

AN ACT

relating to the creation of a pilot program that allows taxpayer appeals from certain appraisal review board determinations in certain counties to be heard by the State Office of Administrative Hearings.

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

SECTION 1. Chapter 2003, Government Code, is amended by adding Subchapter Z to read as follows:

SUBCHAPTER Z. PILOT PROGRAM: APPEALS FROM APPRAISAL REVIEW BOARD DETERMINATIONS IN CERTAIN COUNTIES

Sec. 2003.901. PILOT PROGRAM. (a) Not later than January 1, 2010, the office shall develop a pilot program under which, as an alternative to filing an appeal under Section 42.01, Tax Code, a property owner may appeal to the office an appraisal review board order determining a protest concerning the appraised or market value of property brought under Section 41.41(a)(1) or (2), Tax Code, if the appraised or market value, as applicable, of the property that was the subject of the protest, as determined by the board order, is more than \$1 million.

(b) The pilot program shall be developed and implemented in conformance with the provisions of this subchapter.

(c) So as to expeditiously determine the appeals filed with the office using resources available to the office, the office is not required to determine more than 3,000 appeals filed under this

1 subchapter. The office may develop a formula to establish the  
2 number of appeals that may be filed in each county included in the  
3 pilot program based on the total number of lawsuits filed in a  
4 county to which this subchapter applies as a percentage of the total  
5 number of lawsuits filed in all of those counties.

6 Sec. 2003.902. COUNTIES INCLUDED. The pilot program shall  
7 be implemented in Bexar, Cameron, El Paso, Harris, Tarrant, and  
8 Travis Counties for a three-year period beginning with the ad  
9 valorem tax year that begins January 1, 2010.

10 Sec. 2003.903. RULES. (a) The office has rulemaking  
11 authority to implement this subchapter.

12 (b) The office has specific rulemaking authority to  
13 implement those rules necessary to expeditiously determine appeals  
14 to the office, based on the number of appeals filed and the  
15 resources available to the office.

16 (c) The office may adopt rules that include the procedural  
17 provisions of Chapter 41, Tax Code, applicable to a hearing before  
18 an appraisal review board.

19 Sec. 2003.904. APPLICABILITY TO REAL AND PERSONAL PROPERTY.  
20 The pilot program must be applicable to a determination of the  
21 appraised or market value made by an appraisal review board in  
22 connection with real or personal property, other than industrial  
23 property or minerals.

24 Sec. 2003.905. EDUCATION AND TRAINING OF ADMINISTRATIVE LAW  
25 JUDGES. (a) An administrative law judge assigned to hear an appeal  
26 brought under this subchapter must have knowledge of:

27 (1) each of the appraisal methods a chief appraiser

1 may use to determine the appraised value or the market value of  
2 property under Chapter 23, Tax Code; and

3 (2) the proper method for determining an appeal of a  
4 protest, including a protest brought on the ground of unequal  
5 appraisal.

6 (b) An administrative law judge is entitled to attend one or  
7 more training and education courses under Sections 5.04 and 5.041,  
8 Tax Code, to receive a copy of the materials used in a course, or  
9 both, without charge.

10 Sec. 2003.906. NOTICE OF APPEAL TO OFFICE. (a) To appeal  
11 an appraisal review board order to the office under this  
12 subchapter, a property owner must file with the chief appraiser of  
13 the appraisal district not later than the 30th day after the date  
14 the property owner receives notice of the order:

15 (1) a completed notice of appeal to the office in the  
16 form prescribed by Section 2003.907; and

17 (2) a filing fee in the amount of \$300, made payable to  
18 the office.

19 (b) As soon as practicable after receipt of a notice of  
20 appeal, the chief appraiser for the appraisal district shall:

21 (1) indicate, where appropriate, those entries in the  
22 records that are subject to the appeal;

23 (2) submit the notice of appeal and filing fee to the  
24 office; and

25 (3) request the appointment of a qualified  
26 administrative law judge to hear the appeal.

27 Sec. 2003.907. CONTENTS OF NOTICE OF APPEAL. The chief

1 administrative law judge by rule shall prescribe the form of a  
2 notice of appeal under this subchapter. The form must require the  
3 property owner to provide:

- 4           (1) a copy of the order of the appraisal review board;  
5           (2) a brief statement that explains the basis for the  
6 property owner's appeal of the order; and  
7           (3) a statement of the property owner's opinion of the  
8 appraised or market value, as applicable, of the property that is  
9 the subject of the appeal.

