

By: Villarreal

H.B. No. 1056

Substitute the following for H.B. No. 1056:

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C.S.H.B. No. 1056

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the ad valorem taxation of property used to provide  
3 low-income or moderate-income housing.

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

5 SECTION 1. Section 11.182(a), Tax Code, is amended by  
6 amending Subdivision (2) and adding Subdivisions (3) and (4) to  
7 read as follows:

8 (2) "Community housing development organization" has  
9 the meaning assigned by 24 C.F.R. Section 92.2, except that the  
10 term also includes an organization that otherwise qualifies as a  
11 community housing development organization under that section but  
12 that:

13 (A) does not receive HOME funds as defined by  
14 that section; or

15 (B) is governed by a board all of the members of  
16 which are appointed by a state or local government [~~42 U.S.C.~~  
17 ~~Section 12704~~].

18 (3) "Control" includes:

19 (A) with respect to a limited partnership, the  
20 control, directly or through a wholly controlled subsidiary, of 100  
21 percent of the general partner interest; and

22 (B) with respect to a limited liability company,  
23 serving as the sole manager or managing member of the company.

24 (4) "Department" means the Texas Department of Housing

1 and Community Affairs or its successor agency.

2 SECTION 2. Section 11.182, Tax Code, is amended by adding  
3 Subsections (a-1), (b-1), (b-2), (j-1), (l), (m), (n), (o), (p),  
4 (q), (r), and (s) and amending Subsections (e), (g), (h), (i), and  
5 (k) to read as follows:

6 (a-1) An organization is considered to own property for  
7 purposes of this section and the provisions of Section 2, Article  
8 VIII, Texas Constitution, authorizing the legislature by general  
9 law to exempt from taxation property owned by an institution  
10 engaged primarily in public charitable functions, if the  
11 organization has legal or equitable title to the property. By way  
12 of example, an organization has equitable title to property if it  
13 has a present right to compel legal title to the property to be  
14 conveyed to it in accordance with law, such as by means of an option  
15 to acquire the property. For purposes of eligibility for an  
16 exemption under this section, property owned by a tax credit  
17 partnership or limited liability company is considered to be owned  
18 by a community housing development organization if the general  
19 partner of the tax credit partnership or the manager of the limited  
20 liability company is, or is controlled by, the community housing  
21 development organization and the community housing development  
22 organization holds equitable title to the property pursuant to an  
23 option to acquire the property on terms negotiated between the  
24 parties.

25 (b-1) Notwithstanding Subsection (b), if the legal owner of  
26 property is not an organization described by that subsection, the  
27 legal owner is entitled to an exemption from taxation of property

1 under this section if the property otherwise qualifies for the  
2 exemption and the legal owner is:

3 (1) an entity 100 percent of the interest in which is  
4 owned by an organization that meets the requirements of Subsection  
5 (b); or

6 (2) an entity controlled by an organization that meets  
7 the requirements of Subsection (b).

8 (b-2) A reference in this section to an organization  
9 includes an entity described by Subsection (b-1)(1) or (2).

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

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

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

23 (2) [(3)] submit annually to the department, if the  
24 property is a multifamily rental property consisting of more than  
25 four dwelling units, or to the chief appraiser of the appraisal  
26 district in which the property subject to the exemption is located,  
27 if the property is not such a property, [Texas Department of Housing

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

10 (g) To receive an exemption under Subsection (b) or (f), an  
11 organization must annually have an audit prepared by an independent  
12 auditor. The audit must include a detailed report on the  
13 organization's sources and uses of funds. A copy of the audit must  
14 be delivered to the department, if the property is a multifamily  
15 rental property consisting of more than four dwelling units, or  
16 ~~[Texas Department of Housing and Community Affairs and]~~ to the  
17 chief appraiser of the appraisal district in which the property  
18 subject to the exemption is located, if the property is not such a  
19 multifamily rental property.

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

22 (1) the entity that provided the financing for the  
23 acquisition or construction of the property:

24 (A) requires the organization to make payments in  
25 lieu of taxes to the school district in which the property is  
26 located; or

27 (B) restricts the amount of rent the organization

1 may charge for dwelling units on the property; or

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

8 (i) If any property owned by an organization receiving an  
9 exemption under this section has been acquired or sold during the  
10 preceding year, the [~~such~~] organization shall file by March 31 of  
11 the following year with the department, for multifamily rental  
12 properties consisting of more than four dwelling units, or with the  
13 chief appraiser in the county in which the relevant properties are  
14 [~~property is~~] located, for properties that are not such multifamily  
15 rental properties, on a form promulgated by the comptroller of  
16 public accounts, a list of such properties acquired or sold during  
17 the preceding year.

