

TAX CODE CHAPTER 42. JUDICIAL REVIEW

TAX CODE

TITLE 1. PROPERTY TAX CODE

SUBTITLE F. REMEDIES

CHAPTER 42. JUDICIAL REVIEW

SUBCHAPTER A. IN GENERAL

Sec. 42.01. RIGHT OF APPEAL BY PROPERTY OWNER. A property owner is entitled to appeal:

(1) an order of the appraisal review board determining:

(A) a protest by the property owner as provided by Subchapter C of Chapter 41; or

(B) a determination of an appraisal review board on a motion filed under Section 25.25; or

(2) an order of the comptroller issued as provided by Subchapter B, Chapter 24, apportioning among the counties the appraised value of railroad rolling stock owned by the property owner.

Acts 1979, 66th Leg., p. 2309, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 148, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 53, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1039, Sec. 41, eff. Jan. 1, 1998.

Sec. 42.015. APPEAL BY PERSON LEASING PROPERTY. (a) A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to appeal an order of the appraisal review board determining a protest brought by the person under Section 41.413.

(b) A person appealing an order of the appraisal review board under this section is considered the owner of the property for purposes of the appeal. The chief appraiser shall deliver a copy of any notice relating to the appeal to the owner of the property and to the person bringing the appeal.

Added by Acts 1995, 74th Leg., ch. 581, Sec. 2, eff. Aug. 28, 1995.

Sec. 42.02. RIGHT OF APPEAL BY CHIEF APPRAISER. (a) On written approval of the board of directors of the appraisal district, the chief appraiser is entitled to appeal an order of the appraisal review board determining:

(1) a taxpayer protest as provided by Subchapter C, Chapter 41, subject to Subsection (b); or

(2) a taxpayer's motion to change the appraisal roll filed under Section 25.25.

(b) Except as provided by Subsection (c), the chief appraiser may not appeal an order of the appraisal review board determining a taxpayer protest under Subsection (a)(1) if:

(1) the protest involved a determination of the appraised or market value of the taxpayer's property and that value according to the order that is the subject of the appeal is less than \$1 million; or

(2) for any other taxpayer protest, the property to which the protest applies has an appraised value according to the appraisal roll for the current year of less than \$1 million.

(c) On written approval of the board of directors of the appraisal district, the chief appraiser may appeal an order of the appraisal review board determining a taxpayer protest otherwise prohibited by Subsection (b), if the chief appraiser alleges that the taxpayer or a person acting on behalf of the taxpayer committed fraud, made a material misrepresentation, or presented fraudulent evidence in the hearing before the board. In an appeal under this subsection, the court shall first consider whether the taxpayer or a person acting on behalf of the taxpayer committed fraud, made a material misrepresentation, or presented fraudulent evidence to the appraisal review board. If the court does not find by a preponderance of the evidence that the taxpayer or a person acting on behalf of the taxpayer committed fraud, made a material misrepresentation, or presented fraudulent evidence to the appraisal review board, the court shall:

(1) dismiss the appeal; and

(2) award court costs and reasonable attorney's fees to the taxpayer.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 2001, 77th Leg., ch. 1430, Sec. 32, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1033, Sec. 1, eff. June 15, 2007.

Sec. 42.03. RIGHT OF APPEAL BY COUNTY. A county may appeal the order of the comptroller issued as provided by Subchapter B, Chapter 24 of this code apportioning among the counties the appraised value of railroad rolling stock.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 53, eff. Sept. 1, 1991.

Sec. 42.031. RIGHT OF APPEAL BY TAXING UNIT. (a) A taxing unit is entitled to appeal an order of the appraisal review board determining a challenge by the taxing unit.

(b) A taxing unit may not intervene in or in any other manner be made a party, whether as defendant or otherwise, to an appeal of an order of the appraisal review board determining a taxpayer protest under Subchapter C, Chapter 41, if the appeal was brought by the property owner.

Added by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 149, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 41, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 1481, Sec. 34, eff. Jan. 1, 2000.

