

By: Rose

H.B. No. 2818

A BILL TO BE ENTITLED

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 the appraised or market value, as applicable, of the property as determined by the order is \$1 million or less.

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 41A.03(1).

Sec. 41A.03. REQUEST FOR ARBITRATION. To appeal an appraisal review board order under this chapter, a property owner

1 must file with the appraisal district not later than the 15th day  
2 after the date the property owner receives notice of the order:

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

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

7 Sec. 41A.04. CONTENTS OF REQUEST FORM. (a) The chief  
8 appraiser shall prescribe the form of a request for binding  
9 arbitration under this chapter. The form must require the property  
10 owner to provide only:

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

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

15 (b) The comptroller by rule shall prescribe a model form for  
16 purposes of this section.

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

22 (1) certify the request;

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

24 and

25 (3) request the comptroller to appoint a qualified  
26 arbitrator to conduct the arbitration.

27 (b) The comptroller may retain an amount equal to 10 percent

1 of the deposit to cover the comptroller's administrative costs.

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

3 (a) The comptroller shall maintain a registry listing the  
4 qualified persons who have agreed to serve as arbitrators under  
5 this chapter.

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

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

11 (2) be licensed as a real estate broker or salesperson  
12 under Chapter 1101, Occupations Code, or be licensed or certified  
13 as a real estate appraiser under Chapter 1103, Occupations Code;  
14 and

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

18 Sec. 41A.07. APPOINTMENT OF ARBITRATOR. (a) On receipt of  
19 the request and deposit under Section 41A.05, the comptroller shall  
20 send the property owner and the appraisal district a copy of the  
21 comptroller's registry of qualified arbitrators and request that  
22 the parties select an arbitrator from the registry. The parties  
23 shall attempt to select an arbitrator from the registry.

24 (b) Not later than the 10th day after the date the parties  
25 receive the registry, the appraisal district shall notify the  
26 comptroller that:

27 (1) the parties have selected an arbitrator and

1 request that the comptroller appoint the selected arbitrator; or

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

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

6 (1) appoint:

7 (A) the arbitrator selected under Subsection  
8 (b)(1), if applicable; or

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

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

13 (d) If the arbitrator appointed is unable or unwilling to  
14 conduct the arbitration for any reason, the arbitrator shall  
15 promptly notify the comptroller that the arbitrator does not accept  
16 the appointment and state the reason. The comptroller shall  
17 appoint a substitute arbitrator promptly after receipt of the  
18 notice.

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

20 (a) On acceptance of an appointment to conduct an arbitration under  
21 this chapter, the arbitrator shall set the date, time, and place of  
22 a hearing on the arbitration. The arbitrator shall give notice of  
23 and conduct the hearing in the manner provided by Subchapter C,  
24 Chapter 171, Civil Practice and Remedies Code.

25 (b) The parties to an arbitration proceeding under this  
26 chapter may be represented by an attorney or by a property tax  
27 consultant, real estate appraiser, or real estate broker acting

1 under power of attorney. Each party is responsible for the fees of  
2 its own representative.

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

8 (b) An award under this section:

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

12 (2) may include any remedy or relief a court may order  
13 under Chapter 42;

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 less than 99 percent of the appraised or market value,  
24 as applicable, of the property as determined by the appraisal  
25 review board:

26 (1) the comptroller, on receipt of a copy of the award,  
27 shall refund the property owner's arbitration deposit, less the

1 amount retained by the comptroller under Section 41A.05(b); and

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

4 (d) If the arbitrator determines that the appraised or  
5 market value, as applicable, of the property that is the subject of  
6 the appeal is at least 99 percent of the appraised or market value,  
7 as applicable, of the property as determined by the appraisal  
8 review board, the comptroller, on receipt of a copy of the award,  
9 shall:

10 (1) pay the arbitrator's fee out of the property  
11 owner's arbitration deposit; and

12 (2) refund to the property owner the property owner's  
13 arbitration deposit, less the arbitrator's fee and the amount  
14 retained by the comptroller under Section 41A.05(b).

15 Sec. 41A.10. POSTAPPEAL ADMINISTRATIVE PROCEDURES. An  
16 arbitration award under this chapter is considered to be a final  
17 determination of an appeal for purposes of Subchapter C, Chapter  
18 42.

19 Sec. 41A.11. RULES. The comptroller may adopt rules  
20 necessary to implement and administer this chapter.

21 SECTION 2. As soon as practicable after the effective date  
22 of this Act, but not later than January 1, 2006:

23 (1) each appraisal district shall prescribe the form  
24 of an arbitration request as provided by Section 41A.04, Tax Code,  
25 as 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 41A.04, Tax Code, as added by this  
2 Act; and

3 (B) establish a registry of qualified  
4 arbitrators as provided by Section 41A.06(a), Tax Code, as added by  
5 this Act.

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