

By: Bohac

H.B. No. 3346

A BILL TO BE ENTITLED

AN ACT

relating to the accrual of penalties and interest under the Property Tax Code.

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

SECTION 1. Chapter 1, Tax Code, is amended by adding Section 1.14 to read as follows:

Sec. 1.14. INTEREST RATE. Except as otherwise provided by this title, for purposes of a provision of this title providing for the accrual of interest, interest accrues at an annual rate equal to the lesser of:

(1) 12 percent; or

(2) the sum of two percent and the most recent prime rate quoted and published by the Federal Reserve Board as of the first day of the month in which the interest is first calculated.

SECTION 2. Section 11.135(c), Tax Code, is amended to read as follows:

(c) If an owner receives an exemption for property under Section 11.13 under the circumstances described by Subsection (a) and sells the property before the owner completes construction of a replacement qualified residential structure on the property, an additional tax is imposed on the property equal to the difference between the taxes imposed on the property for each of the years in which the owner received the exemption and the tax that would have been imposed had the owner not received the exemption in each of

1 those years, plus interest at the rate provided by Section 1.14 [~~an~~  
2 ~~annual rate of seven percent~~] calculated from the dates on which the  
3 differences would have become due.

4 SECTION 3. Section 11.181(e), Tax Code, is amended to read  
5 as follows:

6 (e) If the organization that owns improved or unimproved  
7 real property that has been exempted under Subsection (a) sells the  
8 property to a person other than an individual or family satisfying  
9 the organization's low-income or other eligibility requirements, a  
10 penalty is imposed on the property equal to the amount of the taxes  
11 that would have been imposed on the property in each tax year that  
12 the property was exempted from taxation under Subsection (a), plus  
13 interest at the rate provided by Section 1.14 [~~an annual rate of 12~~  
14 ~~percent~~] calculated from the dates on which the taxes would have  
15 become due.

16 SECTION 4. Section 11.185(e), Tax Code, is amended to read  
17 as follows:

18 (e) If the organization that owns improved or unimproved  
19 real property that has been exempted under Subsection (a) sells the  
20 property to a person other than a person described by Section  
21 2306.786(b)(1), Government Code, a penalty is imposed on the  
22 property equal to the amount of the taxes that would have been  
23 imposed on the property in each tax year that the property was  
24 exempted from taxation under Subsection (a), plus interest at the  
25 rate provided by Section 1.14 of this code [~~an annual rate of 12~~  
26 ~~percent~~] computed from the dates on which the taxes would have  
27 become due.

1 SECTION 5. Section 11.201(a), Tax Code, is amended to read  
2 as follows:

3 (a) If land is sold or otherwise transferred to another  
4 person in a year in which the land receives an exemption under  
5 Section 11.20(a)(6), an additional tax is imposed on the land equal  
6 to the tax that would have been imposed on the land had the land been  
7 taxed for each of the five years preceding the year in which the  
8 sale or transfer occurs in which the land received an exemption  
9 under that subsection, plus interest at the rate provided by  
10 Section 1.14 [~~an annual rate of seven percent~~] calculated from the  
11 dates on which the taxes would have become due.

12 SECTION 6. Section 23.46(c), Tax Code, is amended to read as  
13 follows:

14 (c) If land that has been designated for agricultural use in  
15 any year is sold or diverted to a nonagricultural use, the total  
16 amount of additional taxes for the three years preceding the year in  
17 which the land is sold or diverted plus interest at the rate  
18 provided by Section 1.14 [~~for delinquent taxes~~] becomes due. A  
19 determination that the land has been diverted to a nonagricultural  
20 use is made by the chief appraiser. For purposes of this  
21 subsection, the chief appraiser may not consider any period during  
22 which land is owned by the state in determining whether the land has  
23 been diverted to a nonagricultural use. The chief appraiser shall  
24 deliver a notice of the determination to the owner of the land as  
25 soon as possible after making the determination and shall include  
26 in the notice an explanation of the owner's right to protest the  
27 determination. If the owner does not file a timely protest or if