Sec. 42.04. INTERVENTION BY STATE OR POLITICAL SUBDIVISION OWNING PROPERTY SUBJECT TO TAXABLE LEASEHOLD. If the challenge or protest relates to a taxable leasehold or other possessory interest in real property that is owned by this state or a political subdivision of this state, the attorney general or a representative of the state agency that owns the real property, if the real property is owned by this state, or a person designated by the political subdivision that owns the real property, as applicable, may intervene in an appeal of an order of an appraisal review board determining a challenge by a taxing unit or a taxpayer protest.

Added by Acts 1999, 76th Leg., ch. 416, Sec. 5, eff. Sept. 1, 1999.

Sec. 42.05. COMPTROLLER AS PARTY. The comptroller is an opposing party in an appeal by:

(1) a property owner of an order of the comptroller determining a protest of the appraisal, interstate allocation, or intrastate apportionment of transportation business intangibles; or

(2) a county or a property owner of an order of the comptroller apportioning among the counties the appraised value of railroad rolling stock.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 53, eff. Sept. 1, 1991.

Sec. 42.06. NOTICE OF APPEAL. (a) To exercise the party's right to appeal an order of an appraisal review board, a party other than a property owner must file written notice of appeal within 15 days after the date the party receives the notice required by Section 41.47 or, in the case of a taxing unit, by Section 41.07 that the order appealed has been issued. To exercise the right to appeal an order of the comptroller, a party other than a property owner must file written notice of appeal within 15 days after the date the party receives the comptroller's order. A property owner is not required to file a notice of appeal under this section.

(b) A party required to file a notice of appeal under this section other than a chief appraiser who appeals an order of an appraisal review board shall file the notice with the chief appraiser of the appraisal district for which the appraisal review board is established. A chief appraiser who appeals an order of an appraisal review board shall file the notice with the appraisal review board. A party who appeals an order of the comptroller shall file the notice with the comptroller.

(c) If the chief appraiser, a taxing unit, or a county appeals, the chief appraiser, if the appeal is of an order of the appraisal review board, or the comptroller, if the appeal is of an order of the comptroller, shall deliver a copy of the notice to the

property owner whose property is involved in the appeal within 10 days after the date the notice is filed.

(d) On the filing of a notice of appeal, the chief appraiser shall indicate where appropriate those entries on the appraisal records that are subject to the appeal.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 150, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 898, Sec. 1, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 796, Sec. 42, eff. June 15, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 53, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1039, Sec. 41, eff. Jan. 1, 1998.

Sec. 42.07. COSTS OF APPEAL. The reviewing court in its discretion may charge all or part of the costs of an appeal taken as provided by this chapter against any of the parties.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 42.08. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES.

(a) The pendency of an appeal as provided by this chapter does not affect the delinquency date for the taxes on the property subject to the appeal. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined by Section 42.42(c), and that additional amount is not delinquent before that date.

(b) Except as provided in Subsection (d), a property owner who appeals as provided by this chapter must pay taxes on the property subject to the appeal in the amount required by this subsection before the delinquency date or the property owner forfeits the right to proceed to a final determination of the appeal. The amount of taxes the property owner must pay on the property before the delinquency date to comply with this subsection is the lesser of:

(1) the amount of taxes due on the portion of the taxable value of the property that is not in dispute; or

(2) the amount of taxes due on the property under the

order from which the appeal is taken.

(b-1) This subsection applies only to an appeal in which the property owner elects to pay the amount of taxes described by Subsection (b)(1). The appeal filed by the property owner must be accompanied by a statement in writing of the amount of taxes the property owner proposes to pay.

(c) A property owner that pays an amount of taxes greater than that required by Subsection (b) does not forfeit the property owner's right to a final determination of the appeal by making the payment. If the property owner files a timely appeal under this chapter, taxes paid on the property are considered paid under protest, even if paid before the appeal is filed.

