



**GEARY, PORTER & DONOVAN**  
A PROFESSIONAL CORPORATION / ATTORNEYS AND COUNSELORS

Updates to the Texas Property Tax Code  
2011 Legislative Session

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# **TITLE 1: PROPERTY TAX CODE**

## **SUBTITLE A. GENERAL PROVISIONS**

### **§ 1.07(a)**

(a) An official or agency required by this title to deliver a notice to a property owner may deliver the notice by regular first-class mail, with postage prepaid, unless this section or another provision of this title requires or authorizes a different method of delivery or the parties agree that the notice must be delivered as provided by Section 1.085.

*Effective January 1, 2012*

### **§ 1.085**

(a) Notwithstanding any other provision in this title and except as provided by this section, any [~~Except as provided by Section 1.07(d), any~~] notice, rendition, application form, or completed application that is required or permitted by this title to be delivered between a chief appraiser, an appraisal district, an appraisal review board, or any combination of those persons and a property owner or between a chief appraiser, an appraisal district, an appraisal review board, or any combination of those persons and a person designated by a property owner under Section 1.111(f) may be delivered in an electronic format if the chief appraiser and the property owner or person designated by the owner agree under this section.

(b) An agreement between a chief appraiser and a property owner, or the person designated by the owner under Section 1.111(f), must:

- (1) be in writing or in an electronic form;
- (2) be signed by the chief appraiser [~~and the property owner~~]; [~~and~~]
- (3) be signed by the property owner or person designated by the owner in a form acceptable to the chief appraiser; and
- (4) specify:
  - (A) the medium of communication;
  - (B) the type of communication covered;
  - (C) the means for protecting the security of a communication;
  - (D) the means for confirming delivery of a communication; and
  - (E) the electronic mail address of the property owner or person designated by [~~to represent~~] the property owner [~~under Section 1.111~~], as applicable.

(c) An agreement may address other matters.

(d) Unless otherwise provided by an agreement, the delivery of any information in an electronic format is effective on receipt by a chief appraiser, an appraisal district, an appraisal review board, a property owner, or a person designated by a property owner. An agreement entered into under this section remains in effect until rescinded in writing by the property owner or person designated by the owner.

(e) The comptroller by rule:

- (1) shall prescribe acceptable media, formats, content, and methods for the electronic transmission of notices required by Section 25.19; and
- (2) may prescribe acceptable media, formats, content, and methods for the electronic transmission of other notices, renditions, and applications.

(f) In an agreement entered into under this section, a chief appraiser may select the medium, format, content, and method to be used by the appraisal district from among those prescribed by the comptroller under Subsection (e). If the comptroller has not prescribed the media, format, content, and method applicable to the communication, the chief appraiser may determine the medium, format, content, and method to be used.

(g) Notwithstanding Subsection (a), if a property owner whose property is included in 25 or more accounts in the appraisal records of the appraisal district requests the chief appraiser to enter into an agreement for the delivery of the notice required by Section 25.19 in an electronic format, the chief appraiser must enter into an agreement under this section for that purpose if the appraisal district is located in a county that has a population of more than 200,000. If the chief appraiser must enter into an agreement under this subsection, the chief appraiser [~~and~~] shall deliver the

notice in accordance with an electronic medium, format, content, and method prescribed by the comptroller under Subsection (e). If the comptroller has not prescribed the media, format, content, and method applicable to the notice, the chief appraiser may determine the medium, format, content, and method to be used.

(h) The chief appraiser shall provide notice regarding the availability of agreement forms authorizing electronic communication under this section. The chief appraiser shall provide the notice by:

- (1) publishing a notice in a newspaper having general circulation in the district at least once on or before February 1 of each year that includes the words "Notice of Availability of Electronic Communications"; or
- (2) delivering the agreement form on or before February 1, or as soon as practicable after that date, to each owner of property shown on the certified appraisal roll for the preceding tax year and on or before February 1 of each subsequent year, or as soon as practicable after that date, to each new owner of property shown on the certified appraisal roll for the preceding tax year.

(i) A property owner or a person designated by the property owner who enters into an agreement under this section that has not been rescinded shall notify the appraisal district of a change in the electronic mail address specified in the agreement before the first April 1 that occurs following the change. If notification is not received by the appraisal district before that date, until notification is received, any notices delivered under the agreement to the property owner or person designated by the owner are considered to be timely delivered.

(j) An electronic signature that is included in any notice, rendition, application form, or completed application subject to an agreement under this section and that is required by Chapters 11, 22, 23, 24, 25, 26, and 41 shall be considered to be a digital signature for purposes of Section 2054.060, Government Code, and that section applies to the electronic signature.

(k) Unless the chief appraiser is required to enter an agreement under this section, a decision by the chief appraiser not to enter into an agreement under this section may not be reviewed by the appraisal review board or be the subject of:

- (1) a suit to compel;
- (2) a protest under Section 41.41;
- (3) an appeal under Chapter 42; or
- (4) a complaint under Chapter 1151, Occupations Code.

(l) Unless the chief appraiser and the property owner or person designated by the owner agree otherwise under Subsection (b), the chief appraiser, appraisal district, or appraisal review board shall deliver a notice electronically in a manner that allows for confirmation of receipt by the property owner or the person designated by the owner, such as electronic mail. If confirmation of receipt is not received by the 30th day following the date the electronic notice is delivered, the chief appraiser, appraisal district, or appraisal review board, as applicable, shall deliver the notice to the property owner or the person designated by the owner in the manner provided by Section 1.07.

*Effective September 1, 2011*

#### **§ 1.111(b)**

(b) The designation of an agent must be made by written authorization on a form prescribed by the comptroller under Subsection (h) and signed by the owner, a property manager authorized to designate agents for the owner, or another person authorized to act on behalf of the owner other than the person being designated as agent, and must clearly indicate that the person is authorized to act on behalf of the property owner in property tax matters relating to the property or the property owner. The designation may authorize the agent to represent the owner in all property tax matters or in specific property tax matters as identified in the designation. The designation does not take effect with respect to an appraisal district or a taxing unit participating in the appraisal district until a copy of the designation is filed with the appraisal district. Each appraisal district established for a county having a population of 500,000 or more shall implement a system that allows a designation to be signed and filed electronically.

*Effective September 1, 2011*

*Note: This change applies only to a designation of an agent that is made on or after the effective date of September 1, 2011. A designation made before the effective date is governed by the law in effect when the designation was made, and the former law is continued in effect for that purpose.*

**§ 1.111(j)**

(j) An individual exempt from registration as a property tax consultant under Section 1152.002, Occupations Code, who is not supervised, directed, or compensated by a person required to register as a property tax consultant under that chapter and who files a protest with the appraisal review board on behalf of the property owner is entitled to receive all notices from the appraisal district and appraisal review board regarding the property subject to the protest until the authority is revoked by the property owner as provided by this section. An individual to which this subsection applies who is not designated by the property owner to receive notices, tax bills, orders, and other communications as provided by Subsection (f) or Section 1.11 shall file a statement with the protest that includes:

- (1) the individual's name and address;
- (2) a statement that the individual is acting on behalf of the property owner; and
- (3) a statement of the basis for the individual's exemption from registration under Section 1152.002, Occupations Code.

*Effective September 1, 2011*

**§ 1.111(k)**

(k) On written request by the chief appraiser, an agent who electronically submits a designation of agent form shall provide the chief appraiser information concerning:

- (1) the electronic signature of the person who signed the form;
- (2) the date the person signed the form; and
- (3) the Internet Protocol address of the computer the person used to complete the form.

*Effective September 1, 2011*

*Note: This change applies only to a designation of an agent that is made on or after the effective date of September 1, 2011. A designation made before the effective date is governed by the law in effect when the designation was made, and the former law is continued in effect for that purpose.*

**§ 1.111(l)**

(l) A person may not knowingly make a false entry in, or false alteration of, a designation of agent form that has been signed as provided by Subsection (B).

*Effective September 1, 2011*

*Note: This change applies only to a designation of an agent that is made on or after the effective date of September 1, 2011. A designation made before the effective date is governed by the law in effect when the designation was made, and the former law is continued in effect for that purpose.*

## **SUBTITLE B. PROPERTY TAX ADMINISTRATION**

### **§ 5.041(c)**

(c) The comptroller may contract with service providers to assist with the duties imposed under Subsection (a), but the course required may not be provided by an appraisal district, the chief appraiser or another employee of an appraisal district, a member of the board of directors of an appraisal district, a member of an appraisal review board, or a taxing unit. The comptroller may assess a fee to recover a portion of the costs incurred for the training course, but the fee may not exceed \$50 per person trained.

*Effective September 1, 2011*

### **§ 5.041(e-1)**

(e-1) In addition to the course established under Subsection (a), the comptroller shall approve curricula and provide materials for use in a continuing education course for members of an appraisal review board. The curricula and materials must include information regarding:

- (1) the cost, income, and market data comparison methods of appraising property;
- (2) the appraisal of business personal property;
- (3) the determination of capitalization rates for property appraisal purposes;
- (4) the duties of an appraisal review board;
- (5) the requirements regarding the independence of an appraisal review board from the board of directors and the chief appraiser and other employees of the appraisal district;
- (6) the prohibitions against ex parte communications applicable to appraisal review board members;
- (7) the Uniform Standards of Professional Appraisal Practice;
- (8) the duty of the appraisal district to substantiate the district's determination of the value of property;
- (9) the requirements regarding the equal and uniform appraisal of property;
- (10) the right of a property owner to protest the appraisal of the property as provided by Chapter 41; and
- (11) a detailed explanation of each of the actions described by Sections 25.25, 41.41(a), 41.411, 41.412, 41.413, 41.42, and 41.43 so that members are fully aware of each of the grounds on which a property appraisal can be appealed.

*Effective September 1, 2011*

### **§ 5.041(e-3)**

(e-3) The comptroller may contract with service providers to assist with the duties imposed under Subsection (e-1), but the course required by that subsection may not be provided by an appraisal district, the chief appraiser or another employee of an appraisal district, a member of the board of directors of an appraisal district, a member of an appraisal review board, or a taxing unit. The comptroller may assess a fee to recover a portion of the costs incurred for the continuing education course, but the fee may not exceed \$50 for each person trained.

*Effective September 1, 2011*

### **§ 5.041(g)**

(g) Except during a hearing or other appraisal review board proceeding and as provided by Subsection (h) and Section 6.411(c-1), the following persons may not communicate with a member of an appraisal review board about a course provided under this section or any matter presented or discussed during the course:

- (1) the chief appraiser of the appraisal district for which the appraisal review board is established;
- (2) another employee of the appraisal district for which the appraisal review board is established;
- (3) a member of the board of directors of the appraisal district for which the appraisal review board is established;
- (4) an officer or employee of a taxing unit that participates in the appraisal district for which the appraisal review board is established; and

(5) an attorney who represents or whose law firm represents the appraisal district or a taxing unit that participates in the appraisal district for which the appraisal review board is established.

*Effective September 1, 2011*

**§ 5.041(h)**

(h) An appraisal review board may retain an appraiser certified by the Texas Appraiser Licensing and Certification Board to instruct the members of the appraisal review board on valuation methodology if the appraisal district provides for the instruction in the district's budget.

*Effective September 1, 2011*

**§ 6.05(d)**

(d) The chief appraiser is entitled to compensation as provided by the budget adopted by the board of directors. The chief appraiser's compensation may not be directly or indirectly linked to an increase in the total market, appraised, or taxable value of property in the appraisal district. The chief appraiser may employ and compensate professional, clerical, and other personnel as provided by the budget, with the exception of a general counsel to the appraisal district.

*Effective June 17, 2011*

**§ 6.05(j)**

(j) The board of directors of an appraisal district may employ a general counsel to the district to serve at the will of the board. The general counsel shall provide counsel directly to the board and perform other duties and responsibilities as determined by the board. The general counsel is entitled to compensation as provided by the budget adopted by the board.

*Effective June 17, 2011*

**§ 6.12(b)**

(b) ~~The [One of the] agricultural advisory board [members must be a representative of the county agricultural stabilization and conservation service, and the remainder of the] members must be landowners of the district whose land qualifies for appraisal under Subchapter C, D, E, or H, Chapter 23, and who have been residents of the district for at least five years.~~

*Effective September 1, 2011*

*Note: This change does not affect the entitlement of a member serving on the board immediately before the effective date of September 1, 2011 to continue to carry out the board's functions for the remainder of the member's term. The change in law applies only to a member appointed on or after the effective date of the change. This change does not prohibit a person who is a member of the board on the effective date from being reappointed to the board if the person has the qualifications required for a member under Section 6.12, Tax Code, as amended by this Act.*

**§ 6.12(d)**

(d) he board shall meet at the call of the chief appraiser at least once ~~[three times]~~ a year.

*Effective September 1, 2011*

**§ 6.28(c)**

(c) The bond for county taxes must be payable to the commissioners court in an amount equal to 10 percent of the total amount of county taxes imposed in the preceding tax year, except that the amount of the bond may not be less

than \$2,500 or more than \$100,000, except as otherwise provided by this subsection. The commissioners court of a county with a population of 1.5 million or more by order may set the maximum amount of the bond in an amount greater than \$100,000. To be effective, a ~~the~~ bond under this subsection must be approved by the commissioners court.

*Effective September 1, 2011*

**§ 6.28(d)**

(d) The state comptroller of public accounts or the commissioners court may require a new bond for state taxes at any time. The commissioners court may require a new bond for county taxes at any time. However, the total amount of state bonds or county bonds required of an assessor-collector may not exceed \$100,000 at one time, except that in a county in which the commissioners court by order has set the maximum amount of the bond for county taxes in an amount greater than \$100,000, the total amount of state bonds or county bonds required may not exceed that greater amount. The commissioners court shall suspend the assessor-collector from office and begin removal proceedings if the assessor-collector ~~he~~ fails to give new bond within a reasonable time after demand.

*Effective September 1, 2011*

**§ 6.41(d-1)**

(d-1) In a county with a population of 3.3 million or more or a county with a population of 550,000 ~~350,000~~ or more that is adjacent to a county with a population of 3.3 million or more the members of the board are appointed by the local administrative district judge in the county in which the appraisal district is established.

*Effective September 1, 2011*

**§ 6.411(a)**

(a) A member of an appraisal review board commits an offense if the member communicates with the chief appraiser or another employee or a member of the board of directors of the appraisal district for which the appraisal review board is established in violation of Section 41.66(f).

*Effective September 1, 2011*

**§ 6.411(b)**

(b) A chief appraiser or another employee of an appraisal district, a member of a board of directors of an appraisal district, or a property tax consultant or attorney representing a party to a proceeding before the appraisal review board commits an offense if the person ~~chief appraiser or other employee~~ communicates with a member of the appraisal review board established for the appraisal district with the intent to influence a decision by the member in the member's capacity as a member of the appraisal review board ~~in a circumstance in which the appraisal review board member is prohibited by Section 41.66(f) from communicating with the chief appraiser or other employee].~~

*Effective September 1, 2011*

**§ 6.411(c-1)**

(c-1) This section does not apply to communications involving the chief appraiser or another employee or a member of the board of directors of an appraisal district and a member of the appraisal review board;

(1) during a hearing on a protest or other proceeding before the appraisal review board;

(2) that constitute social conversation;

(3) that are specifically limited to and involve administrative, clerical, or logistical matters related to the scheduling and operation of hearings, the processing of documents, the issuance of orders, notices, and subpoenas, and the operation, appointment, composition, or attendance at training of the appraisal review board; or

(4) that are necessary and appropriate to enable the board of directors of the appraisal district to determine whether to appoint, reappoint, or remove a person as a member or the chairman or secretary of the appraisal review board.

*Effective September 1, 2011*

**§ 6.412(a)**

(a) An individual is ineligible to serve on an appraisal review board if the individual:

(1) is related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to an individual who is engaged in the business of appraising property for compensation for use in proceedings under this title or of representing property owners for compensation in proceedings under this title in the appraisal district for which the appraisal review board is established; ~~or~~

(2) owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless:

(A) the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Section 33.02; or

(B) a suit to collect the delinquent taxes is deferred or abated under Section 33.06 or 33.065; or

(3) is related within the third degree by consanguinity or within the second degree by affinity, as determined under Chapter 573, Government Code, to a member of the appraisal district's board of directors.

*Effective September 1, 2011*

**§ 6.412(f)**

(f) In this section, a reference to an auxiliary board member includes ~~means~~ an appraisal review board auxiliary member appointed under Section 6.411, as that law existed before January 1, 2002.

*Effective June 17, 2011*

**§ 6.414**

(a) The board of directors of an appraisal district by resolution of a majority of the members may provide for a number of auxiliary appraisal review board members that the board considers appropriate to hear taxpayer protests before the appraisal review board and to assist the board in performing its duties.

(b) An auxiliary board member is appointed in the same manner and for the same term as an appraisal review board member under Section 6.41 and is subject to the same eligibility requirements and restrictions as a board member under Sections 6.41, 6.411, 6.412, and 6.413.

(c) An auxiliary board member may attend meetings of the appraisal review board but may not vote in a determination made by the board or serve as chairman or secretary of the board. An auxiliary board member is not included in determining what constitutes a quorum of the board or whether a quorum is present at any meeting of the board.

(d) An auxiliary board member may hear taxpayer protests before the appraisal review board. If one or more auxiliary board members sit on a panel established under Section 41.45 to conduct a protest hearing, the number of regular appraisal review board members required by that section to constitute the panel is reduced by the number of auxiliary board members sitting. An auxiliary board member sitting on a panel is considered a regular board member for all purposes related to the conduct of the hearing.

(e) An auxiliary board member is entitled to make a recommendation to the appraisal review board regarding a protest heard by the member but is not entitled to vote on the determination of the protest by the board.

(f) An auxiliary board member is entitled to compensation as provided by the appraisal district budget and is not entitled to a per diem or reimbursement of expenses under Section 6.42(c).

(g) Except as provided by this section, in this title, "appraisal review board member" includes an auxiliary appraisal review board member.

*Effective June 17, 2011*

*Note: This change applies only to the appointment of an auxiliary member of an appraisal review board for a term beginning on or after January 1, 2012.*

§ 6.43

(a) The appraisal review board may employ legal counsel as provided by the district budget or use the services of the county attorney [and may use the staff of the appraisal office for clerical assistance].

(b) Except as provided by Subsection (c), an attorney may not serve as legal counsel for the appraisal review board if the attorney or a member of the attorney's law firm has during the year before the date of the appraisal review board's hiring of the attorney represented a property owner who owns property in the appraisal district, a taxing unit that participates in the appraisal district, or the appraisal district in a matter addressed by Section 1.111 or 25.25 of this code, Subtitle F of this title, or Subchapter Z, Chapter 2003, Government Code.

(c) The county attorney for the county in which the appraisal district is established may provide legal services to the appraisal review board notwithstanding that the county attorney or an assistant to the county attorney represents or has represented the appraisal district or a taxing unit that participates in the appraisal district in any matter.

(d) An attorney who serves as legal counsel for an appraisal review board may not act as an advocate in a hearing or proceeding conducted by the board. The attorney may provide advice to the board or a panel of the board during a hearing or proceeding and shall disclose to the board all legal authority in the controlling jurisdiction known to the attorney to be relevant to the matter and not disclosed by the parties. The attorney shall disclose to the board a material fact that may assist the board or panel in making an informed decision regardless of whether the fact is adverse to the position of a party.

(e) An appraisal district may specify in its budget whether the appraisal review board may employ legal counsel or must use the services of the county attorney. If the budget authorizes the board to employ legal counsel, the budget must provide for reasonable compensation to be paid to the attorney serving as legal counsel. An appraisal district may not require the board to employ a specific attorney as legal counsel.

(f) The appraisal office may provide clerical assistance to the appraisal review board, including assisting the board with the scheduling and arranging of hearings.

*Effective September 1, 2011*

## **SUBTITLE C. TAXABLE PROPERTY AND EXEMPTIONS**

### **§ 11.11(j)**

(j) For purposes of this section, any portion of a facility owned by the Texas Department of Transportation that is ~~[part of the Trans Texas Corridor, is]~~ a rail facility or system~~[,]~~ or is a highway in the state highway system, and that is licensed or leased to a private entity by that department under Chapter 91 ~~or~~<sup>or</sup> 223, ~~[or 227,]~~ Transportation Code, is public property used for a public purpose if the rail facility or system, highway, or facility is operated by the private entity to provide transportation or utility services. Any part of a facility, rail facility or system, or state highway that is licensed or leased to a private entity for a commercial purpose is not exempt from taxation.

*Effective June 17, 2011*

### **§ 11.131(a)**

(a) In this section:

- (1) "Disabled veteran" has the meaning assigned by Section 11.22.
- (2) "Residence homestead" has the meaning assigned by Section 11.13.
- (3) "Surviving spouse" means the individual who was married to a disabled veteran at the time of the veteran's death.

*Effective January 1, 2012 pending constitutional amendment*

### **§ 11.131(c)**

(c) The surviving spouse of a disabled veteran who qualified for an exemption under Subsection (b) when the disabled veteran died is entitled to an exemption from taxation of the total appraised value of the same property to which the disabled veteran's exemption applied if:

- (1) the surviving spouse has not remarried since the death of the disabled veteran; and
- (2) the property:
  - (A) was the residence homestead of the surviving spouse when the disabled veteran died; and
  - (B) remains the residence homestead of the surviving spouse.

*Effective January 1, 2012 pending constitutional amendment*

### **§ 11.131(d)**

(d) If a surviving spouse who qualifies for an exemption under Subsection (c) subsequently qualifies a different property as the surviving spouse's residence homestead, the surviving spouse is entitled to an exemption from taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption from taxation of the former homestead under Subsection (c) in the last year in which the surviving spouse received an exemption under that subsection for that homestead if the surviving spouse has not remarried since the death of the disabled veteran. The surviving spouse is entitled to receive from the chief appraiser of the appraisal district in which the former residence homestead was located a written certificate providing the information necessary to determine the amount of the exemption to which the surviving spouse is entitled on the subsequently qualified homestead.

*Effective January 1, 2012 pending constitutional amendment*

### **§ 11.18(d)**

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more of the following charitable functions:

- (1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits in accordance with Section 11.1801;
- (2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;
- (3) providing support without regard to the beneficiaries' ability to pay to:
  - (A) elderly persons, including the provision of:
    - (i) recreational or social activities; and
    - (ii) facilities designed to address the special needs of elderly persons; or
  - (B) the handicapped, including training and employment:
    - (i) in the production of commodities; or
    - (ii) in the provision of services under 41 U.S.C. Sections 46-48c;
- (4) preserving a historical landmark or site;
- (5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;
- (6) promoting or providing humane treatment of animals;
- (7) acquiring, storing, transporting, selling, or distributing water for public use;
- (8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;
- (9) promoting the athletic development of boys or girls under the age of 18 years;
- (10) preserving or conserving wildlife;
- (11) promoting educational development through loans or scholarships to students;
- (12) providing halfway house services pursuant to a certification as a halfway house by the parole division of the Texas Department of Criminal Justice;
- (13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;
- (14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;
- (15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;
- (16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;
- (17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended;
- (18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);
- (19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:
  - (A) without regard to the residents' ability to pay; or
  - (B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents;
- (20) providing housing on a cooperative basis to students of an institution of higher education if:
  - (A) the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code;
  - (B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;
  - (C) the organization is governed by its members; and
  - (D) the members of the organization share the responsibility for managing the housing;

- (21) acquiring, holding, and transferring unimproved real property under an urban land bank demonstration program established under Chapter 379C, Local Government Code, as or on behalf of a land bank;
- (22) acquiring, holding, and transferring unimproved real property under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land bank; ~~or~~
- (23) providing housing and related services to individuals who:
  - (A) are unaccompanied and homeless and have a disabling condition; and
  - (B) have been continuously homeless for a year or more or have had at least four episodes of homelessness in the preceding three years; or
- ~~(24)~~ (23) operating a radio station that broadcasts educational, cultural, or other public interest programming, including classical music, and that in the preceding five years has received or been selected to receive one or more grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended.

*Effective September 1, 2011*

**§ 11.18(p)**

- (p) The exemption authorized by Subsection (d)(23) applies only to improvements that:
  - (1) are owned by a charitable organization that has been in existence for at least 10 years;
  - (2) are used to provide housing and related services to individuals described by that subsection; and
  - (3) are located on a single campus owned by a municipality with a population of more than 750,000 ~~[600,000]~~ and less than 850,000 ~~[700,000]~~.

*Effective September 1, 2011*

**§ 11.181(b)**

(b) Property may not be exempted under Subsection (a) after the fifth anniversary of the date the organization acquires the property. Property that received an exemption under Section 11.1825 and that was subsequently transferred by the organization described by that section that qualified for the exemption to an organization described by this section may not be exempted under Subsection (a) after the fifth anniversary of the date the transferring organization acquired the property.

*Effective June 17, 2011*

**§ 11.1825(f)**

- (f) For property to be exempt under this section, the organization must own the property for the purpose of constructing or rehabilitating a housing project on the property and:
  - (1) renting the housing, regardless of whether the housing project consists of multifamily or single-family dwellings, to individuals or families whose median income is not more than 60 percent of the greater of:
    - (A) the area median family income for the household's place of residence, as adjusted for family size and as established by the United States Department of Housing and Urban Development; or
    - (B) the statewide area median family income, as adjusted for family size and as established by the United States Department of Housing and Urban Development; or
  - (2) selling single-family dwellings to individuals or families whose median income is not more than the greater of:
    - (A) the area median family income for the household's place of residence, as adjusted for family size and as established by the United States Department of Housing and Urban Development; or
    - (B) the statewide area median family income, as adjusted for family size and as established by the United States Department of Housing and Urban Development.

