

By: Davis of Dallas

H.B. No. 2220

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the requirement to prepay ad valorem taxes as a
3 prerequisite to determining certain motions or protests and the
4 authority of an appraisal review board to determine compliance with
5 the requirement.

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

7 SECTION 1. Sections 25.25(e) and (g), Tax Code, are amended
8 to read as follows:

9 (e) If the chief appraiser and the property owner do not
10 agree to the correction before the 15th day after the date the
11 motion is filed, a party bringing a motion under Subsection (c) or
12 (d) is entitled on request to a hearing on and a determination of
13 the motion by the appraisal review board. A party bringing a motion
14 under this section must describe the error or errors that the motion
15 is seeking to correct. Not later than 15 days before the date of the
16 hearing, the board shall deliver written notice of the date, time,
17 and place of the hearing to the chief appraiser, the property owner,
18 and the presiding officer of the governing body of each taxing unit
19 in which the property is located. The chief appraiser, the property
20 owner, and each taxing unit are entitled to present evidence and
21 argument at the hearing and to receive written notice of the board's
22 determination of the motion. A property owner who files the motion
23 must comply with the payment requirements of Section 25.26 [~~42.08~~]
24 or forfeit the right to a final determination of the motion.

1 (g) Within 45 days after receiving notice of the appraisal
2 review board's determination of a motion under this section or of a
3 determination of the appraisal review board that the property owner
4 has forfeited the right to a final determination of a motion under
5 this section for failing to comply with the prepayment requirements
6 of Section 25.26, the property owner or the chief appraiser may file
7 suit to compel the board to order a change in the appraisal roll as
8 required by this section.

9 SECTION 2. Chapter 25, Tax Code, is amended by adding
10 Section 25.26 to read as follows:

11 Sec. 25.26. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES.

12 (a) The pendency of a motion filed under Section 25.25 does not
13 affect the delinquency date for the taxes on the property that is
14 the subject of the motion. However, that delinquency date applies
15 only to the amount of taxes required to be paid under Subsection
16 (b). If the property owner complies with Subsection (b), the
17 delinquency date for any additional amount of taxes due on the
18 property is determined in the manner provided by Section 42.42(c)
19 for the determination of the delinquency date for additional taxes
20 finally determined to be due in an appeal under Chapter 42, and that
21 additional amount is not delinquent before that date.

22 (b) Except as provided by Subsection (d), a property owner
23 who files a motion under Section 25.25 must pay the amount of taxes
24 due on the portion of the taxable value of the property that is the
25 subject of the motion that is not in dispute before the delinquency
26 date or the property owner forfeits the right to proceed to a final
27 determination of the motion.

1 (c) A property owner who pays an amount of taxes greater
2 than that required by Subsection (b) does not forfeit the property
3 owner's right to a final determination of the motion by making the
4 payment. If the property owner files a timely motion under Section
5 25.25, taxes paid on the property are considered paid under
6 protest, even if paid before the motion is filed.

7 (d) After filing an oath of inability to pay the taxes at
8 issue, a property owner may be excused from the requirement of
9 prepayment of tax as a prerequisite to the determination of a motion
10 if the appraisal review board, after notice and hearing, finds that
11 such prepayment would constitute an unreasonable restraint on the
12 property owner's right of access to the board. On the motion of a
13 party, the board shall determine compliance with this section in
14 the same manner and by the same procedure as provided by Section
15 41.4115(d) and may set such terms and conditions on any grant of
16 relief as may be reasonably required by the circumstances.

17 SECTION 3. Section 41.411(c), Tax Code, is amended to read
18 as follows:

19 (c) A property owner who protests as provided by this
20 section must comply with the payment requirements of Section
21 41.4115 [~~42.08~~] or the property owner forfeits the property owner's
22 right to a final determination of the protest. [~~The delinquency~~
23 ~~date for purposes of Section 42.08(b) for the taxes on the property~~
24 ~~subject to a protest under this section is postponed to the 125th~~
25 ~~day after the date that one or more taxing units first delivered~~
26 ~~written notice of the taxes due on the property, as determined by~~
27 ~~the appraisal review board at a hearing under Section 41.44(c-3).~~]

1 SECTION 4. Subchapter C, Chapter 41, Tax Code, is amended by
2 adding Section 41.4115 to read as follows:

3 Sec. 41.4115. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES.

4 (a) The pendency of a protest under Section 41.411 does not affect
5 the delinquency date for the taxes on the property subject to the
6 protest. However, that delinquency date applies only to the amount
7 of taxes required to be paid under Subsection (b) and, for purposes
8 of Subsection (b), that delinquency date is postponed to the 125th
9 day after the date one or more taxing units first delivered written
10 notice of the taxes due on the property, as determined by the
11 appraisal review board at a hearing under Section 41.44(c-3). If
12 the property owner complies with Subsection (b), the delinquency
13 date for any additional amount of taxes due on the property is
14 determined in the manner provided by Section 42.42(c) for the
15 determination of the delinquency date for additional taxes finally
16 determined to be due in an appeal under Chapter 42, and that
17 additional amount is not delinquent before that date.

18 (b) Except as provided in Subsection (d), a property owner
19 who files a protest under Section 41.411 must pay the amount of
20 taxes due on the portion of the taxable value of the property
21 subject to the protest that is not in dispute before the delinquency
22 date or the property owner forfeits the right to proceed to a final
23 determination of the protest.

24 (c) A property owner who pays an amount of taxes greater
25 than that required by Subsection (b) does not forfeit the property
26 owner's right to a final determination of the protest by making the
27 payment. If the property owner files a timely protest under Section

1 41.411, taxes paid on the property are considered paid under
2 protest, even if paid before the protest is filed.

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

19 SECTION 5. Section 42.01, Tax Code, is amended to read as
20 follows:

21 Sec. 42.01. RIGHT OF APPEAL BY PROPERTY OWNER. (a) A
22 property owner is entitled to appeal:

23 (1) an order of the appraisal review board
24 determining:

25 (A) a protest by the property owner as provided
26 by Subchapter C of Chapter 41; ~~[or]~~

27 (B) a determination of an appraisal review board

1 on a motion filed under Section 25.25; or

2 (C) a determination of an appraisal review board
3 that the property owner has forfeited the right to a final
4 determination of a motion filed under Section 25.25 or of a protest
5 under Section 41.411 for failing to comply with the prepayment
6 requirements of Section 25.26 or 41.4115, as applicable; or

7 (2) an order of the comptroller issued as provided by
8 Subchapter B, Chapter 24, apportioning among the counties the
9 appraised value of railroad rolling stock owned by the property
10 owner.

11 (b) A property owner who establishes that the owner did not
12 forfeit the right to a final determination of a motion or of a
13 protest in an appeal under Subsection (a)(1)(C) is entitled to a
14 final determination of the court, as applicable:

15 (1) of the motion filed under Section 25.25; or

16 (2) of the protest under Section 41.411 of the failure
17 of the chief appraiser or appraisal review board to provide or
18 deliver a notice to which the property owner is entitled, and, if
19 failure to provide or deliver the notice is established, of a
20 protest made by the property owner on any other grounds of protest
21 authorized by this title relating to the property to which the
22 notice applies.

23 SECTION 6. The changes in law made by this Act apply only to
24 a motion to correct an appraisal roll or a protest filed on or after
25 the effective date of this Act. A motion to correct an appraisal
26 roll or a protest filed before the effective date of this Act is
27 governed by the law in effect on the date the motion or protest was

1 filed, and the former law is continued in effect for that purpose.

2 SECTION 7. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2011.