

By: Mowery, Wong, Truitt, et al.

H.B. No. 182

A BILL TO BE ENTITLED

AN ACT

relating to the determination through binding arbitration of certain ad valorem tax protests brought by property owners.

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

SECTION 1. Chapter 41, Tax Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PROTEST THROUGH BINDING ARBITRATION

Sec. 41.81. RIGHT TO ARBITRATION. (a) In this section, "residential real property" means real property that:

(1) qualifies for an exemption under Section 11.13; or

(2) is designed or adapted for residential purposes and on which is located one or more condominiums or no more than one single-family dwelling unit.

(b) As an alternative to having a protest brought under Section 41.41 heard by the appraisal review board, a property owner is entitled to have a protest concerning the appraised or market value of residential real property determined through binding arbitration under this subchapter if the appraised or market value, as applicable, of the property as determined by the appraisal district is \$1 million or less.

Sec. 41.82. NOTICE OF RIGHT TO ARBITRATION. An appraisal district that delivers a notice of appraised value under Section 25.19 shall include with the notice:

(1) a notice of the property owner's rights under this

1 subchapter; and

2 (2) a copy of the form required by Section
3 41.83(a)(1).

4 Sec. 41.83. REQUEST FOR ARBITRATION. (a) To request that a
5 protest be determined by an arbitrator under this subchapter, a
6 property owner must file with the appraisal district not later than
7 the deadline for filing a protest established by Section 41.44:

8 (1) a completed request for binding arbitration under
9 this subchapter in the form prescribed by Section 41.84; and

10 (2) an arbitration deposit in the appropriate amount,
11 made payable to the comptroller.

12 (b) The amount of the arbitration deposit required by
13 Subsection (a)(2) is an amount equal to the lesser of \$750 or
14 one-fourth of one percent of the appraised or market value of the
15 property as determined by the appraisal district that is being
16 protested, rounded up to the next whole dollar amount.

17 (c) A request for arbitration is a valid and enforceable
18 arbitration agreement for purposes of Chapter 171, Civil Practice
19 and Remedies Code.

20 Sec. 41.84. CONTENTS OF REQUEST FORM. (a) The chief
21 appraiser shall prescribe the form of a request for binding
22 arbitration under this subchapter. The form must require the
23 property owner to provide only:

24 (1) a brief statement that explains the basis for the
25 property owner's protest of the action of the appraisal district;
26 and

27 (2) any other information reasonably necessary for the

1 appraisal district to request appointment of an arbitrator.

2 (b) The comptroller by rule shall prescribe a model form for
3 purposes of this section. The form must include a brief statement
4 that explains how the property owner can calculate the amount of the
5 arbitration deposit required by Section 41.83(a)(2).

6 Sec. 41.85. PROCESSING OF ARBITRATION REQUEST. Not later
7 than the 10th day after the date an appraisal district receives from
8 a property owner a completed request for binding arbitration under
9 this subchapter and the arbitration deposit required by Section
10 41.83, the appraisal district shall:

11 (1) endorse the request;

12 (2) submit to the comptroller the request, the
13 arbitration deposit filed by the property owner, and an additional
14 \$250 arbitration deposit from the appraisal district, made payable
15 to the comptroller; and

16 (3) request that the comptroller appoint a qualified
17 arbitrator to conduct the arbitration.

18 Sec. 41.86. REGISTRY AND QUALIFICATIONS OF ARBITRATORS.

19 (a) The comptroller shall maintain a registry listing the
20 qualified persons who have agreed to serve as arbitrators under
21 this subchapter.

22 (b) To qualify to serve as an arbitrator under this
23 subchapter, a person must:

24 (1) have completed at least 30 hours of training in
25 arbitration and alternative dispute resolution procedures from a
26 university, college, or legal or real estate trade association;

27 (2) be licensed as a real estate broker or salesperson

1 under Chapter 1101, Occupations Code, or be licensed or certified
2 as a real estate appraiser under Chapter 1103, Occupations Code;
3 and

4 (3) agree to conduct an arbitration for a fee that is
5 not more than \$500.

6 Sec. 41.87. APPOINTMENT OF ARBITRATOR. (a) On receipt of
7 the request and deposits under Section 41.85, the comptroller shall
8 send the property owner and the appraisal district a copy of the
9 comptroller's registry of qualified arbitrators and request that
10 the parties jointly select an arbitrator from the registry. The
11 parties shall attempt to select an arbitrator from the registry.

12 (b) Not later than the 10th day after the date the parties
13 receive the registry, the appraisal district shall notify the
14 comptroller that:

15 (1) the parties have selected an arbitrator and
16 request that the comptroller appoint the selected arbitrator; or

17 (2) the parties were unable to agree on the selection
18 of an arbitrator and request that the comptroller appoint an
19 arbitrator.

20 (c) On receipt of notice from the appraisal district under
21 Subsection (b), the comptroller shall:

22 (1) appoint:

23 (A) the arbitrator selected under Subsection
24 (b)(1), if applicable; or

25 (B) any arbitrator included in the comptroller's
26 registry, if Subsection (b)(2) applies; and

27 (2) send notice to the arbitrator appointed,

1 requesting that the arbitrator conduct the arbitration.

2 (d) If the arbitrator appointed is unable or unwilling to
3 conduct the arbitration for any reason, the arbitrator shall
4 promptly notify the comptroller that the arbitrator does not accept
5 the appointment and state the reason. The comptroller shall
6 appoint a substitute arbitrator promptly after receipt of the
7 notice.

8 Sec. 41.88. NOTICE AND HEARING; REPRESENTATION OF PARTIES.

9 (a) On acceptance of an appointment to conduct an arbitration under
10 this subchapter, the arbitrator shall set the date, time, and place
11 of a hearing on the arbitration. The arbitrator shall give notice
12 of and conduct the hearing in the manner provided by Subchapter C,
13 Chapter 171, Civil Practice and Remedies Code.

14 (b) The parties to an arbitration proceeding under this
15 subchapter may represent themselves or be represented by a
16 designated person, including an attorney or a property tax
17 consultant, real estate appraiser, or real estate broker acting
18 under power of attorney. Each party is responsible for the fees of
19 its own representative.

20 Sec. 41.89. AWARD; PAYMENT OF ARBITRATOR'S FEE. (a) Not
21 later than the fifth day after the date the hearing under Section
22 41.88 is concluded, the arbitrator shall make an arbitration award
23 and deliver a copy of the award to the property owner, appraisal
24 district, and comptroller.

25 (b) An award under this section:

26 (1) shall include a determination of the appraised or
27 market value, as applicable, of the property that is the subject of

1 the protest;

2 (2) may include any remedy or relief that an appraisal
3 review board may order under this chapter;

4 (3) shall specify the arbitrator's fee, which may not
5 exceed \$500;

6 (4) is final and may not be vacated except as permitted
7 under Section 171.088, Civil Practice and Remedies Code, for an
8 award subject to that section; and

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

11 (c) Except as provided by Subsection (d), if the arbitrator
12 determines that the appraised or market value, as applicable, of
13 the property that is the subject of the protest is less than 95
14 percent of the appraised or market value, as applicable, of the
15 property as determined by the appraisal district, rounded down to
16 the next whole number:

17 (1) the arbitrator shall award to the property owner
18 an amount equal to the amount of the property owner's arbitration
19 deposit; and

20 (2) the appraisal district, before the 30th day after
21 the date of receipt of a copy of the award, shall pay that amount to
22 the property owner.

23 (d) If the appraised or market value of the property as
24 determined by the appraisal district and that is being protested is
25 \$200,000 or more, and the arbitrator determines that the appraised
26 or market value, as applicable, of the property is less than 90
27 percent of that value as determined by the appraisal district,

1 rounded down to the next whole number, the arbitrator and the
2 appraisal district shall comply with Subsections (c)(1) and (2).

3 (e) On receipt of a copy of the arbitrator's award, the
4 comptroller shall pay from the total amount of the arbitration
5 deposits from the property owner and the appraisal district held by
6 the comptroller:

7 (1) the amount of the arbitrator's fee to the
8 arbitrator; and

9 (2) any remaining balance to the appraisal district.

10 (f) If the amount paid to the appraisal district under
11 Subsection (e) is less than \$250, on application of the appraisal
12 district and from any arbitrator deposits held by the comptroller
13 that are available for that purpose, the comptroller shall pay the
14 amount of the difference to the appraisal district.

15 Sec. 41.90. RULES; DELEGATION OF APPOINTMENT AUTHORITY.

16 The comptroller may:

17 (1) adopt rules necessary to implement and administer
18 this subchapter; and

19 (2) designate employees authorized to appoint
20 arbitrators under this subchapter.

21 SECTION 2. As soon as practicable after the effective date
22 of this Act, but not later than October 1, 2005:

23 (1) each appraisal district shall prescribe the form
24 of an arbitration request as provided by Section 41.84, Tax Code, as
25 added by this Act; and

26 (2) the comptroller shall:

27 (A) prescribe the model form for an arbitration

1 request as provided by Section 41.84, Tax Code, as added by this
2 Act; and

3 (B) establish a registry of qualified
4 arbitrators as provided by Section 41.86, Tax Code, as added by this
5 Act.

6 SECTION 3. Subchapter E, Chapter 41, Tax Code, as added by
7 this Act, applies only to a protest filed by a property owner under
8 that chapter on or after the effective date of this Act.

9 SECTION 4. This Act takes effect September 1, 2005.