

## **BILL ANALYSIS**

Senate Research Center  
86R30993 SMT-D

C.S.H.B. 492  
By: Shine et al. (Taylor)  
Property Tax  
5/21/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The impact of Hurricane Harvey on the Texas coastal region in 2017 demonstrated how disasters can alter the status of many of the fundamental elements that affect the "health" of a community the availability of housing, including public housing for low-income individuals; social networks; environmental quality; economic stability and the availability of employment; transportation access to essential goods and services; safe places for children to play and learn; access to nutritious food; and the continuation of adequate medical care. Not only did the disaster add stress to already vulnerable populations, its effect on the population as a whole was to cause questions and concerns on property reappraisal and restoration.

Unpredictable and inefficient recovery plans take an enormous toll on disaster affected populations. Post-disaster impacts needs to be mitigated. One way to accomplish this is providing clear guidance related valuing a person's property that was damage during a disaster. H.B. 492 seeks to help relieve some of these extra burdens taken on after a disaster. H.B. 492 is the enabling legislation for H.J.R. 34, which allows for income-producing personal property and improvements to real property to qualify for a property tax exemption if it is in a governor declared disaster area and is at least 15 percent damaged by the disaster as determined by the chief appraiser. The bill creates four different qualified properties by the amount of damage the property incurred.

C.S.H.B. 492 amends current law relating to a temporary 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" as property that:

(1) consists of:

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

(B) an improvement to real property;

(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; and

(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 in an amount determined under Subsection (e).

(c) 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 such item of qualified property a damage assessment rating of Level I, Level II, Level III, or Level IV, as appropriate, as provided by Subsection (d). 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.

(d) 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.

(e) Provides that the amount of the exemption authorized by this section for an item of qualified property, subject to Subsection (f), is determined by multiplying the appraised value, determined for the tax year in which the disaster occurred, of the property by:

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

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

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

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

(f) Provides that if a person qualifies for the exemption authorized by this section after the beginning of the tax year, the amount of the exemption is calculated by multiplying the amount determined under Subsection (e) by a fraction, the denominator of which is 365 and the numerator of which is the number of days remaining in the tax year after the day on which the governor first declares the area in which the person's qualified property is located to be a disaster area, including the day on which the governor makes the declaration.

(g) Requires the assessor for the taxing unit, if a person qualifies for the exemption 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.

(h) 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, as follows:

(e) Authorizes a person who qualifies for an exemption under Section 11.131 (Residence Homestead of 100 Percent or Totally Disabled Veteran) or 11.35, rather than under Section 11.131, after January 1 of a tax year 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 Section 11.35 among certain other sections providing an exemption that, once allowed, need not be claimed in subsequent years, and provides that, except as otherwise provided by Subsection (e) (relating to prohibiting a person who is required to apply for an exemption in a given year and fails to file timely a completed application form from receiving the exemption for that year, except for certain exceptions), 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 105th day after the date the governor declares the area in which the person's qualified property is located to be a disaster area, 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. Provides that the notice required under this subsection is in lieu of any notice that would otherwise be required under Subsection (d) (relating to a required notice and required information of the notice).

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

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, rather than a grant in whole or in part of a partial exemption;
- (4) makes no changes to this subdivision; or
- (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 before the appraisal review board certain actions), 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 a property owner initiating a protest, except as provided by Subsections (b) (relating to entitling a property owner who files his notice of protest after the deadline prescribed by Subsection (a) of this section but before the appraisal review board approves the appraisal records to a hearing and determination of the protest if he shows good cause as determined by the board for failure to file the notice on time), (c) (relating to entitling a property owner who files notice of a certain protest to a hearing and determination of the protest if the property owner files the notice prior to the date the taxes on the property to which the notice applies become delinquent), (c-1) (relating to entitling a property owner who files a notice of protest after the deadline prescribed by Subsection (a) but before the taxes on the property to which the notice applies become delinquent to a hearing and determination of the protest if the property owner meets criteria related to certain employment), and (c-2) (relating to entitling a property owner who files a notice of protest after the deadline prescribed by Subsection (a) but before the taxes on the property to which the notice applies become delinquent to a hearing and determination of the protest if the property owner meets criteria related to service in the armed forces), to be entitled to a hearing and determination of a protest, to file a written notice of the protest with the appraisal review board having authority to hear the matter protested:

- (1) and (2) makes no changes to these subdivisions;
- (3) and (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, to define "taxable value" as the market value of all taxable property less certain amounts, including the total dollar amount of any exemptions granted under Section 11.35, Tax Code, and to make nonsubstantive changes.

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 on approval by the voters of the constitutional amendment proposed by the 86th Legislature, Regular Session, 2019, authorizing the legislature to provide for a temporary exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster.