

1-1 By: King of Parker, et al. H.B. No. 3833
 1-2 (Senate Sponsor - Hancock)
 1-3 (In the Senate - Received from the House May 10, 2021;
 1-4 May 12, 2021, read first time and referred to Committee on Local
 1-5 Government; May 20, 2021, reported favorably by the following
 1-6 vote: Yeas 6, Nays 0; May 20, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14			X	
1-15	X			
1-16	X			
1-17			X	

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the appraisal of certain real property for ad valorem
 1-21 tax purposes.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 23.215, Tax Code, is amended to read as
 1-24 follows:

1-25 Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED
 1-26 FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) This section
 1-27 applies only to real property owned by an organization:

1-28 (1) for the purpose of renting the property [~~that on~~
 1-29 ~~the effective date of this section was rented~~] to a low-income or
 1-30 moderate-income individual or family satisfying the organization's
 1-31 income eligibility requirements [~~and that continues to be used for~~
 1-32 ~~that purpose~~];

1-33 (2) that is or will be [~~was~~] financed under the low
 1-34 income housing tax credit program under Subchapter DD, Chapter
 1-35 2306, Government Code, and subject to a land use restriction
 1-36 agreement under that subchapter;

1-37 (3) that does not receive an exemption under Section
 1-38 11.182 or 11.1825; and

1-39 (4) the owner of which has not entered into an
 1-40 agreement with any taxing unit to make payments to the taxing unit
 1-41 instead of taxes on the property.

1-42 (b) In appraising property that is under construction or
 1-43 that has not reached stabilized occupancy on January 1 of the tax
 1-44 year in which the property is appraised, the [~~The~~] chief appraiser
 1-45 shall determine the value of [~~appraise~~] the property in the manner
 1-46 provided by Section 11.1825(q) using the property's projected
 1-47 income and expenses for the first full year of operation as
 1-48 established and utilized in the underwriting report pertaining to
 1-49 the property prepared by the Texas Department of Housing and
 1-50 Community Affairs under Subchapter DD, Chapter 2306, Government
 1-51 Code, and adjust that value as provided by this subsection to
 1-52 determine the appraised value of the property. For a property under
 1-53 construction on January 1, the chief appraiser shall adjust the
 1-54 value to reflect the percentage of the construction that is
 1-55 complete on January 1. For a property on which construction is
 1-56 complete but that has not reached stabilized occupancy on January
 1-57 1, the chief appraiser shall adjust the value to reflect the actual
 1-58 occupancy of the property on January 1. For purposes of this
 1-59 subsection, a property is not considered to be under construction
 1-60 if the purpose of the work being performed on the property is the
 1-61 maintenance or rehabilitation of the property.

2-1 (c) In appraising property for the first tax year following
 2-2 the year in which construction on the property is complete and
 2-3 occupancy of the property has stabilized and any tax year
 2-4 subsequent to that year, the chief appraiser shall determine the
 2-5 appraised value of the property in the manner provided by Section
 2-6 11.1825(g).

2-7 SECTION 2. Sections 23.55(a), (b), (e), (f), (m), and (n),
 2-8 Tax Code, are amended to read as follows:

2-9 (a) If the use of land that has been appraised as provided by
 2-10 this subchapter changes, an additional tax is imposed on the land
 2-11 equal to the difference between the taxes imposed on the land for
 2-12 each of the three years preceding the year in which the change of
 2-13 use occurs that the land was appraised as provided by this
 2-14 subchapter and the tax that would have been imposed had the land
 2-15 been taxed on the basis of market value in each of those years[~~7~~
 2-16 ~~plus interest at an annual rate of five percent calculated from the~~
 2-17 ~~dates on which the differences would have become due]. For purposes~~
 2-18 of this subsection, the chief appraiser may not consider any period
 2-19 during which land is owned by the state in determining whether a
 2-20 change in the use of the land has occurred.

2-21 (b) A tax lien attaches to the land on the date the change of
 2-22 use occurs to secure payment of the additional tax [~~and interest~~]
 2-23 imposed by this section and any penalties and interest incurred if
 2-24 the tax becomes delinquent. The lien exists in favor of all taxing
 2-25 units for which the additional tax is imposed.

2-26 (e) Subject to Section 23.551, a determination that a change
 2-27 in use of the land has occurred is made by the chief appraiser. The
 2-28 chief appraiser shall deliver a notice of the determination to the
 2-29 owner of the land as soon as possible after making the determination
 2-30 and shall include in the notice an explanation of the owner's right
 2-31 to protest the determination. If the owner does not file a timely
 2-32 protest or if the final determination of the protest is that the
 2-33 additional taxes are due, the assessor for each taxing unit shall
 2-34 prepare and deliver a bill for the additional taxes [~~plus interest~~]
 2-35 as soon as practicable. The taxes [~~and interest~~] are due and
 2-36 become delinquent and incur penalties and interest as provided by
 2-37 law for ad valorem taxes imposed by the taxing unit if not paid
 2-38 before the next February 1 that is at least 20 days after the date
 2-39 the bill is delivered to the owner of the land.

