

By: Geren

H.B. No. 2993

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

(2) that was financed under the low income housing tax credit program under Subchapter DD, Chapter 2306, Government Code, and is subject to a land use restriction agreement under that 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 construction or
7 that has not reached stabilized occupancy on January 1 of the tax
8 year in which the property is appraised, the [The] chief appraiser
9 shall determine the appraised value of [appraise] the property in
10 the manner provided by Section 11.1825(q), provided that the chief
11 appraiser shall estimate the property's gross income potential and
12 operating expenses based on the property's projected income and
13 expenses for the first full year of operation as established and
14 utilized in the underwriting report pertaining to the property
15 prepared by the Texas Department of Housing and Community Affairs
16 under Subchapter DD, Chapter 2306, Government Code, adjusted as
17 provided by this subsection. For a property under construction on
18 January 1, the income and expenses contained in the underwriting
19 report shall be adjusted by multiplying those amounts by a
20 fraction, the denominator of which is the total construction budget
21 for the property and the numerator of which is the total amount
22 spent in constructing the property as of January 1. For a property
23 on which construction was completed but that has not reached
24 stabilized occupancy on January 1, the income and expenses
25 contained in the underwriting report shall be adjusted to reflect
26 the actual occupancy of the property on January 1.

27 (c) In appraising property for the first tax year following

1 the year in which construction on the property was completed and
2 occupancy of the property had stabilized, the chief appraiser shall
3 determine the appraised value of the property in the manner
4 provided by Section 11.1825(q).

5 (d) In appraising property for the second and subsequent tax
6 years following the year in which construction on the property was
7 completed and occupancy of the property had stabilized, the chief
8 appraiser shall determine the appraised value of the property by
9 adjusting the appraised value of the property for the preceding tax
10 year by the percentage change in the net income of the property in
11 the preceding year as compared to the year preceding that year.

12 (d-1) Notwithstanding Subsection (d), for the 2020 tax
13 year, in appraising property for which construction was completed
14 on January 1, 2019, the chief appraiser shall determine the
15 appraised value of the property by adjusting the average appraised
16 value of the property for the preceding three-year period by the
17 percentage change in the net income of the property in the 2019 tax
18 year as compared to the 2018 tax year. This subsection expires
19 January 1, 2021.

20 (e) If property appraised under this section is sold and is
21 no longer subject to a land use restriction agreement described by
22 Subsection (a)(2) after the sale, the property is no longer
23 eligible for appraisal under this section and an additional tax is
24 imposed on the property. The additional tax due is an amount equal
25 to the difference between the taxes imposed on the property for each
26 of the three years preceding the year in which the property is sold
27 that the property was appraised as provided by this section and the

1 taxes that would have been imposed had the property been appraised
2 in each of those years at the lesser of:

3 (1) the price for which the property is sold; or

4 (2) the price for which the property is sold, adjusted
5 by the percentage change in the net income of the property for the
6 applicable year in the manner provided by Subsection (d).

7 (f) A tax lien attaches to property to which Subsection (e)
8 applies on the date the property is sold to secure payment of the
9 additional tax imposed by that subsection. The lien exists in favor
10 of all taxing units for which the additional tax is imposed.

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

25 (h) Notwithstanding any other law:

26 (1) a property owner may not bring a protest under
27 Section 41.41(a)(2) alleging unequal appraisal of the owner's

1 property on the ground of the appraised value of the property being
2 greater than the median appraised value of a reasonable number of
3 comparable properties appropriately adjusted for any tax year in
4 which the appraised value of the property is determined as provided
5 by this section; and

6 (2) a property appraised as provided by this section
7 may not be used as a comparable property for the purpose of
8 determining whether another property that is not appraised as
9 provided by this section is unequally appraised.

10 (i) For purposes of this section, the chief appraiser, in
11 determining the percentage change in the net income of property:

12 (1) shall use generally accepted appraisal methods and
13 techniques to determine the property's operating expenses based on
14 information contained in:

15 (A) an audit of the organization that owns the
16 property prepared by an independent auditor covering the relevant
17 fiscal period; or

18 (B) the most recent annual owner's compliance
19 report filed by the organization that owns the property with the
20 Texas Department of Housing and Community Affairs; and

21 (2) may not consider the taxes imposed on the property
22 and paid by the organization that owns the property to be an
23 operating expense of the property.

24 (j) Not later than May 1 of each year, the owner of a
25 property appraised under this section shall provide to the chief
26 appraiser of the appraisal district that appraises the property a
27 copy of the document described by Subsection (i)(1)(A) or (B), as

1 applicable. The chief appraiser may extend the deadline provided
2 by this subsection for good cause shown.

3 SECTION 3. The change in law made by this Act applies only
4 to an ad valorem tax year that begins on or after January 1, 2020.

5 SECTION 4. This Act takes effect January 1, 2020.