

1-1 By: Mowery, et al. (Senate Sponsor - Williams) H.B. No. 396
1-2 (In the Senate - Received from the House May 6, 2003;
1-3 May 8, 2003, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 26, 2003, reported favorably by
1-5 the following vote: Yeas 3, Nays 0; May 26, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to appeals to small claims courts of certain ad valorem tax
1-9 determinations.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 41.47(e), Tax Code, is amended to read as
1-12 follows:

1-13 (e) The notice of the issuance of the order must contain a
1-14 prominently printed statement in upper-case bold lettering
1-15 informing the property owner in clear and concise language of the
1-16 property owner's right to appeal the board's decision to district
1-17 court or to small claims court if the amount of taxes in dispute is
1-18 within the jurisdiction of a small claims court. The statement must
1-19 describe the deadline prescribed by Section 42.06(a) [~~of this code~~]
1-20 for filing a written notice of appeal[~~r~~] and the deadline
1-21 prescribed by Section 42.21(a) [~~of this code~~] for filing the
1-22 petition for review with the appropriate [~~district~~] court.

1-23 SECTION 2. The heading to Subchapter B, Chapter 42, Tax
1-24 Code, is amended to read as follows:

1-25 SUBCHAPTER B. JUDICIAL REVIEW [~~BY DISTRICT COURT~~]

1-26 SECTION 3. Section 42.21(a), Tax Code, is amended to read as
1-27 follows:

1-28 (a) A party who appeals as provided by this chapter must
1-29 file a petition for review with the appropriate [~~district~~] court
1-30 within 45 days after the party received notice that a final order
1-31 has been entered from which an appeal may be had. Failure to timely
1-32 file a petition bars any appeal under this chapter.

1-33 SECTION 4. Subchapter B, Chapter 42, Tax Code, is amended by
1-34 adding Sections 42.211 and 42.212 to read as follows:

1-35 Sec. 42.211. JURISDICTION. (a) Except as provided by this
1-36 section, an appeal under this subchapter must be made to a district
1-37 court.

1-38 (b) A property owner may appeal an order of an appraisal
1-39 review board under Section 42.01(1) to a small claims court if the
1-40 amount of taxes due on the portion of the taxable value of the
1-41 property that is in dispute calculated using the preceding year's
1-42 tax rates is an amount that is within the jurisdiction of that small
1-43 claims court. The small claims court shall determine the appeal and
1-44 enter final judgment within 60 days.

1-45 (c) If the small claims court determines that the appeal is
1-46 not within the court's jurisdiction, the court shall dismiss the
1-47 appeal. In that event, the property owner may appeal the order to
1-48 district court by filing a petition for review with the district
1-49 court not later than the 30th day after the date of the dismissal.

1-50 (d) A property owner shall pay an additional fee of \$200
1-51 upon filing of an appeal in small claims court. If the appeal is
1-52 dismissed for lack of jurisdiction under Subsection (c) above, the
1-53 fee shall be refunded to the property owner. If the property owner
1-54 is the prevailing party in the appeal, the appraisal district shall
1-55 refund the fee to the property owner.

1-56 Sec. 42.212. REPRESENTATION IN SMALL CLAIMS COURT. In an
1-57 appeal brought under Section 42.01(1) to a small claims court, an
1-58 appraisal district may, but is not required to, be represented by
1-59 legal counsel.

1-60 SECTION 5. Section 42.22, Tax Code, as amended by Chapters
1-61 667 and 1033, Acts of the 73rd Legislature, Regular Session, 1993,
1-62 is reenacted and amended to read as follows:

1-63 Sec. 42.22. VENUE. (a) Except as provided by Subsections
1-64 (b) and (c), and by Section 42.221, venue in an appeal to district

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

2-3 (b) Venue of an action brought under Section 42.01(1) in
 2-4 district court is in the county in which the property is located or
 2-5 in the county in which the appraisal review board that issued the
 2-6 order is located.

2-7 (c) Venue is in Travis County if the order appealed was
 2-8 issued by the comptroller.

2-9 (d) Venue of an action brought under Section 42.01(1) in
 2-10 small claims court is in any justice precinct in the county in which
 2-11 the appraisal review board that issued the order appealed is
 2-12 located.

2-13 SECTION 6. Section 42.23(a), Tax Code, is amended to read as
 2-14 follows:

2-15 (a) Review is by trial de novo. The [~~district~~] court shall
 2-16 try all issues of fact and law raised by the pleadings in the manner
 2-17 applicable to civil suits generally.

2-18 SECTION 7. Section 42.24, Tax Code, is amended to read as
 2-19 follows:

2-20 Sec. 42.24. ACTION BY COURT. In determining an appeal, the
 2-21 [~~district~~] court may:

2-22 (1) fix the appraised value of property in accordance
 2-23 with the requirements of law if the appraised value is at issue;

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

2-28 (3) enter other orders necessary to preserve rights
 2-29 protected by and impose duties required by the law.

2-30 SECTION 8. Sections 42.26(a) and (d), Tax Code, are amended
 2-31 to read as follows:

2-32 (a) The [~~district~~] court shall grant relief on the ground
 2-33 that a property is appraised unequally if the appraisal ratio of the
 2-34 property exceeds by at least 10 percent the median level of
 2-35 appraisal of:

2-36 (1) a reasonable and representative sample of other
 2-37 properties in the appraisal district; or

2-38 (2) a sample of properties in the appraisal district
 2-39 consisting of a reasonable number of other properties similarly
 2-40 situated to, or of the same general kind or character as, the
 2-41 property subject to the appeal.

2-42 (d) The [~~district~~] court shall grant relief on the ground
 2-43 that a property is appraised unequally if the appraised value of the
 2-44 property exceeds the median appraised value of a reasonable number
 2-45 of comparable properties appropriately adjusted.

2-46 SECTION 9. Subchapter B, Chapter 42, Tax Code, is amended by
 2-47 adding Section 42.27 to read as follows:

2-48 Sec. 42.27. SMALL CLAIMS COURT JUDGMENT NOT APPEALABLE.
 2-49 The final judgment of a small claims court in an appeal to the small
 2-50 claims court brought under Section 42.01(1) may not be appealed by
 2-51 any person.

2-52 SECTION 10. Section 28.003, Government Code, is amended by
 2-53 adding Subsection (a-1) to read as follows:

2-54 (a-1) The small claims court has jurisdiction over appeals
 2-55 brought under Section 42.01(1), Tax Code, if the amount of taxes in
 2-56 dispute does not exceed \$5,000.

2-57 SECTION 11. Section 28.011, Government Code, is amended to
 2-58 read as follows:

2-59 Sec. 28.011. VENUE. An action in small claims court must be
 2-60 brought in the county and precinct in which the defendant resides,
 2-61 except that:

2-62 (1) an action on an obligation that the defendant has
 2-63 contracted to perform in a certain county may be brought in that
 2-64 county; [~~and~~]

2-65 (2) an action for which venue is proper under Section
 2-66 15.099, Civil Practice and Remedies Code, may be brought as
 2-67 provided by that section; and

2-68 (3) an appeal brought under Section 42.01(1), Tax
 2-69 Code, must be brought as provided by Section 42.22 of that code.

3-1 SECTION 12. (a) This Act takes effect September 1, 2003.
3-2 (b) The change in law made by this Act applies to the appeal
3-3 of an order of an appraisal review board without regard to whether
3-4 the order was issued before the effective date of this Act.

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