2-40 (f) The sanctions provided by Subsection (a) [~~of this~~
 2-41 ~~section~~] do not apply if the change of use occurs as a result of:

2-42 (1) a sale for right-of-way;
 2-43 (2) a condemnation;
 2-44 (3) a transfer of the property to the state or a
 2-45 political subdivision of the state to be used for a public purpose;
 2-46 or

2-47 (4) a transfer of the property from the state, a
 2-48 political subdivision of the state, or a nonprofit corporation
 2-49 created by a municipality with a population of more than one million
 2-50 under the Development Corporation Act (Subtitle C1, Title 12, Local
 2-51 Government Code) to an individual or a business entity for purposes
 2-52 of economic development if the comptroller determines that the
 2-53 economic development is likely to generate for deposit in the
 2-54 general revenue fund during the next two fiscal bienniums an amount
 2-55 of taxes and other revenues that equals or exceeds 20 times the
 2-56 amount of additional taxes [~~and interest~~] that would have been
 2-57 imposed under Subsection (a) had the sanctions provided by that
 2-58 subsection applied to the transfer.

2-59 (m) For purposes of determining whether a transfer of land
 2-60 qualifies for the exemption from additional taxes provided by
 2-61 Subsection (f)(4), on an application of the entity transferring or
 2-62 proposing to transfer the land or of the individual or entity to
 2-63 which the land is transferred or proposed to be transferred, the
 2-64 comptroller shall determine the amount of taxes and other revenues
 2-65 likely to be generated as a result of the economic development for
 2-66 deposit in the general revenue fund during the next two fiscal
 2-67 bienniums. If the comptroller determines that the amount of those
 2-68 revenues is likely to equal or exceed 20 times the amount of
 2-69 additional taxes [~~and interest~~] that would be imposed under

3-1 Subsection (a) if the sanctions provided by that subsection applied
 3-2 to the transfer, the comptroller shall issue a letter to the
 3-3 applicant stating the comptroller's determination and shall send a
 3-4 copy of the letter by regular mail to the chief appraiser.

3-5 (n) Within one year of the conclusion of the two fiscal
 3-6 bienniums for which the comptroller issued a letter as provided
 3-7 under Subsection (m), the board of directors of the appraisal
 3-8 district, by official board action, may direct the chief appraiser
 3-9 to request the comptroller to determine if the amount of revenues
 3-10 was equal to or exceeded 20 times the amount of taxes [~~and interest~~]
 3-11 that would have been imposed under Subsection (a). The comptroller
 3-12 shall issue a finding as to whether the amount of revenue met the
 3-13 projected increases. The chief appraiser shall review the results
 3-14 of the comptroller's finding and shall make a determination as to
 3-15 whether sanctions under Subsection (a) should be imposed. If the
 3-16 chief appraiser determines that the sanctions provided by
 3-17 Subsection (a) shall be imposed, the sanctions shall be based on the
 3-18 date of the transfer of the property under Subsection (f)(4).

3-19 SECTION 3. Sections 23.58(c) and (d), Tax Code, are amended
 3-20 to read as follows:

3-21 (c) A provision in an instrument pertaining to a loan
 3-22 secured by a lien in favor of the lender on land appraised according
 3-23 to this subchapter that requires the borrower to make a payment to
 3-24 protect the lender from loss because of the imposition of
 3-25 additional taxes [~~and interest~~] under Section 23.55 is void unless
 3-26 the provision:

3-27 (1) requires the borrower to pay into an escrow
 3-28 account established by the lender an amount equal to the additional
 3-29 taxes [~~and interest~~] that would be due under Section 23.55 if a
 3-30 change of use occurred on January 1 of the year in which the loan is
 3-31 granted or amended;

3-32 (2) requires the escrow account to bear interest to be
 3-33 credited to the account monthly;

3-34 (3) permits the lender to apply money in the escrow
 3-35 account to the payment of a bill for additional taxes [~~and interest~~]
 3-36 under Section 23.55 before the loan is paid and requires the lender
 3-37 to refund the balance remaining in the escrow account after the bill
 3-38 is paid to the borrower; and

3-39 (4) requires the lender to refund the money in the
 3-40 escrow account to the borrower on the payment of the loan.

3-41 (d) On the request of the borrower or the borrower's
 3-42 representative, the assessor for each taxing unit shall compute the
 3-43 additional taxes [~~and interest~~] that would be due that taxing unit
 3-44 under Section 23.55 if a change of use occurred on January 1 of the
 3-45 year in which the loan is granted or amended. The assessor may
 3-46 charge a reasonable fee not to exceed the actual cost of making the
 3-47 computation.

3-48 SECTION 4. Sections 23.76(a), (b), and (e), Tax Code, are
 3-49 amended to read as follows:

3-50 (a) If the use of land that has been appraised as provided by
 3-51 this subchapter changes, an additional tax is imposed on the land
 3-52 equal to the difference between the taxes imposed on the land for
 3-53 each of the three years preceding the year in which the change of
 3-54 use occurs that the land was appraised as provided by this
 3-55 subchapter and the tax that would have been imposed had the land
 3-56 been taxed on the basis of market value in each of those years [~~plus interest at an annual rate of five percent calculated from the~~
 3-57 ~~dates on which the differences would have become due~~].

3-59 (b) A tax lien attaches to the land on the date the change of
 3-60 use occurs to secure payment of the additional tax [~~and interest~~]
 3-61 imposed by this section and any penalties and interest incurred if
 3-62 the tax becomes delinquent. The lien exists in favor of all taxing
 3-63 units for which the additional tax is imposed.

3-64 (e) A determination that a change in use of the land has
 3-65 occurred is made by the chief appraiser. The chief appraiser shall
 3-66 deliver a notice of the determination to the owner of the land as
 3-67 soon as possible after making the determination and shall include
 3-68 in the notice an explanation of the owner's right to protest the
 3-69 determination. If the owner does not file a timely protest or if

4-1 the final determination of the protest is that the additional taxes
 4-2 are due, the assessor for each taxing unit shall prepare and deliver
 4-3 a bill for the additional taxes [~~and interest~~] as soon as
 4-4 practicable after the change of use occurs. The taxes [~~and~~
 4-5 ~~interest~~] are due and become delinquent and incur penalties and
 4-6 interest as provided by law for ad valorem taxes imposed by the
 4-7 taxing unit if not paid before the next February 1 that is at least
 4-8 20 days after the date the bill is delivered to the owner of the
 4-9 land.

4-10 SECTION 5. Sections 23.86(a) and (b), Tax Code, are amended
 4-11 to read as follows:

4-12 (a) If land that has been appraised under this subchapter is
 4-13 no longer subject to a deed restriction or is diverted to a use
 4-14 other than recreational, park, or scenic uses, an additional tax is
 4-15 imposed on the land equal to the difference between the taxes
 4-16 imposed on the land for each of the three [~~five~~] years preceding the
 4-17 year in which the change of use occurs or the deed restriction
 4-18 expires that the land was appraised as provided by this subchapter
 4-19 and the tax that would have been imposed had the land not been
 4-20 restricted to recreational, park, or scenic uses in each of those
 4-21 years[~~, plus interest at an annual rate of seven percent calculated~~
 4-22 ~~from the dates on which the differences would have become due~~].

4-23 (b) A tax lien attaches to the land on the date the change of
 4-24 use occurs or the deed restriction expires to secure payment of the
 4-25 additional tax [~~and interest~~] imposed by this section and any
 4-26 penalties and interest incurred if the tax becomes delinquent. The
 4-27 lien exists in favor of all taxing units for which the additional
 4-28 tax is imposed.

4-29 SECTION 6. Sections 23.96(a) and (b), Tax Code, are amended
 4-30 to read as follows:

4-31 (a) If airport property that has been appraised under this
 4-32 subchapter is no longer subject to a deed restriction, an
 4-33 additional tax is imposed on the property equal to the difference
 4-34 between the taxes imposed on the property for each of the three
 4-35 [~~five~~] years preceding the year in which the deed restriction
 4-36 expires that the property was appraised as provided by this
 4-37 subchapter and the tax that would have been imposed had the property
 4-38 not been restricted to use as public access airport property in each
 4-39 of those years[~~, plus interest at an annual rate of seven percent~~
 4-40 ~~calculated from the dates on which the differences would have~~
 4-41 ~~become due~~].

4-42 (b) A tax lien attaches to the property on the date the deed
 4-43 restriction expires to secure payment of the additional tax [~~and~~
 4-44 ~~interest~~] imposed by this section and any penalties and interest
 4-45 incurred if the tax becomes delinquent. The lien exists in favor of
 4-46 all taxing units for which the additional tax is imposed.

