

SUBJECT: Allowing agricultural valuation to continue after land transfer to relatives

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Burrows, Bohac, Cole, Martinez Fischer, Murphy, Noble,
Sanford, Shaheen, Wray

0 nays

2 absent — Guillen, E. Rodriguez

WITNESSES: For — (*Registered, but did not testify*: David Glenn, Home Builders Association of Greater Austin; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Scott Norman, Texas Association of Builders; Ray Head, Texas Association of Property Tax Professionals; Daniel Gonzalez and Julia Parenteau, Texas Realtors)

Against — None

BACKGROUND: Tax Code sec. 23.54 requires individuals claiming that their land is eligible for appraisal as agricultural land to file a valid application with the chief appraiser. Once an application is approved, the land is eligible for appraisal in subsequent years without a new application unless the ownership of the land changes or the land's eligibility ends.

Government Code ch. 573 states that two individuals are related to each other by consanguinity if one is the descendant of the other or they share a common ancestor. Adopted children are considered to be the children of their adoptive parents for this purpose. Under this statute, a married couple are related in the first degree by affinity. If two individuals are related to each other in the second degree by consanguinity, the spouse of one individual is related to the other in the second degree by affinity.

DIGEST: HB 1188 would allow land to remain eligible for appraisal as agricultural land after a change in ownership of the land resulting from a transfer from the former owner to a person related to the former owner within the

second degree by affinity or third degree by consanguinity. A person who was transferred agricultural land from a relative would have to notify the appraisal office in writing within 180 days of transfer.

The appraisal review board could direct changes in the appraisal roll and order the appraised value of land in either of the two preceding tax years to be changed to the value at which the land would have been appraised if:

- the chief appraiser or property owner demonstrated by clear and convincing evidence that the land was appraised as agricultural land for three of the five preceding tax years;
- the land was ineligible for appraisal as agricultural land for a year or years for which the change in appraised value was sought due to a failure to file a new application after a change in ownership;
- the change in ownership was the result of a transfer of the land from a person to a relative; and
- the land otherwise qualified as agricultural land.

If an appraisal roll was changed, the property owner would be required to pay to each affected taxing unit a penalty equal to 10 percent of the difference between the amount of tax imposed and the amount that would have been imposed at market value. Payment of the penalty would be secured by the lien attached to the land and would be subject to enforced collection.

An appraisal roll could not be changed if the land was the subject of a protest brought by the property owner or if the appraised value of the land was established as a result of a written agreement between the property owner and the appraisal district.

The bill would take effect January 1, 2020.

**SUPPORTERS
SAY:**

HB 1188 would ease the burden on families seeking to transfer qualified land between family members. Currently, a new application for appraisal is required when there is a change in ownership of land qualified as agricultural land for appraisal purposes. If an application is not submitted

in a timely manner, the property owner could lose the eligibility of the land to be appraised as agricultural.

This requirement for a new application is a hardship on families and an administrative burden on appraisal districts. Land transfers to relatives often occur when a person passes away, and this application further burdens families during their time of grief. HB 1188 would provide specificity as to who constituted a family member, and would put the burden of proof on the property owner to prove that the agricultural use of the land had not changed and that the land was transferred to a relative.

OPPONENTS
SAY:

No concerns identified.