

BILL ANALYSIS

Senate Research Center
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S.B. 1497
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law limits the number of property owners who are entitled to appeal an appraisal review board order through binding arbitration as an alternative to filing a lawsuit, limits the types of professionals who are authorized to represent a party to a binding arbitration, and contains no continuing qualification requirements for an arbitrator to meet after initial qualification.

As proposed, S.B. 1497 entitles a property owner to appeal through binding arbitration an appraisal review board order determining a protest concerning real property under certain conditions. The bill also provides for registry and initial qualifications of arbitrators and for the continued qualifications of an arbitrator and a renewal of a person's agreement to serve as an arbitrator.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Comptroller of Public Accounts in SECTION 2 (Section 41A.04, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 41A.01, Tax Code, as follows:

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. (a) Entitles a property owner, except as provided by Subsection (b), as an alternative to filing an appeal under Section 42.01 (Right of Appeal by Property Owner), to appeal through binding arbitration under this chapter an appraisal review board order determining a protest filed under Section 41.41(a)(1) (relating to a property owner's entitlement to protest a determination of the appraised value of the owner's property or, in the case of land appraised under certain conditions, a determination of its appraised or market value) or (2) (relating to a property owner's entitlement to protest an unequal appraisal of the owner's property) concerning real property if the property qualifies as the owner's residence homestead under Section 11.13 (Residence Homestead) or the appraised or market value, as applicable, of the property as determined by the order is \$1 million or less. Deletes existing text entitling a property owner, as an alternative to filing an appeal under Section 41.01, 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 and the appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property. Makes nonsubstantive changes.

(b) Prohibits a property owner from appealing through binding arbitration under this chapter an appraisal review board order determining a protest filed under Section 41.41(a)(2) if the property owner was represented before the appraisal review board by a person who received compensation for representing the property owner; and the owner or the person representing the owner did not provide to the chief appraiser, at least seven days before the date of the appraisal review board hearing, copies of all the evidence the owner or the person representing the owner used in the appraisal review board hearing.

SECTION 2. Amends Section 41A.04, Tax Code, as follows:

Sec. 41A.04. CONTENTS OF REQUEST FORM. Requires the comptroller of public accounts (comptroller) by rule to prescribe the form of a request for binding arbitration under this chapter. Requires that the form require the property owner to provide only a statement of the property owner's opinion of the correct appraised value, rather than the appraised or market value, rather than appraised or market value, as applicable, of the property that is the subject of the appeal if the property is not land appraised under Subchapter C (Land Designated for Agricultural Use), D (Appraisal of Agricultural Land), E (Appraisal of Timber Land), or H (Appraisal of Restricted-Use Timber Land), Chapter 23 (Appraisal Methods and Procedures); or the correct appraised or market value, as applicable according to the order being appealed, of the property that is subject of the appeal if the property is land appraised under Subchapter C, D, E, or H, Chapter 23.

SECTION 3. Amends Section 41A.05(b), Tax Code, to authorize the comptroller to retain an amount equal to 15, rather 10, percent of the deposit to cover the comptroller's administrative costs.

SECTION 4. Amends the heading to Section 41A.06, Tax Code, to read as follows:

Sec. 41A.06. REGISTRY AND INITIAL QUALIFICATION OF ARBITRATORS.

SECTION 5. Amends Section 41A.06, Tax Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Requires a person, to initially qualify to serve as an arbitrator under this chapter, to have been licensed or certified continuously during the five years preceding the date the person agrees to serve as an arbitrator as a real estate broker or salesperson under Chapter 1101 (Real Estate Brokers and Salespersons), Occupations Code; or a real estate appraiser under Chapter 1103 (Real Estate Appraisers), Occupations Code. Deletes existing text requiring a person, to qualify to serve as an arbitrator under this chapter, to be licensed as a real estate broker or salesperson under Chapter 1101, Occupations Code, or be licensed or certified as a real estate appraiser under Chapter 1103, Occupations Code.

(c) Provides that a person who is registered as a property tax consultant under Chapter 1152 (Property Tax Consultants), Occupations Code, is not eligible to serve as an arbitrator under this chapter.

(d) Provides that a person who performs property tax consulting services, as defined by Section 1152.001 (Definitions), Occupations Code, for compensation in connection with this title that relate to a particular appraisal district is not eligible to serve as an arbitrator of an appeal of an order of the appraisal review board established for that appraisal district.

SECTION 6. Amends Chapter 41A, Tax Code, by adding Section 41A.061, as follows:

Sec. 41A.061. CONTINUED QUALIFICATION OF ARBITRATOR; RENEWAL OF AGREEMENT. (a) Requires the comptroller to include a qualified arbitrator in the registry until the second anniversary of the date the person was added to the registry. Requires the person, to continue to be included in the registry after the second anniversary of the date the person was added to the registry, to renew the person's agreement with the comptroller to serve as an arbitrator on or as near as possible to the date on which the person's license or certification issued under Chapter 1101 or 1103, Occupations Code, is renewed.

(b) Requires the person, to renew the person's agreement to serve as an arbitrator, to file a renewal application with the comptroller at the time and in the manner prescribed by the comptroller; continue to meet the requirements provided by Section 41A.06(b); and during the preceding two years have completed at least eight hours of continuing education in arbitration and alternative dispute

resolution procedures offered by a university, college, real estate trade association, or legal association.

(c) Requires the comptroller to remove a person from the registry if the person fails or declines to renew the person's agreement to serve as an arbitrator in the manner required by this section.

SECTION 7. Reenacts and amends Section 41A.08(b), Tax Code, as added by Chapters 372 (S.B. 1351) and 912 (H.B. 182), Acts of the 79th Legislature, Regular Session, 2005, to authorize the parties to an arbitration proceeding under this chapter to represent themselves or, at their own cost, to be represented by certain persons, including an individual who is licensed as a certified accountant under Chapter 901 (Accountants), Occupations Code.

SECTION 8. Amends Sections 41A.09(b), (c), and (d), Tax Code, as follows:

(b) Requires that an award under this section include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal, if the appeal is an appeal of an appraisal review board order determining a protest under Section 41.41(a)(1) and the equalized appraised value as calculated under Section 41A.091 of the property that is the subject of the appeal, if the appeal is an appeal of an appraisal review board order determining a protest under Section 41.41(a)(2), and the arbitrator determines the appeal in favor of the property owner. Prohibits an award under this section from including any relief or determining any issue not specified by this chapter, rather than is authorized to include any remedy or relief a court is authorized to order under Chapter 42 (Judicial Review) in an appeal relating to the appraised or market value of property.

(c) Provides that if the value determined under Subsection (b)(1)(A) (relating to the appraised or market value, as applicable, of the property that is the subject of the appeal, if the appeal is appeal of an appraisal review board order determining a protest under Section 41.41(a)(1)) or B (relating to the equalized appraised value as calculated under Section 41A.091 of the property that is subject of the appeal, if the appeal is an appeal of an appraisal review board order determining a protest under Section 41.41(a)(2) and the arbitrator determines the appeal in favor of the property owner), as applicable, or the lower of the values determined under Subsections (b)(1)(A) and (B), if both paragraphs are applicable, is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration submitted under Section 41A.03 (Request for Arbitration) than the value determined by the appraisal review board, the comptroller, appraisal district, and chief arbitrator are required to take certain actions. Deletes existing text providing that if the arbitrator determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration submitted under Section 41A.03 than the value determined by the appraisal review board, the comptroller, appraisal district, and chief appraiser are required to take certain actions.

(d) Provides that if the value determined under Subsection (b)(1)(A) or (B), as applicable, or the lower of the values determined under Subsections (b)(1)(A) and (B), if both paragraphs are applicable, is not nearer the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration submitted under Section 41A.03 than the value determined by the appraisal review board the comptroller and the chief appraiser are required to take certain actions. Deletes existing text providing that if the arbitrator determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration submitted under Section 41A.03 than the value determined by the appraisal review board, the comptroller and the chief appraiser are required to take certain actions.

SECTION 9. Amends Chapter 41A, Tax Code, by adding Section 41A.091, as follows:

Sec. 41A.091. DETERMINATION AND REMEDY FOR UNEQUAL APPRAISAL.

(a) Authorizes an arbitrator to determine an appeal of an appraisal review board order determining a protest under Section 41.41(a)(2) in favor of the property owner if the evidence establishes that:

(1) the appraisal ratio of the property exceeds by at least 10 percent the median level of appraisal of a reasonable and representative sample of other properties in the appraisal district;

(2) the appraisal ratio of the property exceeds by at least 10 percent the median level of appraisal of a sample of properties in the appraisal district consisting of a reasonable number of other properties similarly situated to, or of the same general kind of character as, the property subject to the appeal; or

(3) the appraised value of the property exceeds by at least 10 percent the median appraised value of a reasonable and representative sample of comparable properties appropriately adjusted.

(b) Requires that the award, if a determination would result in an award for the property owner under Subsection (a)(1) or (2), state an equalized appraised value of the property calculated by multiplying the appraised value of the property as determined by the appraisal review board by the median level of appraisal according to Subsection (a)(1) or (2), as applicable. Requires that the award, if a determination would result in an award for the property owner under Subsection (a)(3), state an equalized appraised value that is equal to the median appraised value determined under that subsection. Provides that if a property owner is entitled to an award under more than one method of determination, the lowest of the equalized appraised values is the equalized appraised value.

(c) Provides that in making a determination under Subsection (a), an arbitrator is required to determine each applicable median level of appraisal or median appraised value according to the law, is not required to adopt the median level of appraisal or median appraised value proposed by a party to the appeal, and is prohibited from limiting or denying an award to a property owner who is entitled to an award based on any method of determination under Subsection (a) on the ground that the equalized appraised value according to another method of determination under Subsection (a) is higher.

(d) Provides that for purposes of establishing the median level of appraisal under Subsection (a)(1), the median level of appraisal by the appraisal district within the applicable category of property as determined by the comptroller under Section 5.10 (Ratio Studies), is admissible as evidence of the median level of appraisal of a reasonable and representative sample of properties in the appraisal district for the year of the comptroller's determination.

(e) Requires that for purposes of this section, the value of the property subject to the appeal and the value of a comparable property or sample property that is used for comparison be the market value as determined by the appraisal district if the property is a residence homestead subject to the limitation on appraised value imposed by Section 23.23 (Limitation on Appraised Value of Residence Homestead).

SECTION 10. (a) Provides that Sections 41A.01, 41A.04, 41A.05, 41A.08, and 41A.09, Tax Code, as amended by this Act, and Section 41A.091, Tax Code, as added by this Act, apply only to an appeal through binding arbitration under Chapter 41A of that code that is requested on or after the effective date of this Act.

(b) Provides that Section 41A.06, Tax Code, as amended by this Act, applies only to a person who initially qualifies to serve as an arbitrator under Chapter 41A, Tax Code, on or after the effective date of this Act.

(c) Provides that Section 41A.061, Tax Code, as added by this Act, does not affect the eligibility of a person who is included on the registry list or qualified arbitrators on the effective date of this Act to continue to remain on that registry list before the date on which the person's license or certificate under Chapter 1101 or 1103 , Occupations Code, expires unless renewed.

SECTION 11. Effective date: upon passage or September 1, 2009.