

By: Geren

H.B. No. 3168

Substitute the following for H.B. No. 3168:

By: Murr

C.S.H.B. No. 3168

A BILL TO BE ENTITLED

AN ACT

relating to ad valorem taxation.

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

SECTION 1. Section 5.05, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) An appraisal review board shall comply with all procedural requirements included in the Appraisal Review Board Manual prepared and issued by the comptroller.

SECTION 2. Section 6.42, Tax Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A majority of the appraisal review board constitutes a quorum. The local administrative district judge under Subchapter D, Chapter 74, Government Code, in the county in which ~~[board of directors of]~~ the appraisal district is established ~~[by resolution]~~ shall select a chairman and a secretary from among the members of the appraisal review board. The judge ~~[board of directors of the appraisal district]~~ is encouraged to select as chairman ~~[of the appraisal review board]~~ a member of the appraisal review board, if any, who has a background in law and property appraisal.

(d) The concurrence of a majority of the members of the appraisal review board or a panel of the board present at a meeting of the board or panel is sufficient for a recommendation, determination, decision, or other action by the board or panel, and the concurrence of more than a majority of the members of the board

1 or panel may not be required.

2 SECTION 3. Chapter 6, Tax Code, is amended by adding
3 Subchapter D to read as follows:

4 SUBCHAPTER D. LIMITED APPEAL OF NONCOMPLIANCE WITH PROCEDURAL
5 REQUIREMENT

6 Sec. 6.61. LIMITED APPEAL. (a) Notwithstanding any other
7 law or the Texas Rules of Civil Procedure, an affected property
8 owner may file a petition directly with the district court to
9 compel an appraisal district, chief appraiser, or appraisal review
10 board to comply with a procedural requirement that:

11 (1) is imposed on the district, chief appraiser, or
12 board under this title, a comptroller rule, or a rule of procedure
13 established by an appraisal review board under Chapter 41; and

14 (2) the property owner alleges has not been complied
15 with by the district, chief appraiser, or board.

16 (b) A property owner may not file a petition authorized by
17 this section before the 10th day after the date the property owner
18 provides written notice as provided by this subsection of the
19 owner's intent to file the petition. The notice must state whether
20 the appraisal district, chief appraiser, or appraisal review board
21 failed to comply with a procedural requirement described by
22 Subsection (a) and must identify the procedural requirement. The
23 notice must be sent by certified mail, return receipt requested,
24 to:

25 (1) the chief appraiser of the appraisal district if
26 the owner alleges that the chief appraiser or appraisal district
27 failed to comply with the requirement;

1 (2) except as provided by Subdivision (3), the chair
2 of the appraisal review board if the owner alleges that the board
3 failed to comply with the requirement; or

4 (3) the local administrative district judge if the
5 judge appoints the members of the appraisal review board and the
6 owner alleges that the board failed to comply with the requirement.

7 (c) A suit brought under this section is for the limited
8 purpose of determining whether the defendant failed to comply with
9 the procedural requirement that is the subject of the suit. The suit
10 may not address the merits of a motion filed under Section 25.25 or
11 a protest filed under Chapter 41.

12 (d) Neither party may conduct discovery in a suit brought
13 under this section.

14 (e) A property owner may set the matter that is the subject
15 of the suit for an evidentiary hearing in accordance with the notice
16 requirements provided by Rule 21, Texas Rules of Civil Procedure. A
17 property owner may not set the matter for a hearing under this
18 subsection until the petition initiating the suit has been served
19 on the defendant.

20 (f) At the end of a hearing under Subsection (e), the court
21 must determine the merits of the suit. If the court determines that
22 the defendant failed to comply with a procedural requirement
23 imposed on the defendant, the court:

24 (1) shall order the defendant to comply with the
25 procedural requirement;

26 (2) shall enter any order necessary to preserve rights
27 protected by, and impose duties required by, the law; and

1 (3) may award court costs and reasonable attorney's
2 fees to the property owner.

3 (g) An order entered under Subsection (f) is final and may
4 not be appealed.

5 SECTION 4. Section 21.10(b), Tax Code, is amended to read as
6 follows:

7 (b) Except as otherwise provided by this subsection, if [if]
8 the application is approved, the property owner is liable to each
9 taxing unit for a penalty in an amount equal to 10 percent of the
10 ~~[difference between the]~~ amount of tax imposed by the taxing unit on
11 the property ~~[without the allocation and the amount of tax imposed~~
12 ~~on the property]~~ with the allocation. A property owner is not liable
13 for the penalty prescribed by this subsection if the chief
14 appraiser who received the owner's allocation application
15 determines that the owner:

16 (1) exercised reasonable diligence in attempting to
17 file the application before the deadline imposed by Section 21.09;
18 or

19 (2) substantially complied with the requirements of
20 that section.

21 SECTION 5. Sections 25.19(a) and (g), Tax Code, are amended
22 to read as follows:

23 (a) By April 1 or as soon thereafter as practicable ~~[if the~~
24 ~~property is a single-family residence that qualifies for an~~
25 ~~exemption under Section 11.13, or by May 1 or as soon thereafter as~~
26 ~~practicable in connection with any other property]~~, the chief
27 appraiser shall deliver a clear and understandable written notice

1 to a property owner of the appraised value of the property owner's
2 property if:

3 (1) the appraised value of the property is greater
4 than it was in the preceding year;

5 (2) the appraised value of the property is greater
6 than the value rendered by the property owner;

7 (3) the property was not on the appraisal roll in the
8 preceding year; or

9 (4) an exemption or partial exemption approved for the
10 property for the preceding year was canceled or reduced for the
11 current year.

12 (g) By April 1 or as soon thereafter as practicable [~~if the~~
13 ~~property is a single-family residence that qualifies for an~~
14 ~~exemption under Section 11.13, or by May 1 or as soon thereafter as~~
15 ~~practicable in connection with any other property~~], the chief
16 appraiser shall deliver a written notice to the owner of each
17 property not included in a notice required to be delivered under
18 Subsection (a), if the property was reappraised in the current tax
19 year, if the ownership of the property changed during the preceding
20 year, or if the property owner or the agent of a property owner
21 authorized under Section 1.111 makes a written request for the
22 notice. The chief appraiser shall separate real from personal
23 property and include in the notice for each property:

24 (1) the appraised value of the property in the
25 preceding year;

26 (2) the appraised value of the property for the
27 current year and the kind of each partial exemption, if any,

1 approved for the current year;

2 (3) a detailed explanation of the time and procedure
3 for protesting the value; and

4 (4) the date and place the appraisal review board will
5 begin hearing protests.

6 SECTION 6. Section 25.25(d), Tax Code, is amended to read as
7 follows:

8 (d) At any time prior to the date the taxes become
9 delinquent, a property owner or the chief appraiser may file a
10 motion with the appraisal review board to change the appraisal roll
11 to correct an error, including an error regarding the unequal
12 appraisal or excessive market value of a property, that resulted in
13 an incorrect appraised value for the owner's property. However,
14 the error may not be corrected unless it resulted in an appraised
15 value that exceeds by more than one-third the correct appraised
16 value. If the appraisal roll is changed under this subsection, the
17 property owner must pay to each affected taxing unit a
18 late-correction penalty equal to 10 percent of the amount of taxes
19 as calculated on the basis of the corrected appraised value.
20 Payment of the late-correction penalty is secured by the lien that
21 attaches to the property under Section 32.01 and is subject to
22 enforced collection under Chapter 33. The roll may not be changed
23 under this subsection if:

24 (1) the property was the subject of a protest brought
25 by the property owner under Chapter 41, a hearing on the protest was
26 conducted in which the property owner offered evidence or argument,
27 and the appraisal review board made a determination of the protest

1 on the merits; or

2 (2) the appraised value of the property was
3 established as a result of a written agreement between the property
4 owner or the owner's agent and the appraisal district.

5 SECTION 7. Section 41.03(a), Tax Code, is amended to read as
6 follows:

7 (a) A taxing unit is entitled to challenge before the
8 appraisal review board:

9 (1) ~~[the level of appraisals of any category of~~
10 ~~property in the district or in any territory in the district, but~~
11 ~~not the appraised value of a single taxpayer's property.]~~

12 [~~2~~] an exclusion of property from the appraisal
13 records;

14 (2) [~~3~~] a grant in whole or in part of a partial
15 exemption;

16 (3) [~~4~~] a determination that land qualifies for
17 appraisal as provided by Subchapter C, D, E, or H, Chapter 23; or

18 (4) [~~5~~] failure to identify the taxing unit as one in
19 which a particular property is taxable.

20 SECTION 8. Section 41.11(a), Tax Code, is amended to read as
21 follows:

22 (a) Not later than the date the appraisal review board
23 approves the appraisal records as provided by Section 41.12, the
24 secretary of the board shall deliver written notice to a property
25 owner of any change in the records that is ordered by the board as
26 provided by this subchapter and that will result in an increase in
27 the tax liability of the property owner. An owner who receives a

1 notice as provided by this section shall be entitled to protest such
2 action as provided by Section 41.44(a)(2) [~~41.44(a)(3)~~].

