SENATE AMENDMENTS

2nd Printing

By: Howard of Travis, Eiland, Ritter, Elkins, Taylor, et al.

H.B. No. 770

A BILL TO BE ENTITLED

AN ACT

relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage and to exempting certain houses from the Open Beaches Act.

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

SECTION 1. Section 61.018, Natural Resources Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) <u>Except as provided by Subsection (a-1), any</u> [~~Any~~] county attorney, district attorney, or criminal district attorney, or the attorney general at the request of the commissioner, shall file in a district court of Travis County, or in the county in which the property is located, a suit to obtain either a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove or prevent any improvement, maintenance, obstruction, barrier, or other encroachment on a public beach, or to prohibit any unlawful restraint on the public's right of access to and use of a public beach or other activity that violates this chapter.

<u>(a-1) A county attorney, district attorney, or criminal district attorney or the attorney general may not file a suit under Subsection (a) to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove a house from a public beach if:</u>

(1) the line of vegetation establishing the boundary of the public beach has moved as a result of a meteorological event;

(2) the house was located landward of the natural line of vegetation before the meteorological event;

(3) a portion of the house continues to be located landward of the line of vegetation; and

(4) the house is located on a peninsula in a county with a population of more than 250,000 and less than 251,000 that borders the Gulf of Mexico.

(a-2) The owner of a house described by Subsection (a-1) may repair or rebuild the house following a meteorological event that causes the destruction of or damage to the house.

SECTION 2. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.135 to read as follows:

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

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

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

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

(e) A determination that a sale of property under the circumstances described by Subsection (c) has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the property as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the property.

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

(1) for right-of-way; or

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

(g) The comptroller shall adopt rules and forms to implement this section.

SECTION 3. Section 11.26, Tax Code, is amended by adding Subsections (n) and (o) to read as follows:

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

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

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

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

SECTION 4. Section 11.261, Tax Code, is amended by adding Subsections (l) and (m) to read as follows:

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

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

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

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

SECTION 5. Section 23.23(f), Tax Code, is amended to read as follows:

(f) Notwithstanding Subsections (a) and (e) and except as provided by Subdivision (2), an improvement to property that would otherwise constitute a new improvement is not treated as a new improvement if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind [~~mold~~] or water damage. For purposes of appraising the property under Subsection (a) in the tax year in which the structure would have constituted a new improvement:

(1) the appraised value the property would have had in the preceding tax [~~last~~] year if the casualty or damage had not

occurred [~~in which the property was appraised for taxation before the casualty or damage occurred~~] is considered to be the appraised value of the property for that year, regardless of whether that appraised value exceeds the actual appraised value of the property for that year as limited by Subsection (a) [~~last year in which the property was appraised for taxation for purposes of Subsection (a)(2)(A)~~]; and

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

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

(B) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

SECTION 6. Section 61.018, Natural Resources Code, as amended by this Act, applies to a meteorological event regardless of whether the event occurred before, on, or after the effective date of this Act.

SECTION 7. This Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 8. This Act takes effect January 1, 2010.

ADOPTED

MAY 27 2009

[signature]
Secretary of the Senate

By: Howard/Jackson H.B. No. 770

Substitute the following for H.B. No. 770:

By: [signature] C.S.H.B. No. 770

A BILL TO BE ENTITLED

AN ACT

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

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

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

<u>Sec. 11.135. CONTINUATION OF RESIDENCE HOMESTEAD EXEMPTION WHILE REPLACEMENT STRUCTURE IS CONSTRUCTED; SALE OF PROPERTY. (a) If a qualified residential structure for which the owner receives an exemption under Section 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land if the owner does not establish a different principal residence for which the owner receives an exemption under Section 11.13 during that period and intends to return and occupy the structure as the owner's principal residence. To continue to receive the exemption, the owner must begin active construction of the replacement qualified residential structure or other physical preparation of the site on which the structure is to be located not later than the first anniversary of the date the owner ceases to occupy the former qualified residential structure as the owner's</u>

principal residence. The owner may not receive the exemption for that property under the circumstances described by this subsection for more than two years.

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

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

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

(e) A determination that a sale of property under the circumstances described by Subsection (c) has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the property as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the property.

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

(1) for right-of-way; or

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

(g) The comptroller shall adopt rules and forms to implement this section.