1 the final determination of the protest is that the additional taxes  
2 are due, the assessor for each taxing unit shall prepare and deliver  
3 a bill for the additional taxes plus interest as soon as practicable  
4 after the change of use occurs. If the additional taxes are due  
5 because of a sale of the land, the assessor for each taxing unit  
6 shall prepare and deliver the bill as soon as practicable after the  
7 sale occurs. The taxes and interest are due and become delinquent  
8 and incur penalties and interest as provided by law for ad valorem  
9 taxes imposed by the taxing unit if not paid before the next  
10 February 1 that is at least 20 days after the date the bill is  
11 delivered to the owner of the land.

12 SECTION 7. Section 23.55(a), Tax Code, is amended to read as  
13 follows:

14 (a) If the use of land that has been appraised as provided by  
15 this subchapter changes, an additional tax is imposed on the land  
16 equal to the difference between the taxes imposed on the land for  
17 each of the five years preceding the year in which the change of use  
18 occurs that the land was appraised as provided by this subchapter  
19 and the tax that would have been imposed had the land been taxed on  
20 the basis of market value in each of those years, plus interest at  
21 the rate provided by Section 1.14 [~~an annual rate of seven percent~~]  
22 calculated from the dates on which the differences would have  
23 become due. For purposes of this subsection, the chief appraiser  
24 may not consider any period during which land is owned by the state  
25 in determining whether a change in the use of the land has occurred.

26 SECTION 8. Section 23.76(a), Tax Code, is amended to read as  
27 follows:

1           (a) If the use of land that has been appraised as provided by  
2 this subchapter changes, an additional tax is imposed on the land  
3 equal to the difference between the taxes imposed on the land for  
4 each of the five years preceding the year in which the change of use  
5 occurs that the land was appraised as provided by this subchapter  
6 and the tax that would have been imposed had the land been taxed on  
7 the basis of market value in each of those years, plus interest at  
8 the rate provided by Section 1.14 [~~an annual rate of seven percent~~]  
9 calculated from the dates on which the differences would have  
10 become due.

11           SECTION 9. Section 23.86(a), Tax Code, is amended to read as  
12 follows:

13           (a) If land that has been appraised under this subchapter is  
14 no longer subject to a deed restriction or is diverted to a use  
15 other than recreational, park, or scenic uses, an additional tax is  
16 imposed on the land equal to the difference between the taxes  
17 imposed on the land for each of the five years preceding the year in  
18 which the change of use occurs or the deed restriction expires that  
19 the land was appraised as provided by this subchapter and the tax  
20 that would have been imposed had the land not been restricted to  
21 recreational, park, or scenic uses in each of those years, plus  
22 interest at the rate provided by Section 1.14 [~~an annual rate of~~  
23 ~~seven percent~~] calculated from the dates on which the differences  
24 would have become due.

25           SECTION 10. Section 23.96(a), Tax Code, is amended to read  
26 as follows:

27           (a) If airport property that has been appraised under this

1 subchapter is no longer subject to a deed restriction, an  
2 additional tax is imposed on the property equal to the difference  
3 between the taxes imposed on the property for each of the five years  
4 preceding the year in which the deed restriction expires that the  
5 property was appraised as provided by this subchapter and the tax  
6 that would have been imposed had the property not been restricted to  
7 use as public access airport property in each of those years, plus  
8 interest at the rate provided by Section 1.14 [~~an annual rate of~~  
9 ~~seven percent~~] calculated from the dates on which the differences  
10 would have become due.

11 SECTION 11. Sections 23.9807(a) and (b), Tax Code, are  
12 amended to read as follows:

13 (a) If the use of land that has been appraised as provided by  
14 this subchapter changes to a use that qualifies the land for  
15 appraisal under Subchapter E, an additional tax is imposed on the  
16 land equal to the sum of:

17 (1) the difference between:

18 (A) the taxes imposed on the land for each of the  
19 five years preceding the year in which the change of use occurs that  
20 the land was appraised as provided by this subchapter; and

21 (B) the taxes that would have been imposed had  
22 the land been appraised under Subchapter E in each of those years;  
23 and

24 (2) interest at the rate provided by Section 1.14 [~~an~~  
25 ~~annual rate of seven percent~~] calculated from the dates on which the  
26 differences would have become due.

