

Property Tax Consultants Laws, Rules and Ethics

Administrative Rules -16 Texas Administrative Code, Chapter 66 (Effective January 11, 2010)

66.1. Authority. *(Amended effective February 1, 2006, 31 TexReg 487)*

These rules are promulgated under the authority of the Texas Occupations Code, Chapters 51 and 1152.

66.10. Definitions. *(Amended effective November 11, 1992, 17 TexReg 7661; amended effective February 21, 1995, 20 TexReg 890; amended effective October 1, 1995, 20 TexReg 7279; amended effective February 1, 2006, 31 TexReg 487; amended effective July 1, 2007, 32 TexReg 3984)*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Act**--Texas Occupations Code, Chapter 1152.

(2) **Private Provider**--An educational institution that is established, conducted, and primarily supported by a nongovernmental person, as defined by Texas Occupations Code, Chapter 1152, which meets program and accreditation standards comparable to public institutions of higher education as determined by the Texas Higher Education Coordinating Board, and which offers an educational program or course for pre-registration credit or for upgrade credit towards a senior property tax consultant registration. The term does not include a continuing education provider as defined in Chapter 59 of this title.

(3) **Professional Designation** – The designation of Certified Member of the Institute (CMI) conferred by the Institute for Professionals in Taxation or another designation recognized by the department.

(4) **Real estate property tax consultant**--An individual who has registered under Texas Occupations Code, §1152.155(b) or §1152.158.

(5) **Senior property tax consultant**--A registered property tax consultant who has met the additional requirements of Texas Occupations Code, Chapter 1152, and these rules.

66.20. Registration Requirements. *(Amended effective February 21, 1995, 20 TexReg 890; amended effective September 1, 2003, 28 TexReg 7363; amended effective February 1, 2006, 31 TexReg 487; amended effective July 1, 2007, 32 TexReg 3984; amended effective January 11, 2010, 35 TexReg 232)*

(a) To register or renew a registration, a person must file a completed application on a form provided by the department and pay the applicable fees.

(b) An applicant for a senior property tax consultant registration must pass a department-approved examination for senior property tax consultants. The standard for passing the senior property tax consultant examination shall be a score of at least 70%.

(c) An applicant for a property tax consultant registration must pass a department-approved examination for property tax consultants. The standard for passing the property tax consultant examination shall be a score of at least 70%.

(d) To be eligible for an original property tax consultant registration, a person must successfully complete at least 40 classroom hours of education including:

(1) eight hours on the laws and rules relating to property tax consulting;

(2) sixteen hours on appraisal and valuation;

(3) eight hours on property tax consulting; and

(4) eight hours on ethics.

66.21. Pre-registration and Upgrade Education. *(New rule effective February 1, 2006, 31 TexReg 487)*

(a) A private provider must be recognized by the department to offer educational programs or courses for pre-registration or upgrade credit.

(b) To be recognized as a private provider, a person must:

(1) file a completed application on a form provided by the department;

(2) pay the applicable fees;

(3) satisfy the department as to the person's ability to administer with honesty, trustworthiness, and integrity educational programs or courses approved by the department; and

(4) provide satisfactory proof that the person is registered with or exempted by the Texas Workforce Commission under Title 40, Texas Administrative Code, Chapter 807, Career Schools and Colleges.

(c) Each educational program or course offered by a private provider must be approved by the department before being offered for pre-registration or upgrade credit.

(d) To obtain department approval for an educational program or course, or in the event of changes to a previously-approved program or course, a private provider must:

(1) submit to the department for evaluation an instructor's manual for the program or course, including:

(A) course description;

(B) learning objectives;

(C) evaluating techniques;

(D) outline of the subject matter;

(E) instructional strategies;

(F) course participant handouts; and

(G) bibliography or source of update subject matter; and

(2) satisfy the department that the subject matter of the program or course is appropriate for the education of property tax consultants and is current and accurate.

(e) Each educational program or course shall be reviewed annually.

(f) The executive director may recognize any appropriate program or course that is currently approved by a department or agency of the State of Texas.

66.22. Examination--Licensed Attorney. *(New rule effective October 15, 2007, 32 TexReg 7261)*

(a) An attorney who is licensed to practice law in this state may take the senior property tax consultant examination, if the attorney:

(1) files an application on a form provided by the department; and

(2) pays the applicable examination fee.

