

SUBJECT: Prohibiting a property tax agent designee from signing a designation form

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Oliveira, Otto, Bohac, Hartnett, Hilderbran, C. Howard,
P. King, Paxton, Taylor, Villarreal

0 nays

1 absent — Pena

WITNESSES: For — Jim Robinson, Texas Association of Appraisal Districts;
(*Registered, but did not testify*: Michael Amezcuita, Metropolitan Council
of Appraisal Districts; Daniel Gonzalez, Texas Association of Realtors;
Cheryl Johnson, Galveston County Tax Office; Jeff Law, Texas
Association of Appraisal Districts; Sands Stiefer, Texas Association of
Appraisal Districts; Sheryl Swift, Galveston County Tax Office)

Against — (*Registered, but did not testify*: Tony Comparin, Texas
Association of Property Tax Professionals; Foy Mitchell, Jr., Texas
Association of Property Tax Professionals)

BACKGROUND: Under Tax Code, sec. 1.111, a property owner may designate a lessee or
other person to act as the agent of the owner for certain purposes in
connection with the property. The designation of an agent must be by
written authorization signed by the owner, a property manager authorized
to designate agents for the owner, or “other person” authorized to act on
behalf of the owner.

Under Tax Code, sec. 1.111(h), the comptroller must prescribe forms for
designation of an agent. A form used to designate an agent for a single-
family residential property in which the owner resides must include a
statement suggesting the owner may want to contact the appraisal district
or other local taxing unit for information before designating an agent.

Occupations Code, sec. 1152.001 (6)(E) defines “property tax consulting
services” to include acting as an agent of the property owner under Tax
Code, sec. 1.111.

Attorney General Opinion No. GA-0589, issued January 11, 2008, determined that Tax Code, sec. 1.111 permits a property tax consultant to sign the designation form submitted to the comptroller on behalf of a property owner to authorize legally that consultant to act on the property owner's behalf in all property matters or a specific property tax matter. A property tax consultant is not excluded as an "other person" if the owner has given the consultant pre-existing approval, permission, or power. The opinion affirmed that verbal permission is sufficient.

DIGEST: HB 1203 would require that the designation of an agent of a property owner be by written authorization on a form prescribed by the comptroller under Tax Code 1.111(h) and signed by another person authorized to act on behalf of the owner other than the person being designated as the agent. Designations would not take effect with respect to an appraisal district or a taxing unit participating in the appraisal district until a copy of the designation had been filed with the appraisal district.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009. The bill would apply only to designations made on or after the effective date.

SUPPORTERS SAY: HB 1203 would eliminate invalid property tax agent designation forms as well as limit the backlog in the appraisal hearing process and decrease the cost of doing business for appraisal districts. When the Attorney General's opinion included property tax consultants as an eligible "other person" to designate themselves as an owner's agent and affirmed unverifiable verbal agreements as a legally adequate permissive transfer of authority, property owners no longer had valid claims to present to the property tax consultant licensing board that consultants were acting on their behalf without authorization. The bill would make it clear that any designation of an agent by a property owner would have to be in writing and signed by someone other than the agent being designated.

In 2008, a Houston property tax agent filed more than 20,000 protests with the Harris County appraisal district without a valid designation of agent form or even knowledge by the property owner. This issue was exacerbated by Attorney General Opinion GA- 0589, which allowed "other persons" to receive verbal permission by property owners to act on their behalf. In some instances, property tax consultant companies have

claimed a verbal agreement after a person simply made an inquiry about the companies' rates and services.

Because an agent acts on alleged verbal agreements without legal designation, multiple agents may claim to represent the same owner. Property owners are billed by these property tax consultants, and owners only then can deny any legal transfer of authority to act on their behalf.

OPPONENTS
SAY:

HB 1203 could increase the number of rescheduled appraisal hearings, which would increase the cost of business for appraisal districts and increase the length of time it would take a property owner to secure a property tax consultant agent.

The bill does not include a definition of "filed" for the agent designation form. This could prevent an agent from filing a designation form on the day of the hearing, thus preventing the agent from acting on behalf of the property owner that day, as is permitted in current law. Many property owners schedule hearings and do not decide to obtain representation until the last minute. If designation forms had to be filed with the appraisal district in advance, or if there were a delay between the time the form was signed and the agent became the owner's legal representative, many owners could reschedule hearings for a later date.

NOTES:

Rep. Elkins plans to offer a floor amendment to allow a form authorizing a property tax consultant to act on behalf of a property owner in all or specific property tax matters to be considered filed if a copy of the designation form was presented at the time and place of the hearing.

The companion bill, SB 903 by Hegar, was scheduled for a public hearing by the Senate Finance Committee on April 20.