

By: Patrick

S.B. No. 474

A BILL TO BE ENTITLED

AN ACT

relating to a limitation on increases in the appraised value for ad valorem tax purposes of commercial or industrial real 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 of commercial or industrial 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 COMMERCIAL OR INDUSTRIAL REAL PROPERTY. (a) Notwithstanding the requirements of Section 25.18 and regardless of whether the appraisal office has appraised the property and determined the market value of the property for the tax year, an appraisal office may increase the appraised value of commercial or industrial real property for a tax year to an amount not to exceed the lesser of:

(1) the market value of the property for the most

1 recent tax year that the market value was determined by the
2 appraisal office; or

3 (2) the sum of:

4 (A) 10 percent of the appraised value of the
5 property for the preceding tax year;

6 (B) the appraised value of the property for the
7 preceding tax year; and

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

10 (b) When appraising commercial or industrial real property,
11 the chief appraiser shall:

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

13 (2) include in the appraisal records both the market
14 value of the property and the amount computed under Subsection
15 (a)(2).

16 (c) The limitation provided by Subsection (a) takes effect
17 as to a parcel of commercial or industrial real property on January
18 1 of the tax year following the first tax year in which the owner
19 owns the property on January 1 and in which the owner uses the
20 property primarily for commercial or industrial purposes. Except
21 as provided by Subsection (d), the limitation expires on January 1
22 of the tax year following the first tax year in which the owner of
23 the property ceases to own the property or ceases to use the
24 property primarily for commercial or industrial purposes.

25 (d) If property subject to a limitation under this section
26 is owned by two or more persons, the limitation expires on January 1
27 of the tax year following the first tax year in which the ownership

1 of at least a 50 percent interest in the property is sold or
2 otherwise transferred.

3 (e) For purposes of applying the limitation provided by this
4 section in the first tax year after the 2011 tax year in which the
5 property is appraised for taxation:

6 (1) the property is considered to have been appraised
7 for taxation in the 2011 tax year at a market value equal to the
8 appraised value of the property for that tax year; and

9 (2) a person who acquired commercial or industrial
10 real property in a tax year before the 2011 tax year is considered
11 to have acquired the property on January 1, 2011.

12 (f) This section does not apply to property appraised under
13 Subchapter C, D, E, F, G, or H.

14 (g) In this section, "new improvement" means an improvement
15 to commercial or industrial real property made after the most
16 recent appraisal of the property that increases the market value of
17 the property and the value of which is not included in the appraised
18 value of the property for the preceding tax year. The term does not
19 include repairs to or ordinary maintenance of an existing structure
20 or the grounds or another feature of the property.

21 (h) Notwithstanding Subsections (a) and (g) and except as
22 provided by Subdivision (2), an improvement to property that would
23 otherwise constitute a new improvement is not treated as a new
24 improvement if the improvement is a replacement structure for a
25 structure that was rendered unusable by a casualty or by wind or
26 water damage. For purposes of appraising the property under
27 Subsection (a) in the tax year in which the structure would have

1 constituted a new improvement:

2 (1) the appraised value the property would have had in
3 the preceding tax year if the casualty or damage had not occurred is
4 considered to be the appraised value of the property for that year,
5 regardless of whether that appraised value exceeds the actual
6 appraised value of the property for that year as limited by
7 Subsection (a); and

8 (2) the replacement structure is considered to be a
9 new improvement only if:

10 (A) the square footage of the replacement
11 structure exceeds that of the replaced structure as that structure
12 existed before the casualty or damage occurred; or

13 (B) the exterior of the replacement structure is
14 of higher quality construction and composition than that of the
15 replaced structure.

16 SECTION 3. Sections 25.19(b) and (g), Tax Code, are amended
17 to read as follows:

18 (b) The chief appraiser shall separate real from personal
19 property and include in the notice for each:

20 (1) a list of the taxing units in which the property is
21 taxable;

22 (2) the appraised value of the property in the
23 preceding year;

24 (3) the taxable value of the property in the preceding
25 year for each taxing unit taxing the property;

26 (4) the appraised value of the property for the
27 current year and the kind and amount of each partial exemption, if

1 any, approved for the current year;

2 (4-a) a statement of whether the property qualifies
3 for the limitation on appraised value provided by Section 23.231;

4 (5) if the appraised value is greater than it was in
5 the preceding year, the amount of tax that would be imposed on the
6 property on the basis of the tax rate for the preceding year;

7 (6) in *italic* typeface, the following
8 statement: "The Texas Legislature does not set the amount of your
9 local taxes. Your property tax burden is decided by your locally
10 elected officials, and all inquiries concerning your taxes should
11 be directed to those officials";

12 (7) a detailed explanation of the time and procedure
13 for protesting the value;

14 (8) the date and place the appraisal review board will
15 begin hearing protests; and

16 (9) a brief explanation that the governing body of
17 each taxing unit decides whether or not taxes on the property will
18 increase and the appraisal district only determines the value of
19 the property.

20 (g) By April 1 or as soon thereafter as practicable if the
21 property is a single-family residence that qualifies for an
22 exemption under Section 11.13, or by May 1 or as soon thereafter as
23 practicable in connection with any other property, the chief
24 appraiser shall deliver a written notice to the owner of each
25 property not included in a notice required to be delivered under
26 Subsection (a), if the property was reappraised in the current tax
27 year, if the ownership of the property changed during the preceding

1 year, or if the property owner or the agent of a property owner
2 authorized under Section 1.111 makes a written request for the
3 notice. The chief appraiser shall separate real from personal
4 property and include in the notice for each property:

5 (1) the appraised value of the property in the
6 preceding year;

7 (2) the appraised value of the property for the
8 current year and the kind of each partial exemption, if any,
9 approved for the current year;

10 (2-a) a statement of whether the property qualifies
11 for the limitation on appraised value provided by Section 23.231;

12 (3) a detailed explanation of the time and procedure
13 for protesting the value; and

14 (4) the date and place the appraisal review board will
15 begin hearing protests.