(d) After filing an oath of inability to pay the taxes at issue, a party may be excused from the requirement of prepayment of tax as a prerequisite to appeal if the court, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the party's right of access to the courts. On the motion of a party, the court shall hold a hearing to review and determine compliance with this section, and the reviewing court may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances. If the court determines that the property owner has not substantially complied with this section, the court shall dismiss the pending action. If the court determines that the property owner has substantially but not fully complied with this section, the court shall dismiss the pending action unless the property owner fully complies with the court's determination within 30 days of the determination.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 5049, ch. 910, Sec. 1, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 195, Sec. 1, eff. May 24, 1985; Acts 1989, 71st Leg., ch. 796, Sec. 43, eff. June 15, 1989; Acts 1995, 74th Leg., ch. 579, Sec. 12, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 203, Sec. 1, eff. May 21, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1033, Sec. 2, eff. June 15, 2007.

Sec. 42.09. REMEDIES EXCLUSIVE. (a) Except as provided by Subsection (b) of this section, procedures prescribed by this title for adjudication of the grounds of protest authorized by this title are exclusive, and a property owner may not raise any of those grounds:

(1) in defense to a suit to enforce collection of delinquent taxes; or

(2) as a basis of a claim for relief in a suit by the property owner to arrest or prevent the tax collection process or to obtain a refund of taxes paid.

(b) A person against whom a suit to collect a delinquent property tax is filed may plead as an affirmative defense:

(1) if the suit is to enforce personal liability for the tax, that the defendant did not own the property on which the tax was imposed on January 1 of the year for which the tax was imposed; or

(2) if the suit is to foreclose a lien securing the payment of a tax on real property, that the property was not located within the boundaries of the taxing unit seeking to foreclose the lien on January 1 of the year for which the tax was imposed.

(c) For purposes of this section, "suit" includes a counterclaim, cross-claim, or other claim filed in the course of a lawsuit.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1987, 70th Leg., ch. 53, Sec. 1, eff. May 6, 1987.

SUBCHAPTER B. REVIEW BY DISTRICT COURT

Sec. 42.21. PETITION FOR REVIEW. (a) A party who appeals as provided by this chapter must file a petition for review with the district court within 45 days after the party received notice that a final order has been entered from which an appeal may be had. Failure to timely file a petition bars any appeal under this chapter.

(b) A petition for review brought under Section 42.02 must be brought against the owner of the property involved in the appeal. A petition for review brought under Section 42.031 must be brought

against the appraisal district and against the owner of the property involved in the appeal. A petition for review brought under Subdivision (2) or (3) of Section 42.01 or under Section 42.03 must be brought against the comptroller. Any other petition for review under this chapter must be brought against the appraisal district. A petition for review is not required to be brought against the appraisal review board, but may be brought against the appraisal review board in addition to any other required party, if appropriate.

(c) If an appeal under this chapter is pending when the appraisal review board issues an order in a subsequent year under a protest by the same property owner and that protest relates to the same property that is involved in the pending appeal, the property owner may appeal the subsequent appraisal review board order by amending the original petition for the pending appeal to include the grounds for appealing the subsequent order. The amended petition must be filed with the court in the period provided by Subsection (a) for filing a petition for review of the subsequent order. A property owner may appeal the subsequent appraisal review board order under this subsection or may appeal the order independently of the pending appeal as otherwise provided by this section, but may not do both. A property owner may change the election of remedies provided by this subsection at any time before the end of the period provided by Subsection (a) for filing a petition for review.

(d) An appraisal district is served by service on the chief appraiser at any time or by service on any other officer or employee of the appraisal district present at the appraisal office at a time when the appraisal office is open for business with the public. An appraisal review board is served by service on the chairman of the appraisal review board. Citation of a party is issued and served in the manner provided by law for civil suits generally.

(e) A petition that is timely filed under Subsection (a) or amended under Subsection (c) may be subsequently amended to:

- (1) correct or change the name of a party; or
- (2) not later than the 120th day before the date of trial, identify or describe the property originally involved in the

appeal.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 5344, ch. 981, Sec. 1, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 760, Sec. 1, eff. Aug. 26, 1985; Acts 1989, 71st Leg., ch. 796, Sec. 44, eff. June 15, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 54, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1113, Sec. 1, eff. June 18, 1999.

Text of section as amended by Acts 1993, 73rd Leg., ch. 667, Sec. 1

Sec. 42.22. VENUE. Venue is in the county in which the appraisal review board that issued the order appealed is located, except as provided by Section 42.221. Venue is in Travis County if the order appealed was issued by the comptroller.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 151, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 55, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 667, Sec. 1, eff. Sept. 1, 1993.

Text of section as amended by Acts 1993, 73rd Leg., ch. 1033, Sec. 1

Sec. 42.22. VENUE. (a) Except as provided by Subsections (b) and (c), and by Section 42.221, venue is in the county in which the appraisal review board that issued the order appealed is located.

(b) Venue of an action brought under Section 42.01(1) is in the county in which the property is located or in the county in which the appraisal review board that issued the order is located.

(c) Venue is in Travis County if the order appealed was issued by the comptroller.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 151, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 55, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 1033, Sec. 1, eff. Sept. 1, 1993.

Sec. 42.221. CONSOLIDATED APPEALS FOR MULTICOUNTY PROPERTY. (a) The owner of property of a telecommunications

provider, as defined by Section 51.002, Utilities Code, or the owner of property regulated by the Railroad Commission of Texas, the federal Surface Transportation Board, or the Federal Energy Regulatory Commission that runs through or operates in more than one county and is appraised by more than one appraisal district may appeal an order of an appraisal review board relating to the property running through or operating in more than one county to the district court of any county in which a portion of the property is located or operated if the order relating to that portion of the property is appealed.

(b) A petition for review of each appraisal review board order under this section must be filed with the court as provided by Section 42.21. The fee for filing each additional petition for review under this section after the first petition for review relating to the same property is filed for a tax year is \$5.

(c) If only one appeal by the owner of property subject to this section is pending before the court in an appeal from the decision of an appraisal review board of a district other than the appraisal district for that county, any party to the suit may, not earlier than the 30th day before and not later than the 10th day before the date set for the hearing, make a motion to transfer the suit to a district court of the county in which the appraisal review board from which the appeal is taken is located. In the absence of a showing that further appeals under this section will be filed, the court shall transfer the suit.

(d) When the owner files the first petition for review under this section for a tax year, the owner shall include with the petition a list of each appraisal district in which the property is appraised for taxation in that tax year.

(e) The court shall consolidate all the appeals for a tax year relating to a single property subject to this section for which a petition for review is filed with the court and may consolidate other appeals relating to other property subject to this section of the same owner if the property is located in one or more of the counties on the list required by Subsection (d). Except as provided by this subsection, on the motion of the owner of a property subject to this section the court shall grant a continuance to provide the

owner with an opportunity to include in the proceeding appeals of appraisal review board orders from additional appraisal districts. The court may not grant a continuance to include an appeal of an appraisal review board order that relates to a property subject to this section in that tax year after the time for filing a petition for review of that order has expired.

(f) This section does not affect the property owner's right to file a petition for review of an individual appraisal district's order relating to a property subject to this section in the district court in the county in which the appraisal review board is located.

(g) On a joint motion or the separate motions of at least 60 percent of the appraisal districts that are defendants in a consolidated suit filed before the 45th day after the date on which the property owner's petitions for review of the appraisal review board orders relating to a property subject to this section for that tax year must be filed, the court shall transfer the suit to a district court of the county named in the motion or motions if that county is one in which one of the appraisal review boards from which an appeal was taken is located.

Added by Acts 1993, 73rd Leg., ch. 667, Sec. 2, eff. Sept. 1, 1993 and Acts 1993, 73rd Leg., ch. 1033, Sec. 2, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1041, Sec. 3, eff. Sept. 1, 2003.

Sec. 42.225. PROPERTY OWNER'S RIGHT TO APPEAL THROUGH ARBITRATION. (a) On motion by a property owner who appeals an appraisal review board order under this chapter, the court shall submit the appeal to nonbinding arbitration. The court shall order the nonbinding arbitration to be conducted in accordance with Chapter 154, Civil Practice and Remedies Code. If the appeal proceeds to trial following an arbitration award or finding under this subsection, either party may introduce the award or finding into evidence. In addition, the court shall award the property owner reasonable attorney fees if the trial was not requested by the property owner and the determination of the appeal results in an appraised value for the owner's property that is equal to or less than the appraised value under the arbitration award or finding.

However, the amount of an award of attorney fees under this subsection is subject to the same limitations as those provided by Section 42.29.

(b) On motion by the property owner, the court shall order the parties to an appeal of an appraisal review board order under this chapter to submit to binding arbitration if the appraisal district joins in the motion or consents to the arbitration. A binding arbitration award under this subsection is binding and enforceable in the same manner as a contract obligation.

(c) The court shall appoint an impartial third party to conduct an arbitration under this section. The impartial third party is appointed by the court and serves as provided by Subchapter C, Chapter 154, Civil Practice and Remedies Code.

(d) Each party or counsel for the party may present the position of the party before the impartial third party, who must render a specific arbitration award.

(e) Prior to submission of a case to arbitration the court shall determine matters related to jurisdiction, venue, and interpretation of the law.

(f) Except as provided in this section, an arbitration award may include any remedy or relief that a court could order under this chapter.

Added by Acts 1991, 72nd Leg., ch. 412, Sec. 1, eff. Aug. 26, 1991.
Amended by Acts 1993, 73rd Leg., ch. 1031, Sec. 9, eff. Sept. 1, 1993.

Sec. 42.23. SCOPE OF REVIEW. (a) Review is by trial de novo. The district court shall try all issues of fact and law raised by the pleadings in the manner applicable to civil suits generally.

(b) The court may not admit in evidence the fact of prior action by the appraisal review board or comptroller, except to the extent necessary to establish its jurisdiction.

(c) Any party is entitled to trial by jury on demand.

(d) Each party to an appeal is considered a party seeking affirmative relief for the purpose of discovery regarding expert witnesses under the Texas Rules of Civil Procedure if, on or before

the 120th day after the date the appeal is filed, the property owner:

- (1) makes a written offer of settlement;
- (2) requests alternative dispute resolution; and
- (3) designates, in response to an appropriate written discovery request, which cause of action under this chapter is the basis for the appeal.

(e) For purposes of Subsection (d), a property owner may designate a cause of action under Section 42.25 or 42.26 as the basis for an appeal, but may not designate a cause of action under both sections as the basis for the appeal. Discovery regarding a cause of action that is not specifically designated by the property owner under Subsection (d) shall be conducted as provided by the Texas Rules of Civil Procedure. The court may enter a protective order to modify the provisions of this subsection under Rule 192.6 of the Texas Rules of Civil Procedure.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 152, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 56, eff. Sept. 1, 1991.

Amended by:

Acts 2005, 79th Leg., Ch. 1126, Sec. 25, eff. September 1, 2005.

Sec. 42.24. ACTION BY COURT. In determining an appeal, the district court may:

- (1) fix the appraised value of property in accordance with the requirements of law if the appraised value is at issue;
- (2) enter the orders necessary to ensure equal treatment under the law for the appealing property owner if inequality in the appraisal of his property is at issue; or
- (3) enter other orders necessary to preserve rights protected by and impose duties required by the law.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 42.25. REMEDY FOR EXCESSIVE APPRAISAL. If the court determines that the appraised value of property according to the

appraisal roll exceeds the appraised value required by law, the property owner is entitled to a reduction of the appraised value on the appraisal roll to the appraised value determined by the court. Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 42.26. REMEDY FOR UNEQUAL APPRAISAL. (a) The district court shall grant relief on the ground that a property is appraised unequally if:

(1) the appraisal ratio of the property exceeds by at least 10 percent the median level of appraisal of a reasonable and representative sample of other properties in the appraisal district;

(2) the appraisal ratio of the property exceeds by at least 10 percent the median level of appraisal of a sample of properties in the appraisal district consisting of a reasonable number of other properties similarly situated to, or of the same general kind or character as, the property subject to the appeal; or

(3) the appraised value of the property exceeds the median appraised value of a reasonable number of comparable properties appropriately adjusted.