18 (j-1) Notwithstanding Subsection (j), an organization may  
19 not receive an exemption under Subsection (b) or (f) for property  
20 for the 2012 tax year or a subsequent tax year if:

21 (1) the organization did not claim an exemption under  
22 Subsection (b) or (f) for the property for the 2010 tax year; or

23 (2) the organization claimed an exemption under  
24 Subsection (b) or (f) for the property for the 2010 tax year and the  
25 organization is finally determined to be ineligible for the  
26 exemption for the property for that 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 department, if the property is a  
6 multifamily rental property consisting of more than four dwelling  
7 units, or the chief appraiser, if the property is not such a  
8 multifamily rental property, evidence that the property is owned by  
9 an organization that meets the requirements of Subsections (b)(1),  
10 (2), and (4). If the owner of the property submits the evidence  
11 required by this subsection, the exemption continues to apply to  
12 the 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 or the department, as applicable, from requiring the  
16 owner to file a new application to confirm the owner's current  
17 qualification for the exemption as provided by Section 11.43(c).

18 (1) This subsection applies only to a multifamily rental  
19 property consisting of more than four dwelling units. If the chief  
20 appraiser of the appraisal district in which the property is  
21 located cancels the exemption or requires the organization that  
22 owns the property to file a new application to confirm the  
23 organization's current qualification for the exemption, the  
24 organization must file a new application for the exemption with the  
25 department. The provisions of this code governing the filing of an  
26 application under Section 11.43, action on the application, and the  
27 effect of the granting of the application by a chief appraiser apply

1 to an application filed with the department under this subsection,  
2 except as otherwise provided by this section.

3 (m) The department shall prescribe the contents of the  
4 exemption application form for purposes of Subsection (l). The  
5 provisions of Section 11.43 governing the contents of an  
6 application form prescribed by the comptroller apply to an  
7 exemption application form prescribed by the department to the  
8 extent those provisions may be made applicable.

9 (n) Not later than the 60th day after the date an  
10 organization submits a complete application to the department under  
11 Subsection (l), the executive director of the department shall  
12 determine whether the organization is entitled to an exemption for  
13 the property under Subsection (b) or (f). In making a  
14 determination, the executive director may rely on the conclusions  
15 in any audit or legal opinion provided to the department or any  
16 determination letter issued by the United States Internal Revenue  
17 Service regarding the organization's status under Section 501,  
18 Internal Revenue Code of 1986.

19 (o) The executive director may request that an organization  
20 that files an application under Subsection (l) provide additional  
21 information. If the executive director makes such a request, the  
22 application is considered to be complete for purposes of Subsection  
23 (n) on the date on which all additional information requested by the  
24 executive director has been received by the department.

25 (p) Not later than the fifth day after the date the  
26 executive director makes a determination under Subsection (n), the  
27 executive director shall issue a letter to the applicant

1 organization stating the executive director's determination. If  
2 the executive director determines that the organization is not  
3 entitled to an exemption for the property under Subsection (b) or  
4 (f), the letter must include the reasons for the determination and a  
5 description of the procedure for appealing the determination. The  
6 executive director shall send a copy of the letter by regular mail  
7 to the chief appraiser of each appraisal district that appraises  
8 the property. If the executive director determines that the  
9 organization is entitled to an exemption for the property under  
10 Subsection (b) or (f), the chief appraiser shall grant the  
11 exemption. If the executive director determines that the  
12 organization is not entitled to an exemption for the property under  
13 Subsection (b) or (f), the chief appraiser shall deny the  
14 exemption.

15 (q) The applicant organization or a taxing unit in which the  
16 property to which the application applies is located may appeal the  
17 executive director's determination under Subsection (p) to the  
18 governing board of the department in the manner provided by  
19 department rule. The organization may be represented in an appeal  
20 by an agent in accordance with Section 1.111. The organization or  
21 taxing unit may appeal under Chapter 42 a final determination by the  
22 governing board of the department in the same manner as provided by  
23 law for the appeal of a determination by an appraisal review board,  
24 except that the petition for review must be brought against the  
25 department rather than the appraisal district.

26 (r) The department shall employ sufficient personnel to  
27 process any applications received under Subsection (l) and may



1 charge an organization filing an application a reasonable fee not  
2 to exceed the lesser of:

3 (1) \$2,500; or

4 (2) the direct and indirect administrative costs of  
5 processing the application and issuing a determination under  
6 Subsection (n).

7 (s) The department shall adopt rules to implement its duties  
8 under this section. The rules must:

9 (1) establish procedures for considering exemption  
10 applications; and

11 (2) be sufficiently specific to ensure that  
12 determinations are equal and uniform.

13 SECTION 3. Section 11.1825, Tax Code, is amended by  
14 amending Subsections (a), (c), (d), (i), (j), (l), (s), (t), (u),  
15 (v), and (y) and adding Subsections (a-1), (a-2), (e-1), (z), (aa),  
16 (bb), (cc), (dd), (ee), (ff), and (gg) to read as follows:

17 (a) In this section:

18 (1) "Control" includes:

19 (A) with respect to a limited partnership, the  
20 control, directly or through a wholly controlled subsidiary, of 100  
21 percent of the general partner interest; and

22 (B) with respect to a limited liability company,  
23 serving as the sole manager or managing member of the company.

24 (2) "Department" means the Texas Department of Housing  
25 and Community Affairs or its successor agency.

26 (a-1) An organization is considered to own property for  
27 purposes of this section and the provisions of Section 2, Article

1 VIII, Texas Constitution, authorizing the legislature by general  
2 law to exempt from taxation property owned by an institution  
3 engaged primarily in public charitable functions, if the  
4 organization has legal or equitable title to the property. By way  
5 of example, an organization has equitable title to property if it  
6 has a present right to compel legal title to the property to be  
7 conveyed to it in accordance with law, such as by means of an option  
8 to acquire the property. For purposes of eligibility for an  
9 exemption under this section, property owned by a tax credit  
10 partnership or limited liability company is considered to be owned  
11 by an organization if the general partner of the tax credit  
12 partnership or the manager of the limited liability company is, or  
13 is controlled by, the organization and the organization holds  
14 equitable title to the property pursuant to an option to acquire the  
15 property on terms negotiated between the parties.

16       (a-2) An organization is entitled to an exemption from  
17 taxation of real property owned by the organization that the  
18 organization constructs or rehabilitates and uses to provide  
19 housing to individuals or families meeting the income eligibility  
20 requirements of this section.

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

26               (1) an entity 100 percent of the interest in which is  
27 owned by ~~[a limited partnership of which]~~ an organization that

1 meets the requirements of Subsection (b) [~~controls 100 percent of~~  
2 ~~the general partner interest~~]; or

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

5 (d) If the legal owner of the property is an entity  
6 described by Subsection (c) [~~, the entity must~~]:

7 (1) the legal owner must be organized under the laws of  
8 this state[+] and

9 [~~(2)~~] have its principal place of business in this  
10 state; and

11 (2) the organization that owns 100 percent of the  
12 interest in or controls the legal owner as described by Subsection  
13 (c) must have equitable title to the property.

14 (e-1) An application for an exemption under this section for  
15 a multifamily rental housing project consisting of more than four  
16 dwelling units may be filed with the chief appraiser or the  
17 department, except that if the legal owner of the property is an  
18 entity described by Subsection (c)(2), the application must be  
19 filed with the department.

20 (i) Property owned for the purpose of constructing or  
21 rehabilitating a housing project on the property is exempt under  
22 this section only if:

23 (1) the property is used to provide housing to  
24 individuals or families described by Subsection (f) and the housing  
25 project was under active construction or rehabilitation at the time  
26 the organization initially filed an application for the exemption;

27 or

1           (2) the housing project is under active construction  
2 or rehabilitation or other physical preparation.

3           (j) For purposes of Subsection (i)(2), a housing project is  
4 under physical preparation if the organization has engaged in  
5 architectural or engineering work, soil testing, land clearing  
6 activities, or site improvement work necessary for the construction  
7 or rehabilitation of the project or has conducted an environmental  
8 or land use study relating to the construction or rehabilitation of  
9 the project.

