86R8687 SMT-D

By:  Talarico H.B. No. 3493

A BILL TO BE ENTITLED

AN ACT

relating to a requirement that a purchaser of commercial real property disclose the sales price of the property to the appraisal district and to the use of that information by the appraisal district; creating a criminal offense.

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

SECTION 1.  The heading to Subchapter C, Chapter 22, Tax Code, is amended to read as follows:

SUBCHAPTER C. [~~OTHER~~] REPORTS OF POLITICAL SUBDIVISION ACTIONS

SECTION 2.  Chapter 22, Tax Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. REPORT OF SALES PRICE

Sec. 22.61.  DEFINITION. In this subchapter, "commercial real property" means real property that is held or used for the production of income.

Sec. 22.62.  SALES PRICE DISCLOSURE REPORT. (a) Except as provided by Subsection (b), not later than the 10th day after the date the deed is recorded in the county real property records, the purchaser or grantee of commercial real property under a recorded deed conveying an interest in the real property shall file a sales price disclosure report with the chief appraiser of the appraisal district established for the county in which the property is located.

(b)  This section does not apply to a sale or other transfer of commercial real property if:

(1)  the sale or other transfer is made:

(A)  under a court order;

(B)  to or from a trustee in bankruptcy;

(C)  under a power of sale under a deed of trust or other encumbrance secured by the property;

(D)  by a deed in lieu of foreclosure;

(E)  by one co-owner to one or more other co-owners;

(F)  to a spouse or to a person or persons in the first degree of lineal consanguinity of one or more of the sellers or grantors;

(G)  to or from a governmental entity;

(H)  through the use of eminent domain; or

(I)  to a utility company and the real property is an easement, license, or right-of-way; or

(2)  the real property is a severed mineral interest.

(c)  A sales price disclosure report must be signed by the purchaser or grantee of the commercial real property described in the report.

Sec. 22.63.  REPORT FORM. (a) A sales price disclosure report filed under this subchapter must read as follows, with the appropriate information included in the blanks:

SALES PRICE DISCLOSURE REPORT

Section 22.62, Tax Code, requires a purchaser or grantee of commercial real property under a deed to prepare this report, sign it, and file it with the chief appraiser of the appraisal district established for the county in which the property is located not later than the 10th day after the date the deed is recorded. This report is not required to be filed if the sale or transfer is made: (1) under a court order; (2) to or from a trustee in bankruptcy; (3) under a deed of trust or other encumbrance secured by the property; (4) by a deed in lieu of foreclosure; (5) between co-owners; (6) between spouses or between family members in the first degree of lineal consanguinity; (7) to or from a governmental entity; (8) through the use of eminent domain; or (9) to a utility company and the property is an easement, license, or right-of-way. In addition, this report is not required to be filed if the property being sold or transferred is a severed mineral interest. Knowingly making a false statement on this form is grounds for prosecution of a Class A misdemeanor or a state jail felony under Section 37.10, Penal Code. The chief appraiser may not use the information in this form as the sole basis on which to increase the market value of the property.

Seller's or grantor's name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Purchaser's or grantee's name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Purchaser's or grantee's address: \_\_\_\_\_\_\_\_\_\_\_\_\_

Property description (as stated in deed): \_\_\_\_\_

Sales price of or other consideration paid for the property: \_\_\_\_\_\_\_\_

The method used to finance the sales price or other consideration was: □ none (cash sale) □ cash and third-party financing □ cash and seller financing □ exchange of other property □ other, describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Describe any unusual or extraordinary terms of the sale or transfer that affected the amount of the sales price or other consideration: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Provide any additional information relevant to the sale or transfer, including:

(1)  whether the sale or transfer involved property other than real property and the type of property, whether tangible or intangible, involved in the sale or transfer;

(2)  whether the sale or transfer involved property located in more than one county and, if so, the portion of the sales price or other consideration allocated to the portion of the property located in each county;

(3)  in the case of a sale, whether the sale is the sale of an entire business or business unit; and

(4)  any other facts or circumstances that affected the sales price or other consideration (optional): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

To the best of my knowledge, this statement is true and accurate.

Purchaser's or grantee's signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_

Return this form to: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

(b)  The appraisal district shall include at the end of the form instructions for the filing of the form by mail, hand delivery, or, if permitted by the chief appraiser, electronic mail or other electronic means.

