

By: Villarreal

H.B. No. 4040

A BILL TO BE ENTITLED

AN ACT

relating to procedural requirements of an appeal from an order of an appraisal review board determining a protest.

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

SECTION 1. Section 42.21, Tax Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A party who appeals as provided by this chapter must file a petition for review with the district court within 60 [~~45~~] days after the party received notice that a final order has been entered from which an appeal may be had or at any time after the hearing but before the 60-day deadline. Failure to timely file a petition bars any appeal under this chapter.

(a-1) A petition for review may include more than one party if the parties have a common ownership interest in whole or in part and may include multiple properties that have a common ownership in whole or in part.

SECTION 2. Subchapter B, Chapter 42, Tax Code, is amended by adding Section 42.231 to read as follows:

Sec. 42.231. MASTERS FOR TAX APPEALS. (a) The court shall give preference to the use of a master in chancery to resolve an appeal brought under this chapter. In connection with an appeal that seeks a remedy under Section 42.25 or 42.26, the court may, and on request of a party to the appeal shall, appoint a master in chancery.

1        (b) To be eligible to serve as a master in chancery, a person  
2 must be a resident of this state and an attorney who is licensed in  
3 this state. The person may not be an attorney for or related to a  
4 party to the action. In appointing a master, the court shall give  
5 preference to a qualified person who has judicial experience.

6        (c) A master in chancery shall perform all of the duties  
7 required by the court, is subject to the orders of the court, and  
8 has the power that a master in chancery in a court of equity has.

9        (d) Subject to any limitations or specifications stated in  
10 the order of reference, a master in chancery may:

11            (1) regulate the proceedings in a hearing before the  
12 master and do all acts and take all measures necessary or proper  
13 for the efficient performance of the master's duties under the  
14 order;

15            (2) require the production of evidence regarding any  
16 matter covered by the order and may require the production of  
17 books, papers, vouchers, documents, and other writings applicable  
18 to the case;

19            (3) require that parties produce all documentary  
20 evidence in advance of the hearing;

21            (4) rule on the admissibility of evidence, unless  
22 otherwise directed by the order;

23            (5) administer oaths to and examine witnesses;

24            (6) call and examine under oath the parties to the  
25 action; and

26            (7) set a reasonable time limit on the proceedings  
27 based on the complexity of the case, which may not be less than four

1 hours for a case involving property that is a residence homestead or  
2 less than eight hours for a case involving any other type of  
3 property, unless otherwise agreed to by the parties.

4 (e) A decision of a master in chancery is not binding on the  
5 parties to the appeal but may be admitted into evidence in a trial  
6 of the matter.

7 SECTION 3. Section 42.24, Tax Code, is amended by adding  
8 subsection (b) to read as follows:

9 (b) The district court shall include in a docket control  
10 order a requirement of alternative dispute resolution unless waived  
11 by both parties.

12 SECTION 4. Section 42.26, Tax Code, is amended by adding  
13 Subsections (e) and (f) to read as follows:

14 (e) Except as provided by Subsection (d), for purposes of  
15 this section, the appraised value of the property subject to the  
16 lawsuit and the appraised value of a comparable property or sample  
17 property that is used for comparison is the appraised value  
18 determined by the appraisal review board.

19 SECTION 5. The changes in law made by this Act are  
20 procedural changes to existing law and are applicable to any  
21 appeals pending as of the effective date of this bill

22 SECTION 6. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2009.