

1-1 By: Schwertner, et al. S.B. No. 629
 1-2 (In the Senate - Filed January 26, 2017; February 13, 2017,
 1-3 read first time and referred to Committee on Finance;
 1-4 March 16, 2017, reported favorably by the following vote: Yeas 14,
 1-5 Nays 0, 1 present not voting; March 16, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Hinojosa	X			
1-9 Bettencourt	X			
1-10 Birdwell	X			
1-11 Hancock	X			
1-12 Huffman	X			
1-13 Kolthorst	X			
1-14 Nichols	X			
1-15 Schwertner	X			
1-16 Seliger	X			
1-17 Taylor of Galveston	X			
1-18 Uresti	X			
1-19 Watson	X			
1-20 West				X
1-21 Whitmire	X			

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to liability for interest if land appraised for ad valorem
 1-26 tax purposes as agricultural or open-space land is sold or diverted
 1-27 to a different use.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Sections 23.46(c) and (d), Tax Code, are amended
 1-30 to read as follows:

1-31 (c) If land that has been designated for agricultural use in
 1-32 any year is sold or diverted to a nonagricultural use, the total
 1-33 amount of additional taxes for the three years preceding the year in
 1-34 which the land is sold or diverted [~~plus interest at the rate~~
 1-35 ~~provided for delinquent taxes~~] becomes due. Subject to Subsection
 1-36 (f), a determination that the land has been diverted to a
 1-37 nonagricultural use is made by the chief appraiser. For purposes of
 1-38 this subsection, the chief appraiser may not consider any period
 1-39 during which land is owned by the state in determining whether the
 1-40 land has been diverted to a nonagricultural use. The chief
 1-41 appraiser shall deliver a notice of the determination to the owner
 1-42 of the land as soon as possible after making the determination and
 1-43 shall include in the notice an explanation of the owner's right to
 1-44 protest the determination. If the owner does not file a timely
 1-45 protest or if the final determination of the protest is that the
 1-46 additional taxes are due, the assessor for each taxing unit shall
 1-47 prepare and deliver a bill for the additional taxes [~~plus interest~~]
 1-48 as soon as practicable after the change of use occurs. If the
 1-49 additional taxes are due because of a sale of the land, the assessor
 1-50 for each taxing unit shall prepare and deliver the bill as soon as
 1-51 practicable after the sale occurs. The taxes [~~and interest~~] are due
 1-52 and become delinquent and incur penalties and interest as provided
 1-53 by law for other delinquent ad valorem taxes imposed by the taxing
 1-54 unit if not paid before the next February 1 that is at least 20 days
 1-55 after the date the bill is delivered to the owner of the land.

1-56 (d) A tax lien attaches to the land on the date the sale or
 1-57 change of use occurs to secure payment of the additional tax [~~and~~
 1-58 ~~interest~~] imposed by Subsection (c) [~~of this section~~] and any
 1-59 penalties and interest incurred if the tax becomes delinquent. The
 1-60 lien exists in favor of all taxing units for which the additional
 1-61 tax is imposed.

2-1 SECTION 2. Sections 23.47(c) and (d), Tax Code, are amended
 2-2 to read as follows:

2-3 (c) A provision in an instrument pertaining to a loan
 2-4 secured by a lien in favor of the lender on land appraised according
 2-5 to this subchapter that requires the borrower to make a payment to
 2-6 protect the lender from loss because of the imposition of
 2-7 additional taxes [~~and interest~~] under Section 23.46 is void unless
 2-8 the provision:

2-9 (1) requires the borrower to pay into an escrow
 2-10 account established by the lender an amount equal to the additional
 2-11 taxes [~~and interest~~] that would be due under Section 23.46 if a sale
 2-12 or change of use occurred on January 1 of the year in which the loan
 2-13 is granted or amended;

2-14 (2) requires the escrow account to bear interest to be
 2-15 credited to the account monthly;

2-16 (3) permits the lender to apply money in the escrow
 2-17 account to the payment of a bill for additional taxes [~~and interest~~]
 2-18 under Section 23.46 before the loan is paid and requires the lender
 2-19 to refund the balance remaining in the escrow account after the bill
 2-20 is paid to the borrower; and

2-21 (4) requires the lender to refund the money in the
 2-22 escrow account to the borrower on the payment of the loan.

