

By: Gutierrez

H.B. No. 4338

A BILL TO BE ENTITLED

AN ACT

relating to a limitation on increases in the appraised value for ad valorem tax purposes of commercial 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 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 REAL PROPERTY. (a) In this section:

(1) "Commercial real property" means real property zoned or otherwise authorized for and actually used for a purpose other than single-family use, multifamily use, heavy industrial use, or use as a quarry.

(2) "New improvement" means an improvement to commercial real property made after the most recent appraisal of

1 the property that increases the market value of the property and the  
2 value of which is not included in the appraised value of the  
3 property for the preceding tax year. The term does not include  
4 repairs to or ordinary maintenance of an existing structure or the  
5 grounds or another feature of the property.

6 (b) This section does not apply to property appraised under  
7 Subchapter C, D, E, F, G, or H.

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

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

17 (2) the sum of:

18 (A) 10 percent of the appraised value of the  
19 property for the preceding tax year;

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

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

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

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

27 (2) include in the appraisal records both the market

1 value of the property and the amount computed under Subsection  
2 (c)(2).

3 (e) The limitation provided by Subsection (c) takes effect  
4 as to a parcel of commercial real property on January 1 of the tax  
5 year following the first tax year in which the owner owns the  
6 property on January 1 and in which the property meets the definition  
7 of commercial real property. The limitation expires on January 1 of  
8 the tax year following the first tax year in which the owner of the  
9 property ceases to own the property or the property no longer meets  
10 the definition of commercial real property.

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

19 (1) the appraised value the property would have had in  
20 the preceding tax year if the casualty or damage had not occurred is  
21 considered to be the appraised value of the property for that year,  
22 regardless of whether that appraised value exceeds the actual  
23 appraised value of the property for that year as limited by  
24 Subsection (c); and

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

27 (A) the square footage of the replacement

1 structure exceeds that of the replaced structure as that structure  
2 existed before the casualty or damage occurred; or

3 (B) the exterior of the replacement structure is  
4 of higher quality construction and composition than that of the  
5 replaced structure.

6 (g) In this subsection, "disaster recovery program" means a  
7 disaster recovery program funded with community development block  
8 grant disaster recovery money authorized by federal law.  
9 Notwithstanding Subsection (f)(2), and only to the extent necessary  
10 to satisfy the requirements of a disaster recovery program, a  
11 replacement structure described by that subdivision is not  
12 considered to be a new improvement if to satisfy the requirements of  
13 the disaster recovery program it was necessary that:

14 (1) the square footage of the replacement structure  
15 exceed that of the replaced structure as that structure existed  
16 before the casualty or damage occurred; or

17 (2) the exterior of the replacement structure be of  
18 higher quality construction and composition than that of the  
19 replaced structure.

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

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

24 (1) a list of the taxing units in which the property is  
25 taxable;

26 (2) the appraised value of the property in the  
27 preceding year;

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

3           (4) the appraised value of the property for the  
4 current year, the kind and amount of each exemption and partial  
5 exemption, if any, approved for the property for the current year  
6 and for the preceding year, and, if an exemption or partial  
7 exemption that was approved for the preceding year was canceled or  
8 reduced for the current year, the amount of the exemption or partial  
9 exemption canceled or reduced;

10           (4-a) a statement of whether the property qualifies  
11 for the limitation on appraised value provided by Section 23.231;

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

15           (6) in *italic* typeface, the following  
16 statement: "The Texas Legislature does not set the amount of your  
17 local taxes. Your property tax burden is decided by your locally  
18 elected officials, and all inquiries concerning your taxes should  
19 be directed to those officials";

20           (7) a detailed explanation of the time and procedure  
21 for protesting the value;

22           (8) the date and place the appraisal review board will  
23 begin hearing protests; and

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

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

13                   (1) the appraised value of the property in the  
14 preceding year;

15                   (2) the appraised value of the property for the  
16 current year and the kind of each partial exemption, if any,  
17 approved for the current year;

18                   (2-a) a statement of whether the property qualifies  
19 for the limitation on appraised value provided by Section 23.231;

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

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

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

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

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

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

6           (3) inclusion of the owner's property on the appraisal  
7 records;

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

10           (4-a) determination that the owner's property does not  
11 qualify for the limitation on appraised value provided by Section  
12 23.231;

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

16           (6) identification of the taxing units in which the  
17 owner's property is taxable in the case of the appraisal district's  
18 appraisal roll;

19           (7) determination that the property owner is the owner  
20 of property;

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

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

27           SECTION 5. Section 42.26(d), Tax Code, is amended to read as

1 follows:

2 (d) For purposes of this section, the value of the property  
3 subject to the suit and the value of a comparable property or sample  
4 property that is used for comparison must be the market value  
5 determined by the appraisal district when the property is [~~a~~  
6 ~~residence homestead~~] subject to the limitation on appraised value  
7 imposed by Section [23.23](#) or [23.231](#).

