

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 4418

By: Lowe (Dick)

AS INTRODUCED

An Act relating to revenue and taxation; prescribing procedures related to protests of valuation for purposes of ad valorem taxation; providing for applicability of certain procedures; specifying that procedures not to constitute classification of property within meaning of Section 22 of Article X of the Oklahoma Constitution; providing for applicability of procedures to certain protest process; providing for applicability of procedures based upon final year of except treatment; prescribing evidentiary requirements based upon percentage decline in fair cash value of assets; requiring testimony by certain persons; requiring testimony of expert witness or witnesses in certain circumstances; establishing standard of proof in proceedings before district court or certain appellate courts; providing for evidentiary presumption; providing for standard of review on appeal; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2880.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall only be applicable to real and personal property which for purposes of the valuation

method used by the assessor is categorized by a county assessor as commercial or industrial property and shall not be applicable to residential real property, household personal property, agricultural real property, agricultural personal property, public service corporation property, or property of a railroad or an airline.

B. The provisions of this section shall not be construed as a classification of property for purposes of Section 22 of Article X of the Oklahoma Constitution or for purposes of Section 2803 of Title 68 of the Oklahoma Statutes and the categories of property described are only based on the methods used by a county assessor to conduct valuation of real and personal property within the county each year.

C. If a taxpayer protests a valuation of either real or personal property as established by the county assessor pursuant to the provisions of the Ad Valorem Tax Code, the evidence the taxpayer is required to offer in support of the protested valuation shall be governed by the provisions of this section and shall depend on the percentage decline in the fair cash value for the applicable property as asserted by the taxpayer compared to the valuation as established or proposed by the county assessor for the same assessment year.

D. Subject to the limitations of subsection A of this section, the provisions of this section shall be applicable during the first assessment year that a county assessor becomes responsible for

establishing fair cash value of real property or personal property or both after the expiration of the exemption period authorized for the assets pursuant to the provisions of Section 6B of Article X of the Oklahoma Constitution and the provisions of Section 2902 of Title 68 of the Oklahoma Statutes or during the first assessment year following the loss of exempt status for such assets prior to the expiration of the applicable period of exemption.

E. Subject to the limitations of subsection A of this section, the provisions of this section shall be applicable to real or personal property which becomes subject to ad valorem taxation for any other reasons for the first assessment year following the last year during which the property had exempt status on the basis of any provisions of the Oklahoma Constitution or the Oklahoma Statutes related to exempt status including an exempt status for an asset resulting from a decision by an assessor, county board of equalization, district court, or an appellate court.

F. If the percentage decline in fair cash value is not in excess of five percent (5%), the taxpayer may present any competent evidence to the county assessor, the county board of equalization, or the district court in support of the fair cash value as asserted by the taxpayer to be correct. If the taxpayer appeals a decision of the county board of equalization to the district court, the court may consider any relevant evidence regarding the fair cash value of

the real property or personal property as provided by the Oklahoma Evidence Code.

G. If the percentage decline in fair cash value is greater than five percent (5%) but not in excess of ten percent (10%), the taxpayer shall be required to offer the testimony of at least two employees of the legal entity which owns the applicable assets who, either alone or in combination, have direct knowledge of the original cost of acquisition of the applicable assets or knowledge of information regarding the original cost of acquisition of the asset by the taxpayer, any applicable depreciation methods used by the taxpayer for purposes of its accounting system, including depreciation methods used only for purposes of computing federal income tax liabilities, and the taxpayer shall present evidence regarding the fair cash value the taxpayer asserts to be correct according to the requirements of this subsection.

H. If the percentage decline in fair cash value is greater than ten percent (10%) but not in excess of fifteen percent (15%), the taxpayer shall be required to offer the testimony of at least three employees of the legal entity which owns the applicable assets who, either alone or in combination, have direct knowledge of the original cost of acquisition of the applicable assets or knowledge of information regarding the original cost of acquisition of the asset by the taxpayer, any applicable depreciation methods used by the taxpayer for purpose of its accounting system, including

depreciation methods used only for purposes of computing federal income tax liabilities, and the taxpayer shall present evidence regarding the fair cash value the taxpayer asserts to be correct according to the requirements of this subsection. One of the witnesses shall be the chief financial officer of the legal entity which owns the applicable asset or a person having the equivalent duties or title as reflected by the governing documents of the taxpayer. In addition to the other witnesses the testimony of whom is required by the provisions of this subsection, the taxpayer shall be required to offer the testimony of at least one expert witness who shall not be a director, officer, shareholder, member, or employee of the taxpayer nor a director, officer, shareholder, member, or employee of any entity which is a parent entity of the taxpayer, a subsidiary entity of the taxpayer, or in any other way affiliated with the taxpayer.

I. If the percentage decline in fair cash value is greater than fifteen percent (15%) but not in excess of twenty percent (20%), the taxpayer shall be required to offer the testimony of at least four employees of the legal entity which owns the applicable assets who, alone or in combination, have direct knowledge of the original cost of acquisition of the applicable assets or knowledge of information regarding the original cost of acquisition of the asset by the taxpayer, any applicable depreciation methods used by the taxpayer for purpose of its accounting system, including depreciation methods

used only for purposes of computing federal income tax liabilities and the taxpayer shall present evidence regarding the fair cash value the taxpayer asserts to be correct according to the requirements of this subsection. One of the witnesses shall be the chief financial officer of the legal entity which owns the applicable asset or a person having the equivalent duties or title as reflected by the governing documents of the taxpayer and one of the witnesses shall be the chief operating officer of the legal entity which owns the applicable asset or a person having the equivalent duties or title as reflected by the governing documents of the taxpayer. In addition to the other witnesses the testimony of whom is required by the provisions of this subsection, the taxpayer shall be required to offer the testimony of at least two expert witnesses neither of whom shall be a director, officer, shareholder, member, or employee of the taxpayer nor a director, officer, shareholder, member, or employee of any entity which is a parent entity of the taxpayer, a subsidiary entity of the taxpayer, or in any other way affiliated with the taxpayer.

J. If the percentage decline in fair cash value is greater than twenty percent (20%) but not in excess of twenty-five percent (25%), the taxpayer shall be required to offer the testimony of at least four employees of the legal entity which owns the applicable assets who, alone or in combination, have direct knowledge of the original cost of acquisition of the applicable assets or knowledge of

information regarding the original cost of acquisition of the asset by the taxpayer, any applicable depreciation methods used by the taxpayer for purpose of its accounting system, including depreciation methods used only for purposes of computing federal income tax liabilities, and the taxpayer shall present evidence regarding the fair cash value the taxpayer asserts to be correct according to the requirements of this subsection. One of the witnesses shall be the chief financial officer of the legal entity which owns the applicable asset or a person having the equivalent duties or title as reflected by the governing documents of the taxpayer and one of the witnesses shall be the chief operating officer of the legal entity which owns the applicable asset or a person having the equivalent duties or title as reflected by the governing documents of the taxpayer. In addition to the other witnesses the testimony of whom is required by the provisions of this subsection, the taxpayer shall be required to offer the testimony of at least three expert witnesses none of whom shall be a director, officer, shareholder, member, or employee of the taxpayer nor a director, officer, shareholder, member, or employee of any entity which is a parent entity of the taxpayer, a subsidiary entity of the taxpayer, or in any other way affiliated with the taxpayer.

K. If the percentage decline in fair cash value is greater than twenty-five percent (25%) but not in excess of thirty percent (30%), the taxpayer shall be required to offer the testimony of at least

five employees of the legal entity which owns the applicable assets who, alone or in combination, have direct knowledge of the original cost of acquisition of the applicable assets or knowledge of information regarding the original cost of acquisition of the asset by the taxpayer, any applicable depreciation methods used by the taxpayer for purpose of its accounting system, exclusive of depreciation methods used only for purposes of computing federal income tax liabilities, and the taxpayer shall present evidence regarding the fair cash value the taxpayer asserts to be correct according to the requirements of this subsection. One of the witnesses shall be the chief financial officer of the legal entity which owns the applicable asset or a person having the equivalent duties or title as reflected by the governing documents of the taxpayer and one of the witnesses shall be the chief operating officer of the legal entity which owns the applicable asset or a person having the equivalent duties or title as reflected by the governing documents of the taxpayer. In addition to the other witnesses the testimony of whom is required by the provisions of this subsection, the taxpayer shall be required to offer the testimony of at least three expert witnesses none of whom is a director, officer, shareholder, member, or employee of the taxpayer nor a director, officer, shareholder, member, or employee of any entity which is a parent entity of the taxpayer, a subsidiary entity of the taxpayer, or in any other way affiliated with the taxpayer.



L. If the percentage decline in fair cash value is greater than thirty percent (30%), the taxpayer shall be required to offer the testimony of at least five employees of the legal entity which owns the applicable assets who, alone or in combination, have direct knowledge of the original cost of acquisition of the applicable assets or knowledge of information regarding the original cost of acquisition of the asset by the taxpayer, any applicable depreciation methods used by the taxpayer for purpose of its accounting system, including depreciation methods used only for purposes of computing federal income tax liabilities, and the taxpayer shall present evidence regarding the fair cash value the taxpayer asserts to be correct according to the requirements of this subsection. One of the witnesses shall be the chief financial officer of the legal entity which owns the applicable asset or a person having the equivalent duties or title as reflected by the governing documents of the taxpayer, one of the witnesses shall be the chief operating officer of the legal entity which owns the applicable asset or a person having the equivalent duties or title as reflected by the governing documents of the taxpayer and one of the witnesses shall be either the president of the legal entity which owns the asset or a vice-president of the legal entity which owns the asset, or equivalent positions as reflected by the governing documents of the taxpayer. In addition to the other witnesses the testimony of whom is required by the provisions of

this subsection, the taxpayer shall be required to offer the testimony of at least five expert witnesses none of whom is a director, officer, shareholder, member, or employee of the taxpayer nor a director, officer, shareholder, member, or employee of any entity which is a parent entity of the taxpayer, a subsidiary entity of the taxpayer, or in any other way affiliated with the taxpayer.

M. In any proceeding before a district court in an appeal from the decision of the county board of equalization pursuant to subsections H through L of this section, the taxpayer shall be required to prove the fair cash value of the real or personal property as applicable by clear and convincing evidence.

N. In any proceeding before a district court in an appeal from the decision of the county board of equalization in which the taxpayer asserts a percentage decline in the fair cash value of real or personal property in excess of thirty percent (30%), in addition to any other requirements related to the testimony of witnesses, the taxpayer shall be required to prove the fair cash value of the real or personal property as applicable by clear and convincing evidence and there shall be a presumption that the fair cash value established by the county assessor or as determined by the county board of equalization was the correct fair cash value for the applicable assessment year.

O. In any appeal from the final judgment or determination of a district court pursuant to the provisions of subsection L of this

section, the findings and conclusions of the district court shall not be reversed unless the appellate court finds specifically that the decision in the case was clearly not supported by the evidence. The appellate court shall give due consideration for the need for expedited review of the matters presented to it on appeal and the need for finality of value determinations within the ad valorem tax system.

SECTION 2. This act shall become effective November 1, 2022.

58-2-9903            MAH            01/19/22