

By: Murphy, Middleton

H.B. No. 388

A BILL TO BE ENTITLED

AN ACT

relating to the exemption from ad valorem taxation of real property leased to and used by certain schools.

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

SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.211 to read as follows:

Sec. 11.211. REAL PROPERTY LEASED TO CERTAIN SCHOOLS. (a)

A person is entitled to an exemption from taxation of the portion of the real property that the person owns and leases to an open-enrollment charter school authorized by Subchapter D, Chapter 12, Education Code, that is qualified as provided by Section 11.21(d) of this code if:

(1) the portion of the real property that is leased to the school is:

(A) used exclusively by the school for the operation or administration of the school or the performance of other educational functions by the school; and

(B) reasonably necessary for a purpose described by Paragraph (A); and

(2) the owner of the portion of the real property that is leased to the school certifies by affidavit to the school that:

(A) if the lease agreement requires the school to pay the taxes imposed on the real property as a portion of the total consideration paid to the property owner under the agreement, the

1 owner will reduce the total consideration required to be paid by the
2 school under the lease agreement by an amount equal to the amount by
3 which the taxes on the real property are reduced as a result of the
4 exemption by providing a monthly or annual credit against the total
5 consideration due under the agreement; or

6 (B) if the lease agreement requires the school to
7 pay the taxes imposed on the real property directly to the collector
8 for the applicable taxing unit or to the owner or the property
9 manager separately from the payment of rent to the property owner
10 under the agreement, the school is no longer required to pay the
11 taxes to the collector, owner, or property manager, as applicable,
12 and the rent charged to the school under the agreement is not
13 affected unless a term of the agreement specifically provides for a
14 change in the amount of the rent.

15 (b) A property owner required to provide an affidavit
16 described by Subsection (a)(2)(A) to an open-enrollment charter
17 school shall:

18 (1) provide the school with a disclosure document
19 stating the amount by which the taxes on the real property are
20 reduced as a result of the exemption and the method the owner will
21 implement to ensure that the total consideration for the lease of
22 the real property fully reflects the total amount of that
23 reduction; and

24 (2) reduce the total consideration for the lease of
25 the real property through a monthly or annual credit against the
26 total consideration to reflect the amount by which the taxes on the
27 real property are reduced as a result of the exemption.

1 (c) This section may not be construed as invalidating an
2 exemption from taxation of real property granted to an
3 open-enrollment charter school on the basis of Section 12.128,
4 Education Code, before January 1, 2020.

5 (d) Section 25.07 does not apply to a leasehold interest in
6 real property for which the owner receives an exemption under this
7 section.

8 SECTION 2. This Act applies only to ad valorem taxes imposed
9 for a tax year beginning on or after the effective date of this Act.

10 SECTION 3. This Act takes effect January 1, 2020, but only
11 if the constitutional amendment proposed by the 86th Legislature,
12 Regular Session, 2019, authorizing the legislature to exempt from
13 ad valorem taxation real property leased to certain schools
14 organized and operated primarily for the purpose of engaging in
15 educational functions is approved by the voters. If that amendment
16 is not approved by the voters, this Act has no effect.