88R1655 RDS-F

By:  Hefner H.B. No. 3691

A BILL TO BE ENTITLED

AN ACT

relating to the exemption from ad valorem taxation of certain property owned by a charitable organization that is engaged in providing housing and related facilities and services to persons who are at least 62 years of age.

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

SECTION 1.  Section 11.18(d), Tax Code, is amended to read as follows:

(d)  A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more of the following charitable functions:

(1)  providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits in accordance with Section 11.1801;

(2)  providing support or relief to orphans, delinquent or [~~,~~] dependent[~~, or handicapped~~] children in need of residential care, children with disabilities in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3)  providing support without regard to the beneficiaries' ability to pay to:

(A)  elderly persons, including the provision of:

(i)  recreational or social activities; and

(ii)  facilities designed to address the special needs of elderly persons; or

(B)  persons with disabilities [~~the handicapped~~], including training and employment:

(i)  in the production of commodities; or

(ii)  in the provision of services under 41 U.S.C. Sections 8501-8506;

(4)  preserving a historical landmark or site;

(5)  promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6)  promoting or providing humane treatment of animals;

(7)  acquiring, storing, transporting, selling, or distributing water for public use;

(8)  answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9)  promoting the athletic development of boys or girls under the age of 18 years;

(10)  preserving or conserving wildlife;

(11)  promoting educational development through loans or scholarships to students;

(12)  providing halfway house services pursuant to a certification as a halfway house by the parole division of the Texas Department of Criminal Justice;

(13)  providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older:

(A)  without regard to the residents' ability to pay; or

(B)  as an organization described by Section 11.1802;

(14)  promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15)  providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16)  performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;

(17)  operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended;

(18)  providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for [~~handicapped~~] individuals with disabilities, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);

(19)  providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:

(A)  without regard to the residents' ability to pay; [~~or~~]

(B)  in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents; or

(C)  as an organization described by Section 11.1802;

(20)  providing housing on a cooperative basis to students of an institution of higher education if:

(A)  the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B)  membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C)  the organization is governed by its members; and

(D)  the members of the organization share the responsibility for managing the housing;

(21)  acquiring, holding, and transferring unimproved real property under an urban land bank demonstration program established under Chapter 379C, Local Government Code, as or on behalf of a land bank;

(22)  acquiring, holding, and transferring unimproved real property under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land bank;

(23)  providing housing and related services to individuals who:

(A)  are unaccompanied and homeless and have a disabling condition; and

(B)  have been continuously homeless for a year or more or have had at least four episodes of homelessness in the preceding three years;

(24)  operating a radio station that broadcasts educational, cultural, or other public interest programming, including classical music, and that in the preceding five years has received or been selected to receive one or more grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended; or

(25)  providing, without regard to the beneficiaries' ability to pay, tax return preparation services and assistance with other financial matters.

SECTION 2.  Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.1802 to read as follows:

Sec. 11.1802.  REQUIREMENTS FOR CERTAIN CHARITABLE ORGANIZATIONS PROVIDING HOUSING AND SERVICES TO THE ELDERLY. (a) In this section:

(1)  "Charitable housing and services" means the following provided by a charitable organization to a person 62 years of age or older in financial need:

(A)  housing, including as an independent living facility, assisted living facility, or nursing facility; and

(B)  any service designed to meet the unique needs of a person 62 years of age or older, including:

(i)  independent living services;

(ii)  assisted living services;

(iii)  nursing facility services;

(iv)  social services;

(v)  health services, including subsidized health services;

(vi)  services provided through a government-sponsored program, including through Medicaid or another federal, state, or local indigent health care program based on financial need;

(vii)  educational services; and

(viii)  donations.

(2)  "Net resident revenue" means a charitable organization's total revenue from providing housing and services to residents of a facility operated by the organization who are 62 years of age or older, less all allowances and discounts on residents' accounts, including:

(A)  debts that are in default;

(B)  contractual adjustments;

(C)  teaching allowances;

(D)  policy discounts;

(E)  administrative adjustments; and

(F)  other deductions from revenue.

(3)  "Very low-income" has the meaning assigned by 12 U.S.C. Section 1701q(k)(8).

(b)  To qualify as a charitable organization under Section 11.18(d)(13)(B) or (19)(C), an organization must:

(1)  except as provided by Subsection (c), provide charitable housing and services in an unreimbursed amount that is not less than four percent of the charitable organization's net resident revenue;

(2)  be located in a county with a population of less than 58,000 in which the entire county or the population of the entire county has been designated a health professionals shortage area; or

(3)  operate a housing development restricted to very low-income persons who are 62 years of age or older.

(c)  A charitable organization described by Subsection (b)(1) of this section that qualified for an exemption under Section 11.18(d)(13)(B) or (19)(C) in the preceding tax year and otherwise qualifies for the exemption in the current tax year is entitled to the exemption if the organization demonstrates that:

(1)  a reduction in the amount of charitable housing and services prescribed by Subsection (b)(1) is necessary:

(A)  to maintain financial reserves at a level required by a debt obligation;

(B)  to prevent the organization from endangering its ability to continue operating; or

(C)  in response to a natural or other disaster; or

(2)  subject to Subsection (e), through unintended miscalculation, the organization failed in the preceding tax year to provide charitable housing and services in the amount prescribed by Subsection (b)(1).

(d)  Subject to Subsection (e), a charitable organization that failed to provide charitable housing and services in the preceding tax year in the amount prescribed by Subsection (b)(1) of this section as described by Subsection (c)(2) of this section is entitled to an exemption under Section 11.18(d)(13)(B) or (19)(C) for the current tax year, but not for more than one tax year in each five tax years.

(e)  A charitable organization to which Subsection (d) applies is not entitled to an exemption under Section 11.18(d)(13)(B) or (19)(C) in the tax year following the current tax year unless the organization in the current tax year provides charitable housing and services in an amount at least equal to the sum of:

(1)  the amount prescribed by Subsection (b)(1) for the current tax year; and

(2)  the amount for the preceding tax year by which the organization failed to meet the requirement prescribed by Subsection (b)(1).

(f)  A charitable organization that fails to satisfy the requirements prescribed by Subsection (e) for the current tax year is liable for the amount of the tax, plus penalties and interest, that would have otherwise been imposed for both the preceding and current tax years, calculated as if the taxes were delinquent on February 1 of the tax year following the tax year for which the tax would otherwise have been imposed.

SECTION 3.  The changes in law made by this Act apply only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 4.  This Act takes effect January 1, 2024.