

By: Wentworth, et al.

S.B. No. 475

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the exemption from ad valorem taxation of property  
3 owned by certain organizations engaged primarily in performing  
4 charitable functions or in providing services to aid in economic  
5 development.

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

7 SECTION 1. Section 11.184, Tax Code, is amended by amending  
8 Subsection (c) and adding Subsections (l), (m), and (n) to read as  
9 follows:

10 (c) A [~~If approved under Subsection (b), a~~] qualified  
11 charitable organization is entitled to an exemption from taxation  
12 of:

13 (1) the buildings and other real property and the  
14 tangible personal property that:

15 (A) are owned by the organization; and

16 (B) except as permitted by Subsection (d), are  
17 used exclusively by the organization and other organizations  
18 eligible for an exemption from taxation under this section or  
19 Section 11.18; and

20 (2) the real property owned by the organization  
21 consisting of:

22 (A) an incomplete improvement that:

23 (i) is under active construction or other  
24 physical preparation; and

1                   (ii) is designed and intended to be used  
2 exclusively by the organization and other organizations eligible  
3 for an exemption from taxation under this section or Section 11.18;  
4 and

5                   (B) the land on which the incomplete improvement  
6 is located that will be reasonably necessary for the use of the  
7 improvement by the organization and other organizations eligible  
8 for an exemption from taxation under this section or Section 11.18.

9                   (1) Notwithstanding the other provisions of this section, a  
10 corporation that is not a qualified charitable organization is  
11 entitled to an exemption from taxation of property under this  
12 section if:

13                   (1) the corporation is exempt from federal income  
14 taxation under Section 501(a), Internal Revenue Code of 1986, by  
15 being listed as an exempt entity under Section 501(c)(2) of that  
16 code;

17                   (2) the corporation holds title to the property for,  
18 collects income from the property for, and turns over the entire  
19 amount of that income, less expenses, to a qualified charitable  
20 organization; and

21                   (3) the qualified charitable organization would  
22 qualify for an exemption from taxation of the property under this  
23 section if the qualified charitable organization owned the  
24 property.

25                   (m) Before a corporation described by Subsection (1) may  
26 submit an application for an exemption under this section, the  
27 qualified charitable organization for which the corporation holds

1 title to the property must apply to the comptroller for the  
2 determination described by Subsection (e) with regard to the  
3 qualified charitable organization. The application for the  
4 determination must also include an application to the comptroller  
5 for a determination of whether the corporation meets the  
6 requirements of Subsections (1)(1) and (2). The corporation shall  
7 submit with the application for an exemption under this section a  
8 copy of the determination letter issued by the comptroller. The  
9 chief appraiser shall accept the copy of the letter as conclusive  
10 evidence of the matters described by Subsection (h) as well as of  
11 whether the corporation meets the requirements of Subsections  
12 (1)(1) and (2).

13 (n) Notwithstanding Subsection (k), in order for a  
14 corporation to continue to receive an exemption under Subsection  
15 (1) after the fifth tax year after the year in which the exemption  
16 is granted, the qualified charitable organization for which the  
17 corporation holds title to property must obtain a new determination  
18 letter and the corporation must reapply for the exemption.

19 SECTION 2. Subchapter B, Chapter 11, Tax Code, is amended by  
20 adding Section 11.231 to read as follows:

21 Sec. 11.231. NONPROFIT COMMUNITY BUSINESS ORGANIZATION  
22 PROVIDING ECONOMIC DEVELOPMENT SERVICES TO LOCAL COMMUNITY.

23 (a) In this section, "nonprofit community business organization"  
24 means an organization that meets the following requirements:

25 (1) the organization has been in existence for at  
26 least the preceding five years;

27 (2) the organization:

1           (A) is a nonprofit corporation organized under  
2 the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq.,  
3 Vernon's Texas Civil Statutes) or a nonprofit corporation formed  
4 under the Texas Nonprofit Corporation Law, as described by Section  
5 1.008, Business Organizations Code;

6           (B) is a nonprofit organization described by  
7 Section 501(c)(6), Internal Revenue Code of 1986; and

8           (C) is not a statewide organization;

9           (3) for at least the preceding three years, the  
10 organization has maintained a dues-paying membership of at least 50  
11 members; and

12           (4) the organization:

13           (A) has a board of directors elected by the  
14 members;

15           (B) does not compensate members of the board of  
16 directors for service on the board;

17           (C) with respect to its activities in this state,  
18 is engaged primarily in performing functions listed in Subsection  
19 (d);

20           (D) is primarily supported by membership dues and  
21 other income from activities substantially related to its primary  
22 functions; and

23           (E) is not, has not formed, and does not  
24 financially support a political committee as defined by Section  
25 251.001, Election Code.