10          (1) If the property is owned for the purpose of  
11 rehabilitating a housing project on the property:

12           (1) the original construction of the housing project  
13 must have been completed at least 10 years before the date the  
14 organization began actual rehabilitation of the project;

15           (2) the person from whom the organization acquired the  
16 project must have owned the project for at least five years, if the  
17 organization is not the original owner of the project, unless the  
18 organization acquired the project from a person that acquired the  
19 project by foreclosing on the project or receiving a deed or other  
20 instrument in lieu of foreclosure that conveyed the project to the  
21 person;

22           (3) the organization must provide to the department or  
23 the chief appraiser, as applicable, and, if the project was  
24 financed with bonds, the issuer of the bonds a written statement  
25 prepared by a certified public accountant stating that the  
26 organization has spent on rehabilitation costs at least the greater  
27 of \$5,000 or the amount required by the financial lender for each

1 dwelling unit in the project; and

2 (4) the organization must maintain a reserve fund for  
3 replacements:

4 (A) in the amount required by the financial  
5 lender; or

6 (B) if the financial lender does not require a  
7 reserve fund for replacements, in an amount equal to \$300 per unit  
8 per year.

9 (s) Unless otherwise provided by the governing body of a  
10 taxing unit any part of which is located in a county with a  
11 population of at least 1.8 [~~1.4~~] million under Subsection (x), for  
12 property described by Subsection (f)(1), the amount of the  
13 exemption under this section from taxation is 50 percent of the  
14 appraised value of the property.

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

18 (1) the property is foreclosed on for any reason and,  
19 not later than the 30th day after the date of the foreclosure sale,  
20 the owner of the property submits to the department or the chief  
21 appraiser, as applicable, evidence that the property is owned by:

22 (A) an organization that meets the requirements  
23 of Subsection (b); or

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

26 (2) in the case of property owned by an entity  
27 described by Subsections (c) and (d), the organization meeting the

1 requirements of Subsection (b) that owns 100 percent of the  
2 interest in or controls the [~~general partner interest of or is the~~  
3 ~~parent of the~~] entity as described by Subsection (c) ceases to serve  
4 in that capacity and, not later than the 30th day after the date the  
5 cessation occurs, the owner of the property submits evidence to the  
6 department or the chief appraiser, as applicable, that the  
7 organization has been succeeded in that capacity by another  
8 organization that meets the requirements of Subsection (b).

9 (u) The department or the chief appraiser, as applicable,  
10 may extend the deadline provided by Subsection (t)(1) or (2), as  
11 applicable, for good cause shown.

12 (v) Notwithstanding any other provision of this section, an  
13 organization may not receive an exemption from taxation of property  
14 described by Subsection (f)(1) by a taxing unit any part of which is  
15 located in a county with a population of at least 1.8 [~~1.4~~] million  
16 unless the exemption is approved by the governing body of the taxing  
17 unit in the manner provided by law for official action.

18 (y) Not later than the fifth day after the date the  
19 governing body of the taxing unit takes action under Subsection  
20 (x), the taxing unit shall issue a letter to the organization  
21 stating the governing body's action and, if the governing body  
22 denied the exemption, stating whether the denial was based on a  
23 determination under Subsection (x)(3)(A) or (B) and the basis for  
24 the determination. The taxing unit shall send a copy of the letter  
25 by regular mail to the chief appraiser of each appraisal district  
26 that appraises the property for the taxing unit and to the  
27 department, if applicable. The governing body may charge the

1 organization a fee not to exceed the administrative costs of  
2 processing the request of the organization, approving or denying  
3 the exemption, and issuing the letter required by this subsection.  
4 If the chief appraiser or the department, as applicable, determines  
5 that the property qualifies for an exemption under this section and  
6 the governing body of the taxing unit approves the exemption, the  
7 chief appraiser or the department, as applicable, shall grant the  
8 exemption in the amount approved by the governing body.

9 (z) This subsection applies only to an application for an  
10 exemption under this section filed with the department as  
11 authorized or required by Subsection (e-1). The provisions of this  
12 code governing the filing of an application under Section 11.43,  
13 action on the application, and the effect of the granting of the  
14 application by a chief appraiser apply to an application filed with  
15 the department, except as otherwise provided by this section.

16 (aa) The department shall prescribe the contents of the  
17 exemption application form for purposes of Subsection (z). The  
18 provisions of Section 11.43 governing the contents of an  
19 application form prescribed by the comptroller apply to an  
20 exemption application form prescribed by the department to the  
21 extent those provisions may be made applicable.

22 (bb) Not later than the 60th day after the date an  
23 organization submits a complete application to the department under  
24 Subsection (z), the executive director of the department shall  
25 determine whether the organization is entitled to an exemption for  
26 the property under this section. In making a determination, the  
27 executive director may rely on the conclusions in any audit or legal

1 opinion provided to the department or any determination letter  
2 issued by the United States Internal Revenue Service regarding the  
3 organization's status under Section 501, Internal Revenue Code of  
4 1986.

5 (cc) The executive director may request that an  
6 organization that files an application under Subsection (z) provide  
7 additional information. If the executive director makes such a  
8 request, the application is considered to be complete for purposes  
9 of Subsection (bb) on the date on which all additional information  
10 requested by the executive director has been received by the  
11 department.

12 (dd) Not later than the fifth day after the date the  
13 executive director makes a determination under Subsection (bb), the  
14 executive director shall issue a letter to the applicant  
15 organization stating the executive director's determination. If  
16 the executive director determines that the organization is not  
17 entitled to an exemption for the property under this section, the  
18 letter must include the reasons for the determination and a  
19 description of the procedure for appealing the determination. The  
20 executive director shall send a copy of the letter by regular mail  
21 to the chief appraiser of each appraisal district that appraises  
22 the property. If the executive director determines that the  
23 organization is entitled to an exemption for the property under  
24 this section, the chief appraiser shall grant the exemption. If the  
25 executive director determines that the organization is not entitled  
26 to an exemption for the property under this section, the chief  
27 appraiser shall deny the exemption.



1       (ee) The applicant organization or a taxing unit in which  
2 the property to which the application applies is located may appeal  
3 the executive director's determination under Subsection (dd) to the  
4 governing board of the department in the manner provided by  
5 department rule. The organization may be represented in an appeal  
6 by an agent in accordance with Section 1.111. The organization or  
7 taxing unit may appeal under Chapter 42 a final determination by the  
8 governing board of the department in the same manner as provided by  
9 law for the appeal of a determination by an appraisal review board.

10       (ff) The department shall employ sufficient personnel to  
11 process any applications received by the department under  
12 Subsection (e-1) and may charge an organization filing an  
13 application a reasonable fee not to exceed the lesser of:

14               (1) \$2,500; or

15               (2) the direct and indirect administrative costs of  
16 processing the application and issuing a determination under  
17 Subsection (bb).

18       (gg) The department shall adopt rules to implement its  
19 duties under this section. The rules must:

20               (1) establish procedures for issuing preliminary  
21 determination letters and considering applications for exemptions;  
22 and

23               (2) be sufficiently specific to ensure that  
24 determinations are equal and uniform.

25       SECTION 4. Section 11.1826, Tax Code, is amended by  
26 amending Subsections (c) and (d) and adding Subsection (e-1) to  
27 read as follows:

1 (c) Not later than the 180th day after the last day of the  
2 organization's most recent fiscal year, the organization must  
3 deliver a copy of the audit to the department or [~~and~~] the chief  
4 appraiser of the appraisal district in which the property is  
5 located, whichever determines whether the property qualifies in the  
6 current tax year for the exemption for which the audit is conducted.

7 (d) Notwithstanding any other provision of this section, if  
8 the property contains not more than 36 dwelling units, the  
9 organization may deliver to the department or [~~and~~] the chief  
10 appraiser, as applicable, a detailed report and certification as an  
11 alternative to an audit.

12 (e-1) If an application for an exemption under Section  
13 11.182 or 11.1825 has been filed with the department, the executive  
14 director of the department shall monitor eligibility for the  
15 exemption. If the executive director learns of any reason  
16 indicating that an exemption previously allowed should be canceled,  
17 the executive director shall investigate. If the executive  
18 director determines that the property is not eligible for the  
19 exemption, the executive director shall notify the chief appraiser  
20 and the chief appraiser shall cancel the exemption and deliver  
21 written notice of the cancellation within five days after the date  
22 the chief appraiser makes the cancellation. If the executive  
23 director discovers that an exemption has been erroneously allowed  
24 by the department in any one of the five preceding years, the  
25 executive director shall notify the chief appraiser and the chief  
26 appraiser shall add the property or appraised value that was  
27 erroneously exempted for each year to the appraisal roll as

1 provided by Section 25.21 for other property that escapes taxation.  
2 If an exemption that was erroneously allowed did not apply to all  
3 taxing units in which the property was located, the chief appraiser  
4 shall note on the appraisal records, for each prior year, the taxing  
5 units to which the exemption applied and that are entitled to impose  
6 taxes on the property or appraised value that escaped taxation.