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

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

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

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

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

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

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

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

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

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

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

(f) Notwithstanding Subsections (a) and (e) and except as provided by Subdivision (2), an improvement to property that would otherwise constitute a new improvement is not treated as a new improvement if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind [~~mold~~] or water damage. For purposes of appraising the property under Subsection (a) in the tax year in which the structure would have constituted a new improvement:

(1) the appraised value the property would have had in the preceding tax [~~last~~] year if the casualty or damage had not occurred [~~in which the property was appraised for taxation before the casualty or damage occurred~~] is considered to be the appraised value of the property for that year, regardless of whether that appraised value exceeds the actual appraised value of the property

for that year as limited by Subsection (a) [~~last year in which the property was appraised for taxation for purposes of Subsection (a)(2)(A)~~]; and

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

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

(B) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

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

SECTION 6. This Act takes effect January 1, 2010.

ADOPTED

MAY 27 2009

Secretary of the Senate

FLOOR AMENDMENT NO. 1 BY: Wentworth

Amend H.B. No. 770 by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION ____. (a) Section 11.27, Tax Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the property on which the solar or wind-powered energy device is installed or constructed is property that qualifies for an exemption under Section 11.13, Section 11.43(c) applies to the exemption provided by Subsection (a) in the same manner as Section 11.43(c) applies to an exemption listed in that section.

(b) This section applies only to an ad valorem tax year that begins on or after the effective date of this section.

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FLOOR AMENDMENT NO. 2 ADOPTED BY: JACKSON

MAY 2 7 2009

Secretary of the Senate

Amend CSHB 770 by adding Section 11.231 to read as follows:

Sec. 11.231. NONPROFIT COMMUNITY BUSINESS ORGANIZATION PROVIDING ECONOMIC DEVELOPMENT SERVICES TO LOCAL COMMUNITY. (a) In this section, "nonprofit community business organization" means an organization that meets the following requirements:

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

(2) the organization:

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

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

(C) is not a statewide organization;

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

(4) the organization:

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

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

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

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

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

(b) An association that qualifies as a nonprofit community business organization as provided by this section is entitled to an exemption from taxation of:

(1) the buildings and tangible personal property that:

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

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

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

(A) an incomplete improvement that:

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

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

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

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

(d) To qualify for an exemption under this section, a nonprofit community business organization must be engaged primarily in performing one or more of the following functions in the local community:

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

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

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

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

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

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

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

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

SECTION 2. Section 11.42(d), Tax Code, is amended to read as follows:

(d) A person who acquires property after January 1 of a tax year may receive an exemption authorized by Section 11.17, 11.18, 11.19, 11.20, 11.21, 11.23, 11.231, or 11.30 for the applicable portion of that tax year immediately on qualification for the exemption.

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

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

SECTION 4. This Act applies only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 5. This Act takes effect January 1, 2010.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB770** by Howard, Donna (relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB770, As Passed 2nd House: a negative impact of ($1,194,000) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	$0
2011	($1,194,000)
2012	($1,448,000)
2013	($1,607,000)
2014	($1,782,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *Foundation School Fund* 193	Probable Revenue Gain/(Loss) from *School Districts - Net Impact*	Probable Revenue Gain/(Loss) from *Counties*	Probable Revenue Gain/(Loss) from *Cities*
2010	$0	$0	$0	$0
2011	($1,194,000)	($397,000)	($467,000)	($448,000)
2012	($1,448,000)	($329,000)	($518,000)	($495,000)
2013	($1,607,000)	($378,000)	($574,000)	($547,000)
2014	($1,782,000)	($435,000)	($636,000)	($605,000)

Fiscal Analysis

The bill would amend Chapter 11 of the Tax Code to exempt from ad valorem taxation property used by certain nonprofit community business organizations providing services to support the economic development of local communities.

The bill would require organizations receiving this exemption to have been in existence for at least five years, maintained a dues-paying membership of at least 50 members for at least the past three years, been organized and registered as a nonprofit corporation, not been a statewide organization, and other factors indicating public support and purpose.

The bill would add new Section 11.135 to the Tax Code to require the continuation of a homestead exemption when a residence is under repair following an event that rendered the residence uninhabitable or unusable. The owner would be required to begin repairs within one year, and the exemption would be limited to two years.

The bill would impose an additional tax to recapture the difference between the amount that would have been taxed and the amount actually taxed with the exemption if the owner sells the property before the completion of a replacement qualified residential structure. The bill would require a lien to be attached to the property to secure payment of the additional tax and interest. The Comptroller would adopt rules and forms to implement this new section.

The bill would make conforming amendments to continue the limitation on tax increases during the construction period and to exclude covered renovations from treatment as improvements for the purpose of calculating any limitation on tax increases.

The extent to which homeowners would return to damaged and uninhabitable residences is unknown.

The extent to which appraisal districts are discontinuing homestead exemptions and homestead tax increase limitations on damaged and uninhabited homesteads is also unknown. To the extent that property tax exemptions and limitations would be continued under the bill that would have been removed under current law, there would be a loss to taxing units and to the state. The overall fiscal impact on the state and local taxing units would be insignificant.

The bill would amend Chapter 11 of the Tax Code to require that the ad valorem tax exemption on solar or wind-powered energy devices installed at a residence homestead would not have to be applied for each year once it was allowed. The bill would not affect the amount of taxes collected, but would only affect the steps involved in the administration of an exemption.

Methodology

The tables above reflect the impact to units of local government. The bill's requirement for mandatory exemptions for qualifying economic development corporation property would create a cost to cities, counties, school districts and the state through the operation of the school finance formulas. The bill would be effective on January 1, 2010, so the fiscal costs would appear in fiscal 2011. The number of Texas economic development corporations that own eligible property was estimated and multiplied by the estimated average value of the property to estimate potential value losses under the proposed bill. The appropriate trended tax rates were applied to the trended value losses to estimate the tax revenue losses.

Because of the operation of the hold harmless provisions of HB 1, 79th Legislature, Third Called Session (2006), the school district cost related to the compressed rate would be transferred to the state. Portions of the enrichment cost and the school district debt (facilities) cost would also be transferred to the state after a one-year lag because of the operation of the enrichment and facilities funding formulas. All costs were estimated over the five year projection period.

The bill is estimated to have an impact on the state aid districts receive based on the enrichment tier as tied to the yield of the Austin Independent School District (ISD). To the extent that the bill has the effect of lessening Austin ISD's revenue per weighted student per penny of tax effort, as determined by the Commissioner of Education, the growth of the equalized yield on those enrichment pennies would slow, resulting in slower growth in state aid.

Local Government Impact

The estimated fiscal implication to units of local government is reflected in the table above.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 25, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB770** by Howard, Donna (Relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would add new Section 11.135 to the Tax Code to require the continuation of a homestead exemption when a residence is under repair following an event that rendered the residence uninhabitable or unusable. The owner would be required to begin repairs within one year, and the exemption would be limited to two years.

The bill would impose an additional tax to recapture the difference between the amount that would have been taxed and the amount actually taxed with the exemption if the owner sells the property before the completion of a replacement qualified residential structure. The bill would require a lien to be attached to the property to secure payment of the additional tax and interest. The Comptroller would adopt rules and forms to implement this new section.

The bill would make conforming amendments to continue the limitation on tax increases during the construction period and to exclude covered renovations from treatment as improvements for the purpose of calculating any limitation on tax increases.

The extent to which homeowners would return to damaged and uninhabitable residences is unknown. The extent to which appraisal districts are discontinuing homestead exemptions and homestead tax increase limitations on damaged and uninhabited homesteads is also unknown. To the extent that property tax exemptions and limitations would be continued under the bill that would have been removed under current law, there would be a loss to taxing units and to the state. The overall fiscal impact on the state and local taxing units would be insignificant.

The bill would take effect January 1, 2010, and would only apply to ad valorem taxes imposed for a tax year beginning on or after the effective date.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB770** by Howard, Donna (Relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage and to exempting certain houses from the Open Beaches Act.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Section 61.018 of the Natural Resources Code to prohibit a county attorney, district attorney, criminal district attorney, or the attorney general from filing a suit to obtain a temporary or permanent court order to remove a house from a public beach, if the house is now partly on the seaward side of the natural line of vegetation but was located landward of the line of vegetation prior to a meteorological event, and the house is located on a peninsula in a county with a population of more than 250,000 and less than 251,000 that borders the Gulf of Mexico. The owner would be permitted to rebuild the house following a meteorological event that caused the destruction or damage of the house.

