

By: Sanford

H.B. No. 3870

A BILL TO BE ENTITLED

AN ACT

relating to a franchise tax credit for ad valorem taxes paid by a taxable entity on certain inventory.

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

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. TAX CREDIT FOR BUSINESS AD VALOREM TAX PAYMENTS ON INVENTORY

Sec. 171.701. DEFINITIONS. In this subchapter:

(1) "Qualified entity" means a taxable entity that pays ad valorem taxes on qualified inventory owned by the entity and located in this state.

(2) "Qualified inventory" means tangible personal property held for sale at retail other than:

(A) a dealer's motor vehicle inventory as defined by Section 23.121;

(B) a dealer's heavy equipment inventory as defined by Section 23.1241;

(C) a dealer's vessel and outboard motor inventory as defined by Section 23.124; and

(D) retail manufactured housing inventory as defined by Section 23.127.

Sec. 171.702. ELIGIBILITY FOR CREDIT. A qualified entity is eligible to apply for a credit in the amount and under the

1 conditions and limitations provided by this subchapter against the  
2 tax imposed under this chapter.

3 Sec. 171.703. AMOUNT OF CREDIT; LIMITATIONS. (a) The total  
4 amount of the credit under this subchapter is equal to the amount of  
5 the ad valorem taxes paid by the qualified entity during the period  
6 on which a report is based that are derived from the taxable value  
7 of qualified inventory owned by the entity and located in this  
8 state.

9 (b) The total credit claimed for a report, including the  
10 amount of any carryforward under Section 171.704, may not exceed  
11 the amount of franchise tax due for the report after any other  
12 applicable tax credits.

13 Sec. 171.704. CARRYFORWARD. (a) If a qualified entity is  
14 eligible for a credit that exceeds the limitation under Section  
15 171.703(b), the entity may carry the unused credit forward for not  
16 more than three consecutive reports.

17 (b) A carryforward is considered the remaining portion of a  
18 credit that cannot be claimed in the current year because of the  
19 limitation under Section 171.703(b). A carryforward is added to  
20 the next year's installment of the credit in determining the  
21 limitation for that year. A credit carryforward from a previous  
22 report is considered to be used before the current year  
23 installment.

24 Sec. 171.705. APPLICATION FOR CREDIT. (a) A qualified  
25 entity must apply for a credit under this subchapter on or with the  
26 report for the period for which the credit is claimed.

27 (b) A qualified entity shall file with a report on which the

1 credit is claimed any information required by the comptroller to  
2 sufficiently demonstrate that the entity is eligible for the  
3 credit.

4 (c) The burden of establishing eligibility for and the value  
5 of the credit is on the qualified entity.

6 Sec. 171.706. SALE OR ASSIGNMENT OF CREDIT. (a) A  
7 qualified entity that earns a credit under this subchapter may sell  
8 or assign all or part of the credit, and any entity to which all or  
9 part of the credit is sold or assigned may sell or assign all or part  
10 of the credit to another entity. There is no limit on the total  
11 number of transactions for the sale or assignment of all or part of  
12 the total credit authorized under this subchapter, however,  
13 collectively all transferred and retained credits claimed for a  
14 period are subject to the maximum total limitations provided by  
15 Section 171.703.

16 (b) An entity that sells or assigns a credit under this  
17 section and the entity to which the credit is sold or assigned shall  
18 jointly submit written notice of the sale or assignment to the  
19 comptroller on a form promulgated by the comptroller not later than  
20 the 30th day after the date of the sale or assignment. The notice  
21 must include:

- 22 (1) the date of the sale or assignment;  
23 (2) the amount of the credit sold or assigned;  
24 (3) the names and federal tax identification numbers  
25 of the entity that sold or assigned the credit or part of the credit  
26 and the entity to which the credit or part of the credit was sold or  
27 assigned; and

1           (4) the amount of the credit owned by the selling or  
2 assigning entity before the sale or assignment, and the amount the  
3 selling or assigning entity retained, if any, after the sale or  
4 assignment.

5           (c) The sale or assignment of a credit in accordance with  
6 this section does not extend the period for which a credit may be  
7 carried forward and does not increase the total amount of the credit  
8 that may be claimed.

9           Sec. 171.707. RULES. The comptroller shall adopt rules  
10 necessary to implement this subchapter.

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

13           SECTION 3. This Act takes effect January 1, 2020.