

AGENDA

**Port Freeport
Port Commission
Special Meeting
Wednesday, November 3, 2021, 10:00 am - 10:15 am
In Person & Videoconference - Administration Building - 1100 Cherry Street - Freeport**

This meeting may be attended virtually or in person.

The meeting will be conducted pursuant to Section 551.127 of the Texas Government Code titled "Videoconference Call." This statute provides public officials, employees and members of the public may participate remotely in a public meeting by videoconference call. The Port Commission is utilizing this existing statute to ensure the greatest amount of access to the public and ensure the ability of all Commissioners to participate in meetings.

The quorum of the Port Commission will be located at the Commissioner Meeting Room located at 1100 Cherry Street, Freeport, Texas ("Meeting Location"). The Port Commission intends to have a quorum at the Meeting Location. The presiding Commissioner of this meeting will be physically present at the Meeting Location. The public will be permitted to physically attend the meeting at the Meeting Location.

Public comment will be available at the beginning of the meeting during the agenda item devoted to public comment. Public comment may be communicated virtually and in person, but in either event public comment will be limited to 5 minutes per participant and must be communicated verbally. Following public comment, the public will not be permitted to communicate with the Port Commission.

This meeting agenda and agenda packet is posted online at www.portfreeport.com

The videoconference is available online as follows:

Join Zoom Meeting

<https://us02web.zoom.us/j/81981943927?pwd=NGhPUGZzMBZLb2VIUHdtSENCZXB2UT09>

Meeting ID: 819 8194 3927

Passcode: 154102

Dial by your location

1 346 248 7799 US (Houston)

1 669 900 9128 US (San Jose)

1 253 215 8782 US (Tacoma)

1 646 558 8656 US (New York)

1 301 715 8592 US (Washington DC)

1 312 626 6799 US (Chicago)

Meeting ID: 819 8194 3927

Find your local number: <https://us02web.zoom.us/j/kuqr085Oj>

1. CONVENE OPEN SESSION in accordance with Texas Government Code Section 551.001, et. seq., to review and consider the following:
2. Roll Call.
3. Public Comment. (Public comment will be limited to 5 minutes per participant and can be completed in person or virtually)
4. Adoption of a Resolution approving the temporary exemption from taxation for qualified property damaged by a disaster.

5. Adjourn.

The Port Commission does not anticipate going into a closed session under Chapter 551 of the Texas Government Code at this meeting for any other items on the agenda, however, if necessary, the Port Commission may go into a closed session as permitted by law regarding any item on the agenda.

With this posted notice, Port Commissioners have been provided certain background information on the above listed agenda items. Copies of this information can be obtained by the public at the Port Administrative offices at 1100 Cherry Street, Freeport, TX.



Phyllis Saathoff, Executive Director/CEO

PORT FREEPORT

In compliance with the Americans with Disabilities Act, the District will provide for reasonable accommodations for persons attending its functions. Requests should be received at least 24 hours in advance.



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TO: Port Commissioners
Executive Director/CEO

FROM: Rob Lowe

DATE: October 27, 2021

SUBJECT: Hurricane Nicholas Disaster Declaration and Temporary Exemption

On September 13th, 2021, Governor Abbott declared Brazoria County to be a disaster area due to Hurricane Nicholas. As a result, some property owners may qualify for an exemption from taxation of a portion of the appraised value of qualified property if they suffered damage of at least 15% of the property as a result of the disaster.

These exemptions will be automatically applied to qualifying properties for taxing units who had not yet adopted a tax rate as of September 13th, 2021. However, as Port Freeport adopted our tax rate on September 9th, 2021, prior to the declaration date, the Port Commission must adopt the exemption within 60 days of the disaster declaration to allow qualifying properties to claim the exemption. If the exemption is not adopted, the exemption will not be applied to qualifying properties.

[PORT COMMISSION](#)

JOHN HOSS, CHAIRMAN; RUDY SANTOS, VICE CHAIRMAN; DAN CROFT, SECRETARY; ROB GIESECKE, ASST. SECRETARY;
RAVI K. SINGHANIA, COMMISSIONER; SHANE PIRTLE, COMMISSIONER; PHYLLIS SAATHOFF, EXECUTIVE DIRECTOR/CEO



THE BRAZORIA COUNTY APPRAISAL

500 N CHENANGO ST
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September 16th 2021

**RE: Hurricane Nicholas September 13th Governor Disaster Declaration – Tax Code
11.35 Temporary Exemption for Qualified Property Damaged by Disaster**

Dear Local Governing Bodies:

Governor Abbott declared Brazoria County to be in a disaster area due to Hurricane Nicholas on September 13th 2021. Property owners in Brazoria County may qualify for an exemption from taxation by a taxing unit of a portion of the appraised value of qualified property if the damage is at least 15% damaged by the disaster. A property owner must apply for the temporary exemption no later than 105 days after the governor declares a disaster area.