7 SECTION 5. Section 303.042, Local Government Code, is  
8 amended by adding Subsections (f), (g), (h), (i), (j), and (k) to  
9 read as follows:

10 (f) A corporation that owns multifamily rental property  
11 used to provide housing for low-income individuals or families is  
12 engaged exclusively in the performance of governmental functions,  
13 and the corporation and the property are exempt from taxation by  
14 this state or a municipality or other political subdivision of this  
15 state.

16 (g) Notwithstanding Subsection (f), if the legal owner of  
17 property described by that subsection is not a corporation, the  
18 legal owner is entitled to an exemption from taxation of the  
19 property under this section if the property otherwise qualifies for  
20 the exemption and the legal owner is:

21 (1) an entity 100 percent of the interest in which is  
22 owned by a corporation; or

23 (2) an entity controlled by a corporation.

24 (h) If the legal owner of property described by Subsection  
25 (f) is an entity described by Subsection (g)(1) or (2):

26 (1) the legal owner must be organized under the laws of  
27 this state and have its principal place of business in this state;

1 and

2 (2) the corporation that owns 100 percent of the  
3 interest in or exclusively controls the legal owner as described by  
4 Subsection (g) must have equitable title to the property.

5 (i) A person is considered to own property described by  
6 Subsection (f) for purposes of this section and the provisions of  
7 Section 2, Article VIII, Texas Constitution, authorizing the  
8 legislature by general law to exempt from taxation public property  
9 used for public purposes, if the person has legal or equitable title  
10 to the property. By way of example, a person has equitable title to  
11 property described by Subsection (f) if the person has a present  
12 right to compel legal title to the property to be conveyed to the  
13 person in accordance with law, such as by means of an option to  
14 acquire the property. For purposes of eligibility of property  
15 described by Subsection (f) for an exemption under this section,  
16 property owned by a tax credit partnership or limited liability  
17 company is considered to be owned by a corporation if the general  
18 partner of the tax credit partnership or the manager of the limited  
19 liability company is, or is controlled by, the corporation and the  
20 corporation holds equitable title to the property pursuant to an  
21 option to acquire the property on terms negotiated between the  
22 parties.

23 (j) For purposes of Subsections (g), (h), and (i), "control"  
24 means having the power to manage, direct, superintend, restrict,  
25 regulate, govern, administer, or oversee. For purposes of those  
26 subsections, "control" includes:

27 (1) with respect to a limited partnership, the

1 control, directly or through a wholly controlled subsidiary, of 100  
2 percent of the general partner interest; and

3 (2) with respect to a limited liability company,  
4 serving as the sole manager or managing member of the company.

5 (k) A corporation or other person claiming an exemption  
6 under this section for property described by Subsection (f) may  
7 file an application for the exemption with the chief appraiser of  
8 the appraisal district in which the property is located or the Texas  
9 Department of Housing and Community Affairs or its successor  
10 agency. Sections 11.1825(z)-(gg), Tax Code, apply to an  
11 application filed under this subsection with the Texas Department  
12 of Housing and Community Affairs or its successor agency to the  
13 extent those provisions can be made applicable.

14 SECTION 6. (a) Except as provided by Subsection (b) of this  
15 section, this Act applies only to ad valorem taxes imposed for a tax  
16 year beginning on or after the effective date of this Act.

17 (b) This Act applies to ad valorem taxes imposed on property  
18 for a tax year beginning before the effective date of this Act if on  
19 the effective date of this Act the property is the subject of a  
20 protest under Chapter 41, Tax Code, or an appeal under Chapter 42 of  
21 that code, the protest or appeal relates to the exemption of the  
22 property under Section 11.182 or 11.1825, Tax Code, or under  
23 Section 303.042, Local Government Code, the protest or appeal is  
24 pending on the effective date, and before the protest or appeal is  
25 finally determined the owner of the property notifies the appraisal  
26 review board or court in which the protest or appeal is pending that  
27 the owner elects to have this Act apply to the determination of the

1 protest or appeal.

2           (c) If a property owner elects to have this Act apply to the  
3 determination of a protest or appeal regarding ad valorem taxes  
4 imposed on the property for a tax year beginning before the  
5 effective date of this Act as authorized by Subsection (b) of this  
6 section and the owner has paid all or part of the taxes imposed on  
7 the property for that tax year, the owner is not entitled to a  
8 refund of the amount of taxes paid if the property is finally  
9 determined to have been eligible for the exemption for that tax  
10 year.

11           SECTION 7. This Act takes effect January 1, 2012.