(c)  Each appraisal district shall prepare and make available sales price disclosure report forms that conform to the requirements of this section. Except for instructions for the filing of the form, no additional information may be required to be included in a sales price disclosure report form.

Sec. 22.64.  FILING AND RECEIPT OF REPORT. (a) A purchaser or grantee may file a sales price disclosure report with a chief appraiser by mail, hand delivery, or, if permitted by the chief appraiser, electronic mail or other electronic means.

(b)  On receipt of the completed sales price disclosure report, the chief appraiser shall provide to the purchaser or grantee a written acknowledgement that the report has been received. If the acknowledgement of receipt is mailed, the chief appraiser shall mail it to the purchaser or grantee at the address provided in the report.

Sec. 22.65.  PREPARATION OF REPORT; IMMUNITY FROM LIABILITY. (a) A sales price disclosure report must be prepared by the purchaser or grantee of the property described in the report or by another person on behalf of the purchaser or grantee.

(b)  A person who prepares a sales price disclosure report on behalf of a purchaser or grantee of the property described in the report is not liable to any person for preparing the report or for any unintentional error or omission in the report.

Sec. 22.66.  ACTION TO COMPEL COMPLIANCE. The chief appraiser may bring an action for an injunction to compel a person to comply with the requirements of this subchapter. If the court finds that this subchapter applies and that the person has failed to fully comply with its requirements, the court:

(1)  shall order the person to comply; and

(2)  may assess costs and reasonable attorney's fees against the person.

Sec. 22.67.  CONFIDENTIAL INFORMATION. (a) A sales price disclosure report filed with a chief appraiser under this subchapter is confidential and not open to public inspection. The report and the information it contains may not be disclosed to another person other than an employee of the appraisal district who appraises property, except as provided by Subsection (b).

(b)  Information that is confidential under Subsection (a) may be disclosed:

(1)  in a judicial or administrative proceeding under a lawful subpoena;

(2)  to a purchaser, grantee, seller, or grantor named in the report or in the deed to which the report applies or to a representative of the purchaser, grantee, seller, or grantor under a written authorization signed by the purchaser, grantee, seller, or grantor;

(3)  to the comptroller or to an assessor for a taxing unit in which the property described in the report is located;

(4)  in a judicial or administrative proceeding related to real property taxation:

(A)  to which the purchaser, grantee, seller, or grantor is a party;

(B)  to which an owner of the property described in the report is a party; or

(C)  by the appraisal district for the purpose of establishing a value of the property or of providing evidence of comparable sales to appraise another property;

(5)  for statistical purposes if the information is provided in a form that does not identify a specific property or specific purchaser, grantee, seller, or grantor;

(6)  if and to the extent that the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain; or

(7)  to a taxing unit or its legal representative that is engaged in the collection of delinquent taxes on the property described in the report.

(c)  Information that is disclosed under this section does not lose its confidential character.

(d)  A person, other than the purchaser, grantee, seller, or grantor, who obtains a sales price disclosure report or information from the report commits an offense if the person:

(1)  discloses the report or information to a person who is not authorized under this section to receive the report or information; or

(2)  permits the person to whom the report or information is disclosed to view, read, or copy the report or information.

(e)  An offense under Subsection (d) is a Class B misdemeanor.

(f)  It is a defense to prosecution under Subsection (d) that the person who received information contained in the sales price disclosure report obtained the information from:

(1)  a purchaser, grantee, seller, or grantor of the property described in the report; or

(2)  a document or record other than the sales price disclosure report.

SECTION 3.  Section 23.013, Tax Code, is amended by adding Subsection (e) to read as follows:

(e)  The chief appraiser may use information contained in a sales price disclosure report filed under Subchapter D, Chapter 22, in determining the market value of commercial real property but may not increase the market value of the real property described in the report solely on the basis of the information contained in the report.

SECTION 4.  (a) As soon as practicable after the effective date of this section, but not later than January 1, 2020, each appraisal district shall prepare and make available sales price disclosure report forms as provided by Section 22.63, Tax Code, as added by this Act.

(b)  This section takes effect September 1, 2019.

SECTION 5.  This Act applies only to a sale or other transfer of commercial real property that occurs on or after January 1, 2020.

SECTION 6.  Except as otherwise provided by this Act, this Act takes effect January 1, 2020.