

By: Howard of Fort Bend

H.B. No. 3778

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the exclusion of certain flow-through funds in  
3 determining total revenue for purposes of the franchise tax.

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

5 SECTION 1. Section 171.1011(g), Tax Code, is amended to  
6 read as follows:

7 (g) A taxable entity shall exclude from its total revenue,  
8 to the extent included under Subsection (c)(1)(A), (c)(2)(A), or  
9 (c)(3), only the following flow-through funds that are mandated by  
10 contract to be distributed to other entities:

11 (1) sales commissions to nonemployees, including  
12 split-fee real estate commissions;

13 (2) the tax basis as determined under the Internal  
14 Revenue Code of securities underwritten; ~~and~~

15 (3) subcontracting payments handled by the taxable  
16 entity to provide services, labor, or materials in connection with  
17 the actual or proposed design, construction, remodeling, or repair  
18 of improvements on real property or the location of the boundaries  
19 of real property; and

20 (4) subcontracting payments made by the taxable entity  
21 to nonemployee agents for the performance of delivery services on  
22 behalf of the taxable entity.

23 SECTION 2. This Act applies only to a report originally due  
24 on or after the effective date of this Act.

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