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H.B. No. 3833

A BILL TO BE ENTITLED

AN ACT

relating to the appraisal of certain real property for ad valorem
tax purposes.

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

SECTION 1. 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 is or will be [~~was~~] financed under the low
income housing tax credit program under Subchapter DD, Chapter
2306, Government Code, and subject to a land use restriction
agreement under that subchapter;

(3) that does not receive an exemption under Section
11.182 or 11.1825; and

(4) the owner of which has not entered into an
agreement with any taxing unit to make payments to the taxing unit
instead of taxes on the property.

(b) In appraising property that is under construction or

1 that has not reached stabilized occupancy on January 1 of the tax
2 year in which the property is appraised, the [The] chief appraiser
3 shall determine the value of [appraise] the property in the manner
4 provided by Section 11.1825(q) using the property's projected
5 income and expenses for the first full year of operation as
6 established and utilized in the underwriting report pertaining to
7 the property prepared by the Texas Department of Housing and
8 Community Affairs under Subchapter DD, Chapter 2306, Government
9 Code, and adjust that value as provided by this subsection to
10 determine the appraised value of the property. For a property under
11 construction on January 1, the chief appraiser shall adjust the
12 value to reflect the percentage of the construction that is
13 complete on January 1. For a property on which construction is
14 complete but that has not reached stabilized occupancy on January
15 1, the chief appraiser shall adjust the value to reflect the actual
16 occupancy of the property on January 1. For purposes of this
17 subsection, a property is not considered to be under construction
18 if the purpose of the work being performed on the property is the
19 maintenance or rehabilitation of the property.

20 (c) In appraising property for the first tax year following
21 the year in which construction on the property is complete and
22 occupancy of the property has stabilized and any tax year
23 subsequent to that year, the chief appraiser shall determine the
24 appraised value of the property in the manner provided by Section
25 11.1825(q).

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

1 (a) If the use of land that has been appraised as provided by
2 this subchapter changes, an additional tax is imposed on the land
3 equal to the difference between the taxes imposed on the land for
4 each of the three years preceding the year in which the change of
5 use occurs that the land was appraised as provided by this
6 subchapter and the tax that would have been imposed had the land
7 been taxed on the basis of market value in each of those years[~~7~~
8 ~~plus interest at an annual rate of five percent calculated from the~~
9 ~~dates on which the differences would have become due]. For purposes~~
10 of this subsection, the chief appraiser may not consider any period
11 during which land is owned by the state in determining whether a
12 change in the use of the land has occurred.

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

18 (e) Subject to Section 23.551, a determination that a change
19 in use of the land has occurred is made by the chief appraiser. The
20 chief appraiser shall deliver a notice of the determination to the
21 owner of the land as soon as possible after making the determination
22 and shall include in the notice an explanation of the owner's right
23 to protest the determination. If the owner does not file a timely
24 protest or if the final determination of the protest is that the
25 additional taxes are due, the assessor for each taxing unit shall
26 prepare and deliver a bill for the additional taxes [~~plus interest~~]
27 as soon as practicable. The taxes [~~and interest~~] are due and

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

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

7 (1) a sale for right-of-way;

8 (2) a condemnation;

9 (3) a transfer of the property to the state or a
10 political subdivision of the state to be used for a public purpose;
11 or

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

24 (m) For purposes of determining whether a transfer of land
25 qualifies for the exemption from additional taxes provided by
26 Subsection (f)(4), on an application of the entity transferring or
27 proposing to transfer the land or of the individual or entity to

1 which the land is transferred or proposed to be transferred, the
2 comptroller shall determine the amount of taxes and other revenues
3 likely to be generated as a result of the economic development for
4 deposit in the general revenue fund during the next two fiscal
5 bienniums. If the comptroller determines that the amount of those
6 revenues is likely to equal or exceed 20 times the amount of
7 additional taxes [~~and interest~~] that would be imposed under
8 Subsection (a) if the sanctions provided by that subsection applied
9 to the transfer, the comptroller shall issue a letter to the
10 applicant stating the comptroller's determination and shall send a
11 copy of the letter by regular mail to the chief appraiser.

