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et al.

H.B. No. 492

Substitute the following for H.B. No. 492:

By: Murphy

C.S.H.B. No. 492

A BILL TO BE ENTITLED

1 AN ACT
2 relating to a temporary local option exemption from ad valorem
3 taxation of a portion of the appraised value of certain property
4 damaged by a disaster.

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

6 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by
7 adding Section 11.35 to read as follows:

8 Sec. 11.35. TEMPORARY EXEMPTION FOR QUALIFIED PROPERTY
9 DAMAGED BY DISASTER. (a) In this section, "qualified property"
10 means property that:

11 (1) consists of:

12 (A) tangible personal property used for the
13 production of income;

14 (B) an improvement to real property; or

15 (C) a manufactured home as that term is defined
16 by Section 1201.003, Occupations Code, that is used as a dwelling,
17 regardless of whether the owner of the manufactured home elects to
18 treat the manufactured home as real property under Section
19 1201.2055, Occupations Code;

20 (2) is located in an area declared by the governor to
21 be a disaster area following a disaster;

22 (3) is at least 15 percent damaged by the disaster, as
23 determined by the chief appraiser under this section; and

24 (4) for property described by Subdivision (1)(A), is

1 the subject of a rendition statement or property report filed by the
2 property owner under Section 22.01 that demonstrates that the
3 property had taxable situs in the disaster area for the tax year in
4 which the disaster occurred.

5 (b) A person is entitled to an exemption from taxation by a
6 taxing unit of a portion of the appraised value of qualified
7 property that the person owns if the exemption is adopted by the
8 governing body of the taxing unit in the manner provided by law for
9 official action by the body.

10 (c) An exemption adopted by the governing body of a taxing
11 unit under this section must:

12 (1) specify the disaster to which the exemption
13 pertains; and

14 (2) be adopted not later than the 60th day after the
15 date the governor first declares territory in the taxing unit to be
16 a disaster area as a result of the disaster.

17 (d) A taxing unit the governing body of which adopts an
18 exemption under this section shall, not later than the seventh day
19 after the date the governing body adopts the exemption, notify the
20 chief appraiser of each appraisal district in which the taxing unit
21 participates, the assessor for the taxing unit, and the comptroller
22 of the adoption of the exemption.

23 (e) On receipt of an application for the exemption
24 authorized by this section, the chief appraiser shall determine
25 whether any item of qualified property that is the subject of the
26 application is at least 15 percent damaged by the disaster and
27 assign to each such item of qualified property a damage assessment

1 rating of Level I, Level II, Level III, or Level IV, as appropriate,
2 as provided by Subsection (f). In determining the appropriate
3 damage assessment rating, the chief appraiser may rely on
4 information provided by a county emergency management authority,
5 the Federal Emergency Management Agency, or any other source the
6 chief appraiser considers appropriate.

7 (f) The chief appraiser shall assign to an item of qualified
8 property:

9 (1) a Level I damage assessment rating if the property
10 is at least 15 percent, but less than 30 percent, damaged, meaning
11 that the property suffered minimal damage and may continue to be
12 used as intended;

13 (2) a Level II damage assessment rating if the
14 property is at least 30 percent, but less than 60 percent, damaged,
15 which, for qualified property described by Subsection (a)(1)(B) or
16 (C), means that the property has suffered only nonstructural
17 damage, including nonstructural damage to the roof, walls,
18 foundation, or mechanical components, and the waterline, if any, is
19 less than 18 inches above the floor;

20 (3) a Level III damage assessment rating if the
21 property is at least 60 percent damaged but is not a total loss,
22 which, for qualified property described by Subsection (a)(1)(B) or
23 (C), means that the property has suffered significant structural
24 damage requiring extensive repair due to the failure or partial
25 failure of structural elements, wall elements, or the foundation,
26 or the waterline is at least 18 inches above the floor; or

27 (4) a Level IV damage assessment rating if the

1 property is a total loss, meaning that repair of the property is not
2 feasible.

3 (g) Subject to Subsection (h), the amount of the exemption
4 authorized by this section for an item of qualified property is
5 determined by multiplying the appraised value, determined for the
6 tax year in which the disaster occurred, of the property by:

7 (1) 15 percent, if the property is assigned a Level I
8 damage assessment rating;

9 (2) 30 percent, if the property is assigned a Level II
10 damage assessment rating;

11 (3) 60 percent, if the property is assigned a Level III
12 damage assessment rating; or

13 (4) 100 percent, if the property is assigned a Level IV
14 damage assessment rating.

15 (h) If a person qualifies for the exemption authorized by
16 this section after the beginning of the tax year, the amount of the
17 exemption is calculated by multiplying the amount determined under
18 Subsection (g) by a fraction, the denominator of which is 365 and
19 the numerator of which is the number of days remaining in the tax
20 year after the day on which the governor first declares the area in
21 which the person's qualified property is located to be a disaster
22 area, including the day on which the governor makes the
23 declaration.

24 (i) If a person qualifies for the exemption authorized by
25 this section after the amount of the tax due on the qualified
26 property is calculated and the effect of the qualification is to
27 reduce the amount of the tax due on the property, the assessor for

1 each taxing unit that has adopted the exemption shall recalculate
2 the amount of the tax due on the property and correct the tax roll.
3 If the tax bill has been mailed and the tax on the property has not
4 been paid, the assessor shall mail a corrected tax bill to the
5 person in whose name the property is listed on the tax roll or to the
6 person's authorized agent. If the tax on the property has been
7 paid, the tax collector for the taxing unit shall refund to the
8 person who paid the tax the amount by which the payment exceeded the
9 tax due. No interest is due on an amount refunded under this
10 subsection.

11 (j) The exemption authorized by this section expires as to
12 an item of qualified property on January 1 of the first tax year in
13 which the property is reappraised under Section 25.18.

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

16 (e) A person who qualifies for an exemption under Section
17 11.131 or 11.35 after January 1 of a tax year may receive the
18 exemption for the applicable portion of that tax year immediately
19 on qualification for the exemption.

20 SECTION 3. Section 11.43, Tax Code, is amended by amending
21 Subsection (c) and adding Subsection (s) to read as follows:

22 (c) An exemption provided by Section 11.13, 11.131, 11.132,
23 11.133, 11.134, 11.17, 11.18, 11.182, 11.1827, 11.183, 11.19,
24 11.20, 11.21, 11.22, 11.23(a), (h), (j), (j-1), or (m), 11.231,
25 11.254, 11.27, 11.271, 11.29, 11.30, 11.31, ~~or~~ 11.315, or 11.35,
26 once allowed, need not be claimed in subsequent years, and except as
27 otherwise provided by Subsection (e), the exemption applies to the

1 property until it changes ownership or the person's qualification
2 for the exemption changes. However, except as provided by
3 Subsection (r), the chief appraiser may require a person allowed
4 one of the exemptions in a prior year to file a new application to
5 confirm the person's current qualification for the exemption by
6 delivering a written notice that a new application is required,
7 accompanied by an appropriate application form, to the person
8 previously allowed the exemption. If the person previously allowed
9 the exemption is 65 years of age or older, the chief appraiser may
10 not cancel the exemption due to the person's failure to file the new
11 application unless the chief appraiser complies with the
12 requirements of Subsection (q), if applicable.

13 (s) A person who qualifies for an exemption under Section
14 11.35 must apply for the exemption not later than the 45th day after
15 the date the governing body of the taxing unit adopts the exemption,
16 provided that the chief appraiser may extend the deadline for good
17 cause shown.

18 SECTION 4. Section 11.45, Tax Code, is amended by adding
19 Subsection (e) to read as follows:

20 (e) If the chief appraiser approves, modifies, or denies an
21 application for an exemption under Section 11.35, the chief
22 appraiser shall deliver a written notice of the approval,
23 modification, or denial to the applicant not later than the fifth
24 day after the date the chief appraiser makes the determination. The
25 notice must include the damage assessment rating assigned by the
26 chief appraiser to each item of qualified property that is the
27 subject of the application and a brief explanation of the

1 procedures for protesting the chief appraiser's determination. The
2 notice required under this subsection is in lieu of any notice that
3 would otherwise be required under Subsection (d).