8 SECTION 6. Sections [403.302](#)(d) and (i), Government Code,  
9 are amended to read as follows:

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

12 (1) the total dollar amount of any residence homestead  
13 exemptions lawfully granted under Section [11.13](#)(b) or (c), Tax  
14 Code, in the year that is the subject of the study for each school  
15 district;

16 (2) one-half of the total dollar amount of any  
17 residence homestead exemptions granted under Section [11.13](#)(n), Tax  
18 Code, in the year that is the subject of the study for each school  
19 district;

20 (3) the total dollar amount of any exemptions granted  
21 before May 31, 1993, within a reinvestment zone under agreements  
22 authorized by Chapter [312](#), Tax Code;

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

25 (A) is within a reinvestment zone created on or  
26 before May 31, 1999, or is proposed to be included within the  
27 boundaries of a reinvestment zone as the boundaries of the zone and

1 the proposed portion of tax increment paid into the tax increment  
2 fund by a school district are described in a written notification  
3 provided by the municipality or the board of directors of the zone  
4 to the governing bodies of the other taxing units in the manner  
5 provided by former Section 311.003(e), Tax Code, before May 31,  
6 1999, and within the boundaries of the zone as those boundaries  
7 existed on September 1, 1999, including subsequent improvements to  
8 the property regardless of when made;

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

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

15 (5) the total dollar amount of any captured appraised  
16 value of property that:

17 (A) is within a reinvestment zone:

18 (i) created on or before December 31, 2008,  
19 by a municipality with a population of less than 18,000; and

20 (ii) the project plan for which includes  
21 the alteration, remodeling, repair, or reconstruction of a  
22 structure that is included on the National Register of Historic  
23 Places and requires that a portion of the tax increment of the zone  
24 be used for the improvement or construction of related facilities  
25 or for affordable housing;

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

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

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

5 (7) the difference between the comptroller's estimate  
6 of the market value and the productivity value of land that  
7 qualifies for appraisal on the basis of its productive capacity,  
8 except that the productivity value estimated by the comptroller may  
9 not exceed the fair market value of the land;

10 (8) the portion of the appraised value of residence  
11 homesteads of individuals who receive a tax limitation under  
12 Section 11.26, Tax Code, on which school district taxes are not  
13 imposed in the year that is the subject of the study, calculated as  
14 if the residence homesteads were appraised at the full value  
15 required by law;

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

18 (A) action required by statute or the  
19 constitution of this state, other than Section 11.311, Tax Code,  
20 that, if the tax rate adopted by the district is applied to it,  
21 produces an amount equal to the difference between the tax that the  
22 district would have imposed on the property if the property were  
23 fully taxable at market value and the tax that the district is  
24 actually authorized to impose on the property, if this subsection  
25 does not otherwise require that portion to be deducted; or

26 (B) action taken by the district under Subchapter  
27 B or C, Chapter 313, Tax Code, before the expiration of the

1 subchapter;

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

5 (11) the appraised value of property the collection of  
6 delinquent taxes on which is deferred under Section 33.06, Tax  
7 Code;

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

11 (13) the amount by which the market value of property  
12 [~~a residence homestead~~] to which Section 23.23 or 23.231, Tax Code,  
13 applies exceeds the appraised value of that property as calculated  
14 under Section 23.23 or 23.231, Tax Code, as applicable [~~that~~  
15 ~~section~~].

16 (i) If the comptroller determines in the study that the  
17 market value of property in a school district as determined by the  
18 appraisal district that appraises property for the school district,  
19 less the total of the amounts and values listed in Subsection (d) as  
20 determined by that appraisal district, is valid, the comptroller,  
21 in determining the taxable value of property in the school district  
22 under Subsection (d), shall for purposes of Subsection (d)(13)  
23 subtract from the market value as determined by the appraisal  
24 district of properties [~~residence homesteads~~] to which Section  
25 23.23 or 23.231, Tax Code, applies the amount by which that amount  
26 exceeds the appraised value of those properties as calculated by  
27 the appraisal district under Section 23.23 or 23.231, Tax Code, as

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

14 SECTION 7. This Act applies only to the appraisal of  
15 commercial real property for ad valorem tax purposes for a tax year  
16 that begins on or after the effective date of this Act.

17 SECTION 8. This Act takes effect January 1, 2020, but only  
18 if the constitutional amendment proposed by the 86th Legislature,  
19 Regular Session, 2019, to authorize the legislature to limit  
20 increases in the appraised value of commercial real property for ad  
21 valorem tax purposes to 10 percent or more of the appraised value of  
22 the property for the preceding tax year is approved by the voters.  
23 If that amendment is not approved by the voters, this Act has no  
24 effect.