

By: Otto, Hill, Kolckhorst, Ritter, Thompson,  
et al.

H.B. No. 3490

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to the authority of a chief appraiser to appeal from an  
3 order of an appraisal review board determining a taxpayer protest.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 42.02, Tax Code, is amended to read as  
6 follows:

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

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

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

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

16        (1) dismiss the appeal; and  
17        (2) award court costs and reasonable attorney's fees  
18        to the taxpayer.

19        SECTION 2. The change in law made by this Act applies only  
20        to an appeal by a chief appraiser from an order of an appraisal  
21        review board that was issued on or after the effective date of this  
22        Act. An appeal by a chief appraiser from an order of an appraisal  
23        review board that was issued before the effective date of this Act  
24        is governed by the law in effect when the order of the appraisal  
25        review board was issued, and the former law is continued in effect  
26        for that purpose.

27        SECTION 3. This Act takes effect immediately if it receives

H.B. No. 3490

1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2007.