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

26 SECTION 3. Sections 23.58(c) and (d), Tax Code, are amended
27 to read as follows:

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

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

12 (2) requires the escrow account to bear interest to be
13 credited to the account monthly;

14 (3) permits the lender to apply money in the escrow
15 account to the payment of a bill for additional taxes [~~and interest~~]
16 under Section 23.55 before the loan is paid and requires the lender
17 to refund the balance remaining in the escrow account after the bill
18 is paid to the borrower; and

19 (4) requires the lender to refund the money in the
20 escrow account to the borrower on the payment of the loan.

21 (d) On the request of the borrower or the borrower's
22 representative, the assessor for each taxing unit shall compute the
23 additional taxes [~~and interest~~] that would be due that taxing unit
24 under Section 23.55 if a change of use occurred on January 1 of the
25 year in which the loan is granted or amended. The assessor may
26 charge a reasonable fee not to exceed the actual cost of making the
27 computation.

1 SECTION 4. Sections 23.76(a), (b), and (e), Tax Code, are
2 amended to read as follows:

3 (a) If the use of land that has been appraised as provided by
4 this subchapter changes, an additional tax is imposed on the land
5 equal to the difference between the taxes imposed on the land for
6 each of the three years preceding the year in which the change of
7 use occurs that the land was appraised as provided by this
8 subchapter and the tax that would have been imposed had the land
9 been taxed on the basis of market value in each of those years[
10 ~~plus interest at an annual rate of five percent calculated from the~~
11 ~~dates on which the differences would have become due].~~

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

17 (e) A determination that a change in use of the land has
18 occurred is made by the chief appraiser. The chief appraiser shall
19 deliver a notice of the determination to the owner of the land as
20 soon as possible after making the determination and shall include
21 in the notice an explanation of the owner's right to protest the
22 determination. If the owner does not file a timely protest or if
23 the final determination of the protest is that the additional taxes
24 are due, the assessor for each taxing unit shall prepare and deliver
25 a bill for the additional taxes [~~and interest~~] as soon as
26 practicable after the change of use occurs. The taxes [~~and~~
27 ~~interest~~] are due and become delinquent and incur penalties and

1 interest as provided by law for ad valorem taxes imposed by the
2 taxing unit if not paid before the next February 1 that is at least
3 20 days after the date the bill is delivered to the owner of the
4 land.

5 SECTION 5. Sections 23.86(a) and (b), Tax Code, are amended
6 to read as follows:

7 (a) If land that has been appraised under this subchapter is
8 no longer subject to a deed restriction or is diverted to a use
9 other than recreational, park, or scenic uses, an additional tax is
10 imposed on the land equal to the difference between the taxes
11 imposed on the land for each of the three [~~five~~] years preceding the
12 year in which the change of use occurs or the deed restriction
13 expires that the land was appraised as provided by this subchapter
14 and the tax that would have been imposed had the land not been
15 restricted to recreational, park, or scenic uses in each of those
16 years [~~, plus interest at an annual rate of seven percent calculated~~
17 ~~from the dates on which the differences would have become due~~].

18 (b) A tax lien attaches to the land on the date the change of
19 use occurs or the deed restriction expires to secure payment of the
20 additional tax [~~and interest~~] imposed by this section and any
21 penalties and interest incurred if the tax becomes delinquent. The
22 lien exists in favor of all taxing units for which the additional
23 tax is imposed.

24 SECTION 6. Sections 23.96(a) and (b), Tax Code, are amended
25 to read as follows:

26 (a) If airport property that has been appraised under this
27 subchapter is no longer subject to a deed restriction, an

1 additional tax is imposed on the property equal to the difference
 2 between the taxes imposed on the property for each of the three
 3 [~~five~~] years preceding the year in which the deed restriction
 4 expires that the property was appraised as provided by this
 5 subchapter and the tax that would have been imposed had the property
 6 not been restricted to use as public access airport property in each
 7 of those years [~~, plus interest at an annual rate of seven percent~~
 8 ~~calculated from the dates on which the differences would have~~
 9 ~~become due~~].

