

Property Tax Binding Arbitration

Frequently Asked Questions

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"To work, the system must be fair, and that means that taxpayers must know their rights and government officials must be willing to listen and respond to taxpayers needs."

Carole Keeton Strayhorn

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House Bill 182 and Senate Bill 1351 from the 79th Regular Session added Chapter 41A to the Tax Code, which gave property owners meeting certain criteria the option of requesting binding arbitration as an alternative to filing an appeal of an Appraisal Review Board's (ARB's) decision to state district court. Prior to September 1, 2005, the effective date of this legislation, a property owner could only appeal an ARB decision in district court. Arbitration is an alternative appeal process available to property owners who meet certain criteria. Below is a list of frequently asked questions regarding this new program and what is required to qualify.

What is binding arbitration?

Generally, binding arbitration means that an independent arbitrator hears and examines the facts of an appeal and the decision of the arbitrator is binding on both parties. By Comptroller Rule 9.804, "binding arbitration" in the context of property value disputes means a forum in which each party to a dispute presents the position of the party before an impartial third party who is appointed by the Comptroller as provided by Tax Code, Chapter 41A, and who renders a specific award that is enforceable in law and may only be appealed as provided by Civil Practices and Remedies Code, §171.088, for purposes of vacating an award.

Who qualifies for arbitration?

An owner of real property may request binding arbitration if:

- the property in dispute is real property;
- the county appraisal review board (ARB) has issued a written determination on the appraised or market value of the property;
- the disputed property's value as determined by the ARB does not exceed \$1,000,000;
- the ARB order determining protest concerns value only—either the appraised or market value of the property;
- taxes have been timely paid; and
- a lawsuit has not been filed in district court.

What appraisal disputes do not qualify for arbitration?

Binding arbitration is not available if:

- the ARB has not heard the protest and issued an order;
- more than 45 days has passed since the ARB order was received;
- the dispute concerns anything other than the value assigned to the property, such as exemptions or a property owner's right to an exemption or the uniformity or equality of appraisals in a given area or region;
- the property value dispute concerns property other than real property, such as inventory, vehicles and other personal property; or
- the property is valued at more than \$1,000,000, as determined by the ARB order.

What is an appraisal review board?

ARB's are authorized to resolve disputes between taxpayers and the appraisal district. ARB members are residents of a county appointed by an appraisal district board of directors.

The ARB listens to both sides and rules on property owner protests. ARB decisions are binding only for the year under protest. ARB hearings typically run from June to August. An ARB issues an "order" determining a property owner's protest.

Are there restrictions on when I can file for binding arbitration?

Yes. A request for binding arbitration must be filed with the appraisal district within 45 days of the property owner receiving the ARB order determining the protest.

Have property owners always been able to arbitrate a dispute with the appraisal district?

Since 1991, the law has allowed judges of state district courts to appoint arbitrators in certain cases. Binding arbitration has been allowed if the property owner and the appraisal district both agree to the process, and nonbinding arbitration has been permitted without the consent of the appraisal district. The 2005 Texas Legislature



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changed the law to expand the arbitration process. The new law allows property owners who are dissatisfied with the decision of an ARB to request binding arbitration without filing a lawsuit in district court.

How do I request binding arbitration?

The property owner must complete Comptroller form AP-219, Request for Binding Arbitration, which can be found on the Comptroller's Web site at:

< <http://www.window.state.tx.us/taxinfo/proptax/arbitration05/> >. The form is also available at your local appraisal district offices. The form and a money order or a check issued and guaranteed by a banking institution, such as a cashier's or teller's check, in the amount of \$500 made payable to the Comptroller of Public Accounts, must be delivered to the county appraisal district within 45 days of the receipt of the ARB order.

Personal checks, cash or any other form of payment not mentioned above cannot be accepted by the appraisal district.

What happens after the property owner submits the request?

The appraisal district has 10 calendar days to certify the application and forward the request and the money order/cashier's check along, with a copy of the ARB order, to the Comptroller.

Does it cost anything to arbitrate my dispute?

Yes. The property owner must pay a \$500 deposit to the Comptroller to request a binding arbitration. Regardless of the outcome, \$50 is retained by the Comptroller's office for administrative costs. If the property owner "wins" the dispute (the arbitrator sets a value for the property nearer to the owner's opinion of value than the appraisal district's value as shown on the request form) the property owner will be refunded \$450, and the appraisal district is required to pay the arbitrator's fees. If the arbitrator's assigned value is not nearer to the owner's opinion of value than the appraisal district's value, the arbitrator is paid from the property owner's \$450 deposit. If the arbitrator charges less than \$450, any remainder will be refunded to the property owner.

