

By: Johnson of Dallas

H.B. No. 3752

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the appraisal for ad valorem tax purposes of certain  
3 nonexempt property used for low-income or moderate-income housing.

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

5 SECTION 1. Section 1.07(d), Tax Code, is amended to read as  
6 follows:

7 (d) A notice required by Section 11.43(q), 11.45(d),  
8 23.215(g), 23.44(d), 23.46(c) or (f), 23.54(e), 23.541(c),  
9 23.55(e), 23.551(a), 23.57(d), 23.76(e), 23.79(d), or 23.85(d)  
10 must be sent by certified mail.

11 SECTION 2. Section 23.215, Tax Code, is amended to read as  
12 follows:

13 Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED  
14 FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) This section  
15 applies only to real property owned by an organization:

16 (1) for the purpose of renting the property [~~that on~~  
17 ~~the effective date of this section was rented~~] to a low-income or  
18 moderate-income individual or family satisfying the organization's  
19 income eligibility requirements [~~and that continues to be used for~~  
20 ~~that purpose~~];

21 (2) that was financed under the low income housing tax  
22 credit program under Subchapter DD, Chapter 2306, Government Code,  
23 and is subject to a land use restriction agreement under that  
24 subchapter that has not expired or been terminated;

1 (3) that does not receive an exemption under Section  
2 [11.182](#) or [11.1825](#); and

3 (4) the owner of which has not entered into an  
4 agreement with any taxing unit to make payments to the taxing unit  
5 instead of taxes on the property.

6 (b) In appraising property that is under active  
7 construction or lease up on January 1 of the tax year in which the  
8 property is appraised, the [The] chief appraiser shall determine  
9 the appraised value of [appraise] the property in the manner  
10 provided by Section [11.1825](#)(q), provided that the chief appraiser  
11 shall estimate the property's gross income potential and operating  
12 expenses based on the property's projected income and expenses for  
13 the first full year of operation as contained in the underwriting  
14 report pertaining to the property prepared by the Texas Department  
15 of Housing and Community Affairs under Subchapter DD, Chapter [2306](#),  
16 Government Code, as adjusted to reflect the percentage of  
17 construction of the property that is complete as of January 1  
18 calculated as the total construction cost expended as of January 1  
19 divided by the construction budget for a property under active  
20 construction and, for properties undergoing lease up, as adjusted  
21 to reflect the actual occupancy.

22 (c) In appraising property for the first tax year following  
23 the completion of active construction and stabilization of the  
24 property, the chief appraiser shall determine the appraised value  
25 of the property in the manner provided by Section [11.1825](#)(q).

26 (d) \_\_\_\_\_

27 (d) In appraising property for any subsequent tax year after

1 the first year following completion of active construction and  
2 stabilization of the property, the chief appraiser shall determine  
3 the appraised value of the property by adjusting the appraised  
4 value of the property for the preceding tax year by the percentage  
5 change in the net income of the property in the preceding year as  
6 compared to the year preceding that year.

7 (d-1) Notwithstanding Subsection (d), for the 2018 tax  
8 year, in appraising property that was not under active construction  
9 in 2017, the chief appraiser shall determine the appraised value of  
10 the property by adjusting the average appraised value of the  
11 property for the preceding three-year period by the percentage  
12 change in the net income of the property in the 2017 tax year as  
13 compared to the 2016 tax year. This subsection expires January 1,  
14 2019.

15 (e) If property appraised under this section is sold and is  
16 no longer subject to a land use restriction agreement described by  
17 Subsection (a)(2) after the sale, the property is no longer  
18 eligible for appraisal under this section and an additional tax is  
19 imposed on the property. The additional tax due is an amount equal  
20 to the difference between the taxes imposed on the property for each  
21 of the three years preceding the year in which the property is sold  
22 that the property was appraised as provided by this section and the  
23 taxes that would have been imposed had the property been appraised  
24 at the sale price in each of those years, indexed using each year's  
25 net income percentage change derived from subsection (d). A tax  
26 lien attaches to the property on the date the property is sold to  
27 secure payment of the additional tax imposed by this subsection.

1 The lien exists in favor of all taxing units for which the  
2 additional tax is imposed. The additional tax imposed by this  
3 subsection does not apply to a year for which the tax has already  
4 been paid off of the sale price.

5 (f) A determination that property is no longer eligible for  
6 appraisal under this section is made by the chief appraiser. The  
7 chief appraiser shall deliver a notice of the determination to the  
8 owner of the property as soon as possible after making the  
9 determination and shall include in the notice an explanation of the  
10 owner's right to protest the determination. If the owner does not  
11 file a timely protest or if the final determination of the protest  
12 is that the additional taxes are due, the assessor for each taxing  
13 unit shall prepare and deliver a bill for the additional taxes as  
14 soon as practicable. The taxes are due and become delinquent and  
15 incur penalties and interest as provided by law for ad valorem taxes  
16 imposed by the taxing unit if not paid before the next February 1  
17 that is at least 20 days after the date the bill is delivered to the  
18 owner of the property.

19 (g) Notwithstanding any other law, a property owner may not  
20 bring a protest under Section 41.43(b)(3) for any tax year in which  
21 the appraised value of the owner's property is determined by  
22 adjusting the property's appraised value by the percentage change  
23 in the net income of the property as provided by this section.

24 (g-1) Notwithstanding any other law, a property appraised  
25 under this section may not be utilized as a comparable property for  
26 any property that is not appraised under this section.

27 (h) For purposes of this section, the chief appraiser shall

1 determine the percentage change in the net income of property using  
2 generally accepted appraisal standards for expenses, based on  
3 information contained in:

4 (1) an audit of the organization that owns the  
5 property prepared by an independent auditor covering the relevant  
6 fiscal period; or

7 (2) the most recent annual owner's compliance report  
8 filed by the organization that owns the property with the Texas  
9 Department of Housing and Community Affairs.

10 (i) Not later than May 1 of each year, an owner shall deliver  
11 to the chief appraiser the audit or annual owner's compliance  
12 report for the preceding year. The chief appraiser may extend the  
13 deadline for good cause shown.

14 SECTION 3. The change in law made by this Act applies only  
15 to an ad valorem tax year that begins on or after January 1, 2018.

16 SECTION 4. This Act takes effect January 1, 2018.