

Chapter 1034

H.B. No. 492

1 AN ACT
2 relating to a temporary exemption from ad valorem taxation of a
3 portion of the appraised value of certain property damaged by a
4 disaster.

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

6 SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by
7 adding Section 11.35 to read as follows:

8 Sec. 11.35. TEMPORARY EXEMPTION FOR QUALIFIED PROPERTY
9 DAMAGED BY DISASTER. (a) In this section, "qualified property"
10 means property that:

11 (1) consists of:

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

14 (B) an improvement to real property; or

15 (C) a manufactured home as that term is defined
16 by Section 1201.003, Occupations Code, that is used as a dwelling,
17 regardless of whether the owner of the manufactured home elects to
18 treat the manufactured home as real property under Section
19 1201.2055, Occupations Code;

20 (2) is located in an area declared by the governor to
21 be a disaster area following a disaster;

22 (3) is at least 15 percent damaged by the disaster, as
23 determined by the chief appraiser under this section; and

24 (4) for property described by Subdivision (1)(A), is

1 the subject of a rendition statement or property report filed by the
2 property owner under Section 22.01 that demonstrates that the
3 property had taxable situs in the disaster area for the tax year in
4 which the disaster occurred.

5 (b) A person is entitled to an exemption from taxation by a
6 taxing unit of a portion of the appraised value of qualified
7 property that the person owns in an amount determined under
8 Subsection (h).

9 (c) Notwithstanding Subsection (b), if the governor first
10 declares territory in a taxing unit to be a disaster area as a
11 result of a disaster on or after the date a taxing unit adopts a tax
12 rate for the tax year in which the declaration is issued, a person
13 is not entitled to the exemption for that tax year unless the
14 governing body of the taxing unit adopts the exemption in the manner
15 provided by law for official action by the body.

16 (d) An exemption adopted by the governing body of a taxing
17 unit under Subsection (c) must:

18 (1) specify the disaster to which the exemption
19 pertains; and

20 (2) be adopted not later than the 60th day after the
21 date the governor first declares territory in the taxing unit to be
22 a disaster area as a result of the disaster.

23 (e) A taxing unit the governing body of which adopts an
24 exemption under Subsection (c) shall, not later than the seventh
25 day after the date the governing body adopts the exemption, notify
26 the chief appraiser of each appraisal district in which the taxing
27 unit participates, the assessor for the taxing unit, and the

1 comptroller of the adoption of the exemption.

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

13 (g) The chief appraiser shall assign to an item of qualified
14 property:

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

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

26 (3) a Level III damage assessment rating if the
27 property is at least 60 percent damaged but is not a total loss,

1 which, for qualified property described by Subsection (a)(1)(B) or
2 (C), means that the property has suffered significant structural
3 damage requiring extensive repair due to the failure or partial
4 failure of structural elements, wall elements, or the foundation,
5 or the waterline is at least 18 inches above the floor; or

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

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

13 (1) 15 percent, if the property is assigned a Level I
14 damage assessment rating;

15 (2) 30 percent, if the property is assigned a Level II
16 damage assessment rating;

17 (3) 60 percent, if the property is assigned a Level III
18 damage assessment rating; or

19 (4) 100 percent, if the property is assigned a Level IV
20 damage assessment rating.

21 (i) If a person qualifies for the exemption authorized by
22 this section after the beginning of the tax year, the amount of the
23 exemption is calculated by multiplying the amount determined under
24 Subsection (h) by a fraction, the denominator of which is 365 and
25 the numerator of which is the number of days remaining in the tax
26 year after the day on which the governor first declares the area in
27 which the person's qualified property is located to be a disaster

1 area, including the day on which the governor makes the
2 declaration.

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

16 (k) The exemption authorized by this section expires as to
17 an item of qualified property on January 1 of the first tax year in
18 which the property is reappraised under Section 25.18.

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

21 (e) A person who qualifies for an exemption under Section
22 11.131 or 11.35 after January 1 of a tax year may receive the
23 exemption for the applicable portion of that tax year immediately
24 on qualification for the exemption.

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

27 (c) An exemption provided by Section 11.13, 11.131, 11.132,

1 11.133, 11.134, 11.17, 11.18, 11.182, 11.1827, 11.183, 11.19,
2 11.20, 11.21, 11.22, 11.23(a), (h), (j), (j-1), or (m), 11.231,
3 11.254, 11.27, 11.271, 11.29, 11.30, 11.31, [~~or~~] 11.315, or 11.35,
4 once allowed, need not be claimed in subsequent years, and except as
5 otherwise provided by Subsection (e), the exemption applies to the
6 property until it changes ownership or the person's qualification
7 for the exemption changes. However, except as provided by
8 Subsection (r), the chief appraiser may require a person allowed
9 one of the exemptions in a prior year to file a new application to
10 confirm the person's current qualification for the exemption by
11 delivering a written notice that a new application is required,
12 accompanied by an appropriate application form, to the person
13 previously allowed the exemption. If the person previously allowed
14 the exemption is 65 years of age or older, the chief appraiser may
15 not cancel the exemption due to the person's failure to file the new
16 application unless the chief appraiser complies with the
17 requirements of Subsection (q), if applicable.