4 SECTION 5. Section 26.012(15), Tax Code, is amended to read
5 as follows:

6 (15) "Lost property levy" means the amount of taxes
7 levied in the preceding year on property value that was taxable in
8 the preceding year but is not taxable in the current year because
9 the property is exempt in the current year under a provision of this
10 code other than Section 11.251, ~~or~~ 11.253, or 11.35, the property
11 has qualified for special appraisal under Chapter 23 in the current
12 year, or the property is located in territory that has ceased to be
13 a part of the taxing unit since the preceding year.

14 SECTION 6. Section 41.03(a), Tax Code, is amended to read as
15 follows:

16 (a) A taxing unit is entitled to challenge before the
17 appraisal review board:

18 (1) the level of appraisals of any category of
19 property in the district or in any territory in the district, but
20 not the appraised value of a single taxpayer's property;

21 (2) an exclusion of property from the appraisal
22 records;

23 (3) a grant in whole or in part of a partial exemption,
24 other than an exemption under Section 11.35;

25 (4) a determination that land qualifies for appraisal
26 as provided by Subchapter C, D, E, or H, Chapter 23; or

27 (5) a failure to identify the taxing unit as one in

1 which a particular property is taxable.

2 SECTION 7. Section 41.41, Tax Code, is amended by adding
3 Subsection (c) to read as follows:

4 (c) Notwithstanding Subsection (a), a property owner is
5 entitled to protest before the appraisal review board only the
6 following actions of the chief appraiser in relation to an
7 exemption under Section 11.35:

8 (1) the modification or denial of an application for
9 an exemption under that section; or

10 (2) the determination of the appropriate damage
11 assessment rating for an item of qualified property under that
12 section.

13 SECTION 8. Section 41.44(a), Tax Code, is amended to read as
14 follows:

15 (a) Except as provided by Subsections (b), (c), (c-1), and
16 (c-2), to be entitled to a hearing and determination of a protest,
17 the property owner initiating the protest must file a written
18 notice of the protest with the appraisal review board having
19 authority to hear the matter protested:

20 (1) not later than May 15 or the 30th day after the
21 date that notice to the property owner was delivered to the property
22 owner as provided by Section 25.19, whichever is later;

23 (2) in the case of a protest of a change in the
24 appraisal records ordered as provided by Subchapter A of this
25 chapter or by Chapter 25, not later than the 30th day after the date
26 notice of the change is delivered to the property owner;

27 (3) in the case of a determination that a change in the

1 use of land appraised under Subchapter C, D, E, or H, Chapter 23,
2 has occurred, not later than the 30th day after the date the notice
3 of the determination is delivered to the property owner; ~~[or]~~

4 (4) in the case of a determination of eligibility for a
5 refund under Section 23.1243, not later than the 30th day after the
6 date the notice of the determination is delivered to the property
7 owner; or

8 (5) in the case of a protest of the modification or
9 denial of an application for an exemption under Section 11.35, or
10 the determination of an appropriate damage assessment rating for an
11 item of qualified property under that section, not later than the
12 30th day after the date the property owner receives the notice
13 required under Section 11.45(e).

14 SECTION 9. Section 403.302(d), Government Code, is amended
15 to read as follows:

16 (d) For the purposes of this section, "taxable value" means
17 the market value of all taxable property less:

18 (1) the total dollar amount of any residence homestead
19 exemptions lawfully granted under Section 11.13(b) or (c), Tax
20 Code, in the year that is the subject of the study for each school
21 district;

22 (2) one-half of the total dollar amount of any
23 residence homestead exemptions granted under Section 11.13(n), Tax
24 Code, in the year that is the subject of the study for each school
25 district;

26 (3) the total dollar amount of any exemptions granted
27 before May 31, 1993, within a reinvestment zone under agreements

1 authorized by Chapter 312, Tax Code;

2 (4) subject to Subsection (e), the total dollar amount
3 of any captured appraised value of property that:

