

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 182
By: Mowery (Janek)
Jurisprudence
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, a taxpayer is required to appeal the decision of an appraisal review board to the district court. Appeals to a district court are often costly for the parties involved and these expenses may prevent those who cannot afford the costs from taking their appeal to court. Litigation costs are lower through the arbitration process, but under current law, taxpayers are not allowed to select the arbitration process as an alternative to the appraisal review board and appeal to district court.

C.S.H.B. 182 allows a taxpayer to select binding arbitration for a protest concerning the appraised or market value of residential real property if the value of the property is \$1 million or less.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Sections 41A.04, 41A.09, and 41A.13, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle F, Title 1, Tax Code, by adding Chapter 41A, as follows:

CHAPTER 41A. APPEAL THROUGH BINDING ARBITRATION

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. Entitles a property owner, as an alternative to filing an appeal under Section 42.01 (Right of Appeal by Property Owner), to appeal through binding arbitration under this chapter an appraisal review board order determining a protest concerning the appraised or market value of real property under certain circumstances.

Sec. 41A.02. NOTICE OF RIGHT TO ARBITRATION. Requires an appraisal review board that delivers notice of issuance of an order described by Section 41A.01 and a copy of the order to a property owner as required by Section 41.47 (Determination of Protest) to include with the notice and copy a notice of the property owner's rights under this chapter and a copy of a certain form.

Sec. 41.83. REQUEST FOR ARBITRATION. (a) Requires a property owner, to appeal an appraisal review board order under this chapter, to file with the appraisal district a completed request for binding arbitration under this chapter in the form prescribed by Section 41A.04, and an arbitration deposit in the amount of \$500, made payable to the comptroller of public accounts (comptroller) not later than the 45th day after the date the property owner receives notice of the order.

(b) Provides that a property owner who fails to strictly comply with this section waives the property owner's right to request arbitration under this chapter. Provides that a property owner who appeals an appraisal review board order determining a protest concerning the appraised or market value, as applicable, of the owner's property under Chapter 42 (Judicial Review) waives the owner's right to request binding arbitration under this chapter regarding the value of that property. Requires an arbitrator to dismiss any pending arbitration proceeding if the property owner's rights are waived under this subsection.

Sec. 41A.04. CONTENTS OF REQUEST FORM. Requires the comptroller, by rule, to prescribe the form of a request for binding arbitration under this chapter. Requires the form to require the property owner to provide only certain information.

Sec. 41A.05. PROCESSING OF REGISTRATION REQUEST. (a) Requires the appraisal district, not later than the 10th day after the date an appraisal district receives from a property owner a completed request for binding arbitration under this chapter and an arbitration deposit required by Section 41A.03, to certify the request, submit the request and deposit to the comptroller, and request the comptroller to appoint a qualified arbitrator to conduct the arbitration.

(b) Authorizes the comptroller to retain an amount equal to 10 percent of the deposit to cover the comptroller's administrative costs.

Sec. 41A.06. REGISTRY AND QUALIFICATIONS OF ARBITRATORS. (a) Requires the comptroller to maintain a registry listing the qualified persons who have agreed to serve as arbitrators under this chapter.

(b) Sets forth the qualifications required of an arbitrator.

Sec. 41A.07. APPOINTMENT OF ARBITRATOR. (a) Requires the comptroller, on receipt of the request and deposit under Section 41A.05, to send the property owner and the appraisal district a copy of the comptroller's registry of qualified arbitrators and request that the parties select an arbitrator from the registry. Authorizes the comptroller to send a copy of the registry to the parties by regular mail in paper form or to send the parties written notice of the Internet address of a website at which the registry is maintained and may be accessed. Requires the parties to attempt to select an arbitrator from the registry.

(b) Requires the appraisal district, not later than the 20th day after the date the parties receive the copy of the registry or notice of the Internet address of the registry website, to notify the comptroller that either the parties have selected an arbitrator and request that the comptroller appoint the selected arbitrator or that the parties were unable to select of an arbitrator and request that the comptroller appoint an arbitrator.

