

REQUIRE REAL ESTATE SALES PRICE DISCLOSURE AND IMPLEMENT A REAL ESTATE TRANSFER FEE

Texas relies heavily on property taxes to fund local government in the state, yet Texas is one of only 15 states that does not have mandatory real estate sales price disclosure. Mandatory sales price disclosure would provide the local appraisal districts with an important tool to appraise real property. In a 2003 survey, chief appraisers of local appraisal districts estimated that mandatory disclosure would add \$18.8 billion of taxable value to the tax rolls.

State aid to school districts is based, in part, on district wealth per student. In general, if taxable property value increases, state aid to school districts decreases. Therefore, increases in appraised value realized from mandatory real estate sales price disclosure could result in significant savings to the state. Savings to the state would begin in fiscal year 2008 with savings for that year estimated at \$19 million. Savings would increase to \$64 million in fiscal year 2009, \$110 million in fiscal year 2010, and \$135 million each fiscal year thereafter. During the four-year period encompassing fiscal years 2007 to 2010, school districts would experience a cumulative net gain of \$135 million.

Closely related to the local appraisal process is the annual property value study conducted by the Comptroller of Public Accounts. The study measures the validity and uniformity of local appraisals to ensure that state aid is distributed fairly among school districts. The study is currently funded with general revenue. Imposing a real estate transfer fee could provide a net gain of \$9.9 million to the General Revenue Fund in the 2006–07 biennium. This revenue could be used to fund a portion of the cost of the property value study.

SIGNIFICANT CONCERNS

- ◆ The absence of accurate real estate sales price information leads to increased costs to the state in aid to school districts.
- ◆ The state appropriates approximately \$6 million per year from the General Revenue Fund to finance the annual property value study conducted by the Comptroller of Public Accounts. A nominal property transfer fee collected in conjunction with sales price disclosure could be used to fund the study.

RECOMMENDATIONS

- ◆ **Recommendation 1:** Amend Chapter 22 of the Tax Code to require real estate sales price disclosure.
- ◆ **Recommendation 2:** Amend the appropriate statute to impose a \$35 fee on each real estate transfer in the state.

COMMENTS

The lack of real estate sales price information leads to increased costs to the state in aid to school districts because of the link between local school property tax appraisals and state funding of public schools.

The Texas Constitution prohibits the state from imposing a state property tax, but the local property tax is the largest source of revenue for local governments in the state. Cities, counties, special districts, and school districts impose property taxes. Property taxes are administered locally and are based on property values determined by local appraisal districts.

LOCAL APPRAISAL

The state is divided into 253 appraisal districts. (The appraisal districts follow county boundaries, except for the Potter–Randall appraisal district, which encompasses two counties.) The appraisal districts are governed by local boards, and each district has a chief appraiser. Each appraisal district is charged with determining the market value and taxable value of property in that district. State law requires appraisal districts to reappraise each taxable property at least once every three years, but many appraisal districts reappraise annually.

The most frequently used method of appraisal, the market data comparison method, uses sales price data to establish the market value of property. This process is dependent on the availability of accurate sales price data. Texas does not have mandatory real estate sales price disclosure. In the absence of mandatory disclosure, appraisal districts use various sources of voluntarily disclosed or purchased sales price data, such as multiple-listing-service data, in the appraisal process. While adequate sales information is frequently available on low-priced and mid-priced residential properties, chief appraisers have testified that insufficient price data are available on nonresidential properties and high-priced residential properties.

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In a survey conducted by the Comptroller of Public Accounts in 2003, chief appraisers estimated that \$18.8 billion in property value would be added to the tax rolls if the state enacted a mandatory disclosure statute. Total school district taxable value for 2003 was \$1,057.9 billion; therefore, the \$18.8 billion in estimated property value increases represents 1.8 percent of total 2003 school district taxable value.

Chief appraisers indicate that they tend to be conservative in their appraisals when they lack adequate sales price data. They also cite the low rate of taxpayer appeals as evidence of conservative appraisals. In 2003, 9.1 million appraisal notices were sent out by appraisal districts but only 751,290 protests were filed.

THE COMPTROLLER'S PROPERTY VALUE STUDY AND HOW VALUE IS DETERMINED FOR SCHOOL FINANCE PURPOSES

Government Code, Section 403.302, requires the state comptroller to conduct an annual property value study (PVS). The primary purpose of the study is to ensure the proper distribution of state aid to school districts.

The study is carried out by the Property Tax Division (PTD) of the comptroller's office. In the PVS, the PTD estimates the taxable value of property in each school district. To accomplish this estimate, property is generally divided into the following categories: single-family residential; multi-family residential; vacant lots and tracts; acreage at market value, and farm and ranch improvements; acreage at productivity value; commercial real property; oil, gas, and other minerals; utility real and tangible personal property; and commercial personal property.

The PTD estimates the value of property in each of these categories in each school district by appraising a representative sample of the properties in each category in each school district. Most of the appraisals are done by the market data method. Sales data used by the comptroller include data from the appraisal districts, data from multiple listing services, and voluntary disclosures by property owners. When insufficient sales data are available in a property category, the comptroller conducts field appraisals. The PTD appraises only a sample of the properties in each appraisal category in each school district, whereas the appraisal districts appraise all properties.

The PTD matches its appraisals for each of the sample properties to the local appraisal value for each of the sampled properties. Through statistical analysis, the PTD uses the relationship between PTD values and local values on the sample properties to estimate market value of property in each school district and ultimately to estimate the taxable value of property in each school district.

The outcome of the PVS determines what appraised property values will be used in the distribution of state aid to each school district. As illustrated in Figure 1, if the local appraised value is equal to or greater than 95 percent of the PVS estimated value for a school district, local value is judged to be valid and is used to calculate state aid to that school district. If the local appraisal district value for a school district is less than 85.5 percent of the PVS value, the PVS value is used to calculate state aid to that district. If the local appraisal district value for a school district is between 85.5 percent and 95 percent of the PVS value, and the local value was valid in the two previous years, the school district is given a grace period of up to two years during which state aid is calculated based on local value. If the local appraisal district value for a school district is between 85.5 percent and 95 percent of the PVS value, and the district is not eligible for the grace period, the school district's state aid is calculated based on PVS values. (In a few districts the margin of error of the PVS is greater than 5 percent. For those districts the margin of error of the study rather than 5 percent is used as the standard for validity.)

As Figure 1 illustrates, the distribution of state aid to most school districts is based on local appraisal district values. There are 1,031 school districts in the state. However, some school districts cross appraisal district lines, making the total number of school district/appraisal district combinations 1,049. The comptroller evaluates each school district/appraisal district combination separately. The comptroller

**FIGURE 1
VALUE USED IN SCHOOL FINANCE FORMULA**

LOCAL VALUE	DISTRICTS	AGGREGATE TAXABLE VALUE OF THOSE DISTRICTS (\$ BILLIONS)	
		VALUE USED	DISTRICTS
More than 5 percent higher than PVS value	30	Local	2
Up to 5 percent higher than PVS value	304	Local	95
100 percent of PVS value	2	Local	Less than 1
At least 95 percent but less than 100 percent of PVS value	648	Local	932
In grace period	54	Local	22
Received State Values	11	PVS	5
Total	1,049		1,058

NOTE: PVS = Property Value Study.
SOURCE: Legislative Budget Board

certified local values in 1,038 of the 1,049 districts in the 2003 PVS. The districts for which local values were certified account for over 99 percent of total school district taxable value in the state.

State aid is distributed to each school district based, in part, on district property value per student. All else being equal, the higher the district property value the less state aid a district receives. For the overwhelming majority of school districts, any increase in local appraised value from mandatory disclosure would result in an increase in local revenue to the district, and after a one-year lag, a corresponding reduction in state aid to that district.

REAL ESTATE TRANSFER FEE

A study conducted by the National Conference of State Legislatures in 2001 indicated that 36 states impose some form of state real estate transfer tax or fee.

Texas does not collect a state transfer tax or fee. However, under Local Government Code, Section 118.011, counties collect a real property records filing fee of \$3.00 for the first page of a real-estate-related document, \$2.00 for each additional page or attachment, and \$0.25 for each name in excess of five that must be indexed. The county real property records filing fee applies to various real estate transactions, not just property transfers.

According to the Real Estate Center at Texas A&M University, 214,375 multiple-listing-service, residential housing sales were reported in calendar year 2003. The average annual number of multiple listing service housing sales for the last five years has been 196,645. A real estate transfer fee of \$35 would generate approximately \$7 million per year.

ADMINISTRATION OF PRICE DISCLOSURE AND TRANSFER FEES

Mandatory sales price disclosure and a real estate transfer fee would both be administered at the county level. The real estate transfer fee would be collected by the county clerk at the time the clerk collects the local real property records fees under Local Government Code, Section 118.011. The sales price disclosure information would be sent directly to the appraisal district at the time the sale is closed. The appraisal districts would then provide the sales information to the comptroller. Tax Code, Section 5.07(c) already requires each appraisal district to provide the comptroller with information concerning the sale of real property in the district.

The statute requiring sales price disclosure suggested by Recommendation 1 should contain sufficient safeguards to protect the confidentiality of the sales price information.

FISCAL IMPACT OF THE RECOMMENDATIONS

Recommendations 1 and 2 would result in a net General Revenue Fund gain of \$9.9 million in the 2006–07 biennium. Recommendation 1 would amend the Tax Code to require all buyers of real property to disclose the sales price to the local appraisal district. According to the comptroller's fiscal note estimate on House Bill 1779, Seventy-eighth Legislature, Regular Session, 2003, appraisal districts reported that as much as \$18.8 billion could eventually be added to tax rolls under some form of mandatory disclosure. For purposes of the estimate of fiscal implication shown in Figure 2, it is assumed that 50 percent of that value, or \$9.4 billion, would be added over a four-year period beginning in fiscal year 2007. State aid to school districts is based on prior year property values; therefore, state savings would begin in fiscal year 2008. The statewide average tax rates for school districts, counties, and cities were applied to the estimated property values to calculate the fiscal impact. In fiscal year 2011 and each fiscal year thereafter, the General Revenue Fund savings are estimated to be \$135.0 million.

**FIGURE 2
FISCAL IMPLICATION OF IMPLEMENTING
MANDATORY REAL ESTATE SALES PRICE DISCLOSURE**

FISCAL YEAR	PROBABLE SAVINGS/ (COST) TO GENERAL REVENUE FUNDS	PROBABLE GAIN TO SCHOOL DISTRICTS	PROBABLE GAIN TO CITIES	PROBABLE GAIN TO COUNTIES
2006	\$0	\$0	\$0	\$0
2007	\$0	\$19,000,000	\$5,000,000	\$7,000,000
2008	\$19,000,000	\$45,000,000	\$17,000,000	\$23,000,000
2009	\$64,000,000	\$45,000,000	\$29,000,000	\$39,000,000
2010	\$109,000,000	\$26,000,000	\$36,000,000	\$49,000,000

SOURCE: Legislative Budget Board.

Recommendation 2 would amend statute to impose a \$35 real estate transfer fee on the buyers of real property. The estimate of fiscal implications in Figure 3 uses the five-year average of annual residential sales of 196,645 (adjusted by 5 percent to reflect sales of commercial properties and housing sales not captured by the multiple listing services) and assumes a January 1, 2006 effective date. The estimate assumes that the \$35 fee would initially be collected by the counties and remitted to the comptroller for deposit to the

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General Revenue Fund. It is also assumed that the counties would retain \$2.50 of each fee to defray administrative cost. The estimate of administrative cost to the Comptroller of Public Accounts in fiscal year 2006 is based on the comptroller's estimate of administrative cost for House Bill 1667, Seventy-eighth Legislature, Regular Session, 2003, which would have imposed a fee administered in a similar manner.

**FIGURE 3
FISCAL IMPLICATION OF IMPLEMENTING
A REAL ESTATE TRANSFER FEE**

FISCAL YEAR	PROBABLE GAIN/(LOSS) TO GENERAL REVENUE FUNDS	PROBABLE SAVINGS/(COST) TO GENERAL REVENUE FUNDS	PROBABLE REVENUE GAIN TO COUNTIES
2006	\$3,355,000	(\$121,000)	\$258,000
2007	\$6,710,000	\$0	\$516,000
2008	\$6,710,000	\$0	\$516,000
2009	\$6,710,000	\$0	\$516,000
2010	\$6,710,000	\$0	\$516,000

SOURCE: Legislative Budget Board.

**FIGURE 4
FISCAL IMPLICATIONS OF MANDATORY SALES PRICE DISCLOSURE
AND IMPLEMENTING A REAL ESTATE TRANSFER FEE**

FISCAL YEAR	PROBABLE GAIN/(LOSS) TO GENERAL REVENUE FUNDS	PROBABLE SAVINGS/(COST) TO GENERAL REVENUE FUNDS	PROBABLE GAIN TO SCHOOL DISTRICTS	PROBABLE GAIN TO CITIES	PROBABLE GAIN TO COUNTIES
2006	\$3,355,000	(\$121,000)	\$0	\$0	\$258,000
2007	\$6,710,000	\$0	\$19,000,000	\$5,000,000	\$7,516,000
2008	\$6,710,000	\$19,000,000	\$45,000,000	\$17,000,000	\$23,516,000
2009	\$6,710,000	\$64,000,000	\$45,000,000	\$29,000,000	\$39,516,000
2010	\$6,710,000	\$109,000,000	\$26,000,000	\$36,000,000	\$49,516,000

SOURCE: Legislative Budget Board.

The fiscal impact of the recommendations is not included in the introduced 2006-07 General Appropriations Bill.