

By: Staples, Averitt

S.B. No. 340

A BILL TO BE ENTITLED

AN ACT

relating to the rendition of property for ad valorem tax purposes;  
providing civil penalties.

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

SECTION 1. Section 22.01, Tax Code, is amended by amending Subsection (a) and adding Subsections (f) through (i) to read as follows:

(a) Except as provided by Chapter 24 [~~of this code~~], a person shall render for taxation all tangible personal property used for the production of income that the person [~~he~~] owns or that the person [~~he~~] manages and controls as a fiduciary on January 1. A rendition statement shall contain:

(1) the name and address of the property owner;

(2) a description of the property by type or category;

(3) if the property is inventory, a description of each type of inventory and a general estimate of the quantity of each type of inventory;

(4) the physical location or taxable situs of the property; and

(5) the property owner's good faith estimate of the market value of the property or, at the option of the property owner, the historical cost when new and the year of acquisition of the property.

(f) Notwithstanding Subsections (a) and (b), a rendition

1 statement of a person who owns tangible personal property used for  
2 the production of income located in the appraisal district that, in  
3 the owner's opinion, has an aggregate value of less than \$20,000 is  
4 required to contain only:

5 (1) the name and address of the property owner;

6 (2) a general description of the property by type or  
7 category; and

8 (3) the physical location or taxable situs of the  
9 property.

10 (g) A person's good faith estimate of the market value of  
11 the property under Subsection (a)(5) is solely for the purpose of  
12 compliance with the requirement to render tangible personal  
13 property and is inadmissible in any subsequent protest, hearing,  
14 appeal, suit, or other proceeding under this title involving the  
15 property, except for:

16 (1) a proceeding to determine whether the person  
17 complied with this section;

18 (2) a proceeding under Section 22.29(b); or

19 (3) a protest under Section 41.41.

20 (h) If the property that is the subject of the rendition is  
21 regulated by the Public Utility Commission of Texas, the Railroad  
22 Commission of Texas, the federal Surface Transportation Board, or  
23 the Federal Energy Regulatory Commission, the owner of the property  
24 is considered to have complied with the requirements of this  
25 section if the owner provides to the chief appraiser, on written  
26 request of the chief appraiser, a copy of the annual regulatory  
27 report covering the property and sufficient information to enable

1 the chief appraiser to allocate the value of the property among the  
2 appropriate taxing units for which the appraisal district appraises  
3 property.

4 (i) Subsection (a) does not apply to a property owner whose  
5 property is subject to appraisal by a third party retained by the  
6 appraisal district if the property owner provides information  
7 substantially equivalent to that required by Subsection (a)  
8 regarding the property directly to the third party appraiser.

9 SECTION 2. Section 22.07, Tax Code, is amended by adding  
10 Subsections (c) through (f) to read as follows:

11 (c) The chief appraiser may request, either in writing or by  
12 electronic means, that the property owner provide a statement  
13 containing supporting information indicating how the value  
14 rendered under Section 22.01(a)(5) was determined. The statement  
15 must:

16 (1) summarize information sufficient to identify the  
17 property, including:

18 (A) the physical and economic characteristics  
19 relevant to the opinion of value, if appropriate; and

20 (B) the source of the information used;

21 (2) state the effective date of the opinion of value;  
22 and

23 (3) explain the basis of the value rendered. If the  
24 property owner is a business with 50 employees or less, the property  
25 owner may base the estimate of value on the depreciation schedules  
26 used for federal income tax purposes.

27 (d) The property owner shall deliver the statement to the

1 chief appraiser, either in writing or by electronic means, not  
2 later than the 21st day after the date the chief appraiser's request  
3 is received. The owner's statement is solely for informational  
4 purposes and is not admissible in evidence in any subsequent  
5 protest, suit, appeal, or other proceeding under this title  
6 involving the property other than:

7 (1) a proceeding to determine whether the property  
8 owner has complied with this section;

9 (2) a proceeding under Section 22.29(b); or

10 (3) a protest under Section 41.41.

11 (e) A statement provided under this section is confidential  
12 information and may not be disclosed, except as provided by Section  
13 22.27.

14 (f) Failure to comply with this section in a timely manner  
15 is considered to be a failure to timely render under Section 22.01  
16 and penalties as described in Section 22.28 shall be applied by the  
17 chief appraiser.

