

AN ACT

relating to the appeal of certain ad valorem tax determinations through binding arbitration.

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

SECTION 1. Subtitle F, Title 1, Tax Code, is amended by adding Chapter 41A to read as follows:

CHAPTER 41A. APPEAL THROUGH BINDING ARBITRATION

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. 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 determining a protest concerning the appraised or market value of real property if:

(1) the appraised or market value, as applicable, of the property as determined by 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.

Sec. 41A.02. NOTICE OF RIGHT TO ARBITRATION. An appraisal review board that delivers notice of issuance of an order described by Section 41A.01 and a copy of the order to a property owner as required by Section 41.47 shall include with the notice and copy:

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

(2) a copy of the form prescribed under Section

1 41A.04.

2 Sec. 41A.03. REQUEST FOR ARBITRATION. (a) To appeal an
3 appraisal review board order under this chapter, a property owner
4 must file with the appraisal district not later than the 45th day
5 after the date the property owner receives notice of the order:

6 (1) a completed request for binding arbitration under
7 this chapter in the form prescribed by Section 41A.04; and

8 (2) an arbitration deposit in the amount of \$500, made
9 payable to the comptroller.

10 (b) A property owner who fails to strictly comply with this
11 section waives the property owner's right to request arbitration
12 under this chapter. A property owner who appeals an appraisal
13 review board order determining a protest concerning the appraised
14 or market value, as applicable, of the owner's property under
15 Chapter 42 waives the owner's right to request binding arbitration
16 under this chapter regarding the value of that property. An
17 arbitrator shall dismiss any pending arbitration proceeding if the
18 property owner's rights are waived under this subsection.

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

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

25 (2) a statement of the property owner's opinion of the
26 appraised or market value, as applicable, of the property that is
27 the subject of the appeal; and

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

3 Sec. 41A.05. PROCESSING OF REGISTRATION REQUEST. (a) Not
4 later than the 10th day after the date an appraisal district
5 receives from a property owner a completed request for binding
6 arbitration under this chapter and an arbitration deposit as
7 required by Section 41A.03, the appraisal district shall:

8 (1) certify the request;

9 (2) submit the request and deposit to the comptroller;

10 and

11 (3) request the comptroller to appoint a qualified
12 arbitrator to conduct the arbitration.

13 (b) The comptroller may retain an amount equal to 10 percent
14 of the deposit to cover the comptroller's administrative costs.

15 Sec. 41A.06. REGISTRY AND QUALIFICATIONS OF ARBITRATORS.

16 (a) The comptroller shall maintain a registry listing the
17 qualified persons who have agreed to serve as arbitrators under
18 this chapter.

19 (b) To qualify to serve as an arbitrator under this chapter,
20 a person must:

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

24 (2) be licensed as a real estate broker or salesperson
25 under Chapter 1101, Occupations Code, or be licensed or certified
26 as a real estate appraiser under Chapter 1103, Occupations Code;

27 and

1 (3) agree to conduct an arbitration for a fee that is
2 not more than 90 percent of the amount of the arbitration deposit
3 required by Section 41A.03.

4 Sec. 41A.07. APPOINTMENT OF ARBITRATOR. (a) On receipt of
5 the request and deposit under Section 41A.05, the comptroller shall
6 send the property owner and the appraisal district a copy of the
7 comptroller's registry of qualified arbitrators and request that
8 the parties select an arbitrator from the registry. The
9 comptroller may send a copy of the registry to the parties by
10 regular mail in paper form or may send the parties written notice of
11 the Internet address of a website at which the registry is
12 maintained and may be accessed. The parties shall attempt to select
13 an arbitrator from the registry.

14 (b) Not later than the 20th day after the date the parties
15 receive the copy of the registry or notice of the Internet address
16 of the registry website, the appraisal district shall notify the
17 comptroller that:

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

20 (2) the parties were unable to select an arbitrator
21 and request the comptroller to appoint an arbitrator.

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

24 (1) appoint:

25 (A) the arbitrator selected under Subsection
26 (b)(1), if applicable; or

27 (B) any arbitrator included in the comptroller's

1 registry, if Subsection (b)(2) applies; and

2 (2) send notice to the arbitrator appointed,
3 requesting that the arbitrator conduct the arbitration.

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

10 Sec. 41A.08. NOTICE AND HEARING; REPRESENTATION OF PARTIES.

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

16 (1) shall continue a hearing if both parties agree to
17 the continuance; and

18 (2) may continue a hearing for reasonable cause.

19 (b) The parties to an arbitration proceeding under this
20 chapter may represent themselves or may be represented by:

21 (1) an employee of the appraisal district;

22 (2) an attorney who is licensed in this state;

23 (3) a person who is licensed as a real estate broker or
24 salesperson under Chapter 1101, Occupations Code, or is licensed or
25 certified as a real estate appraiser under Chapter 1103,
26 Occupations Code; or

27 (4) a property tax consultant registered under Chapter

1 1152, Occupations Code.

2 Sec. 41A.09. AWARD; PAYMENT OF ARBITRATOR'S FEE. (a) Not
3 later than the 20th day after the date the hearing under Section
4 41A.08 is concluded, the arbitrator shall make an arbitration award
5 and deliver a copy of the award to the property owner, appraisal
6 district, and comptroller.

7 (b) An award under this section:

8 (1) must include a determination of the appraised or
9 market value, as applicable, of the property that is the subject of
10 the appeal;

11 (2) may include any remedy or relief a court may order
12 under Chapter 42 in an appeal relating to the appraised or market
13 value of property;

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

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

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

21 (c) If the arbitrator determines that the appraised or
22 market value, as applicable, of the property that is the subject of
23 the appeal is nearer to the property owner's opinion of the
24 appraised or market value, as applicable, of the property as stated
25 in the request for binding arbitration submitted under Section
26 41A.03 than the value determined by the appraisal review board:

27 (1) the comptroller, on receipt of a copy of the award,

1 shall refund the property owner's arbitration deposit, less the
2 amount retained by the comptroller under Section 41A.05(b);

3 (2) the appraisal district, on receipt of a copy of the
4 award, shall pay the arbitrator's fee; and

5 (3) the chief appraiser shall correct the appraised or
6 market value, as applicable, of the property as shown in the
7 appraisal roll to reflect the arbitrator's determination.

8 (d) If the arbitrator determines that the appraised or
9 market value, as applicable, of the property that is the subject of
10 the appeal is not nearer to the property owner's opinion of the
11 appraised or market value, as applicable, of the property as stated
12 in the request for binding arbitration submitted under Section
13 41A.03 than the value determined by the appraisal review board:

14 (1) the comptroller, on receipt of a copy of the award,
15 shall:

16 (A) pay the arbitrator's fee out of the owner's
17 arbitration deposit; and

18 (B) refund to the owner the owner's arbitration
19 deposit, less the arbitrator's fee and the amount retained by the
20 comptroller under Section 41A.05(b); and

21 (2) the chief appraiser shall correct the appraised or
22 market value, as applicable, of the property as shown in the
23 appraisal roll to reflect the arbitrator's determination if the
24 value as determined by the arbitrator is less than the value as
25 determined by the appraisal review board.

26 (e) The comptroller by rule may prescribe a standard form
27 for an award and may require arbitrators to use the award form when

1 making awards under this chapter.

2 Sec. 41A.10. PAYMENT OF TAXES PENDING APPEAL. (a) The
3 pendency of an appeal under this chapter does not affect the
4 delinquency date for the taxes on the property subject to the
5 appeal. A property owner who appeals an appraisal review board
6 order under this chapter shall pay taxes on the property subject to
7 the appeal in an amount equal to the amount of taxes due on the
8 portion of the taxable value of the property that is not in dispute.
9 If the final determination of an appeal under this chapter
10 decreases the property owner's tax liability to less than the
11 amount of taxes paid, the taxing unit shall refund to the property
12 owner the difference between the amount of taxes paid and the amount
13 of taxes for which the property owner is liable.

14 (b) A property owner may not file an appeal under this
15 chapter if the taxes on the property subject to the appeal are
16 delinquent. An arbitrator who determines that the taxes on the
17 property subject to an appeal are delinquent shall dismiss the
18 pending appeal with prejudice. If an appeal is dismissed under this
19 subsection, the comptroller shall refund the property owner's
20 arbitration deposit, less the amount retained by the comptroller
21 under Section 41A.05(b).

22 Sec. 41A.11. POSTAPPEAL ADMINISTRATIVE PROCEDURES. An
23 arbitration award under this chapter is considered to be a final
24 determination of an appeal for purposes of Subchapter C, Chapter
25 42.

26 Sec. 41A.12. USE OF PROPERTIES AS SAMPLES. An arbitrator's
27 determination of market value under this chapter is the market

1 value of the property subject to the appeal for the purposes of the
2 annual study conducted under Section 403.302, Government Code.

3 Sec. 41A.13. RULES. The comptroller may adopt rules
4 necessary to implement and administer this chapter.

5 SECTION 2. As soon as practicable after the effective date
6 of this Act, but not later than January 1, 2006, the comptroller
7 shall:

8 (1) prescribe the model form for an arbitration
9 request as provided by Section 41A.04, Tax Code, as added by this
10 Act; and

11 (2) establish a registry of qualified arbitrators as
12 provided by Section 41A.06(a), Tax Code, as added by this Act.

13 SECTION 3. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 182 was passed by the House on April 20, 2005, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 182 on May 23, 2005, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 182 on May 28, 2005, by a non-record vote.

Chief Clerk of the House

H.B. No. 182

I certify that H.B. No. 182 was passed by the Senate, with amendments, on May 20, 2005, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 182 on May 29, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor