

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

SECTION 1. Section 23.01(b), Tax Code, is amended to read as follows:

(b) The market value of property shall be determined by

SENATE VERSION

SECTION 1. Section 6.411(c), Tax Code, is amended to read as follows:

(c) Except for communications described by Section 41.66(f)(3), this ~~[This]~~ section does not apply to communications that do not discuss the specific evidence, argument, facts, merits, or property involved in a hearing currently pending before the appraisal review board or to communications between the board and its legal counsel.

SECTION 2. Section 6.43, Tax Code, is amended to read as follows:

Sec. 6.43. PERSONNEL. (a) The appraisal review board may employ legal counsel as provided by the district budget or use the services of the county attorney and may use the staff of the appraisal office for clerical assistance.

(b) The appraisal review board may not employ or retain a person to serve as legal counsel for the board if the person serves as legal counsel for the appraisal district or chief appraiser. This subsection does not prevent the appraisal review board from using the services of the county attorney as authorized by Subsection (a).

SECTION 3. Section 23.01, Tax Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The market value of property shall be determined by

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

the application of generally accepted appraisal methods and techniques. If the appraisal district determines the appraised value of a property using mass appraisal standards, the mass appraisal standards must comply with the Uniform Standards of Professional Appraisal Practice. The same or similar appraisal methods and techniques shall be used in appraising the same or similar kinds of property. However, each property shall be appraised based upon the individual characteristics that affect the property's market value, and all available evidence that is specific to the value of the property shall be taken into account in determining the property's market value.

SENATE VERSION

the application of generally accepted appraisal methods and techniques. If the appraisal district determines the appraised value of a property using mass appraisal standards, the mass appraisal standards must comply with the Uniform Standards of Professional Appraisal Practice. The same or similar appraisal methods and techniques shall be used in appraising the same or similar kinds of property. However, each property shall be appraised based upon the individual characteristics that affect the property's market value, and all available evidence that is specific to the value of the property shall be taken into account in determining the property's market value.

(c) Notwithstanding any provision of this subchapter to the contrary, if the appraised value of property in a tax year is determined under Subtitle F, the appraised value of the property as finally determined under that subtitle is considered to be the appraised value of the property for that tax year. In the following tax year, the chief appraiser may not increase the appraised value of the property unless the increase by the chief appraiser is reasonably supported by substantial evidence when all of the reliable and probative evidence in the record is considered as a whole. If the appraised value is finally determined in a protest under Section 41.41(a)(2) or an appeal under Section 42.26, the chief appraiser may satisfy the requirement to reasonably support by substantial evidence an increase in the appraised value of the property in the following tax year by presenting evidence showing that the inequality in the appraisal of

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

property has been corrected with regard to the properties that were considered in determining the value of the subject property. The burden of proof is on the chief appraiser to support an increase in the appraised value of property under the circumstances described by this subsection, not on the property owner.

SECTION 2. Section 23.013, Tax Code, is amended to read as follows:

Sec. 23.013. MARKET DATA COMPARISON METHOD OF APPRAISAL. (a) If the chief appraiser uses the market data comparison method of appraisal to determine the market value of real property, the chief appraiser shall use comparable sales data and shall adjust the comparable sales to the subject property.

(b) A sale of real property is not considered to be a comparable sale unless the sale occurred within 24 months of the date as of which the market value of the subject property is to be determined and is

appropriately adjusted for changes in the market value over the time period between the dates of the sale and the appraisal.

Whether a property is comparable to the subject property

SECTION 4. Sections 23.013, 23.014, and 23.24, Tax Code, are amended to read as follows:

Sec. 23.013. MARKET DATA COMPARISON METHOD OF APPRAISAL. (a) If the chief appraiser uses the market data comparison method of appraisal to determine the market value of real property, the chief appraiser shall use comparable sales data and shall adjust the comparable sales to the subject property.

(b) A sale is not considered to be a comparable sale unless the sale occurred within 24 months of the date as of which the market value of the subject property is to be determined, except that a sale that did not occur during that period may be considered to be a comparable sale if enough comparable properties were not sold during that period to constitute a representative sample.

(c) A sale of a comparable property must be appropriately adjusted for any change in the market value of the comparable property during the period between the date of the sale of the comparable property and the date as of which the market value of the subject property is to be determined.

(d) Whether a property is comparable to the subject

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

shall be determined based on similarities with regard to location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy, and the existence of easements, deed restrictions, or other legal burdens affecting marketability.

SECTION 3. Section 23.24, Tax Code, is amended to read as follows:

Sec. 23.24. FURNITURE, FIXTURES, AND EQUIPMENT. (a) If real property is appraised by a method that takes into account the value of furniture, fixtures, and equipment in or on the real property, the furniture, fixtures, and equipment shall not be subject to additional appraisal or taxation as personal property.

(b) In determining the market value of the real property, the chief appraiser may not separately appraise or take into account any personal property valued as a portion of the income of the real property, and the market value of the real property must include the combined value of the real property and the personal property.

No equivalent provision.

SENATE VERSION

property shall be determined based on similarities with regard to location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy, and the existence of easements, deed restrictions, or other legal burdens affecting marketability.

Sec. 23.24. FURNITURE, FIXTURES, AND EQUIPMENT. (a) If real property is appraised by a method that takes into account the value of furniture, fixtures, and equipment in or on the real property, the furniture, fixtures, and equipment shall not be subject to additional appraisal or taxation as personal property.

(b) In determining the market value of the real property appraised on the basis of rental income, the chief appraiser may not separately appraise or take into account any personal property valued as a portion of the income of the real property, and the market value of the real property must include the combined value of the real property and the personal property.

SECTION __. Sections 23.175(a) and (b), Tax Code, are amended to read as follows:

(a) If a real property interest in oil or gas in place is

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

appraised by a method that takes into account the future income from the sale of oil or gas to be produced from the interest, the method must use the average price of the oil or gas from the interest for the preceding calendar year multiplied by a market condition factor as the price at which the oil or gas produced from the interest is projected to be sold in the current year of the appraisal. The average price for the preceding calendar year is calculated by dividing the sum of the monthly average prices for which oil and gas from the interest was selling during each month of the preceding calendar year by 12. If there was no production of oil or gas from the interest during any month of the preceding calendar year, the average price for which similar oil and gas from comparable interests was selling during that month is to be used. The comptroller shall calculate the market condition factor by dividing the ~~[comptroller's]~~ current calendar year statewide average price for oil or gas, as applicable, as forecasted by the Oil and Gas Valuation Advisory Committee using market-based data and a market-based methodology and approved by the comptroller, ~~[for revenue estimating purposes]~~ by the preceding calendar year actual statewide average price for oil or gas, as applicable. ~~[For purposes of calculating the market condition factor, "price" means the market value of oil or gas as determined under Subchapter C, Chapter 201, or Section 202.053, as applicable.]~~ The comptroller shall calculate the preceding calendar year actual statewide average prices for oil and gas and the market condition factors for oil and gas and publish that

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

information to be used for ad valorem tax appraisal purposes concurrently with the current calendar year statewide average prices for oil and gas forecasted using market-based data and a market-based methodology [~~for revenue-estimating purposes~~]. The price for the interest used in the second or a subsequent calendar year of the appraisal shall reflect the [~~same~~] percentage rate increase or decrease in the price for oil or gas, as applicable, as projected for that calendar year by the comptroller using market-based data and a market-based methodology. However, in no event may the price used in the second or any succeeding year of an appraisal exceed 200 percent of the price used in the current year of the appraisal [~~for revenue-estimating purposes~~].

(b) The comptroller by rule shall:

(1) establish procedures for performing the calculations required by Subsection (a); and

(2) develop and distribute to each appraisal office appraisal manuals that specify methods and procedures to discount future income from the sale of oil or gas from the interest to present value.

No equivalent provision.

