

By: Bohac

H.B. No. 4433

A BILL TO BE ENTITLED

AN ACT

relating to a temporary exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster.

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.

(b) A person is entitled to an exemption from taxation by a

1 taxing unit of a portion of the appraised value of qualified  
2 property that the person owns in an amount determined under  
3 Subsection (e).

4 (c) On receipt of an application for the exemption  
5 authorized by this section, the chief appraiser shall determine  
6 whether any item of qualified property that is the subject of the  
7 application is at least 15 percent damaged by the disaster and  
8 assign to each such item of qualified property a damage assessment  
9 rating of Level I, Level II, Level III, or Level IV, as appropriate,  
10 as provided by Subsection (d). In determining the appropriate  
11 damage assessment rating, the chief appraiser may rely on  
12 information provided by a county emergency management authority,  
13 the Federal Emergency Management Agency, or any other source the  
14 chief appraiser considers appropriate.

15 (d) The chief appraiser shall assign to an item of qualified  
16 property:

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

21 (2) a Level II damage assessment rating if the  
22 property is at least 30 percent, but less than 60 percent, damaged,  
23 which, for qualified property described by Subsection (a)(1)(B),  
24 means that the property has suffered only nonstructural damage,  
25 including nonstructural damage to the roof, walls, foundation, or  
26 mechanical components, and the waterline, if any, is less than 18  
27 inches above the floor;

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

8           (4) a Level IV damage assessment rating if the  
9 property is a total loss, meaning that repair of the property is not  
10 feasible.

11           (e) Subject to Subsection (f), the amount of the exemption  
12 authorized by this section for an item of qualified property is  
13 determined by multiplying the appraised value, determined for the  
14 tax year in which the disaster occurred, of the property by:

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

17           (2) 30 percent, if the property is assigned a Level II  
18 damage assessment rating;

19           (3) 60 percent, if the property is assigned a Level III  
20 damage assessment rating; or

21           (4) 100 percent, if the property is assigned a Level IV  
22 damage assessment rating.

23           (f) If a person qualifies for the exemption authorized by  
24 this section after the beginning of the tax year, the amount of the  
25 exemption is calculated by multiplying the amount determined under  
26 Subsection (e) by a fraction, the denominator of which is 365 and  
27 the numerator of which is the number of days remaining in the tax

1 year after the day on which the governor first declares the area in  
2 which the person's qualified property is located to be a disaster  
3 area, including the day on which the governor makes the  
4 declaration.

5 (g) If a person qualifies for the exemption authorized by  
6 this section after the amount of the tax due on the qualified  
7 property is calculated and the effect of the qualification is to  
8 reduce the amount of the tax due on the property, the assessor for  
9 each taxing unit that has adopted the exemption shall recalculate  
10 the amount of the tax due on the property and correct the tax roll.  
11 If the tax bill has been mailed and the tax on the property has not  
12 been paid, the assessor shall mail a corrected tax bill to the  
13 person in whose name the property is listed on the tax roll or to the  
14 person's authorized agent. If the tax on the property has been  
15 paid, the tax collector for the taxing unit shall refund to the  
16 person who paid the tax the amount by which the payment exceeded the  
17 tax due. No interest is due on an amount refunded under this  
18 subsection.

19 (h) The exemption authorized by this section expires as to  
20 an item of qualified property on January 1 of the first tax year in  
21 which the property is reappraised under Section 25.18.

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

24 (e) A person who qualifies for an exemption under Section  
25 11.131 or 11.35 after January 1 of a tax year may receive the  
26 exemption for the applicable portion of that tax year immediately  
27 on qualification for the exemption.

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

3 (c) An exemption provided by Section 11.13, 11.131, 11.132,  
4 11.133, 11.134, 11.17, 11.18, 11.182, 11.1827, 11.183, 11.19,  
5 11.20, 11.21, 11.22, 11.23(a), (h), (j), (j-1), or (m), 11.231,  
6 11.254, 11.27, 11.271, 11.29, 11.30, 11.31, ~~or~~ 11.315, or 11.35,  
7 once allowed, need not be claimed in subsequent years, and except as  
8 otherwise provided by Subsection (e), the exemption applies to the  
9 property until it changes ownership or the person's qualification  
10 for the exemption changes. However, except as provided by  
11 Subsection (r), the chief appraiser may require a person allowed  
12 one of the exemptions in a prior year to file a new application to  
13 confirm the person's current qualification for the exemption by  
14 delivering a written notice that a new application is required,  
15 accompanied by an appropriate application form, to the person  
16 previously allowed the exemption. If the person previously allowed  
17 the exemption is 65 years of age or older, the chief appraiser may  
18 not cancel the exemption due to the person's failure to file the new  
19 application unless the chief appraiser complies with the  
20 requirements of Subsection (q), if applicable.