3 SECTION 9. Sections 41.44(a) and (c), Tax Code, are amended
4 to read as follows:

5 (a) Except as provided by Subsections (b), [~~(b-1)~~], (c),
6 (c-1), and (c-2), to be entitled to a hearing and determination of a
7 protest, the property owner initiating the protest must file a
8 written notice of the protest with the appraisal review board
9 having authority to hear the matter protested:

10 (1) before June [~~May~~] 1 or not later than the 30th day
11 after the date that notice to the property owner was delivered to
12 the property owner as provided by Section 25.19, [~~if the property is~~
13 ~~a single-family residence that qualifies for an exemption under~~
14 ~~Section 11.13,~~] whichever is later;

15 (2) [~~before June 1 or not later than the 30th day after~~
16 ~~the date that notice was delivered to the property owner as provided~~
17 ~~by Section 25.19 in connection with any other property, whichever~~
18 ~~is later,~~

19 [~~(3)~~] in the case of a protest of a change in the
20 appraisal records ordered as provided by Subchapter A of this
21 chapter or by Chapter 25, not later than the 30th day after the date
22 notice of the change is delivered to the property owner;

23 (3) [~~(4)~~] in the case of a determination that a change
24 in the use of land appraised under Subchapter C, D, E, or H, Chapter
25 23, has occurred, not later than the 30th day after the date the
26 notice of the determination is delivered to the property owner; or

27 (4) [~~(5)~~] in the case of a determination of

1 eligibility for a refund under Section 23.1243, not later than the
2 30th day after the date the notice of the determination is delivered
3 to the property owner.

4 (c) A property owner who files notice of a protest
5 authorized by Section 41.411 is entitled to a hearing and
6 determination of the protest if the property owner files the notice
7 prior to the date the taxes on the property to which the notice
8 applies become delinquent. An owner of land who files a notice of
9 protest under Subsection (a)(3) [~~(a)(4)~~] is entitled to a hearing
10 and determination of the protest without regard to whether the
11 appraisal records are approved.

12 SECTION 10. Section 41.71, Tax Code, is amended to read as
13 follows:

14 Sec. 41.71. EVENING AND WEEKEND HEARINGS. (a) An appraisal
15 review board by rule shall provide for hearings on protests [~~in the~~
16 ~~evening or~~] on a Saturday or after 5 p.m. on a weekday [~~Sunday~~].

17 (b) The board may not schedule:

18 (1) the first hearing on a protest held on a weekday
19 evening to begin after 7 p.m.; or

20 (2) a hearing on a protest on a Sunday.

21 SECTION 11. Section 41A.01, Tax Code, is amended to read as
22 follows:

23 Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. As an
24 alternative to filing an appeal under Section 42.01, a property
25 owner is entitled to appeal through binding arbitration under this
26 chapter an appraisal review board order determining a protest filed
27 under Section 41.41(a)(1) or (2), or a motion filed under Section

1 25.25(d), concerning the appraised or market value of property if:

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

4 (2) the appraised or market value, as applicable, of
5 the property as determined by the order is \$3 million or less.

6 SECTION 12. Sections 41A.03(a) and (a-1), Tax Code, are
7 amended to read as follows:

8 (a) To appeal an appraisal review board order under this
9 chapter, a property owner must file with the appraisal district not
10 later than the 60th [~~45th~~] day after the date the property owner
11 receives notice of the order:

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

14 (2) an arbitration deposit made payable to the
15 comptroller in the amount of:

16 (A) \$450, if the property qualifies as the
17 owner's residence homestead under Section 11.13 and the appraised
18 or market value, as applicable, of the property is \$500,000 or less,
19 as determined by the order;

20 (B) \$500, if the property qualifies as the
21 owner's residence homestead under Section 11.13 and the appraised
22 or market value, as applicable, of the property is more than
23 \$500,000, as determined by the order;

24 (C) \$500, if the property does not qualify as the
25 owner's residence homestead under Section 11.13 and the appraised
26 or market value, as applicable, of the property is \$1 million or
27 less, as determined by the order;

1 (D) \$800, if the property does not qualify as the
2 owner's residence homestead under Section 11.13 and the appraised
3 or market value, as applicable, of the property is more than \$1
4 million but not more than \$2 million, as determined by the order; or

5 (E) \$1,050, if the property does not qualify as
6 the owner's residence homestead under Section 11.13 and the
7 appraised or market value, as applicable, of the property is more
8 than \$2 million but not more than \$3 million, as determined by the
9 order.

