

By: Miles

H.B. No. 2998

A BILL TO BE ENTITLED

AN ACT

relating to ad valorem tax relief for urban farms and green roofs.

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

SECTION 1. Title 3, Agriculture Code, is amended by adding Chapter 50E to read as follows:

CHAPTER 50E. URBAN FARMS AND GREEN ROOFS

Sec. 50E.001. DEFINITIONS. In this chapter:

(1) "Community garden" means land gardened by a cooperative group of people residing in a neighborhood or community for the purpose of providing fresh produce for the benefit of the residents of the neighborhood or community.

(2) "Green roof" means a roof of a structure that includes a growth medium consisting of two to four inches of soil, drainage material, and a vegetation layer two to four inches high consisting of drought-resistant and hardy plant species that is designed to provide maximum ground cover, water retention, erosion resistance, and respirative transpiration of moisture.

(3) "Urban farm" means land used to cultivate, process, and distribute food in or near an urban area. The term includes a food plot in a community garden, on an inner-city lot, or on the property of a school, a fish farm, a municipal composting facility, an apiary, a garden that provides food for local restaurants, or an orchard in the yard of a residence.

Sec. 50E.002. STANDARDS FOR URBAN FARMS AND GREEN ROOFS.

1 (a) The department shall develop standards for determining
2 whether:

3 (1) an urban farm qualifies for ad valorem tax
4 appraisal as qualified open-space land under Subchapter D, Chapter
5 23, Tax Code;

6 (2) an urban farm or green roof qualifies for an ad
7 valorem tax credit under Section 31.038, Tax Code; or

8 (3) an urban farm or green roof qualifies for an
9 abatement of ad valorem taxes under Chapter 312, Tax Code.

10 (b) The comptroller by rule shall adopt the standards
11 developed by the department and distribute those rules to each
12 appraisal district.

13 (c) The standards developed under Subsection (a) in
14 connection with a green roof must include:

15 (1) standards for the design of a green roof,
16 including standards regarding the plant material that may be used
17 based on height, growth rate, drought tolerance, root systems,
18 irrigation or nutritional requirements, maintenance requirements,
19 production of seeds likely to invade nearby landscapes, generation
20 of allergens, necessity for remedial air filtration, and other
21 factors considered relevant by the department;

22 (2) procedures and criteria for inspection and
23 certification of the plans for a green roof before the roof is
24 installed;

25 (3) procedures and criteria for inspection and
26 certification of a green roof after the roof is installed,
27 including the testing of runoff water for environmentally

1 unacceptable chemical fertilizers; and

2 (4) standards for environmentally acceptable chemical
3 fertilizers to be used in the maintenance of a green roof.

4 Sec. 50E.003. EDUCATION PROGRAM. The department shall
5 implement a program to inform:

6 (1) the public about the department's standards
7 regarding urban farms and green roofs; and

8 (2) commercial installers about the department's
9 standards regarding green roofs.

10 Sec. 50E.004. CERTIFICATION OF URBAN FARMS AND GREEN ROOFS.

11 (a) The department shall implement a program to certify urban farms
12 and green roofs as meeting the standards adopted under Section
13 50E.002.

14 (b) The department may authorize a municipality or county to
15 issue a certification under Subsection (a) if the municipality or
16 county notifies the department that it wants to issue the
17 certifications. The department may impose conditions on the
18 authorization as determined by the department.

19 SECTION 2. Section 23.19(g), Tax Code, is amended to read as
20 follows:

21 (g) A tax bill or a separate statement accompanying the tax
22 bill to a cooperative housing corporation for which interests of
23 stockholders are separately appraised under this section must
24 state, in addition to the information required by Section 31.01,
25 the appraised value and taxable value of each interest separately
26 appraised. Each exemption claimed as provided by this title by a
27 person entitled to the exemption shall also be deducted from the

1 total appraised value of the property of the corporation. Each
2 credit for the costs of constructing or installing a green roof
3 claimed as provided by Section 31.038 by a person entitled to the
4 credit shall be deducted from the taxes imposed by a taxing unit on
5 the property of the corporation. The total tax imposed by a school
6 district, county, municipality, or junior college district shall be
7 reduced by any amount that represents an increase in taxes
8 attributable to separately appraised interests of the real property
9 and improvements that are subject to the limitation of taxes
10 prescribed by Section 11.26 or 11.261. The corporation shall
11 apportion among its stockholders liability for reimbursing the
12 corporation for property taxes according to the relative taxable
13 values of their interests.

14 SECTION 3. Section 23.51(2), Tax Code, is amended to read as
15 follows:

16 (2) "Agricultural use" includes but is not limited to
17 the following activities: cultivating the soil, producing crops for
18 human food, animal feed, or planting seed or for the production of
19 fibers; floriculture, viticulture, and horticulture; raising or
20 keeping livestock; raising or keeping exotic animals for the
21 production of human food or of fiber, leather, pelts, or other
22 tangible products having a commercial value; planting cover crops
23 or leaving land idle for the purpose of participating in a
24 governmental program, provided the land is not used for residential
25 purposes or a purpose inconsistent with agricultural use; and
26 planting cover crops or leaving land idle in conjunction with
27 normal crop or livestock rotation procedure. The term also

1 includes the use of land to produce or harvest logs and posts for
2 the use in constructing or repairing fences, pens, barns, or other
3 agricultural improvements on adjacent qualified open-space land
4 having the same owner and devoted to a different agricultural use.
5 The term also includes the use of land for wildlife management. The
6 term also includes the use of land as an urban farm if the urban farm
7 is certified under Section 50E.004, Agriculture Code, as meeting
8 the standards for urban farms adopted by the comptroller under
9 Section 50E.002 of that code.

