By: Raymond H.B. No. 2797

A BILL TO BE ENTITLED

AN ACT

relating to a limitation on increases in the appraised value for ad valorem tax purposes of real property owned or leased by a small business and used for business purposes.

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 <u>or of real property to which Section 23.231 applies</u> 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 <u>or 23.231</u>.

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

<u>Sec. 23.231. LIMITATION ON APPRAISED VALUE OF CERTAIN REAL PROPERTY USED FOR BUSINESS PURPOSES. (a) In this section:</u>

<u>(1) "Business entity" means any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, or trust.</u>

<u>(2) "New improvement" means an improvement to real</u>

property described by Subsection (b) made after the most recent appraisal of the property that increases the market value of the property and the value of which is not included in the appraised value of the property for the preceding tax year. The term does not include repairs to or ordinary maintenance of an existing structure or the grounds or another feature of the property.

(b) This section applies only to real property that is:

(1) owned or leased by a business entity that had less than $1 million in gross receipts in its most recent fiscal year; and

(2) used for business purposes by the business entity.

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

(d) 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 real property described by Subsection (b) for a tax year to an amount not to exceed the lesser of:

(1) the market value of the property for the most recent tax year that the market value was determined by the appraisal office; or

(2) the sum of:

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

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

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

(e) If only part of a parcel of real property is owned or leased by an owner who qualifies for the limitation provided by Subsection (d), the limitation applies only to that part of the parcel.

(f) When appraising real property described by Subsection (b), 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 (d)(2).

(g) The limitation provided by Subsection (d) takes effect as to a parcel or part of a parcel of real property described by Subsection (b) on January 1 of the tax year following the first tax year in which the owner or lessee of the property owns or leases the property on January 1, meets the limitation on annual gross receipts prescribed by Subsection (b), and uses the property for business purposes. Except as provided by Subsection (h), the limitation expires on January 1 of the tax year following the first tax year in which the owner or lessee of the property ceases to own or lease the property, meet the limitation on gross receipts prescribed by Subsection (b), or use the property for business purposes.

(h) If property subject to a limitation under Subsection (d) is owned or leased by two or more persons, the limitation expires on January 1 of the tax year following the first tax year in which the ownership of at least a 50 percent interest in the property or in the leasehold interest in the property is sold or otherwise transferred.

(i) Notwithstanding Subsections (a)(2) and (d) and except as provided by Subdivision (2) of this subsection, 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 unusable by a casualty or by wind or water damage. For purposes of appraising the property under Subsection (d) in the tax year in which the structure would have constituted a new improvement:

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

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

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

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

(j) To receive a limitation under Subsection (d), 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 (d), 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.

(k) The comptroller, in prescribing the contents of the application form for a limitation under Subsection (d), 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).

(l) A person who is required to apply for a limitation under Subsection (d) 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 (m), if the person fails to timely file a completed application, the person may not receive the limitation for that year.

(m) The chief appraiser shall accept and approve or deny an application for a limitation under Subsection (d) 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.

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

(o) This subsection expires January 1, 2018. For purposes

<u>of applying the limitation provided by Subsection (d) in the first tax year after the 2013 tax year in which the property is appraised for taxation:</u>

<u>(1) the property is considered to have been appraised for taxation in the 2013 tax year at a market value equal to the appraised value of the property for that tax year; and</u>

<u>(2) a person who acquired real property described by Subsection (b) in a tax year before the 2013 tax year is considered to have acquired the property on January 1, 2013.</u>

SECTION 3. Section 41.41(a), Tax Code, is amended to read as follows:

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

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

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

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

(4) denial to the property owner in whole or in part of a partial exemption;

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

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

Chapter 23;

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

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

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

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

SECTION 4. 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 real property subject to the limitation on appraised value imposed by Section 23.231.

SECTION 5. 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 former 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) the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

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

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

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

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

(6) the total dollar amount of any exemptions granted under Section 11.251 or 11.253, 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, before the expiration of the subchapter;

(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 the applicable [~~that~~] section.

(i) If the comptroller determines in the 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 the applicable section [~~Section 23.23, Tax Code~~]. If the comptroller determines in the 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 the applicable section [~~Section 23.23, Tax Code~~].

SECTION 6. This Act applies only to the appraisal of real property for ad valorem tax purposes for a tax year that begins on or after the effective date of this Act.

SECTION 7. This Act takes effect January 1, 2014, but only if the constitutional amendment proposed by the 83rd Legislature, Regular Session, 2013, to authorize the legislature to limit the maximum appraised value for ad valorem tax purposes of real property owned or leased by a small business and used for business purposes to 110 percent or more of the appraised value of the property for the preceding tax year is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.