

By: Thompson

H.B. No. 1954

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the application of the franchise tax to certain S  
3 corporations.

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

5 SECTION 1. Section 171.0002(c), Tax Code, is amended to  
6 read as follows:

7 (c) "Taxable entity" does not include an entity that is:

8 (1) a grantor trust as defined by Sections 671 and  
9 7701(a)(30)(E), Internal Revenue Code, all of the grantors and  
10 beneficiaries of which are natural persons or charitable entities  
11 as described in Section 501(c)(3), Internal Revenue Code, excluding  
12 a trust taxable as a business entity pursuant to Treasury  
13 Regulation Section 301.7701-4(b);

14 (2) an estate of a natural person as defined by Section  
15 7701(a)(30)(D), Internal Revenue Code, excluding an estate taxable  
16 as a business entity pursuant to Treasury Regulation Section  
17 301.7701-4(b);

18 (3) an escrow;

19 (4) a real estate investment trust (REIT) as defined  
20 by Section 856, Internal Revenue Code, and its "qualified REIT  
21 subsidiary" entities as defined by Section 856(i)(2), Internal  
22 Revenue Code, provided that:

23 (A) a REIT with any amount of its assets in direct  
24 holdings of real estate, other than real estate it occupies for

1 business purposes, as opposed to holding interests in limited  
2 partnerships or other entities that directly hold the real estate,  
3 is a taxable entity; and

4 (B) a limited partnership or other entity that  
5 directly holds the real estate as described in Paragraph (A) is not  
6 exempt under this subdivision, without regard to whether a REIT  
7 holds an interest in it;

8 (5) a real estate mortgage investment conduit (REMIC),  
9 as defined by Section 860D, Internal Revenue Code;

10 (6) a nonprofit self-insurance trust created under  
11 Chapter 2212, Insurance Code, or a predecessor statute;

12 (7) a trust qualified under Section 401(a), Internal  
13 Revenue Code; ~~[or]~~

14 (8) a trust or other entity that is exempt under  
15 Section 501(c)(9), Internal Revenue Code; or

16 (9) an S corporation, as that term is defined by  
17 Section 1361, Internal Revenue Code, that is owned entirely by an  
18 employee stock ownership plan, as that term is defined by Section  
19 4975(e), Internal Revenue Code.

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

22 SECTION 3. This Act takes effect January 1, 2012.