27 (b) If the use of land that has been appraised as provided by

1 this subchapter changes to a use that does not qualify the land for  
2 appraisal under Subchapter E or under this subchapter, an  
3 additional tax is imposed on the land equal to the sum of:

4 (1) the difference between:

5 (A) the taxes imposed on the land for each of the  
6 five years preceding the year in which the change of use occurs that  
7 the land was appraised as provided by this subchapter; and

8 (B) the taxes that would have been imposed had  
9 the land been taxed on the basis of market value in each of those  
10 years; and

11 (2) interest at the rate provided by Section 1.14 [~~an~~  
12 ~~annual rate of seven percent~~] calculated from the dates on which the  
13 differences would have become due.

14 SECTION 12. Section 26.09(d), Tax Code, is amended to read  
15 as follows:

16 (d) If a property is subject to taxation for a prior year in  
17 which it escaped taxation, the assessor shall calculate the tax for  
18 each year separately. In calculating the tax, the assessor shall  
19 use the assessment ratio and tax rate in effect in the unit for the  
20 year for which back taxes are being imposed. Except as provided by  
21 Subsection (d-1), the amount of back taxes due incurs interest  
22 calculated at the rate provided by Section 1.14 [~~33.01(c)~~] from the  
23 date the tax would have become delinquent had the tax been imposed  
24 in the proper tax year.

25 SECTION 13. Section 31.12(a), Tax Code, is amended to read  
26 as follows:

27 (a) If a refund of a tax provided by Section 11.431(b),

1 26.07(g), 26.15(f), 31.11, or 31.111 is paid on or before the 60th  
2 day after the date the liability for the refund arises, no interest  
3 is due on the amount refunded. If not paid on or before that 60th  
4 day, the amount of the tax to be refunded accrues interest at the  
5 rate provided by Section 1.14 [~~a rate of one percent for each month~~  
6 ~~or part of a month that the refund is unpaid~~], beginning with the  
7 date on which the liability for the refund arises.

8 SECTION 14. Section 33.01(c), Tax Code, is amended to read  
9 as follows:

10 (c) A delinquent tax accrues interest at the rate provided  
11 by Section 1.14 [~~a rate of one percent for each month or portion of a~~  
12 ~~month the tax remains unpaid~~]. Interest payable under this section  
13 is to compensate the taxing unit for revenue lost because of the  
14 delinquency. A delinquent tax continues to accrue interest under  
15 this subsection as long as the tax remains unpaid, regardless of  
16 whether a judgment for the delinquent tax has been rendered.

17 SECTION 15. Section 33.06(d), Tax Code, is amended to read  
18 as follows:

19 (d) A tax lien remains on the property and interest  
20 continues to accrue during the period collection of taxes is  
21 deferred or abated under this section. The annual interest rate  
22 during the deferral or abatement period is the rate provided by  
23 Section 1.14 [~~eight percent instead of the rate provided by Section~~  
24 ~~33.01~~]. Interest and penalties that accrued or that were incurred  
25 or imposed under Section 33.01 or 33.07 before the date the  
26 individual files the deferral affidavit under Subsection (b) or the  
27 date the judgment abating the suit is entered, as applicable, are



1 preserved. A penalty under Section 33.01 is not incurred during a  
2 deferral or abatement period. The additional penalty under Section  
3 33.07 may be imposed and collected only if the taxes for which  
4 collection is deferred or abated remain delinquent on or after the  
5 181st day after the date the deferral or abatement period expires.  
6 A plea of limitation, laches, or want of prosecution does not apply  
7 against the taxing unit because of deferral or abatement of  
8 collection as provided by this section.