10 SECTION 4. Chapter 31, Tax Code, is amended by adding
11 Section 31.038 to read as follows:

12 Sec. 31.038. TAX CREDIT FOR URBAN FARM OR GREEN ROOF
13 CONSTRUCTION OR INSTALLATION COSTS. (a) In this section,
14 "community garden," "green roof," and "urban farm" have the
15 meanings assigned by Section 50E.001, Agriculture Code.

16 (b) This section applies only to property located in:

17 (1) the corporate limits or extraterritorial
18 jurisdiction of a municipality with a population of at least one
19 million; and

20 (2) an area designated as a reinvestment zone under
21 Chapter 312.

22 (c) A person who develops the person's property as an urban
23 farm is entitled to a credit against the taxes imposed on the
24 property by each taxing unit that taxes the property if the urban
25 farm is certified under Section 50E.004, Agriculture Code, as
26 meeting the standards for urban farms adopted by the comptroller
27 under Section 50E.002 of that code. The amount of the credit is

1 equal to the amount computed by multiplying the greater of 55
2 percent of the costs of developing the property as an urban farm or
3 \$8,000 by a fraction the numerator of which is the amount of taxes
4 imposed on the property by the taxing unit and the denominator of
5 which is the total amount of taxes imposed on the property by all of
6 the taxing units that tax the property.

7 (d) A person who constructs or installs a green roof on the
8 person's residence homestead is entitled to a credit against the
9 taxes imposed on the property by each taxing unit that taxes the
10 property if the green roof is certified under Section 50E.004,
11 Agriculture Code, as meeting the standards for green roofs adopted
12 by the comptroller under Section 50E.002 of that code. The amount
13 of the credit is equal to the amount computed by multiplying the
14 greater of 55 percent of the costs of constructing or installing the
15 green roof or \$5,000 by a fraction the numerator of which is the
16 amount of taxes imposed on the property by the taxing unit and the
17 denominator of which is the total amount of taxes imposed on the
18 property by all of the taxing units that tax the property.

19 (e) Costs for which a credit may be given under Subsection
20 (d) include costs for:

21 (1) architectural and engineering services, including
22 services related to the development of plans directly related to
23 the construction or installation of the green roof;

24 (2) materials, including irrigation systems; and

25 (3) labor related to on-site preparation, assembly,
26 and installation of the green roof.

27 (f) Costs for which a credit may be given under Subsection

1 (c) or (d) may not include:

2 (1) interest or other finance charges; and

3 (2) costs that were paid from any federal, state, or
4 local grant received by the property owner that was not considered
5 to be income of the property owner for federal income tax purposes.

6 (g) If a person who qualifies for a credit as provided by
7 this section is not the sole owner of the property to which the
8 credit applies, the credit to which the person is entitled is
9 reduced in proportion to the share of the costs incurred under
10 Subsection (c) or (d) in connection with the property that were paid
11 by the person.

12 (h) Except as provided by Subsection (i), a person may
13 receive a credit under this section only in the first tax year after
14 the year in which the person:

15 (1) developed the person's property as an urban farm;
16 or

17 (2) constructed or installed a green roof on the
18 person's residence homestead.

19 (i) If the amount of the credit to which a person is entitled
20 under this section in any tax year exceeds the amount of tax imposed
21 on the property in that tax year, the excess amount may be carried
22 forward and credited against the taxes imposed in the following tax
23 year, except that the credit may not be carried forward for more
24 than five tax years.

25 (j) To receive a credit under this section, a person must
26 file an application with the chief appraiser of the appraisal
27 district in which the property is located. The application must

1 include:

2 (1) the costs incurred by the person in:

3 (A) developing the person's property as an urban
4 farm; or

5 (B) constructing or installing a green roof on
6 the person's residence homestead; and

7 (2) a certification under Section 50E.004,
8 Agriculture Code, that:

9 (A) the urban farm meets the standards for urban
10 farms adopted by the comptroller under Section 50E.002, Agriculture
11 Code; or

12 (B) the green roof meets the standards for green
13 roofs adopted by the comptroller under Section 50E.002, Agriculture
14 Code.

15 (k) The chief appraiser shall forward a copy of the
16 application to the assessor for each taxing unit that taxes the
17 property. The assessors for the taxing units shall consult with one
18 another as necessary to compute the amount of the credit to be
19 granted by each taxing unit.

20 (l) A credit provided by this section, once allowed, need
21 not be claimed in subsequent years and applies to the property
22 regardless of any subsequent change in ownership of the property.

23 SECTION 5. Section 312.204, Tax Code, is amended by adding
24 Subsection (i) to read as follows:

25 (i) The governing body of a municipality eligible to enter
26 into tax abatement agreements under Section 312.002 may agree in
27 writing with the owner of taxable real property that is located in a

1 reinvestment zone to exempt from taxation a portion of the value of
2 the real property as provided by this section on the condition that
3 the owner of the property:

4 (1) develop the person's property as an urban farm that
5 is certified under Section 50E.004, Agriculture Code, as meeting
6 the standards for urban farms adopted by the comptroller under
7 Section 50E.002 of that code; or

8 (2) if the property is a residence homestead, install
9 or construct a green roof on the property that is certified under
10 Section 50E.004, Agriculture Code, as meeting the standards for
11 green roofs adopted by the comptroller under Section 50E.002 of
12 that code.

13 SECTION 6. This Act applies only to ad valorem taxes imposed
14 for a tax year beginning on or after the effective date of this Act.

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