

By: Villarreal

H.B. No. 4039

A BILL TO BE ENTITLED

AN ACT

relating to the protest of a rendition penalty.

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

SECTION 1. SECTION 22.28, Tax Code, is amended to read as follows:

(a) Except as otherwise provided by Section 22.30, the chief appraiser shall impose a penalty on a person who fails to timely file a rendition statement or property report required by this chapter in an amount equal to 10 percent of the total amount of taxes imposed on the property for that year by taxing units participating in the appraisal district. The chief appraiser shall provide written notice by certified mail to the property owner of the imposition of a penalty.

(b) The chief appraiser shall certify to the assessor for each taxing unit participating in the appraisal district that imposes taxes on the property that ~~[the chief appraiser has imposed]~~ a penalty imposed under this chapter has become final. The assessor shall add the amount of the penalty to the original amount of tax imposed on the property and shall include that amount in the tax bill for that year. The penalty becomes part of the tax on the property and is secured by the tax lien that attaches to the property under Section 32.01. A penalty becomes if not timely protested or an appraisal review board order has been issued under Section 22.30 or if a court imposes the penalty under Section 22.29.

1           ~~[(c) To help defray the costs of administering this chapter,~~  
2 ~~a collector who collects a penalty imposed under Subsection (a)~~  
3 ~~shall remit to the appraisal district that employs the chief~~  
4 ~~appraiser who imposed the penalty an amount equal to five percent of~~  
5 ~~the penalty amount collected.]~~

6           SECTION 2. Section 22.29(d) is repealed.

7           SECTION 3. SECTION 22.30, Tax Code, is amended to read as  
8 follows:

9           (a) The appraisal review board ~~[chief appraiser]~~ may waive  
10 the penalty imposed by Section 22.28 ~~[or 22.29]~~ if the appraisal  
11 review board ~~[chief appraiser]~~ determines that the person exercised  
12 reasonable diligence to comply with or has substantially complied  
13 with the requirements of this chapter. A notice of protest ~~[written~~  
14 ~~request, accompanied by supporting documentation, stating the~~  
15 ~~grounds on which penalties should be waived]~~ must be filed with  
16 ~~[sent to]~~ the appraisal review board ~~[chief appraiser]~~ not later  
17 than the 30th day after the date the person received notification by  
18 certified mail of the imposition of the penalty. ~~[The chief~~  
19 ~~appraiser shall make a determination of the penalty waiver request~~  
20 ~~based on the information submitted.]~~

21           (b) The appraisal review board ~~[chief appraiser]~~ shall  
22 ~~[notify the person of the chief appraiser's determination regarding~~  
23 ~~the]~~ determine the penalty waiver notice of protest ~~[request]~~ after  
24 considering:

25                   (1) the person's compliance history with respect to  
26 paying taxes and filing statements or reports;

27                   (2) the type, nature, and taxability of the specific

1 property involved;

2 (3) the type, nature, size, and sophistication of the  
3 person's business or other entity for which property is rendered;

4 (4) the completeness of the person's records;

5 (5) the person's reliance on advice provided by the  
6 appraisal district that may have contributed to the person's  
7 failure to comply and the imposition of the penalty;

8 (6) any change in appraisal district policy during the  
9 current or preceding tax year that may affect how property is  
10 rendered; and

11 (7) any other factors that may have caused the person  
12 to fail to timely file a statement or report.

13 (c) The appraisal review board hearing procedures for a protest  
14 regarding the waiver of a penalty are governed by the procedures set  
15 forth in Chapter 41 generally. The denial of a protest may be  
16 appealed to district court and is governed by the provisions of  
17 chapter 42 generally. [A property owner is entitled to protest  
18 before the appraisal review board the failure or refusal of a chief  
19 appraiser]

20 SECTION 4. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2009.