2-23 (d) On the request of the borrower or the borrower's
 2-24 representative, the assessor for each taxing unit shall compute the
 2-25 additional taxes [~~and interest~~] that would be due that taxing unit
 2-26 under Section 23.46 if a sale or change of use occurred on January 1
 2-27 of the year in which the loan is granted or amended. The assessor
 2-28 may charge a reasonable fee not to exceed the actual cost of making
 2-29 the computation.

2-30 SECTION 3. Sections 23.55(a), (b), (e), (f), (m), and (n),
 2-31 Tax Code, are amended to read as follows:

2-32 (a) If the use of land that has been appraised as provided by
 2-33 this subchapter changes, an additional tax is imposed on the land
 2-34 equal to the difference between the taxes imposed on the land for
 2-35 each of the five years preceding the year in which the change of use
 2-36 occurs that the land was appraised as provided by this subchapter
 2-37 and the tax that would have been imposed had the land been taxed on
 2-38 the basis of market value in each of those years [~~, plus interest at~~
 2-39 ~~an annual rate of seven percent calculated from the dates on which~~
 2-40 ~~the differences would have become due]. For purposes of this~~
 2-41 subsection, the chief appraiser may not consider any period during
 2-42 which land is owned by the state in determining whether a change in
 2-43 the use of the land has occurred.

2-44 (b) A tax lien attaches to the land on the date the change of
 2-45 use occurs to secure payment of the additional tax [~~and interest~~]
 2-46 imposed by this section and any penalties and interest incurred if
 2-47 the tax becomes delinquent. The lien exists in favor of all taxing
 2-48 units for which the additional tax is imposed.

2-49 (e) Subject to Section 23.551, a determination that a change
 2-50 in use of the land has occurred is made by the chief appraiser. The
 2-51 chief appraiser shall deliver a notice of the determination to the
 2-52 owner of the land as soon as possible after making the determination
 2-53 and shall include in the notice an explanation of the owner's right
 2-54 to protest the determination. If the owner does not file a timely
 2-55 protest or if the final determination of the protest is that the
 2-56 additional taxes are due, the assessor for each taxing unit shall
 2-57 prepare and deliver a bill for the additional taxes [~~plus interest~~]
 2-58 as soon as practicable. The taxes [~~and interest~~] are due and become
 2-59 delinquent and incur penalties and interest as provided by law for
 2-60 ad valorem taxes imposed by the taxing unit if not paid before the
 2-61 next February 1 that is at least 20 days after the date the bill is
 2-62 delivered to the owner of the land.

2-63 (f) The sanctions provided by Subsection (a) [~~of this~~
 2-64 ~~section~~] do not apply if the change of use occurs as a result of:

2-65 (1) a sale for right-of-way;

2-66 (2) a condemnation;

2-67 (3) a transfer of the property to the state or a
 2-68 political subdivision of the state to be used for a public purpose;
 2-69 or

3-1 (4) a transfer of the property from the state, a
 3-2 political subdivision of the state, or a nonprofit corporation
 3-3 created by a municipality with a population of more than one million
 3-4 under the Development Corporation Act (Subtitle C1, Title 12, Local
 3-5 Government Code) to an individual or a business entity for purposes
 3-6 of economic development if the comptroller determines that the
 3-7 economic development is likely to generate for deposit in the
 3-8 general revenue fund during the next two fiscal bienniums an amount
 3-9 of taxes and other revenues that equals or exceeds 20 times the
 3-10 amount of additional taxes [~~and interest~~] that would have been
 3-11 imposed under Subsection (a) had the sanctions provided by that
 3-12 subsection applied to the transfer.