*Effective June 17, 2011*

**§ 11.1825(p-1)**

(p-1) Notwithstanding the other provisions of this section, the transfer of property from an organization described by this section to a nonprofit organization that claims an exemption for the property under Section 11.181(a) is a proper use of and purpose for owning the property under this section and does not affect the eligibility of the property for an exemption under this section.

*Effective June 17, 2011*

**§ 11.1825(q)**

(q) If property qualifies for an exemption under this section, the chief appraiser shall use the income method of appraisal as described [provided] by Section 23.012 to determine the appraised value of the property. The chief appraiser shall use that method regardless of whether the chief appraiser considers that method to be the most appropriate method of appraising the property. In appraising the property, the chief appraiser shall:

- (1) consider the restrictions provided by this section on the income of the individuals or families to whom the dwelling units of the housing project may be rented and the amount of rent that may be charged for purposes of computing the actual rental income from the property or projecting future rental income; and
- (2) use the same capitalization rate that the chief appraiser uses to appraise other rent-restricted properties.

*Effective June 17, 2011*

**§ 11.1825(s)**

(s) Unless otherwise provided by the governing body of a taxing unit any part of which is located in a county with a population of at least 1.8 [1.4] million under Subsection (x), for property described by Subsection (f)(1), the amount of the exemption under this section from taxation is 50 percent of the appraised value of the property.

*Effective September 1, 2011*

**§ 11.1825(v)**

(v) Notwithstanding any other provision of this section, an organization may not receive an exemption from taxation of property described by Subsection (f)(1) by a taxing unit any part of which is located in a county with a population of at least 1.8 [1.4] million unless the exemption is approved by the governing body of the taxing unit in the manner provided by law for official action.

*Effective September 1, 2011*

**§ 11.1827**

(a) In this section, "community land trust" means a community land trust created or designated under Section 373B.002, Local Government Code.

(b) In addition to any other exemption to which the trust may be entitled, a community land trust is entitled to an exemption from taxation by a taxing unit of land owned by the trust, together with the housing units located on the land if they are owned by the trust, if:

(1) the trust:

(A) meets the requirements of a charitable organization provided by Sections 11.18(e) and (f);

(B) owns the land for the purpose of leasing the land and selling or leasing the housing units located on the land as provided by Chapter 373B, Local Government Code; and

(C) engages exclusively in the sale or lease of housing as described by Paragraph (B) and related activities, except that the trust may also engage in the development of low-income and moderate-income housing; and

(2) the exemption is adopted by the governing body of the taxing unit before July 1 in the manner provided by law for official action by the body.

(c) Property owned by a community land trust may not be exempted under Subsection (b) after the third anniversary

of the date the trust acquires the property unless the trust is offering to sell or lease or is leasing the property as provided by Chapter 373B, Local Government Code.

(d) A community land trust entitled to an exemption from taxation by a taxing unit under Subsection (b) is also entitled to an exemption from taxation by the taxing unit of any real or tangible personal property the trust owns and uses in the administration of its acquisition, construction, repair, sale, or leasing of property. To qualify for an exemption under this subsection, property must be used exclusively by the trust, except that another person may use the property for activities incidental to the trust's use that benefit the beneficiaries of the trust.

(e) To receive an exemption under this section, a community land trust must annually have an audit prepared by an independent auditor. The audit must include:

(1) a detailed report on the trust's sources and uses of funds; and

(2) any other information required by the governing body of the municipality or county that created or designated the trust under Section 373B.002, Local Government Code.

(f) Not later than the 180th day after the last day of the community land trust's most recent fiscal year, the trust must deliver a copy of the audit required by Subsection (e) to:

(1) the governing body of the municipality or county or an entity designated by the governing body; and

(2) the chief appraiser of the appraisal district in which the property subject to the exemption is located.

*Effective January 1, 2012*

#### **§ 11.31(n)**

(n) The Texas Commission on Environmental Quality shall establish a permanent advisory committee consisting of representatives of industry, appraisal districts, taxing units, and environmental groups, as well as members who are not representatives of any of those entities but have substantial technical expertise in pollution control technology and environmental engineering, to advise the commission regarding the implementation of this section. At least one member of the advisory committee must be a representative of a school district or junior college district in which property is located that is or previously was subject to an exemption under this section. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee.

*Effective June 17, 2011*

#### **§ 11.42(e)**

(e) A person who qualifies for an exemption under Section 11.131 after January 1 of a tax year may receive the exemption for the applicable portion of that tax year immediately on qualification for the exemption.

*Effective January 1, 2012*

#### **§ 11.43(c)**

(c) An exemption provided by Section 11.13, 11.131, 11.17, 11.18, 11.182, 11.1827, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(h), (j), or (j-1), 11.231, 11.254, 11.29, 11.30, or 11.31, once allowed, need not be claimed in subsequent years, and except as otherwise provided by Subsection (e), the exemption applies to the property until it changes ownership or the person's qualification for the exemption changes. However, the chief appraiser may require a person allowed one of the exemptions in a prior year to file a new application to confirm the person's current qualification for the exemption by delivering a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the exemption.

*Effective January 1, 2012*

#### **§ 11.43(f)**

(f) The comptroller, in prescribing the contents of the application form for each kind of exemption, shall ensure that the form requires an applicant to furnish the information necessary to determine the validity of the exemption claim. The form must require an applicant to provide the applicant's name and driver's license number, personal identification certificate number, or social security account number. If the applicant is a charitable organization with

a federal tax identification number, the form must allow the applicant to provide the organization's federal tax identification number in lieu of a driver's license number, personal identification certificate number, or social security account number. The comptroller shall include on the forms a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The comptroller shall include, on application forms for exemptions that do not have to be claimed annually, a statement explaining that the application need not be made annually and that if the exemption is allowed, the applicant has a duty to notify the chief appraiser when the applicant's entitlement to the exemption ends. In this subsection:

- (1) "Driver's license" has the meaning assigned that term by Section 521.001, Transportation Code.
- (2) "Personal identification certificate" means a certificate issued by the Department of Public Safety under Subchapter E, Chapter 521, Transportation Code.

*Effective September 1, 2011*

*Note: This change applies only to an application for an exemption from ad valorem taxation of property owned by a charitable organization filed with a chief appraiser on or after September 1, 2011. An application for an exemption from ad valorem taxation of property owned by a charitable organization filed with a chief appraiser before September 1, 2011, is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.*

#### **§ 11.43(j)**

(j) In addition to the items required by Subsection (f), an ~~an~~ application for a residence homestead ~~an~~ exemption prescribed by the comptroller and authorized by ~~under~~ Section 11.13 must:

- (1) list each owner of the residence homestead and the interest of each owner;
- (2) state that the applicant does not claim an exemption under that section on another residence homestead in this state or claim a residence homestead exemption on a residence homestead outside this state;
- (3) state that each fact contained in the application is true; ~~and~~
- (4) include a copy of the applicant's driver's license or state-issued personal identification certificate and:
  - (A) a copy of the applicant's vehicle registration receipt; or
  - (B) if the applicant does not own a vehicle, an affidavit to that effect signed by the applicant and a copy of a utility bill for the property subject to the claimed exemption in the applicant's name;
- (5) state ~~[include a sworn statement]~~ that the applicant has read and understands the notice of the penalties required by Subsection (f); and
- (6) be signed by the applicant.

*Effective September 1, 2011*

*Note: This change applies only to an application for a residence homestead exemption filed with a chief appraiser on or after the effective date of September 1, 2011. An application for a residence homestead exemption filed with a chief appraiser before the effective date is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.*

#### **§ 11.43(n)**

(n) A chief appraiser may not allow an exemption provided by Section 11.13 unless:

- (1) the address on the driver's license or state-issued personal identification certificate provided by the applicant under Subsection (j) corresponds to the address on the applicant's vehicle registration receipt or utility bill provided under that subsection; and
- (2) the address indicated in Subdivision (1) corresponds to the address of the property for which the exemption is claimed.

*Effective September 1, 2011*

*Note: This change applies only to an application for a residence homestead exemption filed with a chief appraiser on or after the effective date of September 1, 2011. An application for a residence homestead exemption filed with a chief appraiser before the effective date is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.*

**§ 11.43(o)**

(o) The application form for an exemption authorized by Section 11.13 must require an applicant for an exemption under Subsection (c) or (d) of that section who is not specifically identified on a deed or other appropriate instrument recorded in the applicable real property records as an owner of the residence homestead to provide an affidavit or other compelling evidence establishing the applicant's ownership of an interest in the homestead.

*Effective September 1, 2011*

*Note: This change applies only to an application for a residence homestead exemption filed with a chief appraiser on or after the effective date of September 1, 2011. An application for a residence homestead exemption filed with a chief appraiser before the effective date is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.*

**§ 11.431(a)**

(a) The chief appraiser shall accept and approve or deny an application for a residence homestead exemption, including an an [a disabled veteran residence homestead] exemption under Section 11.131 for the residence homestead of a disabled veteran or the surviving spouse of a disabled veteran, after the deadline for filing it has passed if it is filed not later than one year after the delinquency date for the taxes on the homestead.

*Effective January 1, 2012 pending constitutional amendment*

**§ 11.432**

(a) Except as provided by Subsection (a-1), for [For] a manufactured home to qualify as a residence homestead [for an exemption] under Section 11.13, the application for [the] exemption required by Section 11.43 must be accompanied by:

(1) a copy of the statement of ownership and location for the manufactured home issued by the manufactured housing division of the Texas Department of Housing and Community Affairs under Section 1201.207, Occupations Code, showing that the individual applying for the exemption is the owner of the manufactured home;

(2) a [or be accompanied by a verified] copy of the purchase contract or payment receipt showing that the applicant is the purchaser of the manufactured home; or

(3) a sworn affidavit by the applicant stating that:

(A) the applicant is the owner of the manufactured home;

(B) the seller of the manufactured home did not provide the applicant with a purchase contract;  
and

(C) the applicant could not locate the seller after making a good faith effort[~~, unless a photostatic copy of the current title page for the home is displayed on the computer website of the Texas Department of Housing and Community Affairs].~~

(a-1) An [The] appraisal district may rely upon the computer records of the Texas Department of Housing and Community Affairs to verify an applicant's ownership of a manufactured home. An applicant is not required to submit an accompanying document described by Subsection (a) if the appraisal district verifies the applicant's ownership under this subsection [determine whether a manufactured home qualifies for an exemption].

(b) The land on which a manufactured home is located qualifies as a residence homestead [for an exemption] under Section 11.13 only if:

(1) the land is owned by one or more individuals, including the applicant [manufactured home qualifies for an exemption as provided by Subsection (a)]; [and]

(2) the applicant occupies the manufactured home as the applicant's principal residence; and

(3) the applicant demonstrates ownership of the manufactured home under Subsection (a) or the appraisal district determines the applicant's ownership under Subsection (a-1) [manufactured home is listed together with the land on which it is located under Section 25.08].

(c) The owner of land that qualifies as a residence homestead under this section [consumer] is entitled to obtain the homestead exemptions provided by Section 11.13 and any other benefit granted under this title to the owner of a residence homestead regardless of whether the applicant [owner] has elected to treat the manufactured home as real property or personal property and regardless of whether the manufactured home is listed on the tax rolls with the real

property to which it is attached or listed on the tax rolls separately.

(d) [~~(e)~~] In this section, "manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

*Effective September 1, 2011*

## **SUBTITLE D. APPRAISAL AND ASSESSMENT**

### **§ 22.01(m)**

(m) Notwithstanding Subsections (a) and (b), a person is not required to render for taxation personal property appraised under Section 23.24.

*Effective June 17, 2011*

### **§ 22.28**

(a) Except as otherwise provided by Section 22.30, the chief appraiser shall impose a penalty on a person who fails to timely file a rendition statement or property report required by this chapter in an amount equal to 10 percent of the total amount of taxes imposed on the property for that year by taxing units participating in the appraisal district. The chief appraiser shall deliver by first class mail a notice of the imposition of the penalty to the person. The notice may be delivered with a notice of appraised value provided under Section 25.19, if practicable.

(b) The chief appraiser shall certify to the assessor for each taxing unit participating in the appraisal district that imposes taxes on the property that a penalty imposed under this chapter has become final [~~the chief appraiser has imposed a penalty under this section~~]. The assessor shall add the amount of the penalty to the original amount of tax imposed on the property and shall include that amount in the tax bill for that year. The penalty becomes part of the tax on the property and is secured by the tax lien that attaches to the property under Section 32.01.

(c) A penalty under this chapter becomes final if:

(1) the property owner does not protest under Section 22.30 the imposition of the penalty before the appraisal review board;

(2) the appraisal review board determines a protest brought by the property owner under Section 22.30 by denying a waiver of the penalty and the property owner does not bring an appeal under Chapter 42 or the judgment of the district court sustaining the determination subsequently becomes final; or

(3) a court imposes the penalty under Section 22.29 and the order of the court imposing the penalty subsequently becomes final.

(d) To help defray the costs of administering this chapter, a collector who collects a penalty imposed under Subsection (a) shall remit to the appraisal district that employs the chief appraiser who imposed the penalty an amount equal to five percent of the penalty amount collected.

*Effective June 17, 2011*

*Note: This change applies only to a penalty that is imposed under Section 22.28, Tax Code, on or after the effective date of June 17, 2011. A penalty that was imposed under that section before the effective date is governed by the law in effect on the date the penalty was imposed, and the former law is continued in effect for that purpose.*

### **§ 22.30**

(a) The chief appraiser may waive the penalty imposed by Section 22.28 [~~or 22.29~~] if the chief appraiser determines that the person exercised reasonable diligence to comply with or has substantially complied with the requirements of this chapter. A written request, accompanied by supporting documentation, stating the grounds on which penalties should be waived must be sent to the chief appraiser before June 1 or not later than the 30th day after the date the person received notification of the imposition of the penalty, whichever is later. The chief appraiser shall make a determination of the penalty waiver request:

(1) based on the information submitted; and

(2) after consideration of the factors described by Subsection (b).

(a-1) If the chief appraiser denies the penalty waiver request, the chief appraiser shall deliver by first class mail written notice of the denial to the property owner. The property owner may protest the imposition of the penalty before the appraisal review board. To initiate a protest, the property owner must file written notice of the protest with the appraisal review board before June 1 or not later than the 30th day after the date the property owner receives the notice of denial, whichever is later.

(b) The appraisal review board [~~chief appraiser~~] shall determine the protest [~~notify the person of the chief appraiser's determination regarding the penalty waiver request~~] after considering:

- (1) the person's compliance history with respect to paying taxes and filing statements or reports;
  - (2) the type, nature, and taxability of the specific property involved;
  - (3) the type, nature, size, and sophistication of the person's business or other entity for which property is rendered;
  - (4) the completeness of the person's records;
  - (5) the person's reliance on advice provided by the appraisal district that may have contributed to the person's failure to comply and the imposition of the penalty;
  - (6) any change in appraisal district policy during the current or preceding tax year that may affect how property is rendered; and
  - (7) any other factors that may have caused the person to fail to timely file a statement or report.
- (c) The procedures for a [A property owner is entitled to] protest before the appraisal review board under this section are governed by the procedures for a taxpayer protest under Subchapter C, Chapter 41. The property owner is entitled to appeal under Chapter 42 an order of the appraisal review board determining a protest brought under this section [the failure or refusal of a chief appraiser to waive a penalty under Subsection (a)].
- (d) Notwithstanding any other provision of this section, the chief appraiser and a protesting property owner may enter into a settlement agreement on the matter being protested, if both parties agree that there was a mistake.

*Effective June 17, 2011*

*Note: This change applies only to a penalty that is imposed under Section 22.28, Tax Code, on or after the effective date of June 17, 2011. A penalty that was imposed under that section before the effective date is governed by the law in effect on the date the penalty was imposed, and the former law is continued in effect for that purpose.*

### § 23.1211

(a) In this section:

- (1) "List price" means the value of an aircraft as listed in the most recent edition of the International Bureau of Aviation Aircraft Values Book.
- (2) "Maximum takeoff weight" means the maximum takeoff weight listed in the aircraft's type certificate data sheet for the lowest rated configuration or, if the aircraft does not have a type certificate data sheet, the maximum takeoff weight target as published by the aircraft's manufacturer.
- (3) "Temporary production aircraft" means an aircraft:
  - (A) that is a transport category aircraft as defined by federal aviation regulations;
  - (B) for which a Federal Aviation Administration special airworthiness certificate has been issued;
  - (C) that is operated under a Federal Aviation Administration special flight permit;
  - (D) that has a maximum takeoff weight of at least 145,000 pounds; and
  - (E) that is temporarily located in this state for purposes of manufacture or assembly.

(b) The chief appraiser shall determine the appraised value of temporary production aircraft to be 10 percent of the aircraft's list price as of January 1.

(c) The legislature finds that there is a lack of information that reliably establishes the market value of temporary production aircraft. Accordingly, the legislature has enacted this section to specify the method to be used in determining the appraised value of such aircraft.

*Effective September 1, 2011*

*Note: This change applies only to ad valorem taxes imposed for a tax year beginning on or after January 1, 2012.*

### § 23.1241(a)

(a) In this section:

- (1) "Dealer" means a person engaged in the business in this state of selling, leasing, or renting heavy equipment.
- (2) "Dealer's heavy equipment inventory" means all items of heavy equipment that a dealer holds for sale, lease, or rent during a 12-month period [at retail]. [The term includes items of heavy equipment that are leased or rented but subject to a purchase option by the lessee or renter.]
- (3) "Dealer-financed sale" means the sale at retail of an item of heavy equipment in which the dealer finances the purchase of the item, is the sole lender in the transaction, and retains exclusively the right to enforce the terms of the agreement that evidences the sale.

- (4) "Declaration" means a dealer's heavy equipment inventory declaration form adopted by the comptroller under this section.
- (5) "Fleet transaction" means the sale of five or more items of heavy equipment from a dealer's heavy equipment inventory to the same person in one calendar year.
- (6) "Heavy equipment" means self-propelled, self-powered, or pull-type equipment, including farm equipment or a diesel engine, that weighs at least 1,500 [~~3,000~~] pounds and is intended to be used for agricultural, construction, industrial, maritime, mining, or forestry uses. The term does not include a motor vehicle that is required by:
- (A) Chapter 501, Transportation Code, to be titled; or
  - (B) Chapter 502, Transportation Code, to be registered.
- (7) "Sales price" means:
- (A) the total amount of money paid or to be paid to a dealer for the purchase of an item of heavy equipment; or
  - (B) for a lease or rental [~~with an option to purchase~~], the total amount of the lease or rental payments [~~plus any final consideration, excluding interest~~].
- (8) "Subsequent sale" means a dealer-financed sale of an item of heavy equipment that, at the time of the sale, has been the subject of a dealer-financed sale from the same dealer's heavy equipment inventory in the same calendar year. The term does not include a rental or lease with an unexercised purchase option or without a purchase option.
- (9) "Total annual sales" means the total of the:
- (A) sales price for each sale from a dealer's heavy equipment inventory in a 12-month period; and
  - (B) lease and rental payments received for each lease or rental of heavy equipment inventory in a 12-month period.

*Effective January 1, 2012*

**§ 23.1241(b)**

- (b) For the purpose of the computation of property tax,[-
- ~~(4)] the market value of a dealer's heavy equipment inventory on January 1 is the total annual sales, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the preceding tax year, divided by 12[-; and~~
  - ~~(2) a sale is considered to occur when possession of an item of heavy equipment is transferred from the dealer to the purchaser].~~

*Effective January 1, 2012*

**§ 23.1241(b-1)**

- (b-1) For the purpose of the computation of property tax on the market value of the dealer's heavy equipment inventory, the sales price of an item of heavy equipment that is sold during the preceding tax year after being leased or rented for a portion of that same tax year is considered to be the sum of the sales price of the item plus the total lease and rental payments received for the item in the preceding tax year.

*Effective January 1, 2012*

**§ 23.1241(e)**

- (e) A dealer is presumed to be an owner of a dealer's heavy equipment inventory on January 1 if, in the 12-month period ending on December 31 of the preceding year, the dealer sold, leased, or rented an item of heavy equipment to a person other than a dealer. The presumption is not rebutted by the fact that a dealer has no item of heavy equipment physically on hand for sale from the dealer's heavy equipment inventory on January 1.

*Effective January 1, 2012*

**§ 23.1241(i)**

Section 23.1241(i) is repealed.  
*Effective January 1, 2012*

**§ 23.1241(j)**

(j) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a declaration required by Subsection (f) shall forfeit a penalty. A tax lien attaches to the dealer's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, or county attorney may ~~shall~~ collect the penalty established by this section in the name of the ~~chief appraiser or~~ collector. The chief appraiser may collect the penalty in the name of the chief appraiser. The chief appraiser or the appropriate district attorney, criminal district attorney, or county attorney may sue to enforce compliance with this section. Venue of an action brought under this subsection, including an action for injunctive relief, is in the county in which the violation occurred or in the county in which the owner maintains the owner's principal place of business or residence. The court may award attorney's fees to a chief appraiser, district attorney, criminal district attorney, or county attorney who prevails in a suit to collect a penalty or enforce compliance with this section. A penalty forfeited under this subsection is \$1,000 for each month or part of a month in which a declaration is not filed or timely filed after it is due.

*Effective January 1, 2012*

**§ 23.1242(b)**

(b) Except for an item of heavy equipment sold to a dealer, an item of heavy equipment included in a fleet transaction, ~~or~~ an item of heavy equipment that is the subject of a subsequent sale, or an item of heavy equipment that is subject to a lease or rental, an owner or a person who has agreed by contract to pay the owner's current year property taxes levied against the owner's heavy equipment inventory shall assign a unit property tax to each item of heavy equipment sold from a dealer's heavy equipment inventory. In the case of a lease or rental, the owner shall assign a unit property tax to each item of heavy equipment leased or rented. The unit property tax of each item of heavy equipment is determined by multiplying the sales price of the item or the monthly lease or rental payment received for the item, as applicable, by the unit property tax factor. If the transaction is a lease or rental, the owner shall collect the unit property tax from the lessee or renter at the time the lessee or renter submits payment for the lease or rental. The owner of the equipment shall state the amount of the unit property tax assigned as a separate line item on an invoice. On or before the 10th day of each month the owner shall, together with the statement filed by the owner as required by this section, deposit with the collector an amount equal to the total of unit property tax assigned to all items of heavy equipment sold, leased, or rented from the dealer's heavy equipment inventory in the preceding month to which a unit property tax was assigned. The money shall be deposited by the collector to the credit of the owner's escrow account for prepayment of property taxes as provided by this section. An escrow account required by this section is used to pay property taxes levied against the dealer's heavy equipment inventory, and the owner shall fund the escrow account as provided by this subsection.

*Effective January 1, 2012*

**§ 23.1242(d)**

(d) Except as provided by Section 23.1243, the ~~The~~ owner may not withdraw funds in an escrow account created under this section.

*Effective January 1, 2012*

**§ 23.1242(e)**

(e) The comptroller by rule shall adopt a dealer's heavy equipment inventory tax statement form. Each month, a dealer shall complete the form regardless of whether an item of heavy equipment is sold, leased, or rented. A dealer

may use no other form for that purpose. The statement may include the information the comptroller considers appropriate but shall include at least the following:

- (1) a description of each item of heavy equipment sold, leased, or rented including any unique identification or serial number affixed to the item by the manufacturer;
- (2) the sales price of or lease or rental payment received for the item of heavy equipment, as applicable;
- (3) the unit property tax of the item of heavy equipment, if any; and
- (4) the reason no unit property tax is assigned if no unit property tax is assigned.

*Effective January 1, 2012*

#### **§ 23.1242(f)**

(f) On or before the 10th day of each month, a dealer shall file with the collector the statement covering the sale, lease, or rental of each item of heavy equipment sold, leased, or rented by the dealer in the preceding month. On or before the 10th day of a month following a month in which a dealer does not sell, lease, or rent an item of heavy equipment, the dealer must file the statement with the collector and indicate that no sales, leases, or rentals were made in the prior month. A dealer shall file a copy of the statement with the chief appraiser and retain documentation relating to the disposition of each item of heavy equipment sold and the lease or rental of each item of heavy equipment. A chief appraiser or collector may examine documents held by a dealer as provided by this subsection in the same manner, and subject to the same conditions, as provided by Section 23.1241(g).

*Effective January 1, 2012*

#### **§ 23.1242(l)**

Section 23.1242(l) is repealed.

*Effective January 1, 2012*

#### **§ 23.1242(m)**

(m) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a statement as required by this section shall forfeit a penalty. A tax lien attaches to the dealer's [owner's] business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, or county attorney may [shall] collect the penalty established by this section in the name of the [chief appraiser or] collector. The chief appraiser may collect the penalty in the name of the chief appraiser. The chief appraiser or the appropriate district attorney, criminal district attorney, or county attorney may sue to enforce compliance with this section. Venue of an action brought under this subsection, including an action for injunctive relief, is in the county in which the violation occurred or in the county in which the owner maintains the owner's principal place of business or residence. The court may award attorney's fees to a chief appraiser, district attorney, criminal district attorney, or county attorney who prevails in a suit to collect a penalty or enforce compliance with this section. A penalty forfeited under this subsection is \$500 for each month or part of a month in which a statement is not filed or timely filed after it is due.

*Effective January 1, 2012*

#### **§ 23.1243**

(a) In this section, "dealer" and "fleet transaction" have the meanings assigned those terms by Section 23.1241.

(b) A dealer may apply to the chief appraiser for a refund of the unit property tax paid on a sale that is a fleet transaction.

(c) The chief appraiser shall determine whether to approve or deny, wholly or partly, the refund requested in the application. The chief appraiser shall deliver a written notice of the chief appraiser's determination to the collector maintaining the escrow account described by Section 23.1242 and to the applicant that states the amount, if any, to be refunded.

(d) A collector who receives a notice described by Subsection (c) stating an amount to be refunded shall pay the

amount to the dealer not later than the 45th day after the date the collector receives the notice. The dealer shall use the dealer's best efforts to pay the refund to the customer who paid the tax that relates to the fleet transaction for which the refund is requested not later than the 30th day after the date the dealer receives the refund.

*Effective January 1, 2012*

### § 23.129

(a) Subject to Subsection (b):

(1) a chief appraiser may waive a penalty imposed by Section 23.121(k), 23.1241(j), or 23.127(k); and

(2) a collector may waive a penalty imposed by Section 23.122(n), 23.1242(m), or 23.128(m).

(b) A chief appraiser or collector may waive a penalty under Subsection (a) only if:

(1) the taxpayer seeking the waiver files a written application for the waiver with the chief appraiser or collector, as applicable, not later than the 30th day after the date the declaration or statement, as applicable, was required to be filed;

(2) the taxpayer's failure to file or failure to timely file the declaration or statement was a result of:

(A) a natural disaster that made it effectively impossible for the taxpayer to comply with the filing requirement; or

(B) an event beyond the control of the taxpayer that destroyed the taxpayer's property or records;  
and

(3) the taxpayer is otherwise in compliance with this chapter.

*Effective September 1, 2011*

### § 23.175

(a) If a real property interest in oil or gas in place is appraised by a method that takes into account the future income from the sale of oil or gas to be produced from the interest, the method must use the average price of the oil or gas from the interest for the preceding calendar year multiplied by a price adjustment ~~[market condition]~~ factor as the price at which the oil or gas produced from the interest is projected to be sold in the current year of the appraisal. The average price for the preceding calendar year is calculated by dividing the sum of the monthly average prices for which oil and gas from the interest was selling during each month of the preceding calendar year by 12. If there was no production of oil or gas from the interest during any month of the preceding calendar year, the average price for which similar oil and gas from comparable interests was selling during that month is to be used. The chief appraiser ~~[comptroller]~~ shall calculate the price adjustment ~~[market condition]~~ factor by dividing the price of imported low-sulfur light crude oil in nominal dollars or the spot price of natural gas at the Henry Hub in nominal dollars, as applicable, as projected for the current calendar year by the United States Energy Information Administration in the most recently published Early Release Overview of the Annual Energy Outlook ~~[comptroller's current calendar year statewide average price for oil or gas, as applicable, forecasted for revenue estimating purposes]~~ by the price of imported low-sulfur light crude oil in nominal dollars or the spot price of natural gas at the Henry Hub in nominal dollars, as applicable, for the preceding calendar year as stated in the same report ~~[preceding calendar year actual statewide average price for oil or gas, as applicable. For purposes of calculating the market condition factor, "price" means the market value of oil or gas as determined under Subchapter C, Chapter 201, or Section 202.053, as applicable. The comptroller shall calculate the preceding calendar year actual statewide average prices for oil and gas and the market condition factors for oil and gas and publish that information to be used for ad valorem tax appraisal purposes concurrently with the current calendar year statewide average prices for oil and gas forecasted for revenue estimating purposes]~~. The price for the interest used in the second through the sixth ~~[or a subsequent]~~ calendar year of the appraisal may not reflect an annual escalation or de-escalation rate that exceeds the average annual percentage change from 1982 to the most recent year for which the information is available in the producer price index for domestically produced petroleum or for natural gas, as applicable, as published by the Bureau of Labor Statistics of the United States Department of Labor. The price for the interest used in the sixth calendar year of the appraisal must be used in each subsequent year of the appraisal ~~[shall reflect the same percentage rate increase or decrease in the price for oil or gas, as applicable, as projected for that calendar year by the comptroller for revenue estimating purposes]~~.

(b) The comptroller by rule shall develop and distribute to each appraisal office appraisal manuals that specify the formula to be used in computing the limit on the price for an interest used in the second through the sixth year of an

appraisal and the methods and procedures to discount future income from the sale of oil or gas from the interest to present value.

(c) Each appraisal office shall use the formula, methods, and procedures specified by the appraisal manuals developed under Subsection (b) [~~of this section~~].

*Effective January 1, 2012*

*Note: This change applies only to the appraisal for ad valorem tax purposes of a real property interest in oil or gas in place for a tax year beginning on or after the effective date of January 1, 2012.*

#### **§ 23.21(c)**

(c) In appraising real property that was previously owned by an organization that received an exemption for the property under Section 11.181(a) and that was sold to a low-income individual or family meeting income eligibility standards established by the organization under regulations or restrictions limiting to a percentage of the individual's or the family's income the amount that the individual or family was required to pay for purchasing the property, the chief appraiser shall take into account the extent to which that use and limitation and any resale restrictions or conditions applicable to the property established by the organization reduce the market value of the property.

*Effective June 17, 2011*

#### **§ 23.21(c)**

(c) In appraising land or a housing unit that is leased by a community land trust created or designated under Section 373B.002, Local Government Code, to a family meeting the income-eligibility standards established by Section 373B.006 of that code under regulations or restrictions limiting the amount that the family may be required to pay for the rental or lease of the property, the chief appraiser shall take into account the extent to which that use and limitation reduce the market value of the property.

*Effective January 1, 2012*

*Note: This change applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of January 1, 2012.*

#### **§ 23.21(d)**

(d) In appraising a housing unit that the owner or a predecessor of the owner acquired from a community land trust created or designated under Section 373B.002, Local Government Code, and that is located on land owned by the trust and leased by the owner of the housing unit, the chief appraiser shall take into account the extent to which any regulations or restrictions limiting the right of the owner of the housing unit to sell the housing unit, including any limitation on the price for which the housing unit may be sold, reduce the market value of the housing unit.

*Effective January 1, 2012*

*Note: This change applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of January 1, 2012.*

#### **§ 23.51(2)**

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; planting cover crops or leaving land idle for the purpose of participating in a governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management or water stewardship.

*Effective January 1, 2012 pending constitutional amendment*

**§ 23.51(9)**

(9) "Water stewardship" means actively using land that at the time the water-stewardship use began was appraised as qualified open-space land under this subchapter or as qualified timber land under Subchapter E in at least three of the following ways to promote and sustain water quality and conservation of water resources:

(A) erosion control;

(B) habitat stewardship benefiting water quality or conservation;

(C) restoration of native aquatic and riparian animal and plant species;

(D) implementation of practices that result in a reduction of the amount of water used from a well that is exempt from permitting under Section 36.117(b)(1), Water Code;

(E) riparian and wetland habitat and buffer restoration and protection;

(F) allowance of groundwater and surface water monitoring for data collection purposes in accordance with state water planning or groundwater management area planning;

(G) invasive aquatic plant and animal control;

(H) maintaining a water right on deposit in the Texas Water Trust in accordance with Section 15.7031, Water Code, if the source of supply or point of diversion is located on land that at the time the water right was deposited was appraised as qualified open-space land under this subchapter or as qualified timber land under Subchapter E; and

(I) holding a water right that authorizes the use of water for instream flows dedicated to environmental needs or bay and estuary inflows as provided by Section 11.0237, Water Code, if the source of supply or point of diversion is located on land that, at the time the water right was amended to authorize that use, was appraised as qualified open-space land under this subchapter or as qualified timber land under Subchapter E.

*Effective January 1, 2012 pending constitutional amendment*

**§ 23.52(g)**

(g) The category of land that qualifies under Section 23.51(7) or (9) is the category of the land under this subchapter or Subchapter E, as applicable, before the wildlife-management use or water-stewardship use, as applicable, began.

*Effective January 1, 2012 pending constitutional amendment*

**§ 23.5215**

(a) The Parks and Wildlife Department, with the assistance of the comptroller, shall develop standards for determining whether land qualifies under Section 23.51(9) for appraisal under this subchapter. On request of the Parks and Wildlife Department or the comptroller, the Texas AgriLife Extension Service shall assist the department and the comptroller in developing the standards. The comptroller shall designate one chief appraiser from a rural area of this state and one chief appraiser from an urban area of this state to assist in the development of the standards. The comptroller by rule shall adopt the standards developed by the Parks and Wildlife Department or adopt alternative standards and distribute those rules to each appraisal district.

(b) The standards adopted under Subsection (a) must:

(1) require that a tract of land:

(A) be at least a specified minimum size and not more than a specified maximum size as necessary to accomplish the water-stewardship use; and

(B) possess specific water-related attributes based on the intensity of use of the land and other requirements relating to the productivity of the land;

(2) require that the owner of the land hold a water right that authorizes the use of a specified minimum amount of water for instream flows dedicated to environmental needs or bay and estuary inflows for the land to qualify under Section 23.51(9)(I) for appraisal under this subchapter;

(3) specify the degree to which the land may be developed without becoming ineligible under Section 23.56(b) for appraisal as provided by this subchapter on the basis of use for water stewardship; and

(4) address:

(A) the activities listed in Section 23.51(9);

(B) the region in this state in which the land is located; and

(C) any other factor the Parks and Wildlife Department or the comptroller determines is relevant.

(c) The standards adopted under Subsection (a) must limit eligibility of a tract of land for appraisal under this subchapter on the basis of use for water stewardship to the portion of the tract of land that is currently devoted principally to use for that purpose.

(d) The standards adopted under Subsection (a) may include specifications for a written management plan to be developed by a landowner if the landowner receives a request for a written management plan from a chief appraiser as part of a request for additional information under Section 23.57.

(e) In determining whether land qualifies under Section 23.51(9) for appraisal under this subchapter, the chief appraiser and the appraisal review board shall apply the standards adopted under Subsection (a) and, to the extent they do not conflict with those standards, the appraisal manuals developed and distributed under Section 23.52(d).

*Effective January 1, 2012 pending constitutional amendment*

### **§ 23.55**

(p) The sanctions provided by Subsection (a) do not apply to real property transferred to an organization described by Section 11.181(a) if the organization converts the real property to a use for which the real property is eligible for an exemption under Section 11.181(a). This subsection does not apply to the sanctions provided by Subsection (a) in connection with a change in use described by this subsection that are due to a county or school district unless the governing body of the county or school district, as applicable, waives the sanctions in the manner required by law for official action by the body.

*Effective June 17, 2011*

*Note: This change applies only to a transfer of real property that occurs on or after the effective date of June 17, 2011. A transfer of real property that occurs before the effective date is governed by the law in effect immediately before the effective date, and that law is continued in effect for that purpose.*

### **§ 23.56**

(a) Land is not eligible for appraisal as provided by this subchapter if:

(1) the land is located inside the corporate limits of an incorporated city or town, unless:

(A) the city or town is not providing the land with governmental and proprietary services substantially equivalent in standard and scope to those services it provides in other parts of the city or town with similar topography, land utilization, and population density;

(B) the land has been devoted principally to agricultural use continuously for the preceding five years; or

(C) the land:

(i) has been devoted principally to agricultural use or to production of timber or forest products continuously for the preceding five years; and

(ii) is used for wildlife management or water stewardship;

(2) the land is owned by an individual who is a nonresident alien or by a foreign government if that individual or government is required by federal law or by rule adopted pursuant to federal law to register his ownership or acquisition of that property; or

(3) the land is owned by a corporation, partnership, trust, or other legal entity if the entity is required by federal law or by rule adopted pursuant to federal law to register its ownership or acquisition of that land and a nonresident alien or a foreign government or any combination of nonresident aliens and foreign governments own a majority interest in the entity.

(b) Land is not eligible for appraisal as provided by this subchapter on the basis of use for water stewardship if:

(1) the land was appraised as qualified open-space land under this subchapter at the time the water-stewardship use began and the land is developed to a degree that precludes the land from eligibility for appraisal under this subchapter on a basis other than use for water stewardship; or

(2) the land was appraised as qualified timber land under Subchapter E at the time the water-stewardship use began and the land is developed to a degree that precludes the land from eligibility for appraisal under

that subchapter.

*Effective January 1, 2012 pending constitutional amendment*

**§ 23.60(a)**

(a) An owner of qualified open-space land, other than land used for wildlife management or water stewardship, on which the Texas Animal Health Commission has established a temporary quarantine of at least 90 days in length in the current tax year for the purpose of regulating the handling of livestock and eradicating ticks or exposure to ticks at any time during a tax year is entitled to a reappraisal of the owner's land for that year on written request delivered to the chief appraiser.

*Effective January 1, 2012 pending constitutional amendment*

**§ 25.025(a)**

(a) This section applies only to:

- (1) a current or former peace officer as defined by Article 2.12, Code of Criminal Procedure;
- (2) a county jailer as defined by Section 1701.001, Occupations Code;
- (3) an employee of the Texas Department of Criminal Justice;
- (4) a commissioned security officer as defined by Section 1702.002, Occupations Code;
- (5) a victim of family violence as defined by Section 71.004, Family Code, if as a result of the act of family violence against the victim, the actor is convicted of a felony or a Class A misdemeanor;
- (6) a federal judge, a state judge, or the spouse of a federal judge or state judge;
- (7) a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;
- (8) an officer or employee of a community supervision and corrections department established under Chapter 76, Government Code, who performs a duty described by Section 76.004(b) of that code;
- (9) a criminal investigator of the United States as described by Article 2.122(a), Code of Criminal Procedure; ~~and~~
- (10) a police officer or inspector of the United States Federal Protective Service; and
- (11) a current or former employee of the office of the attorney general who is or was assigned to a division of that office the duties of which involve law enforcement.

*Effective June 17, 2011*

**§ 25.025(a)**

(a) This section applies only to:

- (1) a current or former peace officer as defined by Article 2.12, Code of Criminal Procedure;
- (2) a county jailer as defined by Section 1701.001, Occupations Code;
- (3) an employee of the Texas Department of Criminal Justice;
- (4) a commissioned security officer as defined by Section 1702.002, Occupations Code;
- (5) a victim of family violence as defined by Section 71.004, Family Code, if as a result of the act of family violence against the victim, the actor is convicted of a felony or a Class A misdemeanor;
- (6) a federal judge, a state judge, or the spouse of a federal judge or state judge;
- (7) a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;
- (8) an officer or employee of a community supervision and corrections department established under Chapter 76, Government Code, who performs a duty described by Section 76.004(b) of that code;
- (9) a criminal investigator of the United States as described by Article 2.122(a), Code of Criminal Procedure; ~~and~~
- (10) a police officer or inspector of the United States Federal Protective Service; and
- (11) a current or former United States attorney or assistant United States attorney and the spouse and child of the attorney.

*Effective June 17, 2011*

**§ 25.026**

(a) In this section:

- (1) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.
- (2) "Sexual assault program" has the meaning assigned by Section 420.003, Government Code.
- (3) "Victims of trafficking shelter center" means a program that:

(A) is operated by a public or private nonprofit organization; and

(B) provides comprehensive residential and nonresidential services to victims of trafficking of persons under Section 20A.02, Penal Code.

(b) Information in appraisal records under Section 25.02 is confidential and is available only for the official use of the appraisal district, this state, the comptroller, and taxing units and political subdivisions of this state if the information identifies the address of a family violence shelter center, ~~or~~ a sexual assault program, or a victims of trafficking shelter center.

*Effective September 1, 2011*

**§ 25.06(c)**

(c) This section does not apply to:

(1) any portion of a facility owned by the Texas Department of Transportation that is ~~[part of the Trans-Texas Corridor, is]~~ a rail facility or system[;] or is a highway in the state highway system and that is licensed or leased to a private entity by that department under Chapter 91 or 223 ~~[- 227, or 361],~~ Transportation Code; or

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is ~~[part of the Trans-Texas Corridor, is]~~ a rail facility or system[;] or is a highway in the state highway system.

*Effective June 17, 2011*

**§ 25.07(c)**

(c) Subsection (a) does not apply to:

(1) any portion of a facility owned by the Texas Department of Transportation that is ~~[part of the Trans-Texas Corridor, is]~~ a rail facility or system[;] or is a highway in the state highway system and that is licensed or leased to a private entity by that department under Chapter 91 or 223 ~~[- 227, or 361],~~ Transportation Code; or

(2) a leasehold or other possessory interest granted by the Texas Department of Transportation in a facility owned by that department that is ~~[part of the Trans-Texas Corridor, is]~~ a rail facility or system[;] or is a highway in the state highway system.

*Effective June 17, 2011*

**§ 25.08**

(g) The chief appraiser shall apportion a residence homestead exemption for property consisting of land and a manufactured home listed separately on the tax roll on a pro rata basis based on the appraised value of the land and the manufactured home.

*Effective January 1, 2012*

*Note: This change applies only to an apportionment of a residence homestead exemption for a tax year beginning on or after the effective date of January 1, 2012.*

**§ 25.25(c)**

(c) The appraisal review board, on motion of the chief appraiser or of a property owner, may direct by written order changes in the appraisal roll for any of the five preceding years to correct:

- (1) clerical errors that affect a property owner's liability for a tax imposed in that tax year;
- (2) multiple appraisals of a property in that tax year; ~~or~~
- (3) the inclusion of property that does not exist in the form or at the location described in the appraisal roll;  
or
- (4) an error in which property is shown as owned by a person who did not own the property on January 1 of that tax year.

*Effective September 1, 2011*

*Note: This change applies only to a motion to correct an appraisal roll filed on or after the effective date of September 1, 2011. A motion to correct an appraisal roll filed before the effective date is governed by the law in effect on the date the motion was filed, and the former law is continued in effect for that purpose.*

**§ 25.25(e)**

(e) If the chief appraiser and the property owner do not agree to the correction before the 15th day after the date the motion is filed, a party bringing a motion under Subsection (c) or (d) is entitled on request to a hearing on and a determination of the motion by the appraisal review board. A party bringing a motion under this section must describe the error or errors that the motion is seeking to correct. Not later than 15 days before the date of the hearing, the board shall deliver written notice of the date, time, and place of the hearing to the chief appraiser, the property owner, and the presiding officer of the governing body of each taxing unit in which the property is located. The chief appraiser, the property owner, and each taxing unit are entitled to present evidence and argument at the hearing and to receive written notice of the board's determination of the motion. A property owner who files the motion must comply with the payment requirements of Section 25.26 ~~[42-08]~~ or forfeit the right to a final determination of the motion.

*Effective September 1, 2011*

**§ 25.25(g)**

(g) Within 45 days after receiving notice of the appraisal review board's determination of a motion under this section, the property owner or the chief appraiser may file suit to compel the board to order a change in the appraisal roll as required by this section. A taxing unit may not be made a party to a suit filed by a property owner or chief appraiser under this subsection.

*Effective May 20, 2011*

*Note: This change applies only to a suit under Subsection (g), Section 25.25, Tax Code, that is filed on or after the effective date of May 20, 2011. A suit under Subsection (g), Section 25.25, Tax Code, that was filed before the effective date is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.*

**§ 25.25(g)**

(g) Within 45 days after receiving notice of the appraisal review board's determination of a motion under this section or of a determination of the appraisal review board that the property owner has forfeited the right to a final determination of a motion under this section for failing to comply with the prepayment requirements of Section 25.26, the property owner or the chief appraiser may file suit to compel the board to order a change in the appraisal roll as required by this section.

*Effective June 17, 2011*

**§ 25.25(g)**

(g) Within 60 [~~45~~] days after receiving notice of the appraisal review board's determination of a motion under this section, the property owner or the chief appraiser may file suit to compel the board to order a change in the appraisal roll as required by this section.

SECTION 2. The change in law made by this Act applies only to a suit to compel an appraisal review board to order a change in an appraisal roll filed on or after the effective date of this Act. A suit to compel an appraisal review board to order a change in an appraisal roll filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

*Effective June 17, 2011*

**§ 25.25(g)**

(g) Within 60 [~~45~~] days after receiving notice of the appraisal review board's determination of a motion under this section or of a determination of the appraisal review board that the property owner has forfeited the right to a final determination of a motion under this section for failing to comply with the prepayment requirements of Section 25.26, the property owner or the chief appraiser may file suit to compel the board to order a change in the appraisal roll as required by this section.

*Effective September 1, 2011*

**§ 25.25(g-1)**

(g-1) In a suit filed under Subsection (g), if a hearing to review and determine compliance with Section 42.08 is requested, the movant must mail notice of the hearing by certified mail, return receipt requested, to the collector for each taxing unit that imposes taxes on the property not later than the 45th day before the date of the hearing.

*Effective May 20, 2011*

**§ 25.25(g-2)**

(g-2) Regardless of whether the collector for the taxing unit receives a notice under Subsection (g-1), a taxing unit that imposes taxes on the property may intervene in a suit filed under Subsection (g) and participate in the proceedings for the limited purpose of determining whether the property owner has complied with Section 42.08. The taxing unit is entitled to process for witnesses and evidence and to be heard by the court.

*Effective May 20, 2011*

*Note: this change applies to a suit under Subsection (g), Section 25.25, Tax Code, that is filed on or after the effective date of May 2011 or pending on the effective date.*

**§ 25.26**

(a) The pendency of a motion filed under Section 25.25 does not affect the delinquency date for the taxes on the property that is the subject of the motion. 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 in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided by Subsection (d), a property owner who files a motion under Section 25.25 must pay the amount of taxes due on the portion of the taxable value of the property that is the subject of the motion that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the motion.

(c) A property owner who 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 motion by making the payment. If the property owner files a timely motion under Section 25.25, taxes paid on the property are considered paid under protest, even if paid before

the motion is filed.

(d) After filing an oath of inability to pay the taxes at issue, a property owner may be excused from the requirement of prepayment of tax as a prerequisite to the determination of a motion if the appraisal review board, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the property owner's right of access to the board. On the motion of a party, the board shall determine compliance with this section in the same manner and by the same procedure as provided by Section 41.4115(d) and may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances.

*Effective September 1, 2011*

#### **§ 26.08(p)**

(p) Notwithstanding Subsections (i), (n), and (o), if for the preceding tax year a school district adopted a maintenance and operations tax rate that was less than the district's effective maintenance and operations tax rate for that preceding tax year, the rollback tax rate of the district for the current tax year is calculated as if the district adopted a maintenance and operations tax rate for the preceding tax year that was equal to the district's effective maintenance and operations tax rate for that preceding tax year.

*Effective September 1, 2011*

#### **§ 26.09(d)**

(d) If a property is subject to taxation for a prior year in which it escaped taxation, the assessor shall calculate the tax for each year separately. In calculating the tax, the assessor [he] shall use the assessment ratio and tax rate in effect in the unit for the year for which back taxes are being imposed. Except as provided by Subsection (d-1), [To] the amount of back taxes due incurs[~~, he shall add~~] interest calculated at the rate provided by [Subsection (c) of] Section 33.01(c) [33.01 of this code] from the date the tax would have become delinquent had the tax been imposed in the proper tax year.

*Effective September 1, 2011*

#### **§ 26.09(d-1)**

(d-1) For purposes of this subsection, an appraisal district has constructive notice of the presence of an improvement if a building permit for the improvement has been issued by an appropriate governmental entity. Back taxes assessed under Subsection (d) on an improvement to real property do not incur interest if:

- (1) the land on which the improvement is located did not escape taxation in the year in which the improvement escaped taxation;
- (2) the appraisal district had actual or constructive notice of the presence of the improvement in the year in which the improvement escaped taxation; and
- (3) the property owner pays all back taxes due on the improvement not later than the 120th day after the date the tax bill for the back taxes on the improvement is sent.

*Effective September 1, 2011*

#### **§ 26.09(d-2)**

(d-2) For purposes of Subsection (d-1)(3), if an appeal under Chapter 41A or 42 relating to the taxes imposed on the omitted improvement is pending on the date prescribed by that subdivision, the property owner is considered to have paid the back taxes due by that date if the property owner pays the amount of taxes required by Section 41A.10 or 42.08, as applicable.

*Effective September 1, 2011*

**§ 26.10(c)**

(c) If the appraisal roll shows that a residence homestead exemption under Section 11.131 applicable to a property on January 1 of a year terminated during the year, the tax due against the residence homestead is calculated by multiplying the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual not qualified for the exemption under Section 11.131 during the year by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed after the date the exemption terminated.

*Effective January 1, 2012*

*Note: This change applies only to an ad valorem tax year that begins on or after the effective date of January 1, 2012.*

**§ 26.1125**

(a) If a person qualifies for an exemption under Section 11.131 after the beginning of a tax year, the amount of the taxes on the residence homestead of the person for the tax year is calculated by multiplying the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the person not qualified for the exemption under Section 11.131 by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed before the date the person qualified for the exemption under Section 11.131.

(b) If a person qualifies for an exemption under Section 11.131 with respect to the property after the amount of the tax due on the property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, the assessor for each taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the person's authorized agent. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the person who paid the tax the amount by which the payment exceeded the tax due.

*Effective January 1, 2012*

*Note: This change applies only to an ad valorem tax year that begins on or after the effective date of January 1, 2012.*

**§ 26.16**

(a) The county assessor-collector for each county that maintains an Internet website shall post on the website of the county the following information for the most recent five tax years beginning with the 2012 tax year for each taxing unit all or part of the territory of which is located in the county:

- (1) the adopted tax rate;
- (2) the maintenance and operations rate;
- (3) the debt rate;
- (4) the effective tax rate;
- (5) the effective maintenance and operations rate; and
- (6) the rollback tax rate.

(b) Each taxing unit all or part of the territory of which is located in the county shall provide the information described by Subsection (a) pertaining to the taxing unit to the county assessor-collector annually following the adoption of a tax rate by the taxing unit for the current tax year. The chief appraiser of the appraisal district established in the county may assist the county assessor-collector in identifying the taxing units required to provide information to the assessor-collector.

(c) The information described by Subsection (a) must be presented in the form of a table under the heading "Truth in Taxation Summary."

(d) The county assessor-collector shall post immediately below the table prescribed by Subsection (c) the following statement:

"The county is providing this table of property tax rate information as a service to the residents of the county. Each individual taxing unit is responsible for calculating the property tax rates listed in this table pertaining to that taxing unit and providing that information to the county.

"The adopted tax rate is the tax rate adopted by the governing body of a taxing unit.

"The maintenance and operations rate is the component of the adopted tax rate of a taxing unit that will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the following year.

"The debt rate is the component of the adopted tax rate of a taxing unit that will impose the amount of taxes needed to fund the unit's debt service for the following year.

"The effective tax rate is the tax rate that would generate the same amount of revenue in the current tax year as was generated by a taxing unit's adopted tax rate in the preceding tax year from property that is taxable in both the current tax year and the preceding tax year.

"The effective maintenance and operations rate is the tax rate that would generate the same amount of revenue for maintenance and operations in the current tax year as was generated by a taxing unit's maintenance and operations rate in the preceding tax year from property that is taxable in both the current tax year and the preceding tax year.

"The rollback tax rate is the highest tax rate a taxing unit may adopt before requiring voter approval at an election. In the case of a taxing unit other than a school district, the voters by petition may require that a rollback election be held if the unit adopts a tax rate in excess of the unit's rollback tax rate. In the case of a school district, an election will automatically be held if the district wishes to adopt a tax rate in excess of the district's rollback tax rate."

(e) The comptroller by rule shall prescribe the manner in which the information described by this section is required to be presented.

*Effective September 1, 2011*

## **SUBTITLE E. COLLECTIONS AND DELINQUENCY**

### **§ 31.01(a)**

(a) Except as provided by Subsections (f), ~~and~~ (i-1), and (k), the assessor for each taxing unit shall prepare and mail a tax bill to each person in whose name the property is listed on the tax roll and to the person's authorized agent. The assessor shall mail tax bills by October 1 or as soon thereafter as practicable. The assessor shall mail to the state agency or institution the tax bill for any taxable property owned by the agency or institution. The agency or institution shall pay the taxes from funds appropriated for payment of the taxes or, if there are none, from funds appropriated for the administration of the agency or institution. The exterior of the tax bill must show the return address of the taxing unit. If the assessor wants the United States Postal Service to return the tax bill if it is not deliverable as addressed, the exterior of the tax bill may contain, in all capital letters, the words "RETURN SERVICE REQUESTED," or another appropriate statement directing the United States Postal Service to return the tax bill if it is not deliverable as addressed.

*Effective January 1, 2012*

### **§ 31.01(c-2)**

(c-2) For a tax bill that includes back taxes on an improvement that escaped taxation in a prior year, the tax bill or separate statement described by Subsection (c) must state that no interest is due on the back taxes if those back taxes are paid not later than the 120th day after the date the tax bill is sent.

*Effective September 1, 2011*

### **§ 31.01(g)**

(g) Except as provided by Subsection (f) ~~[of this section]~~, failure to send or receive the tax bill required by this section, including a tax bill that has been requested to be sent by electronic means under Subsection (k), does not affect the validity of the tax, penalty, or interest, the due date, the existence of a tax lien, or any procedure instituted to collect a tax.

*Effective January 1, 2012*

### **§ 31.01(i-1)**

(i-1) If an assessor mails a tax bill under Subsection (a) or delivers a tax bill by electronic means under Subsection (k) to a mortgagee of a property, the assessor is not required to mail or deliver by electronic means a copy of the bill to any mortgagor under the mortgage or to the mortgagor's authorized agent.

*Effective January 1, 2012*

### **§ 31.01(j)**

(j) If a tax bill is mailed under Subsection (a) or delivered by electronic means under Subsection (k) ~~[of this section]~~ to a mortgagee of a property, the mortgagee shall mail a copy of the bill to the owner of the property not more than 30 days following the mortgagee's receipt of the bill.

*Effective January 1, 2012*

### **§ 31.01(k)**

(k) The assessor for a taxing unit shall deliver a tax bill as required by this section by electronic means if on or before September 15 the individual or entity entitled to receive a tax bill under this section and the assessor enter

into an agreement for delivery of a tax bill by electronic means. An assessor who delivers a tax bill electronically under this subsection is not required to mail the same bill under Subsection (a). An agreement entered into under this subsection:

(1) must:

(A) be in writing or in an electronic format;

(B) be signed by the assessor and the individual or entity entitled to receive the tax bill under this section;

(C) be in a format acceptable to the assessor;

(D) specify the electronic means by which the tax bill is to be delivered; and

(E) specify the e-mail address to which the tax bill is to be delivered; and

(2) remains in effect for all subsequent tax bills until revoked by an authorized individual in a written revocation filed with the assessor.

*Effective January 1, 2012*

### **§ 31.01(l)**

(l) The comptroller may:

(1) prescribe acceptable media, formats, content, and methods for the delivery of tax bills by electronic means under Subsection (k); and

(2) provide a model form agreement.

*Effective January 1, 2012*

### **§ 31.03(d)**

(d) This subsection applies only to a taxing unit located in a county having a population of not less than 285,000 and not [250,000 or] more than 300,000 that borders a county having a population of 3.3 million or more and the Gulf of Mexico. The governing body of a taxing unit that has its taxes collected by another taxing unit that has adopted the split-payment option under Subsection (a) may provide, in the manner required by law for official action by the body, that the split-payment option does not apply to the taxing unit's taxes collected by the other taxing unit.

*Effective September 1, 2011*

### **§ 31.032(c)**

(c) If the person fails to make a payment before the applicable date provided by Subsection (b), the unpaid amount is delinquent and incurs a penalty of six [42] percent and interest as provided by Section 33.01(c).

*Effective September 1, 2011*

*Note: This change applies only to the penalty for a failure to make a timely installment payment of taxes that occurs on or after the effective date of September 1, 2011. The penalty for a failure to make a timely installment payment of taxes that occurred before the effective date is governed by the law in effect when the failure occurred, and the former law is continued in effect for that purpose.*

### **§ 31.05**

(d) The governing body of a taxing unit may rescind a discount adopted by the governing body in the manner required by law for official action by the body. The rescission of a discount takes effect in the tax year following the year in which the discount is rescinded.

*Effective June 17, 2011*

### **§ 32.06(a-3)**

(a-3) If the property owner has executed an authorization under Subsection (a-2)(2)(B) consenting to a transfer of

the tax liens for both the taxes on the property that are not delinquent and taxes on the property that are delinquent, the collector's certification under Subsection (b) may be [collector shall certify] in one document [the transfer of the liens for all the taxes].

*Effective September 1, 2011*

#### **§ 32.06(d-1)**

(d-1) A right of rescission described by 12 C.F.R. Section 226.23 applies to a [tax lien] transfer under this section of a tax lien on residential property owned and used by the property owner for personal, family, or household purposes.

*Effective September 1, 2011*

#### **§ 32.06(e-1)**

(e-1) A transferee of a tax lien may not charge a fee for any expenses arising after closing, including collection costs, except for:

(1) interest expressly authorized under this section;

(2) the fees for filing the release of the tax lien under Subsection (b);

(3) the fee for providing a payoff statement under Subsection (f-3);

(4) the fee for providing information regarding the current balance owed by the property owner under Subsection (g); and

(5) the fees expressly authorized under Section 351.0021, Finance Code.

*Effective September 1, 2011*

#### **§ 32.06(e-2)**

(e-2) The contract between the property owner and the transferee may provide for interest for default, in addition to the interest permitted under Subsection (e), if any part of the installment remains unpaid after the 10th day after the date the installment is due, including Sundays and holidays. If the lien transferred is on residential property owned and used by the property owner for personal, family, or household purposes, the additional interest may not exceed five cents for each \$1 of a scheduled installment.

*Effective September 1, 2011*

#### **§ 32.06(f-3)**

(f-3) Notwithstanding any contractual agreement with the property owner, the transferee of a tax lien must provide the payoff information required by this section to the greatest extent permitted by 15 U.S.C. Section 6802 and 12 C.F.R. Part 216. The payoff statement must meet the requirements of a payoff statement defined by Section 12.017, Property Code. A transferee may charge a reasonable fee for a payoff statement that is requested after an initial payoff statement is provided. However, a transferee is not required to release payoff information pursuant to a notice under Subsection (f-1) unless the notice contains the information prescribed by the Finance Commission of Texas.

*Effective September 1, 2011*

#### **§ 32.06(j)**

(j) After one year from the date on which a tax lien transferred as provided by this section is recorded in all counties in which the property is located, the transferee of the lien may foreclose the lien in the manner provided by Subsection (c) unless a contract between the holder of the lien and the owner of the property encumbered by the lien provides otherwise. ~~[If a foreclosure suit results in foreclosure of the lien, the transferee is entitled to recover attorney's fees in an amount not to exceed 10 percent of the judgment.]~~ The proceeds of a sale following a judicial foreclosure as provided by this subsection shall be applied first to the payment of court costs, then to payment of the

judgment, including accrued interest, and then to the payment of any attorney's fees fixed in the judgment. Any remaining proceeds shall be paid to other holders of liens on the property in the order of their priority and then to the person whose property was sold at the tax sale.

*Effective September 1, 2011*

**§ 33.06(g)**

(g) If the ownership interest of an individual entitled to a deferral under this section is a life estate, a lien for the deferred tax attaches to the estate of the life tenant, and not to the remainder interest, if the owner of the remainder is an institution of higher education that has not consented to the deferral. In this subsection, "institution of higher education" has the meaning assigned by Section 61.003, Education Code. This subsection does not apply to a deferral for which the individual entitled to the deferral filed the affidavit required by Subsection (b) before September 1, 2011.

*Effective June 17, 2011*

**§ 33.08(b)**

(b) The governing body of the taxing unit or appraisal district, in the manner required by law for official action, may provide that taxes that become delinquent on or after June 1 under Section 26.07(f), 26.15(e), 31.03, 31.031, 31.032, ~~or~~ 31.04, or 42.42 incur an additional penalty to defray costs of collection. The amount of the penalty may not exceed the amount of the compensation specified in the applicable contract with an attorney under Section 6.30 to be paid in connection with the collection of the delinquent taxes.

*Effective June 17, 2011*

*Note: This change applies only to additional penalties on taxes that become delinquent on or after the effective date of June 17, 2011. Additional penalties on taxes that become delinquent before the effective date are governed by the law in effect when the taxes become delinquent, and the former law is continued in effect for that purpose.*

**§ 33.22(c)**

(c) The court shall issue the tax warrant if the applicant shows by affidavit that:

(1) the person whose property the applicant [he] intends to seize is delinquent in the payment of taxes, penalties, and interest in the amount stated in the application; or

(2) ~~[the applicant has reason to believe the property owner is about to remove from the county personal property on which a tax has been or will be imposed, the applicant knows of no other personal property the person owns in the county from which the tax may be satisfied, and]~~ taxes in a stated amount have been imposed on the property or taxes in an estimated amount will be imposed on the property, the applicant knows of no other personal property the person owns in the county from which the tax may be satisfied, and the applicant has reason to believe that:

(A) the property owner is about to remove the property from the county; or

(B) the property is about to be sold at a liquidation sale in connection with the cessation of a business.

*Effective June 17, 2011*

*Note: This change applies only to an application for a tax warrant filed on or after the effective date of June 17, 2011. An application filed before the effective date of this Act is governed by the law as it existed immediately before the effective date, and that law is continued in effect for that purpose.*

**§ 33.445(b)**

(b) In consideration of the payment by the transferee of those taxes and charges, each joined taxing unit shall transfer its tax lien to the transferee in the form and manner provided by Section 32.06(b) and enter its disclaimer in the suit. The transfer of a tax lien under this subsection does not require authorization by the property owner.

