

1-1 By: Seliger S.B. No. 1359
1-2 (In the Senate - Filed March 4, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Finance; April 16, 2009,
1-4 reported favorably by the following vote: Yeas 9, Nays 0;
1-5 April 16, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to forfeiture of remedy for nonpayment of ad valorem
1-9 taxes.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 42.08, Tax Code, is amended by amending
1-12 Subsection (d) and adding Subsections (e) and (f) to read as
1-13 follows:

1-14 (d) After filing an oath of inability to pay the taxes at
1-15 issue, a party may be excused from the requirement of prepayment of
1-16 tax as a prerequisite to appeal if the court, after notice and
1-17 hearing, finds that such prepayment would constitute an
1-18 unreasonable restraint on the party's right of access to the
1-19 courts. On the motion of a party and after the movant's compliance
1-20 with Subsection (e), the court shall hold a hearing to review and
1-21 determine compliance with this section, and the reviewing court may
1-22 set such terms and conditions on any grant of relief as may be
1-23 reasonably required by the circumstances. If the court determines
1-24 that the property owner has not substantially complied with this
1-25 section, the court shall dismiss the pending action. If the court
1-26 determines that the property owner has substantially but not fully
1-27 complied with this section, the court shall dismiss the pending
1-28 action unless the property owner fully complies with the court's
1-29 determination within 30 days of the determination.

1-30 (e) Not later than the 45th day before the date of a hearing
1-31 to review and determine compliance with this section, the movant
1-32 must mail notice of the hearing by certified mail, return receipt
1-33 requested, to the collector for each taxing unit that imposes taxes
1-34 on the property.

1-35 (f) Regardless of whether the collector for the taxing unit
1-36 receives a notice under Subsection (e), a taxing unit that imposes
1-37 taxes on the property may intervene in an appeal under this chapter
1-38 and participate in the proceedings for the limited purpose of
1-39 determining whether the property owner has complied with this
1-40 section. The taxing unit is entitled to process for witnesses and
1-41 evidence and to be heard by the court.

1-42 SECTION 2. (a) Except as provided by Subsection (b) of this
1-43 section:

1-44 (1) the change in law made by this Act applies only to
1-45 an appeal under Chapter 42, Tax Code, that is filed on or after the
1-46 effective date of this Act; and

1-47 (2) an appeal under Chapter 42, Tax Code, that was
1-48 filed before the effective date of this Act is governed by the law
1-49 in effect on the date the appeal was filed, and the former law is
1-50 continued in effect for that purpose.

1-51 (b) Subsection (f), Section 42.08, Tax Code, as added by
1-52 this Act, applies to an appeal under Chapter 42, Tax Code, that is:

1-53 (1) filed on or after the effective date of this Act;
1-54 or

1-55 (2) pending on the effective date of this Act.

1-56 SECTION 3. This Act takes effect immediately if it receives
1-57 a vote of two-thirds of all the members elected to each house, as
1-58 provided by Section 39, Article III, Texas Constitution. If this
1-59 Act does not receive the vote necessary for immediate effect, this
1-60 Act takes effect September 1, 2009.

1-61 * * * * *