

BILL ANALYSIS

Senate Research Center

S.B. 931
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 23.15, Tax Code, in conjunction with 11.1825, Tax Code, mandates the use of income-based appraisals for properties financed under the low income housing tax credit program (program). Appraisal districts are confused about the proper way to perform income-based appraisal on homes financed under the program. The confusion has created an unequal system of appraisal because the appraisal of identical properties from separate counties are resulting in amounts that vary significantly. Currently, the Tax Code is unclear as to the allowable income and expenses in calculating cash flow projections, and does not set a baseline capitalization rate.

As proposed, S.B. 931 requires the chief appraiser (appraiser) to appraise the property under the program using a capitalization rate of at least 13.5 percent, unless the appraiser conducts a study of sales of comparable properties that are located in the appraisal district to determine the appropriate capitalization rate to use in appraising the property. The bill authorizes the appraiser to use a lesser rate, if as a result of the study the appraiser determines that a capitalization rate of less than 13.5 percent is more appropriate for that purpose. Provides the method for calculating gross income potential and the operation and maintenance expenses of the property depending on whether the property served as a dwelling which was rented or offered for rent to individuals and families eligible for the program.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 23.215, Tax Code, as follows:

Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) Deletes existing text as it relates to real property owned by an organization. Provides that this section applies only to real property that includes a development, as defined by Section 2306.6702 (Definitions), Government Code, the dwelling units in which are rented or offered for rent to low-income or moderate-income individuals or families satisfying the income eligibility requirements of Subchapter DD (Low Income Housing Tax Credit Program), Chapter 2306, Government Code, and that was financed under the low income housing tax credit program under Subchapter DD, Chapter 2306, Government Code. Deletes existing text requiring the dwelling units to continue to be used for the aforementioned purpose. Makes conforming and nonsubstantive changes.

(b) Requires the chief appraiser (appraiser) to take certain actions in appraising the property. Provides the method for calculating the gross income potential and the operation and maintenance expenses of the property from the preceding fiscal year contained in the audited statement (statement) of income and expenses for the property provided under Subsection (g), if the dwellings units in the development were rented or offered for rent to individuals or families described by Subsection (a)(1)(A) for the entire fiscal year, if the dwelling units in the development were not rented or offered for rent to individuals or families during the preceding fiscal year, and if the dwelling units were rented or offered for rent to individuals and families for only part of the preceding fiscal year. Deletes

existing text requiring the appraiser to appraise the property in the manner provided by Section 11.1825 (q).

(c) Requires the appraiser to appraise the property using a capitalization rate of at least 13.5 percent, except as provided by Subsection (d).

(d) Authorizes the appraiser to conduct a study of sales of comparable properties described by Subsection (a) that are located in the appraisal district to determine the appropriate capitalization rate to use in appraising the property. Authorizes the appraiser to use a lesser rate, if as a result of the study the appraiser determines that a capitalization rate of less than 13.5 percent is more appropriate for that purpose.

(e) Requires the appraisal district, not later than January 31 of each year, to give public notice in the manner determined by the district, including by posting on the district's website if applicable, of the capitalization rate to be used in that year to appraise property described by Subsection (a) if that rate is a rate of less than 13.5 percent.

(f) Provides that for purposes of determining the net operating income of the property, the operating income of the property of the preceding fiscal year is reduced by any disbursements made in that fiscal year for the operation and maintenance of the property. Sets forth the disbursements to which this subsection applies.

(g) Requires the owner, not later than April 15 of each year, to provide to the appraiser a statement for the property for the preceding fiscal year that includes data on rental income and operation and maintenance expenses for which disbursements described by Subsection (f) were made. Requires the appraiser to use the statement in appraising the property under this section. Requires the appraiser to appraise the property, if the property owner fails to timely provide the statement, in the manner provided by Section 23.012 (Income Method of Appraisal).

(h) Provides that a statement for property provided to the appraiser under Subsection (g) is confidential and not available for public inspection. Authorizes the appraiser to disclose information in the statement only to an employee of the appraisal office who appraises property, except as authorized by Subsection (i).

(i) Sets forth the circumstances under which information made confidential by Subsection (h) is authorized to be disclosed.

(j) Requires that, in connection with an annual study conducted under Section 403.302, Government Code, the value of property described by Subsection (a) that is selected for appraisal be determined in the manner required by this section.

SECTION 2. Provides that this Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 3. Effective date: January 1, 2008.