

BILL ANALYSIS

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S.B. 1351
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Many real property owners in Texas are not entirely satisfied with the current appraisal review process. Currently, property owners who dispute a property appraisal value can contest the value with a local appraisal review board (ARB). Members of the local ARBs are appointed by the central appraisal district (CAD).

Many property owners believe they are not given a fair hearing during an ARB hearing. If a property owner is not satisfied with the findings of the ARB, the owner has the right to file a lawsuit; however, that requires more financial resources than the typical homeowner is able to use for a property tax protest.

S.B. 1351 creates a new property appraisal process after an ARB hearing. This process will offer homeowners an additional avenue to contest property appraisals without having to file costly lawsuits. Homeowners would have the option to elect to contest their property appraisals through a binding arbitration hearing or to file a lawsuit against the CAD. A property owner who elects to proceed with binding arbitration would pay a \$500 filing fee which would cover the cost of the arbitration. A "loser pays" provision would mean that a property owner who won an arbitration would get the filing fee back but would forfeit the filing fee if the appraisal district won.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Sections 41A.04 and 41A.11, 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, to appeal through binding arbitration under this chapter an appraisal review board order determining a protest concerning the appraised or market value of certain real property.

Sec. 41A.02. **NOTICE OF RIGHT TO ARBITRATION.** Requires an appraisal review board that delivers notice of issuance of an order and a copy of the order to property owner to include with the notice and copy a notice of the property owner's rights under this chapter, and a copy of the request form.

Sec. 41A.03. **REQUEST FOR ARBITRATION.** Requires a property owner, to appeal an appraisal review board order under this chapter, to file certain documentation with the appraisal district in a specific time frame and a \$500 arbitration deposit, made payable to the controller.

Sec. 41A.04. **CONTENTS OF REQUEST FORM.** Requires the chief appraiser to prescribe the form for a request for binding arbitration under this chapter. Specifies the requirements for the form. Requires the comptroller of public accounts (comptroller) to prescribe, by rule, a model form for purposes of this section.

Sec. 41A.05. PROCESSING OF REGISTRATION REQUEST. Requires the appraisal district, by a certain date, to take certain actions to process the registration request. Authorizes the comptroller to retain ten percent of the deposit to cover the comptroller's administrative costs.

Sec. 41A.06. REGISTRY AND QUALIFICATIONS OF ARBITRATORS. Requires the comptroller to maintain a registry of qualified arbitrators. Sets forth the requirements to qualify to serve as an arbitrator under this chapter.

Sec. 41A.07. APPOINTMENT OF ARBITRATOR. (a) Requires the comptroller, on receipt of the request form and deposit, to send the property owner and the appraisal district a copy of the registry of qualified arbitrators and request the parties to select an arbitrator. Requires the parties to attempt to select an arbitrator from the registry.

(b) Requires the appraisal district, by a certain date, to notify the comptroller that the parties have either selected an arbitrator and request that the comptroller appointed the selected arbitrator; or to notify that comptroller that the parties were unable to select an arbitrator and request the comptroller to appoint an arbitrator.

(c) Requires the comptroller to appoint the arbitrator selected by the parties; or, if an arbitrator was not selected, to appoint any arbitrator included in the comptroller's registry.

(d) Requires the appointed arbitrator to promptly notify the comptroller that the arbitrator does not accept the appointment and to state the reason, if unable or unwilling to conduct the arbitration for any reason.

Sec. 41A.08. NOTICE AND HEARING; REPRESENTATION OF PARTIES. (a) Requires the arbitrator, on acceptance of an appointment, 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) Entitles the parties to an arbitration under this chapter to be represented by certain persons. Specifies that each party is responsible for the fees of its own representation.

Sec. 41A.09. AWARD; PAYMENT OF ARBITRATOR'S FEE. (a) Requires the arbitrator, by a certain date, to make an arbitration award and deliver a copy of the award to the property owner, the appraisal district, and comptroller.

(b) Sets forth the characteristics of an award under this section.

(c) Requires the comptroller, on receipt of a copy of the award, to refund the property owner's arbitration deposit, less the amount retained by the comptroller; and requires the appraisal district, on receipt of a copy of the award, to pay the arbitrator's fee, if the arbitrator makes a certain determination in favor of the property owner.

(d) Requires the comptroller, on receipt of a copy of the award, to pay the arbitrator's fee out of the property owner's arbitration deposit; and refund to the property owner the arbitration deposit, less the arbitrator's fee and the amount retained by the comptroller, if the arbitrator makes a certain determination in favor of the appraisal district.

Sec. 41A.10. 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.11. RULES. Authorizes the comptroller to adopt rules necessary to implement and administer this chapter.

SECTION 2. Requires each appraisal district to prescribe the form of an arbitration request as provided by this Act; and requires the comptroller to prescribe the model form for an arbitration request and to establish a registry of qualified arbitrators, as provided 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