How do I choose an arbitrator?

Once the property owner's request for binding arbitration has been approved, the Comptroller's office will mail the property owner a letter with instructions on how to locate the arbitrator registry online (paper form of the registry is available on request) and form 50-706, Appointment of Arbitrator, that allows the property owner and the

appraisal district to agree on up to three arbitrator choices. The property owner and the appraisal district have 20 days to agree on an arbitrator and return the completed form to the Comptroller's office. The Comptroller will contact the proposed arbitrator(s) to determine if the selected arbitrator agrees to hear the dispute.

What if the appraisal district and I don't agree on an arbitrator?

If the property owner and the appraisal district cannot agree on an arbitrator within 20 days, the Comptroller will randomly select an arbitrator and appoint an arbitrator to hear the dispute. The selected arbitrator will contact both the property owner and the appraisal district.

Does the Comptroller have the authority to intervene in arbitrations?

No. Comptroller staff are responsible for maintaining the arbitrator registry, processing the requests for binding arbitration, remitting payment to the arbitrator when appropriate and/or refunding part of the property owner's \$500. The Comptroller's office is statutorily prohibited from intervening in any individual dispute.

What if I change my mind and decide not to arbitrate? Can I get my money back?

You may ask for a withdrawal of your request for binding arbitration up to 14 days in advance of the scheduled hearing. If you request the withdrawal 14 or more days prior to the scheduled hearing, the Comptroller will refund \$450 of the property owner's \$500, keeping \$50 in administrative costs.

If you request a withdrawal 13 days or less before the hearing, the case will automatically default in favor of the appraisal district and the arbitrator will be paid from the property owner's deposit. If the arbitrator's fee is less than \$450, the remainder of the funds will be remitted to the property owner.

You must request a withdrawal in writing to let the Comptroller know of your request. Requests for withdrawal can be mailed or hand delivered to 1711 San Jacinto, Room 403, Austin, Texas 78701 or faxed to 512-305-9801. The Comptroller will not accept an oral request for a withdrawal.

Why would an appraisal district reject my request for arbitration?

The appraisal district may reject the request for arbitration if the requisite \$500 cashier's check or money order is not provided. This is the only situation that the appraisal district

may reject a request. All other determinations must be made by the Comptroller.

What happens if my arbitration request is rejected?

The Comptroller's office will refund \$450 for a rejected request for binding arbitration and retain \$50 for administrative costs.

If your request is rejected because of missing information, you may be able to file a second request if 45 days have not elapsed since you received the ARB order.

Your request will also be returned to you if you file your request with the Comptroller's office without going through the county appraisal district. If your request is returned to you, you may be able to file a second request if 45 days have not elapsed since you received the ARB order. Your original check or money order will also be returned to you with your request for binding arbitration.

There are a number of reasons why a request for arbitration could be rejected by the Comptroller. They are:

- the disputed real property is valued at more than \$1,000, 000 by the ARB order;
- the request was not filed timely with the appraisal district;
- the property owner's agent is not qualified to represent the property owner;
- the taxes on the subject property are (or have become) delinquent;
- the disputed property is not real property;
- the issue in dispute concerning the subject property is not about appraised or market value, but equality and uniformity, exemption qualification, or another appraisal matter;
- the property owner or agent does not provide additional information requested by the Comptroller within 10 days of the request.

After the arbitrator is chosen, what happens?

The arbitrator contacts both the property owner and the appraisal district and arranges a date, time and location for the arbitration. The arbitrator must manage the arbitration according to Comptroller Rule 9.804, which requires each party to provide copies of all evidence to the other. The arbitrator is required to provide a summary of the procedures that will be used in the arbitration proceedings upon the request of a party. A copy of Comptroller Rule 9.804 is located on the Comptroller's Web site at: <<http://www.window.state.tx.us/taxinfo/proptax/arbitration05/>>. The arbitrator will also follow certain

provisions of the Texas Tax Code and the Texas Civil Practices and Remedies Code.

Once the arbitrator has heard both sides of the dispute, the arbitrator must render a decision and complete Comptroller form 50-704, Arbitration Determination and Award form. Copies of the form must be mailed by the arbitrator to the property owner, the appraisal district and the Comptroller's office. The form triggers either a payment to the arbitrator or a refund to the property owner, or in some instances, both.

