By: Patrick, Dan S.B. No. 348

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a 10 percent limit on annual increases in the appraised value for ad valorem tax purposes of certain real property, other than residence homesteads, used primarily for residential purposes by the owner of the property.

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 a homestead to which Section 23.23 applies or to other real property to which Section 23.231 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 or 23.231.

SECTION 2. Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.231 to read as follows:

Sec. 23.231. LIMITATION ON APPRAISED VALUE OF REAL PROPERTY OTHER THAN RESIDENCE HOMESTEAD OR CERTAIN OTHER PROPERTY. (a) This section does not apply to:

(1) a residence homestead that qualifies for an exemption under Section 11.13; or

(2) property appraised under Subchapter C, D, E, F, G,

or H.

(b) The appraised value of qualified residential real property for a tax year may not exceed the lesser of:

(1) the market value of the property; or

(2) the sum of:

(A) 10 percent of the appraised value of the property for the last year in which the property was appraised for taxation times the number of years since the property was last appraised;

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

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

(c) When appraising qualified residential real property, the chief appraiser shall:

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

(2) include in the appraisal records both the market value of the property and the amount computed under Subsection (b)(2).

(d) The limitation provided by Subsection (b) takes effect as to a parcel of qualified residential real property on January 1 of the tax year following the first tax year in which the owner owns the property on January 1 and in which the owner uses the property primarily for the owner's residential purposes. Except as provided by Subsection (e), the limitation expires on January 1 of the tax year following the year in which the owner of the property ceases to own the property or ceases to use the property primarily for the owner's residential purposes.

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

(f) In this section:

(1) "New improvement" means an improvement to real property that is made after the most recent appraisal of the property and that increases the market value of the property. The term does not include ordinary upkeep, repair, or maintenance of an existing structure or the grounds or another feature of the property.

(2) "Qualified residential real property" means real property that is designed or adapted for residential purposes and used primarily for residential purposes by the owner of the property, including the owner-occupied portion of a duplex, triplex, or other multifamily structure and the residential portion, not to exceed 20 acres, of farm or ranch property.

(g) Notwithstanding Subsections (b) and (f)(1) and except as provided by Subdivision (2), an improvement to property that would otherwise constitute a new improvement is not treated as a new improvement if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by mold or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted a new improvement:

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

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

(h) To receive a limitation under Subsection (b), a person claiming the limitation must apply for the limitation by filing an application with the chief appraiser of the appraisal district. The chief appraiser shall accept and approve or deny an application. For property appraised by more than one appraisal district, a separate application must be filed in each appraisal district to receive the limitation in that district. A limitation provided by Subsection (b), once allowed, need not be claimed in subsequent years and applies to the property until the limitation expires as provided by this section or until the person's qualification for the limitation ends. However, the chief appraiser may require a person allowed a limitation in a prior year to file a new application to confirm the person's current qualification for the limitation by delivering not later than April 1 a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the limitation.

(i) The comptroller, in prescribing the contents of the application form for a limitation under Subsection (b), shall ensure that the form requires an applicant to provide the information necessary to determine the validity of the limitation claim. The form must require an applicant to provide the applicant's name and driver's license number, personal identification certificate number, or social security number. The comptroller shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement and shall include on the form a statement explaining that the application need not be made annually and that if the limitation is allowed, the applicant has a duty to notify the chief appraiser when the applicant's qualification for the limitation ends. In this subsection, "driver's license" and "personal identification certificate" have the meanings assigned by Section 11.43(f).

(j) A person who is required to apply for a limitation under Subsection (b) to receive the limitation for a tax year must apply for the limitation not later than May 1 of that year. Except as provided by Subsection (k), if the person fails to timely file a completed application, the person may not receive the limitation for that year.

(k) The chief appraiser shall accept and approve or deny an application for a limitation under Subsection (b) for a tax year after the deadline for filing the application has passed if the application is filed not later than one year after the delinquency date for the taxes on the property for that tax year. If a late application is approved after approval of the appraisal records by the appraisal review board, the chief appraiser shall notify the collector for each taxing unit in which the property is located. If the tax has not been paid, the collector shall deduct from the person's tax bill the difference between the taxes that would have been due had the property not qualified for the limitation and the taxes due after taking the limitation into account. If the tax has been paid, the collector shall refund the difference.

(l) A person who receives a limitation under Subsection (b) shall notify the appraisal office in writing before May 1 after the person's qualification for the limitation ends.

(m) This subsection expires January 1, 2012. For purposes of applying the limitation provided by Subsection (b) in the first tax year after the 2007 tax year in which the qualified residential real property is appraised for taxation:

(1) the property is considered to have been appraised for taxation in the 2007 tax year at a market value equal to the appraised value of the property for that tax year; and

(2) a person who acquired in a tax year before the 2007 tax year residential real property that the person owns in the 2007 tax year is considered to have acquired the property on January 1, 2007.

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

(d) For purposes of this section, the value of the property subject to the suit and the value of a comparable property or sample property that is used for comparison must be the market value determined by the appraisal district when the property is [~~a~~

~~residence homestead~~] subject to the limitation on appraised value imposed by Section 23.23 or 23.231.

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

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

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

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

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

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

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

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

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

(5) for a school district for which a deduction from taxable value is made under Subdivision (4), an amount equal to the taxable value required to generate revenue when taxed at the school district's current tax rate in an amount that, when added to the taxes of the district paid into a tax increment fund as described by Subdivision (4)(B), is equal to the total amount of taxes the district would have paid into the tax increment fund if the district levied taxes at the rate the district levied in 2005;

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

(7) the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not

imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

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

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

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

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

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

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

(13) the amount by which the market value of property [~~a residence homestead~~] to which Section 23.23 or 23.231, Tax Code, applies exceeds the appraised value of that property as calculated

under that section.

(i) If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as determined by the appraisal district of properties [~~residence homesteads~~] to which Section 23.23 or 23.231, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under that section [~~Section 23.23, Tax Code~~]. If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) subtract from the market value as estimated by the comptroller of properties [~~residence homesteads~~] to which Section 23.23 or 23.231, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under that section [~~Section 23.23, Tax Code~~].

SECTION 5. This Act applies only to the appraisal for ad valorem tax purposes of residential real property for a tax year that begins on or after the effective date of this Act.

SECTION 6. This Act takes effect January 1, 2008, but only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the legislature to establish a 10 percent limit on annual increases in the appraised value for ad valorem tax purposes of certain real property, other than residence homesteads, used primarily for residential purposes by the owner of the property is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.