

- SUBJECT:** Including foreclosed homes in residential homestead property appraisals
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 8 ayes — Oliveira, Otto, Bohac, C. Howard, P. King, Paxton, Peña, Taylor
- 0 nays
- 3 absent — Hartnett, Hilderbran, Villarreal
- WITNESSES:** For — Cheryl Johnson, Galveston County Taxpayers; Robert Kemmey; Morris Whitis; (*Registered, but did not testify:* Michael Sullivan, Texans for Fiscal Responsibility; Sheryl Swift, Galveston County Tax Office; Peggy Venable, Americans for Prosperity).
- Against — None
- On — Jim Robinson, Texas Association of Appraisal Districts
- BACKGROUND:** Sec. 23.01 of the Tax Code describes the appraisal process of real property for taxation purposes. Subsec. (a) requires all taxable property to be appraised at its market value as of January 1st of each year.
- Subsec. (b) requires an appraiser to determine market value by applying generally accepted appraisal methods and techniques. Appraisers must use similar appraisal methods and techniques when valuing similar properties. In addition, each property must be appraised based upon the individual characteristics that affect its value.
- Sec. 1.04(7) of the Tax Code defines "market value" as the price at which a property would sell under prevailing market conditions if:
- (A) the property is for sale on the open market and there is a reasonable time to locate a buyer;
  - (B) both the seller and buyer know of all the potential uses of the property and restrictions on its use; and
  - (C) both the seller and buyer seek to maximize their gains and neither is in a position to take advantage of the other.

Appraisers generally value residential homesteads by examining previous sale prices along with sales of comparable homes in the same area. Appraisers have generally understood the willful and arm's length transaction requirement in sec. 1.04(7)(C) to preclude inclusion of recently foreclosed properties.

**DIGEST:**

HB 1038 would amend the Tax Code to require an appraisal district to include comparable foreclosed and distressed homes when valuing a residential homestead.

HB 1038 would direct appraisers, when valuing a homestead, to consider the value of properties that were foreclosed upon during the prior three years and were comparable to the homestead at the time of the foreclosure sale. Appraisers also would have to include those distressed homes whose value has decreased due to a declining economy. To be comparable, these foreclosed and distressed properties would have to be in the same neighborhood and have similar relevant characteristics.

The bill would take effect on January 1, 2010.

**SUPPORTERS  
SAY:**

By requiring that foreclosure sales of homes in the same neighborhood be taken into account, CSHB 1038 would help ensure more accurate property appraisals. When selecting properties to compare for valuation purposes, appraisers routinely exclude properties that have been foreclosed or sold at auction, even if those homes were comparable at that time. This practice is widespread because appraisers interpret sec. 1.04(7)(C) of the Tax Code as directing them to do so, as the properties were not sold willfully through an arm's-length transaction.

Directing appraisers to take into account foreclosed properties would create a more representative pool of comparable properties for valuation. Foreclosed properties and those sold at auction tend to sell for significantly less than those sold through a normal agreement. Including these properties should result in property-tax relief as individual appraisal values would more accurately reflect neighborhood sales prices.

The current system takes too long to account for the effects of foreclosed properties on home values in a neighborhood. It can take two, three, or even four years to account for the effect that a foreclosed property can have on neighborhood property values. CSHB 1038 would require that the

effect of foreclosure sales be taken into account much more quickly, creating more accurate appraisals.

CSHB 1038 would direct appraisers to include foreclosed properties that sold within the past three years because not all neighborhoods or communities have enough turnover in homeowners to find comparable foreclosed homes within the past year or two. Some rural areas or smaller neighborhoods may even have trouble finding comparable sales within the previous three years. Most appraisers agree that a three-year period is an appropriate time frame.

**OPPONENTS  
SAY:**

CSHB 1038 would look back too far in time by including foreclosed properties that sold at auction within the past three years. A year-long window would be more appropriate because there is enough property turnover in Texas, especially in urban areas, that a year would provide more than enough comparable sales data and limit comparisons to only the most recent, and therefore the most relevant, sales.

**NOTES:**

The committee substitute differs from the bill as filed by directing appraisers to consider foreclosed properties and distressed properties regardless of sec. 1.04(7)(C)'s requirement that sales should be willful and arm's length. It also added that those properties sold at foreclosure would have to have been a comparable property at the time of the foreclosure sale to the property being appraised.