

By: Bonnen of Brazoria

H.B. No. 5

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) In this section, "new improvement" means an improvement to commercial or industrial real property 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

1 property.

2 (b) This section does not apply to:

3 (1) residential property;

4 (2) a mineral interest; or

5 (3) property appraised under Subchapter C, D, E, F, G,
6 or H.

7 (c) Notwithstanding the requirements of Section 25.18 and
8 regardless of whether the appraisal office has appraised the
9 property and determined the market value of the property for the tax
10 year, an appraisal office may increase the appraised value of a
11 parcel of commercial or industrial real property for a tax year to
12 an amount not to exceed the lesser of:

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

16 (2) the sum of:

17 (A) 20 percent of the appraised value of the
18 property for the preceding tax year;

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

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

23 (d) When appraising a parcel of commercial or industrial
24 real property, the chief appraiser shall:

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

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

1 (c)(2).

2 (e) The limitation provided by Subsection (c) takes effect
3 as to a parcel of commercial or industrial real property on January
4 1 of the tax year following the first tax year in which the owner
5 owns the property on January 1 and in which the property qualifies
6 as commercial or industrial real property under this section.
7 Except as provided by Subsection (f), the limitation expires on
8 January 1 of the tax year following the first tax year in which the
9 owner of the property ceases to own the property or the property
10 ceases to qualify as commercial or industrial real property.

11 (f) If property subject to a limitation under this section
12 is owned by two or more persons, the limitation expires on January 1
13 of the tax year following the first tax year in which the ownership
14 of at least a 50 percent interest in the property is sold or
15 otherwise transferred.

16 (g) Notwithstanding Subsections (a) and (c) and except as
17 provided by Subdivision (2) of this subsection, an improvement to
18 property that would otherwise constitute a new improvement is not
19 treated as a new improvement if the improvement is a replacement
20 structure for a structure that was rendered unusable by a casualty
21 or by wind or water damage. For purposes of appraising the property
22 under Subsection (c) in the tax year in which the structure would
23 have constituted a new improvement:

24 (1) the appraised value the property would have had in
25 the preceding tax year if the casualty or damage had not occurred is
26 considered to be the appraised value of the property for that year,
27 regardless of whether that appraised value exceeds the actual

1 appraised value of the property for that year as limited by
2 Subsection (c); and

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

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

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

11 (h) In this subsection, "disaster recovery program" means
12 the disaster recovery program administered by the General Land
13 Office that is funded with community development block grant
14 disaster recovery money authorized by the Consolidated Security,
15 Disaster Assistance, and Continuing Appropriations Act, 2009 (Pub.
16 L. No. 110-329), and the Consolidated and Further Continuing
17 Appropriations Act, 2012 (Pub. L. No. 112-55). Notwithstanding
18 Subsection (g)(2), and only to the extent necessary to satisfy the
19 requirements of the disaster recovery program, a replacement
20 structure described by that subdivision is not considered to be a
21 new improvement if to satisfy the requirements of the disaster
22 recovery program it was necessary that:

23 (1) the square footage of the replacement structure
24 exceed that of the replaced structure as that structure existed
25 before the casualty or damage occurred; or

26 (2) the exterior of the replacement structure be of
27 higher quality construction and composition than that of the

1 replaced structure.

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

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

6 (1) a list of the taxing units in which the property is
7 taxable;

8 (2) the appraised value of the property in the
9 preceding year;

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

12 (4) the appraised value of the property for the
13 current year, the kind and amount of each exemption and partial
14 exemption, if any, approved for the property for the current year
15 and for the preceding year, and, if an exemption or partial
16 exemption that was approved for the preceding year was canceled or
17 reduced for the current year, the amount of the exemption or partial
18 exemption canceled or reduced;

19 (4-a) a statement of whether the property qualifies
20 for the limitation on appraised value provided by Section 23.231;

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

24 (6) in *italic typeface*, the following
25 statement: "The Texas Legislature does not set the amount of your
26 local taxes. Your property tax burden is decided by your locally
27 elected officials, and all inquiries concerning your taxes should

1 be directed to those officials";

2 (7) a detailed explanation of the time and procedure
3 for protesting the value;

4 (8) the date and place the appraisal review board will
5 begin hearing protests; and

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

10 (g) By April 1 or as soon thereafter as practicable if the
11 property is a single-family residence that qualifies for an
12 exemption under Section 11.13, or by May 1 or as soon thereafter as
13 practicable in connection with any other property, the chief
14 appraiser shall deliver a written notice to the owner of each
15 property not included in a notice required to be delivered under
16 Subsection (a), if the property was reappraised in the current tax
17 year, if the ownership of the property changed during the preceding
18 year, or if the property owner or the agent of a property owner
19 authorized under Section 1.111 makes a written request for the
20 notice. The chief appraiser shall separate real from personal
21 property and include in the notice for each property:

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

24 (2) the appraised value of the property for the
25 current year and the kind of each partial exemption, if any,
26 approved for the current year;

27 (2-a) a statement of whether the property qualifies

1 for the limitation on appraised value provided by Section 23.231;

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

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

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

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

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

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

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

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

19 (4-a) determination that the owner's property does not
20 qualify for the limitation on appraised value provided by Section
21 23.231;

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

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

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

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

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

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

11 (d) For purposes of this section, the value of the property
12 subject to the suit and the value of a comparable property or sample
13 property that is used for comparison must be the market value
14 determined by the appraisal district when the property is [~~a~~
15 ~~residence homestead~~] subject to the limitation on appraised value
16 imposed by Section 23.23 or 23.231.

17 SECTION 6. Sections 403.302(d) and (i), Government Code,
18 are amended to read as follows:

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

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

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

1 district;

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

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

7 (A) is within a reinvestment zone created on or
8 before May 31, 1999, or is proposed to be included within the
9 boundaries of a reinvestment zone as the boundaries of the zone and
10 the proposed portion of tax increment paid into the tax increment
11 fund by a school district are described in a written notification
12 provided by the municipality or the board of directors of the zone
13 to the governing bodies of the other taxing units in the manner
14 provided by former Section 311.003(e), Tax Code, before May 31,
15 1999, and within the boundaries of the zone as those boundaries
16 existed on September 1, 1999, including subsequent improvements to
17 the property regardless of when made;

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

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

24 (5) the total dollar amount of any captured appraised
25 value of property that:

26 (A) is within a reinvestment zone:

27 (i) created on or before December 31, 2008,

1 by a municipality with a population of less than 18,000; and

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

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

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

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

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

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

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

27 (A) action required by statute or the

1 constitution of this state, other than Section 11.311, Tax Code,
2 that, if the tax rate adopted by the district is applied to it,
3 produces an amount equal to the difference between the tax that the
4 district would have imposed on the property if the property were
5 fully taxable at market value and the tax that the district is
6 actually authorized to impose on the property, if this subsection
7 does not otherwise require that portion to be deducted; or

8 (B) action taken by the district under Subchapter
9 B or C, Chapter 313, Tax Code, before the expiration of the
10 subchapter;

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

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

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

20 (13) the amount by which the market value of property
21 [~~a residence homestead~~] to which Section 23.23 or 23.231, Tax Code,
22 applies exceeds the appraised value of that property as calculated
23 under Section 23.23 or 23.231, Tax Code, as applicable [~~that~~
24 ~~section~~].

25 (i) If the comptroller determines in the study that the
26 market value of property in a school district as determined by the
27 appraisal district that appraises property for the school district,

1 less the total of the amounts and values listed in Subsection (d) as
2 determined by that appraisal district, is valid, the comptroller,
3 in determining the taxable value of property in the school district
4 under Subsection (d), shall for purposes of Subsection (d)(13)
5 subtract from the market value as determined by the appraisal
6 district of properties [~~residence homesteads~~] to which Section
7 23.23 or 23.231, Tax Code, applies the amount by which that amount
8 exceeds the appraised value of those properties as calculated by
9 the appraisal district under Section 23.23 or 23.231, Tax Code, as
10 applicable. If the comptroller determines in the study that the
11 market value of property in a school district as determined by the
12 appraisal district that appraises property for the school district,
13 less the total of the amounts and values listed in Subsection (d) as
14 determined by that appraisal district, is not valid, the
15 comptroller, in determining the taxable value of property in the
16 school district under Subsection (d), shall for purposes of
17 Subsection (d)(13) subtract from the market value as estimated by
18 the comptroller of properties [~~residence homesteads~~] to which
19 Section 23.23 or 23.231, Tax Code, applies the amount by which that
20 amount exceeds the appraised value of those properties as
21 calculated by the appraisal district under Section 23.23 or 23.231,
22 Tax Code, as applicable.

23 SECTION 7. This Act applies only to the appraisal of
24 commercial or industrial real property for ad valorem tax purposes
25 for a tax year that begins on or after the effective date of this
26 Act.

27 SECTION 8. This Act takes effect January 1, 2018, but only

1 if the constitutional amendment proposed by the 85th Legislature,
2 1st Called Session, 2017, to authorize the legislature to limit
3 increases in the appraised value of commercial or industrial real
4 property for ad valorem tax purposes to 20 percent or more of the
5 appraised value of the property for the preceding tax year is
6 approved by the voters. If that amendment is not approved by the
7 voters, this Act has no effect.