

By: Williams

S.B. No. 1497

A BILL TO BE ENTITLED

AN ACT

relating to binding arbitration of certain appraisal review board orders.

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

SECTION 1. Section 41A.01, Tax Code, is amended to read as follows:

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. (a) Except as provided by Subsection (b), as ~~[As]~~ an alternative to filing an appeal under Section 42.01, a property owner is entitled to appeal through binding arbitration under this chapter an appraisal review board order determining a protest filed under Section 41.41(a)(1) or (2) concerning ~~[the appraised or market value of]~~ real property if:

(1) the property qualifies as the owner's residence homestead under Section 11.13; or

(2) the appraised or market value, as applicable, of the property as determined by the order is \$1 million or less~~[, and~~

~~[(2) the appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property].~~

(b) A property owner may not appeal through binding arbitration under this chapter an appraisal review board order determining a protest filed under Section 41.41(a)(2) if:

(1) the property owner was represented before the

1 appraisal review board by a person who received compensation for
2 representing the property owner; and

3 (2) the owner or the person representing the owner did
4 not provide to the chief appraiser, at least seven days before the
5 date of the appraisal review board hearing, copies of all the
6 evidence the owner or the person representing the owner used in the
7 appraisal review board hearing.

8 SECTION 2. Section 41A.04, Tax Code, is amended to read as
9 follows:

10 Sec. 41A.04. CONTENTS OF REQUEST FORM. The comptroller by
11 rule shall prescribe the form of a request for binding arbitration
12 under this chapter. The form must require the property owner to
13 provide only:

14 (1) a brief statement that explains the basis for the
15 property owner's appeal of the appraisal review board order;

16 (2) a statement of the property owner's opinion of:

17 (A) the correct appraised [or market] value [as
18 applicable,] of the property that is the subject of the appeal if
19 the property is not land appraised under Subchapter C, D, E, or H,
20 Chapter 23; or

21 (B) the correct appraised or market value, as
22 applicable according to the order being appealed, of the property
23 that is the subject of the appeal if the property is land appraised
24 under Subchapter C, D, E, or H, Chapter 23; and

25 (3) any other information reasonably necessary for the
26 appraisal district to request appointment of an arbitrator.

27 SECTION 3. Section 41A.05(b), Tax Code, is amended to read

1 as follows:

2 (b) The comptroller may retain an amount equal to 15 [~~10~~]
3 percent of the deposit to cover the comptroller's administrative
4 costs.

5 SECTION 4. The heading to Section 41A.06, Tax Code, is
6 amended to read as follows:

7 Sec. 41A.06. REGISTRY AND INITIAL QUALIFICATION
8 [~~QUALIFICATIONS~~] OF ARBITRATORS.

9 SECTION 5. Section 41A.06, Tax Code, is amended by amending
10 Subsection (b) and adding Subsections (c) and (d) to read as
11 follows:

12 (b) To initially qualify to serve as an arbitrator under
13 this chapter, a person must:

14 (1) have completed at least 30 hours of training in
15 arbitration and alternative dispute resolution procedures from a
16 university, college, or legal or real estate trade association;

17 (2) have been licensed or certified continuously
18 during the five years preceding the date the person agrees to serve
19 as an arbitrator, as:

20 (A) [~~be licensed as~~] a real estate broker or
21 salesperson under Chapter 1101, Occupations Code; 7 or

22 (B) [~~be licensed or certified as~~] a real estate
23 appraiser under Chapter 1103, Occupations Code; and

24 (3) agree to conduct an arbitration for a fee that is
25 not more than 90 percent of the amount of the arbitration deposit
26 required by Section 41A.03.

27 (c) A person who is registered as a property tax consultant

1 under Chapter 1152, Occupations Code, is not eligible to serve as an
2 arbitrator under this chapter.

3 (d) A person who performs property tax consulting services,
4 as defined by Section 1152.001, Occupations Code, for compensation
5 in connection with this title that relate to a particular appraisal
6 district is not eligible to serve as an arbitrator of an appeal of
7 an order of the appraisal review board established for that
8 appraisal district.

9 SECTION 6. Chapter 41A, Tax Code, is amended by adding
10 Section 41A.061 to read as follows:

11 Sec. 41A.061. CONTINUED QUALIFICATION OF ARBITRATOR;
12 RENEWAL OF AGREEMENT. (a) The comptroller shall include a
13 qualified arbitrator in the registry until the second anniversary
14 of the date the person was added to the registry. To continue to be
15 included in the registry after the second anniversary of the date
16 the person was added to the registry, the person must renew the
17 person's agreement with the comptroller to serve as an arbitrator
18 on or as near as possible to the date on which the person's license
19 or certification issued under Chapter 1101 or 1103, Occupations
20 Code, is renewed.

21 (b) To renew the person's agreement to serve as an
22 arbitrator, the person must:

23 (1) file a renewal application with the comptroller at
24 the time and in the manner prescribed by the comptroller;

25 (2) continue to meet the requirements provided by
26 Section 41A.06(b); and

27 (3) during the preceding two years have completed at

1 least eight hours of continuing education in arbitration and
2 alternative dispute resolution procedures offered by a university,
3 college, real estate trade association, or legal association.

4 (c) The comptroller shall remove a person from the registry
5 if the person fails or declines to renew the person's agreement to
6 serve as an arbitrator in the manner required by this section.

7 SECTION 7. Section 41A.08(b), Tax Code, as added by
8 Chapters 372 (S.B. 1351) and 912 (H.B. 182), Acts of the 79th
9 Legislature, Regular Session, 2005, is reenacted and amended to
10 read as follows:

11 (b) The parties to an arbitration proceeding under this
12 chapter may represent themselves or, at their own cost, may be
13 represented by:

14 (1) an employee of the appraisal district;

15 (2) an attorney who is licensed in this state;

16 (3) a person who is licensed as a real estate broker or
17 salesperson under Chapter 1101, Occupations Code, or is licensed or
18 certified as a real estate appraiser under Chapter 1103,
19 Occupations Code; ~~or~~

20 (4) a property tax consultant registered under Chapter
21 1152, Occupations Code; or

22 (5) an individual who is licensed as a certified
23 accountant under Chapter 901, Occupations Code.

24 SECTION 8. Sections 41A.09(b), (c), and (d), Tax Code, are
25 amended to read as follows:

26 (b) An award under this section:

27 (1) must include a determination of:

1 (A) the appraised or market value, as applicable,
2 of the property that is the subject of the appeal, if the appeal is
3 an appeal of an appraisal review board order determining a protest
4 under Section 41.41(a)(1); and

5 (B) the equalized appraised value as calculated
6 under Section 41A.091 of the property that is the subject of the
7 appeal, if the appeal is an appeal of an appraisal review board
8 order determining a protest under Section 41.41(a)(2) and the
9 arbitrator determines the appeal in favor of the property owner;

10 (2) may not include any relief or determine any issue
11 not specified by this chapter [~~may include any remedy or relief a~~
12 ~~court may order under Chapter 42 in an appeal relating to the~~
13 ~~appraised or market value of property~~];

14 (3) shall specify the arbitrator's fee, which may not
15 exceed the amount provided by Section 41A.06(b)(3);

16 (4) is final and may not be appealed except as
17 permitted under Section 171.088, Civil Practice and Remedies Code,
18 for an award subject to that section; and

19 (5) may be enforced in the manner provided by
20 Subchapter D, Chapter 171, Civil Practice and Remedies Code.

21 (c) If the value determined under Subsection (b)(1)(A) or
22 (B), as applicable, or the lower of the values determined under
23 Subsections (b)(1)(A) and (B), if both paragraphs are applicable,
24 [~~arbitrator determines that the appraised or market value, as~~
25 ~~applicable, of the property that is the subject of the appeal]~~ is
26 nearer to the property owner's opinion of the appraised or market
27 value, as applicable, of the property as stated in the request for

1 binding arbitration submitted under Section 41A.03 than the value
2 determined by the appraisal review board:

3 (1) the comptroller, on receipt of a copy of the award,
4 shall refund the property owner's arbitration deposit, less the
5 amount retained by the comptroller under Section 41A.05(b);

6 (2) the appraisal district, on receipt of a copy of the
7 award, shall pay the arbitrator's fee; and

8 (3) the chief appraiser shall correct the appraised or
9 market value, as applicable, of the property as shown in the
10 appraisal roll to reflect the arbitrator's determination.

11 (d) If the value determined under Subsection (b)(1)(A) or
12 (B), as applicable, or the lower of the values determined under
13 Subsections (b)(1)(A) and (B), if both paragraphs are applicable,
14 ~~[arbitrator determines that the appraised or market value, as~~
15 ~~applicable, of the property that is the subject of the appeal]~~ is
16 not nearer to the property owner's opinion of the appraised or
17 market value, as applicable, of the property as stated in the
18 request for binding arbitration submitted under Section 41A.03 than
19 the value determined by the appraisal review board:

20 (1) the comptroller, on receipt of a copy of the award,
21 shall:

22 (A) pay the arbitrator's fee out of the owner's
23 arbitration deposit; and

24 (B) refund to the owner the owner's arbitration
25 deposit, less the arbitrator's fee and the amount retained by the
26 comptroller under Section 41A.05(b); and

27 (2) the chief appraiser shall correct the appraised or

1 market value, as applicable, of the property as shown in the
2 appraisal roll to reflect the arbitrator's determination if the
3 value as determined by the arbitrator is less than the value as
4 determined by the appraisal review board.

5 SECTION 9. Chapter 41A, Tax Code, is amended by adding
6 Section 41A.091 to read as follows:

7 Sec. 41A.091. DETERMINATION AND REMEDY FOR UNEQUAL
8 APPRAISAL. (a) An arbitrator may determine an appeal of an
9 appraisal review board order determining a protest under Section
10 41.41(a)(2) in favor of the property owner only if the evidence
11 establishes that:

12 (1) the appraisal ratio of the property exceeds by at
13 least 10 percent the median level of appraisal of a reasonable and
14 representative sample of other properties in the appraisal
15 district;

16 (2) the appraisal ratio of the property exceeds by at
17 least 10 percent the median level of appraisal of a sample of
18 properties in the appraisal district consisting of a reasonable
19 number of other properties similarly situated to, or of the same
20 general kind or character as, the property subject to the appeal; or

21 (3) the appraised value of the property exceeds by at
22 least 10 percent the median appraised value of a reasonable and
23 representative sample of comparable properties appropriately
24 adjusted.

25 (b) If a determination would result in an award for the
26 property owner under Subsection (a)(1) or (2), the award must state
27 an equalized appraised value of the property calculated by

1 multiplying the appraised value of the property as determined by
2 the appraisal review board by the median level of appraisal
3 according to Subsection (a)(1) or (2), as applicable. If a
4 determination would result in an award for the property owner under
5 Subsection (a)(3), the award must state an equalized appraised
6 value that is equal to the median appraised value determined under
7 that subsection. If a property owner is entitled to an award under
8 more than one method of determination, the lowest of the equalized
9 appraised values is the equalized appraised value.

10 (c) In making a determination under Subsection (a), an
11 arbitrator:

12 (1) shall determine each applicable median level of
13 appraisal or median appraised value according to law;

14 (2) is not required to adopt the median level of
15 appraisal or median appraised value proposed by a party to the
16 appeal; and

17 (3) may not limit or deny an award to a property owner
18 who is entitled to an award based on any method of determination
19 under Subsection (a) on the ground that the equalized appraised
20 value according to another method of determination under Subsection
21 (a) is higher.

22 (d) For purposes of establishing the median level of
23 appraisal under Subsection (a)(1), the median level of appraisal by
24 the appraisal district within the applicable category of property
25 as determined by the comptroller under Section 5.10 is admissible
26 as evidence of the median level of appraisal of a reasonable and
27 representative sample of properties in the appraisal district for

1 the year of the comptroller's determination.

2 (e) For purposes of this section, the value of the property
3 subject to the appeal and the value of a comparable property or
4 sample property that is used for comparison must be the market value
5 as determined by the appraisal district if the property is a
6 residence homestead subject to the limitation on appraised value
7 imposed by Section 23.23.

8 SECTION 10. (a) Sections 41A.01, 41A.04, 41A.05, 41A.08,
9 and 41A.09, Tax Code, as amended by this Act, and Section 41A.091,
10 Tax Code, as added by this Act, apply only to an appeal through
11 binding arbitration under Chapter 41A of that code that is
12 requested on or after the effective date of this Act.

13 (b) Section 41A.06, Tax Code, as amended by this Act,
14 applies only to a person who initially qualifies to serve as an
15 arbitrator under Chapter 41A, Tax Code, on or after the effective
16 date of this Act.

17 (c) Section 41A.061, Tax Code, as added by this Act, does
18 not affect the eligibility of a person who is included on the
19 registry list of qualified arbitrators on the effective date of
20 this Act to continue to remain on that registry list before the date
21 on which the person's license or certificate under Chapter 1101 or
22 1103, Occupations Code, expires unless renewed.

23 SECTION 11. This Act takes effect immediately if it
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for immediate
27 effect, this Act takes effect September 1, 2009.