otherwise constitute a new improvement is not treated as a new
 2-68 improvement if the improvement is a replacement structure for a
 2-69 structure that was rendered uninhabitable or unusable by a casualty

3-1 or by wind [~~moist~~] or water damage. For purposes of appraising the
3-2 property under Subsection (a) in the tax year in which the structure
3-3 would have constituted a new improvement:

3-4 (1) the appraised value the property would have had in
3-5 the preceding tax [~~last~~] year if the casualty or damage had not
3-6 occurred [~~in which the property was appraised for taxation before~~
3-7 ~~the casualty or damage occurred~~] is considered to be the appraised
3-8 value of the property for that year, regardless of whether that
3-9 appraised value exceeds the actual appraised value of the property
3-10 for that year as limited by Subsection (a) [~~last year in which the~~
3-11 ~~property was appraised for taxation for purposes of Subsection~~
3-12 ~~(a)(2)(A)~~]; and

3-13 (2) the replacement structure is considered to be a
3-14 new improvement only if:

3-15 (A) the square footage of the replacement
3-16 structure exceeds that of [~~to the extent it is a significant~~
3-17 ~~improvement over~~] the replaced structure as that structure existed
3-18 before the casualty or damage occurred; or

3-19 (B) the exterior of the replacement structure is
3-20 of higher quality construction and composition than that of the
3-21 replaced structure.

3-22 SECTION 5. This Act applies only to ad valorem taxes imposed
3-23 for a tax year beginning on or after the effective date of this Act.

3-24 SECTION 6. This Act takes effect January 1, 2010.

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