

By: Geren

H.B. No. 49

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a district court to hear and determine certain ad valorem tax appeals.

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

SECTION 1. Section 42.01, Tax Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A property owner is entitled to appeal:

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

(A) a protest by the property owner as provided by Subchapter C of Chapter 41;

(B) a ~~[determination of an appraisal review board on a]~~ motion filed under Section 25.25;

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

(D) ~~[a determination of an appraisal review board of]~~ eligibility for a refund requested under Section 23.1243; or

(E) that the appraisal review board lacks jurisdiction to finally determine a protest by the property owner under Subchapter C, Chapter 41, or a motion filed by the property owner under Section 25.25 because the property owner failed to

1 comply with a requirement of Subchapter C, Chapter 41, or Section
2 25.25, as applicable; or

3 (2) an order of the comptroller issued as provided by
4 Subchapter B, Chapter 24, apportioning among the counties the
5 appraised value of railroad rolling stock owned by the property
6 owner.

7 (c) A property owner who establishes that the appraisal
8 review board had jurisdiction to issue a final determination of the
9 protest by the property owner under Subchapter C, Chapter 41, or of
10 the motion filed by the property owner under Section 25.25 in an
11 appeal under Subsection (a)(1)(E) of this section is entitled to a
12 final determination by the court of the protest under Subchapter C,
13 Chapter 41, or of the motion filed under Section 25.25. A final
14 determination of a protest under Subchapter C, Chapter 41, by the
15 court under this subsection may be on any ground of protest
16 authorized by this title applicable to the property that is the
17 subject of the protest, regardless of whether the property owner
18 included the ground in the property owner's notice of protest.

19 SECTION 2. Subchapter B, Chapter 42, Tax Code, is amended by
20 adding Section 42.231 to read as follows:

21 Sec. 42.231. JURISDICTION OF DISTRICT COURT; REMAND OF
22 CERTAIN APPEALS. (a) This section applies only to an appeal by a
23 property owner of an order of the appraisal review board
24 determining:

25 (1) a protest by the property owner as provided by
26 Subchapter C, Chapter 41; or

27 (2) a motion filed by the property owner under Section

1 25.25.

2 (b) Subject to the provisions of this section and
3 notwithstanding any other law, if a plea to the jurisdiction is
4 filed in the appeal on the basis that the property owner failed to
5 exhaust the property owner's administrative remedies, the court
6 may, in lieu of dismissing the appeal for lack of jurisdiction,
7 remand the action to the appraisal review board with instructions
8 to allow the property owner an opportunity to cure the property
9 owner's failure to exhaust administrative remedies.

10 (c) An action remanded to the appraisal review board under
11 Subsection (b) is considered to be a timely filed protest under
12 Subchapter C, Chapter 41, or motion under Section 25.25, as
13 applicable. The appraisal review board shall schedule a hearing on
14 the protest or motion and issue a written decision determining the
15 protest or motion in the manner required by Subchapter C, Chapter
16 41, or Section 25.25, as applicable.

17 (d) A determination of the appraisal review board relating
18 to the remanded action may be appealed to the court that remanded
19 the action to the board. A determination appealed to the court
20 under this subsection may not be the subject of a plea to the
21 jurisdiction on the basis of the property owner's failure to
22 exhaust administrative remedies.

23 (e) Notwithstanding Subsection (b), on agreement of each
24 party to the appeal and with the approval of the court, the parties
25 to the appeal may waive remand of the action to the appraisal review
26 board and elect that the court determine the appeal on the merits.
27 If the parties waive remand of the action under this subsection,

1 each party is considered to have exhausted the party's
2 administrative remedies.

3 SECTION 3. The change in law made by this Act applies only
4 to an appeal under Chapter 42, Tax Code, that is filed on or after
5 the effective date of this Act. An appeal under Chapter 42, Tax
6 Code, that is filed before the effective date of this Act is
7 governed by the law in effect on the date the appeal is filed, and
8 the former law is continued in effect for that purpose.

9 SECTION 4. This Act takes effect January 1, 2018.