

By: Mowery, Woolley, Solomons, Bohac, et al.

H.B. No. 396

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. The small claims court shall determine the appeal and
14 enter final judgment within 60 days.

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

20 (d) A property owner shall pay an additional fee of \$200
21 upon filing of an appeal in small claims court. If the appeal is
22 dismissed for lack of jurisdiction under Subsection (c) above, the
23 fee shall be refunded to the property owner. If the property owner
24 is the prevailing party in the appeal, the appraisal district shall
25 refund the fee to the property owner.

26 Sec. 42.212. REPRESENTATION IN SMALL CLAIMS COURT. In an
27 appeal brought under Section 42.01(1) to a small claims court, an

1 appraisal district may, but is not required to, be represented by
2 legal counsel.

3 SECTION 5. Section 42.22, Tax Code, as amended by Chapters
4 667 and 1033, Acts of the 73rd Legislature, Regular Session, 1993,
5 is reenacted and amended to read as follows:

6 Sec. 42.22. VENUE. (a) Except as provided by Subsections
7 (b) and (c), and by Section 42.221, venue in an appeal to district
8 court is in the county in which the appraisal review board that
9 issued the order appealed is located.

10 (b) Venue of an action brought under Section 42.01(1) in
11 district court is in the county in which the property is located or
12 in the county in which the appraisal review board that issued the
13 order is located.

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

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

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

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

25 SECTION 7. Section 42.24, Tax Code, is amended to read as
26 follows:

27 Sec. 42.24. ACTION BY COURT. In determining an appeal, the

1 [~~district~~] court may:

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

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

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

10 SECTION 8. Sections 42.26(a) and (d), Tax Code, are amended
11 to read as follows:

12 (a) The [~~district~~] court shall grant relief on the ground
13 that a property is appraised unequally if the appraisal ratio of the
14 property exceeds by at least 10 percent the median level of
15 appraisal of:

16 (1) a reasonable and representative sample of other
17 properties in the appraisal district; or

18 (2) a sample of properties in the appraisal district
19 consisting of a reasonable number of other properties similarly
20 situated to, or of the same general kind or character as, the
21 property subject to the appeal.

22 (d) The [~~district~~] court shall grant relief on the ground
23 that a property is appraised unequally if the appraised value of the
24 property exceeds the median appraised value of a reasonable number
25 of comparable properties appropriately adjusted.

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

1 Sec. 42.27. SMALL CLAIMS COURT JUDGMENT NOT APPEALABLE.

2 The final judgment of a small claims court in an appeal to the small
3 claims court brought under Section 42.01(1) may not be appealed by
4 any person.

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

7 (a-1) The small claims court has jurisdiction over appeals
8 brought under Section 42.01(1), Tax Code, if the amount of taxes in
9 dispute does not exceed \$5,000.

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

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

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

18 (2) an action for which venue is proper under Section
19 15.099, Civil Practice and Remedies Code, may be brought as
20 provided by that section; and

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

23 SECTION 12. (a) This Act takes effect September 1, 2003.

24 (b) The change in law made by this Act applies to the appeal
25 of an order of an appraisal review board without regard to whether
26 the order was issued before the effective date of this Act.