

1-1 By: Otto, et al. (Senate Sponsor - Williams) H.B. No. 3490
1-2 (In the Senate - Received from the House April 30, 2007;
1-3 May 2, 2007, read first time and referred to Committee on Finance;
1-4 May 19, 2007, reported favorably by the following vote: Yeas 11,
1-5 Nays 0; May 19, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the authority of a chief appraiser to appeal from an
1-9 order of an appraisal review board determining a taxpayer protest.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 42.02, Tax Code, is amended to read as
1-12 follows:

1-13 Sec. 42.02. RIGHT OF APPEAL BY CHIEF APPRAISER. (a) On
1-14 written approval of the board of directors of the appraisal
1-15 district, the chief appraiser is entitled to appeal an order of the
1-16 appraisal review board determining:

1-17 (1) a taxpayer protest as provided by Subchapter C,
1-18 Chapter 41, subject to Subsection (b); or

1-19 (2) a taxpayer's motion to change the appraisal roll
1-20 filed under Section 25.25.

1-21 (b) Except as provided by Subsection (c), the chief
1-22 appraiser may not appeal an order of the appraisal review board
1-23 determining a taxpayer protest under Subsection (a)(1) if:

1-24 (1) the protest involved a determination of the
1-25 appraised or market value of the taxpayer's property and that value
1-26 according to the order that is the subject of the appeal is less
1-27 than \$1 million; or

1-28 (2) for any other taxpayer protest, the property to
1-29 which the protest applies has an appraised value according to the
1-30 appraisal roll for the current year of less than \$1 million.

1-31 (c) On written approval of the board of directors of the
1-32 appraisal district, the chief appraiser may appeal an order of the
1-33 appraisal review board determining a taxpayer protest otherwise
1-34 prohibited by Subsection (b), if the chief appraiser alleges that
1-35 the taxpayer or a person acting on behalf of the taxpayer committed
1-36 fraud, made a material misrepresentation, or presented fraudulent
1-37 evidence in the hearing before the board. In an appeal under this
1-38 subsection, the court shall first consider whether the taxpayer or
1-39 a person acting on behalf of the taxpayer committed fraud, made a
1-40 material misrepresentation, or presented fraudulent evidence to
1-41 the appraisal review board. If the court does not find by a
1-42 preponderance of the evidence that the taxpayer or a person acting
1-43 on behalf of the taxpayer committed fraud, made a material
1-44 misrepresentation, or presented fraudulent evidence to the
1-45 appraisal review board, the court shall:

1-46 (1) dismiss the appeal; and

1-47 (2) award court costs and reasonable attorney's fees
1-48 to the taxpayer.

1-49 SECTION 2. The change in law made by this Act applies only
1-50 to an appeal by a chief appraiser from an order of an appraisal
1-51 review board that was issued on or after the effective date of this
1-52 Act. An appeal by a chief appraiser from an order of an appraisal
1-53 review board that was issued before the effective date of this Act
1-54 is governed by the law in effect when the order of the appraisal
1-55 review board was issued, and the former law is continued in effect
1-56 for that purpose.

1-57 SECTION 3. This Act takes effect immediately if it receives
1-58 a vote of two-thirds of all the members elected to each house, as
1-59 provided by Section 39, Article III, Texas Constitution. If this
1-60 Act does not receive the vote necessary for immediate effect, this
1-61 Act takes effect September 1, 2007.

1-62 * * * * *