(b) An attorney who takes the examination under this section is not required to complete any other eligibility requirements for registration as a senior property tax consultant, including:

(1) applying for registration as a senior property tax consultant;

(2) paying the fee for a senior property tax consultant registration; or

(3) meeting the education, experience, and other requirements of Texas Occupations Code, §1152.155 and §1152.157.

(c) The standard for passing the senior property tax consultant examination shall be the same as under §66.20.

66.23. Registration--Endorsement. *(New rule effective February 1, 2006, 31 TexReg 487; amended effective July 1, 2007, 32 TexReg 3984)*

(a) The department may waive any prerequisite to registration if the department determines that the applicant holds a license or registration issued by another jurisdiction that has requirements substantially equivalent to those of Texas. It is the responsibility of the applicant to furnish evidence substantiating the applicant's qualifications.

(b) The department will determine on the basis of the requirements for registration in another state whether the applicant qualifies for a property tax consultant registration or a senior property tax consultant registration.

(c) It is the applicant's responsibility to obtain certification of the registration issued by another state.

(d) If not a resident of this state, the applicant must establish an agent for service of legal process with a resident of this state.

66.25. Continuing Education. *(New rule effective February 1, 2006, 31 TexReg 487; amended effective July 1, 2007, 32 TexReg 3984)*

(a) Terms used in this section have the meanings assigned by Chapter 59 of this title, unless the context indicates otherwise.

(b) To renew a registration, a registrant must complete 12 hours of continuing education in courses approved or recognized by the department. Except as provided in Texas Occupations Code, §1152.204(b), the continuing education hours must include the following:

(1) three hours of instruction in Texas state law and rules that regulate the conduct of registrants;

(2) one hour of instruction in ethics;

(3) four hours of instruction in appraisal; and

(4) four hours of instruction in property tax consulting.

(c) The continuing education hours must have been completed within the term of the current registration, in the case of a timely renewal. For a late renewal, the continuing education hours must have been completed within the one year period immediately prior to the date of renewal.

(d) A registrant may not receive continuing education credit for attending the same course more than once during the one-year period for which the course is approved.

(e) A registrant shall retain a copy of the certificate of completion for a course for one year after the date of completion. In conducting any inspection or investigation of the registrant, the department may examine the registrant's records to determine compliance with this subsection.

(f) To be approved under Chapter 59 of this title, a continuing education provider's course must be dedicated to instruction in one or more of the topics listed in subsection (b) of this section, and the continuing education provider must be registered under Chapter 59 of this title.

(g) A continuing education course recognized by the department under Texas Occupations Code, §1152.204(b) is not required to be approved under Chapter 59 of this title, and the provider of such a course is not required to be registered under Chapter 59 of this title.

(h) Except as provided in subsection (i) of this section, this section shall apply to continuing education providers and courses for registrants upon the effective date of this section.

(i) A continuing education provider that was approved by the department before the effective date of this section may continue to offer for credit continuing education courses that were approved by the department before the effective date of this section, until December 31, 2006.

66.65. Advisory Council. *(Effective January 7, 1994, 18 TexReg 9928; amended effective February 21, 1995, 20 TexReg 890; amended effective October 1, 1995, 20 TexReg 20 7279; amended effective February 1, 2006, 31 TexReg 487)*

(a) The purpose of the Property Tax Consultants Advisory Council is to advise the commission on standards of practice, conduct, and ethics for registrants, fees, examination contents, and

standards of performance for senior property tax consultant examinations, recognition of continuing educational programs and courses, and establishing educational requirements for initial applicants.

(b) Recommendations of the council will be transmitted to the commission through the executive director.

(c) Council meetings are called by the presiding officer or at the call of a majority of its members or the executive director.

(d) Expenses reimbursed to council members shall be limited to authorized expenses incurred while on council business and traveling to and from council meetings. The least expensive method of travel should be used. Expenses can be reimbursed to council members only when the legislature has specifically appropriated money for that purpose, and only to the extent of the appropriation.

(e) Expenses paid to council members shall be limited to those allowed by the State of Texas Travel Allowance Guide and Texas Department of Licensing and Regulation policies governing travel allowances for employees.

66.70. Responsibilities of Registrant--General. *(Amended effective amended effective February 1, 2006, 31 TexReg 487; amended effective July 1, 2007, 32 TexReg 3984; amended effective October 15, 2007, 32 TexReg 7261)*

(a) A registrant may not allow an employee or associate to perform property tax consulting services without first obtaining registration.

(b) A registrant shall list the following information on all written contracts: "Regulated by The Texas Department of Licensing and Regulation, P. O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: www.license.state.tx.us/complaints."

(c) All registrants shall report any change of address to the department within 30 days after the change.

(d) Individuals who are registered under Texas Occupations Code, §1152.158 may not perform property tax consulting services for compensation in connection with a property that is not real property.

(e) A registered property tax consultant must be either:

(1) employed by or have an association with a registered senior property tax consultant and be under the direct supervision of the senior property tax consultant, and there must be a legitimate employee/employer relationship or business association established; or

(2) employed by or associated with and acting for an attorney who is licensed to practice law in this state and who has successfully completed the senior property tax consultant registration examination under §66.22.

(f) The requirements of subsection (e) of this section do not apply to a real estate property tax consultant.

(g) A registered property tax consultant shall notify the department in writing of any change in employment or association within 30 days after the change.

66.71. Responsibilities of Registrant--Records. *(Amended effective October 1, 1995, 20 TexReg 7279; amended effective February 1, 2006, 31 TexReg 487)*

(a) The registrant must allow the department, as part of an inspection or investigation, to enter his business premises during reasonable business hours to examine and copy any records that are pertinent to an inspection or investigation being conducted.

(b) Client records shall be maintained for not less than three years following the date last action was taken or service performed on behalf of the client.

66.72. Responsibilities of Registrant--Private Provider. *(Effective January 7, 1994, 18 TexReg 9928; amended effective February 21, 1995, 20 TexReg 890; amended effective February 1, 2006, 31 TexReg 487)*

(a) The following statement shall be used on all advertising and registration forms: “This course has been approved by the Texas Department of Licensing and Regulation for pre-registration education hours including hours of legal education pertaining to Property Tax Consulting. This course has been approved for credits which count toward qualification for Senior Property Tax Consultant.”

(b) Providers shall retain student attendance records for a period of three years, make copies available to former students, and provide copies to the department upon request.

(c) A certificate shall be provided to the participant and shall include actual hours attended.

(d) To determine compliance with this chapter, the department may perform on-site audits of any program or course offered by a private provider. Audits may be conducted without prior notice to the private provider, and department employees may enroll and attend a program or course without identifying themselves as department employees. A department employee performing an audit may not be required to pay any fee to a private provider for enrolling in or attending a program or course.

(e) Private providers and instructors shall fully assist any employee of the department in the performance of an audit or investigation of complaint, and shall provide requested information within the time frame set by the department.

66.80. Fees. *(Amended effective September 1, 2003, 28 TexReg 7363; amended effective May 1, 2005, 30 TexReg 2504; amended effective February 1, 2006, 31 TexReg 487, amended November 21, 2013)*

(a) The non-refundable original application fee for a property tax consultant is \$25.

(b) The non-refundable original application fee for a senior property tax consultant is \$75.

(c) The refundable original registration fee for a property tax consultant is \$225. This fee includes a \$200 professional fee, as assessed by Texas Occupations Code, §1152.053.

(d) The refundable original registration fee for a senior property tax consultant is \$240. This fee includes a \$200 professional fee, as assessed by Texas Occupations Code, §1152.053.

(e) The fee for the timely renewal of a property tax consultant's, senior property tax consultant's, and real estate property tax consultant's registration is \$275. This fee includes a \$200 professional fee, as assessed by Texas Occupations Code, §1152.053.

(f) A \$150 fee, refundable in accordance with §60.84 of this title, will be charged for each examination.

(g) A \$25 fee will be charged for issuing a duplicate registration.

(h) Late renewal fees for registrations issued under this chapter are provided for in §60.83 of this title (relating to Late Renewal Fees).

(i) The non-refundable application fee for recognition as a private provider is \$125.

(j) In addition to the application fee, a private provider shall pay an annual fee of \$75, which shall be refunded if the department does not recognize the private provider's educational program or course.

66.90. Sanctions--Administrative Sanctions/Penalties. *(Amended effective February 1, 2006, 31 TexReg 487; amended effective July 1, 2007, 32 TexReg 3984)*

If a person violates the Act, or a rule or order adopted or issued by the commission or executive director relating to the Act, the department may institute proceedings to impose administrative sanctions and/or administrative penalties in accordance with Texas Occupations Code, Chapter 51.

66.100. Code of Ethics and Professional Responsibility. *(Amended effective February 1, 2006, 31 TexReg 487)*

- (a) A registrant shall not participate, whether individually, or in concert with others, in any plan, scheme, or arrangement attempting or having as its purpose the evasion of any provision of the Act or commission rule.
- (b) A registrant shall not directly or indirectly or in any manner whatsoever lend his/her registration or identification to any person, firm or corporation for the purpose of evading any provision of the Act or commission rule.
- (c) A registrant shall exercise reasonable care and diligence to prevent persons under his/her supervision from engaging in conduct which would violate any provision of the Act or commission rule.
- (d) A registrant shall not engage in any activity that constitutes dishonesty, fraud, or gross incompetence while performing property tax consulting services.
- (e) A registrant shall promptly report to the department any known violation of the Act or commission rule.
- (f) A registrant shall cooperate fully with the department in the investigation of an alleged violation of the Act or commission rule.
- (g) A registrant shall not offer or promise anything of value with the intent of inducing a person who is performing a public duty to perform or fail to perform any act related to such public duty.
- (h) A registrant shall not contract for or accept compensation or anything of value for services not performed.
- (i) A registrant shall not knowingly or intentionally engage in any false or misleading conduct or advertising with respect to client solicitation.
- (j) A registrant shall not knowingly furnish inaccurate, deceitful, or misleading information to a client or employer, a prospective client or employer, or a public agency or representative of a public agency.

(k) A registrant shall not reveal information known to be confidential unless the release of such information is authorized by the source or required by law.

(l) A registrant shall not state or imply that the registrant represents a person or firm that the registrant does not in fact represent.

(m) A registrant shall not solicit or advertise property tax consulting services by claiming a specific result or stating a conclusion regarding such services without prior analysis of the facts and circumstances pertaining thereto.

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Subchapter C. Arbitration

171.041 Appointment of Arbitrators

(a) The method of appointment of arbitrators is as specified in the agreement to arbitrate.

(b) The court, on application of a party stating the nature of the issues to be arbitrated and the qualifications of the proposed arbitrators, shall appoint one or more qualified arbitrators if:

(1) the agreement to arbitrate does not specify a method of appointment;

(2) the agreed method fails or cannot be followed; or

(3) an appointed arbitrator fails or is unable to act and a successor has not been appointed.

(c) An arbitrator appointed under Subsection (b) has the powers of an arbitrator named in the agreement to arbitrate. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.042. Majority Action by Arbitrators

The powers of the arbitrators are exercised by a majority unless otherwise provided by the agreement to arbitrate or this chapter. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.043. Hearing Conducted by Arbitrators

(a) Unless otherwise provided by the agreement to arbitrate, all the arbitrators shall conduct the hearing. A majority of the arbitrators may determine a question and render a final award.

(b) If, during the course of the hearing, an arbitrator ceases to act, one or more remaining arbitrators appointed to act as neutral arbitrators may hear and determine the controversy. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.044. Time and Place of Hearing; Notice

(a) Unless otherwise provided by the agreement to arbitrate, the arbitrators shall set a time and place for the hearing and notify each party.

(b) The notice must be served not later than the fifth day before the hearing either personally or by registered or certified mail with return receipt requested. Appearance at the hearing waives the notice.

(c) The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.045. Adjournment or Postponement

Unless otherwise provided by the agreement to arbitrate, the arbitrators may:

(1) Adjourn the hearing as necessary; and

(2) on request of a party and for good cause, or on their own motion, postpone the hearing to a time not later than:

(A) the date set by the agreement for making the award; or

(B) a later date agreed to by the parties.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.046. Failure of Party to Appear

Unless otherwise provided by the agreement to arbitrate, the arbitrators may hear and determine the controversy on the evidence produced without regard to whether a party who has been notified as provided by Section 171.044 fails to appear. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.047. Rights of Party at Hearing

Unless otherwise provided by the agreement to arbitrate, a party at the hearing is entitled to:

- (1) be heard;
- (2) present evidence material to the controversy; and
- (3) cross-examine any witness.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.048. Representation by Attorney; Fees

- (a) A party is entitled to representation by an attorney at a proceeding under this chapter.
- (b) A waiver of the right described by Subsection (a) before the proceeding is ineffective.
- (c) The arbitrators shall award attorney's fees as additional sums required to be paid under the award only if the fees are provided for:
 - (1) in the agreement to arbitrate; or

(2) by law for a recovery in a civil action in the district court on a cause of action on which any part of the award is based. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.049. Oath

The arbitrators, or an arbitrator at the direction of the arbitrators, may administer to each witness testifying before them the oath required of a witness in a civil action pending in a district court.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.050. Depositions

(a) The arbitrators may authorize a deposition:

(1) for use as evidence to be taken of a witness who cannot be required by subpoena to appear before the arbitrators or who is unable to attend the hearing; or

(2) for discovery or evidentiary purposes to be taken of an adverse witness.

