

By: Otto, Hill, Kolkhorst, Ritter, Thompson,  
et al.

H.B. No. 3490

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a chief appraiser to appeal from an order of an appraisal review board determining a taxpayer protest.

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

SECTION 1. Section 42.02, Tax Code, is amended to read as follows:

Sec. 42.02. RIGHT OF APPEAL BY CHIEF APPRAISER. (a) On written approval of the board of directors of the appraisal district, the chief appraiser is entitled to appeal an order of the appraisal review board determining:

(1) a taxpayer protest as provided by Subchapter C, Chapter 41, subject to Subsection (b); or

(2) a taxpayer's motion to change the appraisal roll filed under Section 25.25.

(b) Except as provided by Subsection (c), the chief appraiser may not appeal an order of the appraisal review board determining a taxpayer protest under Subsection (a)(1) if:

(1) the protest involved a determination of the appraised or market value of the taxpayer's property and that value according to the order that is the subject of the appeal is less than \$1 million; or

(2) for any other taxpayer protest, the property to which the protest applies has an appraised value according to the appraisal roll for the current year of less than \$1 million.

1        (c) On written approval of the board of directors of the  
2 appraisal district, the chief appraiser may appeal an order of the  
3 appraisal review board determining a taxpayer protest otherwise  
4 prohibited by Subsection (b), if the chief appraiser alleges that  
5 the taxpayer or a person acting on behalf of the taxpayer committed  
6 fraud, made a material misrepresentation, or presented fraudulent  
7 evidence in the hearing before the board. In an appeal under this  
8 subsection, the court shall first consider whether the taxpayer or  
9 a person acting on behalf of the taxpayer committed fraud, made a  
10 material misrepresentation, or presented fraudulent evidence to  
11 the appraisal review board. If the court does not find by a  
12 preponderance of the evidence that the taxpayer or a person acting  
13 on behalf of the taxpayer committed fraud, made a material  
14 misrepresentation, or presented fraudulent evidence to the  
15 appraisal review board, the court shall:

16                (1) dismiss the appeal; and

17                (2) award court costs and reasonable attorney's fees  
18 to the taxpayer.

19        SECTION 2. The change in law made by this Act applies only  
20 to an appeal by a chief appraiser from an order of an appraisal  
21 review board that was issued on or after the effective date of this  
22 Act. An appeal by a chief appraiser from an order of an appraisal  
23 review board that was issued before the effective date of this Act  
24 is governed by the law in effect when the order of the appraisal  
25 review board was issued, and the former law is continued in effect  
26 for that purpose.

27        SECTION 3. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2007.