10 (b) A tax lien attaches to the property on the date the deed
 11 restriction expires to secure payment of the additional tax [~~and~~
 12 ~~interest~~] imposed by this section and any penalties and interest
 13 incurred if the tax becomes delinquent. The lien exists in favor of
 14 all taxing units for which the additional tax is imposed.

15 SECTION 7. Sections 23.9807(a), (b), (c), and (f), Tax
 16 Code, are amended to read as follows:

17 (a) If the use of land that has been appraised as provided by
 18 this subchapter changes to a use that qualifies the land for
 19 appraisal under Subchapter E, an additional tax is imposed on the
 20 land equal to [~~the sum of:~~

21 [~~(1)~~] the difference between:

22 (1) [~~(A)~~] the taxes imposed on the land for each of the
 23 three [~~five~~] years preceding the year in which the change of use
 24 occurs that the land was appraised as provided by this subchapter;
 25 and

26 (2) [~~(B)~~] the taxes that would have been imposed had
 27 the land been appraised under Subchapter E in each of those years[+

1 and

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

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

9 ~~[(1)]~~ the difference between:

10 (1) ~~[(A)]~~ the taxes imposed on the land for each of the
11 three ~~[five]~~ years preceding the year in which the change of use
12 occurs that the land was appraised as provided by this subchapter;
13 and

14 (2) ~~[(B)]~~ the taxes that would have been imposed had
15 the land been taxed on the basis of market value in each of those
16 years~~, and~~

17 ~~[(2) interest at an annual rate of seven percent~~
18 ~~calculated from the dates on which the differences would have~~
19 ~~become due].~~

20 (c) A tax lien attaches to the land on the date the change of
21 use occurs to secure payment of the additional tax ~~[and interest]~~
22 imposed by this section and any penalties and interest incurred if
23 the tax becomes delinquent. The lien exists in favor of all taxing
24 units for which the additional tax is imposed.

25 (f) A determination that a change in use of the land has
26 occurred is made by the chief appraiser. The chief appraiser shall
27 deliver a notice of the determination to the owner of the land as

1 soon as possible after making the determination and shall include
2 in the notice an explanation of the owner's right to protest the
3 determination. If the owner does not file a timely protest or if
4 the final determination of the protest is that the additional taxes
5 are due, the assessor for each taxing unit shall prepare and deliver
6 a bill for the additional taxes [~~and interest~~] as soon as
7 practicable after the change of use occurs. The taxes [~~and~~
8 ~~interest~~] are due and become delinquent and incur penalties and
9 interest as provided by law for ad valorem taxes imposed by the
10 taxing unit if not paid before the next February 1 that is at least
11 20 days after the date the bill is delivered to the owner of the
12 land.

13 SECTION 8. The change in law made by Section 23.215, Tax
14 Code, as amended by this Act, applies only to an ad valorem tax year
15 that begins on or after January 1, 2022.

16 SECTION 9. Section 23.55, Tax Code, as amended by this Act,
17 applies only to a change of use of land appraised under Subchapter
18 D, Chapter 23, Tax Code, that occurs on or after the effective date
19 of this Act.

20 SECTION 10. Section 23.58, Tax Code, as amended by this Act,
21 applies only to a loan secured by a lien on open-space land that is
22 contracted for on or after the effective date of this Act.

23 SECTION 11. Section 23.76, Tax Code, as amended by this Act,
24 applies only to a change of use of land appraised under Subchapter
25 E, Chapter 23, Tax Code, that occurs on or after the effective date
26 of this Act.

27 SECTION 12. Section 23.86, Tax Code, as amended by this Act,

1 applies only to a change of use of land appraised under Subchapter
2 F, Chapter 23, Tax Code, that occurs on or after the effective date
3 of this Act.

4 SECTION 13. Section 23.96, Tax Code, as amended by this Act,
5 applies only to a change of use of land appraised under Subchapter
6 G, Chapter 23, Tax Code, that occurs on or after the effective date
7 of this Act.

8 SECTION 14. Section 23.9807, Tax Code, as amended by this
9 Act, applies only to a change of use of land appraised under
10 Subchapter H, Chapter 23, Tax Code, that occurs on or after the
11 effective date of this Act.

12 SECTION 15. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2021.