

SUBJECT: Dismissal of certain complaints against property tax professionals

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 6 ayes — Hamilton, Geren, Harless, Kuempel, Menendez, Thompson

0 nays

3 absent — Quintanilla, Driver, Gutierrez

SENATE VOTE: On final passage, May 9 — 30-1 (Nichols)

WITNESSES: (*On House companion bill, HB 1692:*)

For — Michael Barnett, Smith County Appraisal District; Luanne Caraway, Tax Assessor-Collectors Association; (*Registered, but did not testify*: Jim Allison, County Judges & Commissioners Assoc. of Texas; Jim Barron, Yoakum County; Thomas Hays, Gregg County Appraisal District; Deborah Hunt, Texas Association of Appraisal Districts, Tax Assessor-Collectors Association of Texas; Jim Robinson, Texas Association of Appraisal Districts Legislative Committee; Brent South, Hunt County Appraisal District; Larry Gaddes)

Against — None

On — (*Registered, but did not testify*: William Kuntz, Texas Department of Licensing and Regulation)

BACKGROUND: Under Tax Code, Title 1, an appraisal review board must:

- determine protests initiated by property owners;
- determine challenges initiated by taxing units; and
- determine whether an exemption or partial exemption is improperly granted and whether land is improperly granted appraisal.

Under Occupations Code, sec. 1151.204, the Texas Department of Licensing and Regulation may dismiss a complaint without conducting a hearing if:

- the complaint challenges only the appraised value of a property or another matter for which Tax Code, Title 1, specifies a remedy and does not credibly allege a violation; and
- the disagreement has not been resolved in the complainant's favor by an appraisal review board.

In 2009, the 81st Legislature abolished the Board of Tax Professional Examiners and transferred its functions to the Texas Department of Licensing and Regulation (TDLR).

**DIGEST:**

Under SB 1334, TDLR would have to dismiss a complaint after investigation, in part or entirely, without conducting a hearing if the subject matter had not been finally resolved in the complainant's favor by an appraisal review board, governing body, arbitrator, court, or the State Office of Administrative Hearings, and the complaint challenged:

- the imposition of or failure to waive penalties or interest on certain delinquent taxes;
- the appraised value of a property;
- the appraisal methodology;
- the grant or denial of an exemption from taxation; or
- any matter for which Tax Code, Title 1, specified a remedy, including an action that a property owner was entitled to protest before an appraisal review board.

SB 1334 would not apply to:

- a matter referred to the department by the comptroller under the required review of an appraisal district;
- a complaint that concerned a registrant's failure to comply with certain registration and certification requirements; or
- a complaint that concerned a newly appointed chief appraiser's failure to complete a training program.

SB 1334 would apply only to a complaint filed on or after the effective date of the bill.

SB 1334 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, 2011.

**SUPPORTERS  
SAY:**

Under Title 1 of the Tax Code, the appraisal review board process is used to determine the outcome of protests initiated by property owners regarding whether an exemption was properly granted or land was properly appraised. However, many property owners who are unhappy with the outcome of their protests are filing complaints with TDLR as an alternative.

The role of the TDLR complaint process is to address ethical issues and the licensing regulation of appraisers, not to settle disputes surrounding tax appraisals or exemptions. SB 1334 would give TDLR the clear authority to dismiss complaints that were not within the department's jurisdiction, allowing them to focus on legitimate complaints.

Proper regulation of the property tax profession is needed, and if a registrant committed an act that was unethical or unlawful, that registrant should be investigated and punished accordingly. But the registrant should not have to undergo an unnecessary investigation for simply performing his or her duties according to state law. The legal costs of fighting complaints filed with TDLR often fall on the employee in question and not the appraisal district. This is a substantial burden for an appraiser who was simply doing his or her job. Property owners are using the TDLR complaint process to intimidate appraisers to try to get them to assign a lower market value to their property. This is unacceptable and would be remedied by SB 1334.

Due process for property owners is readily available through the appraisal review board process, so there needs to be a mechanism for the quick dismissal of complaints that do not follow procedure. Penalties and interest for delinquent tax bills are statutorily required to be levied by tax assessors, yet property owners are filing complaints regarding such fees with TDLR that the department then must use resources to investigate.

In 2009, legislation was enacted requiring the comptroller to conduct an extensive audit of the governance of each appraisal district at least once every two years, and districts must comply with all of the resulting recommendations. Concerns regarding appraisal standards, procedures,

and methodology are all addressed in this mandatory review process and should not be filed under TDLR's complaint process.

The bill would not limit the ability of someone to file a complaint with TDLR. It would simply clarify what types of complaints were appropriate to file with the department.

**OPPONENTS  
SAY:**

SB 1334 would limit the opportunities available for property owners to file a complaint against an appraiser. A property owner's complaint should be considered by TDLR without being automatically dismissed. If there are a large number of complaints being filed with TDLR, the Legislature should investigate why. SB 1334 would not address the reason why the number of complaints has increased. If SB 1334 was enacted, the opportunity to explore the reason for the increased number of complaints would be lost.

**NOTES:**

The House companion bill, HB 1692 by Flynn, was considered in a public hearing on April 12 and was reported favorably, as substituted, by the House Licensing and Administrative Procedures Committee on May 2.