*Effective September 1, 2011*

**§ 33.52(d)**

(d) Except as provided by Section 34.05(k), a [A] taxing unit's claim for taxes that become delinquent after the date of the judgment is not affected by the entry of the judgment or a tax sale conducted under that judgment. Those taxes may be collected by any remedy provided by this title.

*Effective June 17, 2011*

**§ 34.03(c)**

(c) The clerk shall note on the execution docket in each case the amount of the excess proceeds, the date they were received, and the date they were transmitted to the taxing units participating in the sale. Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media.

*Effective September 1, 2011*

**§ 34.04(a)**

(a) A person, including a taxing unit and the Title IV-D agency, may file a petition in the court that ordered the seizure or sale setting forth a claim to the excess proceeds. The petition must be filed before the second anniversary of the date of the sale of the property. The petition is not required to be filed as an original suit separate from the underlying suit for seizure of the property or foreclosure of a tax lien on the property but may be filed under the cause number of the underlying suit.

*Effective September 1, 2011*

**§ 34.05(j)**

(j) In lieu of a sale pursuant to Subsections (c) and (d), the taxing unit that purchased the property may sell the property at a private sale for an amount equal to or greater than its market value, as shown by the most recent certified appraisal roll, if:

(1) the sum of the amount of the judgment plus post-judgment taxes, penalties, and interest owing against the property exceeds the market value; and

(2) each taxing unit entitled to receive proceeds of the sale consents to the sale for that amount.

*Effective June 17, 2011*

**§ 34.05(k)**

(k) A sale under Subsection (j) discharges and extinguishes all liens foreclosed by the judgment and, with the exception of the prorated tax for the current year that is assessed under Section 26.10, the liens for post-judgment taxes that accrued from the date of judgment until the date the taxing unit purchased the property. The presiding officer of a taxing unit selling real property under Subsection (j) shall execute a deed to the property conveying to the purchaser the right, title, and interest acquired or held by each taxing unit that was a party to the judgment foreclosing tax liens on the property. The conveyance is subject to any remaining right of redemption at the time of the sale and to the purchaser's obligation to pay the prorated taxes for the current year as provided by Section 26.10. The deed must recite that the liens foreclosed by the judgment and the post-judgment tax liens are discharged and extinguished by virtue of the conveyance.

*Effective June 17, 2011*

**§ 34.05(l)**

(l) A taxing unit that does not consent to a sale under Subsection (j) is liable to the taxing unit that purchased the

property for a pro rata share of the costs incurred by the purchasing unit in maintaining the property, including the costs of preventing the property from becoming a public nuisance, a danger to the public, or a threat to the public health. The nonconsenting unit's share of the costs described by this subsection is calculated from the date the unit fails to consent to the sale and is equal to the percentage of the proceeds from a sale of the property to which the nonconsenting unit would be entitled multiplied by the costs incurred by the purchasing unit to maintain the property.

*Effective June 17, 2011*

## **SUBTITLE F. REMEDIES**

### **§ 41.411(c)**

(c) A property owner who protests as provided by this section must comply with the payment requirements of Section 41.4115 [42.08] or the property owner forfeits the property owner's right to a final determination of the protest. ~~[The delinquency date for purposes of Section 42.08(b) for the taxes on the property subject to a protest under this section is postponed to the 125th day after the date that one or more taxing units first delivered written notice of the taxes due on the property, as determined by the appraisal review board at a hearing under Section 41.44(e-3).]~~

*Effective June 17, 2011*

### **§ 41.4115**

(a) The pendency of a protest under Section 41.411 does not affect the delinquency date for the taxes on the property subject to the protest. However, that delinquency date applies only to the amount of taxes required to be paid under Subsection (b) and, for purposes of Subsection (b), that delinquency date is postponed to the 125th day after the date one or more taxing units first delivered written notice of the taxes due on the property, as determined by the appraisal review board at a hearing under Section 41.44(c-3). If the property owner complies with Subsection (b), the delinquency date for any additional amount of taxes due on the property is determined in the manner provided by Section 42.42(c) for the determination of the delinquency date for additional taxes finally determined to be due in an appeal under Chapter 42, and that additional amount is not delinquent before that date.

(b) Except as provided in Subsection (d), a property owner who files a protest under Section 41.411 must pay the amount of taxes due on the portion of the taxable value of the property subject to the protest that is not in dispute before the delinquency date or the property owner forfeits the right to proceed to a final determination of the protest.

(c) A property owner who 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 protest by making the payment. If the property owner files a timely protest under Section 41.411, taxes paid on the property are considered paid under protest, even if paid before the protest is filed.

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

*Effective June 17, 2011*

### **§ 41.44(a)**

(a) Except as provided by Subsections (b), (b-1), (c), (c-1), and (c-2), to be entitled to a hearing and determination of a protest, the property owner initiating the protest must file a written notice of the protest with the appraisal review board having authority to hear the matter protested:

- (1) before May 1 or not later than the 30th day after the date that notice to the property owner was delivered to the property owner as provided by Section 25.19, if the property is a single-family residence that qualifies for an exemption under Section 11.13, whichever is later;
- (2) before June 1 or not later than the 30th day after the date that notice was delivered to the property owner as provided by Section 25.19 in connection with any other property, whichever is later;
- (3) in the case of a protest of a change in the appraisal records ordered as provided by Subchapter A of this chapter or by Chapter 25, not later than the 30th day after the date notice of the change is delivered to the

property owner; ~~or~~]

(4) in the case of a determination that a change in the use of land appraised under Subchapter C, D, E, or H, Chapter 23, has occurred, not later than the 30th day after the date the notice of the determination is delivered to the property owner; or

(5) in the case of a determination of eligibility for a refund under Section 23.1243, not later than the 30th day after the date the notice of the determination is delivered to the property owner.

*Effective January 1, 2012*

#### **§ 41.44(e)**

(e) Notwithstanding any other provision of this section, a notice of protest may not be found to be untimely or insufficient based on a finding of incorrect ownership if the notice:

(1) identifies as the property owner a person who is, for the tax year at issue:

(A) an owner of the property at any time during the tax year;

(B) the person shown on the appraisal records as the owner of the property, if that person filed the protest;

(C) a lessee authorized to file a protest; or

(D) an affiliate of or entity related to a person described by this subdivision; or

(2) uses a misnomer of a person described by Subdivision (1).

*Effective September 1, 2011*

#### **§ 41.45(e-1)**

(e-1) A property owner or a person ~~[who has not]~~ designated by the property owner as the owner's ~~[an]~~ agent under Section 1.111 to represent the owner at the hearing ~~[and]~~ who fails to appear at the hearing is entitled to a new hearing if the property owner or the owner's agent files, not later than the fourth day after the date the hearing occurred, a written statement with the appraisal review board showing good cause for the failure to appear and requesting a new hearing.

*Effective September 1, 2011*

#### **§ 41.45(e-1)**

(e-1) A property owner or a person ~~[who has not]~~ designated by the property owner as the owner's ~~[an]~~ agent ~~[under Section 1.111]~~ to represent the owner at the hearing ~~[and]~~ who fails to appear at the hearing is entitled to a new hearing if the property owner or the owner's agent files, not later than the fourth day after the date the hearing occurred, a written statement with the appraisal review board showing good cause for the failure to appear and requesting a new hearing.

*Effective September 1, 2011*

*Note: This change applies only to a protest under Chapter 41, Tax Code, that is filed on or after the effective date of September 1, 2011. A protest under Chapter 41, Tax Code, that was filed before the effective date is governed by the law in effect on the date the protest was filed, and the former law is continued in effect for that purpose.*

#### **§ 41.47(c)**

(c) If the protest is of the determination of the appraised value of the owner's property, the appraisal review board must state in the order the appraised value of the property:

(1) as shown in the appraisal records submitted to the board by the chief appraiser under Section 25.22 or 25.23; and

(2) as finally determined by the board.

*Effective September 1, 2011*

**§ 41.47(c)**

(c) If, in the case of a determination of eligibility for a refund requested under Section 23.1243, the appraisal review board determines that the dealer is entitled to a refund in excess of the amount, if any, to which the chief appraiser determined the dealer to be entitled, the board shall order the chief appraiser to deliver written notice of the board's determination to the collector and the dealer in the manner provided by Section 23.1243(c).

*Effective January 1, 2012*

**§ 42.01**

(a) 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

(C) a determination of an appraisal review board that the property owner has forfeited the right to a final determination of a motion filed under Section 25.25 or of a protest under Section 41.411 for failing to comply with the prepayment requirements of Section 25.26 or 41.4115, as applicable; 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.

(b) A property owner who establishes that the owner did not forfeit the right to a final determination of a motion or of a protest in an appeal under Subsection (a)(1)(C) is entitled to a final determination of the court, as applicable:

(1) of the motion filed under Section 25.25; or

(2) of the protest under Section 41.411 of the failure of the chief appraiser or appraisal review board to provide or deliver a notice to which the property owner is entitled, and, if failure to provide or deliver the notice is established, of a protest made by the property owner on any other grounds of protest authorized by this title relating to the property to which the notice applies.

*Effective June 17, 2011*

**§ 42.01**

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

(C) a determination of an appraisal review board of eligibility for a refund requested under Section 23.1243; 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.

*Effective January 1, 2012*

**§ 42.016**

A person is entitled to intervene in an appeal brought under this chapter and the person has standing and the court has jurisdiction in the appeal if the property that is the subject of the appeal was also the subject of a protest hearing and the person:

(1) owned the property at any time during the tax year at issue;

(2) leased the property at any time during the tax year at issue and the person filed the protest that resulted in the issuance of the order under appeal; or

(3) is shown on the appraisal roll as the owner of the property or as a lessee authorized to file a protest and the person filed the protest that resulted in the issuance of the order under appeal.

*Effective September 1, 2011*

**§ 42.21(b)**

(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 may [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~~]. An appraisal district may hire an attorney that represents the district to represent the appraisal review board established for the district to file an answer and obtain a dismissal of a suit filed against the appraisal review board in violation of this subsection.

*Effective September 1, 2011*

**§ 42.226**

On motion by a party to an appeal under this chapter, the court shall enter an order requiring the parties to attend mediation. The court may enter an order requiring the parties to attend mediation on its own motion.

*Effective September 1, 2011*

**§ 42.23(f)**

(f) For purposes of a no-evidence motion for summary judgment filed by a party to an appeal under this chapter, the offer of evidence, including an affidavit or testimony, by any person, including the appraisal district, the property owner, or the owner's agent, that was presented at the hearing on the protest before the appraisal review board constitutes sufficient evidence to deny the motion.

*Effective September 1, 2011*

**§ 42.23(g)**

(g) For the sole purpose of admitting expert testimony to determine the value of chemical processing property or utility property in an appeal brought under this chapter and for no other purpose under this title, including the rendition of property under Chapter 22, the property is considered to be personal property.

*Effective September 1, 2011*

**§ 42.30**

(a) An attorney who accepts an engagement or compensation from a third party to represent a person in an appeal under this chapter shall provide notice to the person represented:

- (1) informing the person that the attorney has been retained by a third party to represent the person;
- (2) explaining the attorney's ethical obligations to the person in relation to the third party, including the obligation to ensure that the third party does not interfere with the attorney's independent judgment or the attorney-client relationship;
- (3) describing the general activities the third party may perform in the appeal;
- (4) explaining that compensation will be received by the attorney from the third party; and
- (5) informing the person that the person's consent is required before the attorney may accept compensation from the third party.

(b) The attorney shall mail the notice by certified mail to the person represented by the attorney not later than the 30th day after the date the attorney accepts the engagement from the third party.

(c) Notwithstanding the other provisions of this section, an engagement complies with this section if each party related to the engagement, including the person represented in the appeal, the third party, and the attorney, enters into an agreement not later than the 30th day after the date of the filing of the appeal by the attorney that contains the information required by Subsection (a).

(d) A person may void an engagement that does not comply with this section. An attorney who does not comply with this section may be reported to the Office of Chief Disciplinary Counsel for the State Bar of Texas.  
*Effective September 1, 2011*

**§ 42.43(b)**

(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 sum of two percent and the most recent prime rate quoted and [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 as of the first day of the month in which the refund is made [ , for the week in which the taxes became delinquent], but not more than a total of eight [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.~~]

*Effective September 1, 2011*

*Note: This change applies only to the rate of interest on a tax refund that is made following an appeal that is filed on or after the effective date of September 1, 2011. The rate of interest on a tax refund that is made following an appeal that is filed before the effective date is determined by the law in effect when the appeal is filed, and that law is continued in effect for that purpose.*

**§ 42.43(h)**

(h) A separate form must be filed with a taxing unit under Subsection (g) for each appeal to which the property owner is a party. A form may be [~~remains in effect for all subsequent refunds required by this section until~~] revoked in a written revocation filed with the taxing unit by the property owner.

*Effective September 1, 2011*