The bill would add new Section 11.135 to the Tax Code to require the continuation of a homestead exemption when a residence is under repair following an event that rendered the residence uninhabitable or unusable. The owner would be required to begin repairs within one year, and the exemption would be limited to two years.

The bill would impose an additional tax to recapture the difference between the amount that would have been taxed and the amount actually taxed with the exemption if the owner sells the property before the completion of a replacement qualified residential structure. The bill would require a lien to be attached to the property to secure payment of the additional tax and interest. The Comptroller would adopt rules and forms to implement this new section.

The bill would make conforming amendments to continue the limitation on tax increases during the construction period and to exclude covered renovations from treatment as improvements for the purpose of calculating any limitation on tax increases.

The number of homes that would avoid removal lawsuits under the narrow requirements of the bill is unknown. To the extent that homes remain and are repaired that would have been removed under current law, the value of the property would be increased causing a gain to local taxing units and the state.

The extent to which homeowners would return to damaged and uninhabitable residences is unknown. The extent to which appraisal districts are discontinuing homestead exemptions and homestead tax increase limitations on damaged and uninhabited homesteads is also unknown. To the extent that property tax exemptions and limitations would be continued under the bill that would have been removed under current law, there would be a loss to taxing units and to the state. The overall fiscal impact on the state and local taxing units would be insignificant.

The bill would take effect January 1, 2010, and would only apply to ad valorem taxes imposed for a tax year beginning on or after the effective date.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts
LBB Staff: JOB, MN, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 21, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB770** by Howard, Donna (Relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would add a new Section 11.135 to the Tax Code, regarding exemptions from property taxation.

The bill would continue a homestead exemption when a residence is under repair following an event that rendered the residence uninhabitable or unusable. The owner would be required to begin repairs within one year, and the exemption would be limited to two years.

The bill would impose an additional tax to recapture the difference between the amount that would have been taxed and the amount actually taxed with the exemption if the owner sells the property before the completion of a replacement qualified residential structure. The bill would require a lien to be attached to the property to secure payment of the additional tax and interest. The Comptroller would adopt rules and forms to implement this new section.

The bill would amend this chapter elsewhere to continue the limitation on tax increases during the construction period and to exclude covered renovations from treatment as improvements for the purpose of calculating any limitation on tax increases.

The extent to which homeowners would return to damaged and uninhabitable residences is unknown. The extent to which appraisal districts are discontinuing homestead exemptions and homestead tax increase limitations on damaged and uninhabited homesteads is also unknown. The fiscal impact on the state and local taxing units would be insignificant.

The bill would take effect January 1, 2010, and would only apply to ad valorem taxes imposed for a tax year beginning on or after the effective date.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 23, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB770** by Howard, Donna (Relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by mold or water damage.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would add a new Section 11.135 to the Tax Code, regarding exemptions from property taxation.

The bill would continue a homestead exemption when a residence is under repair following an event that rendered the residence uninhabitable or unusable. The owner would be required to begin repairs within one year, and the exemption would be limited to three years.

The bill would impose an additional tax to recapture the difference between the amount that would have been taxed and the amount actually taxed with the exemption if the owner sells the property before the completion of a replacement qualified residential structure. The bill would require a lien to be attached to the property to secure payment of the additional tax and interest. The Comptroller would adopt rules and forms to implement this new section.

The bill would amend this chapter elsewhere to continue the limitation on tax increases during the construction period and to exclude covered renovations from treatment as improvements for the purpose of calculating any limitation on tax increase.

The extent to which homeowners would return to damaged and uninhabitable residences is unknown. The extent to which appraisal districts are discontinuing homestead exemptions and homestead tax increase limitations on damaged and uninhabited homesteads is also unknown. The fiscal impact on the state and local taxing units would be insignificant.

The bill would take effect January 1, 2010, and would only apply to ad valorem taxes imposed for a tax year beginning on or after the effective date.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SJS

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

April 21, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB770** by Howard, Donna (Relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by wind or water damage.), **Committee Report 1st House, Substituted**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:
LBB Staff: JOB, MN

LEGISLATIVE BUDGET BOARD
Austin, Texas

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

March 24, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB770** by Howard, Donna (Relating to the ad valorem taxation of a residence homestead that is rendered uninhabitable or unusable by a casualty or by mold or water damage.), **As Introduced**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:
LBB Staff: JOB, MN