If your taxing unit adopted the 2021 tax rate on or before September 13th; the governing body of the taxing unit needs to adopt the exemption 60 days after the date the governor first declares a disaster area (**November 12th 2021**). If the exemption is not adopted, the exemption will not be applied to a qualifying property.

Any taxing unit that did not adopt a tax rate on or before the date of the disaster; does not need to authorize/adopt the exemption because it will be granted automatically if the property qualifies.

Enclosed is a copy of Texas Tax Code Sec. 11.35 Temporary Exemption for Qualified Property Damaged by Disaster for your information.

If you have any questions regarding this matter, please contact our office at 979-849-7792.

Sincerely,

Al Baird
Chief Appraiser
Enclosure

Texas Tax Code

Sec. 11.35

Temporary Exemption for Qualified Property Damaged by Disaster

(a) In this section, "qualified property" means 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; 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) A person is entitled 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 (h).

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

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

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

(2) 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.

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

(f) On receipt of an application for the exemption authorized by this section, the chief appraiser shall 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 (g). In determining the appropriate damage assessment rating, the chief appraiser may rely on information provided by a county emergency management authority, the Federal Emergency Management Agency, or any other source the chief appraiser considers appropriate.

(g) The chief appraiser shall 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) or (C), 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) or (C), 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.

(h) Subject to Subsection (i), 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:

- (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.*

(i) 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 (h) 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.

(j) 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, the assessor for each applicable taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall 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. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the person who paid the tax the amount by which the payment exceeded the tax due. No interest is due on an amount refunded under this subsection.

(k) 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).

RESOLUTION

At a Regular Meeting of the Port Commission of Port Freeport held at the office of said Port at 1100 Cherry Street, Freeport, Texas on the 3rd of November 2021, among other business came on to be considered the following resolution, which was upon motion duly made and seconded, adopted by vote of all Commissioners present, which resolution is as follows:

FINDINGS

1. Due and proper notice of the date, time, place and purpose of this meeting has been duly given in accordance with the provisions of the Texas Open Meetings Act, and such meeting has been conducted in accordance with said Open Meetings Act.

2. A Resolution was passed by the Port Commission on September 9, 2021 adopting a 2021 tax rate.

3. On September 13, 2021, Governor Greg Abbott declared Brazoria County to be in a disaster area due to Hurricane Nicholas.

4. Section 11.35 of the Texas Tax Code provides a temporary property tax exemption for “qualified property” damaged by the disaster.

5. Section 11.35(a) of the Texas Tax Code defines “qualified property” for purposes of a property tax exemption under this section 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 that is used as a dwelling, regardless of whether the owner of the manufactured home elects to treat the manufactured home as 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; and (4) for tangible personal property used for the production of income, is the subject of a rendition statement or property report filed by the property owner under Section 22.01 that demonstrates that the property had taxable situs in the disaster area for the tax year in which the disaster occurred;

6. Section 11.35(b) of the Texas Tax Code provides that a person is entitled 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 Section 11.35(h);

7. Section 11.35(c) of the Texas Tax Code provides that, notwithstanding 11.35(b), if the governor first declares territory in a taxing unit to be a disaster area as a result of a disaster on or after the date a taxing unit adopts the tax rate for the tax year in which the declaration is issued, a person is not entitled to the exemption for that tax year unless the governing body of the taxing unit adopts the exemption in the manner provided by law for official action by the body;

8. Port Freeport adopted the 2021 tax rate prior to the disaster declaration;

9. Section 11.35(d) of the Texas Tax Code provides that an exemption adopted by the

governing body of a taxing unit under subsection (c) must: (1) specify the disaster to which the exemption pertains; and (2) 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.

10. Port Freeport desires to adopt the temporary property tax exemption for qualified property damaged by Hurricane Nicholas under Section 11.35 of the Texas Tax Code.

R E S O L U T I O N

NOW THEREFORE, BE IT RESOLVED by the Port Commission of Port Freeport that the temporary exemption under Section 11.35 of the Texas Tax Code is hereby adopted not later than the 60th day after the date the governor first declared territory in the taxing unit to be a disaster area as a result of Hurricane Nicholas, and the chief appraiser is authorized to process applications from affected taxpayers and make the necessary determinations under Section 11.35.