

By: Bohac

H.B. No. 80

A BILL TO BE ENTITLED

AN ACT

relating to limiting the maximum average annual increase in the appraised value of residential real property for ad valorem tax purposes to three percent.

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

SECTION 1. Section 1.12(d), Tax Code, is amended to read as follows:

(d) For purposes of this section, the appraisal ratio of real property [~~a homestead~~] to which Section 23.23 applies is the ratio of the property's market value as determined by the appraisal district or appraisal review board, as applicable, to the market value of the property according to law. The appraisal ratio is not calculated according to the appraised value of the property as limited by Section 23.23.

SECTION 2. Section 23.23, Tax Code, is amended to read as follows:

Sec. 23.23. LIMITATION ON APPRAISED VALUE OF RESIDENTIAL REAL PROPERTY [~~RESIDENCE HOMESTEAD~~]. (a) The appraised value of residential real property [~~a residence homestead~~] for a tax year may not exceed the lesser of:

(1) the market value of the property; or

(2) the sum of:

(A) three [~~10~~] percent of the appraised value of the property for the last year in which the property was appraised

1 for taxation times the number of years since the property was last
2 appraised;

3 (B) the appraised value of the property for the
4 last year in which the property was appraised; and

5 (C) the market value of all new improvements to
6 the property.

7 (b) When appraising residential real property [~~a residence~~
8 ~~homestead~~], the chief appraiser shall:

9 (1) appraise the property at its market value; and

10 (2) include in the appraisal records both the market
11 value of the property and the amount computed under Subsection
12 (a)(2).

13 (c) The limitation provided by Subsection (a) takes effect
14 as to a parcel of residential real property [~~residence homestead~~]
15 on January 1 of the tax year following the first tax year in which
16 the owner owns [~~qualifies~~] the property on January 1 or, if the
17 property qualifies as the residence homestead of the owner [~~for an~~
18 ~~exemption~~] under Section 11.13 in the tax year in which the owner
19 acquires the property, the limitation takes effect on January 1 of
20 the tax year following that tax year. Except as provided by
21 Subsections (d) and (e), the [~~The~~] limitation expires on January
22 1 of the [~~first~~] tax year following the year in which [~~that neither~~
23 the owner of the property ceases to own the property [~~when the~~
24 ~~limitation took effect nor the owner's spouse or surviving spouse~~
25 ~~qualifies for an exemption under Section 11.13~~].

26 (d) If residential real property subject to a limitation
27 under Subsection (a) qualifies for an exemption under Section 11.13

1 when the ownership of the property is transferred to the owner's
2 spouse or surviving spouse, the limitation expires on January 1 of
3 the tax year following the year in which the owner's spouse or
4 surviving spouse ceases to own the property, unless the limitation
5 is further continued under this subsection on the subsequent
6 transfer to a spouse or surviving spouse.

7 (e) If residential real property subject to a limitation
8 under Subsection (a), other than a residence homestead, is owned by
9 two or more persons, the limitation expires on January 1 of the tax
10 year following the year in which the ownership of at least a 50
11 percent interest in the property is sold or otherwise transferred
12 to a person other than those owners.

13 (f) This section does not apply to a mineral interest or
14 property appraised under Subchapter C, D, E, F, ~~or~~ G, or H.

15 (g) ~~(e)~~ In this section:[7]

16 (1) "New ~~new~~ improvement" means an improvement to
17 real property ~~[a residence homestead]~~ that is made after the most
18 recent appraisal of the property ~~[for the preceding year]~~ and that
19 increases the market value of the property. The term does not
20 include ordinary upkeep, repair, or maintenance of an existing
21 structure or the grounds or another feature of the property.

22 (2) "Residential real property" means real property
23 that:

24 (A) qualifies for an exemption under Section
25 11.13; or

26 (B) is designed or adapted for residential
27 purposes, including the residential portion, not to exceed 20

1 acres, of farm or ranch property. The term does not include real
2 property on which a hotel, motel, or similar structure is located
3 that is designed to provide temporary lodging or accommodations.

4 (h) [-(f)] Notwithstanding Subsections (a) and (g)(1) [-(e)]
5 and except as provided by Subdivision (2), an improvement to
6 property that would otherwise constitute a new improvement is not
7 treated as a new improvement if the improvement is a replacement
8 structure for a structure that was rendered uninhabitable or
9 unusable by a casualty or by mold or water damage. For purposes of
10 appraising the property in the tax year in which the structure would
11 have constituted a new improvement:

12 (1) the last year in which the property was appraised
13 for taxation before the casualty or damage occurred is considered
14 to be the last year in which the property was appraised for taxation
15 for purposes of Subsection (a)(2)(A); and

16 (2) the replacement structure is considered to be a
17 new improvement only to the extent it is a significant improvement
18 over the replaced structure as that structure existed before the
19 casualty or damage occurred.

