

## **BILL ANALYSIS**

Senate Research Center  
81R26263 UM-D

C.S.S.B. 1497  
By: Williams  
Finance  
4/29/2009  
Committee Report (Substituted)

### **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.

C.S.S.B. 1497 relates to binding arbitration of certain appraisal review board orders.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Comptroller of Public Accounts in SECTION 3 (Section 41A.031, 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. Entitles a property owner, 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) concerning the appraised or market value of 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 42.01, to appeal through binding arbitration under this chapter an appraisal review board order determining a protest concerning 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.

SECTION 2. Amends Section 41A.03(a), Tax Code, to require a property owner, to appeal an appraisal review board order under this chapter, to file with the appraisal district not later than the 45th day after the date the property owner receives notice of the order an arbitration deposit made payable to the comptroller in the amount of \$500 or \$250, if the property owner requests expedited arbitration under Section 41A.031. Makes nonsubstantive changes.

SECTION 3. Amends Section 41A, Tax Code, by adding Section 41A.031, as follows:

Sec. 41A.031. EXPEDITED ARBITRATION. (a) Entitles a property owner to an expedited arbitration if the property owner includes a request for expedited arbitration in the request filed under Section 41A.03 (Request for Arbitration) and pays the required deposit.

(b) Requires that an expedited arbitration provide for not more than one hour of argument and testimony on behalf of the property owner and not more than one hour of argument and testimony on behalf of the appraisal district.

(c) Requires the comptroller of public accounts (comptroller) to adopt rules and processes to assist in the conduct of an expedited arbitration, including rules relating to the evidence required to be produced by each party.

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(b), Tax Code, to require 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; a real estate appraiser under Chapter 1103 (Real Estate Appraisers), Occupations Code; or a certified public accountant under Chapter 901 (Accountants), 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. Makes nonsubstantive changes.

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 901, 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. Amends Section 41A.07, Tax Code, by adding Subsection (e), to require an arbitrator selected or appointed to arbitrate an appeal under this chapter regarding property other than real property, notwithstanding any other provision of this section, to be licensed as a certified public accountant under Chapter 901, Occupations Code.

SECTION 8. 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, Occupations Code. Makes nonsubstantive changes.

SECTION 9. (a) Provides that Sections 41A.01, 41A.03, 41A.07, and 41A.08, Tax Code, as amended by this Act, and Section 41A.031, 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 901, 1101, or 1103, Occupations Code, expires unless renewed.

SECTION 10. Effective date: upon passage or September 1, 2009.