

## **BILL ANALYSIS**

Senate Research Center  
86R7076 CJC-F

S.B. 1830  
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Property Tax  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under federal law, owners of affordable housing financed with housing tax credits (HTC) must limit the rents charged to their residents. These rental rates are set annually by the United States Department of Housing and Urban Development (HUD) and typically do not increase significantly year-to-year. In addition, under state law, HTC properties are required to be appraised for property tax purposes based on the income approach. This has created a problem because despite the requirement to appraise developments on the basis of their income, appraisal districts have varied in their application of this appraisal method, resulting in valuations that exceed the property's real economic circumstances. Unpredictable property tax bills make it difficult and costly for property owners to plan for future developments or fund operation and maintenance costs, negatively impacting the long-term financial stability of the developments. This has also led to annual litigation between owners and appraisal districts.

S.B. 1830 seeks to provide guidance in how to appraise affordable housing projects financed through HTCs by amending Section 23.215, Tax Code, to require that existing properties establish a baseline valuation for 2020 based on the average valuation for the past three years, and to tax the property based upon the 2020 baseline value. For subsequent years, the valuation of each existing property will be established based upon the percentage change in net income for the Existing Property in the prior year. For properties under construction, valuation will be established based upon (1) percentage of construction completed on January 1, (2) the projected net income for the first year of operation, and by (3) taking into consideration actual occupancy as of January 1.

As proposed, S.B. 1830 includes safeguards by requiring that once the rent restrictions are lifted and the property is sold, a rollback mechanism will be employed to avoid a windfall to the owner. The rollback imposes an additional tax equal to the difference between the tax the property would have paid if valued at the sale price versus the tax actually paid, for the last three years. A tax lien is imposed to assure payment of the additional tax.

As proposed, S.B. 1830 amends current law relating to the appraisal for ad valorem tax purposes of certain nonexempt property used for low-income or moderate-income housing.

### **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 1.07(d), Tax Code, to add Section 23.215(g) to a list of sections under which a notice is required to be sent by certified mail.

SECTION 2. Amends Section 23.215, Tax Code, as follows:

Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) Provides that this section applies only to real property owned by an organization:

(1) for the purpose of renting the property to a low-income or moderate-income individual or family satisfying the organization's income eligibility requirements, rather than that on the effective date of this section was rented to a low-income or moderate-income individual or family satisfying the organization's income eligibility requirements and that continues to be used for that purpose;

(2) that was financed under the low income housing tax credit program under Subchapter DD (Low Income Housing Tax Credit Program), Chapter 2306, Government Code, and is subject to a land use restriction agreement under that subchapter that has not expired or been terminated;

(3)–(4) makes no changes to these subdivisions.

(b) Requires the chief appraiser, in appraising property that is under construction or that has not reached stabilized occupancy on January 1 of the tax year in which the property is appraised, to determine the appraised value of the property in the manner provided by Section 11.1825(q) (relating to requiring the chief appraiser to use a certain income method of appraisal to determine the appraised value of the property), provided that the chief appraiser is required to estimate the property's gross income potential and operating expenses based on the property's projected income and expenses for the first full year of operation as established and utilized in the underwriting report pertaining to the property prepared by the Texas Department of Housing and Community Affairs (TDHCA) under Subchapter DD, Chapter 2306, Government Code, adjusted as provided by this subsection, rather than requiring the chief appraiser to appraise the property in the manner provided by Section 11.1825(q). Requires the income and expenses contained in the underwriting report, for a property under construction on January 1, to be adjusted by multiplying those amounts by a fraction, the denominator of which is the total construction budget for the property and the numerator of which is the total amount spent in constructing the property as of January 1. Requires the income and expenses contained in the underwriting report, for a property on which construction was completed but that has not reached stabilized occupancy on January 1, to be adjusted to reflect the actual occupancy of the property on January 1.

(c) Requires the chief appraiser, in appraising property for the first tax year following the year in which construction on the property was completed and occupancy of the property had stabilized, to determine the appraised value of the property in the manner provided by Section 11.1825(q).

(d) Requires the chief appraiser, in appraising property for the second and subsequent tax years following the year in which construction on the property was completed and occupancy of the property had stabilized, to determine the appraised value of the property by adjusting the appraised value of the property for the preceding tax year by the percentage change in the net income of the property in the preceding year as compared to the year preceding that year.

(d-1) Requires the chief appraiser, notwithstanding Subsection (d), for the 2020 tax year, in appraising property for which construction was completed on January 1, 2019, to determine the appraised value of the property by adjusting the average appraised value of the property for the preceding three-year period by the percentage change in the net income of the property in the 2019 tax year as compared to the 2018 tax year. Provides that this subsection expires January 1, 2021.

(e) Provides that if property appraised under this section is sold and is no longer subject to a land use restriction agreement described by Subsection (a)(2) after the sale, the property is no longer eligible for appraisal under this section and an additional tax is imposed on the property. Provides that the additional tax due is

an amount equal to the difference between the taxes imposed on the property for each of the three years preceding the year in which the property is sold that the property was appraised as provided by this section and the taxes that would have been imposed had the property been appraised in each of those years at the lesser of:

(1) the price for which the property is sold; or

(2) the price for which the property is sold, adjusted by the percentage change in the net income of the property for the applicable year in the manner provided by Subsection (d).

(f) Provides that a tax lien attaches to property to which Subsection (e) applies on the date the property is sold to secure payment of the additional tax imposed by that subsection. Provides that the lien exists in favor of all taxing units for which the additional tax is imposed.

(g) Provides that a determination that property is no longer eligible for appraisal under this section is made by the chief appraiser. Requires the chief appraiser to deliver a notice of the determination to the owner of the property as soon as possible after making the determination and to include in the notice an explanation of the owner's right to protest the determination. Requires the assessor for each taxing unit, if the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, to prepare and deliver a bill for the additional taxes as soon as practicable. Provides that the taxes are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the property.

(h) Provides that notwithstanding any other law:

(1) a property owner is prohibited from bringing a protest under Section 41.41(a)(2) (relating to entitling a property owner to protest before the appraisal review board unequal appraisal of the owner's property) alleging unequal appraisal of the owner's property on the ground of the appraised value of the property being greater than the median appraised value of a reasonable number of comparable properties appropriately adjusted for any tax year in which the appraised value of the property is determined as provided by this section; and

(2) a property appraised as provided by this section is prohibited from being used as a comparable property for the purpose of determining whether another property that is not appraised as provided by this section is unequally appraised.

(i) Provides that for purposes of this section, the chief appraiser, in determining the percentage change in the net income of property:

(1) is required to use generally accepted appraisal methods and techniques to determine the property's operating expenses based on information contained in:

(A) an audit of the organization that owns the property prepared by an independent auditor covering the relevant fiscal period; or

(B) the most recent annual owner's compliance report filed by the organization that owns the property with TDHCA; and

(2) is prohibited from considering the taxes imposed on the property and paid by the organization that owns the property to be an operating expense of the property.

(j) Requires the owner of a property appraised under this section, not later than May 1 of each year, to provide to the chief appraiser of the appraisal district that appraises the property a copy of the document described by Subsection (i)(1)(A) or (B), as applicable. Authorizes the chief appraiser to extend the deadline provided by this subsection for good cause shown.

SECTION 3. Makes application of this Act applies prospective to January 1, 2020.

SECTION 4. Effective date: January 1, 2020.