Can I arbitrate and still sue the appraisal district?

No. The arbitration proceedings are binding. An arbitration award may be vacated under limited situations (Section 171.088, Civil Practices and Remedies Code). An appeal of the arbitrator's award in district court cannot be filed if you are simply dissatisfied with the value determination.

What if I don't like my arbitrator?

You can request a substitute arbitrator by completing Comptroller form 50-707, Appointment of Arbitrator – Change Request Form, located on the Comptroller's Web site at: <<http://www.window.state.tx.us/taxinfo/proptax/arbitration05/>>. To request a change, the property owner or the appraisal district must provide a reason why the appointed arbitrator is not acceptable, sign the form and submit the form to the Comptroller's office

Once the form is received, the Comptroller will randomly select and appoint a new arbitrator.

If I request a substitute arbitrator, do I get to pick the arbitrator?

No. The Comptroller will randomly select a substitute arbitrator.

Do I have to physically attend a formal hearing?

The property owner may choose to have the arbitration in person, by teleconference or by submitting written documentation to the arbitrator.

The Comptroller's office will make every effort to assign an arbitrator willing to hear the dispute according to the method chosen by the property owner. However, if an arbitrator is unavailable to hear the dispute in person, the property owner may need to choose a different method of arbitration or choose to wait until an arbitrator is available to hear the dispute in person.

Who decides where and when a hearing will be held?

The arbitrator is responsible for arranging for the location and time of the arbitration, and will presumably work with the parties involved in that decision. In-person hearings are to be held in the county where the property is located, but the arbitration can be conducted elsewhere if the parties agree.

As a result of arbitration, can your property's value be increased above the amount of the appraisal review board order?

No. The chief appraiser can only correct the appraisal roll if the arbitration award is below the appraisal review board order.

What if I disagree with the outcome of the arbitration?

The decision of the arbitrator is final and binding on both parties. By arbitrating the dispute you agreed to abide by the arbitrator's decision.

Becoming an Arbitrator

What is the Comptroller's arbitrator registry?

The Comptroller's office is responsible for creating and maintaining a registry of qualified individuals who can serve as arbitrators in disputes between property owners and appraisal districts.

How do I become an arbitrator?

To become an arbitrator, an individual must complete Comptroller form AP-218, Application for Arbitrator Registry – Individuals Only. The form is available on the Comptroller's Web site at: <<http://www.window.state.tx.us/taxinfo/proptax/arbitration05/>>.

The form must be completed and mailed to the Comptroller's office at:

Texas Comptroller – Arbitrator Registry Application

Property Tax Division
Post Office Box 13528
Austin, Texas 78711-3528

With the application, the applicant must also submit a copy of his or her real estate salesperson or broker license or real estate appraiser certification and evidence that the applicant has completed 30 hours of arbitration training.

All information submitted in the application and resume, except the applicants social security number, are subject to the state's Open Records laws, and will be available on

the Comptroller Web site or upon request to the general public.

Who qualifies to be an arbitrator?

An individual who is a certified real estate appraiser or a licensed real estate salesperson or broker and who has completed 30 hours of arbitration and alternative dispute resolution training from a university, college or legal or real estate trade association is qualified. The individual must also agree to conduct the arbitration for \$450.

Do I need to be a licensed arbitrator?

No. However, to be included in the arbitrator registry, an applicant must have completed 30 hours of arbitration and alternative dispute resolution training from a university, college or legal or real estate trade association and have a certificate showing 30 hours of training has been completed.

Can a company be an arbitrator?

Only individuals can be an arbitrator. Companies may not obtain a blanket authorization for its employees to be arbitrators, simply because the qualifications and training requirements stipulated in law are based upon an individual's licensing, certification and training.

Does the Comptroller's office teach arbitration?

No. The Comptroller's office is not authorized to teach arbitration.

Where do I get arbitrator training?

Universities, colleges, legal and real estate trade associations are offering courses on arbitration or alternative dispute resolution.

Does it cost anything to become an arbitrator?

There are no application fees to become an arbitrator on the Arbitrator Registry.

How often do I need to renew my application to be an arbitrator?

