

By: Barrientos

S.B. No. 175

A BILL TO BE ENTITLED

AN ACT

relating to the rendition of property for ad valorem tax purposes and to the consequences of a failure to render property.

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

SECTION 1. Subchapter B, Chapter 22, Tax Code, is amended by adding Section 22.231 to read as follows:

Sec. 22.231. REQUIREMENT TO DELIVER RENDITION STATEMENT OR PROPERTY REPORT; INJUNCTION. (a) A requirement under this chapter to deliver a rendition statement or property report to a chief appraiser is mandatory.

(b) If a person required by this chapter to deliver a rendition statement or property report to the chief appraiser fails to deliver the statement or report in the time required by this chapter, the chief appraiser may bring suit for an injunction requiring the person to deliver the statement or report.

SECTION 2. Section 22.24, Tax Code, is amended by amending Subsections (c) and (d) and adding Subsections (c-1) and (c-2) to read as follows:

(c) The comptroller may prescribe or approve different forms for different kinds of property but shall ensure that each form requires a property owner to furnish the information necessary to identify the property and to determine its ownership, taxability, and situs.

(c-1) A rendition or report form for tangible personal

1 property used for the production of income must require the  
2 property owner to describe the property and to state:

3 (1) the location of the property;

4 (2) the original cost of the property as reflected in  
5 the books and records of the property owner;

6 (3) the tax year in which the property owner acquired  
7 the property; and

8 (4) the property owner's good faith estimate of the  
9 market value of the property.

10 (c-2) A rendition or report form may require a property  
11 owner to include other information that the comptroller determines  
12 to be necessary for the proper administration of taxation of  
13 property subject to this chapter but may not require a property  
14 owner to furnish information not relevant to the appraisal of  
15 property for tax purposes or to the assessment or collection of  
16 property taxes.

17 (d) A rendition or report form for property other than  
18 tangible personal property used for the production of income shall  
19 permit but may not require a property owner to state the property  
20 owner's ~~his~~ opinion about the market value of the ~~his~~ property.

21 SECTION 3. Subchapter B, Chapter 22, Tax Code, is amended by  
22 adding Sections 22.28 and 22.29 to read as follows:

23 Sec. 22.28. PENALTY FOR FAILURE TO DELIVER RENDITION  
24 STATEMENT OR PROPERTY REPORT. (a) If a person required by Section  
25 22.01, 22.04, or 22.05 to deliver a rendition statement or property  
26 report to the chief appraiser fails to deliver the statement or  
27 report in the time required by this chapter, a penalty is imposed on

1 the property required to be included on the statement or report by  
2 each taxing unit that imposes taxes on the property.

3 (b) The amount of the penalty is equal to:

4 (1) five percent of the amount of taxes ultimately  
5 imposed by the taxing unit for the tax year on the property if the  
6 person delivers the rendition statement or property report to the  
7 chief appraiser before the 31st day after the date the statement or  
8 report is due; or

9 (2) 10 percent of the amount of taxes ultimately  
10 imposed by the taxing unit for the tax year on the property if the  
11 person fails to deliver the rendition statement or property report  
12 to the chief appraiser before the 31st day after the date the  
13 statement or report is due.

14 (c) Notwithstanding Subsection (b), if the amount of the  
15 penalty computed under that subsection is less than \$1, the amount  
16 of the penalty is \$1.

17 (d) The penalty provided by this section is not imposed if:

18 (1) the rendition statement or property report was  
19 required by Section 22.01; and

20 (2) the chief appraiser determines that the appraised  
21 value of the property for which the statement or report was required  
22 does not exceed \$10,000.

23 (e) If a person required by Section 22.01, 22.04, or 22.05  
24 to deliver a rendition statement or property report to the chief  
25 appraiser fails to deliver the statement or report in the time  
26 required by this chapter, the chief appraiser shall:

27 (1) appraise the property as of January 1 of the year

1 in which the person was required to deliver the rendition statement  
2 or property report and enter in the appraisal records the appraised  
3 and taxable value of the property, if the property was not  
4 previously included in the appraisal records;

5 (2) make an entry in the appraisal records for the  
6 property indicating liability for the penalty imposed under  
7 Subsection (a) and the amount of the penalty, if known; and

8 (3) send a written notice of imposition of the penalty  
9 to the person required to deliver the statement or report that  
10 includes an explanation of the procedures for protesting the  
11 imposition of the penalty.

12 (f) The assessor for each taxing unit that imposes taxes on  
13 the property shall add the amount of the penalty to the unit's tax  
14 bill for taxes on the property or, if the tax bill has been  
15 delivered, shall deliver to the property owner a supplemental bill  
16 for the penalty. The penalty is due and shall be collected at the  
17 same time and in the same manner as the taxes on the property.

18 (g) A penalty imposed under Subsection (a) that becomes  
19 delinquent accrues penalties and interest in the same manner as a  
20 delinquent tax.

21 (h) A penalty imposed under Subsection (a) and any penalty  
22 or interest accruing on the penalty:

23 (1) are the personal obligation of the property owner;  
24 and

25 (2) constitute a lien on the property on which the  
26 penalty is imposed.

