

By: Lucio III

H.B. No. 1248

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to alternative resolution procedures for ad valorem tax  
3 suits brought under Chapter 42 of the Texas Property Tax Code for  
4 purposes of enhancing the public policy of this state of reducing  
5 the delay and the costs of litigation.

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

7 SECTION 1. Chapter 42, Tax Code, is amended by adding  
8 Section 42.228 to read as follows:

9 Sec. 42.228. ALTERNATIVE DISPUTE RESOLUTION FOR EXPEDITING  
10 APPEALS.

11 (a) A party to a lawsuit brought under Chapter 42 of the  
12 Property Tax Code may elect alternative dispute resolution  
13 procedures for the purpose of expediting the resolution of the  
14 lawsuit.

15 (b) The alternative dispute resolution procedures contained  
16 in this section may be implemented by the request of a plaintiff  
17 included in the filing of the plaintiff's original petition or by a  
18 defendant included in the filing of the defendant's answer to  
19 plaintiff's original petition. The alternative dispute resolution  
20 procedures contained in this section shall be an alternative to and  
21 in place of the procedures contained in the Texas Rules of Civil  
22 Procedure to the extent they conflict.

23 (c) Limitations on Certain Discovery: Discovery shall be  
24 limited as follows except as set by order of the court upon hearing

1 or by agreement of the parties:

2 (1) Document Production: The parties shall not serve  
3 and shall not be required to answer a Request for Production of  
4 Documents except as provided herein.

5 (2) Written Interrogatories: The parties shall not  
6 serve and shall not be required to answer written interrogatories.

7 (3) Requests for Admission: The parties shall not  
8 serve and shall not be required to answer requests for admission.

9 (4) Depositions on Written Questions. The parties  
10 shall not serve and shall not be required to answer depositions on  
11 written questions.

12 (5) Discovery from Non-Parties. The parties shall not  
13 serve discovery on non-parties.

14 (d) Request for Production of Documents: Document  
15 production shall be required and limited as follows:

16 (1) Document Production by Property Owner in Section  
17 42.25 Lawsuit Involving Real Property: A property owner who files  
18 an appeal concerning real property under Sections 42.25 of this  
19 Chapter shall without request produce the following documents in  
20 the property owner's possession at least thirty days prior to a  
21 scheduled mediation or within 14 days of a disclosure of a  
22 testifying witness under subsection (f):

23 (i) any rent roll for the subject property  
24 for the year prior to the year subject to the appeal;

25 (ii) the operating statement for the year  
26 prior to the year subject to appeal if the subject property is  
27 leased for use;

1 (iii) any fee simple appraisal report of  
2 the subject property done within the last three years or any other  
3 appraisal done in the prior year in possession of the plaintiff;

4 (iv) any document stating or supporting the  
5 owner's opinion, if any, of deferred maintenance or costs to cure,

6 (v) any document stating or supporting the  
7 owner's opinion of value.

8 (2) Document Production by Appraisal District in  
9 Section 42.25 Lawsuit Involving Real Property: The Appraisal  
10 District shall produce the following documents in the appraisal  
11 district's possession without request to the property owner at  
12 least thirty days prior to a scheduled mediation or within 14 days  
13 of a disclosure of a testifying witness under subsection (f,  
14 whichever is earlier:

15 (i) the appraisal records as set forth in  
16 Section 25.02 of this Code for the subject property for the tax year  
17 at issue,

18 (ii) the evidence submitted by the  
19 Appraisal District or Property Owner to the Appraisal Review Board  
20 concerning the subject property for the tax year at issue,

21 (iii) any appraisal reports or valuation  
22 analysis within its possession, custody, or control concerning the  
23 subject property relating to the tax year at issue for any of the  
24 three years preceding the tax year at issue,

25 (iv) the information and material  
26 identified in Sections 23.011, 23.012, 23.013, and 23.014 of  
27 Chapter 23 of this Title used in appraising the market value of the

1 property.

2 (3) Production Involving Personal Property: In a suit  
3 concerning personal property filed under Sections 42.25 or 42.26 of  
4 this Chapter, the parties may serve Requests for Production. The  
5 Requests for Production shall be limited to ten discreet requests  
6 with each subpart of a request considered to be a discreet request.

