

By: Wong

H.B. No. 151

A BILL TO BE ENTITLED

AN ACT

relating to binding arbitration of certain appraisal review board orders.

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

SECTION 1. Section 41A.01, Tax Code, is amended to read as follows:

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. (a) As an alternative to filing an appeal under Section 42.01, a property owner is entitled to appeal through binding arbitration under this chapter an appraisal review board order that the property owner is entitled to appeal under that section [~~determining a protest concerning the appraised or market value of real property~~] if:

(1) the order relates to real property; and

(2) the appraised [~~or market~~] value [~~, as applicable,~~] of the property as determined by the chief appraiser or the appraisal review board [~~the order~~] is \$1 million or less [~~, and~~

~~[(2) the appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property].~~

(b) A property owner may not appeal under this chapter an appraisal review board order or part of such an order relating to personal property. If an appraisal review board order relates to both real and personal property, only the part of the order relating to real property may be appealed under this chapter.

1 SECTION 2. Section 41A.03(b), Tax Code, is amended to read
2 as follows:

3 (b) A property owner who fails to strictly comply with this
4 section waives the property owner's right to request arbitration
5 under this chapter. A property owner who appeals an appraisal
6 review board order [~~determining a protest concerning the appraised~~
7 ~~or market value, as applicable, of the owner's property~~] under
8 Chapter 42 waives the owner's right to request binding arbitration
9 under this chapter regarding the matters determined by the order
10 [~~value of that property~~]. An arbitrator shall dismiss any pending
11 arbitration proceeding if the property owner's rights are waived
12 under this subsection.

13 SECTION 3. Section 41A.04, Tax Code, is amended to read as
14 follows:

15 Sec. 41A.04. CONTENTS OF REQUEST FORM. The comptroller by
16 rule shall prescribe the form of a request for binding arbitration
17 under this chapter. The form must require the property owner to
18 provide only:

19 (1) a brief statement that explains the basis for the
20 property owner's appeal of the appraisal review board order;

21 (2) a statement of the property owner's opinion of the
22 appraised or market value, as applicable, of the property that is
23 the subject of the appeal, if the matter in dispute involves the
24 determination of the appraised or market value of the property; and

25 (3) any other information reasonably necessary for the
26 appraisal district to request appointment of an arbitrator.

27 SECTION 4. Section 41A.09, Tax Code, is amended by amending

1 Subsections (b), (c), and (d) and adding Subsection (d-1) to read as
2 follows:

3 (b) An award under this section:

4 (1) must include a determination of the appraised or
5 market value, as applicable, of the property that is the subject of
6 the appeal, if the matter in dispute involves the determination of
7 the appraised or market value of the property;

8 (2) may include any remedy or relief a court may order
9 under Chapter 42 [~~in an appeal relating to the appraised or market~~
10 ~~value of property~~];

11 (3) shall specify the arbitrator's fee, which may not
12 exceed the amount provided by Section 41A.06(b)(3);

13 (4) is final and may not be appealed except as
14 permitted under Section 171.088, Civil Practice and Remedies Code,
15 for an award subject to that section; and

16 (5) may be enforced in the manner provided by
17 Subchapter D, Chapter 171, Civil Practice and Remedies Code.

18 (c) If the appeal involves the determination of the
19 appraised or market value of the property that is the subject of the
20 appeal and the arbitrator determines that the appraised or market
21 value, as applicable, of the property [~~that is the subject of the~~
22 ~~appeal~~] is nearer to the property owner's opinion of the appraised
23 or market value, as applicable, of the property as stated in the
24 request for binding arbitration submitted under Section 41A.03 than
25 the value determined by the appraisal review board, the property
26 owner is the prevailing party. In all other appeals, the arbitrator
27 shall determine whether the property owner is the prevailing party,

1 based on the arbitrator's determination of the matters that are the
2 subject of the appeal. If the property owner is the prevailing
3 party:

4 (1) the comptroller, on receipt of a copy of the award,
5 shall refund the property owner's arbitration deposit, less the
6 amount retained by the comptroller under Section 41A.05(b); and

7 (2) the appraisal district, on receipt of a copy of the
8 award, shall pay the arbitrator's fee[~~, and~~

9 [~~(3) the chief appraiser shall correct the appraised~~
10 ~~or market value, as applicable, of the property as shown in the~~
11 ~~appraisal roll to reflect the arbitrator's determination].~~

12 (d) If the property owner is not the prevailing party under
13 Subsection (c), [~~arbitrator determines that the appraised or market~~
14 ~~value, as applicable, of the property that is the subject of the~~
15 ~~appeal is not nearer to the property owner's opinion of the~~
16 ~~appraised or market value, as applicable, of the property as stated~~
17 ~~in the request for binding arbitration submitted under Section~~
18 ~~41A.03 than the value determined by the appraisal review board:~~

19 [~~(1)~~] the comptroller, on receipt of a copy of the
20 award, shall:

21 (1) [~~(A)~~] pay the arbitrator's fee out of the owner's
22 arbitration deposit; and

23 (2) [~~(B)~~] refund to the owner the owner's arbitration
24 deposit, less the arbitrator's fee and the amount retained by the
25 comptroller under Section 41A.05(b). [~~, and~~

26 (d-1) On receipt of a copy of the arbitrator's award, [~~(2)~~]
27 the chief appraiser shall correct the [~~appraised or market value,~~

1 ~~as applicable, of the property as shown in the]~~ appraisal roll to
2 reflect the arbitrator's determination of any matter other than the
3 appraised or market value of the property, and shall correct the
4 appraised or market value if the value as determined by the
5 arbitrator is less than the value as determined by the appraisal
6 review board.

7 SECTION 5. Chapter 41A, Tax Code, is amended by adding
8 Section 41A.091 to read as follows:

9 Sec. 41A.091. CITATION OF APPRAISAL REVIEW BOARD MEMBER.

10 (a) If during the course of an arbitration proceeding under this
11 chapter the arbitrator finds that a member of the appraisal review
12 board failed to follow the procedures governing protests under
13 Subchapter C, Chapter 41, the arbitrator shall cite the member for
14 the failure to follow the correct procedures.

15 (b) The arbitrator shall send a copy of a citation under
16 Subsection (a) to the chairman of the appraisal review board.

17 (c) A member of an appraisal review board who receives three
18 citations under this section is ineligible to continue serving as
19 an appraisal review board member and is considered to have vacated
20 the office of appraisal review board member on the date the chairman
21 of the appraisal review board receives the copy of the third
22 citation.

23 SECTION 6. Sections 25.25(a) and (o), Tax Code, are amended
24 to read as follows:

25 (a) Except as provided by Chapters 41, 41A, and 42 of this
26 code and by this section, the appraisal roll may not be changed.

27 (o) The failure or refusal of a chief appraiser to change an

1 appraisal roll under Subsection (b) is not:

2 (1) an action that the appraisal review board is
3 authorized to determine under this section;

4 (2) an action that may be the subject of a suit to
5 compel filed under Subsection (g);

6 (3) an action that a property owner is entitled to
7 protest under Section 41.41; or

8 (4) an action that may be appealed under Chapter 41A or
9 42.

10 SECTION 7. Chapter 41A, Tax Code, as amended by this Act,
11 applies only to a request for binding arbitration filed by a
12 property owner under that chapter on or after the effective date of
13 this Act.

14 SECTION 8. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2006.