18 (s) A person who qualifies for an exemption under Section
19 11.35(b) must apply for the exemption not later than the 105th day
20 after the date the governor declares the area in which the person's
21 qualified property is located to be a disaster area. A person who
22 qualifies for an exemption under Section 11.35(c) must apply for
23 the exemption not later than the 45th day after the date the
24 governing body of the taxing unit adopts the exemption. The chief
25 appraiser may extend the deadlines prescribed by this subsection
26 for good cause shown.

27 SECTION 4. Section 11.45, Tax Code, is amended by adding

1 Subsection (e) to read as follows:

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

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

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

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

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

27 (1) the level of appraisals of any category of

1 property in the district or in any territory in the district, but
2 not the appraised value of a single taxpayer's property;

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

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

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

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

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

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

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

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

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

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

1 authority to hear the matter protested:

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

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

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

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

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

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

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

27 (1) the total dollar amount of any residence homestead

1 exemptions lawfully granted under Section 11.13(b) or (c), Tax
2 Code, in the year that is the subject of the study for each school
3 district;

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

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

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

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

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

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

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

5 (A) is within a reinvestment zone:

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

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

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

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

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

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

25 (8) the portion of the appraised value of residence
26 homesteads of individuals who receive a tax limitation under
27 Section 11.26, Tax Code, on which school district taxes are not

1 imposed in the year that is the subject of the study, calculated as
2 if the residence homesteads were appraised at the full value
3 required by law;

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

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

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

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

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

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

26 (13) the amount by which the market value of a
27 residence homestead to which Section 23.23, Tax Code, applies

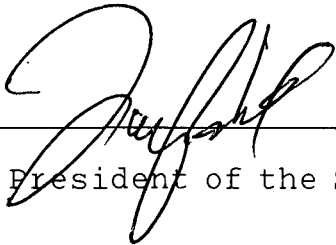
1 exceeds the appraised value of that property as calculated under
2 that section; and
3 (14) the total dollar amount of any exemptions granted
4 under Section 11.35, Tax Code.

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

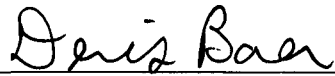
6 SECTION 11. Section 11.35, Tax Code, as added by this Act,
7 applies only to ad valorem taxes imposed for a tax year that begins
8 on or after the effective date of this Act.

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

H.B. No. 492

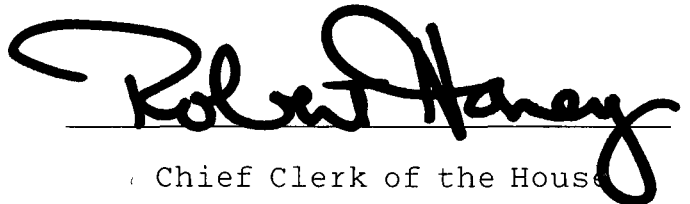


President of the Senate



Speaker of the House

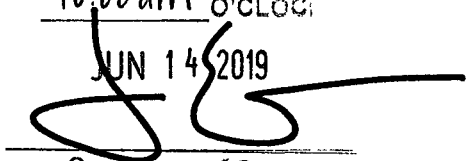
I certify that H.B. No. 492 was passed by the House on April 17, 2019, by the following vote: Yeas 137, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 492 on May 23, 2019, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 492 on May 26, 2019, by the following vote: Yeas 146, Nays 0, 1 present, not voting.



Chief Clerk of the House

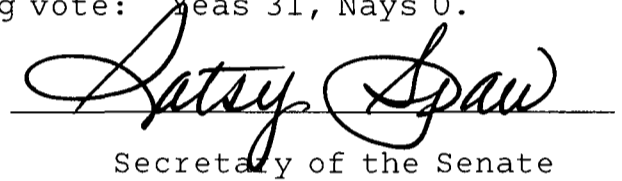
FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:00 am O'CLOCK

JUN 14 2019


Secretary of State

H.B. No. 492

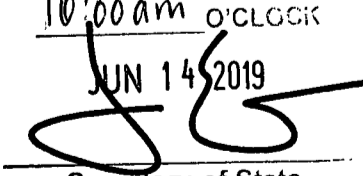
I certify that H.B. No. 492 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 492 on May 26, 2019, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

APPROVED: 6-12-2019

Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:00 am O'CLOCK
JUN 14 2019

Secretary of State