

By: Seliger

S.B. No. 1359

A BILL TO BE ENTITLED

AN ACT

1
2 relating to forfeiture of remedy for nonpayment of ad valorem
3 taxes.

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

5 SECTION 1. Section 42.08, Tax Code, is amended by amending
6 Subsection (d) and adding Subsections (e) and (f) to read as
7 follows:

8 (d) After filing an oath of inability to pay the taxes at
9 issue, a party may be excused from the requirement of prepayment of
10 tax as a prerequisite to appeal if the court, after notice and
11 hearing, finds that such prepayment would constitute an
12 unreasonable restraint on the party's right of access to the
13 courts. On the motion of a party and after the movant's compliance
14 with Subsection (e), the court shall hold a hearing to review and
15 determine compliance with this section, and the reviewing court may
16 set such terms and conditions on any grant of relief as may be
17 reasonably required by the circumstances. If the court determines
18 that the property owner has not substantially complied with this
19 section, the court shall dismiss the pending action. If the court
20 determines that the property owner has substantially but not fully
21 complied with this section, the court shall dismiss the pending
22 action unless the property owner fully complies with the court's
23 determination within 30 days of the determination.

24 (e) Not later than the 45th day before the date of a hearing

1 to review and determine compliance with this section, the movant
2 must mail notice of the hearing by certified mail, return receipt
3 requested, to the collector for each taxing unit that imposes taxes
4 on the property.

5 (f) Regardless of whether the collector for the taxing unit
6 receives a notice under Subsection (e), a taxing unit that imposes
7 taxes on the property may intervene in an appeal under this chapter
8 and participate in the proceedings for the limited purpose of
9 determining whether the property owner has complied with this
10 section. The taxing unit is entitled to process for witnesses and
11 evidence and to be heard by the court.

12 SECTION 2. (a) Except as provided by Subsection (b) of this
13 section:

14 (1) the change in law made by this Act applies only to
15 an appeal under Chapter 42, Tax Code, that is filed on or after the
16 effective date of this Act; and

17 (2) an appeal under Chapter 42, Tax Code, that was
18 filed before the effective date of this Act is governed by the law
19 in effect on the date the appeal was filed, and the former law is
20 continued in effect for that purpose.

21 (b) Subsection (f), Section 42.08, Tax Code, as added by
22 this Act, applies to an appeal under Chapter 42, Tax Code, that is:

23 (1) filed on or after the effective date of this Act;

24 or

25 (2) pending on the effective date of this Act.

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.