

BILL ANALYSIS

C.S.H.B. 27
By: Springer
Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, certain retailers have recently argued in court that first-generation stores are equivalent in value to vacant buildings, or "dark stores," for property tax appraisal value purposes. The parties report that this "dark store" approach may not be considered a generally accepted appraisal technique and may contradict existing appraisal requirements. The parties contend that a legislative adjustment would clarify the issue and aid in ensuring that all property in the state is appraised using generally accepted appraisal standards and techniques. C.S.H.B. 27 seeks to provide for that adjustment as it relates to the consideration of the use of certain property or a comparable property when appraising property.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 27 amends the Tax Code to require a property in an appeal of an appraisal review board order regarding real property used for retail purposes brought under certain law to have the same highest and best use as the subject property to be considered a comparable property. The bill prohibits a use restriction on the subject property that prohibits the continuation of the current use of the property, or prohibits a competitive use of the property, by a subsequent owner or tenant from being considered in the determination of the property's highest and best use. This prohibition expressly does not apply to a use restriction imposed or enforceable by a governmental entity.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 27 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 23.01, Tax Code, is amended by adding Subsections (h), (i), and (j) to read as follows:

(h) Except as provided by Subsection (d), a property must have the same highest and best use as the subject property to be considered a comparable property.

(i) A use restriction on property that prohibits the continuation of the current use of the property, or prohibits a competitive use of the property, by a subsequent owner may not be considered in the determination of the property's highest and best use.

(j) Except as provided by Subsection (d), the determination of the market value of property must include consideration of whether the highest and best use of the property is the continuation of the current use of the property.

SECTION 2. This Act applies only to the appraisal of property for a tax year beginning on or after the effective date of this Act.

SECTION 3. This Act takes effect January 1, 2018.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 23, Tax Code, is amended by adding Section 23.04 to read as follows:

Sec. 23.04. CONSIDERATION OF USE OF RETAIL PROPERTY ON APPEAL. (a) This section applies only to an appeal of an appraisal review board order regarding real property used for retail purposes brought under Chapter 41A or 42 of this code or Subchapter Z, Chapter 2003, Government Code.

(b) A property must have the same highest and best use as the subject property to be considered a comparable property.

(c) Notwithstanding Section 23.013, a use restriction on the subject property that prohibits the continuation of the current use of the property, or prohibits a competitive use of the property, by a subsequent owner or tenant may not be considered in the determination of the property's highest and best use. This subsection does not apply to a use restriction imposed or enforceable by a governmental entity.

SECTION 2. The changes in law made by this Act apply only to an appeal under Chapter 41A or 42, Tax Code, or Subchapter Z, Chapter 2003, Government Code, that is filed on or after the effective date of this Act. An appeal under Chapter 41A or 42, Tax Code, or Subchapter Z, Chapter 2003, Government Code, that is filed before the effective date of this Act is governed by the law in effect on the date the appeal is filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.