10 (a-1) If a property owner requests binding arbitration
11 under this chapter to appeal appraisal review board orders
12 involving two or more tracts of land that are contiguous to one
13 another, a single arbitration deposit in the amount provided by
14 Subsection (a)(2) is sufficient to satisfy the requirement of
15 Subsection (a)(2). For purposes of this subsection, a tract of land
16 is considered to be contiguous with another tract of land if the
17 tracts are divided only by a road, railroad track, river, or stream.

18 SECTION 13. The following provisions of the Tax Code are
19 repealed:

20 (1) Section 6.414; and

21 (2) Section 41.44(b-1).

22 SECTION 14. Subchapter D, Chapter 6, Tax Code, as added by
23 this Act, applies only to a procedural requirement as described by
24 Section 6.61(a) of that code that a property owner alleges was not
25 complied with on or after the effective date of Section 6.61 of that
26 chapter as provided by this Act.

27 SECTION 15. Section 21.10(b), Tax Code, as amended by this

1 Act, applies only to an allocation application that is approved by
2 the chief appraiser of an appraisal district on or after the
3 effective date of that subsection as provided by this Act. An
4 allocation application that is approved by the chief appraiser
5 before the effective date of that subsection is governed by the law
6 in effect on the date the application is approved, and the former
7 law is continued in effect for that purpose.

8 SECTION 16. Section 41.03(a), Tax Code, as amended by this
9 Act, applies only to a challenge under Chapter 41, Tax Code, for
10 which a challenge petition is filed on or after the effective date
11 of that subsection as provided by this Act. A challenge under
12 Chapter 41, Tax Code, for which a challenge petition was filed
13 before the effective date of that subsection is governed by the law
14 in effect on the date the challenge petition was filed, and the
15 former law is continued in effect for that purpose.

16 SECTION 17. Section 41.44, Tax Code, as amended by this Act,
17 applies only to a protest filed under Chapter 41, Tax Code, on or
18 after the effective date of that section as provided by this Act. A
19 protest filed under that chapter before the effective date of that
20 section is governed by the law in effect on the date the protest was
21 filed, and the former law is continued in effect for that purpose.

22 SECTION 18. Section 41.71, Tax Code, as amended by this Act,
23 applies only to a hearing on a protest under Chapter 41, Tax Code,
24 that is scheduled on or after the effective date of that section as
25 provided by this Act. A hearing on a protest under Chapter 41, Tax
26 Code, that is scheduled before the effective date of that section is
27 governed by the law in effect on the date the hearing was scheduled,

1 and that law is continued in effect for that purpose.

2 SECTION 19. Sections 41A.01 and 41A.03, Tax Code, as
3 amended by this Act, apply only to a request for binding arbitration
4 under Chapter 41A, Tax Code, that is filed on or after the effective
5 date of those sections as provided by this Act. A request for
6 binding arbitration under Chapter 41A, Tax Code, that is filed
7 before the effective date of those sections is governed by the law
8 in effect on the date the request is filed, and the former law is
9 continued in effect for that purpose.

10 SECTION 20. (a) Except as provided by Subsections (b) and
11 (c) of this section, this Act takes effect January 1, 2018.

12 (b) The following provisions take effect immediately if
13 this Act receives a vote of two-thirds of all the members elected to
14 each house, as provided by Section 39, Article III, Texas
15 Constitution, or September 1, 2017, if this Act does not receive the
16 vote necessary for immediate effect:

- 17 (1) Section 5.05(e), Tax Code, as added by this Act;
18 (2) Section 6.61, Tax Code, as added by this Act;
19 (3) Section 21.10(b), Tax Code, as amended by this
20 Act;
21 (4) Section 25.25(d), Tax Code, as amended by this
22 Act; and
23 (5) Section 41.03(a), Tax Code, as amended by this
24 Act.

25 (c) The following provisions take effect immediately if
26 this Act receives a vote of two-thirds of all the members elected to
27 each house, as provided by Section 39, Article III, Texas

1 Constitution, or January 1, 2018, if this Act does not receive the
2 vote necessary for immediate effect:

3 (1) Section [41A.01](#), Tax Code, as amended by this Act;

4 and

5 (2) Sections [41A.03](#)(a) and (a-1), Tax Code, as amended

6 by this Act.