21 (s) A person who qualifies for an exemption under Section  
22 11.35 must apply for the exemption not later than the 105th day  
23 after the date the governor declares the area in which the person's  
24 qualified property is located to be a disaster area, provided that  
25 the chief appraiser may extend the deadline for good cause shown.

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

1       (e) If the chief appraiser approves, modifies, or denies an  
2 application for an exemption under Section 11.35, the chief  
3 appraiser shall deliver a written notice of the approval,  
4 modification, or denial to the applicant not later than the fifth  
5 day after the date the chief appraiser makes the determination. The  
6 notice must include the damage assessment rating assigned by the  
7 chief appraiser to each item of qualified property that is the  
8 subject of the application and a brief explanation of the  
9 procedures for protesting the chief appraiser's determination. The  
10 notice required under this subsection is in lieu of any notice that  
11 would otherwise be required under Subsection (d).

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

14               (15) "Lost property levy" means the amount of taxes  
15 levied in the preceding year on property value that was taxable in  
16 the preceding year but is not taxable in the current year because  
17 the property is exempt in the current year under a provision of this  
18 code other than Section 11.251, ~~or~~ 11.253, or 11.35, the property  
19 has qualified for special appraisal under Chapter 23 in the current  
20 year, or the property is located in territory that has ceased to be  
21 a part of the taxing unit since the preceding year.

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

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

26                       (1) the level of appraisals of any category of  
27 property in the district or in any territory in the district, but

1 not the appraised value of a single taxpayer's property;

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

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

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

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

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

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

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

18 (2) the determination of the appropriate damage  
19 assessment rating for an item of qualified property under that  
20 section.

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

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

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

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

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

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

16           (5) in the case of a protest of the modification or  
17 denial of an application for an exemption under Section 11.35, or  
18 the determination of an appropriate damage assessment rating for an  
19 item of qualified property under that section, not later than the  
20 30th day after the date the property owner receives the notice  
21 required under Section 11.45(e).

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

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

26           (1) the total dollar amount of any residence homestead  
27 exemptions lawfully granted under Section 11.13(b) or (c), Tax

1 Code, in the year that is the subject of the study for each school  
2 district;

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

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

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

12 (A) is within a reinvestment zone created on or  
13 before May 31, 1999, or is proposed to be included within the  
14 boundaries of a reinvestment zone as the boundaries of the zone and  
15 the proposed portion of tax increment paid into the tax increment  
16 fund by a school district are described in a written notification  
17 provided by the municipality or the board of directors of the zone  
18 to the governing bodies of the other taxing units in the manner  
19 provided by former Section 311.003(e), Tax Code, before May 31,  
20 1999, and within the boundaries of the zone as those boundaries  
21 existed on September 1, 1999, including subsequent improvements to  
22 the property regardless of when made;

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

27 (C) is eligible for tax increment financing under

1 Chapter 311, Tax Code;

2 (5) the total dollar amount of any captured appraised  
3 value of property that:

4 (A) is within a reinvestment zone:

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

7 (ii) the project plan for which includes  
8 the alteration, remodeling, repair, or reconstruction of a  
9 structure that is included on the National Register of Historic  
10 Places and requires that a portion of the tax increment of the zone  
11 be used for the improvement or construction of related facilities  
12 or for affordable housing;

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

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

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

19 (7) the difference between the comptroller's estimate  
20 of the market value and the productivity value of land that  
21 qualifies for appraisal on the basis of its productive capacity,  
22 except that the productivity value estimated by the comptroller may  
23 not exceed the fair market value of the land;

24 (8) the portion of the appraised value of residence  
25 homesteads of individuals who receive a tax limitation under  
26 Section 11.26, Tax Code, on which school district taxes are not  
27 imposed in the year that is the subject of the study, calculated as

1 if the residence homesteads were appraised at the full value  
2 required by law;

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

5 (A) action required by statute or the  
6 constitution of this state, other than Section 11.311, Tax Code,  
7 that, if the tax rate adopted by the district is applied to it,  
8 produces an amount equal to the difference between the tax that the  
9 district would have imposed on the property if the property were  
10 fully taxable at market value and the tax that the district is  
11 actually authorized to impose on the property, if this subsection  
12 does not otherwise require that portion to be deducted; or

13 (B) action taken by the district under Subchapter  
14 B or C, Chapter 313, Tax Code, before the expiration of the  
15 subchapter;

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

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

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

25 (13) the amount by which the market value of a  
26 residence homestead to which Section 23.23, Tax Code, applies  
27 exceeds the appraised value of that property as calculated under

1 that section; and

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

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

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

8 SECTION 12. This Act takes effect January 1, 2020, but only  
9 if the constitutional amendment proposed by the 86th Legislature,  
10 Regular Session, 2019, authorizing the legislature to provide for a  
11 temporary exemption from ad valorem taxation of a portion of the  
12 appraised value of certain property damaged by a disaster is  
13 approved by the voters. If that amendment is not approved by the  
14 voters, this Act has no effect.