

By: Hughes, Perry

S.B. No. 1255

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 [7] dependent[7, 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

1 certification as a halfway house by the parole division of the Texas
2 Department of Criminal Justice;

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

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

8 (B) as an organization described by Section
9 11.1802;

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

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

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

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

24 (18) providing housing for low-income and
25 moderate-income families, for unmarried individuals 62 years of age
26 or older, for ~~handicapped~~ individuals with disabilities, and for
27 families displaced by urban renewal, through the use of trust

1 assets that are irrevocably and, pursuant to a contract entered
2 into before December 31, 1972, contractually dedicated on the sale
3 or disposition of the housing to a charitable organization that
4 performs charitable functions described by Subdivision (9);

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

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

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

15 (C) as an organization described by Section
16 11.1802;

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

19 (A) the organization is exempt from federal
20 income taxation under Section 501(a), Internal Revenue Code of
21 1986, as amended, by being listed as an exempt entity under Section
22 501(c)(3) of that code;

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

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

27 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:

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

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

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

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

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

18 (e) A charitable organization to which Subsection (d)
19 applies is not entitled to an exemption under Section
20 11.18(d)(13)(B) or (19)(C) in the tax year following the current
21 tax year unless the organization in the current tax year provides
22 charitable housing and services in an amount at least equal to the
23 sum of:

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

26 (2) the amount for the preceding tax year by which the
27 organization failed to meet the requirement prescribed by

1 Subsection (b)(1).

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

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

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