

BILL ANALYSIS

Senate Research Center

H.B. 3454
By: Otto et al. (Williams)
Finance
5/20/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Appraisal districts currently are required to consider characteristics of a property in determining the property's value but are not required to use such property-specific data as income and expense statements in making that determination. The Tax Code provides guidance for appraising property under the income and cost methods of appraisal but provides no such guidance for using the market data comparison method of appraisal. As a result, appraisals vary significantly across appraisal districts, and property owners are faced with an inconsistent and unpredictable system for determining the value of their property for property tax purposes.

H.B. 3454 requires that an appraisal district consider all available evidence that is specific to the value of the property in determining the property's market value.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 5 (Section 41A.031, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 23.01(b), Tax Code, as follows:

(b) Requires that the market value of property be determined by the application of generally accepted appraisal methods and techniques. Requires that the mass appraisal standards, if the appraisal district determines the appraised value of a property using mass appraisal standards, to comply with the Uniform Standards of Professional Appraisal Practice. Requires that the same or similar appraisal methods and techniques be used in appraising the same or similar kinds or property. Requires that each property, however, be appraised based upon the individual characteristics that affect the property's market value and requires that all available evidence that is specific to the value of the property be taken into account in determining the property's market value.

SECTION 2. Amends Section 23.013, Tax Code, as follows:

Sec. 23.013. MARKET DATA COMPARISON METHOD OF APPRAISAL. (a) Creates this subsection from existing text.

(b) Provides that a sale of real property is not considered to be a comparable sale unless the sale occurred within 24 months of the date as of which the market value of the subject property is to be determined and is appropriately adjusted for changes in the market value over the time period between the dates of the sale and the appraisal. Requires that whether a property is comparable to the subject property be determined based on similarities with regard to location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy, and the existence of easements, deed restrictions, or other legal burdens affecting marketability.

SECTION 3. Amends Section 23.24, Tax Code, as follows:

Sec. 23.24. FURNITURE, FIXTURES, AND EQUIPMENT. (a) Creates this subsection from existing text.

(b) Prohibits the chief appraiser, in determining the market value of the real property, from separately appraising or taking into account any personal property valued as a portion of the income of the real property, and requires that the market value of the real property include the combined value of the real property and the personal property.

SECTION 4. (a) Amends Subchapter D, Chapter 23, Tax Code, by adding Section 23.522, as follows:

Sec. 23.522. TEMPORARY CESSATION OF AGRICULTURAL USE DURING DROUGHT. Provides that the eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if a drought declared by the governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production, and the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed when the declared drought ceases.

(b) Provides that Section 23.522, Tax Code, as added by this Act, applies only to the appraisal of land for ad valorem tax purposes for a tax year that begins on or after the effective date of this Act.

SECTION 5. (a) Amends Section 41A.01, Tax Code, as follows:

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. Entitles a property owner, as an alternative to filing an appeal under Section 42.01 (Right of Appeal by Property Owner), to appeal through binding arbitration under this chapter an appraisal review board order determining a protest brought under Section 41.41(a)(1) (relating to the entitlement of a property owner to protest determination of the appraised value of the owner's property or determination of its appraised or market value before the appraisal review board) or (2) (relating to the entitlement of a property owner to protest unequal appraisal of the owner's property before the appraisal review board) concerning the appraised or market value of property, rather than real property, if the appraised or market value, as applicable, of the property as determined by the order is \$1 million or less, rather than if the appraised or market value, as applicable, of the property as determined by the order is \$1 million or less and the appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property. Makes nonsubstantive changes.

(b) Amends Section 41A.03(a), Tax Code, as follows:

(a) Requires a property owner, to appeal an appraisal review board order under this chapter, to file with the appraisal district not later than the 45th day after the date the property owner receives notice of the order an arbitration deposit made payable to the comptroller of public accounts (comptroller) in the amount of \$500, or \$250, if the property owner requests expedited arbitration under Section 41A.031, rather than in the amount of \$500.

(c) Amends Section 41A.03(a), Tax Code, effective September 1, 2012, as follows:

(a) Requires a property owner, to appeal an appraisal review board order under this chapter, to file with the appraisal district not later than the 45th day after the date the property owner receives notice of the order a completed request for binding arbitration under this chapter in the form prescribed by Section 41A.04 (Contents of Request Form), and an arbitration deposit in the amount of \$500, made payable to the comptroller.

(d) Amends Chapter 41A, Tax Code, by adding Section 41A.031, as follows:

Sec. 41A.031. EXPEDITED ARBITRATION. (a) Entitles a property owner to an expedited arbitration if the property owner includes a request for expedited arbitration in the request filed under Section 41A.03 and pays the required deposit.

(b) Requires that an expedited arbitration provide for not more than one hour of argument and testimony on behalf of the property owner and not more than one hour of argument and testimony on behalf of the appraisal district.

(c) Requires the comptroller to adopt rules and processes to assist in the conduct of an expedited arbitration, including rules relating to the evidence required to be produced by each party.

(d) Provides that this section expires September 1, 2012.

(e) Amends Section 41A.08, Tax Code, by adding Subsection (c), as follows:

(c) Requires that the protest in an arbitration proceeding under this chapter brought on the ground of unequal appraisal of property be determined in accordance with Section 42.26(a) (relating to the requirement that the district court, under certain conditions, grant relief on the ground that a property is appraised unequally), except that a party is prohibited from presenting evidence relating to the median level of appraisal or the median appraised value of more than five other properties in the appraisal district.

(f) Makes application of this Act prospective.

(g) Effective date, this section, except as otherwise provided by this section: September 1, 2009.

SECTION 6. Amends Sections 6.15(a) and (b), Tax Code, as follows:

(a) Provides that a member of the board of directors of an appraisal district commits an offense if the member directly or indirectly communicates with the chief appraiser regarding, rather than on any matter relating to, the appraisal of property by the appraisal district, except in an open meeting of the appraisal district board of directors or another public forum or a closed meeting of the board of directors held to consult with the board's attorney about pending litigation, at which the chief appraiser's presence is necessary for full communication between the board and the board's attorney.

(b) Provides that a chief appraiser commits an offense if the chief appraiser directly or indirectly communicates with a member of the board of directors of the appraisal district regarding, rather than on any matter relating to, the appraisal of property by the appraisal district, except in an open meeting of the board of directors or another public forum or a closed meeting of the board of directors held to consult with the board's attorney about pending litigation, at which the chief appraiser's presence is necessary for full communication between the board and the board's attorney.

SECTION 7. Repealer: Section 23.014 (Exclusion of Property as Real Property), Tax Code.

SECTION 8. Provides that this Act applies only to the appraisal of property for a tax year beginning on or after the effective date of this Act.

SECTION 9. Effective date: January 1, 2010.