SECTION __. Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.176 to read as follows:

Sec. 23.176. OIL AND GAS VALUATION ADVISORY COMMITTEE. (a) The Oil and Gas Valuation Advisory Committee is created. The advisory committee is composed of:

(1) the comptroller, who serves as a nonvoting member

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

and as presiding officer of the committee;
(2) three members who are members of a county commissioners court, appointed by the chief executive officer of the County Judges and Commissioners Association of Texas;
(3) two members who are chief appraisers of an appraisal district, appointed by the chief executive officer of the Texas Association of Appraisal Districts;
(4) two members appointed by the chief executive officer of the Texas Oil & Gas Association;
(5) two members appointed by the chief executive officer of the Texas Independent Producers and Royalty Owners Association; and
(6) one member appointed annually on a rotating basis by the chief executive officer of the Texas Alliance of Energy Producers, the chief executive officer of the Permian Basin Petroleum Association, or the chief executive officer of the Panhandle Producers & Royalty Owners Association.
(b) An appointed member of the advisory committee serves at the will of the appointing entity.
(c) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.
(d) The advisory committee shall, by a vote of at least two-thirds of the voting members, determine the current calendar year statewide average price for oil or gas, as applicable, forecasted using market-based data and a market-based methodology.
(e) The determination of the advisory committee may

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

not result in a current calendar year statewide average price for oil or gas, as applicable, forecasted using market-based data and a market-based methodology that deviates by more than 50 percent from the preceding calendar year actual statewide average price for oil or gas, as applicable, as calculated by the comptroller under Section 23.175(a).

(f) The advisory committee shall notify the comptroller of the committee's determination. The comptroller shall accept or reject the advisory committee's determination. If the comptroller rejects the advisory committee's determination, the comptroller shall:

(1) immediately notify the advisory committee of the comptroller's rejection of and reasons for rejecting the determination; and

(2) direct the advisory committee to make a new determination.

(g) A new determination by the advisory committee is subject to Subsections (d), (e), and (f) in the same manner as an initial determination.

(h) If the comptroller accepts the initial or a subsequent determination of the advisory committee, the comptroller shall use the current calendar year statewide average price for oil or gas, as applicable, as determined by the advisory committee in performing the calculations required by Section 23.175(a).

(i) The comptroller by rule shall establish procedures for the functions of the advisory committee, including procedures requiring the advisory committee to notify the comptroller of its initial determination for each tax

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

year not later than January 31 of that year.

No equivalent provision.

SECTION __. The chief executive officers of the County Judges and Commissioners Association of Texas, Texas Association of Appraisal Districts, Texas Oil & Gas Association, Texas Independent Producers and Royalty Owners Association, and Texas Alliance of Energy Producers shall appoint the initial appointed members of the Oil and Gas Valuation Advisory Committee created by Section 23.176, Tax Code, as added by this Act, as soon as practicable on or after September 1, 2009.

No equivalent provision.

SECTION __. The comptroller shall adopt rules under Section 23.175(b), Tax Code, as amended by this Act, and Section 23.176(i), Tax Code, as added by this Act, not later than December 1, 2009.

No equivalent provision.

SECTION __. (a) Sections 23.46(c) and (d), Tax Code, are amended to read as follows:
(c) If land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three years preceding the year in which the land is sold or diverted ~~[plus interest at the rate provided for delinquent taxes]~~ becomes due. A determination that the land has been diverted to a nonagricultural use is made by the chief

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

appraiser. For purposes of this subsection, the chief appraiser may not consider any period during which land is owned by the state in determining whether the land has been diverted to a nonagricultural use. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes ~~[plus interest]~~ as soon as practicable after the change of use occurs. If the additional taxes are due because of a sale of the land, the assessor for each taxing unit shall prepare and deliver the bill as soon as practicable after the sale occurs. The taxes ~~[and interest]~~ are due and become delinquent and incur penalties and interest as provided by law for other delinquent ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(d) A tax lien attaches to the land on the date the sale or change of use occurs to secure payment of the additional tax ~~[and interest]~~ imposed by Subsection (c) ~~[of this section]~~ and any penalties and interest incurred if the tax becomes delinquent. The lien exists in favor of all taxing units for which the additional tax is imposed.

(b) Sections 23.55(a), (b), (e), (f), (m), and (n), Tax Code, are amended to read as follows:

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

(a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years~~[, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due]~~. For purposes of this subsection, the chief appraiser may not consider any period during which land is owned by the state in determining whether a change in the use of the land has occurred.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax ~~[and interest]~~ imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(c) A determination that a change in use of the land has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes ~~[plus interest]~~ as soon as practicable. The taxes ~~[and~~

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

~~interest]~~ are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(f) The sanctions provided by Subsection (a) ~~[of this section]~~ do not apply if the change of use occurs as a result of:

(1) a sale for right-of-way;

(2) a condemnation;

(3) a transfer of the property to the state or a political subdivision of the state to be used for a public purpose; or

(4) a transfer of the property from the state, a political subdivision of the state, or a nonprofit corporation created by a municipality with a population of more than one million under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code) to an individual or a business entity for purposes of economic development if the comptroller determines that the economic development is likely to generate for deposit in the general revenue fund during the next two fiscal bienniums an amount of taxes and other revenues that equals or exceeds 20 times the amount of additional taxes ~~[and interest]~~ that would have been imposed under Subsection (a) had the sanctions provided by that subsection applied to the transfer.

(m) For purposes of determining whether a transfer of land qualifies for the exemption from additional taxes provided by Subsection (f)(4), on an application of the

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

entity transferring or proposing to transfer the land or of the individual or entity to which the land is transferred or proposed to be transferred, the comptroller shall determine the amount of taxes and other revenues likely to be generated as a result of the economic development for deposit in the general revenue fund during the next two fiscal bienniums. If the comptroller determines that the amount of those revenues is likely to equal or exceed 20 times the amount of additional taxes ~~[and interest]~~ that would be imposed under Subsection (a) if the sanctions provided by that subsection applied to the transfer, the comptroller shall issue a letter to the applicant stating the comptroller's determination and shall send a copy of the letter by regular mail to the chief appraiser.

(n) Within one year of the conclusion of the two fiscal bienniums for which the comptroller issued a letter as provided under Subsection (m), the board of directors of the appraisal district, by official board action, may direct the chief appraiser to request the comptroller to determine if the amount of revenues was equal to or exceeded 20 times the amount of taxes ~~[and interest]~~ that would have been imposed under Subsection (a). The comptroller shall issue a finding as to whether the amount of revenue met the projected increases. The chief appraiser shall review the results of the comptroller's finding and shall make a determination as to whether sanctions under Subsection (a) should be imposed. If the chief appraiser determines that the sanctions provided by Subsection (a) shall be imposed,

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

the sanctions shall be based on the date of the transfer of the property under Subsection (f)(4).

(c) Sections 23.58(c) and (d), Tax Code, are amended to read as follows:

(c) A provision in an instrument pertaining to a loan secured by a lien in favor of the lender on land appraised according to this subchapter that requires the borrower to make a payment to protect the lender from loss because of the imposition of additional taxes ~~[and interest]~~ under Section 23.55 is void unless the provision:

(1) requires the borrower to pay into an escrow account established by the lender an amount equal to the additional taxes ~~[and interest]~~ that would be due under Section 23.55 if a change of use occurred on January 1 of the year in which the loan is granted or amended;

(2) requires the escrow account to bear interest to be credited to the account monthly;

(3) permits the lender to apply money in the escrow account to the payment of a bill for additional taxes ~~and interest]~~ under Section 23.55 before the loan is paid and requires the lender to refund the balance remaining in the escrow account after the bill is paid to the borrower; and

(4) requires the lender to refund the money in the escrow account to the borrower on the payment of the loan.

(d) On the request of the borrower or the borrower's representative, the assessor for each taxing unit shall compute the additional taxes ~~[and interest]~~ that would be due that taxing unit under Section 23.55 if a change of use occurred on January 1 of the year in which the loan is granted or amended. The assessor may charge a

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

reasonable fee not to exceed the actual cost of making the computation.

(d) Sections 23.46(c) and (d), Tax Code, as amended by this section, apply only to a sale or diversion to a nonagricultural use of land appraised under Subchapter C, Chapter 23, Tax Code, that occurs on or after the effective date of this section.

(e) Sections 23.55(a), (b), (e), (f), (m), and (n), Tax Code, as amended by this section, apply only to a change of use of land appraised under Subchapter D, Chapter 23, Tax Code, that occurs on or after the effective date of this section.

(f) Sections 23.58(c) and (d), Tax Code, as amended by this section, apply only to a loan secured by a lien on open-space land that is contracted for on or after the effective date of this section.

(g) This section takes effect September 1, 2009.

SECTION 4. (a) Subchapter D, Chapter 23, Tax Code, is amended by adding Section 23.522 to read as follows:

Sec. 23.522. TEMPORARY CESSATION OF AGRICULTURAL USE DURING DROUGHT. The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

(1) a drought declared by the governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production; and

SECTION 5. Subchapter D, Chapter 23, Tax Code, is amended by adding Section 23.522 to read as follows:

Sec. 23.522. TEMPORARY CESSATION OF AGRICULTURAL USE DURING DROUGHT. The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

(1) a drought declared by the governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production; and

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(2) the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed when the declared drought ceases.

(b) Section 23.522, Tax Code, as added by this Act, applies only to the appraisal of land for ad valorem tax purposes for a tax year that begins on or after the effective date of this Act.

No equivalent provision.

SENATE VERSION

(2) the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed when the declared drought ceases.

SECTION 6. Section 26.04, Tax Code, is amended by adding Subsection (d-1) to read as follows:

(d-1) This subsection applies only to a school district. Notwithstanding Subsections (a), (b), and (c), on receipt of the estimate of the taxable value of property in the district under Section 26.01(e):

(1) the assessor for the district shall:

(A) determine an estimate of the values specified in Subsection (a) for the district using the estimated value provided under Section 26.01(e); and

(B) submit an appraisal roll to the governing body of the district showing an estimate of each item of information specified by Subsection (b), using the estimated values provided under Section 26.01(e) and determined under Paragraph (A); and

(2) an officer or employee designated by the governing body of the school district shall calculate the effective tax rate and the rollback tax rate for the district using the estimates described by Subdivision (1).

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

SECTION 5. (a) Section 41A.01, Tax Code, is amended to read as follows:
Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY

SENATE VERSION

SECTION 7. Section 26.05, Tax Code, is amended by adding Subsection (a-1) to read as follows:
(a-1) This subsection applies only to a school district. The governing body of the school district shall adopt a tax rate for the current tax year before the later of September 30 or the 60th day after the date the estimate of the taxable value of property in the district is received under Section 26.01(e) using the values estimated under that section and Section 26.04(d-1).

SECTION 8. Section 41.66(f), Tax Code, is amended to read as follows:
(f) A member of the appraisal review board may not communicate with another person concerning:
(1) the evidence, argument, facts, merits, or any other matters related to an owner's protest, except during the hearing on the protest; ~~[or]~~
(2) a property that is the subject of the protest, except during a hearing on another protest or other proceeding before the board at which the property is compared to other property or used in a sample of properties; or
(3) a factual or hypothetical situation that is substantially similar to a situation that is the subject of the protest, except during the hearing on the protest.

SECTION 9. Section 41A.01, Tax Code, is amended to read as follows:
Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

OWNER. 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 **brought** under Section 41.41(a)(1) **or (2)** concerning the appraised or market value of ~~real~~ property if:

~~[(4)]~~ 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) Section 41A.03(a), Tax Code, is amended to read as follows:

(a) To appeal an appraisal review board order under this chapter, a property owner must file with the appraisal district not later than the 45th day after the date the property owner receives notice of the order:

(1) a completed request for binding arbitration under this chapter in the form prescribed by Section 41A.04; and

(2) an arbitration deposit ~~[in the amount of \$500,]~~ made payable to the comptroller in the amount of:

(A) \$500; or

(B) \$250, if the property owner requests expedited arbitration under Section 41A.031.

(c) Effective September 1, 2012, Section 41A.03(a), Tax Code, is amended to read as follows:

SENATE VERSION

OWNER. 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) 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].~~

SECTION 10. Section 41A.03(a), Tax Code, is amended to read as follows:

(a) To appeal an appraisal review board order under this chapter, a property owner must file with the appraisal district not later than the 45th day after the date the property owner receives notice of the order:

(1) a completed request for binding arbitration under this chapter in the form prescribed by Section 41A.04; and

(2) an arbitration deposit ~~[in the amount of \$500,]~~ made payable to the comptroller in the amount of:

(A) \$500; or

(B) \$250, if the property owner requests expedited arbitration under Section 41A.031.

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(a) To appeal an appraisal review board order under this chapter, a property owner must file with the appraisal district not later than the 45th day after the date the property owner receives notice of the order:

(1) a completed request for binding arbitration under this chapter in the form prescribed by Section 41A.04; and

(2) an arbitration deposit in the amount of \$500, made payable to the comptroller.

(d) Chapter 41A, Tax Code, is amended by adding Section 41A.031 to read as follows:

Sec. 41A.031. EXPEDITED ARBITRATION. (a) A property owner is entitled to an expedited arbitration if the property owner includes a request for expedited arbitration in the request filed under Section 41A.03 and pays the required deposit.

(b) An expedited arbitration must provide for not more than one hour of argument and testimony on behalf of the property owner and not more than one hour of argument and testimony on behalf of the appraisal district.

(c) The comptroller shall adopt rules and processes to assist in the conduct of an expedited arbitration, including rules relating to the evidence required to be produced by each party.

(d) This section expires September 1, 2012.

(e) Section 41A.08, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) In an arbitration proceeding under this chapter brought on the ground of unequal appraisal of property, the protest shall be determined in accordance with

SENATE VERSION

SECTION 11. Chapter 41A, Tax Code, is amended by adding Section 41A.031 to read as follows:

Sec. 41A.031. EXPEDITED ARBITRATION. (a) A property owner is entitled to an expedited arbitration if the property owner includes a request for expedited arbitration in the request filed under Section 41A.03 and pays the required deposit.

(b) An expedited arbitration must provide for not more than one hour of argument and testimony on behalf of the property owner and not more than one hour of argument and testimony on behalf of the appraisal district.

(c) The comptroller shall adopt rules and processes to assist in the conduct of an expedited arbitration.

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Section 42.26(a), except that a party may not present evidence relating to the median level of appraisal or the median appraised value of more than five other properties in the appraisal district.

(f) The change in law made by this section applies only to an appeal under Chapter 41A, Tax Code, that is filed on or after the effective date of this Act. An appeal under Chapter 41A, Tax Code, that is filed before the effective date of this Act is governed by the law in effect on the date the appeal was filed, and the former law is continued in effect for that purpose.

(g) Except as otherwise provided by this section, this section takes effect September 1, 2009.

SECTION 6. Sections 6.15(a) and (b), Tax Code, are amended to read as follows:

(a) A member of the board of directors of an appraisal district commits an offense if the member directly or indirectly communicates with the chief appraiser regarding ~~[on any matter relating to]~~ the appraisal of property by the appraisal district, except in:

(1) an open meeting of the appraisal district board of directors or another public forum; or

(2) a closed meeting of the board of directors held to consult with the board's attorney about pending litigation, at which the chief appraiser's presence is necessary for full communication between the board and the board's attorney.

(b) A chief appraiser commits an offense if the chief

SENATE VERSION

CONFERENCE

No equivalent provision.

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

appraiser directly or indirectly communicates with a member of the board of directors of the appraisal district regarding ~~on any matter relating to~~ the appraisal of property by the appraisal district, except in:

- (1) an open meeting of the board of directors or another public forum; or
- (2) a closed meeting of the board of directors held to consult with the board's attorney about pending litigation, at which the chief appraiser's presence is necessary for full communication between the board and the board's attorney.

SECTION 7. Section 23.014, Tax Code, is repealed.

SECTION 8.

This Act applies only to the appraisal of property for a tax year beginning on or after the effective date of this Act.

SENATE VERSION

Sec. 23.014. EXCLUSION OF PROPERTY AS REAL PROPERTY. Except as provided by Section 23.24(b), in ~~[It]~~ determining the market value of real property, the chief appraiser shall analyze the effect on that value of, and exclude from that value the value of, any:
(1) tangible personal property, including trade fixtures;
(2) intangible personal property; or
(3) other property that is not subject to appraisal as real property.

SECTION 18. Except as otherwise provided by this Act, this Act applies only to the appraisal of property for a tax year beginning on or after the effective date of this Act.

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

No equivalent provision.

SENATE VERSION

SECTION 12. The heading to Section 41A.06, Tax Code, is amended to read as follows:

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

SECTION 13. Section 41A.06(b), Tax Code, is amended to read as follows:

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

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

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

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

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

(C) a certified public accountant under Chapter 901, Occupations Code; and

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

SECTION 14. Chapter 41A, Tax Code, is amended by

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

adding Section 41A.061 to read as follows:

Sec. 41A.061. CONTINUED QUALIFICATION OF ARBITRATOR; RENEWAL OF AGREEMENT. (a)

The comptroller shall include a qualified arbitrator in the registry until the second anniversary of the date the person was added to the registry. To continue to be included in the registry after the second anniversary of the date the person was added to the registry, the person must renew the person's agreement with the comptroller to serve as an arbitrator on or as near as possible to the date on which the person's license or certification issued under Chapter 901, 1101, or 1103, Occupations Code, is renewed.

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

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

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

(3) during the preceding two years have completed at least eight hours of continuing education in arbitration and alternative dispute resolution procedures offered by a university, college, real estate trade association, or legal association.

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

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

No equivalent provision.

No equivalent provision.

SENATE VERSION

SECTION 15. Section 41A.07, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding any other provision of this section, an arbitrator selected or appointed to arbitrate an appeal under this chapter regarding property other than real property must be licensed as a certified public accountant under Chapter 901, Occupations Code.

SECTION 16. Section 41A.08(b), Tax Code, as added by Chapters 372 (S.B. 1351) and 912 (H.B. 182), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

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

- (1) an employee of the appraisal district;
- (2) an attorney who is licensed in this state;
- (3) a person who is licensed as a real estate broker or salesperson under Chapter 1101, Occupations Code, or is licensed or certified as a real estate appraiser under Chapter 1103, Occupations Code; ~~[or]~~
- (4) a property tax consultant registered under Chapter 1152, Occupations Code; or
- (5) an individual who is licensed as a certified public accountant under Chapter 901, Occupations Code.

SECTION 17. (a) Sections 6.411 and 41.66, Tax Code, as amended by this Act, apply only to an offense

CONFERENCE

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

committed on or after the effective date of this Act. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(b) Sections 41A.01, 41A.03, 41A.07, and 41A.08, Tax Code, as amended by this Act, and Section 41A.031, Tax Code, as added by this Act, apply only to an appeal through binding arbitration under Chapter 41A of that code that is requested on or after the effective date of this Act.

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

(d) Section 41A.061, Tax Code, as added by this Act, does not affect the eligibility of a person who is included on the registry list of qualified arbitrators on the effective date of this Act to continue to remain on that registry list before the date on which the person's license or certificate under Chapter 901, 1101, or 1103, Occupations Code, expires unless renewed.

SECTION 9.
This Act takes effect January 1, 2010.

No equivalent provision

SECTION 19. Except as otherwise provided by this Act, this Act takes effect January 1, 2010.

SECTION __. (a) Except as provided by Subsection (b)

House Bill 3454
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

of this section, this Act takes effect January 1, 2010.
(b) Sections 23.175(a) and (b), Tax Code, as amended
by this Act, and Section 23.176, Tax Code, as added by
this Act, take effect September 1, 2009.