9 SECTION 16. Section 33.065(g), Tax Code, is amended to read  
10 as follows:

11 (g) A tax lien remains on the property and interest  
12 continues to accrue during the period collection of delinquent  
13 taxes is deferred or abated under this section. The annual interest  
14 rate during the deferral or abatement period is the rate provided by  
15 Section 1.14 [~~eight percent instead of the rate provided by Section~~  
16 ~~33.01~~]. Interest and penalties that accrued or that were incurred  
17 or imposed under Section 33.01 or 33.07 before the date the  
18 individual files the deferral affidavit under Subsection (c) or the  
19 date the judgment abating the suit is entered, as applicable, are  
20 preserved. A penalty is not incurred on the delinquent taxes for  
21 which collection is deferred or abated during a deferral or  
22 abatement period. The additional penalty under Section 33.07 may  
23 be imposed and collected only if the delinquent taxes for which  
24 collection is deferred or abated remain delinquent on or after the  
25 91st day after the date the deferral or abatement period expires. A  
26 plea of limitation, laches, or want of prosecution does not apply  
27 against the taxing unit because of deferral or abatement of

1 collection as provided by this section.

2 SECTION 17. Sections 42.42(c) and (d), Tax Code, are  
3 amended to read as follows:

4 (c) If the final determination of an appeal occurs after the  
5 property owner has paid a portion of the tax finally determined to  
6 be due as required by Section 42.08, the assessor for each affected  
7 taxing unit shall prepare and mail a supplemental tax bill in the  
8 form and manner prescribed by Subsection (b). The additional tax is  
9 due and becomes delinquent as provided by Subsection (b), but the  
10 property owner is liable for ~~[penalties and]~~ interest on the tax  
11 included in the supplemental bill calculated at the rate provided  
12 by Section 1.14 [as provided by Section 33.01] as if the tax  
13 included in the supplemental bill became delinquent on the original  
14 delinquency date prescribed by Chapter 31. The property owner and  
15 the chief appraiser may agree in writing to waive the interest  
16 provided by this subsection on the additional tax due each affected  
17 taxing unit for the period between the original delinquency date  
18 and the first day of the next month that is at least 21 days after  
19 the date the assessor for the taxing unit mails a supplemental tax  
20 bill under this subsection.

21 (d) If the property owner did not pay any portion of the  
22 taxes imposed on the property because the court found that payment  
23 would constitute an unreasonable restraint on the owner's right of  
24 access to the courts as provided by Section 42.08(d), after the  
25 final determination of the appeal the assessor for each affected  
26 taxing unit shall prepare and mail a supplemental tax bill in the  
27 form and manner prescribed by Subsection (b). The additional tax is

1 due and becomes delinquent as provided by Subsection (b), but the  
2 property owner is liable for interest on the tax included in the  
3 supplemental bill calculated as provided by Section 1.14 [~~33.01~~] as  
4 if the tax included in the supplemental bill became delinquent on  
5 the delinquency date prescribed by Chapter 31.

6 SECTION 18. Section 42.43(b), Tax Code, is amended to read  
7 as follows:

8 (b) For a refund made under this section, the taxing unit  
9 shall include with the refund interest on the amount refunded  
10 [~~calculated~~] at the rate provided by Section 1.14 [~~an annual rate~~  
11 ~~that is equal to the sum of two percent and the most recent prime~~  
12 ~~rate quoted and published by the Federal Reserve Board as of the~~  
13 ~~first day of the month in which the refund is made, but not more than~~  
14 ~~a total of eight percent,~~] calculated from the delinquency date for  
15 the taxes until the date the refund is made.

16 SECTION 19. The changes in law made by this Act apply only  
17 to penalties and interest that accrue on or after the effective date  
18 of this Act. Penalties and interest that accrued before the  
19 effective date of this Act are governed by the law in effect when  
20 the penalties and interest accrued, and that law is continued in  
21 effect for that purpose.

22 SECTION 20. This Act takes effect September 1, 2015.