

## BILL ANALYSIS

Senate Research Center  
79R10391 JD-F

H.B. 182  
By: Mowery et al. (Janek)  
Jurisprudence  
5/5/2005  
Engrossed

### 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.

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 in SECTION 1 (Sections 41.84 and 41.90, Tax Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 41, Tax Code, by adding Subchapter E, as follows:

#### SUBCHAPTER E. PROTEST THROUGH BINDING ARBITRATION

Sec. 41.81. RIGHT TO ARBITRATION. (a) Defines "residential real property."

(b) Entitles a property owner, as an alternative to having a protest brought under Section 41.41 (Right of Protest) heard by the appraisal review board, to have a protest concerning the appraised or market value of residential real property determined through binding arbitration under this subchapter if the appraised or market value, as applicable, of the property as determined by the appraisal district is \$1 million or less.

Sec. 41.82. NOTICE OF RIGHT TO ARBITRATION. Requires an appraisal district that delivers a notice of appraised value under Section 25.19 to include with the notice a notice of the property owner's rights under this subchapter and a copy of the form required by Section 41.83(a)(1) (a completed request for binding arbitration).

Sec. 41.83. REQUEST FOR ARBITRATION. (a) Requires a property owner, to request that a protest be determined by an arbitrator under this subchapter, to file with the appraisal district a completed request for binding arbitration under this subchapter in the form prescribed by Section 41.84 and an arbitration deposit in the appropriate amount, made payable to the comptroller of public accounts (comptroller) not later than the deadline for filing a protest established by Section 41.44.

(b) Sets forth the amount of the arbitration deposit.

(c) Provides that a request for arbitration is a valid and enforceable arbitration agreement for purposes of Chapter 171 (General Arbitration), Civil Practice and Remedies Code.

Sec. 41.84. CONTENTS OF REQUEST FORM. (a) Requires the chief appraiser to prescribe the form of a request for binding arbitration under this subchapter. Requires the form to require the property owner to provide only a brief statement that explains the basis for the property owner's protest of the action of the appraisal district and any other information reasonably necessary for the appraisal district to request appointment of an arbitrator.

(b) Requires the comptroller by rule to prescribe a model form for purposes of this section. Requires the form to include a brief statement that explains how the property owner can calculate the amount of the required arbitration deposit.

Sec. 41.85. PROCESSING OF ARBITRATION REQUEST. 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 subchapter and the arbitration deposit required by Section 41.83, to endorse the request; submit to the comptroller the request, the arbitration deposit filed by the property owner, and an additional \$250 arbitration deposit from the appraisal district, made payable to the comptroller; and request that the comptroller appoint a qualified arbitrator to conduct the arbitration.

Sec. 41.86. 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 subchapter.

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

Sec. 41.87. APPOINTMENT OF ARBITRATOR. (a) Requires the comptroller, on receipt of the request and deposits under Section 41.85, to send the property owner and the appraisal district a copy of the comptroller's registry of qualified arbitrators and request that the parties jointly select an arbitrator from the registry. Requires the parties to attempt to select an arbitrator from the registry.

(b) Requires the appraisal district, not later than the 10th day after the date the parties receive the registry, to notify the comptroller that either the parties have selected an arbitrator and request that the comptroller appoint the selected arbitrator or the parties were unable to agree on the selection 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. 41.88. NOTICE AND HEARING; REPRESENTATION OF PARTIES. (a) Requires the arbitrator, on acceptance of an appointment to conduct an arbitration under this subchapter, 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.

(b) Authorizes the parties to an arbitration proceeding under this subchapter to represent themselves or be represented by a designated person, including an attorney or a property tax consultant, real estate appraiser, or real estate broker acting under power of attorney. Provides that each party is responsible for the fees of its own representative.

Sec. 41.89. AWARD; PAYMENT OF ARBITRATOR'S FEE. (a) Requires the arbitrator, not later than the fifth day after the date the hearing under Section 41.88 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 protest and to specify the arbitrator's fee, which may not exceed \$500. Authorizes the award to include any remedy or relief that an appraisal review board may order under this chapter, and to be enforced in a certain manner. Provides that an award is final and may not be vacated, and creates an exception.

(c) Requires the arbitrator, except as provided by Subsection (d), if the arbitrator determines that the appraised or market value, as applicable, of the property that is the subject of the protest is less than 95 percent of the appraised or market value, as applicable, of the property as determined by the appraisal district, rounded down to the next whole number, to award to the property owner an amount equal to the amount of the property owner's arbitration deposit and requires the appraisal district, before the 30th day after the date of receipt of a copy of the award, to pay that amount to the property owner.

(d) Requires the arbitrator, if the appraised or market value of the property as determined by the appraisal district and that is being protested is \$200,000 or more, and the arbitrator determines that the appraised or market value, as applicable, of the property is less than 90 percent of that value as determined by the appraisal district, rounded down to the next whole number, to award to the property owner an amount equal to the amount of the property owner's arbitration deposit and requires the appraisal district, before the 30th day after the date of receipt of a copy of the award, to pay that amount to the property owner.

(e) Requires the comptroller, on receipt of a copy of the arbitrator's award, to pay from the total amount of the arbitration deposits from the property owner and the appraisal district held by the comptroller the amount of the arbitrator's fee to the arbitrator and any remaining balance to the appraisal district.

(f) Requires the comptroller, if the amount paid to the appraisal district under Subsection (e) is less than \$250, on application of the appraisal district and from any arbitrator deposits held by the comptroller that are available for that purpose, to pay the amount of the difference to the appraisal district.

Sec. 41.90. RULES; DELEGATION OF APPOINTMENT AUTHORITY. Authorizes the comptroller to adopt rules necessary to implement and administer this subchapter and designate employees authorized to appoint arbitrators under this subchapter.

SECTION 2. Requires each appraisal district to prescribe the form of an arbitration request as provided by Section 41.84, Tax Code, as added by this Act, and requires the comptroller to prescribe the model form for an arbitration request as provided by Section 41.84, Tax Code, as added by this Act and establish a registry of qualified arbitrators as provided by Section 41.86, Tax Code, as added by this Act as soon as practicable after the effective date of this Act, but not later than October 1, 2005.

SECTION 3. Makes application of Subchapter E, Chapter 41, Tax Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2005.