

1-1 By: Creighton S.B. No. 894
 1-2 (In the Senate - Filed February 19, 2019; March 1, 2019,
 1-3 read first time and referred to Committee on Property Tax;
 1-4 April 29, 2019, reported favorably by the following vote: Yeas 5,
 1-5 Nays 0; April 29, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Bettencourt	X			
1-8 Paxton	X			
1-9 Creighton	X			
1-10 Hancock	X			
1-11 Hinojosa	X			

1-13 A BILL TO BE ENTITLED
 1-14 AN ACT

1-15 relating to the additional tax imposed on land appraised for ad
 1-16 valorem tax purposes as agricultural, open-space, or timber land if
 1-17 the land is sold or diverted to a different use.

1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-19 SECTION 1. Sections 23.46(c) and (d), Tax Code, are amended
 1-20 to read as follows:

1-21 (c) If land that has been designated for agricultural use in
 1-22 any year is sold or diverted to a nonagricultural use, the total
 1-23 amount of additional taxes for the three years preceding the year in
 1-24 which the land is sold or diverted [~~plus interest at the rate~~
 1-25 ~~provided for delinquent taxes~~] becomes due. Subject to Subsection
 1-26 (f), a determination that the land has been diverted to a
 1-27 nonagricultural use is made by the chief appraiser. For purposes of
 1-28 this subsection, the chief appraiser may not consider any period
 1-29 during which land is owned by the state in determining whether the
 1-30 land has been diverted to a nonagricultural use. The chief
 1-31 appraiser shall deliver a notice of the determination to the owner
 1-32 of the land as soon as possible after making the determination and
 1-33 shall include in the notice an explanation of the owner's right to
 1-34 protest the determination. If the owner does not file a timely
 1-35 protest or if the final determination of the protest is that the
 1-36 additional taxes are due, the assessor for each taxing unit shall
 1-37 prepare and deliver a bill for the additional taxes [~~plus interest~~]
 1-38 as soon as practicable after the change of use occurs. If the
 1-39 additional taxes are due because of a sale of the land, the assessor
 1-40 for each taxing unit shall prepare and deliver the bill as soon as
 1-41 practicable after the sale occurs. The taxes [~~and interest~~] are due
 1-42 and become delinquent and incur penalties and interest as provided
 1-43 by law for other delinquent ad valorem taxes imposed by the taxing
 1-44 unit if not paid before the next February 1 that is at least 20 days
 1-45 after the date the bill is delivered to the owner of the land.

1-46 (d) A tax lien attaches to the land on the date the sale or
 1-47 change of use occurs to secure payment of the additional tax [~~and~~
 1-48 ~~interest~~] imposed by Subsection (c) [~~of this section~~] and any
 1-49 penalties and interest incurred if the tax becomes delinquent. The
 1-50 lien exists in favor of all taxing units for which the additional
 1-51 tax is imposed.

1-52 SECTION 2. Sections 23.47(c) and (d), Tax Code, are amended
 1-53 to read as follows:

1-54 (c) A provision in an instrument pertaining to a loan
 1-55 secured by a lien in favor of the lender on land appraised according
 1-56 to this subchapter that requires the borrower to make a payment to
 1-57 protect the lender from loss because of the imposition of
 1-58 additional taxes [~~and interest~~] under Section 23.46 is void unless
 1-59 the provision:

1-60 (1) requires the borrower to pay into an escrow
 1-61 account established by the lender an amount equal to the additional

2-1 taxes [~~and interest~~] that would be due under Section 23.46 if a sale
2-2 or change of use occurred on January 1 of the year in which the loan
2-3 is granted or amended;

2-4 (2) requires the escrow account to bear interest to be
2-5 credited to the account monthly;

2-6 (3) permits the lender to apply money in the escrow
2-7 account to the payment of a bill for additional taxes [~~and interest~~]
2-8 under Section 23.46 before the loan is paid and requires the lender
2-9 to refund the balance remaining in the escrow account after the bill
2-10 is paid to the borrower; and

2-11 (4) requires the lender to refund the money in the
2-12 escrow account to the borrower on the payment of the loan.

2-13 (d) On the request of the borrower or the borrower's
2-14 representative, the assessor for each taxing unit shall compute the
2-15 additional taxes [~~and interest~~] that would be due that taxing unit
2-16 under Section 23.46 if a sale or change of use occurred on January 1
2-17 of the year in which the loan is granted or amended. The assessor
2-18 may charge a reasonable fee not to exceed the actual cost of making
2-19 the computation.

2-20 SECTION 3. Sections 23.55(a), (b), (e), (f), (m), and (n),
2-21 Tax Code, are amended to read as follows:

2-22 (a) If the use of land that has been appraised as provided by
2-23 this subchapter changes, an additional tax is imposed on the land
2-24 equal to the difference between the taxes imposed on the land for
2-25 each of the three [~~five~~] years preceding the year in which the
2-26 change of use occurs that the land was appraised as provided by this
2-27 subchapter and the tax that would have been imposed had the land
2-28 been taxed on the basis of market value in each of those years [~~7~~
2-29 ~~plus interest at an annual rate of seven percent calculated from the~~
2-30 ~~dates on which the differences would have become due~~]. For purposes
2-31 of this subsection, the chief appraiser may not consider any period
2-32 during which land is owned by the state in determining whether a
2-33 change in the use of the land has occurred.

2-34 (b) A tax lien attaches to the land on the date the change of
2-35 use occurs to secure payment of the additional tax [~~and interest~~]
2-36 imposed by this section and any penalties and interest incurred if
2-37 the tax becomes delinquent. The lien exists in favor of all taxing
2-38 units for which the additional tax is imposed.

2-39 (e) Subject to Section 23.551, a determination that a change
2-40 in use of the land has occurred is made by the chief appraiser. The
2-41 chief appraiser shall deliver a notice of the determination to the
2-42 owner of the land as soon as possible after making the determination
2-43 and shall include in the notice an explanation of the owner's right
2-44 to protest the determination. If the owner does not file a timely
2-45 protest or if the final determination of the protest is that the
2-46 additional taxes are due, the assessor for each taxing unit shall
2-47 prepare and deliver a bill for the additional taxes [~~plus interest~~]
2-48 as soon as practicable. The taxes [~~and interest~~] are due and become
2-49 delinquent and incur penalties and interest as provided by law for
2-50 ad valorem taxes imposed by the taxing unit if not paid before the
2-51 next February 1 that is at least 20 days after the date the bill is
2-52 delivered to the owner of the land.

2-53 (f) The sanctions provided by Subsection (a) [~~of this~~
2-54 ~~section~~] do not apply if the change of use occurs as a result of:

2-55 (1) a sale for right-of-way;

2-56 (2) a condemnation;

2-57 (3) a transfer of the property to the state or a
2-58 political subdivision of the state to be used for a public purpose;
2-59 or

2-60 (4) a transfer of the property from the state, a
2-61 political subdivision of the state, or a nonprofit corporation
2-62 created by a municipality with a population of more than one million
2-63 under the Development Corporation Act (Subtitle C1, Title 12, Local
2-64 Government Code) to an individual or a business entity for purposes
2-65 of economic development if the comptroller determines that the
2-66 economic development is likely to generate for deposit in the
2-67 general revenue fund during the next two fiscal bienniums an amount
2-68 of taxes and other revenues that equals or exceeds 20 times the
2-69 amount of additional taxes [~~and interest~~] that would have been

3-1 imposed under Subsection (a) had the sanctions provided by that
3-2 subsection applied to the transfer.

3-3 (m) For purposes of determining whether a transfer of land
3-4 qualifies for the exemption from additional taxes provided by
3-5 Subsection (f)(4), on an application of the entity transferring or
3-6 proposing to transfer the land or of the individual or entity to
3-7 which the land is transferred or proposed to be transferred, the
3-8 comptroller shall determine the amount of taxes and other revenues
3-9 likely to be generated as a result of the economic development for
3-10 deposit in the general revenue fund during the next two fiscal
3-11 bienniums. If the comptroller determines that the amount of those
3-12 revenues is likely to equal or exceed 20 times the amount of
3-13 additional taxes [~~and interest~~] that would be imposed under
3-14 Subsection (a) if the sanctions provided by that subsection applied
3-15 to the transfer, the comptroller shall issue a letter to the
3-16 applicant stating the comptroller's determination and shall send a
3-17 copy of the letter by regular mail to the chief appraiser.

3-18 (n) Within one year of the conclusion of the two fiscal
3-19 bienniums for which the comptroller issued a letter as provided
3-20 under Subsection (m), the board of directors of the appraisal
3-21 district, by official board action, may direct the chief appraiser
3-22 to request the comptroller to determine if the amount of revenues
3-23 was equal to or exceeded 20 times the amount of taxes [~~and interest~~]
3-24 that would have been imposed under Subsection (a). The comptroller
3-25 shall issue a finding as to whether the amount of revenue met the
3-26 projected increases. The chief appraiser shall review the results
3-27 of the comptroller's finding and shall make a determination as to
3-28 whether sanctions under Subsection (a) should be imposed. If the
3-29 chief appraiser determines that the sanctions provided by
3-30 Subsection (a) shall be imposed, the sanctions shall be based on the
3-31 date of the transfer of the property under Subsection (f)(4).

3-32 SECTION 4. Sections 23.58(c) and (d), Tax Code, are amended
3-33 to read as follows:

3-34 (c) A provision in an instrument pertaining to a loan
3-35 secured by a lien in favor of the lender on land appraised according
3-36 to this subchapter that requires the borrower to make a payment to
3-37 protect the lender from loss because of the imposition of
3-38 additional taxes [~~and interest~~] under Section 23.55 is void unless
3-39 the provision:

3-40 (1) requires the borrower to pay into an escrow
3-41 account established by the lender an amount equal to the additional
3-42 taxes [~~and interest~~] that would be due under Section 23.55 if a
3-43 change of use occurred on January 1 of the year in which the loan is
3-44 granted or amended;

3-45 (2) requires the escrow account to bear interest to be
3-46 credited to the account monthly;

3-47 (3) permits the lender to apply money in the escrow
3-48 account to the payment of a bill for additional taxes [~~and interest~~]
3-49 under Section 23.55 before the loan is paid and requires the lender
3-50 to refund the balance remaining in the escrow account after the bill
3-51 is paid to the borrower; and

3-52 (4) requires the lender to refund the money in the
3-53 escrow account to the borrower on the payment of the loan.

3-54 (d) On the request of the borrower or the borrower's
3-55 representative, the assessor for each taxing unit shall compute the
3-56 additional taxes [~~and interest~~] that would be due that taxing unit
3-57 under Section 23.55 if a change of use occurred on January 1 of the
3-58 year in which the loan is granted or amended. The assessor may
3-59 charge a reasonable fee not to exceed the actual cost of making the
3-60 computation.

3-61 SECTION 5. Sections 23.76(a), (b), and (e), Tax Code, are
3-62 amended to read as follows:

3-63 (a) If the use of land that has been appraised as provided by
3-64 this subchapter changes, an additional tax is imposed on the land
3-65 equal to the difference between the taxes imposed on the land for
3-66 each of the three [~~five~~] years preceding the year in which the
3-67 change of use occurs that the land was appraised as provided by this
3-68 subchapter and the tax that would have been imposed had the land
3-69 been taxed on the basis of market value in each of those years[7

4-1 ~~plus interest at an annual rate of seven percent calculated from the~~
 4-2 ~~dates on which the differences would have become due].~~

4-3 (b) A tax lien attaches to the land on the date the change of
 4-4 use occurs to secure payment of the additional tax ~~[and interest]~~
 4-5 imposed by this section and any penalties and interest incurred if
 4-6 the tax becomes delinquent. The lien exists in favor of all taxing
 4-7 units for which the additional tax is imposed.

4-8 (e) A determination that a change in use of the land has
 4-9 occurred is made by the chief appraiser. The chief appraiser shall
 4-10 deliver a notice of the determination to the owner of the land as
 4-11 soon as possible after making the determination and shall include
 4-12 in the notice an explanation of the owner's right to protest the
 4-13 determination. If the owner does not file a timely protest or if
 4-14 the final determination of the protest is that the additional taxes
 4-15 are due, the assessor for each taxing unit shall prepare and deliver
 4-16 a bill for the additional taxes ~~[and interest]~~ as soon as
 4-17 practicable after the change of use occurs. The taxes ~~[and~~
 4-18 ~~interest]~~ are due and become delinquent and incur penalties and
 4-19 interest as provided by law for ad valorem taxes imposed by the
 4-20 taxing unit if not paid before the next February 1 that is at least
 4-21 20 days after the date the bill is delivered to the owner of the
 4-22 land.

4-23 SECTION 6. Sections 23.9807(a), (b), (c), and (f), Tax
 4-24 Code, are amended to read as follows:

4-25 (a) If the use of land that has been appraised as provided by
 4-26 this subchapter changes to a use that qualifies the land for
 4-27 appraisal under Subchapter E, an additional tax is imposed on the
 4-28 land equal to ~~[the sum of:~~

4-29 ~~[(1)]~~ the difference between:

4-30 (1) ~~[(A)]~~ the taxes imposed on the land for each of the
 4-31 three ~~[five]~~ years preceding the year in which the change of use
 4-32 occurs that the land was appraised as provided by this subchapter;
 4-33 and

4-34 (2) ~~[(B)]~~ the taxes that would have been imposed had
 4-35 the land been appraised under Subchapter E in each of those years~~+~~
 4-36 ~~and~~

4-37 ~~[(2) interest at an annual rate of seven percent~~
 4-38 ~~calculated from the dates on which the differences would have~~
 4-39 ~~become due].~~

4-40 (b) If the use of land that has been appraised as provided by
 4-41 this subchapter changes to a use that does not qualify the land for
 4-42 appraisal under Subchapter E or under this subchapter, an
 4-43 additional tax is imposed on the land equal to ~~[the sum of:~~

4-44 ~~[(1)]~~ the difference between:

4-45 (1) ~~[(A)]~~ the taxes imposed on the land for each of the
 4-46 three ~~[five]~~ years preceding the year in which the change of use
 4-47 occurs that the land was appraised as provided by this subchapter;
 4-48 and

4-49 (2) ~~[(B)]~~ the taxes that would have been imposed had
 4-50 the land been taxed on the basis of market value in each of those
 4-51 years~~+, and~~

4-52 ~~[(2) interest at an annual rate of seven percent~~
 4-53 ~~calculated from the dates on which the differences would have~~
 4-54 ~~become due].~~

4-55 (c) A tax lien attaches to the land on the date the change of
 4-56 use occurs to secure payment of the additional tax ~~[and interest]~~
 4-57 imposed by this section and any penalties and interest incurred if
 4-58 the tax becomes delinquent. The lien exists in favor of all taxing
 4-59 units for which the additional tax is imposed.

4-60 (f) A determination that a change in use of the land has
 4-61 occurred is made by the chief appraiser. The chief appraiser shall
 4-62 deliver a notice of the determination to the owner of the land as
 4-63 soon as possible after making the determination and shall include
 4-64 in the notice an explanation of the owner's right to protest the
 4-65 determination. If the owner does not file a timely protest or if
 4-66 the final determination of the protest is that the additional taxes
 4-67 are due, the assessor for each taxing unit shall prepare and deliver
 4-68 a bill for the additional taxes ~~[and interest]~~ as soon as
 4-69 practicable after the change of use occurs. The taxes ~~[and~~

5-1 ~~interest]~~ are due and become delinquent and incur penalties and
5-2 interest as provided by law for ad valorem taxes imposed by the
5-3 taxing unit if not paid before the next February 1 that is at least
5-4 20 days after the date the bill is delivered to the owner of the
5-5 land.

5-6 SECTION 7. Sections 23.46(c) and (d), Tax Code, as amended
5-7 by this Act, apply only to a sale or diversion to a nonagricultural
5-8 use of land appraised under Subchapter C, Chapter 23, Tax Code, that
5-9 occurs on or after the effective date of this Act.

5-10 SECTION 8. Sections 23.47(c) and (d), Tax Code, as amended
5-11 by this Act, apply only to a loan secured by a lien on land
5-12 designated for agricultural use that is contracted for on or after
5-13 the effective date of this Act.

5-14 SECTION 9. Sections 23.55(a), (b), (e), (f), (m), and (n),
5-15 Tax Code, as amended by this Act, apply only to a change of use of
5-16 land appraised under Subchapter D, Chapter 23, Tax Code, that
5-17 occurs on or after the effective date of this Act.

5-18 SECTION 10. Sections 23.58(c) and (d), Tax Code, as amended
5-19 by this Act, apply only to a loan secured by a lien on open-space
5-20 land that is contracted for on or after the effective date of this
5-21 Act.

5-22 SECTION 11. Sections 23.76(a), (b), and (e), Tax Code, as
5-23 amended by this Act, apply only to a change of use of land appraised
5-24 under Subchapter E, Chapter 23, Tax Code, that occurs on or after
5-25 the effective date of this Act.

5-26 SECTION 12. Sections 23.9807(a), (b), (c), and (f), Tax
5-27 Code, as amended by this Act, apply only to a change of use of land
5-28 appraised under Subchapter H, Chapter 23, Tax Code, that occurs on
5-29 or after the effective date of this Act.

5-30 SECTION 13. This Act takes effect September 1, 2019.

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