4-47 SECTION 7. Sections 23.9807(a), (b), (c), and (f), Tax
 4-48 Code, are amended to read as follows:

4-49 (a) If the use of land that has been appraised as provided by
 4-50 this subchapter changes to a use that qualifies the land for
 4-51 appraisal under Subchapter E, an additional tax is imposed on the
 4-52 land equal to [~~the sum of:~~

4-53 [~~(1)~~] the difference between:

4-54 (1) [~~(A)~~] the taxes imposed on the land for each of the
 4-55 three [~~five~~] years preceding the year in which the change of use
 4-56 occurs that the land was appraised as provided by this subchapter;
 4-57 and

4-58 (2) [~~(B)~~] the taxes that would have been imposed had
 4-59 the land been appraised under Subchapter E in each of those years[~~+~~
 4-60 ~~and~~

4-61 [~~(2) interest at an annual rate of seven percent~~
 4-62 ~~calculated from the dates on which the differences would have~~
 4-63 ~~become due~~].

4-64 (b) If the use of land that has been appraised as provided by
 4-65 this subchapter changes to a use that does not qualify the land for
 4-66 appraisal under Subchapter E or under this subchapter, an
 4-67 additional tax is imposed on the land equal to [~~the sum of:~~

4-68 [~~(1)~~] the difference between:

4-69 (1) [~~(A)~~] the taxes imposed on the land for each of the

5-1 three [~~five~~] years preceding the year in which the change of use
 5-2 occurs that the land was appraised as provided by this subchapter;
 5-3 and

5-4 (2) [~~(B)~~] the taxes that would have been imposed had
 5-5 the land been taxed on the basis of market value in each of those
 5-6 years [~~, and~~
 5-7 [~~(2) interest at an annual rate of seven percent~~
 5-8 ~~calculated from the dates on which the differences would have~~
 5-9 ~~become due]~~.

5-10 (c) A tax lien attaches to the land on the date the change of
 5-11 use occurs to secure payment of the additional tax [~~and interest~~]
 5-12 imposed by this section and any penalties and interest incurred if
 5-13 the tax becomes delinquent. The lien exists in favor of all taxing
 5-14 units for which the additional tax is imposed.

5-15 (f) A determination that a change in use of the land has
 5-16 occurred is made by the chief appraiser. The chief appraiser shall
 5-17 deliver a notice of the determination to the owner of the land as
 5-18 soon as possible after making the determination and shall include
 5-19 in the notice an explanation of the owner's right to protest the
 5-20 determination. If the owner does not file a timely protest or if
 5-21 the final determination of the protest is that the additional taxes
 5-22 are due, the assessor for each taxing unit shall prepare and deliver
 5-23 a bill for the additional taxes [~~and interest~~] as soon as
 5-24 practicable after the change of use occurs. The taxes [~~and~~
 5-25 ~~interest~~] are due and become delinquent and incur penalties and
 5-26 interest as provided by law for ad valorem taxes imposed by the
 5-27 taxing unit if not paid before the next February 1 that is at least
 5-28 20 days after the date the bill is delivered to the owner of the
 5-29 land.

5-30 SECTION 8. The change in law made by Section 23.215, Tax
 5-31 Code, as amended by this Act, applies only to an ad valorem tax year
 5-32 that begins on or after January 1, 2022.

5-33 SECTION 9. Section 23.55, Tax Code, as amended by this Act,
 5-34 applies only to a change of use of land appraised under Subchapter
 5-35 D, Chapter 23, Tax Code, that occurs on or after the effective date
 5-36 of this Act.

5-37 SECTION 10. Section 23.58, Tax Code, as amended by this Act,
 5-38 applies only to a loan secured by a lien on open-space land that is
 5-39 contracted for on or after the effective date of this Act.

5-40 SECTION 11. Section 23.76, Tax Code, as amended by this Act,
 5-41 applies only to a change of use of land appraised under Subchapter
 5-42 E, Chapter 23, Tax Code, that occurs on or after the effective date
 5-43 of this Act.

5-44 SECTION 12. Section 23.86, Tax Code, as amended by this Act,
 5-45 applies only to a change of use of land appraised under Subchapter
 5-46 F, Chapter 23, Tax Code, that occurs on or after the effective date
 5-47 of this Act.

5-48 SECTION 13. Section 23.96, Tax Code, as amended by this Act,
 5-49 applies only to a change of use of land appraised under Subchapter
 5-50 G, Chapter 23, Tax Code, that occurs on or after the effective date
 5-51 of this Act.

5-52 SECTION 14. Section 23.9807, Tax Code, as amended by this
 5-53 Act, applies only to a change of use of land appraised under
 5-54 Subchapter H, Chapter 23, Tax Code, that occurs on or after the
 5-55 effective date of this Act.

5-56 SECTION 15. This Act takes effect immediately if it
 5-57 receives a vote of two-thirds of all the members elected to each
 5-58 house, as provided by Section 39, Article III, Texas Constitution.
 5-59 If this Act does not receive the vote necessary for immediate
 5-60 effect, this Act takes effect September 1, 2021.

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