20 (i) For purposes of applying the limitation provided by
21 Subsection (a) in the first tax year after the 2004 tax year in
22 which the residential real property is appraised for taxation:

23 (1) the property is considered to have been appraised
24 for taxation in the 2004 tax year at a market value equal to the
25 appraised value of the property for that tax year;

26 (2) a person who acquired in a tax year before the 2004
27 tax year residential real property that the person owns in the 2004

1 tax year is considered to have acquired the property on January 1,
2 2004; and

3 (3) a person who qualified the property for an
4 exemption under Section 11.13 as the person's residence homestead
5 for any portion of the 2004 tax year is considered to have acquired
6 the property in the 2004 tax year.

7 (j) Subsection (i) and this subsection expire January 1,
8 2008.

9 SECTION 3. Section 42.26(d), Tax Code, is amended to read as
10 follows:

11 (d) For purposes of this section, the value of the property
12 subject to the suit and the value of a comparable property or sample
13 property that is used for comparison must be the market value
14 determined by the appraisal district when the property is [~~a~~
15 ~~residence homestead~~] subject to the limitation on appraised value
16 imposed by Section 23.23.

17 SECTION 4. Sections 403.302(d) and (i), Government Code,
18 are amended to read as follows:

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

21 (1) the total dollar amount of any residence homestead
22 exemptions lawfully granted under Section 11.13(b) or (c), Tax
23 Code, in the year that is the subject of the study for each school
24 district;

25 (2) one-half of the total dollar amount of any
26 residence homestead exemptions granted under Section 11.13(n), Tax
27 Code, in the year that is the subject of the study for each school

1 district;

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

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

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

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

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

24 (5) the total dollar amount of any exemptions granted
25 under Section 11.251, Tax Code;

26 (6) the difference between the comptroller's estimate
27 of the market value and the productivity value of land that

1 qualifies for appraisal on the basis of its productive capacity,
2 except that the productivity value estimated by the comptroller may
3 not exceed the fair market value of the land;

4 (7) the portion of the appraised value of residence
5 homesteads of individuals who receive a tax limitation under
6 Section 11.26, Tax Code, on which school district taxes are not
7 imposed in the year that is the subject of the study, calculated as
8 if the residence homesteads were appraised at the full value
9 required by law;

10 (8) a portion of the market value of property not
11 otherwise fully taxable by the district at market value because of:

12 (A) action required by statute or the
13 constitution of this state that, if the tax rate adopted by the
14 district is applied to it, produces an amount equal to the
15 difference between the tax that the district would have imposed on
16 the property if the property were fully taxable at market value and
17 the tax that the district is actually authorized to impose on the
18 property, if this subsection does not otherwise require that
19 portion to be deducted; or

20 (B) action taken by the district under Subchapter
21 B or C, Chapter 313, Tax Code;

22 (9) the market value of all tangible personal
23 property, other than manufactured homes, owned by a family or
24 individual and not held or used for the production of income;

25 (10) the appraised value of property the collection of
26 delinquent taxes on which is deferred under Section 33.06, Tax
27 Code;

1 (11) the portion of the appraised value of property
2 the collection of delinquent taxes on which is deferred under
3 Section 33.065, Tax Code; and

4 (12) the amount by which the market value of real
5 property [~~a residence homestead~~] to which Section 23.23, Tax Code,
6 applies exceeds the appraised value of that property as calculated
7 under that section.

8 (i) If the comptroller determines in the annual study that
9 the market value of property in a school district as determined by
10 the appraisal district that appraises property for the school
11 district, less the total of the amounts and values listed in
12 Subsection (d) as determined by that appraisal district, is valid,
13 the comptroller, in determining the taxable value of property in
14 the school district under Subsection (d), shall for purposes of
15 Subsection (d)(12) subtract from the market value as determined by
16 the appraisal district of real properties [~~residence homesteads~~] to
17 which Section 23.23, Tax Code, applies the amount by which that
18 amount exceeds the appraised value of those properties as
19 calculated by the appraisal district under Section 23.23, Tax Code.
20 If the comptroller determines in the annual study that the market
21 value of property in a school district as determined by the
22 appraisal district that appraises property for the school district,
23 less the total of the amounts and values listed in Subsection (d) as
24 determined by that appraisal district, is not valid, the
25 comptroller, in determining the taxable value of property in the
26 school district under Subsection (d), shall for purposes of
27 Subsection (d)(12) subtract from the market value as estimated by

1 the comptroller of real properties [~~residence homesteads~~] to which
2 Section 23.23, Tax Code, applies the amount by which that amount
3 exceeds the appraised value of those properties as calculated by
4 the appraisal district under Section 23.23, Tax Code.

5 SECTION 5. This Act takes effect January 1, 2005, and
6 applies only to the appraisal for ad valorem tax purposes of
7 residential real property for a tax year that begins on or after
8 January 1, 2005, but only if the constitutional amendment proposed
9 by the 78th Legislature, 4th Called Session, 2004, authorizing the
10 legislature to establish a three percent limit on annual increases
11 in the appraised value for ad valorem tax purposes of residential
12 real property is approved by the voters. If that amendment is not
13 approved by the voters, this Act has no effect.