

By: Shine

H.B. No. 493

A BILL TO BE ENTITLED

AN ACT

relating to a temporary local option exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster and reimbursement of a taxing unit for refunds the taxing unit pays to taxpayers as a result of the exemption.

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

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

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

(1) consists of:

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

(B) an improvement to real property;

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

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

(4) for property described by Subdivision (1)(A), is the subject of a rendition statement or property report filed by the property owner under Section 22.01 that demonstrates that the property had taxable situs in the disaster area for the tax year in which the disaster occurred.

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

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

8 (1) specify the disaster to which the exemption
9 pertains; and

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

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

19 (e) On receipt of an application for the exemption
20 authorized by this section, the chief appraiser shall determine
21 whether any item of qualified property that is the subject of the
22 application is at least 15 percent damaged by the disaster and
23 assign to each such item of qualified property a damage assessment
24 rating of Level I, Level II, Level III, or Level IV, as appropriate,
25 as provided by Subsection (f). In determining the appropriate
26 damage assessment rating, the chief appraiser may rely on
27 information provided by a county emergency management authority,

1 the Federal Emergency Management Agency, or any other source the
2 chief appraiser considers appropriate.

3 (f) The chief appraiser shall assign to an item of qualified
4 property:

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

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

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

23 (4) a Level IV damage assessment rating if the
24 property is a total loss, meaning that repair of the property is not
25 feasible.

26 (g) Subject to Subsection (h), the amount of the exemption
27 authorized by this section for an item of qualified property is

1 determined by multiplying the appraised value, determined for the
2 tax year in which the disaster occurred, of the property by:

3 (1) 15 percent, if the property is assigned a Level I
4 damage assessment rating;

5 (2) 30 percent, if the property is assigned a Level II
6 damage assessment rating;

7 (3) 60 percent, if the property is assigned a Level III
8 damage assessment rating; or

9 (4) 100 percent, if the property is assigned a Level IV
10 damage assessment rating.

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

20 (i) If a person qualifies for the exemption authorized by
21 this section after the amount of the tax due on the qualified
22 property is calculated and the effect of the qualification is to
23 reduce the amount of the tax due on the property, the assessor for
24 each taxing unit that has adopted the exemption shall recalculate
25 the amount of the tax due on the property and correct the tax roll.

26 If the tax bill has been mailed and the tax on the property has not
27 been paid, the assessor shall mail a corrected tax bill to the

1 person in whose name the property is listed on the tax roll or to the
2 person's authorized agent. If the tax on the property has been
3 paid, the tax collector for the taxing unit shall refund to the
4 person who paid the tax the amount by which the payment exceeded the
5 tax due. No interest is due on an amount refunded under this
6 subsection.

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

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

12 (e) A person who qualifies for an exemption under Section
13 11.131 or 11.35 after January 1 of a tax year may receive the
14 exemption for the applicable portion of that tax year immediately
15 on qualification for the exemption.

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

18 (c) An exemption provided by Section 11.13, 11.131, 11.132,
19 11.133, 11.134, 11.17, 11.18, 11.182, 11.1827, 11.183, 11.19,
20 11.20, 11.21, 11.22, 11.23(a), (h), (j), (j-1), or (m), 11.231,
21 11.254, 11.27, 11.271, 11.29, 11.30, 11.31, ~~or~~ 11.315, or 11.35,
22 once allowed, need not be claimed in subsequent years, and except as
23 otherwise provided by Subsection (e), the exemption applies to the
24 property until it changes ownership or the person's qualification
25 for the exemption changes. However, except as provided by
26 Subsection (r), the chief appraiser may require a person allowed
27 one of the exemptions in a prior year to file a new application to

1 confirm the person's current qualification for the exemption by
2 delivering a written notice that a new application is required,
3 accompanied by an appropriate application form, to the person
4 previously allowed the exemption. If the person previously allowed
5 the exemption is 65 years of age or older, the chief appraiser may
6 not cancel the exemption due to the person's failure to file the new
7 application unless the chief appraiser complies with the
8 requirements of Subsection (q), if applicable.

9 (s) A person who qualifies for an exemption under Section
10 11.35 must apply for the exemption not later than the 45th day after
11 the date the governing body of the taxing unit adopts the exemption,
12 provided that the chief appraiser may extend the deadline for good
13 cause shown.

