

By: Wentworth

S.B. No. 744

A BILL TO BE ENTITLED

AN ACT

relating to qualifications for an ad valorem tax exemption for property used to provide low-income or moderate-income housing.

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

SECTION 1. Section 11.182, Tax Code, is amended by amending Subsections (b), (e), (h), (j), and (k) and adding Subsections (b-1) and (b-2) to read as follows:

(b) An organization is entitled to an exemption from taxation of improved or unimproved real property it owns if the organization:

(1) is organized as a community housing development organization;

(2) meets the requirements of a charitable organization provided by Sections 11.18(e) and (f);

(3) owns the property for the purpose of building or repairing housing on the property to sell without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements or to rent without profit to such an individual or family; and

(4) engages [~~exclusively~~] in the building, repair, and sale or rental of housing as described by Subdivision (3) and related activities.

(b-1) Notwithstanding Subsections (b)(1) and (2), an owner of improved or unimproved real property that is not an organization

1 described by those subdivisions is entitled to an exemption from  
2 taxation of the property under Subsection (b) if the owner  
3 otherwise qualifies for the exemption and the owner is:

4 (1) a limited partnership 100 percent of the interest  
5 of the general partner in which is owned or controlled by an  
6 organization described by Subsections (b)(1) and (2); or

7 (2) an entity 100 percent of the interest in which is  
8 owned or controlled by an organization described by Subsections  
9 (b)(1) and (2).

10 (b-2) A reference in this section to an organization  
11 includes a limited partnership or other entity described by  
12 Subsection (b-1).

13 (e) In addition to meeting the applicable requirements of  
14 Subsections (b) and (c), to receive an exemption under Subsection  
15 (b) for improved real property that is ~~[includes a housing project~~  
16 ~~constructed after December 31, 2001, and]~~ financed with qualified  
17 501(c)(3) bonds issued under Section 145 of the Internal Revenue  
18 Code of 1986, tax-exempt private activity bonds subject to volume  
19 cap, or low-income housing tax credits, the organization must:

20 (1) ~~[control 100 percent of the interest in the~~  
21 ~~general partner if the project is owned by a limited partnership,~~

22 ~~[(2)]~~ comply with all rules of and laws administered  
23 by the Texas Department of Housing and Community Affairs applicable  
24 to community housing development organizations; and

25 (2) ~~[(3)]~~ submit annually to the Texas Department of  
26 Housing and Community Affairs and to the governing body of each  
27 taxing unit for which the project receives an exemption for the

1 housing project evidence demonstrating that the organization spent  
2 an amount equal to at least 90 percent of the project's cash flow in  
3 the preceding fiscal year as determined by the audit required by  
4 Subsection (g), for eligible persons in the county in which the  
5 property is located, on social, educational, or economic  
6 development services, capital improvement projects, or rent  
7 reduction.

8 (h) Subsections (d) and (e)(2) [~~(e)(3)~~] do not apply to  
9 property owned by an organization if:

10 (1) the entity that provided the financing for the  
11 acquisition or construction of the property:

12 (A) requires the organization to make payments in  
13 lieu of taxes to the school district in which the property is  
14 located; or

15 (B) restricts the amount of rent the organization  
16 may charge for dwelling units on the property; or

17 (2) the organization has entered into an agreement  
18 with each taxing unit for which the property receives an exemption  
19 to spend in each tax year for the purposes provided by Subsection  
20 (d) or (e)(2) [~~(e)(3)~~] an amount equal to the total amount of taxes  
21 imposed on the property in the tax year preceding the year in which  
22 the organization acquired the property.

23 (j) An organization may not receive an exemption under  
24 Subsection (b) or (f) for property for a tax year unless the  
25 organization applied for or received an exemption under that  
26 subsection for the property for any part of the 2003 tax year.

27 (k) Notwithstanding Subsection (j) of this section and

1 Sections 11.43(a) and (c), an exemption under Subsection (b) or (f)  
 2 does not terminate because of a change in the ownership of the  
 3 property if the property is sold at a foreclosure sale and, not  
 4 later than the 30th day after the date of the sale, the owner of the  
 5 property submits to the chief appraiser evidence that the property  
 6 is owned by an organization that meets the requirements of  
 7 Subsections (b)(1), (2), and (4) or is owned by a limited  
 8 partnership described by Subsection (b-1)(1) or an entity described  
 9 by Subsection (b-1)(2) that meets the requirements of Subsection  
 10 (b)(4). If the owner of the property submits the evidence required  
 11 by this subsection, the exemption continues to apply to the  
 12 property for the remainder of the current tax year and for  
 13 subsequent tax years until the owner ceases to qualify the property  
 14 for the exemption. This subsection does not prohibit the chief  
 15 appraiser from requiring the owner to file a new application to  
 16 confirm the owner's current qualification for the exemption as  
 17 provided by Section 11.43(c).

18 SECTION 2. Sections 11.1825(c) and (t), Tax Code, are  
 19 amended to read as follows:

20 (c) Notwithstanding Subsection (b), an owner of real  
 21 property that is not an organization described by that subsection  
 22 is entitled to an exemption from taxation of property under this  
 23 section if the property otherwise qualifies for the exemption and  
 24 the owner is:

25 (1) a limited partnership of which an organization  
 26 that meets the requirements of Subsection (b) controls 100 percent  
 27 of the general partner interest; [~~or~~]

1           (2) an entity the parent of which is an organization  
2 that meets the requirements of Subsection (b); or

3           (3) an entity the parent of which is controlled by an  
4 organization that meets the requirements of Subsection (b).

5           (t) Notwithstanding Section 11.43(c), an exemption under  
6 this section does not terminate because of a change in ownership of  
7 the property if:

8           (1) the property is foreclosed on for any reason and,  
9 not later than the 30th day after the date of the foreclosure sale,  
10 the owner of the property submits to the chief appraiser evidence  
11 that the property is owned by:

12                   (A) an organization that meets the requirements  
13 of Subsection (b); or

14                   (B) an entity that meets the requirements of  
15 Subsections (c) and (d); or

16           (2) in the case of property owned by an entity  
17 described by Subsections (c) and (d), the organization meeting the  
18 requirements of Subsection (b) that controls the general partner  
19 interest of, ~~[or]~~ is the parent of, or controls the parent of the  
20 entity as described by Subsection (c) ceases to serve in that  
21 capacity and, not later than the 30th day after the date the  
22 cessation occurs, the owner of the property submits evidence to the  
23 chief appraiser that the organization has been succeeded in that  
24 capacity by another organization that meets the requirements of  
25 Subsection (b).

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

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1       SECTION 4.   This Act takes effect January 1, 2010.