(b) If a property owner is entitled to relief under Subsection (a)(1), the court shall order the property's appraised value changed to the value as calculated on the basis of the median level of appraisal according to Subsection (a)(1). If a property owner is entitled to relief under Subsection (a)(2), the court shall order the property's appraised value changed to the value calculated on the basis of the median level of appraisal according to Subsection (a)(2). If a property owner is entitled to relief under Subsection (a)(3), the court shall order the property's appraised value changed to the value calculated on the basis of the median appraised value according to Subsection (a)(3). If a property owner is entitled to relief under more than one subdivision of Subsection (a), the court shall order the property's appraised value changed to the value that results in the lowest appraised value. The court shall determine each applicable median level of appraisal or median appraised value according to law, and

is not required to adopt the median level of appraisal or median appraised value proposed by a party to the appeal. The court may not limit or deny relief to the property owner entitled to relief under a subdivision of Subsection (a) because the appraised value determined according to another subdivision of Subsection (a) results in a higher appraised value.

(c) For purposes of establishing the median level of appraisal under Subsection (a)(1), the median level of appraisal in the appraisal district as determined by the comptroller under Section 5.10 is admissible as evidence of the median level of appraisal of a reasonable and representative sample of properties in the appraisal district for the year of the comptroller's determination, subject to the Texas Rules of Evidence and the Texas Rules of Civil Procedure.

(d) For purposes of this section, the value of the property subject to the suit and the value of a comparable property or sample property that is used for comparison must be the market value determined by the appraisal district when the property is a residence homestead subject to the limitation on appraised value imposed by Section 23.23.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 153, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4924, ch. 877, Sec. 3, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 823, Sec. 3, eff. Jan. 1, 1986; Acts 1989, 71st Leg., ch. 796, Sec. 45, eff. June 15, 1989; Acts 1991, 72nd Leg., ch. 843, Sec. 12, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1039, Sec. 42, eff. Jan. 1, 1998; Acts 2003, 78th Leg., ch. 1041, Sec. 4, eff. Sept. 1, 2003.

Sec. 42.28. APPEAL OF DISTRICT COURT JUDGMENT. A party may appeal the final judgment of the district court as provided by law for appeal of civil suits generally, except that an appeal bond is not required of the chief appraiser, the county, the comptroller, or the commissioners court.

Acts 1979, 66th Leg., p. 2312, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 57, eff. Sept. 1, 1991.

Sec. 42.29. ATTORNEY'S FEES. (a) A property owner who prevails in an appeal to the court under Section 42.25 or 42.26 may be awarded reasonable attorney's fees. The amount of the award may not exceed the greater of:

(1) \$15,000; or

(2) 20 percent of the total amount by which the property owner's tax liability is reduced as a result of the appeal.

(b) Notwithstanding Subsection (a), the amount of an award of attorney's fees may not exceed the lesser of:

(1) \$100,000; or

(2) the total amount by which the property owner's tax liability is reduced as a result of the appeal.

Added by Acts 1983, 68th Leg., p. 5033, ch. 905, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1991, 72nd Leg., ch. 836, Sec. 4.1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 203, Sec. 2, eff. May 21, 1997.

SUBCHAPTER C. POSTAPPEAL ADMINISTRATIVE PROCEDURES

Sec. 42.41. CORRECTION OF ROLLS. (a) Not later than the 45th day after the date an appeal is finally determined, the chief appraiser shall:

(1) correct the appraisal roll and other appropriate records as necessary to reflect the final determination of the appeal; and

(2) certify the change to the assessor for each affected taxing unit.

(b) The assessor for each affected taxing unit shall correct the tax roll and other appropriate records for which the assessor is responsible.

(c) A chief appraiser is irrebutably presumed to have complied with Subsection (a)(2).

Acts 1979, 66th Leg., p. 2312, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 175, ch. 13, Sec. 155, eff. Jan. 1, 1982; Acts 2003, 78th Leg., ch. 481, Sec. 1, eff. Sept. 1, 2003.

Sec. 42.42. CORRECTED AND SUPPLEMENTAL TAX BILLS.

(a) Except as provided by Subsection (b) of this section, if the final determination of an appeal that changes a property owner's tax liability occurs after the tax bill is mailed, the assessor for each affected taxing unit shall prepare and mail a corrected tax bill in the manner provided by Chapter 31 of this code for tax bills generally. The assessor shall include with the bill a brief explanation of the reason for and effect of the corrected bill.

(b) If the final determination of an appeal that increases a property owner's tax liability occurs after the property owner has paid his taxes, the assessor for each affected taxing unit shall prepare and mail a supplemental tax bill in the manner provided by Chapter 31 for tax bills generally. The assessor shall include with the bill a brief explanation of the reason for and effect of the supplemental bill. The additional tax is due on receipt of the supplemental bill and becomes delinquent if not paid before the delinquency date prescribed by Chapter 31 or before the first day of the next month after the date of mailing that will provide at least 21 days for payment of the tax, whichever is later.

(c) If the final determination of an appeal occurs after the property owner has paid a portion of the tax finally determined to be due as required by Section 42.08, the assessor for each affected taxing unit shall prepare and mail a supplemental tax bill in the form and manner prescribed by Subsection (b). The additional tax is due and becomes delinquent as provided by Subsection (b), but the property owner is liable for penalties and interest on the tax included in the supplemental bill calculated as provided by Section 33.01 as if the tax included in the supplemental bill became delinquent on the original delinquency date prescribed by Chapter 31.

(d) If the property owner did not pay any portion of the taxes imposed on the property because the court found that payment would constitute an unreasonable restraint on the owner's right of access to the courts as provided by Section 42.08(d), after the final determination of the appeal the assessor for each affected taxing unit shall prepare and mail a supplemental tax bill in the form and manner prescribed by Subsection (b). The additional tax is

due and becomes delinquent as provided by Subsection (b), but the property owner is liable for interest on the tax included in the supplemental bill calculated as provided by Section 33.01 as if the tax included in the supplemental bill became delinquent on the delinquency date prescribed by Chapter 31.

Acts 1979, 66th Leg., p. 2312, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 203, Sec. 3, eff. May 21, 1997.

Sec. 42.43. REFUND. (a) If the final determination of an appeal that decreases a property owner's tax liability occurs after the property owner has paid his taxes, the taxing unit shall refund to the property owner the difference between the amount of taxes paid and amount of taxes for which the property owner is liable.

(b) For a refund made under this section because an exemption under Section 11.20 that was denied by the chief appraiser or appraisal review board is granted, the taxing unit shall include with the refund interest on the amount refunded calculated at an annual rate that is equal to the auction average rate quoted on a bank discount basis for three-month treasury bills issued by the United States government, as published by the Federal Reserve Board, for the week in which the taxes became delinquent, but not more than 10 percent, calculated from the delinquency date for the taxes until the date the refund is made. For any other refund made under this section, the taxing unit shall include with the refund interest on the amount refunded at an annual rate of eight percent, calculated from the delinquency date for the taxes until the date the refund is made.

(c) Notwithstanding Subsection (b), if a taxing unit does not make a refund, including interest, required by this section before the 60th day after the date the chief appraiser certifies a correction to the appraisal roll under Section 42.41, the taxing unit shall include with the refund interest on the amount refunded at an annual rate of 12 percent, calculated from the delinquency date for the taxes until the date the refund is made.

(d) A property owner who prevails in a suit to compel a refund, including interest, required by this section that is filed on or after the 180th day after the date the chief appraiser

certifies a correction to the appraisal roll is entitled to court costs and reasonable attorney's fees.

Acts 1979, 66th Leg., p. 2313, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 640, Sec. 4, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 796, Sec. 46, eff. June 15, 1989; Acts 1993, 73rd Leg., ch. 592, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1039, Sec. 43, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 253, Sec. 1, eff. May 22, 2001.