

Board of Revision Complaint Procedure Changes

SUMMARY

- Limits a political subdivision from filing a property tax valuation complaint against property it does not own, unless the property was sold within a certain timeframe and the sale price was at least 10% and \$500,000 more than the auditor's current valuation.
- Requires the legislative authority of a political subdivision, before filing any property tax complaint, to pass a resolution authorizing the filing at a public meeting.
- Removes a requirement that school boards receive notice from a county board of revision (BOR) when certain property tax complaints are filed.
- Requires a BOR to dismiss an original complaint filed by a political subdivision within one year after the complaint is filed if the board does not render a decision by then.
- Prohibits a political subdivision that has filed a complaint or counter-complaint from appealing a BOR decision.
- Prohibits a property owner and a political subdivision from entering into a private payment agreement whereby the owner pays the political subdivision to dismiss, not file, or settle a complaint or counter-complaint.

Limitations on property tax challenges

Filing of property tax complaints

There are new limits on the filing of property tax complaints with a county BOR. Under the act, a political subdivision may file a BOR complaint challenging the tax valuation of property that it does not own only if the property was sold within certain time parameters and the sale price exceeded a certain threshold. In addition, before a political subdivision may file a valuation complaint or any other type of BOR complaint, the legislative authority must first adopt a resolution authorizing the filing.

Under continuing law, the following individuals or entities may initiate a property tax complaint: the property owner, the owner's spouse, or an agent of the owner or spouse; certain long-term tenants; and a school board, a county treasurer or prosecuting attorney, the mayor of a municipal corporation, or the board or legislative authority of a county, township, or municipal corporation. Previously, there were few limits on the ability of any person or political subdivision to file a complaint with respect to property that the person or political subdivision did not own (except that, if a private citizen files a complaint, the citizen must own property somewhere in the same county or in a taxing district that has territory in that county). The new limitations do not apply to complaints that a person or political subdivision file with respect to their own property.

A complaint may challenge a property's value as assessed for tax purposes or its classification as residential/agricultural or commercial/industrial for "H.B. 920" tax reduction purposes, as agricultural property eligible for current agricultural use valuation (CAUV), or as nonbusiness property eligible for the 10% rollback. Complaints also may challenge recoupment charges imposed for conversion of CAUV land to nonagricultural use. Most property tax complaints challenge a property's assessed value.

Complaints are heard before the BOR, which is comprised of the county treasurer, the county auditor, and a county commissioner. Generally, a party may initiate a complaint with respect to a particular parcel only once in each three-year period between the reappraisal and assessment update years (the “interim period”), unless certain events have occurred in the meantime, such as the property having been sold.

Sale requirement

The act requires that, before a political subdivision or other person may file a complaint with respect to property that the political subdivision or person does not own, the property must have been sold in an arm’s length transaction in a year preceding the tax year for which the complaint is to be filed. In addition, the sale price must have been at least 10% and \$500,000 more than the auditor’s current valuation. The \$500,000 threshold increases each year for inflation, beginning in tax year 2023.

For example, if a school board wishes to challenge the value of a property for tax year 2022, it may only do so if the property was sold in 2021 or earlier, it has not been sold since, and the auditor’s valuation of the property for tax year 2022 is both 10% and \$500,000 less than the sale price.

Under continuing law, valuations are based upon the use of a recent arm’s length sale of the property as its fair market tax value, generally when the county undergoes a sexennial property reappraisal or triennial valuation update following the sale.

Approval of complaints

Before filing a property tax complaint against property it does not own, a legislative authority must, in addition to complying with the sale requirement, first adopt a resolution approving the filing at a public meeting. The resolution must identify the parcel number and, the parcel’s address; the name of an owner; the tax year for which the complaint will be filed; and the basis for the complaint (e.g., valuation, tax classification, CAUV status).

A single resolution must be confined to identifying a single parcel or multiple parcels having the same owner. The legislative authority may adopt one or more of these resolutions by a single vote, provided no other type of resolution addressing a different matter is adopted pursuant to that same vote; i.e., the measure could not be included in a “consent agenda.”

Notice of hearing

Before adopting the resolution, the legislative authority must send written notice by certified mail to one of the property owner’s last known property tax-mailing address and, if different, to the property’s street address. Alternatively, the notice may be sent to the owner by ordinary mail if it is also sent electronically to the owner. The notice must declare the intent of the legislative authority to adopt the resolution and state the proposed date of adoption and the basis for the complaint. The notice must be postmarked or, if electronic, sent at least seven days before the resolution is scheduled to be adopted.

Complaint form

The property tax complaint form prescribed by the Tax Commissioner will include a box that the person filing the form on behalf of a legislative authority must check to certify that the legislative authority, has adopted a resolution authorizing the complaint and properly provided notice of the resolution to the property owner. If the box is not checked, the BOR does not have jurisdiction over, and must dismiss the complaint. A copy of the Resolution must accompany the complaint.

Counter-complaints

School boards will no longer receive notice when certain property tax complaints are filed. Previously, if a complaint alleged a change in value of at least \$50,000 in fair market value (\$17,500 in taxable value), the county auditor was required to provide notice of that complaint to the school board within 30 days after the deadline to file complaints, generally March 31 of the following tax year. The school board could respond by filing a counter-complaint within 30 days after receiving that notice defending the property's assessed value or alleging a different value.

A school board may still file counter-complaints, however, provided that the same monetary threshold is met, i.e., if the complaint alleges a change in value of at least \$50,000 in fair market value. Since school boards will not receive notice of the complaint, the board must file the counter-complaint within 30 days after the original complaint was filed. Visit [HERE](#) for a list of complaints filed.

The notice or filing requirements for property owners does not change. Owners will still receive notice of an original complaint filed by another party, and may file a counter-complaint within 30 days after the owner receives that notice.

Dismissal of BOR cases

Continuing law requires a BOR to render its decision on a property tax complaint within 180 days after (a) the last day that original complaints can be filed or (b) if a counter-complaint is filed, the date of that filing. However, if that deadline is not met, the board may continue the case until it is ultimately decided.

This timeline has been modified for complaints filed by a legislative authority or a person that does not own the property subject to the complaint. The board must dismiss any such complaint that is not decided within one year after it is filed. After that one-year period expires, the board cannot continue the case and loses jurisdiction to hear the complaint.

Appeals of BOR decisions

Under prior law, if a BOR decided against a legislative authority's complaint or counter-complaint, the legislative authority could appeal the decision to the Board of Tax Appeals. The legislative authority is now prohibited to file such appeals, but it does not prohibit the legislative authority from becoming the opposing party in an appeal filed by a property owner or another party.

Private payment agreements

Political subdivisions are now prohibited from entering into a private payment agreement, i.e., an agreement in which a property owner or tenant, or a person acting on behalf of the owner or tenant, agrees to make one or more payments to the political subdivision in exchange for the legislative authority dismissing a complaint or counter-complaint, refraining from filing a complaint or counter-complaint, or settling a claim.

Political subdivisions are not prohibited from agreements in which the parties agree upon a new valuation for the property that is the subject of a complaint, as long as the new valuation is reflected on the tax list and the agreement does not require any payments.