

BILL ANALYSIS

C.S.H.B. 1035
By: Talarico
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Legislature, during the 88th Regular Session, passed S.B. 1145, which provided for an exemption from county or municipal taxation of the property a person owns and operates as a qualifying child-care facility or the portion of property the person owns and leases to a person who uses the property to operate such a facility. For persons claiming an exemption based on that portion of leased property, current law requires the filing of an affidavit certifying how the financial benefit from the exemption will be applied and benefit the child-care facility. However, the bill author informed the committee that, under certain types of leases, the tenant child-care facility may be directly responsible for paying property taxes on the leased premises and may receive the tax bills directly, and current requirements regarding the affidavit do not account for these types of leases. C.S.H.B. 1035 seeks to address this issue by accounting for circumstances in which qualifying child-care facilities pay taxes owed on the property for which the exemption is claimed under a net lease in applicable affidavit requirements.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1035 amends the Tax Code, as added by Chapter 281 (S.B. 1145), Acts of the 88th Legislature, Regular Session, 2023, to make the following changes regarding the information that must be certified in an affidavit accompanying the application submitted by a person claiming a local option exemption from county or municipal taxation for the portion of the real property the person owns and leases to another person who uses the property to operate a qualifying child-care facility:

- provides the option for the person to certify that the property is subject to a net lease and the child-care facility to which the property is leased is responsible for paying the taxes imposed on the property as an alternative to certifying that the person has provided to the child-care facility to which the property is leased a disclosure document stating the amount by which the taxes on the property are reduced as a result of the exemption and the method the person will implement to ensure that the rent charged for the lease of the property fully reflects that reduction; and
- provides the option for the person to certify that the rent charged for the lease of the property reflects the reduction in the amount of taxes on the property resulting from the exemption by operation of the net lease to which the property is subject, if applicable, as an alternative to certifying that fact through a monthly or annual credit against the rent.

The bill defines "net lease" as a lease under which the lessee pays, in addition to a base rental amount, the taxes imposed on the property that is the subject of the lease, including a double net lease and a triple net lease.

C.S.H.B. 1035 applies only to an application for an exemption from property taxation that is filed on or after the bill's effective date. An application for an exemption from property taxation that was filed before the bill's effective date is covered by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

C.S.H.B. 1035 establishes that, to the extent of any conflict, the bill prevails over another act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1035 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The introduced defined "net lease" as a lease in which the lessee pays rent plus the property taxes for the property, including a triple net or net-net-net lease, whereas the substitute defines "net lease" as a lease under which the lessee pays, in addition to a base rental amount, the taxes imposed on the property that is the subject of the lease, including a double net lease and a triple net lease.

Both the introduced and the substitute revise the information that must be certified in an affidavit accompanying the application submitted by a person claiming a local option exemption from county or municipal taxation for the portion of the real property the person owns and leases to another person who uses the property to operate a qualifying child care facility. However, the introduced and substitute differ in the following ways:

- the introduced provided the option for the person to certify that the property is subject to a net lease under which the lessee is directly responsible for the payment of property taxes imposed on the property as an alternative to certifying that the rent charged for the lease of the property reflects the reduction in the amount of taxes on the property resulting from the exemption through a monthly or annual credit against the rent, whereas the substitute provides the option for the person to certify that the property is subject to a net lease and the child-care facility to which the property is leased is responsible for paying the taxes imposed on the property as an alternative to certifying that the person has provided to the child-care facility to which the property is leased a disclosure document stating the amount by which the taxes on the property are reduced as a result of the exemption and the method the person will implement to ensure that the rent charged for the lease of the property fully reflects that reduction;
- the substitute omits the provision present in the introduced that specified, for purposes of the requirement for the person to certify that they have provided to the applicable child-care facility a disclosure document stating the amount by which the taxes on the property are reduced as a result of the exemption and the method the person will implement to ensure that the rent fully reflects that reduction, that such action includes certifying that the property is subject to a net lease under which the lessee is directly responsible for the payment of property taxes imposed on the property; and
- includes a provision absent from the introduced that provides the option for the person to certify that the rent charged for the lease of the property reflects the reduction in the amount of taxes on the property resulting from the exemption by operation of the net

lease to which the property is subject, if applicable, as an alternative to certifying that fact through a monthly or annual credit against the rent.

The substitute additionally includes provisions absent from the introduced that provide for the following:

- the applicability of the bill to an application for an exemption from property taxation that is filed on or after the bill's effective date and the continued application of certain law for applications filed before that date; and
- that, to the extent of any conflict, the bill prevails over another act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.