

BILL ANALYSIS

Senate Research Center
86R17127 SMT-F

H.B. 492
By: Shine et al. (Taylor)
Property Tax
5/16/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 492 amends current law relating to a temporary local option exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.35, as follows:

Sec. 11.35. TEMPORARY EXEMPTION FOR QUALIFIED PROPERTY DAMAGED BY DISASTER. (a) Defines "qualified property" to mean property that:

(1) consists of:

(A) tangible personal property used for the production of income;

(B) an improvement to real property; or

(C) a manufactured home as that term is defined by Section 1201.003 (Definitions), Occupations Code, that is used as a dwelling, regardless of whether the owner of the manufactured home elects to treat the manufactured home as real property under Section 1201.2055 (Election by Owner), Occupations Code;

(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;

(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 (Rendition Generally) that demonstrates that the property had taxable situs in the disaster area for the tax year in which the disaster occurred.

(b) Entitles a person to an exemption from taxation by a taxing unit of a portion of the appraised value of qualified property that the person owns if the exemption is adopted by the governing body of the taxing unit in the manner provided by law for official action by the body.

(c) Requires an exemption adopted by the governing body of a taxing unit under this section to specify the disaster to which the exemption pertains and be adopted

not later than the 60th day after the date the governor first declares territory in the taxing unit to be a disaster area as a result of the disaster.

(d) Requires a taxing unit the governing body of which adopts an exemption under this section, not later than the seventh day after the date the governing body adopts the exemption, to notify the chief appraiser of each appraisal district in which the taxing unit participates, the assessor for the taxing unit, and the comptroller of public accounts of the State of Texas (comptroller) of the adoption of the exemption.

(e) Requires the chief appraiser, on receipt of an application for the exemption authorized by this section, to determine whether any item of qualified property that is the subject of the application is at least 15 percent damaged by the disaster and assign to each item of qualified property a damage assessment with a certain rating, as appropriate, as provided by Subsection (f). Authorizes the chief appraiser, in determining the appropriate damage assessment rating, to rely on information provided by a county emergency management authority, the Federal Emergency Management Agency, or any other source the chief appraiser considers appropriate.

(f) Requires the chief appraiser to assign to an item of qualified property:

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

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

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

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

(g) Provides that, subject to Subsection (h), the amount of the exemption authorized by this section for an item of qualified property is determined by multiplying the appraised value, determined for the tax year in which the disaster occurred, of the property by certain amounts for each level of damage assessment rating.

(h) Sets forth the equation to be used to determine the amount of the exemption if the person qualifies for the exemption authorized by this section after the beginning of the tax year.

(i) Requires the assessor for each taxing unit that has adopted the exemption, if a person qualifies for the exemption authorized by this section after the amount of the tax due on the qualified property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, to recalculate the amount of the tax due on the property and correct the tax roll. Requires the assessor, if the tax bill has been mailed and the tax on the property has not been paid, to mail a corrected tax bill to the person in whose name the property is listed

on the tax roll or to the person's authorized agent. Requires the tax collector for the taxing unit, if the tax on the property has been paid, to refund to the person who paid the tax the amount by which the payment exceeded the tax due. Provides that no interest is due on an amount refunded under this subsection.

(j) Provides that the exemption authorized by this section expires as to an item of qualified property on January 1 of the first tax year in which the property is reappraised under Section 25.18 (Periodic Reappraisals).

SECTION 2. Amends Section 11.42(e), Tax Code, to include a person who qualifies for an exemption under Section 11.35 after January 1 of a tax year among the individuals who are authorized to receive the exemption for the applicable portion of that tax year immediately on qualification for the exemption.

SECTION 3. Amends Section 11.43, Tax Code, by amending Subsection (c) and adding Subsection (s), as follows:

(c) Includes an exemption provided by Section 11.35 among the exemptions provided by certain sections that, once an exemption is allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e) (relating to a person being prohibited from receiving an exemption if the person fails to timely file an application), the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes.

(s) Requires a person who qualifies for an exemption under Section 11.35 to apply for the exemption not later than the 45th day after the date the governing body of the taxing unit adopts the exemption, provided that the chief appraiser is authorized to extend the deadline for good cause shown.

SECTION 4. Amends Section 11.45, Tax Code, by adding Subsection (e), as follows:

(e) Requires the chief appraiser, if the chief appraiser approves, modifies, or denies an application for an exemption under Section 11.35, to deliver a written notice of the approval, modification, or denial to the applicant not later than the fifth day after the date the chief appraiser makes the determination. Requires the notice to include the damage assessment rating assigned by the chief appraiser to each item of qualified property that is the subject of the application and a brief explanation of the procedures for protesting the chief appraiser's determination. Establishes that the notice required under this subsection is in lieu of any notice that would otherwise be required under Subsection (d) (relating to certain required actions of the chief appraiser if they modify or deny an exemption).

SECTION 5. Amends Section 26.012(15), Tax Code, to redefine "lost property levy."

SECTION 6. Amends Section 41.03(a), Tax Code, as follows:

(a) Entitles a taxing unit to challenge before the appraisal review board:

(1)–(2) makes no changes to these subdivisions;

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

(4) makes no changes to this subdivision; and

(5) makes a nonsubstantive change to this subdivision.

SECTION 7. Amends Section 41.41, Tax Code, by adding Subsection (c), as follows:

(c) Entitles a property owner, notwithstanding Subsection (a) (relating to entitling a property owner to protest certain actions before the appraisal board), to protest before the

appraisal review board only the following actions of the chief appraiser in relation to an exemption under Section 11.35:

- (1) the modification or denial of an application for an exemption under that section; or
- (2) the determination of the appropriate damage assessment rating for an item of qualified property under that section.

SECTION 8. Amends Section 41.44(a), Tax Code, as follows:

(a) Requires the property owner initiating a protest, except as provided by Subsections (b) (relating to entitling a property owner to a hearing if the property owner files a protest within a certain time), (c) (relating to certain entitlements of a property owner who files a notice of protest within a certain time), (c-1) (relating to the entitlement to a hearing of a property owner who files a protest who works in a certain area), and (c-2) (relating to the entitlement to a hearing of a property owner who files a protest who was working for the United States Armed Forces outside the United States on the day the deadline was set), to be entitled to a hearing and determination of protest, to file a written notice of the protest with the appraisal review board having authority to hear the matter protested:

- (1)–(2) makes no changes to these subdivisions;
- (3)–(4) makes nonsubstantive changes to these subdivisions; or
- (5) in the case of a protest of the modification or denial of an application for an exemption under Section 11.35, or the determination of an appropriate damage assessment rating for an item of qualified property under that section, not later than the 30th day after the date the property owner receives the notice required under Section 11.45(e).

SECTION 9. Amends Section 403.302(d), Government Code, as follows:

(d) Redefines "taxable value" for the purposes of this section (Determination of School District Property Values) to mean:

- (1)–(11) makes no changes to these subdivisions;
- (12)–(13) makes nonsubstantive changes to these subdivisions; and
- (14) the total dollar amount of any exemptions granted under Section 11.35, Tax Code.

SECTION 10. Repealer: Section 23.02 (Reappraisal of Property Damaged in Disaster Area), Tax Code.

SECTION 11. Makes application of Section 11.35, Tax Code, as added by this Act, prospective.

SECTION 12. Effective date: January 1, 2020, contingent upon approval by the voters of the constitutional amendment proposed by the 86th Legislature, Regular Session, 2019, authorizing the legislature to provide for a temporary local option exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster.