

By: Mowery

H.B. No. 41

A BILL TO BE ENTITLED

AN ACT

relating to appeals to small claims courts of certain ad valorem tax determinations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 41.47(e), Tax Code, is amended to read as follows:

(e) The notice of the issuance of the order must contain a prominently printed statement in upper-case bold lettering informing the property owner in clear and concise language of the property owner's right to appeal the board's decision to district court or to small claims court if the amount of taxes in dispute is within the jurisdiction of a small claims court. The statement must describe the deadline prescribed by Section 42.06(a) [~~of this code~~] for filing a written notice of appeal[7] and the deadline prescribed by Section 42.21(a) [~~of this code~~] for filing the petition for review with the appropriate [~~district~~] court.

SECTION 2. The heading to Subchapter B, Chapter 42, Tax Code, is amended to read as follows:

SUBCHAPTER B. JUDICIAL REVIEW [~~BY DISTRICT COURT~~]

SECTION 3. Section 42.21(a), Tax Code, is amended to read as follows:

(a) A party who appeals as provided by this chapter must file a petition for review with the appropriate [~~district~~] court within 45 days after the party received notice that a final order

1 has been entered from which an appeal may be had. Failure to timely
2 file a petition bars any appeal under this chapter.

3 SECTION 4. Subchapter B, Chapter 42, Tax Code, is amended by
4 adding Sections 42.211 and 42.212 to read as follows:

5 Sec. 42.211. JURISDICTION. (a) Except as provided by this
6 section, an appeal under this subchapter must be made to a district
7 court.

8 (b) A property owner may appeal an order of an appraisal
9 review board under Section 42.01(1) to a small claims court if the
10 amount of taxes due on the portion of the taxable value of the
11 property that is in dispute calculated using the preceding year's
12 tax rates is an amount that is within the jurisdiction of that small
13 claims court.

14 (c) If the small claims court determines that the appeal is
15 not within the court's jurisdiction, the court shall dismiss the
16 appeal. In that event, the property owner may appeal the order to
17 district court by filing a petition for review with the district
18 court not later than the 30th day after the date of the dismissal.

19 Sec. 42.212. REPRESENTATION IN SMALL CLAIMS COURT. In an
20 appeal brought under Section 42.01(1) to a small claims court, an
21 appraisal district may, but is not required to, be represented by
22 legal counsel.

23 SECTION 5. Section 42.22, Tax Code, as amended by Chapters
24 667 and 1033, Acts of the 73rd Legislature, Regular Session, 1993,
25 is reenacted and amended to read as follows:

26 Sec. 42.22. VENUE. (a) Except as provided by Subsections
27 (b) and (c), and by Section 42.221, venue in an appeal to district

1 court is in the county in which the appraisal review board that
2 issued the order appealed is located.

3 (b) Venue of an action brought under Section 42.01(1) in
4 district court is in the county in which the property is located or
5 in the county in which the appraisal review board that issued the
6 order is located.

7 (c) Venue is in Travis County if the order appealed was
8 issued by the comptroller.

9 (d) Venue of an action brought under Section 42.01(1) in
10 small claims court is in any justice precinct in the county in which
11 the appraisal review board that issued the order appealed is
12 located.

13 SECTION 6. Section 42.23(a), Tax Code, is amended to read as
14 follows:

15 (a) Review is by trial de novo. The [~~district~~] court shall
16 try all issues of fact and law raised by the pleadings in the manner
17 applicable to civil suits generally.

18 SECTION 7. Section 42.24, Tax Code, is amended to read as
19 follows:

20 Sec. 42.24. ACTION BY COURT. In determining an appeal, the
21 [~~district~~] court may:

22 (1) fix the appraised value of property in accordance
23 with the requirements of law if the appraised value is at issue;

24 (2) enter the orders necessary to ensure equal
25 treatment under the law for the appealing property owner if
26 inequality in the appraisal of the owner's [~~his~~] property is at
27 issue; or

1 (3) enter other orders necessary to preserve rights
2 protected by and impose duties required by the law.

3 SECTION 8. Section 42.26(a), Tax Code, is amended to read as
4 follows:

5 (a) The [~~district~~] court shall grant relief on the ground
6 that a property is appraised unequally if:

7 (1) the appraisal ratio of the property exceeds by at
8 least 10 percent the median level of appraisal of a reasonable and
9 representative sample of other properties in the appraisal
10 district;

11 (2) the appraisal ratio of the property exceeds by at
12 least 10 percent the median level of appraisal of a sample of
13 properties in the appraisal district consisting of a reasonable
14 number of other properties similarly situated to, or of the same
15 general kind or character as, the property subject to the appeal; or

16 (3) the appraised value of the property exceeds the
17 median appraised value of a reasonable number of comparable
18 properties appropriately adjusted.

19 SECTION 9. Subchapter B, Chapter 42, Tax Code, is amended by
20 adding Section 42.27 to read as follows:

21 Sec. 42.27. SMALL CLAIMS COURT JUDGMENT NOT APPEALABLE.
22 The final judgment of a small claims court in an appeal to the small
23 claims court brought under Section 42.01(1) may not be appealed by
24 any person.

25 SECTION 10. Section 28.003, Government Code, is amended by
26 adding Subsection (a-1) to read as follows:

27 (a-1) The small claims court has jurisdiction over appeals

1 brought under Section 42.01(1), Tax Code, if the amount of taxes in
2 dispute does not exceed \$5,000.

3 SECTION 11. Section 28.011, Government Code, is amended to
4 read as follows:

5 Sec. 28.011. VENUE. An action in small claims court must be
6 brought in the county and precinct in which the defendant resides,
7 except that:

8 (1) an action on an obligation that the defendant has
9 contracted to perform in a certain county may be brought in that
10 county; ~~and~~

11 (2) an action for which venue is proper under Section
12 15.099, Civil Practice and Remedies Code, may be brought as
13 provided by that section; and

14 (3) an appeal brought under Section 42.01(1), Tax
15 Code, must be brought as provided by Section 42.22 of that code.

16 SECTION 12. The change in law made by this Act applies to
17 the appeal of an order of an appraisal review board without regard
18 to whether the order was issued before the effective date of this
19 Act.

20 SECTION 13. This Act takes effect September 1, 2004.