(b) A deposition under this section shall be taken in the manner provided by law for a deposition in a civil action pending in a district court. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.051. Subpoenas

(a) The arbitrators, or an arbitrator at the direction of the arbitrators, may issue a subpoena for:

(1) attendance of a witness; or

(2) production of books, records, documents, or other evidence.

(b) A witness required to appear by subpoena under this section may appear at the hearing before the arbitrators or at a deposition.

(c) A subpoena issued under this section shall be served in the manner provided by law for the service of a subpoena issued in a civil action pending in a district court.

(d) Each provision of law requiring a witness to appear, produce evidence, and testify under a subpoena issued in a civil action pending in a district court applies to a subpoena issued under this section.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.052. Witness Fee

The fee for a witness attending a hearing or a deposition under this subchapter is the same as the fee for a witness in a civil action in a district court.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.053. Arbitrators' Award

(a) The arbitrators' award must be in writing and signed by each arbitrator joining in the award.

(b) The arbitrators shall deliver a copy of the award to each party personally, by registered or certified mail, or as provided in the agreement.

(c) The arbitrators shall make the award:

(1) Within the time established by the agreement to arbitrate; or

(2) if a time is not established by the agreement, within the time ordered by the court on application of a party.

(d) The parties may extend the time for making the award either before or after the time expires. The extension must be in writing.

(e) A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of the objection before the delivery of the award to that party.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.054. Modification or Correction to Award

(a) The arbitrators may modify or correct an award:

(1) on the grounds stated in Section 171.091; or

(2) to clarify the award.

(b) A modification or correction under Subsection (a) may be made only:

(1) on application of a party; or

(2) on submission to the arbitrators by a court, if an application to the court is pending under Sections 171.087, 171.088, 171.089, and 171.091, subject to any condition ordered by the court.

(c) A party may make an application under this section not later than the 20th day after the date the award is delivered to the applicant.

(d) An applicant shall give written notice of the application promptly to the opposing party. The notice must state that the opposing party must serve any objection to the application not later than the 10th day after the date of notice.

(e) An award modified or corrected under this section is subject to Sections 171.087, 171.088, 171.089, 171.090, and 171.091. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.055. Arbitrator's Fees and Expenses

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, with other expenses incurred in conducting the arbitration, shall be paid as provided in the award.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.081. Jurisdiction

The making of an agreement described by Section 171.001 that provides for or authorizes arbitration in this state and to which that section applies confers jurisdiction on the court to enforce the agreement and to render judgment on an award under this chapter. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.082. Application to Court; Fees

(a) The filing with the clerk of the court of an application for an order under this chapter, including a judgment or decree, invokes the jurisdiction of the court.

(b) On the filing of the initial application and the payment to the clerk of the fees of court required to be paid on the filing of a civil action in the court, the clerk shall docket the proceeding as a civil action pending in that court.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.083. Time for Filing

An applicant for a court order under this chapter may file the application:

- (1) before arbitration proceedings begin in support of those proceedings;
- (2) during the period the arbitration is pending before the arbitrators; or
- (3) subject to this chapter, at or after the conclusion of the arbitration.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.084. Stay of Certain Proceedings

(a) After an initial application is filed, the court may stay:

(1) a proceeding under a later filed application in another court to:

(A) invoke the jurisdiction of that court; or

(B) obtain an order under this chapter; or

(2) a proceeding instituted after the initial application has been filed.

(b) A stay under this section affects only an issue subject to arbitration under an agreement in accordance with the terms of the initial application. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.085. Contents of Application

(a) A court may require that an application filed under this chapter:

(1) show the jurisdiction of the court;

(2) have attached a copy of the agreement to arbitrate;

(3) define the issue subject to arbitration between the parties under the agreement;

(4) specify the status of the arbitration before the arbitrators; and

(5) show the need for the court order sought by the applicant.