27 Sec. 22.29. INVESTIGATIONS AND AUDITS. (a) The chief

1 appraiser, or a person authorized by the chief appraiser in  
2 writing, may:

3 (1) examine, copy, and photograph the books, records,  
4 and papers of a person who files a rendition statement or property  
5 report required by this chapter to verify the accuracy of the  
6 statement or report; and

7 (2) by delivery of written notice to the property  
8 owner or to an employee, representative, or agent of the property  
9 owner, not later than the 10th working day after the date the notice  
10 is delivered, require the property owner to produce to the chief  
11 appraiser or an agent or designated representative of the chief  
12 appraiser for inspection the books, records, and papers used as a  
13 basis for the preparation of the rendition statement or property  
14 report.

15 (b) If the chief appraiser determines as the result of an  
16 investigation under this section that the chief appraiser's  
17 reliance on a rendition statement or property report resulted in  
18 the omission or undervaluation of taxable property in the current  
19 tax year or in any one of the five preceding tax years, the chief  
20 appraiser shall add the omitted property or the portion of the  
21 appraised value of undervalued property that was erroneously  
22 omitted for each tax year to the appraisal roll as provided by  
23 Section 25.21 for other property that escapes taxation.

24 (c) The chief appraiser may not conduct an investigation of  
25 a property owner under this section more frequently than once every  
26 three years, except that if the chief appraiser takes action under  
27 Subsection (b) as a result of an investigation of a property owner,

1 the chief appraiser may conduct an investigation of the property  
2 owner in the following year.

3 (d) Copies of books, records, or papers made or retained by  
4 the chief appraiser or an agent or representative of the chief  
5 appraiser in the course of an investigation under this section are  
6 confidential to the same degree that a rendition statement or  
7 property report is confidential under Section 22.27.

8 (e) The chief appraiser may not employ a person on a  
9 contingency fee basis to conduct an audit under this section.

10 SECTION 4. The heading to Section 23.011, Tax Code, is  
11 amended to read as follows:

12 Sec. 23.011. COST METHOD OF APPRAISAL: REAL PROPERTY.

13 SECTION 5. Subchapter A, Chapter 23, Tax Code, is amended by  
14 adding Section 23.0115 to read as follows:

15 Sec. 23.0115. COST METHOD OF APPRAISAL: TANGIBLE PERSONAL  
16 PROPERTY. (a) If the chief appraiser uses the cost method of  
17 appraisal to determine the value of tangible personal property used  
18 for the production of income on the basis of information provided in  
19 a rendition statement or property report, the chief appraiser shall  
20 use the methods and procedures specified by the appraisal manuals  
21 developed under Subsection (b) to determine the depreciated value  
22 of the property.

23 (b) The comptroller by rule shall develop and distribute to  
24 each appraisal office appraisal manuals that:

25 (1) prescribe depreciation schedules for common types  
26 of tangible personal property used for the production of income;

27 (2) specify the methods of applying the schedules to

1 appraise property on the basis of information provided in a  
2 rendition statement or property report; and

3 (3) prescribe the method that a chief appraiser shall  
4 use to calculate depreciation for any type of tangible personal  
5 property used for the production of income that is not covered by a  
6 depreciation schedule prescribed by the comptroller.

7 SECTION 6. Section 41.43, Tax Code, is amended by amending  
8 Subsection (a) and adding Subsection (d) to read as follows:

9 (a) Except as provided by Subsection (d), in [In] a protest  
10 authorized by Section 41.41(a)(1) [41.41(1)] or (2), the appraisal  
11 district has the burden of establishing the value of the property by  
12 a preponderance of the evidence presented at the hearing. If the  
13 appraisal district fails to meet that standard, the protest shall  
14 be determined in favor of the property owner.

15 (d) If before the date of the hearing the property owner  
16 fails to deliver a rendition statement or property report as  
17 required by Chapter 22 for the property that is the subject of the  
18 protest:

19 (1) the property owner has the burden of establishing  
20 the value of the property by a preponderance of the evidence  
21 presented at the hearing; and

22 (2) if the property owner fails to meet the standard  
23 provided by Subdivision (1), the protest shall be determined in  
24 favor of the appraisal district.

25 SECTION 7. Section 42.29, Tax Code, is amended by adding  
26 Subsection (c) to read as follows:

27 (c) Notwithstanding Subsection (a), a property owner may

1 not be awarded attorney's fees if the property owner fails to timely  
2 deliver a rendition statement or property report as required by  
3 Chapter 22 for the property that is the subject of the appeal.

4 SECTION 8. (a) This Act takes effect January 1, 2004, and  
5 applies only to ad valorem taxes imposed for a tax year beginning on  
6 or after that date and the rendition of property for ad valorem tax  
7 purposes for a tax year that begins on or after that date.

8 (b) Section 22.29, Tax Code, as added by this Act,  
9 authorizes the addition to an appraisal roll of omitted property or  
10 the portion of the appraised value of undervalued property that was  
11 erroneously omitted only for a tax year beginning on or after the  
12 effective date of this Act.