18 SECTION 3. Section 22.23, Tax Code, is amended by amending  
19 Subsection (b) and adding Subsection (c) to read as follows:

20 (b) On written request [~~For good cause shown in writing~~] by  
21 the property owner, the chief appraiser shall [~~may~~] extend a  
22 deadline for filing a rendition statement or property report [~~by~~  
23 ~~written order~~] to May 15 [~~a date not later than April 30~~]. The chief  
24 appraiser [~~However, if the property that is the subject of the~~  
25 ~~rendition is regulated by the Public Utility Commission of Texas or~~  
26 ~~the Railroad Commission of Texas, the chief appraiser, upon written~~  
27 ~~request by the property owner, shall extend the filing deadline~~

1 ~~until April 30, and]~~ may further extend the deadline an additional  
2 15 days upon good cause shown in writing by the property owner.

3 (c) If before December 1, 2003, a person files a rendition  
4 statement for the 2003 tax year that provides the information  
5 required by Section 22.01 as that section exists on January 1, 2004,  
6 and, as a result of that information, the chief appraiser discovers  
7 that some or all of that person's tangible personal property used  
8 for the production of income was omitted from the appraisal roll in  
9 one of the two preceding years, the chief appraiser may not add the  
10 value of the omitted property to the 2001 or 2002 appraisal roll.  
11 This subsection expires January 1, 2005.

12 SECTION 4. Subsections (b), (c), and (d), Section 22.24,  
13 Tax Code, are amended to read as follows:

14 (b) A person filing a rendition or report shall include all  
15 information required by Section 22.01 ~~[the form]~~.

16 (c) The comptroller may prescribe or approve different  
17 forms for different kinds of property but shall ensure that each  
18 form requires a property owner to furnish the information necessary  
19 to identify the property and to determine its ownership,  
20 taxability, and situs. A form may not require but may permit a  
21 property owner to furnish information not specifically required by  
22 this chapter to be reported. In addition, a form prescribed or  
23 approved under this subsection must contain the following statement  
24 in bold type: "If you make a false statement on this form, you could  
25 be found guilty of a Class A misdemeanor or a state jail felony  
26 under Section 37.10, Penal Code." ~~[relevant to the appraisal of~~  
27 ~~property for tax purposes or to the assessment or collection of~~

1 ~~property taxes.]~~

2 (d) Except as required by Section 22.01(a), a [A] rendition  
3 or report form shall permit but [may] not require a property owner  
4 to state the owner's good faith estimate of [his opinion about] the  
5 market value of the [his] property.

6 SECTION 5. Subchapter B, Chapter 22, Tax Code, is amended by  
7 adding Sections 22.28, 22.29, and 22.30 to read as follows:

8 Sec. 22.28. PENALTY FOR DELINQUENT REPORT. (a) Except as  
9 otherwise provided by Section 22.30, the chief appraiser shall  
10 impose a penalty on a person who fails to timely file a rendition  
11 statement or property report required by this chapter in an amount  
12 equal to 10 percent of the total amount of taxes imposed on the  
13 property for that year by taxing units participating in the  
14 appraisal district.

15 (b) The chief appraiser may retain a portion of a penalty  
16 collected under this section, not to exceed 20 percent of the amount  
17 of the penalty, to cover the chief appraiser's costs of collecting  
18 the penalty. The chief appraiser shall distribute the remainder of  
19 the penalty to each taxing unit participating in the appraisal  
20 district that imposes taxes on the property in proportion to the  
21 taxing unit's share of the total amount of taxes imposed on the  
22 property by all taxing units participating in the district.

23 Sec. 22.29. PENALTY FOR FRAUD OR INTENT TO EVADE TAX.

24 (a) The chief appraiser shall impose an additional penalty on the  
25 person equal to 50 percent of the total amount of taxes imposed on  
26 the property for the tax year of the statement or report by the  
27 taxing units participating in the appraisal district if it is

1 finally determined by a court that:

2 (1) the person filed a false statement or report with  
3 the intent to commit fraud or to evade the tax; or

4 (2) the person alters, destroys, or conceals any  
5 record, document, or thing, or presents to the chief appraiser any  
6 altered or fraudulent record, document, or thing, or otherwise  
7 engages in fraudulent conduct, for the purpose of affecting the  
8 course or outcome of an inspection, investigation, determination,  
9 or other proceeding before the appraisal district.

10 (b) Enforcement of this section shall be by a proceeding  
11 initiated by the district or county attorney of the county in which  
12 the appraisal is established, on behalf of the appraisal district.

13 (c) In making a determination of liability under this  
14 section, the court shall consider:

15 (1) the person's compliance history with respect to  
16 paying taxes and filing statements or reports;

17 (2) the type, nature, and taxability of the specific  
18 property involved;

19 (3) the type, nature, size, and sophistication of the  
20 person's business or other entity for which property is rendered;

21 (4) the completeness of the person's records;

22 (5) the person's reliance on advice provided by the  
23 appraisal district that may have contributed to the violation;

24 (6) any change in appraisal district policy during the  
25 current or preceding tax year that may affect how property is  
26 rendered; and

27 (7) any other factor the court considers relevant.

1       (d) The chief appraiser may retain a portion of a penalty  
2 collected under this section, not to exceed 20 percent of the amount  
3 of the penalty, to cover the chief appraiser's costs of collecting  
4 the penalty. The chief appraiser shall distribute the remainder of  
5 the penalty to each taxing unit participating in the appraisal  
6 district that imposes taxes on the property in proportion to the  
7 taxing unit's share of the total amount of taxes imposed on the  
8 property by all taxing units participating in the district.

9       Sec. 22.30. WAIVER OF PENALTY. (a) The chief appraiser  
10 may waive the penalty imposed by Section 22.28 or 22.29 if the chief  
11 appraiser determines that the person exercised reasonable  
12 diligence to comply with or has substantially complied with the  
13 requirements of this chapter. A written request, accompanied by  
14 supporting documentation, stating the grounds on which penalties  
15 should be waived must be sent to the chief appraiser not later than  
16 the 30th day after the date the person received notification of the  
17 imposition of the penalty. The chief appraiser shall make a  
18 determination of the penalty waiver request based on the  
19 information submitted.

20       (b) The chief appraiser shall notify the person of the chief  
21 appraiser's determination regarding the penalty waiver request  
22 after considering:

23               (1) the person's compliance history with respect to  
24 paying taxes and filing statements or reports;

25               (2) the type, nature, and taxability of the specific  
26 property involved;

27               (3) the type, nature, size, and sophistication of the



1 person's business or other entity for which property is rendered;

2 (4) the completeness of the person's records;

3 (5) the person's reliance on advice provided by the  
4 appraisal district that may have contributed to the person's  
5 failure to comply and the imposition of the penalty;

6 (6) any change in appraisal district policy during the  
7 current or preceding tax year that may affect how property is  
8 rendered; and

9 (7) any other factors that may have caused the person  
10 to fail to timely file a statement or report.

11 (c) A property owner is entitled to protest before the  
12 appraisal review board the failure or refusal of a chief appraiser  
13 to waive a penalty under Subsection (a).

14 SECTION 6. Section 23.23, Tax Code, is amended by adding  
15 Subsection (f) to read as follows:

16 (f) Notwithstanding Subsections (a) and (e) and except as  
17 provided by Subdivision (2), an improvement to property that would  
18 otherwise constitute a new improvement is not treated as a new  
19 improvement if the improvement is a replacement structure for a  
20 structure that was rendered uninhabitable or unusable by a casualty  
21 or by mold or water damage. For purposes of appraising the property  
22 in the tax year in which the structure would have constituted a new  
23 improvement:

24 (1) the last year in which the property was appraised  
25 for taxation before the casualty or damage occurred is considered  
26 to be the last year in which the property was appraised for taxation  
27 for purposes of Subsection (a)(2)(A); and

1           (2) the replacement structure is considered to be a  
2 new improvement only to the extent it is a significant improvement  
3 over the replaced structure as that structure existed before the  
4 casualty or damage occurred.

5           SECTION 7. Section 25.19, Tax Code, is amended by adding  
6 Subsection (k) to read as follows:

7           (k) Notwithstanding any other provision of this section,  
8 the chief appraiser may not deliver a written notice concerning  
9 property that is required to be rendered or reported under Chapter  
10 22 until after the applicable deadline for filing the rendition  
11 statement or property report.

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

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

20           (d) If the property owner fails to deliver, before the date  
21 of the hearing, a rendition statement or property report required  
22 by Chapter 22 or a response to the chief appraiser's request for  
23 information under Section 22.07(c), the property owner has the  
24 burden of establishing the value of the property by a preponderance  
25 of the evidence presented at the hearing. If the property owner  
26 fails to meet that standard, the protest shall be determined in  
27 favor of the appraisal district.

1           SECTION 9. (a) Except as provided by Subsection (b) of  
2 this section, this Act takes effect January 1, 2004, and applies  
3 only to the rendition of property for ad valorem tax purposes for a  
4 tax year that begins on or after that date.

5           (b) Subsection (c), Section 22.23, Tax Code, as added by  
6 this Act, takes effect September 1, 2003, and applies to the  
7 rendition of property for ad valorem tax purposes for the 2003 tax  
8 year.

9           (c) Subsection (f), Section 23.23, Tax Code, as added by  
10 this Act, applies to the appraisal of property for a tax year  
11 beginning on or after the effective date of this Act regardless of  
12 whether the casualty or mold or water damage occurred before, on, or  
13 after the effective date of this Act.