(c) Requires the comptroller, on receipt of notice from the appraisal district under Subsection (b), to appoint an arbitrator and send notice to the arbitrator appointed, requesting that the arbitrator conduct the arbitration.

(d) Requires the appointed arbitrator, if the arbitrator is unable or unwilling to conduct the arbitration for any reason, to promptly notify the comptroller that the arbitrator does not accept the appointment and state the reason. Requires the comptroller to appoint a substitute arbitrator promptly after receipt of the notice.

Sec. 41A.08. NOTICE AND HEARING; REPRESENTATION OF PARTIES. (a) Requires the arbitrator, on acceptance of an appointment to conduct an arbitration under this chapter, to set the date, time, and place of a hearing on the arbitration. Requires the arbitrator to give notice of and conduct the hearing in a certain manner. Sets forth the circumstances under which an arbitrator is required or is authorized to continue a hearing.

(b) Authorizes the parties to an arbitration proceeding under this chapter to be represented by an attorney or a property tax consultant, real estate appraiser, or real estate broker acting under power of attorney. Authorizes an employee of the appraisal district to represent the appraisal district in the arbitration proceeding. Prohibits certain persons from serving as a party representative, presenting evidence, or making arguments in an arbitration proceeding.

Sec. 41A.09. AWARD; PAYMENT OF ARBITRATOR'S FEE. (a) Requires the arbitrator, not later than the 20th day after the date the hearing under Section 41A.08 is

concluded, to make an arbitration award and deliver a copy of the award to the property owner, appraisal district, and comptroller.

(b) Requires the award to include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal and to specify the arbitrator's fee, which may not exceed a certain amount. Authorizes the award to include any remedy or relief that a court may order under Chapter 42 in an appeal relating to the appraised or market value of property and to be enforced in a certain manner. Provides that an award is final and may not be appealed, and creates an exception.

(c) Sets forth the required actions of the comptroller, appraisal district, and chief appraiser if the arbitrator determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration than the value determined by the appraisal review board.

(d) Sets forth the required actions of the comptroller and chief appraiser if the arbitrator determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration than the value determined by the appraisal review board.

(e) Authorizes the comptroller, by rule, to prescribe a standard form for an award and to require arbitrators to use the award form when making awards under this chapter.

Sec. 41A.10. PAYMENT OF TAXES PENDING APPEAL. (a) Provides that the pendency of an appeal under this chapter does not affect the delinquency date for the taxes on the property subject to the appeal. Requires a property owner who appeals an appraisal review board order under this chapter to pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute. Requires the taxing unit, if the final determination of an appeal under this chapter decreases the property owner's tax liability to less than the amount of taxes paid, to refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

(b) Prohibits a property owner from filing an appeal under this chapter if the taxes on the property subject to the appeal are delinquent. Requires an arbitrator who determines that the taxes on the property subject to an appeal are delinquent to dismiss the pending appeal with prejudice. Requires the comptroller, if an appeal is dismissed under this subsection, to refund the property owner's arbitration deposit, less the amount retained by the comptroller for administrative costs.

Sec. 41A.11. POSTAPPEAL ADMINISTRATIVE PROCEDURES. Provides that an arbitration award under this chapter is considered to be a final determination of an appeal for purposes of Subchapter C, Chapter 42.

Sec. 41A.12. USE OF PROPERTIES AS SAMPLES. Provides that an arbitrator's determination of market value under this chapter is the market value of the property subject to the appeal for the purposes of the annual study conducted under Section 403.302 (Determination of School District Property Values), Government Code.

Sec. 41A.13. RULES. Authorizes the comptroller to adopt rules necessary to implement and administer this chapter.

SECTION 2. Requires the comptroller to prescribe the model form for an arbitration request as provided by Section 41A.04, Tax Code, as added by this Act and establish a registry of qualified

arbitrators as provided by Section 41A.06(a), Tax Code, as added by this Act as soon as practicable after the effective date of this Act, but not later than January 1, 2006.

SECTION 3. Effective date: September 1, 2005.