

By: Chisum

H.B. No. 2681

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the appraisal for ad valorem tax purposes of certain
3 property used to provide low-income or moderate-income housing.

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

5 SECTION 1. Section 23.215, Tax Code, is amended to read as
6 follows:

7 Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED
8 FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) This section
9 applies only to real property ~~[owned by an organization]:~~

10 (1) that includes a development, as defined by Section
11 2306.6702, Government Code:

12 (A) the dwelling units in which are ~~[on the~~
13 ~~effective date of this section was]~~ rented or offered for rent to
14 ~~[a]~~ low-income or moderate-income individuals ~~[individual]~~ or
15 families ~~[family]~~ satisfying the ~~[organization's]~~ income
16 eligibility requirements of Subchapter DD, Chapter 2306,
17 Government Code ~~[and that continues to be used for that purpose];~~
18 and

19 (B) ~~[(2)]~~ that was financed under the low income
20 housing tax credit program under Subchapter DD, Chapter 2306,
21 Government Code;

22 (2) ~~[(3)]~~ that does not receive an exemption under
23 Section 11.182 or 11.1825; and

24 (3) ~~[(4)]~~ the owner of which has not entered into an

1 agreement with any taxing unit to make payments to the taxing unit
2 instead of taxes on the property.

3 (b) In appraising the property, the [~~The~~] chief appraiser
4 shall:

5 (1) estimate the gross income potential of the
6 property by:

7 (A) analyzing data on rental income of the
8 property for the preceding fiscal year contained in the audited
9 statement of income and expenses for the property provided under
10 Subsection (g) to the chief appraiser if the dwelling units in the
11 development were rented or offered for rent to individuals or
12 families described by Subsection (a)(1)(A) for the entire fiscal
13 year;

14 (B) analyzing the potential earnings capacity of
15 the property if the dwelling units in the development were not
16 rented or offered for rent to individuals or families described by
17 Subsection (a)(1)(A) during the preceding fiscal year; or

18 (C) if the dwelling units in the development were
19 rented or offered for rent to individuals or families described by
20 Subsection (a)(1)(A) for only part of the preceding fiscal year,
21 using the method prescribed by Paragraph (A) for the part of the
22 fiscal year in which the dwelling units were rented or offered for
23 rent and using the method prescribed by Paragraph (B) for the part
24 of the fiscal year in which the dwelling units were not rented or
25 offered for rent;

26 (2) estimate the operation and maintenance expenses of
27 the property by:

1 (A) analyzing data on operation and maintenance
2 expenses of the property for the preceding fiscal year contained in
3 the audited statement of income and expenses for the property
4 provided under Subsection (g) to the chief appraiser if the
5 dwelling units in the development were rented or offered for rent to
6 individuals or families described by Subsection (a)(1)(A) for the
7 entire fiscal year;

8 (B) analyzing data on operation and maintenance
9 expenses of comparable properties available to the chief appraiser
10 if the dwelling units in the development were not rented or offered
11 for rent to individuals or families described by Subsection
12 (a)(1)(A) during the preceding fiscal year; or

13 (C) if the dwelling units in the development were
14 rented or offered for rent to individuals or families described by
15 Subsection (a)(1)(A) for only part of the preceding fiscal year,
16 using the method prescribed by Paragraph (A) for the part of the
17 fiscal year in which the dwelling units were rented or offered for
18 rent and using the method prescribed by Paragraph (B) for the part
19 of the fiscal year in which the dwelling units were not rented or
20 offered for rent;

21 (3) determine the appropriate capitalization rate as
22 provided by Subsections (c) and (d); and

23 (4) compute the actual rental income from the property
24 or project the future rental income from the property by
25 considering the restrictions provided by Subchapter DD, Chapter
26 2306, Government Code, on:

27 (A) the income of the individuals or families to

1 whom the property may be rented; and

2 (B) the amount of rent that may be charged for the
3 property [~~appraise the property in the manner provided by Section~~
4 ~~11.1825(q)~~].

5 (c) The chief appraiser shall appraise the property using a
6 capitalization rate of at least 13.5 percent, except as provided by
7 Subsection (d).

8 (d) The chief appraiser may conduct a study of sales of
9 comparable properties described by Subsection (a) that are located
10 in the appraisal district to determine the appropriate
11 capitalization rate to use in appraising the property. If as a
12 result of the study the chief appraiser determines that a
13 capitalization rate of less than 13.5 percent is more appropriate
14 for that purpose, the chief appraiser shall use that lesser rate.

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

21 (f) For purposes of determining the net operating income of
22 the property, the operating income of the property for the
23 preceding fiscal year is reduced by any disbursements made in that
24 fiscal year for the operation and maintenance of the property,
25 including disbursements for:

26 (1) standard property maintenance;

27 (2) debt service;

1 (3) ad valorem and franchise taxes;

2 (4) employee compensation;

3 (5) fees required by government agencies;

4 (6) expenses incurred in satisfaction of the
5 requirements of lenders, including reserve requirements;

6 (7) insurance; and

7 (8) any other justifiable expense related to the
8 operation and maintenance of the property.

9 (g) Not later than April 15 of each year, the property owner
10 must provide to the chief appraiser an audited statement of the
11 income and expenses for the property for the preceding fiscal year
12 that includes data on rental income and operation and maintenance
13 expenses for which disbursements described by Subsection (f) were
14 made. The chief appraiser shall use the audited statement of income
15 and expenses in appraising the property under this section. If the
16 property owner fails to timely provide the audited statement of
17 income and expenses, the chief appraiser shall appraise the
18 property in the manner provided by Section 23.012.

19 (h) An audited statement of income and expenses for property
20 provided to the chief appraiser under Subsection (g) is
21 confidential and not available for public inspection. The chief
22 appraiser may disclose information in the statement only to an
23 employee of the appraisal office who appraises property, except as
24 authorized by Subsection (i).

25 (i) Information made confidential by Subsection (h) may be
26 disclosed:

27 (1) in a criminal proceeding;

1 (2) in a hearing conducted by the appraisal review
2 board;

3 (3) on a judicial determination of good cause; or

4 (4) to a governmental agency, political subdivision,
5 or regulatory body if the disclosure is necessary or proper for the
6 enforcement of the laws of this or another state or of the United
7 States.

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

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

14 SECTION 3. This Act takes effect January 1, 2008.