4 (A) is within a reinvestment zone created on or
5 before May 31, 1999, or is proposed to be included within the
6 boundaries of a reinvestment zone as the boundaries of the zone and
7 the proposed portion of tax increment paid into the tax increment
8 fund by a school district are described in a written notification
9 provided by the municipality or the board of directors of the zone
10 to the governing bodies of the other taxing units in the manner
11 provided by former Section 311.003(e), Tax Code, before May 31,
12 1999, and within the boundaries of the zone as those boundaries
13 existed on September 1, 1999, including subsequent improvements to
14 the property regardless of when made;

15 (B) generates taxes paid into a tax increment
16 fund created under Chapter 311, Tax Code, under a reinvestment zone
17 financing plan approved under Section 311.011(d), Tax Code, on or
18 before September 1, 1999; and

19 (C) is eligible for tax increment financing under
20 Chapter 311, Tax Code;

21 (5) the total dollar amount of any captured appraised
22 value of property that:

23 (A) is within a reinvestment zone:

24 (i) created on or before December 31, 2008,
25 by a municipality with a population of less than 18,000; and

26 (ii) the project plan for which includes
27 the alteration, remodeling, repair, or reconstruction of a

1 structure that is included on the National Register of Historic
2 Places and requires that a portion of the tax increment of the zone
3 be used for the improvement or construction of related facilities
4 or for affordable housing;

5 (B) generates school district taxes that are paid
6 into a tax increment fund created under Chapter 311, Tax Code; and

7 (C) is eligible for tax increment financing under
8 Chapter 311, Tax Code;

9 (6) the total dollar amount of any exemptions granted
10 under Section 11.251 or 11.253, Tax Code;

11 (7) the difference between the comptroller's estimate
12 of the market value and the productivity value of land that
13 qualifies for appraisal on the basis of its productive capacity,
14 except that the productivity value estimated by the comptroller may
15 not exceed the fair market value of the land;

16 (8) the portion of the appraised value of residence
17 homesteads of individuals who receive a tax limitation under
18 Section 11.26, Tax Code, on which school district taxes are not
19 imposed in the year that is the subject of the study, calculated as
20 if the residence homesteads were appraised at the full value
21 required by law;

22 (9) a portion of the market value of property not
23 otherwise fully taxable by the district at market value because of:

24 (A) action required by statute or the
25 constitution of this state, other than Section 11.311, Tax Code,
26 that, if the tax rate adopted by the district is applied to it,
27 produces an amount equal to the difference between the tax that the

1 district would have imposed on the property if the property were
2 fully taxable at market value and the tax that the district is
3 actually authorized to impose on the property, if this subsection
4 does not otherwise require that portion to be deducted; or

5 (B) action taken by the district under Subchapter
6 B or C, Chapter 313, Tax Code, before the expiration of the
7 subchapter;

8 (10) the market value of all tangible personal
9 property, other than manufactured homes, owned by a family or
10 individual and not held or used for the production of income;

11 (11) the appraised value of property the collection of
12 delinquent taxes on which is deferred under Section 33.06, Tax
13 Code;

14 (12) the portion of the appraised value of property
15 the collection of delinquent taxes on which is deferred under
16 Section 33.065, Tax Code; ~~and~~

17 (13) the amount by which the market value of a
18 residence homestead to which Section 23.23, Tax Code, applies
19 exceeds the appraised value of that property as calculated under
20 that section; and

21 (14) the total dollar amount of any exemptions granted
22 under Section 11.35, Tax Code.

23 SECTION 10. Section 23.02, Tax Code, is repealed.

24 SECTION 11. Section 11.35, Tax Code, as added by this Act,
25 applies only to ad valorem taxes imposed for a tax year that begins
26 on or after the effective date of this Act.

27 SECTION 12. This Act takes effect January 1, 2020, but only

1 if the constitutional amendment proposed by the 86th Legislature,
2 Regular Session, 2019, authorizing the legislature to provide for a
3 temporary local option exemption from ad valorem taxation of a
4 portion of the appraised value of certain property damaged by a
5 disaster is approved by the voters. If that amendment is not
6 approved by the voters, this Act has no effect.