(b) A court may not find an application inadequate because of the absence of a requirement listed in Subsection (a) unless the court, in its discretion:

(1) requires that the applicant amend the application to meet the requirements of the court; and

(2) grants the applicant a 10-day period to comply.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.086. Orders That May be Rendered

(a) Before arbitration proceedings begin, in support of arbitration a party may file an application for a court order, including an order to:

(1) invoke the jurisdiction of the court over the adverse party and to effect that jurisdiction by service of process on the party before arbitration proceedings begin;

(2) invoke the jurisdiction of the court over an ancillary proceeding in rem, including by attachment, garnishment, or sequestration, in the manner and subject to the conditions under which the proceeding may be instituted and conducted ancillary to a civil action in a district court;

(3) restrain or enjoin:

(A) the destruction of all or an essential part of the subject matter of the controversy; or

(B) the destruction or alteration of books, records, documents, or other evidence needed for the arbitration;

(4) obtain from the court in its discretion an order for a deposition for discovery, perpetuation of testimony, or evidence needed before the arbitration proceedings begin;

(5) appoint one or more arbitrators so that an arbitration under the agreement to arbitrate may proceed; or

(6) obtain other relief, which the court can grant in its discretion, needed to permit the arbitration to be conducted in an orderly manner and to prevent improper interference or delay of the arbitration.

(b) During the period arbitration is pending before the arbitrators or at or after the conclusion of the arbitration, a party may file an application for a court order, including an order:

(1) that was referred to or that would serve a purpose referred to in Subsection (a);

(2) to require compliance by an adverse party or any witness with an order made under this chapter by the arbitrators during the arbitration;

(3) to require the issuance and service under court order, rather than under the arbitrators' order, of a subpoena, notice, or other court process:

(A) in support of the arbitration; or

(B) in an ancillary proceeding in rem, including by attachment, garnishment, or sequestration, in the manner of and subject to the conditions under which the proceeding may be conducted ancillary to a civil action in a district court;

(4) to require security for the satisfaction of a court judgment that may be later entered under an award;

(5) to support the enforcement of a court order entered under this chapter; or

(6) to obtain relief under Section 171.087, 171.088, 171.089, or 171.091.

(c) A court may not require an applicant for an order under Subsection (a)(1) to show that the adverse party is about to, or may, leave the state if jurisdiction over that party is not effected by service of process before the arbitration proceedings begin.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.087. Confirmation of Award

Unless grounds are offered for vacating, modifying, or correcting an award under Section 171.088 or 171.091, the court, on application of a party, shall confirm the award. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.088. Vacating Award

(a) On application of a party, the court shall vacate an award if:

(1) the award was obtained by corruption, fraud, or other undue means;

(2) the rights of a party were prejudiced by:

(A) evident partiality by an arbitrator appointed as a neutral arbitrator;

(B) corruption in an arbitrator; or

(C) misconduct or willful misbehavior of an arbitrator;

(3) the arbitrators:

(A) exceeded their powers;

(B) refused to postpone the hearing after a showing of sufficient cause for the postponement;

(C) refused to hear evidence material to the controversy; or

(D) conducted the hearing, contrary to Section 171.043, 171.044, 171.045, 171.046, or 171.047, in a manner that substantially prejudiced the rights of a party; or

(4) there was no agreement to arbitrate, the issue was not adversely determined in a proceeding under Subchapter B,1 and the party did not participate in the arbitration hearing without raising the objection.

(b) A party must make an application under this section not later than the 90th day after the date of delivery of a copy of the award to the applicant. A party must make an application under Subsection (a)(1) not later than the 90th day after the date the grounds for the application are known or should have been known.

(c) If the application to vacate is denied and a motion to modify or correct the award is not pending, the court shall confirm the award. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.1 V.T.C.A., Civil Practice & Remedies Code § 171.021 et seq.

171.089. Rehearing After Award Vacated

(a) On vacating an award on grounds other than the grounds stated in Section 171.088(a)(4), the court may order a rehearing before new arbitrators chosen:

(1) as provided in the agreement to arbitrate; or

(2) by the court under Section 171.041, if the agreement does not provide the manner for choosing the arbitrators.

(b) If the award is vacated under Section 171.088(a)(3), the court may order a rehearing before the arbitrators who made the award or their successors appointed under Section 171.041.