10       Sec. 2003.908. NOTICE TO PROPERTY OWNERS. An appraisal  
11 review board of an appraisal district established in a county  
12 listed in Section 2003.902 of this code that delivers notice of  
13 issuance of an order described by Section 2003.901 of this code  
14 pertaining to property described by Section 2003.904 of this code  
15 and a copy of the order to a property owner as required by Section  
16 41.47, Tax Code, shall include with the notice and copy:

- 17           (1) a notice of the property owner's rights under this  
18 subchapter; and  
19           (2) a copy of the notice of appeal prescribed by  
20 Section 2003.907.

21       Sec. 2003.909. DESIGNATION OF ADMINISTRATIVE LAW JUDGE.  
22 (a) As soon as practicable after the office receives a notice of  
23 appeal and the filing fee, the office shall designate an  
24 administrative law judge to hear the appeal.

25       (b) As soon as practicable after the administrative law  
26 judge is designated, the administrative law judge shall set the  
27 date, time, and place of the hearing on the appeal.

1        (c) The hearing must be held in a building or facility that  
2 is owned or partly or entirely leased by the office and located in  
3 the county in which the applicable appraisal district is  
4 established, except that if the office does not own or lease a  
5 building or facility in the county, the hearing may be held in any  
6 public or privately owned building or facility in that county,  
7 preferably a building or facility in which the office regularly  
8 conducts business. The hearing may not be held in a building or  
9 facility that is owned, leased, or under the control of the  
10 appraisal district.

11        Sec. 2003.910. SCOPE OF APPEAL; HEARING. (a) An appeal is  
12 by trial de novo. The administrative law judge may not admit into  
13 evidence the fact of previous action by the appraisal review board,  
14 except as otherwise provided by this subchapter.

15        (b) Chapter 2001 and the Texas Rules of Evidence do not  
16 apply to a hearing under this subchapter. Prehearing discovery is  
17 limited to the exchange of documents the parties will rely on during  
18 the hearing. Any expert witness testimony must be reduced to  
19 writing and included in the exchange of documents.

20        (c) Any relevant evidence is admissible, subject to the  
21 imposition of reasonable time limits and the parties' compliance  
22 with reasonable procedural requirements imposed by the  
23 administrative law judge, including a schedule for the prehearing  
24 exchange of documents to be relied on.

25        (d) An administrative law judge may consider factors such as  
26 the hearsay nature of testimony, the qualifications of witnesses,  
27 and other restrictions on the admissibility of evidence under the

1 Texas Rules of Evidence in assessing the weight to be given to the  
2 evidence admitted.

3 Sec. 2003.911. REPRESENTATION OF PARTIES. (a) A property  
4 owner may be represented at the hearing by:

- 5 (1) the property owner;
- 6 (2) an attorney who is licensed in this state;
- 7 (3) a certified public accountant;
- 8 (4) a registered property tax consultant; or
- 9 (5) any other person who is not otherwise prohibited  
10 from appearing in a hearing held by the office.

11 (b) The appraisal district may be represented by the chief  
12 appraiser or a person designated by the chief appraiser.

13 (c) An authorized representative of a party may appear at  
14 the hearing to offer evidence, argument, or both, in the same manner  
15 as provided by Section 41.45, Tax Code.

16 Sec. 2003.912. DETERMINATION OF ADMINISTRATIVE LAW JUDGE.

17 (a) As soon as practicable, but not later than the 30th day after  
18 the date the hearing is concluded, the administrative law judge  
19 shall issue a determination and send a copy to the property owner  
20 and the chief appraiser.

21 (b) The determination:

22 (1) must include a determination of the appraised or  
23 market value, as applicable, of the property that is the subject of  
24 the appeal;

25 (2) must contain a brief analysis of the  
26 administrative law judge's rationale for and set out the key  
27 findings in support of the determination but is not required to

1 contain a detailed discussion of the evidence admitted or the  
2 contentions of the parties;

3 (3) may include any remedy or relief a court may order  
4 under Chapter 42, Tax Code, in an appeal relating to the appraised  
5 or market value of property, other than an award of attorney's fees  
6 under Section 42.29, Tax Code; and

7 (4) shall specify whether the appraisal district or  
8 the property owner is required to pay the costs of the hearing and  
9 the amount of those costs.