You must renew with the arbitrator registry each time you renew your license or certification. If you hold multiple licenses or certifications, the application form asks you to designate your "primary" license or certification. The expiration date of the designated "primary" license or certification will also be the date for renewing your arbitration application. If you do not renew by the expiration date, your name will automatically be dropped from the registry.

How much can I charge for each arbitration?

The arbitrator may not charge more than \$450 per arbitration, inclusive of all fees

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and expenses. The arbitrator, however, may charge less than \$450, but the billing must be submitted in whole dollar amounts only.

What happens if I don't renew my real estate or broker's license or my license is suspended?

If an arbitrator lets his or her real estate or broker's license expire or if the license is suspended or revoked, the arbitrator's name will be removed from the registry. If the arbitrator holds multiple licenses and still has at least one valid license or certification, or if he or she is also a certified real estate appraiser, the arbitrator can remain on the registry.

What happens if I don't renew my appraisal certificate?

Any arbitrator who does not renew his or her certification as a real estate appraiser will be removed from the registry. As discussed above, the arbitrator will not be removed if he or she is also a licensed real estate salesperson or broker.

Who pays the arbitrator?

If the arbitrator's assigned value for the disputed property is nearer to the owner's opinion of value than the appraisal district's value, the appraisal district is required to

pay the arbitrator's fees. If the arbitrator's assigned value is not nearer to the owner's opinion of value than the appraisal district's value, the arbitrator is paid from the property owner's deposit.

The arbitrator must arrange payment procedures with the appraisal district.

What happens if the property owner withdraws the request prior to the arbitration? Who pays the arbitrator?

If the property owner withdraws the request for binding arbitration, according to Comptroller Rule 9.804, more than 14 days prior to the hearing, the Comptroller cannot pay the arbitrator, nor can the appraisal district. The arbitrator should consider an agreement with the parties to cover any potential expenses prior to the hearing.

Are arbitrators bound by retention periods for the documents received during hearings?

Arbitrations are not subject to the Open Meetings Act, the Public Information Act or any open government requirements. The arbitrations are privately conducted alternative dispute resolution proceedings. Arbitrators may or may not retain documents as their professional requirements dictate. County

appraisal districts, however, will have to retain documents as the law requires.

May Comptroller payment checks be made out to the arbitrator's company or broker?

No. Checks issued from the State Treasury must be made payable to the individual (arbitrator) only because their taxpayer ID is listed on the Registry. Only individuals may apply to be arbitrators.

May arbitrators market themselves directly to the county appraisal districts?

The only way for the binding arbitration system to gain integrity and public trust is to preserve neutrality and transparency. Marketing oneself directly to county appraisal district as an arbitrator is tantamount to having ex parte communication with one of the parties to the dispute. Rule 9.804 prohibits these types of communications. Violation of the rule can result in the removal of an arbitrator from the registry.



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Battery Fee
Boat and Boat Motor Sales Tax
Customs Broker
Fireworks Tax
Mixed Beverage Tax
Off-Road, Heavy-Duty Diesel Equipment Surcharge
Oyster Fee
Sales and Use Taxes
Telecommunications Infrastructure Fund

1-800-531-5441

Cement Tax
Inheritance Tax
Local Revenue
Miscellaneous Gross Receipts Taxes
Oil Well Servicing Tax
Sulphur Tax

1-800-531-5441 ext. 3-3630

WebFile Help

1-800-252-1381

Bank Franchise
Franchise Tax

1-800-252-7875

Spanish

1-800-531-1441

Fax on Demand
(Most frequently requested Sales and Franchise tax forms)

1-800-252-1382

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Manufactured Housing Tax
Motor Vehicle Sales Surcharge, Rental and Seller Financed Sales Tax
Motor Vehicle Registration Surcharge

1-800-252-1383

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IFTA
LG Decals
Petroleum Products Delivery Fee
School Fund Benefit Fee

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Crude Oil Production Tax
Natural Gas Production Tax

1-800-252-1387

Insurance Tax

1-800-252-1385

Coin Operated Machine Tax
Hotel Occupancy Tax

1-800-252-1386

Certificates of Account Status/Good Standing
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1-800-862-2260

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1-888-4-FILING (1-888-434-5464)

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1-800-252-1389

GETPUB: To Order Forms & Publications

1-800-654-FIND (1-800-654-3463)

Treasury Find

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Unclaimed Property Claimants
Unclaimed Property Holders
Unclaimed Property Name Searches
512/463-3120 (Austin)

1-877-44RATE4 (1-877-447-2834)

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