(c) The period within which the agreement to arbitrate requires the award to be made applies to a rehearing under this section and commences from the date of the order. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.090. Type of Relief Not Factor

The fact that the relief granted by the arbitrators could not or would not be granted by a court of law or equity is not a ground for vacating or refusing to confirm the award. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.091. Modifying or Correcting Award

(a) On application, the court shall modify or correct an award if:

(1) the award contains:

(A) an evident miscalculation of numbers; or

(B) an evident mistake in the description of a person, thing, or property referred to in the award;

(2) the arbitrators have made an award with respect to a matter not submitted to them and the award may be corrected without affecting the merits of the decision made with respect to the issues that were submitted; or

(3) the form of the award is imperfect in a manner not affecting the merits of the controversy.

(b) A party must make an application under this section not later than the 90th day after the date of delivery of a copy of the award to the applicant.

(c) If the application is granted, the court shall modify or correct the award to affect its intent and shall confirm the award as modified or corrected. If the application is not granted, the court shall confirm the award.

(d) An application to modify or correct an award may be joined in the alternative with an application to vacate the award. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.092. Judgment on Award

(a) On granting an order that confirms, modifies, or corrects an award, the court shall enter a judgment or decree conforming to the order. The judgment or decree may be forced in the same manner as any other judgment or decree.

(b) The court may award:

(1) costs of the application and of the proceedings subsequent to the application; and

(2) disbursements.

Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.093. Hearing; Notice

The court shall hear each initial and subsequent application under this subchapter in the manner and with the notice required by law or court rule for making and hearing a motion filed in a pending civil action in a district court. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.094. Service of Process for Initial Application

(a) On the filing of an initial application under this subchapter, the clerk of the court shall:

(1) issue process for service on each adverse party named in the application; and

(2) attach a copy of the application to the process.

(b) To the extent applicable, the process and service and the return of service must be in the form and include the substance required for process and service on a defendant in a civil action in a district court.

(c) An authorized official may effect the service of process. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.095. Service of Process for Subsequent Applications

(a) After an initial application has been made, notice to an adverse party for each subsequent application shall be made in the same manner as is required for a motion filed in an pending civil action in a district court. This subsection applies only if:

(1) Jurisdiction over the adverse party has been established by service of process on the party or in rem for the initial application; and

(2) the subsequent application relates to:

(A) the same arbitration or a prospective arbitration under the same agreement to arbitrate; and

(B) the same controversy or controversies.

(b) If Subsection (a) does not apply, service of process shall be made on the adverse party in the manner provided by Section 171.094. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.096. Place of Filing

(a) Except as otherwise provided by this section, a party must file the initial application:

(1) in the county in which an adverse party resides or has a place of business; or

(2) if an adverse party does not have a residence or place of business in this state, in any county.

(b) If the agreement to arbitrate provides that the hearing before the arbitrators is to be held in a county in this state, a party must file the initial application with the clerk of the court of that county.

(c) If a hearing before the arbitrators has been held, a party must file the initial application with the clerk of the court of the county in which the hearing was held.

(d) Consistent with Section 171.024, if a proceeding is pending in a court relating to arbitration of an issue subject to arbitration under an agreement before the filing of the initial application, a party must file the initial application and any subsequent application relating to the arbitration in that court. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.097. Transfer

(a) On application of a party adverse to the party who filed the initial application, a court that has jurisdiction but that is located in a county other than as described by Section 171.096 shall transfer the application to a court of a county described by that section.

(b) The court shall transfer the application by an order comparable to an order sustaining a plea of privilege to be sued in a civil action in a district court of a county other than the county in which an action is filed.

(c) The party must file the application under this section:

(1) not later than the 20th day after the date of service of process on the adverse party; and

(2) before any other appearance in the court by that adverse party, other than an appearance to challenge the jurisdiction of the court. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.

171.098. Appeal

(a) A party may appeal a judgment or decree entered under this chapter or an order:

(1) denying an application to compel arbitration made under Section 171.021;

(2) granting an application to stay arbitration made under Section 171.023;

(3) confirming or denying confirmation of an award;

(4) modifying or correcting an award; or

(5) vacating an award without directing a rehearing.

(b) The appeal shall be taken in the manner and to the same extent as an appeal from an order or judgment in a civil action. Added by Acts 1997, 75th Leg., ch. 165, § 5.01, eff. Sept. 1, 1997.