26           (b) An association that qualifies as a nonprofit community  
27 business organization as provided by this section is entitled to an

1 exemption from taxation of:

2 (1) the buildings and tangible personal property that:

3 (A) are owned by the nonprofit community business  
4 organization; and

5 (B) except as permitted by Subsection (c), are  
6 used exclusively by qualified nonprofit community business  
7 organizations to perform their primary functions; and

8 (2) the real property owned by the nonprofit community  
9 business organization consisting of:

10 (A) an incomplete improvement that:

11 (i) is under active construction or other  
12 physical preparation; and

13 (ii) is designed and intended to be used  
14 exclusively by qualified nonprofit community business  
15 organizations; and

16 (B) the land on which the incomplete improvement  
17 is located that will be reasonably necessary for the use of the  
18 improvement by qualified nonprofit community business  
19 organizations.

20 (c) Use of exempt property by persons who are not nonprofit  
21 community business organizations qualified as provided by this  
22 section does not result in the loss of an exemption authorized by  
23 this section if the use is incidental to use by qualified nonprofit  
24 community business organizations and limited to activities that  
25 benefit the beneficiaries of the nonprofit community business  
26 organizations that own or use the property.

27 (d) To qualify for an exemption under this section, a

1 nonprofit community business organization must be engaged  
2 primarily in performing one or more of the following functions in  
3 the local community:

4 (1) promoting the common economic interests of  
5 commercial enterprises;

6 (2) improving the business conditions of one or more  
7 types of business; or

8 (3) otherwise providing services to aid in economic  
9 development.

10 (e) In this section, "building" includes the land that is  
11 reasonably necessary for use of, access to, and ornamentation of  
12 the building.

13 (f) A property may not be exempted under Subsection (b)(2)  
14 for more than three years.

15 (g) For purposes of Subsection (b)(2), an incomplete  
16 improvement is under physical preparation if the nonprofit  
17 community business organization has:

18 (1) engaged in architectural or engineering work, soil  
19 testing, land clearing activities, or site improvement work  
20 necessary for the construction of the improvement; or

21 (2) conducted an environmental or land use study  
22 relating to the construction of the improvement.

23 SECTION 3. Subsection (d), Section 11.42, Tax Code, is  
24 amended to read as follows:

25 (d) A person who acquires property after January 1 of a tax  
26 year may receive an exemption authorized by Section 11.17, 11.18,  
27 11.19, 11.20, 11.21, 11.23, 11.231, or 11.30 for the applicable

1 portion of that tax year immediately on qualification for the  
2 exemption.

3 SECTION 4. Subsection (c), Section 11.43, Tax Code, is  
4 amended to read as follows:

5 (c) An exemption provided by Section 11.13, 11.17, 11.18,  
6 11.182, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(h), (j), or  
7 (j-1), 11.231, 11.29, 11.30, or 11.31, once allowed, need not be  
8 claimed in subsequent years, and except as otherwise provided by  
9 Subsection (e), the exemption applies to the property until it  
10 changes ownership or the person's qualification for the exemption  
11 changes. However, the chief appraiser may require a person allowed  
12 one of the exemptions in a prior year to file a new application to  
13 confirm the person's current qualification for the exemption by  
14 delivering a written notice that a new application is required,  
15 accompanied by an appropriate application form, to the person  
16 previously allowed the exemption.

17 SECTION 5. Subsection (b), Section 11.184, Tax Code, is  
18 repealed.

19 SECTION 6. This Act applies only to ad valorem taxes imposed  
20 for a tax year that begins on or after the effective date of this  
21 Act.

22 SECTION 7. This Act takes effect January 1, 2010.