

AN ACT

relating to forfeiture of remedy for nonpayment of ad valorem taxes.

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

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

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

(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

S.B. No. 1359

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.

S.B. No. 1359

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1359 passed the Senate on April 30, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1359 passed the House on May 26, 2009, by the following vote: Yeas 145, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor