BILL ANALYSIS

Senate Research Center
80R4487 JD-D

S.B. 348
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Finance
3/14/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Tax Code limits the average annual percentage increase in appraisal of residential homestead property to the sum of 10 percent of the appraised value of the property times the number of years since the property was last appraised. However, this appraisal cap does not apply to all residential property. As a result, secondary residential properties are unprotected from annual appraisal increases. The effects of this practice are thought to be negative on Texas homeowners and to be suppressive to the state's housing market.

As proposed, S.B. 348 applies the existing 10 percent cap to all residential property and creates an application process for homeowners to follow.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.12(d), Tax Code, by providing that the appraisal ratio of other real property to which Section 23.231 applies is the ratio of the proeprty's market value as determined by the appraisal district or review board to the market value of the property, according to law. Makes a conforming change.

SECTION 2. Amends Subchapter B, Chapter 23, Tax Code, by adding Section 23.231, as follows:

> Sec. 23.231. LIMITATION ON APPRAISED VALUE OF REAL PROPERTY OTHER THAN RESIDENCE HOMESTEAD OR CERTAIN OTHER PROPERTY. (a) Provides that this section does not apply to a residence homestead that qualifies for an exemption under Section 11.13 (Residence Homestead), or property appraised using certain appraisal methods or procedures listed under Chapter 23 (Appraisal Methods and Procedures).
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> > (b) Prohibits the appraised value of qualified residential real property (property) for a tax year from exceeding the lesser of the market value of the property or the sum of 10 percent of the appraised value of the property at the time of the property's last appraisal for taxation times the number of years since the property was last appraised, the appraised value of the property at the time of the property's last appraisal, and the market value of all new improvements to the property.
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> > (c) Requires the chief appraiser to appraise property at its market value and to include in the appraisal records both the property's market value and the appraisal value determined in this section.
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> > (d) Provides that application of the limitation of the appraised value of property (limitation) for a parcel of property takes effect on January 1 of the tax year following the first tax year in which the owner owns the property and uses the property primarily for the owner's residential purposes. Provides that the limitation expires, except as provided by Subsection (e), on January 1 of the tax

year following the year that the owner ceases to own the property or ceases to use the property for the owner's residential purposes.

(e) Provides that the limitation on property owned by two or more persons expires on January 1 of the tax year following the year in which the ownership of at least a 50 percent interest is sold or transferred to a person other than those owners.

(f) Defines "new improvement" and "qualified residential real property."

(g) Provides that an improvement to property that would constitute a new improvement, unless otherwise provided by this section, is not to be treated as a new improvement if the improvement is to replace a structure rendered uninhabitable by mold, water damage, or a casualty. Provides that, for the purpose of appraising property in the tax year in which a new improvement was build, the last year in which the property was appraised before the structure was rendered uninhabitable is considered to be the last year in which the property was appraised for taxation purposes, and that the replacement structure is to be considered as a new improvement only to the extent that it is a significant improvement over the previous structure.

(h) Requires a person claiming the limitation established in this section (applicant) to file an application for the limitation (application) with the chief appraiser of the appraisal district. Requires the chief appraiser to accept and to approve or deny the application. Requires separate applications to be filed in each appraisal district to which the property belongs if it is more than one. Provides that the exemption, once granted, does not need to be claimed in subsequent years and applies to the property until the limitation expires or the applicant's qualification for the limitation ends. Authorizes the chief appraiser to require a person allowed a limitation in a prior year to file a new application to confirm the person's qualification by delivering to the person a written notice requiring a new application and the appropriate application form by no later than April 1.

(i) Requires the comptroller of public accounts (comptroller), in prescribing the contents of the form for a limitation under Subsection (b), to ensure that the form used to apply for a limitation requires an applicant to provide information necessary to determine the validity of the limitation claim. Sets forth required forms of personal identification for the form. Requires the comptroller to include a notice that the making or filing an application with false information has prescribed penalties, that the application does not need to be made annually, and that the applicant has a duty to notify the chief appraiser when the applicant's qualification for the limitation ends, if the application is approved. Defines "driver's license" and "personal identification certificate."

(j) Requires a person applying for a limitation for a tax year to apply not later than May 1 of that year. Provides that a person who does not file the application in a timely manner will not receive the exemption, except as otherwise provided by this section.

(k) Requires the chief appraiser to accept and approve or deny an application for a tax year after the filing deadline has passed if the application is filed not later than one year after the delinquency date for property taxes for that tax year. Requires the chief appraiser to notify the collector for each taxing unit in which the property is located (collector) if the application is approved after approval of the appraisal records by the appraisal review board (board). Requires the collector to deduct from the applicant's tax bill the difference between the taxes that would have been due without approval of the limitation and the taxes due after the limitation is in effect. Requires the collector to refund that difference if the property tax has been paid.

(l) Requires a person who receives a limitation under Subsection (b) to notify the appraisal office in writing before May 1 after the person's qualification for the limitation ends.

(m) Provides that this subsection expires January 1, 2012. Provides that, for the purposes of applying the limitation in the first tax year after the 2007 tax year for which the property is appraised for taxation, the property is considered to have been appraised for taxation in the 2007 tax year at a market value equal to appraised value of the property for that tax year, and that a person who acquired property before the 2007 tax year and that the person owns in the 2007 tax year is considered to have acquired the property on January 1, 2007.

SECTION 3. Amends Section 42.26(d), Tax Code, by deleting existing text providing residence homesteads as properties that are either subject to a suit for relief from unequal appraisal or as being used for comparison for similar properties in such a suit, and by including Section 23.231, Tax Code, as a source of limitation on appraised value.

SECTION 4. Amends Sections 403.302(d) and (i), Government Code, as follows:

(d) Redefines "taxable value." Makes a conforming change.

(i) Requires the comptroller to subtract from the market value, as determined by an appraisal district, the amount by which the amount exceeds the appraised value of residence homesteads, rather than properties, calculated by that appraisal district, for both valid and invalid annual studies of market value in a school district. Makes conforming changes.

SECTION 5. Makes application of this Act prospective to a tax year starting on or after the effective date.

SECTION 6. Effective date: January 1, 2008, contingent on approval by the voters of the constitutional amendment authorizing the legislature to limit the maximum average annual increase in the appraised value of certain real property for ad valorem tax purposes to 10 percent or more.