

By: Thompson

H.B. No. 2593

A BILL TO BE ENTITLED

AN ACT

relating to the definition of a taxable entity.

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

SECTION 1. Chapter 171, Subsection 171.0002, Tax Code, is amended by adding Subsection 171.0002(c)(9) to read as follows:

(c) "Taxable entity" does not include an entity that is:

(1) a grantor trust as defined by Sections 671 and 7701(a)(30)(E), Internal Revenue Code, all of the grantors and beneficiaries of which are natural persons or charitable entities as described in Section 501(c)(3), Internal Revenue Code, excluding a trust taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(2) an estate of a natural person as defined by Section 7701(a)(30)(D), Internal Revenue Code, excluding an estate taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(3) an escrow;

(4) a real estate investment trust (REIT) as defined by Section 856, Internal Revenue Code, and its "qualified REIT subsidiary" entities as defined by Section 856(i)(2), Internal Revenue Code, provided that:

(A) a REIT with any amount of its assets in direct holdings of real estate, other than real estate it occupies for business purposes, as opposed to holding interests in limited

1 partnerships or other entities that directly hold the real estate,  
2 is a taxable entity; and

3 (B) a limited partnership or other entity that  
4 directly holds the real estate as described in Paragraph (A) is not  
5 exempt under this subdivision, without regard to whether a REIT  
6 holds an interest in it;

7 (5) a real estate mortgage investment conduit (REMIC),  
8 as defined by Section 860D, Internal Revenue Code;

9 (6) a nonprofit self-insurance trust created under  
10 Chapter 2212, Insurance Code, or a predecessor statute;

11 (7) a trust qualified under Section 401(a), Internal  
12 Revenue Code; ~~[or]~~

13 (8) a trust or other entity that is exempt under  
14 Section 501(c)(9), Internal Revenue Code~~[or]~~ ; or

15 (9) A Subchapter S Corporation under Section 1361,  
16 Internal Revenue Code, that is 100 percent owned by an Employee  
17 Stock Ownership Plan defined by Section 4975(e)(7), Internal  
18 Revenue Code.

19 SECTION 2. This Act takes effect September 1, 2009.