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

16 (e) If the chief appraiser approves, modifies, or denies an
17 application for an exemption under Section 11.35, the chief
18 appraiser shall deliver a written notice of the approval,
19 modification, or denial to the applicant not later than the fifth
20 day after the date the chief appraiser makes the determination. The
21 notice must include the damage assessment rating assigned by the
22 chief appraiser to each item of qualified property that is the
23 subject of the application and a brief explanation of the
24 procedures for protesting the chief appraiser's determination. The
25 notice required under this subsection is in lieu of any notice that
26 would otherwise be required under Subsection (d).

27 SECTION 5. Section 26.012(15), Tax Code, is amended to read

1 as follows:

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

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

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

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

17 (2) an exclusion of property from the appraisal
18 records;

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

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

23 (5) a failure to identify the taxing unit as one in
24 which a particular property is taxable.

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

27 (c) Notwithstanding Subsection (a), a property owner is

1 entitled to protest before the appraisal review board only the
2 following actions of the chief appraiser in relation to an
3 exemption under Section 11.35:

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

6 (2) the determination of the appropriate damage
7 assessment rating for an item of qualified property under that
8 section.

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

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

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

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

23 (3) in the case of a determination that a change in the
24 use of land appraised under Subchapter C, D, E, or H, Chapter 23,
25 has occurred, not later than the 30th day after the date the notice
26 of the determination is delivered to the property owner; ~~or~~

27 (4) in the case of a determination of eligibility for a

1 refund under Section 23.1243, not later than the 30th day after the
2 date the notice of the determination is delivered to the property
3 owner; or

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

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

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

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

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

22 (3) the total dollar amount of any exemptions granted
23 before May 31, 1993, within a reinvestment zone under agreements
24 authorized by Chapter 312, Tax Code;

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

27 (A) is within a reinvestment zone created on or

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

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

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

17 (5) the total dollar amount of any captured appraised
18 value of property that:

19 (A) is within a reinvestment zone:

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

22 (ii) the project plan for which includes
23 the alteration, remodeling, repair, or reconstruction of a
24 structure that is included on the National Register of Historic
25 Places and requires that a portion of the tax increment of the zone
26 be used for the improvement or construction of related facilities
27 or for affordable housing;

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

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

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

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

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

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

20 (A) action required by statute or the
21 constitution of this state, other than Section 11.311, Tax Code,
22 that, if the tax rate adopted by the district is applied to it,
23 produces an amount equal to the difference between the tax that the
24 district would have imposed on the property if the property were
25 fully taxable at market value and the tax that the district is
26 actually authorized to impose on the property, if this subsection
27 does not otherwise require that portion to be deducted; or

1 (B) action taken by the district under Subchapter
2 B or C, Chapter 313, Tax Code, before the expiration of the
3 subchapter;

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

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

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

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

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

19 SECTION 10. Chapter 140, Local Government Code, is amended
20 by adding Section 140.012 to read as follows:

21 Sec. 140.012. DISASTER EXEMPTION ASSISTANCE PAYMENTS. (a)
22 In this section, "taxing unit" and "tax year" have the meanings
23 assigned by Section 1.04, Tax Code.

24 (b) A taxing unit is entitled to a disaster exemption
25 assistance payment from the state if the taxing unit pays a refund
26 to a person under Section 11.35, Tax Code, as a result of an
27 exemption granted under that section.

1 (c) The amount of the disaster exemption assistance payment
2 is calculated by adding the total amount of each refund the taxing
3 unit pays under Section 11.35, Tax Code, in the tax year for which
4 the disaster exemption assistance payment is sought.

5 (d) Not later than April 1 of the year following the tax year
6 for which the disaster exemption assistance payment is sought, the
7 taxing unit may submit an application to the comptroller to receive
8 a disaster exemption assistance payment for that tax year. The
9 application must be made on a form prescribed by the comptroller.

10 (e) A taxing unit that does not submit an application to the
11 comptroller by the date prescribed by Subsection (d) is not
12 entitled to a disaster exemption assistance payment for the tax
13 year for which the deadline applies.

14 (f) The comptroller shall review each application by a
15 taxing unit to determine whether the taxing unit is entitled to a
16 disaster exemption assistance payment. If the comptroller
17 determines that the taxing unit is entitled to the payment, the
18 comptroller shall remit the payment from available funds to the
19 taxing unit not later than the 30th day after the date the
20 application for the payment is made.

21 (g) The comptroller may adopt rules to implement and
22 administer this section.

23 SECTION 11. Section 23.02, Tax Code, is repealed.

24 SECTION 12. 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 13. 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 and to provide for reimbursement of a political
6 subdivision by the state for refunds the political subdivision pays
7 to taxpayers as a result of the exemption is approved by the voters.
8 If that amendment is not approved by the voters, this Act has no
9 effect.