16 SECTION 4. Section 41.41(a), Tax Code, is amended to read as
17 follows:

18 (a) A property owner is entitled to protest before the
19 appraisal review board the following actions:

20 (1) determination of the appraised value of the
21 owner's property or, in the case of land appraised as provided by
22 Subchapter C, D, E, or H, Chapter 23, determination of its appraised
23 or market value;

24 (2) unequal appraisal of the owner's property;

25 (3) inclusion of the owner's property on the appraisal
26 records;

27 (4) denial to the property owner in whole or in part of

1 a partial exemption;

2 (4-a) determination that the owner's property does not
3 qualify for the limitation on appraised value provided by Section
4 23.231;

5 (5) determination that the owner's land does not
6 qualify for appraisal as provided by Subchapter C, D, E, or H,
7 Chapter 23;

8 (6) identification of the taxing units in which the
9 owner's property is taxable in the case of the appraisal district's
10 appraisal roll;

11 (7) determination that the property owner is the owner
12 of property;

13 (8) a determination that a change in use of land
14 appraised under Subchapter C, D, E, or H, Chapter 23, has occurred;
15 or

16 (9) any other action of the chief appraiser, appraisal
17 district, or appraisal review board that applies to and adversely
18 affects the property owner.

19 SECTION 5. Section 42.26(d), Tax Code, is amended to read as
20 follows:

21 (d) For purposes of this section, the value of the property
22 subject to the suit and the value of a comparable property or sample
23 property that is used for comparison must be the market value
24 determined by the appraisal district when the property is a
25 residence homestead subject to the limitation on appraised value
26 imposed by Section 23.23 or commercial or industrial real property
27 subject to the limitation on appraised value imposed by Section

1 23.231.

2 SECTION 6. Section 403.302(d), Government Code, as amended
3 by Chapters 1186 (H.B. 3676) and 1328 (H.B. 3646), Acts of the 81st
4 Legislature, Regular Session, 2009, is reenacted and amended to
5 read as follows:

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

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

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

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

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

21 (A) is within a reinvestment zone created on or
22 before May 31, 1999, or is proposed to be included within the
23 boundaries of a reinvestment zone as the boundaries of the zone and
24 the proposed portion of tax increment paid into the tax increment
25 fund by a school district are described in a written notification
26 provided by the municipality or the board of directors of the zone
27 to the governing bodies of the other taxing units in the manner

1 provided by Section 311.003(e), Tax Code, before May 31, 1999, and
2 within the boundaries of the zone as those boundaries existed on
3 September 1, 1999, including subsequent improvements to the
4 property regardless of when made;

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

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

11 (5) the total dollar amount of any captured appraised
12 value of property that:

13 (A) is within a reinvestment zone:

14 (i) created on or before December 31, 2008,
15 by a municipality with a population of less than 18,000; and

16 (ii) the project plan for which includes
17 the alteration, remodeling, repair, or reconstruction of a
18 structure that is included on the National Register of Historic
19 Places and requires that a portion of the tax increment of the zone
20 be used for the improvement or construction of related facilities
21 or for affordable housing;

22 (B) generates school district taxes that are paid
23 into a tax increment fund created under Chapter 311, Tax Code; and

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

26 (6) the total dollar amount of any exemptions granted
27 under Section 11.251 or 11.253, Tax Code;

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

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

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

14 (A) action required by statute or the
15 constitution of this state, other than Section 23.231, Tax Code,
16 that, if the tax rate adopted by the district is applied to it,
17 produces an amount equal to the difference between the tax that the
18 district would have imposed on the property if the property were
19 fully taxable at market value and the tax that the district is
20 actually authorized to impose on the property, if this subsection
21 does not otherwise require that portion to be deducted; or

22 (B) action taken by the district under Subchapter
23 B or C, Chapter 313, Tax Code, before the expiration of the
24 subchapter;

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

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

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

7 (13) the amount by which the market value of a
8 residence homestead to which Section 23.23, Tax Code, applies
9 exceeds the appraised value of that property as calculated under
10 that section.

11 SECTION 7. Section 403.302(m), Government Code, as added by
12 Chapter 1186 (H.B. 3676), Acts of the 81st Legislature, Regular
13 Session, 2009, is amended to conform to Section 80, Chapter 1328
14 (H.B. 3646), Acts of the 81st Legislature, Regular Session, 2009,
15 to read as follows:

16 (m) Subsection (d)(9) [~~(d)(10)~~] does not apply to property
17 that was the subject of an application under Subchapter B or C,
18 Chapter 313, Tax Code, made after May 1, 2009, that the comptroller
19 recommended should be disapproved.

20 SECTION 8. To the extent of any conflict, this Act prevails
21 over another Act of the 82nd Legislature, Regular Session, 2011,
22 relating to nonsubstantive additions to and corrections in enacted
23 codes.

24 SECTION 9. This Act applies only to the appraisal of
25 commercial or industrial real property for ad valorem tax purposes
26 for a tax year that begins on or after the effective date of this
27 Act.

1 SECTION 10. This Act takes effect January 1, 2012, but only
2 if the constitutional amendment proposed by the 82nd Legislature,
3 Regular Session, 2011, to authorize the legislature to limit the
4 maximum appraised value of commercial or industrial real property
5 for ad valorem tax purposes to 110 percent or more of the appraised
6 value of the property for the preceding tax year is approved by the
7 voters. If that amendment is not approved by the voters, this Act
8 has no effect.