3-13 (m) For purposes of determining whether a transfer of land
 3-14 qualifies for the exemption from additional taxes provided by
 3-15 Subsection (f)(4), on an application of the entity transferring or
 3-16 proposing to transfer the land or of the individual or entity to
 3-17 which the land is transferred or proposed to be transferred, the
 3-18 comptroller shall determine the amount of taxes and other revenues
 3-19 likely to be generated as a result of the economic development for
 3-20 deposit in the general revenue fund during the next two fiscal
 3-21 bienniums. If the comptroller determines that the amount of those
 3-22 revenues is likely to equal or exceed 20 times the amount of
 3-23 additional taxes [~~and interest~~] that would be imposed under
 3-24 Subsection (a) if the sanctions provided by that subsection applied
 3-25 to the transfer, the comptroller shall issue a letter to the
 3-26 applicant stating the comptroller's determination and shall send a
 3-27 copy of the letter by regular mail to the chief appraiser.

3-28 (n) Within one year of the conclusion of the two fiscal
 3-29 bienniums for which the comptroller issued a letter as provided
 3-30 under Subsection (m), the board of directors of the appraisal
 3-31 district, by official board action, may direct the chief appraiser
 3-32 to request the comptroller to determine if the amount of revenues
 3-33 was equal to or exceeded 20 times the amount of taxes [~~and interest~~]
 3-34 that would have been imposed under Subsection (a). The comptroller
 3-35 shall issue a finding as to whether the amount of revenue met the
 3-36 projected increases. The chief appraiser shall review the results
 3-37 of the comptroller's finding and shall make a determination as to
 3-38 whether sanctions under Subsection (a) should be imposed. If the
 3-39 chief appraiser determines that the sanctions provided by
 3-40 Subsection (a) shall be imposed, the sanctions shall be based on the
 3-41 date of the transfer of the property under Subsection (f)(4).

3-42 SECTION 4. Sections 23.58(c) and (d), Tax Code, are amended
 3-43 to read as follows:

3-44 (c) A provision in an instrument pertaining to a loan
 3-45 secured by a lien in favor of the lender on land appraised according
 3-46 to this subchapter that requires the borrower to make a payment to
 3-47 protect the lender from loss because of the imposition of
 3-48 additional taxes [~~and interest~~] under Section 23.55 is void unless
 3-49 the provision:

3-50 (1) requires the borrower to pay into an escrow
 3-51 account established by the lender an amount equal to the additional
 3-52 taxes [~~and interest~~] that would be due under Section 23.55 if a
 3-53 change of use occurred on January 1 of the year in which the loan is
 3-54 granted or amended;

3-55 (2) requires the escrow account to bear interest to be
 3-56 credited to the account monthly;

3-57 (3) permits the lender to apply money in the escrow
 3-58 account to the payment of a bill for additional taxes [~~and interest~~]
 3-59 under Section 23.55 before the loan is paid and requires the lender
 3-60 to refund the balance remaining in the escrow account after the bill
 3-61 is paid to the borrower; and

3-62 (4) requires the lender to refund the money in the
 3-63 escrow account to the borrower on the payment of the loan.

3-64 (d) On the request of the borrower or the borrower's
 3-65 representative, the assessor for each taxing unit shall compute the
 3-66 additional taxes [~~and interest~~] that would be due that taxing unit
 3-67 under Section 23.55 if a change of use occurred on January 1 of the
 3-68 year in which the loan is granted or amended. The assessor may
 3-69 charge a reasonable fee not to exceed the actual cost of making the

4-1 computation.

4-2 SECTION 5. Sections 23.46(c) and (d), Tax Code, as amended
4-3 by this Act, apply only to a sale or diversion to a nonagricultural
4-4 use of land appraised under Subchapter C, Chapter 23, Tax Code, that
4-5 occurs on or after the effective date of this Act.

4-6 SECTION 6. Sections 23.47(c) and (d), Tax Code, as amended
4-7 by this Act, apply only to a loan secured by a lien on land
4-8 designated for agricultural use that is contracted for on or after
4-9 the effective date of this Act.

4-10 SECTION 7. Sections 23.55(a), (b), (e), (f), (m), and (n),
4-11 Tax Code, as amended by this Act, apply only to a change of use of
4-12 land appraised under Subchapter D, Chapter 23, Tax Code, that
4-13 occurs on or after the effective date of this Act.

4-14 SECTION 8. Sections 23.58(c) and (d), Tax Code, as amended
4-15 by this Act, apply only to a loan secured by a lien on open-space
4-16 land that is contracted for on or after the effective date of this
4-17 Act.

4-18 SECTION 9. This Act takes effect September 1, 2017.

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