7 (4) Production by Appraisal District in Section 42.26  
8 Lawsuit Involving Real Property: For purposes of an appeal filed  
9 under Section 42.26 of this Code, the property owner may identify in  
10 a Request for Production to the appraisal district, the properties  
11 claimed as comparable to the subject which shall not exceed ten. The  
12 Appraisal District shall produce to the property owner at least  
13 thirty days prior to a scheduled mediation or within 14 days of a  
14 disclosure under subsection (f) for the comparables identified by  
15 the property owner:

16 (i) the appraisal records as set forth in  
17 Section 25.02 of this Code for the property for the tax year at  
18 issue,

19 (ii) the evidence submitted by the  
20 Appraisal District or Property Owner to the Appraisal Review Board  
21 concerning the property for the tax year at issue,

22 (iii) any appraisal reports or valuation  
23 analysis within its possession, custody, or control concerning the  
24 property relating to the tax year at issue or identified comparable  
25 properties for any of the three years preceding the tax year at  
26 issue unless otherwise prohibited from disclosure under this code,

27 (iv) the information and material

1 identified in Sections 23.011, 23.012, 23.013, and 23.014 of  
2 Chapter 23 of this Title used in appraising the market value of the  
3 property,

4 (e) Oral Depositions. Oral depositions shall be limited as  
5 follows:

6 (1) Witnesses. The parties may take the oral  
7 depositions of testifying experts, the property owner or a  
8 corporate representative of the property owner, and a corporate  
9 representative of the Appraisal District.

10 (2) Timing. No party shall be required to submit  
11 itself or its testifying expert witnesses for oral deposition until  
12 the parties have attended settlement discussions pursuant to  
13 Section 42.227 of this Chapter, if such settlement discussions were  
14 requested.

15 (3) Scheduling. The parties shall cooperate in good  
16 faith to schedule oral depositions at a time and place convenient  
17 for the parties, witnesses, and counsel. The deposition of an owner  
18 or owner representative may be taken in the county in which the  
19 owner resides or may be taken by telephone.

20 (4) Length. Depositions of fact witnesses are limited  
21 to three hours per deposition. Depositions of testifying expert  
22 witnesses are limited to six hours per deposition.

23 (5) Court Reporter. The parties shall cooperate in  
24 good faith to use the same court reporter or videographer service.

25 (6) Exhibits. The parties shall cooperate in good  
26 faith to number documents, photographs, and other information used  
27 as exhibits at oral depositions sequentially, regardless of the

1 identity of the deponent or the party introducing the exhibit. The  
2 parties shall use the same exhibit numbers when referring to such  
3 exhibits in pretrial motions and at trial. The written opinion of an  
4 expert shall be admitted in to evidence.

5 (7) Documents for a Deposition: The parties upon  
6 request shall produce any documents set forth in subsection (d) of  
7 this section, the witness's written opinions, if any, and the  
8 witnesses's work file , if any, supporting the witnesses's opinion.

9 (f) Expert Witnesses. The parties may serve Requests for  
10 Disclosure as in civil suits generally. In addition to the  
11 requirements for a Request for Disclosure set forth in the Rules of  
12 Civil Procedure, within 30 days of retaining an expert witness, a  
13 party shall disclose the identity of the expert and whether the  
14 expert has been retained to perform an appraisal under section  
15 42.25 or 42.26 or both.

16 (g) Pre-trial Disputes. The parties shall attempt in good  
17 faith to resolve any disputes concerning pre-trial matters. Before  
18 the court may be asked to intervene, the lead attorneys for the  
19 parties shall try to resolve the dispute by telephone or by meeting  
20 in person without either party filing any motion with the court or  
21 sending any correspondence concerning the dispute.

22 (h) Hearings. The parties shall cooperate in good faith to  
23 set hearings at a time convenient for the court, witnesses, and the  
24 attorneys. Before the court may be asked to set a hearing, the party  
25 seeking a hearing must contact opposing counsel to inquire about  
26 availability.

27 (i) Exceptions. Except where specifically prohibited by

1 this Chapter, the procedures and limitations set forth in this  
2 Section may be modified in any suit by agreement of the parties or  
3 by court order for good cause

4 (j) Additional Discovery Requests. A party seeking  
5 additional discovery, as in civil suits generally, may file a  
6 motion with the court. The motion shall include the specific  
7 discovery requests, a written reason in support of good cause for  
8 each specific request and a certificate that a good faith effort has  
9 been made to have a telephone or in person conference with opposing  
10 counsel. The court may grant the motion if the party requesting the  
11 additional discovery demonstrates a need for the additional  
12 discovery is necessary for an expert to form a reliable opinion of  
13 the market value of the subject property under Section 42.25, Tax  
14 Code or the equal and uniform value of the property under Section  
15 42.26, Tax Code. In a suit brought under Section 42.25 of this code,  
16 a defendant may file a Request for Production limited to the closing  
17 statement for the purchase of the subject property if the subject  
18 property was purchased in the two years prior to the tax year which  
19 is the subject of the lawsuit.

20 (k) Award of Attorney's Fees: If a party files a motion with  
21 the court and does not prevail in the motion, the court shall award  
22 reasonable attorney fees related to the motion.

23 SECTION 2. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2017.