

SUBJECT: Amending the limit of attorney's fees awarded in certain appeals

COMMITTEE: Ways & Means — favorable, without amendment

VOTE: 10 ayes — Meyer, Thierry, Craddick, Gervin-Hawkins, Hefner, Muñoz,
Noble, Raymond, Shine, Turner

0 nays

1 absent — Button

WITNESSES: For — (*Registered, but did not testify*: Laura Matz, Texas Self Storage Association)

Against — Kirk Swinney, Low Swinney Evans & James pllc; Brent South, Texas Association of Appraisal Districts (*Registered, but did not testify*: Paul Sugg, Harris County Commissioners Court)

On — (*Registered, but did not testify*: Allison Mansfield, Comptroller of Public Accounts)

BACKGROUND: Tax Code sec. 42.29(a) establishes that a property owner who prevails in an appeal to the court under certain statutes in an appeal to the court of a determination of an appraisal review board on a motion, or in an appeal to the court of a determination of an appraisal review board of a protest of the denial in whole or in part of certain exemptions, may be awarded reasonable attorney's fees. The amount of the award may not exceed the greater of \$15,000 or 20 percent of the total amount by which the property owner's tax liability is reduced as a result of the appeal.

Sec. 42.29(b) states that notwithstanding subsection (a), the amount of an award of attorney's fees may not exceed the lesser of \$100,000 or the total amount by which the property owner's tax liability is reduced as a result of the appeal.

Concerns have been raised that the limit on the amount of attorney's fees a prevailing property owner may recover may cause some homeowners to be unable to cover the cost of hiring counsel.

DIGEST:

HB 1956 would expand the application of provisions under which a property owner could be awarded reasonable attorney's fees to include circumstances in which the property owner prevailed in an appeal regarding local appraisal or a protest for local review.

The maximum amounts that could be awarded in reasonable attorney's fees would be increased from \$15,000 to \$25,000 or from 20 to 50 percent of the total amount by which the property owner's tax liability was reduced as a result of the appeal. The award would have to be the greater of these two values.

The bill would remove a provision that the maximum amount of attorney's fees awarded could not exceed \$100,000 if that amount was less than the total amount by which the property owner's tax liability was reduced as a result of the appeal. Instead, the latter amount would be the maximum.

The amount of attorney's fees awarded to the prevailing property owner would not be subject to this limitation if the property owner prevailed in an appeal related to excessive or unequal appraisal and the property owner qualified the property as the property owner's residence homestead.

This 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, 2023. The bill would apply only to an appeal filed on or after the effective date.