10 (c) If the administrative law judge determines that the  
11 appraised or market value, as applicable, of the property that is  
12 the subject of the appeal is nearer to the property owner's opinion  
13 of the appraised or market value, as applicable, of the property as  
14 stated in the request for the hearing submitted by the property  
15 owner than the value determined by the appraisal review board:

16 (1) the office, on receipt of a copy of the  
17 determination, shall refund the property owner's filing fee;

18 (2) the appraisal district, on receipt of a copy of the  
19 determination, shall pay the costs of the appeal as specified in the  
20 determination; and

21 (3) the chief appraiser shall correct the appraised or  
22 market value, as applicable, of the property as shown in the  
23 appraisal roll to reflect the administrative law judge's  
24 determination.

25 (d) If the administrative law judge determines that the  
26 appraised or market value, as applicable, of the property that is  
27 the subject of the appeal is not nearer to the property owner's

1 opinion of the appraised or market value, as applicable, of the  
2 property as stated in the property owner's request for a hearing  
3 than the value determined by the appraisal review board:

4 (1) the office, on receipt of a copy of the  
5 determination, shall retain the property owner's filing fee;

6 (2) the chief appraiser shall correct the appraised or  
7 market value, as applicable, of the property as shown in the  
8 appraisal roll to reflect the administrative law judge's  
9 determination if the value as determined by the administrative law  
10 judge is less than the value as determined by the appraisal review  
11 board; and

12 (3) the property owner shall pay the difference  
13 between the costs of the appeal as specified in the determination  
14 and the property owner's filing fee.

15 (e) Notwithstanding Subsection (a), the office by rule may  
16 implement a process under which:

17 (1) the administrative law judge issues a proposal for  
18 determination to the parties;

19 (2) the parties are given a reasonable period in which  
20 to make written objections to the proposal; and

21 (3) the administrative law judge is authorized to take  
22 into account those written objections before issuing a final  
23 determination.

24 Sec. 2003.913. PAYMENT OF TAXES PENDING APPEAL. (a) The  
25 pendency of an appeal to the office does not affect the delinquency  
26 date for the taxes on the property subject to the appeal. A  
27 property owner who appeals an appraisal review board order to the

1 office shall pay taxes on the property subject to the appeal in an  
2 amount equal to the amount of taxes due on the portion of the  
3 taxable value of the property that is not in dispute. If the final  
4 determination of the appeal decreases the property owner's tax  
5 liability to an amount less than the amount of taxes paid, each  
6 taxing unit shall refund to the property owner the difference  
7 between the amount of taxes paid and the amount of taxes for which  
8 the property owner is liable.

9 (b) A property owner may not appeal to the office if the  
10 taxes on the property subject to the appeal are delinquent. An  
11 administrative law judge who determines that the taxes on the  
12 property subject to an appeal are delinquent shall dismiss the  
13 pending appeal with prejudice. If an appeal is dismissed under  
14 this subsection, the office shall retain the property owner's  
15 filing fee.

16 Sec. 2003.914. EFFECT ON RIGHT TO JUDICIAL APPEAL. An  
17 appeal to the office under this subchapter is an election of  
18 remedies and an alternative to bringing an appeal under Section  
19 42.01, Tax Code.

20 Sec. 2003.915. REPORT TO LEGISLATURE. Not later than  
21 January 1, 2013, the office and the chief appraisers of the  
22 appraisal districts established in the counties in which the pilot  
23 program is implemented shall submit a report to the legislature  
24 that includes:

25 (1) the number of appeals for property in each  
26 appraisal district;

27 (2) the number of appeals that were settled before

1 being heard by an administrative law judge;

2 (3) the number of appeals brought on the ground of  
3 excessive appraisal;

4 (4) the number of appeals brought on the ground of  
5 unequal appraisal;

6 (5) the number of judicial appeals of an  
7 administrative law judge's determination for each appraisal  
8 district; and

9 (6) any recommendations for future legislative action  
10 that the office or the chief appraisers consider appropriate.

11 Sec. 2003.916. EXPIRATION. This subchapter expires January  
12 1, 2013.

13 SECTION 2. This Act applies only to an ad valorem tax year  
14 that begins on or after the effective date of this Act.

15 SECTION 3. This Act takes effect January 1, 2010.

H.B. No. 3612

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3612 was passed by the House on April 28, 2009, by the following vote: Yeas 148, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3612 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3612 on May 31, 2009, by the following vote: Yeas 135, Nays 0, 3 present, not voting.

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Chief Clerk of the House

H.B. No. 3612

I certify that H.B. No. 3612 was passed by the Senate, with amendments, on May 25, 2009, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3612 on May 31, 2009, by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor