TAX CODE
TITLE 1. PROPERTY TAX CODE
SUBTITLE A. GENERAL PROVISIONS
CHAPTER 1. GENERAL PROVISIONS

Sec. 1.01. SHORT TITLE. This title may be cited as the Property Tax Code.

Acts 1979, 66th Leg., p. 2218, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.02. APPLICABILITY OF TITLE. This title applies to a taxing unit that is created by or pursuant to any general, special, or local law enacted before or after the enactment of this title unless a law enacted after enactment of this title by or pursuant to which the taxing unit is created expressly provides that this title does not apply. This title supersedes any provision of a municipal charter or ordinance relating to property taxation. Nothing in this title invalidates or restricts the right of voters to utilize municipal-level initiative and referendum to set a tax rate, level of spending, or limitation on tax increase for that municipality.

Acts 1979, 66th Leg., p. 2218, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 117, ch. 13, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.03. CONSTRUCTION OF TITLE. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this title except as otherwise expressly provided by this title.

Acts 1979, 66th Leg., p. 2218, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 72, eff. Sept. 1, 1985.

Sec. 1.04. DEFINITIONS. In this title:

(1) "Property" means any matter or thing capable of private ownership.

(2) "Real property" means:

(A) land;

(B) an improvement;

(C) a mine or quarry;

(D) a mineral in place;

(E) standing timber; or

(F) an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property enumerated in Paragraphs (A) through (E) of this subdivision.

(3) "Improvement" means:

(A) a building, structure, fixture, or fence erected on or affixed to land;

(B) a transportable structure that is designed to be occupied for residential or business purposes, whether or not it is affixed to land, if the owner of the structure owns the land on which it is located, unless the structure is unoccupied and held for sale or normally is located at a particular place only temporarily; or

(C) for purposes of an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, the:

(i) subdivision of land by plat;

(ii) installation of water, sewer, or drainage lines; or

(iii) paving of undeveloped land.

(3-a) Notwithstanding anything contained herein to the contrary, a manufactured home is an improvement to real property only if the owner of the home has elected to treat the manufactured home as real property pursuant to Section 1201.2055, Occupations Code, and a copy of the statement of ownership has been filed with the real property records of the county in which the home is located as provided in Section 1201.2055(d), Occupations Code.

(4) "Personal property" means property that is not real property.

(5) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or otherwise perceived by the senses, but does not include a document or other perceptible object that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

(6) "Intangible personal property" means a claim, interest (other than an interest in tangible property), right, or other thing that has value but cannot be seen, felt, weighed, measured, or otherwise perceived by the senses, although its existence may be

evidenced by a document. It includes a stock, bond, note or account receivable, franchise, license or permit, demand or time deposit, certificate of deposit, share account, share certificate account, share deposit account, insurance policy, annuity, pension, cause of action, contract, and goodwill.

(7) "Market value" means the price at which a property would transfer for cash or its equivalent under prevailing market conditions if:

(A) exposed for sale in the open market with a reasonable time for the seller to find a purchaser;

(B) both the seller and the purchaser know of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions on its use; and

(C) both the seller and purchaser seek to maximize their gains and neither is in a position to take advantage of the exigencies of the other.

(8) "Appraised value" means the value determined as provided by Chapter 23 of this code.

(9) "Assessed value" means, for the purposes of assessment of property for taxation, the amount determined by multiplying the appraised value by the applicable assessment ratio, but, for the purposes of determining the debt limitation imposed by Article III, Section 52, of the Texas Constitution, shall mean the market value of the property recorded by the chief appraiser.

(10) "Taxable value" means the amount determined by deducting from assessed value the amount of any applicable partial exemption.

(11) "Partial exemption" means an exemption of part of the value of taxable property.

(12) "Taxing unit" means a county, an incorporated city or town (including a home-rule city), a school district, a special district or authority (including a junior college district, a hospital district, a district created by or pursuant to the Water Code, a mosquito control district, a fire prevention district, or a noxious weed control district), or any other political unit of this state, whether created by or pursuant to the constitution or a local, special, or general law, that is authorized to impose and is imposing ad valorem taxes on property even if the governing body of another political unit determines the tax rate for the unit or otherwise

governs its affairs.

(13) "Tax year" means the calendar year.

(14) "Assessor" means the officer or employee responsible for assessing property taxes as provided by Chapter 26 of this code for a taxing unit by whatever title he is designated.

(15) "Collector" means the officer or employee responsible for collecting property taxes for a taxing unit by whatever title he is designated.

(16) "Possessory interest" means an interest that exists as a result of possession or exclusive use or a right to possession or exclusive use of a property and that is unaccompanied by ownership of a fee simple or life estate in the property. However, "possessory interest" does not include an interest, whether of limited or indeterminate duration, that involves a right to exhaust a portion of a real property.

(17) "Conservation and reclamation district" means a district created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or under a statute enacted under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.

(18) "Clerical error" means an error:

(A) that is or results from a mistake or failure in writing, copying, transcribing, entering or retrieving computer data, computing, or calculating; or

(B) that prevents an appraisal roll or a tax roll from accurately reflecting a finding or determination made by the chief appraiser, the appraisal review board, or the assessor; however, "clerical error" does not include an error that is or results from a mistake in judgment or reasoning in the making of the finding or determination.

(19) "Comptroller" means the Comptroller of Public Accounts of the State of Texas.

(20) "Heir property" means real property:

(A) owned by one or more individuals, at least one of whom claims the property as the individual's residence homestead; and

(B) acquired by the owner or owners by will, transfer on death deed, or intestacy, regardless of whether the interests of the owners are recorded in the real property records of the county in which the property is located.

(21) "Heir property owner" means an owner of heir property

who claims the property as the individual's residence homestead.

Acts 1979, 66th Leg., p. 2218, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, Sec. 2, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 984, Sec. 25, eff. June 19, 1987; Acts 1989, 71st Leg., ch. 1123, Sec. 1, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., ch. 20, Sec. 13, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 393, Sec. 1, eff. June 10, 1991; Acts 1991, 72nd Leg., ch. 843, Sec. 6, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 8.01(22), eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.04, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 1070, Sec. 52, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., R.S., Ch. 1284 (H.B. 2438), Sec. 30, eff. June 18, 2005.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 79, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 1, eff. September 1, 2019.

Sec. 1.045. REFERENCE TO CERTAIN TERMS IN LAW. Unless the context indicates otherwise:

(1) a reference in law to a taxing unit's effective maintenance and operations rate is a reference to the taxing unit's no-new-revenue maintenance and operations rate, as defined by Chapter 26;

(2) a reference in law to a taxing unit's effective tax rate is a reference to the taxing unit's no-new-revenue tax rate, as defined by Chapter 26; and

(3) a reference in law to a taxing unit's rollback tax rate is a reference to the taxing unit's voter-approval tax rate, as defined by Chapter 26.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 2, eff. January 1, 2020.

Sec. 1.05. CITY FISCAL YEAR. The governing body of a home-rule city may establish by ordinance a fiscal year different from that fixed in its charter if a different fiscal year is desirable to adapt

budgeting and other fiscal activities to the tax cycle required by this title.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.06. EFFECT OF WEEKEND OR HOLIDAY. If the last day for the performance of an act is a Saturday, Sunday, or legal state or national holiday, the act is timely if performed on the next regular business day.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 1.07. DELIVERY OF NOTICE. (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 or 1.086.

(b) The official or agency shall address the notice to the property owner, the person designated under Section 1.111(f) to receive the notice for the property owner, if that section applies, or, if appropriate, the property owner's agent at the agent's address according to the most recent record in the possession of the official or agency. However, if a property owner files a written request with the appraisal district that notices be sent to a particular address, the official or agency shall send the notice to the address stated in the request.

(c) A notice permitted to be delivered by first-class mail by this section is presumed delivered when it is deposited in the mail. This presumption is rebuttable when evidence of failure to receive notice is provided.

(d) A notice required by Section 11.43(q), 11.45(d), 23.44(d), 23.46(c) or (f), 23.54(e), 23.541(c), 23.55(e), 23.551(a), 23.57(d), 23.76(e), 23.79(d), or 23.85(d) must be sent by certified mail.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4947, ch. 885, Sec. 1, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 796, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1039, Sec. 1, eff. Jan. 1, 1998; Acts

1999, 76th Leg., ch. 441, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 1, eff. September 1, 2005.
Acts 2011, 82nd Leg., R.S., Ch. 483 (H.B. 843), Sec. 1, eff. January 1, 2012.
Acts 2013, 83rd Leg., R.S., Ch. 230 (H.B. 242), Sec. 1, eff. January 1, 2014.
Acts 2015, 84th Leg., R.S., Ch. 352 (H.B. 1464), Sec. 1, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 531 (H.B. 1463), Sec. 1, eff. September 1, 2015.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 3, eff. January 1, 2020.

Sec. 1.071. DELIVERY OF REFUND. (a) A collector or taxing unit required by this title to deliver a refund to a person shall send the refund to the person's mailing address as listed on the appraisal roll.

(b) Notwithstanding Subsection (a), if a person files a written request with the collector or taxing unit that a refund owed to the person be sent to a particular address, the collector or taxing unit shall send the refund to the address stated in the request.

Added by Acts 2019, 86th Leg., R.S., Ch. 448 (S.B. 1856), Sec. 1, eff. September 1, 2019.

Sec. 1.08. TIMELINESS OF ACTION BY MAIL OR COMMON OR CONTRACT CARRIER. When a property owner is required by this title to make a payment or to file or deliver a report, application, statement, or other document or paper by a specified due date, the property owner's action is timely if it is properly addressed with postage or handling charges prepaid and:

(1) it is sent by regular first-class mail and bears a post office cancellation mark of a date earlier than or on the specified due date and within the specified period;

(2) it is sent by common or contract carrier and bears a receipt mark indicating a date earlier than or on the specified due

date and within the specified period; or

(3) it is sent by regular first-class mail or common or contract carrier and the property owner furnishes satisfactory proof that it was deposited in the mail or with the common or contract carrier on or before the specified due date and within the specified period.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 2, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 779 (S.B. 1224), Sec. 1, eff. June 14, 2013.

Sec. 1.085. COMMUNICATION IN ELECTRONIC FORMAT. (a) Notwithstanding any other provision in this title and except as provided by this section, any notice, rendition, application form, or completed application, or information requested under Section 41.461(a)(2), 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 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;

(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 the property owner, 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 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) This subsection applies to the chief appraiser of an appraisal district only if the appraisal district is located in a

county described by Subsection (g) or the chief appraiser has decided to authorize electronic communication under this section and the appraisal district has implemented a system that allows such communication. 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.

(m) Notwithstanding any other provision of this section, a property owner need not enter into an agreement under this section to be entitled to electronic delivery of a notice of a protest hearing under Section 41.46.

Added by Acts 1999, 76th Leg., ch. 441, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 984, Sec. 1; Acts 2003, 78th Leg., ch. 1173, Sec. 1, eff. Jan. 1, 2005.
Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 18(1), eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 831 (H.B. 3216), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 229 (H.B. 241), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 753 (H.B. 1060), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 4, eff. January 1, 2020.

Sec. 1.086. DELIVERY OF CERTAIN NOTICES BY E-MAIL. (a) On the written request of the owner of a residential property that is occupied by the owner as the owner's principal residence, the chief appraiser of the appraisal district in which the property is located shall send each notice required by this title related to the following to the e-mail address of the owner:

(1) a change in value of the property;

(2) the eligibility of the property for an exemption; or

(3) the grant, denial, cancellation, or other change in the status of an exemption or exemption application applicable to the property.

(b) A property owner must provide the e-mail address to which the chief appraiser must send the notices described by Subsection (a) in a request made under that subsection.

(c) A chief appraiser who delivers a notice electronically under this section is not required to mail the same notice to the property owner.

(d) A request made under this section remains in effect until revoked by the property owner in a written revocation filed with the chief appraiser.

(e) After a property owner makes a request under this section and before a chief appraiser may deliver a notice electronically under this section, the chief appraiser must send an e-mail to the address provided by the property owner confirming the owner's request to receive notices electronically.

(f) The chief appraiser of an appraisal district that maintains an Internet website shall provide a form on the website that a property owner may use to electronically make a request under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 5, eff. January 1, 2020.

Sec. 1.09. AVAILABILITY OF FORMS. When a property owner is required by this title to use a form, the office or agency with which the form is filed shall make printed and electronic versions of the forms readily and timely available and shall furnish a property owner a form without charge.

Added by Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2003, 78th Leg., ch. 984, Sec. 2; Acts 2003, 78th Leg., ch. 1173, Sec. 2, eff. Jan. 1, 2005.

Sec. 1.10. ROLLS IN ELECTRONIC DATA-PROCESSING RECORDS. The appraisal roll for an appraisal district and the appraisal roll or

the tax roll for the unit may be retained in electronic data-processing equipment. However, a physical document for each must be prepared and made readily available to the public.

Acts 1979, 66th Leg., p. 2220, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, Sec. 3, eff. Jan. 1, 1982.

Sec. 1.11. COMMUNICATIONS TO FIDUCIARY. (a) On the written request of a property owner, an appraisal office or an assessor or collector shall deliver all notices, tax bills, and other communications relating to the owner's property or taxes to the owner's fiduciary.

(b) To be effective, a request made under this section must be filed with the appraisal district. A request remains in effect until revoked by a written revocation filed with the appraisal district by the owner or the owner's designated agent.

Added by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, Sec. 4, eff. Jan. 1, 1982.
Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 2, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 715 (H.B. 3439), Sec. 1, eff. September 1, 2013.

Sec. 1.111. REPRESENTATION OF PROPERTY OWNER. (a) A property owner may designate a lessee or other person to act as the agent of the owner for any purpose under this title in connection with the property or the property owner.

(a-1) A lessee designated by a property owner as the owner's agent under Subsection (a) may, subject to the property owner's approval, designate a person to act as the lessee's agent for any purpose under this title for which the lessee is authorized to act on behalf of the owner in connection with the owner or the owner's property. An agent designated by a lessee under this subsection has the same authority and is subject to the same limitations as an agent designated by a property owner under Subsection (a).

(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.

(c) The designation of an agent under this section remains in effect until revoked in a written revocation filed with the appraisal district by the property owner or designated agent. The designated agent revoking the designation must send notice of the revocation by certified mail to the property owner at the owner's last known address. A designation may be made to expire according to its own terms but is still subject to prior revocation by the property owner or designated agent.

(d) A property owner may not designate more than one agent to represent the property owner in connection with an item of property. The designation of an agent in connection with an item of property revokes any previous designation of an agent in connection with that item of property.

(e) An agreement between a property owner or the owner's agent and the chief appraiser is final if the agreement relates to a matter:

(1) which may be protested to the appraisal review board or on which a protest has been filed but not determined by the board; or

(2) which may be corrected under Section 25.25 or on which a motion for correction under that section has been filed but not determined by the board.

(f) A property owner in writing filed with the appraisal district may direct the appraisal district, appraisal review board, and each taxing unit participating in the appraisal district to

deliver all notices, tax bills, orders, and other communications relating to one or more specified items of the owner's property to a specified person instead of to the property owner. The instrument must clearly identify the person by name and give the person's address to which all notices, tax bills, orders, and other communications are to be delivered. The property owner may but is not required to designate the person's agent for other tax matters designated under Subsection (a) as the person to receive all notices, tax bills, orders, and other communications. The designation of an agent for other tax matters under Subsection (a) may also provide that the agent is the person to whom notices, tax bills, orders, and other communications are to be delivered under this subsection.

(g) An appraisal district, appraisal review board, or taxing unit may not require a person to designate an agent to represent the person in a property tax matter other than as provided by this section.

(h) The comptroller shall prescribe forms and adopt rules to facilitate compliance with this section. The comptroller shall include on any form used for designation of an agent for a single-family residential property in which the property owner resides the following statement in boldfaced type:

"In some cases, you may want to contact your appraisal district or other local taxing units for free information and/or forms concerning your case before designating an agent."

(i) An appraisal review board shall accept and consider a motion or protest filed by an agent of a property owner if an agency authorization is filed at or before the hearing on the motion or protest.

(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.

(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.

(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).

Added by Acts 1987, 70th Leg., ch. 435, Sec. 1, eff. Jan. 1, 1988. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 981, Sec. 1, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 1031, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 349, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 156 (H.B. 1203), Sec. 1, eff. May 26, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1267 (H.B. 1030), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 831 (H.B. 3216), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 715 (H.B. 3439), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 1, eff. January 1, 2016.

Sec. 1.12. MEDIAN LEVEL OF APPRAISAL. (a) For purposes of

this title, the median level of appraisal is the median appraisal ratio of a reasonable and representative sample of properties in an appraisal district or, for purposes of Section 41.43 or 42.26, of a sample of properties specified by that section.

(b) An appraisal ratio is the ratio of a property's appraised value as determined by the appraisal office or appraisal review board, as applicable, to:

(1) the appraised value of the property according to law if the property qualifies for appraisal for tax purposes according to a standard other than market value; or

(2) the market value of the property if Subdivision (1) of this subsection does not apply.

(c) The median appraisal ratio for a sample of properties is, in a numerically ordered list of the appraisal ratios for the properties:

(1) if the sample contains an odd number of properties, the appraisal ratio above and below which there is an equal number of appraisal ratios in the list; or

(2) if the sample contains an even number of properties, the average of the two consecutive appraisal ratios above and below which there is an equal number of appraisal ratios in the list.

(d) For purposes of this section, the appraisal ratio of a homestead to which Section 23.23 applies is the ratio of the property's market value as determined by the appraisal district or appraisal review board, as applicable, to the market value of the property according to law. The appraisal ratio is not calculated according to the appraised value of the property as limited by Section 23.23.

Added by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, Sec. 5, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4924, ch. 877, Sec. 1, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 823, Sec. 1, eff. Jan. 1, 1986; Acts 1989, 71st Leg., ch. 796, Sec. 3, eff. June 15, 1989; Acts 1997, 75th Leg., ch. 1039, Sec. 46, eff. Jan. 1, 1998.

Sec. 1.15. APPRAISERS FOR TAXING UNITS PROHIBITED. A taxing unit may not employ any person for the purpose of appraising property for taxation purposes except to the extent necessary to perform a

contract under Section 6.05(b) of this code.

Added by Acts 1983, 68th Leg., p. 5463, ch. 1028, Sec. 1, eff. Oct. 1, 1985. Renumbered from Sec. 1.13 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(50) eff. Sept. 1, 1987.

SUBTITLE B. PROPERTY TAX ADMINISTRATION
CHAPTER 5. STATE ADMINISTRATION

Sec. 5.01. PROPERTY TAX ADMINISTRATION ADVISORY BOARD. (a) The comptroller shall appoint the property tax administration advisory board to advise the comptroller with respect to the division or divisions within the office of the comptroller with primary responsibility for state administration of property taxation and state oversight of appraisal districts. The advisory board may make recommendations to the comptroller regarding improving the effectiveness and efficiency of the property tax system, best practices, and complaint resolution procedures.

(b) The advisory board is composed of at least six members appointed by the comptroller. The members of the board should include:

(1) representatives of property tax payers, appraisal districts, assessors, and school districts; and

(2) a person who has knowledge or experience in conducting ratio studies.

(c) The members of the advisory board serve at the pleasure of the comptroller.

(d) Any advice to the comptroller relating to a matter described by Subsection (a) that is provided by a member of the advisory board must be provided at a meeting called by the comptroller.

(e) Chapter 2110, Government Code, does not apply to the advisory board.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 6, eff. January 1, 2020.

Sec. 5.03. POWERS AND DUTIES GENERALLY. (a) The comptroller shall adopt rules establishing minimum standards for the administration and operation of an appraisal district. The minimum

standards may vary according to the number of parcels and the kinds of property the district is responsible for appraising.

(b) The comptroller may require from each district engaged in appraising property for taxation an annual report on a form prescribed by the comptroller on the administration and operation of the appraisal office.

(c) The comptroller may contract with consultants to assist in performance of the duties imposed by this chapter.

Acts 1979, 66th Leg., p. 2221, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 118, ch. 13, Sec. 6, eff. Aug. 14, 1981; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 2, eff. Sept. 1, 1991.

Sec. 5.04. TRAINING AND EDUCATION OF APPRAISERS. (a) The comptroller shall enter into a memorandum of understanding with the Texas Department of Licensing and Regulation or any successor agency responsible for certifying tax professionals in this state in setting standards for and approving curricula and materials for use in training and educating appraisers and assessor-collectors, and the comptroller may contract or enter into a memorandum of understanding with other public agencies, educational institutions, or private organizations in sponsoring courses of instruction and training programs.

(b) An appraisal district shall reimburse an employee of the appraisal office for all actual and necessary expenses, tuition and other fees, and costs of materials incurred in attending, with approval of the chief appraiser, a course or training program sponsored or approved by the Texas Department of Licensing and Regulation.

Acts 1979, 66th Leg., p. 2222, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, Sec. 7, eff. Aug. 14, 1981; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 2, eff. Sept. 1, 1991.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 450 (H.B. 2447), Sec. 40, eff. September 1, 2009.

Sec. 5.041. TRAINING OF APPRAISAL REVIEW BOARD MEMBERS. (a) The comptroller shall:

(1) approve curricula and provide materials for use in training and educating members of an appraisal review board;

(2) supervise a comprehensive course for training and education of appraisal review board members and issue certificates indicating course completion;

(3) make all materials for use in training and educating members of an appraisal review board freely available online;

(4) establish and maintain a toll-free telephone number that appraisal review board members may call for answers to technical questions relating to the duties and responsibilities of appraisal review board members and property appraisal issues; and

(5) provide, as feasible, online technological assistance to improve the operations of appraisal review boards and appraisal districts.

(b) A member of the appraisal review board established for an appraisal district must complete the course established under Subsection (a). The course must provide at least eight hours of classroom training and education. A member of the appraisal review board may not participate in a hearing conducted by the board unless the person has completed the course established under Subsection (a) and received a certificate of course completion.

(b-1) At the conclusion of a course established under Subsection (a), each member of an appraisal review board in attendance shall complete a statement, on a form prescribed by the comptroller, indicating that the member will comply with the requirements of this title in conducting hearings.

(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 for each person trained. If the training is provided to an individual other than a member of an appraisal review board, the comptroller may assess a fee not to exceed $50 for each person trained.

(d) The course material for the course required under

Subsection (a) is the comptroller's Appraisal Review Board Manual in use on the effective date of this section. The manual shall be updated regularly. It may be revised on request, in writing, to the comptroller. The revision language must be approved on the unanimous agreement of a committee selected by the comptroller and representing, equally, taxpayers and chief appraisers. The person requesting the revision shall pay the costs of mediation if the comptroller determines that mediation is required.

(e) Notwithstanding the provisions of Subsection (b), an appraisal review board member appointed after a course offering may continue to serve until the completion of the subsequent course offering.

(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 course must provide at least four hours of classroom training and education. 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.

(e-2) During the second year of an appraisal review board member's term of office, the member must successfully complete the course established under Subsection (e-1). At the conclusion of the course, the member must complete a statement described by Subsection (b-1). A person may not participate in a hearing conducted by the board, vote on a determination of a protest, or be reappointed to an additional term on the board until the person has completed the course established under Subsection (e-1) and has received a certificate of course completion. If the person is reappointed to an additional term on the appraisal review board, the person must successfully complete the course established under Subsection (e-1) and comply with the other requirements of this subsection in each year the member continues to serve.

(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. If the training is provided to an individual other than a member of an appraisal review board, the comptroller may assess a fee not to exceed $50 for each person trained.

(f) The comptroller may not advise a property owner, a property owner's agent, or the chief appraiser or another employee of an appraisal district on a matter that the comptroller knows is the subject of a protest to the appraisal review board. The comptroller may provide advice to an appraisal review board member as authorized by Subsection (a)(4) of this section or Section 5.103 and may communicate with the chairman of an appraisal review board or a taxpayer liaison officer concerning a complaint filed under Section 6.052.

(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.

(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.

Added by Acts 1997, 75th Leg., ch. 691, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1294 (H.B. 2317), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 2, eff. January 1, 2014.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 7, eff. January 1, 2020.

Sec. 5.042. REQUIRED TRAINING FOR CHIEF APPRAISERS. (a) Except as provided by this section, a person may not serve as a chief appraiser for an appraisal district unless the person has completed the course of training prescribed by Section 1151.164, Occupations Code.

(b) A person may serve in a temporary, provisional, or interim capacity as chief appraiser for a period of up to one year without completing the training required by this section.

(c) This section does not apply to a county assessor-collector

who serves as chief appraiser under Section 6.05(c).

Added by Acts 2005, 79th Leg., Ch. 1111 (H.B. 2382), Sec. 2, eff. July 1, 2006.

Sec. 5.043. TRAINING OF ARBITRATORS. (a) This section applies only to persons who have agreed to serve as arbitrators under Chapter 41A.

(b) The comptroller shall:

(1) approve curricula and provide an arbitration manual and other materials for use in training and educating arbitrators;

(2) make all materials for use in training and educating arbitrators freely available online; and

(3) establish and supervise a training program on property tax law for the training and education of arbitrators.

(c) The training program must:

(1) emphasize the requirements regarding the equal and uniform appraisal of property; and

(2) be at least four hours in length.

(d) The training program may be provided online. The comptroller by rule may prescribe the manner by which the comptroller may verify that a person taking the training program online has taken and completed the program.

(e) The comptroller may contract with service providers to assist with the duties imposed under Subsection (b), but the training program 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 program, but the fee may not exceed $50 for each person trained. If the training is provided to a person other than a person who has agreed to serve as an arbitrator under Chapter 41A, the comptroller may assess a fee not to exceed $50 for each person trained.

(f) The comptroller shall prepare an arbitration manual for use in the training program. The manual shall be updated regularly and may be revised on request, in writing, to the comptroller. The revised language must be approved by the unanimous agreement of a committee selected by the comptroller and representing, equally,

taxpayers and chief appraisers. The person requesting the revision must pay the costs of mediation if the comptroller determines that mediation is required.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 8, eff. January 1, 2020.

Sec. 5.05. APPRAISAL MANUALS AND OTHER MATERIALS. (a) The comptroller may prepare and issue publications relating to the appraisal of property and the administration of taxes, or may approve other publications relating to those matters, including materials published by The Appraisal Foundation, the International Association of Assessing Officers, or other professionally recognized organizations, for use in the administration of property taxes, including:

(1) a general appraisal manual;

(2) special appraisal manuals as authorized by law;

(3) cost, price, and depreciation schedules as authorized by law;

(4) periodic news and reference bulletins;

(5) an annotated version of this title and Title 3; and

(6) a handbook containing selected laws and all rules promulgated by the comptroller relating to the property tax and its administration.

(b) The comptroller shall revise or supplement all materials issued by the comptroller or approve other publications periodically as necessary to keep them current.

(c) The comptroller shall electronically publish all materials under this section for administering the property tax system. The comptroller shall make the materials available to local governmental officials and members of the public but may charge a reasonable fee to offset the costs of preparing, printing, and distributing the materials.

(c-1) An appraisal district shall appraise property in accordance with any appraisal manuals required by law to be prepared and issued by the comptroller.

(c-2) Appraisal manuals required by law to be prepared and issued by the comptroller for the purpose of determining the market value of property shall be prepared based on generally accepted

appraisal methods and techniques.

(d) If the appraised value of property is at issue in a lawsuit involving property taxation, a court may not admit in evidence appraisal manuals or cost, price, and depreciation schedules, or portions thereof, that are prepared and issued pursuant to this section. The manuals or schedules may only be used for the limited purpose of impeachment in the same manner and pursuant to the same evidentiary rules as applicable to books and treatises.

Acts 1979, 66th Leg., p. 2222, ch. 841, Sec. 1, eff. Jan. 1, 1980.
Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, Sec. 8, eff. Aug. 14, 1981; Acts 1989, 71st Leg., ch. 384, Sec. 6, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 3, eff. Sept. 1, 1991.
Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 4, eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 17.02, eff. September 28, 2011.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 9, eff. January 1, 2020.

Sec. 5.06. EXPLANATION OF TAXPAYER REMEDIES. The comptroller shall prepare and electronically publish a pamphlet explaining the remedies available to dissatisfied taxpayers and the procedures to be followed in seeking remedial action. The comptroller shall include in the pamphlet advice on preparing and presenting a protest.

Acts 1979, 66th Leg., p. 2222, ch. 841, Sec. 1, eff. Jan. 1, 1980.
Amended by Acts 1989, 71st Leg., ch. 384, Sec. 7, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 4, eff. Sept. 1, 1991.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 17.03, eff. September 28, 2011.

Sec. 5.061. EXPLANATION OF INFORMATION RELATED TO HEIR PROPERTY. The comptroller shall prepare and electronically publish a pamphlet that provides information to assist heir property owners in applying for a residence homestead exemption authorized by Chapter

11. The pamphlet must include:

(1) a list of the residence homestead exemptions authorized by Chapter 11;

(2) a description of the process for applying for an exemption as prescribed by Section 11.43;

(3) a description of the documents an owner is required by Section 11.43(o) to submit with an application to demonstrate the owner's ownership of an interest in heir property;

(4) contact information for the division of the State Bar of Texas from which a person may obtain a listing of individuals and organizations available to provide free or reduced-fee legal assistance; and

(5) a general description of the process by which an owner may record the owner's interest in heir property in the real property records of the county in which the property is located.

Added by Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 2, eff. September 1, 2019.

Sec. 5.07. PROPERTY TAX FORMS AND RECORDS SYSTEMS. (a) The comptroller shall prescribe the contents of all forms necessary for the administration of the property tax system and on request shall furnish sufficient copies of model forms of each type to the appropriate local officials. The comptroller may require reimbursement for the costs of printing and distributing the forms.

(b) The comptroller shall make the contents of the forms uniform to the extent practicable but may prescribe or approve additional or substitute forms for special circumstances.

(c) The comptroller shall also prescribe a uniform record system to be used by all appraisal districts for the purpose of submitting data to be used in the studies required by Section 5.10 of this code and by Section 403.302, Government Code. The record system shall include a compilation of information concerning sales of real property within the boundaries of the appraisal district. The sales information maintained in the uniform record system shall be submitted annually in a form prescribed by the comptroller.

(d) A property tax form that requires a signature may be signed by means of an electronically captured handwritten signature.

(e) A property tax form is not invalid or unenforceable solely

because the form is a photocopy, facsimile, or electronic copy of the original.

(f) The comptroller shall prescribe tax rate calculation forms to be used by the designated officer or employee of each:

(1) taxing unit other than a school district to calculate and submit the no-new-revenue tax rate and the voter-approval tax rate for the taxing unit as required by Chapter 26; and

(2) school district to:

(A) calculate and submit the no-new-revenue tax rate and the voter-approval tax rate for the district as required by Chapter 26; and

(B) submit the rate to maintain the same amount of state and local revenue per weighted student that the district received in the school year beginning in the preceding tax year as required by Chapter 26.

(g) The forms described by Subsection (f) must be in an electronic format and:

(1) have blanks that can be filled in electronically;

(2) be capable of being certified by the designated officer or employee after completion as accurately calculating the applicable tax rates and using values that are the same as the values shown in, as applicable:

(A) the taxing unit's certified appraisal roll; or

(B) the certified estimate of taxable value of property in the taxing unit prepared under Section 26.01(a-1); and

(3) be capable of being electronically incorporated into the property tax database maintained by each appraisal district under Section 26.17 and submitted electronically to the county assessor-collector of each county in which all or part of the territory of the taxing unit is located.

(h) For purposes of Subsections (f) and (g), the comptroller shall use the forms published on the comptroller's Internet website as of January 1, 2019, modified as necessary to comply with the requirements of this section. The comptroller shall update the forms as necessary to reflect formatting or other nonsubstantive changes.

(i) The comptroller may revise the forms to reflect substantive changes other than those described by Subsection (h) or on receipt of a request in writing. A revision under this subsection must be approved by the agreement of a majority of the members of a committee selected by the comptroller who are present at a committee meeting at

which a quorum is present. The members of the committee must represent, equally, taxpayers, taxing units or persons designated by taxing units, and assessors. In the case of a revision for which the comptroller receives a request in writing, the person requesting the revision shall pay the costs of mediation if the comptroller determines that mediation is required.

(j) A meeting of the committee held under Subsection (i) is not subject to the requirements of Chapter 551, Government Code.

Acts 1979, 66th Leg., p. 2222, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 4, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1183, Sec. 4, eff. June 20, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 5, eff. January 1, 2010.

Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 2, eff. January 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 10, eff. January 1, 2020.

Sec. 5.08. PROFESSIONAL AND TECHNICAL ASSISTANCE. (a) The comptroller may provide professional and technical assistance on request in appraising property, installing or updating tax maps, purchasing equipment, developing recordkeeping systems, or performing other appraisal activities. The comptroller may also provide professional and technical assistance on request to an appraisal review board. The comptroller may require reimbursement for the costs of providing the assistance.

(b) The comptroller may provide information to and consult with persons actively engaged in appraising property for tax purposes about any matter relating to property taxation without charge.

Acts 1979, 66th Leg., p. 2223, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, Sec. 9, eff. Aug. 14, 1981; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 4, eff. Sept. 1, 1991.

Sec. 5.09. BIENNIAL REPORTS. (a) The comptroller shall prepare a biennial report of the total appraised values and taxable

values of taxable property by category and the tax rates of each county, municipality, special district, and school district in effect for the two years preceding the year in which the report is prepared.

(a-1) The comptroller shall:

(1) prescribe the format by which an appraisal district or taxing unit must submit information under this section to the comptroller;

(2) collect and review in detail the information submitted that relates to each county, municipality, and school district; and

(3) collect and review the information submitted that relates to each special district.

(b) Not later than December 31 of each even-numbered year, the comptroller shall:

(1) electronically publish on the comptroller's Internet website the report required by Subsection (a); and

(2) notify the governor, the lieutenant governor, and each member of the legislature that the report is available on the website.

Acts 1979, 66th Leg., p. 2223, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, Sec. 10, eff. Aug. 14, 1981; Acts 1989, 71st Leg., ch. 384, Sec. 8, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 5, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 66, eff. Jan. 8, 1992.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 17.04, eff. September 28, 2011.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 11, eff. January 1, 2020.

Sec. 5.091. STATEWIDE LIST OF TAX RATES. (a) Each year the comptroller shall prepare a list that includes the total tax rate imposed by each taxing unit in this state, as reported to the comptroller by each appraisal district, for the year in which the list is prepared. The comptroller shall:

(1) prescribe the manner in which and deadline by which appraisal districts are required to submit the tax rates to the comptroller; and

(2) list the tax rates alphabetically according to:

(A) the county or counties in which each taxing unit is located; and

(B) the name of each taxing unit.

(b) Not later than January 1 of the following year, the comptroller shall publish on the comptroller's Internet website the list required by Subsection (a).

Added by Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 3, eff. January 1, 2016.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 12, eff. January 1, 2020.

Sec. 5.10. RATIO STUDIES. (a) At least once every two years, the comptroller shall conduct a study in each appraisal district to determine the degree of uniformity of and the median level of appraisals by the appraisal district within each major category of property. The comptroller shall publish a report of the findings of the study, including in the report the median levels of appraisal for each major category of property, the coefficient of dispersion around the median level of appraisal for each major category of property, and any other standard statistical measures that the comptroller considers appropriate. In conducting the study, the comptroller shall apply appropriate standard statistical analysis techniques to data collected as part of the study of school district taxable values required by Section 403.302, Government Code.

(b) The published findings of a ratio study conducted by the comptroller shall be distributed to all members of the legislature and to all appraisal districts.

(c) In conducting a study under this section, the comptroller or the comptroller's authorized representative may enter the premises of a business, trade, or profession and inspect the property to determine the existence and market value of property used for the production of income. An inspection under this subsection must be made during normal business hours or at a time mutually agreeable to the comptroller or the comptroller's authorized representative and the person in control of the premises.

Added by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, Sec. 11,

eff. Jan. 1, 1984. Amended by Acts 1983, 68th Leg., p. 5404, ch. 1001, Sec. 2, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 823, Sec. 2, eff. Jan. 1, 1986; Acts 1989, 71st Leg., ch. 384, Sec. 9, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 843, Sec. 7, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 260, Sec. 44, eff. May 30, 1995. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 6, eff. January 1, 2010.

Sec. 5.102. REVIEW OF APPRAISAL DISTRICTS.

(a) At least once every two years, the comptroller shall review the governance of each appraisal district, the taxpayer assistance provided by each appraisal district, and the operating and appraisal standards, procedures, and methodology used by each appraisal district, to determine compliance with generally accepted standards, procedures, and methodology, including compliance with standards, procedures, and methodology prescribed by any appraisal manuals required by law to be prepared and issued by the comptroller. After consultation with the property tax administration advisory board, the comptroller by rule may establish procedures and standards for conducting and scoring the review.

(a-1) The comptroller may conduct a limited-scope review in place of the review required by Subsection (a) if:

(1) the appraisal district is established in a county located wholly or partly in an area declared by the governor to be a disaster area during the tax year in which the review is required;

(2) the chief appraiser of the appraisal district requests that the review conducted be a limited-scope review; and

(3) the comptroller determines that one of the following circumstances exists and was caused by the disaster:

(A) a building used by the appraisal district to conduct business is destroyed or is inaccessible or damaged to the extent that it is unusable for at least 30 days;

(B) the appraisal district's records are destroyed or are unusable for at least 30 days;

(C) the appraisal district's computer system is destroyed or is unusable for at least 30 days; or

(D) due to extraordinary circumstances, the appraisal

district does not have the resources to undergo a review under this section unless the review is limited in scope.

(a-2) After consultation with the advisory committee created under Section 403.302, Government Code, the comptroller by rule may establish procedures and standards for conducting and scoring a review under this section.

(b) In conducting the review, the comptroller is entitled to access to all records and reports of the appraisal district, to copy or print any record or report of the appraisal district, and to the assistance of the appraisal district's officers and employees.

(c) At the conclusion of the review, the comptroller shall, in writing, notify the appraisal district concerning its performance in the review. If the review results in a finding that an appraisal district is not in compliance with generally accepted standards, procedures, and methodology, including compliance with standards, procedures, and methodology prescribed by any appraisal manuals required by law to be prepared and issued by the comptroller, the comptroller shall deliver a report that details the comptroller's findings and recommendations for improvement to:

(1) the appraisal district's chief appraiser and board of directors; and

(2) the superintendent and board of trustees of each school district participating in the appraisal district.

(d) If the appraisal district fails to comply with the recommendations in the report and the comptroller finds that the board of directors of the appraisal district failed to take remedial action reasonably designed to ensure substantial compliance with each recommendation in the report before the first anniversary of the date the report was issued, the comptroller shall notify the Texas Department of Licensing and Regulation, or a successor to the department, which shall take action necessary to ensure that the recommendations in the report are implemented as soon as practicable.

(e) Before February 1 of the year following the year in which the Texas Department of Licensing and Regulation, or its successor, takes action under Subsection (d), and with the assistance of the comptroller, the department shall determine whether the recommendations in the most recent report have been substantially implemented. The executive director of the department shall notify the chief appraiser and the board of directors of the appraisal district in writing of the department's determination.

Added by Acts 1991, 72nd Leg., ch. 843, Sec. 9, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 260, Sec. 46, eff. May 30, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 65, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1183, Sec. 5, eff. June 20, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 7, eff. January 1, 2010.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 14.001, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 490 (H.B. 3384), Sec. 1, eff. June 7, 2019.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 13, eff. January 1, 2020.

Sec. 5.103. APPRAISAL REVIEW BOARD OVERSIGHT. (a) The comptroller shall prepare model hearing procedures for appraisal review boards.

(b) The model hearing procedures shall address:

(1) the statutory duties of an appraisal review board;

(2) the process for conducting a hearing;

(3) the scheduling of hearings;

(4) the postponement of hearings;

(5) the notices required under this title;

(6) the determination of good cause under Section 41.44(b);

(7) the determination of good cause under Sections 41.45(e) and (e-1);

(8) a party's right to offer evidence and argument;

(9) a party's right to examine or cross-examine witnesses or other parties;

(10) a party's right to appear by an agent;

(11) the prohibition of an appraisal review board's consideration of information not provided at a hearing;

(12) ex parte and other prohibited communications;

(13) the exclusion of evidence at a hearing as required by Section 41.67(d);

(14) the postponement of a hearing as required by Section 41.66(h);

(15) conflicts of interest;

(16) the process for the administration of applications for

membership on an appraisal review board; and

(17) any other matter related to fair and efficient appraisal review board hearings.

(c) The comptroller may:

(1) categorize appraisal districts based on the size of the district, the number of protests filed in the district, or similar characteristics; and

(2) develop different model hearing procedures for different categories of districts.

(d) An appraisal review board shall follow the model hearing procedures prepared by the comptroller when establishing its procedures for hearings as required by Section 41.66(a).

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

(f) Repealed by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 3, eff. January 1, 2014.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

Sec. 5.104. APPRAISAL REVIEW BOARD SURVEY; REPORT. (a) The comptroller shall:

(1) prepare an appraisal review board survey that allows an individual described by Subsection (b) to submit comments and suggestions to the comptroller regarding an appraisal review board;

(2) prepare instructions for completing and submitting the survey; and

(3) implement and maintain a method that allows an individual described by Subsection (b) to electronically complete and submit the survey through a uniform resource locator (URL) address.

(b) The following individuals who attend a hearing in person or by telephone conference call on a motion filed under Section 25.25 to correct the appraisal roll or a protest under Chapter 41 may complete and submit a survey under this section:

(1) a property owner whose property is the subject of the motion or protest;

(2) the designated agent of the owner; or

(3) a designated representative of the appraisal district in which the motion or protest is filed.

(c) The survey must allow an individual to submit comments and suggestions regarding:

(1) the matters listed in Section 5.103(b); and

(2) any other matter related to the fairness and efficiency of the appraisal review board.

(d) An appraisal district must provide to each property owner or designated agent of the owner who is authorized to submit a survey under this section a notice that states that the owner or agent:

(1) is entitled to complete and submit the survey;

(2) may submit the survey to the comptroller:

(A) in person;

(B) by mail;

(C) by electronic mail; or

(D) through the uniform resource locator (URL) address described by Subsection (a)(3); and

(3) may obtain a paper copy of the survey and instructions for completing the survey at the appraisal office.

(e) The notice described by Subsection (d) must include the uniform resource locator (URL) address described by Subsection (a)(3).

(f) An appraisal district must provide the notice described by Subsection (d) to a property owner or the designated agent of the owner:

(1) at or before the first hearing on the motion or protest described by Subsection (b) by the appraisal review board established for the appraisal district or by a panel of the board; and

(2) with each order under Section 25.25 or 41.47 determining a motion or protest, as applicable, delivered by the board or a panel of the board.

(g) At or before the first hearing on the motion or protest described by Subsection (b) by the appraisal review board established for the appraisal district or by a panel of the board, the board or panel must provide verbal notice to the property owner or designated agent of the owner of the owner or agent's right to complete and submit the survey.

(h) Notwithstanding Subsections (d), (f), and (g), if an appraisal district provides the notice described by Subsection (d),

or an appraisal review board provides the verbal notice required by Subsection (g), to a property owner or the designated agent of the owner at or before a hearing on a motion or protest described by Subsection (b), the appraisal district or board, as applicable, is not required to provide another notice in the same manner to the owner or agent at or before another hearing on a motion or protest held on the same day.

(i) An individual who elects to submit the survey must submit the survey to the comptroller as provided by this section. An individual may submit only one survey for each hearing.

(j) The comptroller shall allow an individual to submit a survey to the comptroller in the following manner:

(1) in person;

(2) by mail;

(3) by electronic mail; or

(4) through the uniform resource locator (URL) address described by Subsection (a)(3).

(k) An appraisal district may not require a property owner or the designated agent of the owner to complete a survey at the appraisal office.

(l) The comptroller shall issue an annual report that summarizes the information included in the surveys submitted during the preceding tax year. The report may not disclose the identity of an individual who submitted a survey.

(m) The comptroller may adopt rules necessary to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 14, eff. January 1, 2020.

Sec. 5.12. PERFORMANCE AUDIT OF APPRAISAL DISTRICT. (a) The comptroller shall audit the performance of an appraisal district if one or more of the following conditions exist according to each of two consecutive studies conducted by the comptroller under Section 5.10, regardless of whether the prescribed condition or conditions that exist are the same for each of those studies:

(1) the overall median level of appraisal for all property in the district for which the comptroller determines a median level of appraisal is less than 0.75;

(2) the coefficient of dispersion around the overall median level of appraisal of the properties used to determine the overall median level of appraisal for all property in the district for which the comptroller determines a median level of appraisal exceeds 0.30; or

(3) the difference between the median levels of appraisal for any two classes of property in the district for which the comptroller determines a median level of appraisal is more than 0.45.

(b) At the written request of the governing bodies of a majority of the taxing units participating in an appraisal district or of a majority of the taxing units entitled to vote on the appointment of appraisal district directors, the comptroller shall audit the performance of the appraisal district. The governing bodies may request a general audit of the performance of the appraisal district or may request an audit of only one or more particular duties, practices, functions, departments, or other appraisal district matters.

(c) At the written request of the owners of not less than 10 percent of the number of accounts or parcels of property in an appraisal district belonging to a single class of property, if the class constitutes at least five percent of the appraised value of taxable property within the district in the preceding year, or at the written request of the owners of property representing not less than 10 percent of the appraised value of all property in the district belonging to a single class of property, if the class constitutes at least five percent of the appraised value of taxable property in the district in the preceding year, the comptroller shall audit the performance of the appraisal district. The property owners may request a general audit of the performance of the appraisal district or may request an audit of only one or more particular duties, practices, functions, departments, or other appraisal district matters. A property owner may authorize an agent to sign a request for an audit under this subsection on the property owner's behalf. The comptroller may require a person signing a request for an audit to provide proof that the person is entitled to sign the request as a property owner or as the agent of a property owner.

(d) A request for a performance audit of an appraisal district may not be made under Subsection (b) or (c) if according to each of the two most recently published studies conducted by the comptroller under Section 5.10:

(1) the overall median level of appraisal for all property in the district for which the comptroller determines a median level of appraisal is more than 0.90 and less than 1.10;

(2) the coefficient of dispersion around the overall median level of appraisal of the properties used to determine the overall median level of appraisal for all property in the district for which the comptroller determines a median level of appraisal is less than 0.15; and

(3) the difference between the highest and lowest median levels of appraisal in the district for the classes of property for which the comptroller determines a median level of appraisal is less than 0.20.

(e) A request for a performance audit of an appraisal district may not be made under Subsection (b) or (c):

(1) during the two years immediately following the publication of the second of two consecutive studies according to which the comptroller is required to conduct an audit of the district under Subsection (a);

(2) during the year immediately following the date the results of an audit of the district conducted by the comptroller under Subsection (a) are reported to the chief appraiser of the district; or

(3) during a year in which the comptroller is conducting a review of the district under Section 5.102.

(f) For purposes of this section, "class of property" means a major kind of property for which the comptroller determines a median level of appraisal under Section 5.10 of this code.

(g) Repealed by Acts 2009, 81st Leg., R.S., Ch. 288, Sec. 11, eff. January 1, 2010.

(h) In addition to the performance audits required by Subsections (a), (b), and (c) and the review of appraisal standards required by Section 5.102, the comptroller may audit an appraisal district to analyze the effectiveness and efficiency of the policies, management, and operations of the appraisal district. The results of the audit shall be delivered in a report that details the comptroller's findings and recommendations for improvement to the appraisal district's chief appraiser and board of directors and the governing body of each taxing unit participating in the appraisal district. The comptroller may require reimbursement by the appraisal district for some or all of the costs of the audit, not to exceed the

actual costs associated with conducting the audit.

Added by Acts 1987, 70th Leg., ch. 860, Sec. 1, eff. Jan. 1, 1990. Amended by Acts 1989, 71st Leg., ch. 384, Sec. 12, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 843, Sec. 10, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1183, Sec. 6, eff. June 20, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 8, eff. January 1, 2010.
Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 11, eff. January 1, 2010.

Sec. 5.13. ADMINISTRATION OF PERFORMANCE AUDITS. (a) The comptroller shall complete an audit required by Section 5.12(a) within two years after the date of the publication of the second of the two studies the results of which required the audit to be conducted. The comptroller shall complete an audit requested under Section 5.12(b) or (c) as soon as practicable after the request is made.

(b) The comptroller may not audit the financial condition of an appraisal district or a district's tax collections. If the request is for an audit limited to one or more particular matters, the comptroller's audit must be limited to those matters.

(c) The comptroller must approve the specific plan for the performance audit of an appraisal district. Before approving an audit plan, the comptroller must provide any interested person an opportunity to appear before the comptroller and to comment on the proposed plan. Not later than the 20th day before the date the comptroller considers the plan for an appraisal district performance audit, the comptroller must notify the presiding officer of the appraisal district board of directors that the comptroller intends to consider the plan. The notice must include the time, date, and place of the meeting to consider the plan. Immediately after receiving the notice, the presiding officer shall deliver a copy of the notice to the other members of the appraisal district board of directors.

(d) In conducting a general audit, the comptroller shall consider and report on:

(1) the extent to which the district complies with applicable law or generally accepted standards of appraisal or other

relevant practice, including appraisal standards and practices prescribed by any appraisal manuals required by law to be prepared and issued by the comptroller;

(2) the uniformity and level of appraisal of major kinds of property and the cause of any significant deviations from ideal uniformity and equality of appraisal of major kinds of property;

(3) duplication of effort and efficiency of operation;

(4) the general efficiency, quality of service, and qualification of appraisal district personnel; and

(5) except as otherwise provided by Subsection (b), any other matter included in the request for the audit.

(e) In conducting the audit, the comptroller is entitled to have access at all times to the books, appraisal and other records, reports, vouchers, and other information, whether confidential or not, of the appraisal district. The comptroller may require the assistance of appraisal district officers or employees that does not interfere significantly with the ordinary functions of the appraisal district. The comptroller may rely on any analysis it has made previously relating to the appraisal district if the previous analysis is useful or relevant to the audit.

(f) The comptroller shall report the results of its audit in writing to the governing body of each taxing unit that participates in the appraisal district, to the chief appraiser, and to the presiding officer of the appraisal district board of directors. If the audit was requested under Section 5.12(c) of this code, the comptroller shall also provide a report to a representative of the property owners who requested the audit.

(g) If the audit is required or requested under Section 5.12(a) or (b) of this code, the appraisal district shall reimburse the comptroller for the costs incurred in conducting the audit and making its report of the audit. The costs shall be allocated among the taxing units participating in the district in the same manner as an operating expense of the district. If the audit is requested under Section 5.12(c) of this code, the property owners who requested the audit shall reimburse the comptroller for the costs incurred in conducting the audit and making its report of the audit and shall allocate the costs among those property owners in proportion to the appraised value of each property owner's property in the district or on such other basis as the property owners may agree. If the audit confirms that the median level of appraisal for a class of property

exceeds 1.10 or that the median level of appraisal for a class of property varies at least 10 percent from the overall median level of appraisal for all property in the district for which the comptroller determines a median level of appraisal, within 90 days after the date a request is made by the property owners for reimbursement the appraisal district shall reimburse the property owners who requested the audit for the amount paid to the comptroller for the costs incurred in conducting the audit and making the report. Before conducting an audit under Section 5.12(c), the comptroller may require the requesting taxing units or property owners to provide the comptroller with a bond, deposit, or other financial security sufficient to cover the expected costs of conducting the audit and making the report. For purposes of this subsection, "costs" include expenses related to salaries, professional fees, travel, reproduction or other printing services, and consumable supplies that are directly attributable to conducting the audit.

(h) At any time after the request for an audit is made, the comptroller may discontinue the audit in whole or in part if requested to do so by:

(1) the governing bodies of a majority of the taxing units participating in the district, if the audit was requested by a majority of those units;

(2) the governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district directors, if the audit was requested by a majority of those units; or

(3) if the audit was requested under Section 5.12(c) of this code, by the taxpayers who requested the audit.

(i) The comptroller by rule may adopt procedures, audit standards, and forms for the administration of the performance audits.

Added by Acts 1987, 70th Leg., ch. 860, Sec. 1, eff. Jan. 1, 1990. Redesignated from Sec. 5.12(c) to (i) and amended by Acts 1989, 71st Leg., ch. 384, Sec. 12, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 843, Sec. 11, eff. Sept. 1, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 9, eff. January 1, 2010.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 15, eff. January 1, 2020.

Sec. 5.14. PUBLIC ACCESS, INFORMATION, AND COMPLAINTS. (a) The comptroller shall develop and implement policies that provide the public with a reasonable opportunity to submit information on any property tax issue under the jurisdiction of the comptroller.

(b) The comptroller shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the comptroller's programs.

(c) The comptroller shall prepare information of public interest describing the property tax functions of the office of the comptroller and the comptroller's procedures by which complaints are filed with and resolved by the comptroller. The comptroller shall make the information available to the public and appropriate state agencies.

(d) If a written complaint is filed with the comptroller that the comptroller has authority to resolve, the comptroller, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

(e) The comptroller shall keep an information file about each complaint filed with the comptroller that the comptroller has authority to resolve.

Added by Acts 1989, 71st Leg., ch. 384, Sec. 13, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 6, eff. Sept. 1, 1991.

Sec. 5.16. ADMINISTRATIVE PROVISIONS. (a) The comptroller may inspect the records or other materials of an appraisal office or taxing unit, including the relevant records and materials in the possession or control of a consultant, advisor, or expert hired by the appraisal office or taxing unit, for the purpose of:

(1) establishing, reviewing, or evaluating the value of or an appraisal of any property; or

(2) conducting a study, review, or audit required by Section 5.10 or 5.102 or by Section 403.302, Government Code.

(b) On request of the comptroller, the chief appraiser or

administrative head of the taxing unit shall produce the materials in the form and manner prescribed by the comptroller.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 7, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 66, eff. Sept. 1, 1997.

CHAPTER 6. LOCAL ADMINISTRATION

SUBCHAPTER A. APPRAISAL DISTRICTS

Sec. 6.01. APPRAISAL DISTRICTS ESTABLISHED. (a) An appraisal district is established in each county.

(b) The district is responsible for appraising property in the district for ad valorem tax purposes of each taxing unit that imposes ad valorem taxes on property in the district.

(c) An appraisal district is a political subdivision of the state.

Acts 1979, 66th Leg., p. 2224, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 119, ch. 13, Sec. 12, 13, eff. Aug. 14, 1981; Acts 1983, 68th Leg., p. 4819, ch. 851, Sec. 1, eff. Aug. 29, 1983.

Sec. 6.02. DISTRICT BOUNDARIES. (a) The appraisal district's boundaries are the same as the county's boundaries.

(b) This section does not preclude the board of directors of two or more adjoining appraisal districts from providing for the operation of a consolidated appraisal district by interlocal contract.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 648, Sec. 5(2), eff. January 1, 2008.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 648, Sec. 5(2), eff. January 1, 2008.

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 648, Sec. 5(2), eff. January 1, 2008.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 648, Sec. 5(2), eff. January 1, 2008.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 648, Sec. 5(2), eff. January 1, 2008.

Acts 1979, 66th Leg., p. 2224, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 120, ch. 13, Sec. 14, 167(a), eff. Aug. 14, 1981; Acts 1983, 68th Leg., p. 573, ch. 117, Sec. 1, eff. May 17, 1983; Acts 1991, 72nd Leg., ch. 20, Sec. 14, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 391, Sec. 13, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.05, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.72, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 648 (H.B. 1010), Sec. 1, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 648 (H.B. 1010), Sec. 5(2), eff. January 1, 2008.

Sec. 6.03. BOARD OF DIRECTORS. (a) The appraisal district is governed by a board of directors. Five directors are appointed by the taxing units that participate in the district as provided by this section. If the county assessor-collector is not appointed to the board, the county assessor-collector serves as a nonvoting director. The county assessor-collector is ineligible to serve if the board enters into a contract under Section 6.05(b) or if the commissioners court of the county enters into a contract under Section 6.24(b). To be eligible to serve on the board of directors, an individual other than a county assessor-collector serving as a nonvoting director must be a resident of the district and must have resided in the district for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the board is not ineligible because of membership on the governing body of a taxing unit. An employee of a taxing unit that participates in the district is not eligible to serve on the board unless the individual is also a member of the governing body or an elected official of a taxing unit that participates in the district.

(b) Members of the board of directors other than a county assessor-collector serving as a nonvoting director serve two-year terms beginning on January 1 of even-numbered years.

(c) Members of the board of directors other than a county assessor-collector serving as a nonvoting director are appointed by vote of the governing bodies of the incorporated cities and towns, the school districts, the junior college districts, and, if entitled

to vote, the conservation and reclamation districts that participate in the district and of the county. A governing body may cast all its votes for one candidate or distribute them among candidates for any number of directorships. Conservation and reclamation districts are not entitled to vote unless at least one conservation and reclamation district in the district delivers to the chief appraiser a written request to nominate and vote on the board of directors by June 1 of each odd-numbered year. On receipt of a request, the chief appraiser shall certify a list by June 15 of all eligible conservation and reclamation districts that are imposing taxes and that participate in the district.

(d) The voting entitlement of a taxing unit that is entitled to vote for directors is determined by dividing the total dollar amount of property taxes imposed in the district by the taxing unit for the preceding tax year by the sum of the total dollar amount of property taxes imposed in the district for that year by each taxing unit that is entitled to vote, by multiplying the quotient by 1,000, and by rounding the product to the nearest whole number. That number is multiplied by the number of directorships to be filled. A taxing unit participating in two or more districts is entitled to vote in each district in which it participates, but only the taxes imposed in a district are used to calculate voting entitlement in that district.

(e) The chief appraiser shall calculate the number of votes to which each taxing unit other than a conservation and reclamation district is entitled and shall deliver written notice to each of those units of its voting entitlement before October 1 of each odd-numbered year. The chief appraiser shall deliver the notice:

(1) to the county judge and each commissioner of the county served by the appraisal district;

(2) to the presiding officer of the governing body of each city or town participating in the appraisal district, to the city manager of each city or town having a city manager, and to the city secretary or clerk, if there is one, of each city or town that does not have a city manager;

(3) to the presiding officer of the governing body of each school district participating in the district and to the superintendent of those school districts; and

(4) to the presiding officer of the governing body of each junior college district participating in the district and to the president, chancellor, or other chief executive officer of those

junior college districts.

(f) The chief appraiser shall calculate the number of votes to which each conservation and reclamation district entitled to vote for district directors is entitled and shall deliver written notice to the presiding officer of each conservation and reclamation district of its voting entitlement and right to nominate a person to serve as a director of the district before July 1 of each odd-numbered year.

(g) Each taxing unit other than a conservation and reclamation district that is entitled to vote may nominate by resolution adopted by its governing body one candidate for each position to be filled on the board of directors. The presiding officer of the governing body of the unit shall submit the names of the unit's nominees to the chief appraiser before October 15.

(h) Each conservation and reclamation district entitled to vote may nominate by resolution adopted by its governing body one candidate for the district's board of directors. The presiding officer of the conservation and reclamation district's governing body shall submit the name of the district's nominee to the chief appraiser before July 15 of each odd-numbered year. Before August 1, the chief appraiser shall prepare a nominating ballot, listing all the nominees of conservation and reclamation districts alphabetically by surname, and shall deliver a copy of the nominating ballot to the presiding officer of the board of directors of each district. The board of directors of each district shall determine its vote by resolution and submit it to the chief appraiser before August 15. The nominee on the ballot with the most votes is the nominee of the conservation and reclamation districts in the appraisal district if the nominee received more than 10 percent of the votes entitled to be cast by all of the conservation and reclamation districts in the appraisal district, and shall be named on the ballot with the candidates nominated by the other taxing units. The chief appraiser shall resolve a tie vote by any method of chance.

(i) If no nominee of the conservation and reclamation districts receives more than 10 percent of the votes entitled to be cast under Subsection (h), the chief appraiser, before September 1, shall notify the presiding officer of the board of directors of each conservation and reclamation district of the failure to select a nominee. Each conservation and reclamation district may submit a nominee by September 15 to the chief appraiser as provided by Subsection (h). The chief appraiser shall submit a second nominating ballot by

October 1 to the conservation and reclamation districts as provided by Subsection (h). The conservation and reclamation districts shall submit their votes for nomination before October 15 as provided by Subsection (h). The nominee on the second nominating ballot with the most votes is the nominee of the conservation and reclamation districts in the appraisal district and shall be named on the ballot with the candidates nominated by the other taxing units. The chief appraiser shall resolve a tie vote by any method of chance.

(j) Before October 30, the chief appraiser shall prepare a ballot, listing the candidates whose names were timely submitted under Subsections (g) and, if applicable, (h) or (i) alphabetically according to the first letter in each candidate's surname, and shall deliver a copy of the ballot to the presiding officer of the governing body of each taxing unit that is entitled to vote.

(k) The governing body of each taxing unit entitled to vote shall determine its vote by resolution and submit it to the chief appraiser before December 15. The chief appraiser shall count the votes, declare the five candidates who receive the largest cumulative vote totals elected, and submit the results before December 31 to the governing body of each taxing unit in the district and to the candidates. For purposes of determining the number of votes received by the candidates, the candidate receiving the most votes of the conservation and reclamation districts is considered to have received all of the votes cast by conservation and reclamation districts and the other candidates are considered not to have received any votes of the conservation and reclamation districts. The chief appraiser shall resolve a tie vote by any method of chance.

(l) If a vacancy occurs on the board of directors other than a vacancy in the position held by a county assessor-collector serving as a nonvoting director, each taxing unit that is entitled to vote by this section may nominate by resolution adopted by its governing body a candidate to fill the vacancy. The unit shall submit the name of its nominee to the chief appraiser within 45 days after notification from the board of directors of the existence of the vacancy, and the chief appraiser shall prepare and deliver to the board of directors within the next five days a list of the nominees. The board of directors shall elect by majority vote of its members one of the nominees to fill the vacancy.

(m) Repealed by Acts 2007, 80th Leg., R.S., Ch. 648, Sec. 5(4), eff. January 1, 2008.

Acts 1979, 66th Leg., p. 2224, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 120, ch. 13, Sec. 15, 167(a), eff. Aug. 14, 1981; Acts 1987, 70th Leg., ch. 59, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 270, Sec. 1, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 1123, Sec. 2, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., ch. 20, Sec. 15, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 371, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.06, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.73, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1039, Sec. 2, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 705, Sec. 1, eff. Jan. 1, 2000; Acts 2003, 78th Leg., ch. 629, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 648 (H.B. 1010), Sec. 5(4), eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1161 (S.B. 359), Sec. 1, eff. June 14, 2013.

Sec. 6.031. CHANGES IN BOARD MEMBERSHIP OR SELECTION. (a) The board of directors of an appraisal district, by resolution adopted and delivered to each taxing unit participating in the district before August 15, may increase the number of members on the board of directors of the district to not more than 13, change the method or procedure for appointing the members, or both, unless the governing body of a taxing unit that is entitled to vote on the appointment of board members adopts a resolution opposing the change, and files it with the board of directors before September 1. If a change is rejected, the board shall notify, in writing, each taxing unit participating in the district before September 15.

(b) The taxing units participating in an appraisal district may increase the number of members on the board of directors of the district to not more than 13, change the method or procedure for appointing the members, or both, if the governing bodies of three-fourths of the taxing units that are entitled to vote on the appointment of board members adopt resolutions providing for the change. However, a change under this subsection is not valid if it reduces the voting entitlement of one or more taxing units that do not adopt a resolution proposing it to less than a majority of the voting entitlement under Section 6.03 of this code or if it reduces

the voting entitlement of any taxing unit that does not adopt a resolution proposing it to less than 50 percent of its voting entitlement under Section 6.03 of this code and if that taxing unit's allocation of the budget is not reduced to the same proportional percentage amount, or if it expands the types of taxing units that are entitled to vote on appointment of board members.

(b-1) If an appraisal district increases the number of members on the board of directors of the district or changes the method or procedure for appointing the members as provided by this section, the board of directors by resolution shall provide for the junior college districts that participate in the appraisal district to collectively participate in the selection of directors in the same manner as the school district that imposes the lowest total dollar amount of property taxes in the appraisal district among all of the school districts with representation in the appraisal district. A resolution adopted under this section is not subject to rejection by a resolution opposing the change filed with the board of directors by a taxing unit under Subsection (a).

(c) An official copy of a resolution under this section must be filed with the chief appraiser of the appraisal district after June 30 and before October 1 of a year in which board members are appointed or the resolution is ineffective.

(d) Before October 5 of each year in which board members are appointed, the chief appraiser shall determine whether a sufficient number of eligible taxing units have filed valid resolutions proposing a change for the change to take effect. The chief appraiser shall notify each taxing unit participating in the district of each change that is adopted before October 10.

(e) A change in membership or selection made as provided by this section remains in effect until changed in a manner provided by this section or rescinded by resolution of a majority of the governing bodies that are entitled to vote on appointment of board members under Section 6.03 of this code.

(f) A provision of Section 6.03 of this code that is subject to change under this section but is not expressly changed by resolution of a sufficient number of eligible taxing units remains in effect.

(g) For purposes of this section, the conservation and reclamation districts in an appraisal district are considered to be entitled to vote on the appointment of appraisal district directors if:

(1) a conservation and reclamation district has filed a request to the chief appraiser to nominate and vote on directors in the current year as provided by Section 6.03(c); or

(2) conservation and reclamation districts were entitled to vote on the appointment of directors in the appraisal district in the most recent year in which directors were appointed under Section 6.03.

Added by Acts 1981, 67th Leg., 1st C.S., p. 121, ch. 13, Sec. 16, eff. Aug. 14, 1981. Amended by Acts 1987, 70th Leg., ch. 59, Sec. 2, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1123, Sec. 3, eff. Jan. 1, 1990.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1161 (S.B. 359), Sec. 2, eff. June 14, 2013.

Sec. 6.033. RECALL OF DIRECTOR. (a) The governing body of a taxing unit may call for the recall of a member of the board of directors of an appraisal district appointed under Section 6.03 of this code for whom the unit cast any of its votes in the appointment of the board. The call must be in the form of a resolution, be filed with the chief appraiser of the appraisal district, and state that the unit is calling for the recall of the member. If a resolution calling for the recall of a board member is filed under this subsection, the chief appraiser, not later than the 10th day after the date of filing, shall deliver a written notice of the filing of the resolution and the date of its filing to the presiding officer of the governing body of each taxing unit entitled to vote in the appointment of board members.

(b) On or before the 30th day after the date on which a resolution calling for the recall of a member of the board is filed, the governing body of a taxing unit that cast any of its votes in the appointment of the board for that member may vote to recall the member by resolution submitted to the chief appraiser. Each taxing unit is entitled to the same number of votes in the recall as it cast for that member in the appointment of the board. The governing body of the taxing unit calling for the recall may cast its votes in favor of the recall in the same resolution in which it called for the recall.

(c) Not later than the 10th day after the last day provided by this section for voting in favor of the recall, the chief appraiser shall count the votes cast in favor of the recall. If the number of votes in favor of the recall equals or exceeds a majority of the votes cast for the member in the appointment of the board, the member is recalled and ceases to be a member of the board. The chief appraiser shall immediately notify in writing the presiding officer of the appraisal district board of directors and of the governing body of each taxing unit that voted in the recall election of the outcome of the recall election. If the presiding officer of the appraisal district board of directors is the member whose recall was voted on, the chief appraiser shall also notify the secretary of the appraisal district board of directors of the outcome of the recall election.

(d) If a vacancy occurs on the board of directors after the recall of a member of the board under this section, the taxing units that were entitled to vote in the recall election shall appoint a new board member. Each taxing unit is entitled to the same number of votes as it originally cast to appoint the recalled board member. Each taxing unit entitled to vote may nominate one candidate by resolution adopted by its governing body. The presiding officer of the governing body of the unit shall submit the name of the unit's nominee to the chief appraiser on or before the 30th day after the date it receives notification from the chief appraiser of the result of the recall election. On or before the 15th day after the last day provided for a nomination to be submitted, the chief appraiser shall prepare a ballot, listing the candidates nominated alphabetically according to each candidate's surname, and shall deliver a copy of the ballot to the presiding officer of the governing body of each taxing unit that is entitled to vote. On or before the 15th day after the date on which a taxing unit's ballot is delivered, the governing body of the taxing unit shall determine its vote by resolution and submit it to the chief appraiser. On or before the 15th day after the last day on which a taxing unit may vote, the chief appraiser shall count the votes, declare the candidate who received the largest vote total appointed, and submit the results to the presiding officer of the governing body of the appraisal district and of each taxing unit in the district and to the candidates. The chief appraiser shall resolve a tie vote by any method of chance.

(e) If the board of directors of an appraisal district is

appointed by a method or procedure adopted under Section 6.031 of this code, the governing bodies of the taxing units that voted for or otherwise participated in the appointment of a member of the board may recall that member and appoint a new member to the vacancy by any method adopted by resolution of a majority of those governing bodies. If the appointment was by election, the method of recall and of appointing a new member to the vacancy is not valid unless it provides that each taxing unit is entitled to the same number of votes in the recall and in the appointment to fill the vacancy as it originally cast for the member being recalled.

Added by Acts 1985, 69th Leg., ch. 273, Sec. 1, eff. Aug. 26, 1985. Redesignated from Sec. 6.032 and amended by Acts 1987, 70th Leg., ch. 59, Sec. 5, eff. Sept. 1, 1987.

Sec. 6.034. OPTIONAL STAGGERED TERMS FOR BOARD OF DIRECTORS. (a) The taxing units participating in an appraisal district may provide that the terms of the appointed members of the board of directors be staggered if the governing bodies of at least three-fourths of the taxing units that are entitled to vote on the appointment of board members adopt resolutions providing for the staggered terms. A change to staggered terms may be adopted only if the method or procedure for appointing board members is changed under Section 6.031 of this code to eliminate or have the effect of eliminating cumulative voting for board members as provided by Section 6.03 of this code. A change to staggered terms may be proposed concurrently with a change that eliminates or has the effect of eliminating cumulative voting.

(b) An official copy of a resolution providing for staggered terms adopted by the governing body of a taxing unit must be filed with the chief appraiser of the appraisal district after June 30 and before October 1 of a year in which board members are to be appointed, or the resolution is ineffective.

(c) Before October 5 of each year in which board members are to be appointed, the chief appraiser shall determine whether a sufficient number of taxing units have filed valid resolutions proposing a change to staggered terms for the change to take effect. Before October 10 the chief appraiser shall notify each taxing unit participating in the district of a change that is adopted under this

section.

(d) A change to staggered terms made under this section becomes effective beginning on January 1 of the next even-numbered year after the chief appraiser determines that the change has been adopted. The entire board of directors shall be appointed for that year without regard to the staggered terms. At the earliest practical date after January 1 of that year, the board shall determine by lot which of its members shall serve one-year terms and which shall serve two-year terms in order to implement the staggered terms. If the board consists of an even number of board members, one-half of the members must be designated to serve one-year terms and one-half shall be designated to serve two-year terms. If the board consists of an odd number of board members, the number of members designated to serve two-year terms must exceed by one the number of members designated to serve one-year terms.

(e) After the staggered terms have been implemented as provided by Subsection (d) of this section, the appraisal district shall appoint annually for terms to begin on January 1 of each year a number of board members equal to the number of board members whose terms expire on that January 1, unless a change in the total number of board members is adopted under Section 6.031 of this code to take effect on that January 1.

(f) If a change in the number of directors is adopted under Section 6.031 of this code in an appraisal district that has adopted staggered terms for board members, the change must specify how many members' terms are to begin in even-numbered years and how many members' terms are to begin in odd-numbered years. The change may not provide that the number of members whose terms are to begin in even-numbered years differs by more than one from the number of members whose terms are to begin in odd-numbered years.

(g) A change to staggered terms made as provided by this section may be rescinded by resolution of a majority of the governing bodies that are entitled to vote on appointment of board members under Section 6.03 of this code. To be effective, a resolution providing for the rescission must be adopted by the governing body and filed with the chief appraiser after June 30 and before October 1 of an odd-numbered year. If the required number of resolutions are filed during that period, the chief appraiser shall notify each taxing unit participating in the district that the rescission is adopted. If the rescission is adopted, the terms of all members of

the board serving at the time of the adoption expire on January 1 of the even-numbered year following the adoption, including terms of members who will have served only one year of a two-year term on that date. The entire board of directors shall be appointed for two-year terms beginning on that date.

(h) If an appraisal district that has adopted staggered terms adopts or rescinds a change in the method or procedure for appointing board members and the change or rescission results in a method of appointing board members by cumulative voting, the change or rescission has the same effect as a rescission of the change to staggered terms made under Subsection (g) of this section.

(i) If a vacancy occurs on the board of directors of an appraisal district that has adopted staggered terms for board members, the vacancy shall be filled by appointment by resolution of the governing body of the taxing unit that nominated the person whose departure from the board caused the vacancy, and the procedure for filling a vacancy provided by Section 6.03 of this code does not apply in that event.

Added by Acts 1985, 69th Leg., ch. 601, Sec. 1, eff. June 14, 1985. Amended by Acts 1987, 70th Leg., ch. 59, Sec. 4, eff. Sept. 1, 1987. Renumbered from Sec. 6.032 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(51), eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1039, Sec. 3, eff. Jan. 1, 1998.

Sec. 6.035. RESTRICTIONS ON ELIGIBILITY AND CONDUCT OF BOARD MEMBERS AND CHIEF APPRAISERS AND THEIR RELATIVES. (a) An individual is ineligible to serve on an appraisal district board of directors and is disqualified from employment as chief appraiser 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; 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.

(a-1) An individual is ineligible to serve on an appraisal district board of directors if the individual has 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 at any time during the preceding three years.

(b) A member of an appraisal district board of directors or a chief appraiser commits an offense if the board member continues to hold office or the chief appraiser remains employed knowing that an individual related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to the board member or chief appraiser 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 in which the member serves or the chief appraiser is employed. An offense under this subsection is a Class B misdemeanor.

(c) A chief appraiser commits an offense if the chief appraiser refers a person, whether gratuitously or for compensation, to another person for the purpose of obtaining an appraisal of property, whether or not the appraisal is for ad valorem tax purposes. An offense under this subsection is a Class B misdemeanor.

(d) An appraisal performed by a chief appraiser in a private capacity or by an individual related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to the chief appraiser may not be used as evidence in a protest or challenge under Chapter 41 or an appeal under Chapter 42 concerning property that is taxable in the appraisal district in which the chief appraiser is employed.

Added by Acts 1989, 71st Leg., ch. 796, Sec. 4, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 561, Sec. 43, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1430, Sec. 1, eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 4, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 16, eff. January 1, 2020.

Sec. 6.036. INTEREST IN CERTAIN CONTRACTS PROHIBITED. (a) An individual is not eligible to be appointed to or to serve on the board of directors of an appraisal district if the individual or a business entity in which the individual has a substantial interest is a party to a contract with:

(1) the appraisal district; or

(2) a taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity governed by this title.

(b) An appraisal district may not enter into a contract with a member of the board of directors of the appraisal district or with a business entity in which a member of the board has a substantial interest.

(c) A taxing unit may not enter into a contract relating to the performance of an activity governed by this title with a member of the board of directors of an appraisal district in which the taxing unit participates or with a business entity in which a member of the board has a substantial interest.

(d) For purposes of this section, an individual has a substantial interest in a business entity if:

(1) the combined ownership of the individual and the individual's spouse is at least 10 percent of the voting stock or shares of the business entity; or

(2) the individual or the individual's spouse is a partner, limited partner, or officer of the business entity.

(e) In this section, "business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

(f) This section does not limit the application of any other law, including the common law relating to conflicts of interest, to an appraisal district director.

Added by Acts 1989, 71st Leg., ch. 796, Sec. 5, eff. Sept. 1, 1989.

Sec. 6.037. PARTICIPATION OF CONSERVATION AND RECLAMATION DISTRICTS IN APPRAISAL DISTRICT MATTERS. In this title, a reference to the taxing units entitled to vote on the appointment of appraisal district board members includes the conservation and reclamation districts participating in the appraisal district, without regard to whether the conservation and reclamation districts are currently entitled to do so under Section 6.03(c). In a provision of this title other than Section 6.03 or 6.031 that grants authority to a majority or other number of the taxing units entitled to vote on the appointment of appraisal district directors, including the disapproval of the appraisal district budget under Section 6.06 and the disapproval of appraisal district board actions under Section 6.10, the conservation and reclamation districts participating in the appraisal district are given the vote or authority of one taxing unit. That vote or authority is considered exercised only if a majority of the conservation and reclamation districts take the same action to exercise that vote or authority. Otherwise, the conservation and reclamation districts are treated in the same manner as a single taxing unit that is entitled to act but does not take any action on the matter.

Added by Acts 1989, 71st Leg., ch. 1123, Sec. 4, eff. Jan. 1, 1990. Renumbered from Sec. 6.035 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(28), eff. Sept. 6, 1990.

Sec. 6.04. ORGANIZATION, MEETINGS, AND COMPENSATION. (a) A majority of the appraisal district board of directors constitutes a quorum. At its first meeting each calendar year, the board shall elect from its members a chairman and a secretary.

(b) The board may meet at any time at the call of the chairman or as provided by board rule, but may not meet less often than once each calendar quarter.

(c) Members of the board may not receive compensation for service on the board but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties as provided by the budget adopted by the board.

(d) The board shall develop and implement policies that provide

the public with reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the board. Reasonable time shall be provided during each board meeting for public comment on appraisal district and appraisal review board policies and procedures, and a report from the taxpayer liaison officer if one is required by Section 6.052.

(e) The board shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the board.

(f) The board shall prepare information of public interest describing the functions of the board and the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and the appropriate taxing jurisdictions.

(g) If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

Acts 1979, 66th Leg., p. 2225, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1983, 68th Leg., p. 1160, ch. 262, Sec. 1, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 796, Sec. 6, eff. Sept. 1, 1989.

Sec. 6.05. APPRAISAL OFFICE. (a) Except as authorized by Subsection (b) of this section, each appraisal district shall establish an appraisal office. The appraisal office must be located in the county for which the district is established. An appraisal district may establish branch appraisal offices outside the county for which the district is established.

(b) The board of directors of an appraisal district may contract with an appraisal office in another district or with a taxing unit in the district to perform the duties of the appraisal office for the district.

(c) The chief appraiser is the chief administrator of the appraisal office. Except as provided by Section 6.0501, the chief appraiser is appointed by and serves at the pleasure of the appraisal district board of directors. If a taxing unit performs the duties of

the appraisal office pursuant to a contract, the assessor for the unit is the chief appraiser. To be eligible to be appointed or serve as a chief appraiser, a person must be certified as a registered professional appraiser under Section 1151.160, Occupations Code, possess an MAI professional designation from the Appraisal Institute, or possess an Assessment Administration Specialist (AAS), Certified Assessment Evaluator (CAE), or Residential Evaluation Specialist (RES) professional designation from the International Association of Assessing Officers. A person who is eligible to be appointed or serve as a chief appraiser by having a professional designation described by this subsection must become certified as a registered professional appraiser under Section 1151.160, Occupations Code, not later than the fifth anniversary of the date the person is appointed or begins to serve as chief appraiser. A chief appraiser who is not eligible to be appointed or serve as chief appraiser may not perform an action authorized or required by law to be performed by a chief appraiser, including the preparation, certification, or submission of any part of the appraisal roll. Not later than January 1 of each year, a chief appraiser shall notify the comptroller in writing that the chief appraiser is either eligible to be appointed or serve as the chief appraiser or not eligible to be appointed or serve as the chief appraiser.

(d) Except as provided by Section 6.0501, 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. Except as provided by Section 6.0501, 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.

(e) The chief appraiser may delegate authority to his employees.

(f) The chief appraiser may not employ any individual related to a member of the board of directors within the second degree by affinity or within the third degree by consanguinity, as determined under Chapter 573, Government Code. A person commits an offense if the person intentionally or knowingly violates this subsection. An offense under this subsection is a misdemeanor punishable by a fine of not less than $100 or more than $1,000.

(g) The chief appraiser is an officer of the appraisal district for purposes of the nepotism law, Chapter 573, Government Code. An appraisal district may not employ or contract with an individual or the spouse of an individual who is related to the chief appraiser within the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code.

(h) The board of directors of an appraisal district by resolution may prescribe that specified actions of the chief appraiser relating to the finances or administration of the appraisal district are subject to the approval of the board.

(i) To ensure adherence with generally accepted appraisal practices, the board of directors of an appraisal district shall develop biennially a written plan for the periodic reappraisal of all property within the boundaries of the district according to the requirements of Section 25.18 and shall hold a public hearing to consider the proposed plan. Not later than the 10th day before the date of the hearing, the secretary of the board shall deliver to the presiding officer of the governing body of each taxing unit participating in the district a written notice of the date, time, and place for the hearing. Not later than September 15 of each even-numbered year, the board shall complete its hearings, make any amendments, and by resolution finally approve the plan. Copies of the approved plan shall be distributed to the presiding officer of the governing body of each taxing unit participating in the district and to the comptroller within 60 days of the approval date.

(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.

Acts 1979, 66th Leg., p. 2224, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1987, 70th Leg., ch. 55, Sec. 1, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 384, Sec. 15, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 796, Sec. 7, eff. Sept. 1, 1989; Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(29), eff. Sept. 6, 1990; Acts 1991, 72nd Leg., ch. 561, Sec. 44, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(25), (27), eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 205 (H.B. 35), Sec. 1, eff. May 25, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 528 (H.B. 2387), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 5, eff. January 1, 2014.

Sec. 6.0501. APPOINTMENT OF ELIGIBLE CHIEF APPRAISER BY COMPTROLLER. (a) The comptroller shall appoint a person eligible to be a chief appraiser under Section 6.05(c) or a person who has previously been appointed or served as a chief appraiser to perform the duties of chief appraiser for an appraisal district whose chief appraiser is ineligible to serve.

(b) A chief appraiser appointed under this section serves until the earlier of:

(1) the first anniversary of the date the comptroller appoints the chief appraiser; or

(2) the date the board of directors of the appraisal district:

(A) appoints a chief appraiser under Section 6.05(c); or

(B) contracts with an appraisal district or a taxing unit to perform the duties of the appraisal office for the district under Section 6.05(b).

(c) The comptroller shall determine the compensation of a chief appraiser appointed under this section. A chief appraiser appointed under this section shall determine the budget necessary for the adequate operation of the appraisal office, subject to the approval of the comptroller. The board of directors of the appraisal district shall amend the budget as necessary to compensate the appointed chief appraiser and fund the appraisal office as determined under this subsection.

(d) An appraisal district that does not appoint a chief appraiser or contract with an appraisal district or a taxing unit to perform the duties of the appraisal office by the first anniversary of the date the comptroller appoints a chief appraiser shall contract with an appraisal district or a taxing unit to perform the duties of

the appraisal office or with a qualified public or private entity to perform the duties of the chief appraiser, subject to the approval of the comptroller.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 6, eff. January 1, 2014.

Sec. 6.051. OWNERSHIP OR LEASE OF REAL PROPERTY. (a) The board of directors of an appraisal district may purchase or lease real property and may construct improvements as necessary to establish and operate the appraisal office or a branch appraisal office.

(b) The acquisition or conveyance of real property or the construction or renovation of a building or other improvement by an appraisal district must be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of board members. The board of directors by resolution may propose a property transaction or other action for which this subsection requires approval of the taxing units. The chief appraiser shall notify the presiding officer of each governing body entitled to vote on the approval of the proposal by delivering a copy of the board's resolution, together with information showing the costs of other available alternatives to the proposal. On or before the 30th day after the date the presiding officer receives notice of the proposal, the governing body of a taxing unit by resolution may approve or disapprove the proposal. If a governing body fails to act on or before that 30th day or fails to file its resolution with the chief appraiser on or before the 10th day after that 30th day, the proposal is treated as if it were disapproved by the governing body.

(c) The board of directors may convey real property owned by the district, and the proceeds shall be credited to each taxing unit that participates in the district in proportion to the unit's allocation of the appraisal district budget in the year in which the transaction occurs. A conveyance must be approved as provided by Subsection (b) of this section, and any proceeds shall be apportioned by an amendment to the annual budget made as provided by Subsection (c) of Section 6.06 of this code.

(d) An acquisition of real property by an appraisal district before January 1, 1988, may be validated before March 1, 1988, in the

manner provided by Subsection (b) of this section for the acquisition of real property.

Added by Acts 1987, 70th Leg., ch. 55, Sec. 2, eff. Jan. 1, 1988.

Sec. 6.052. TAXPAYER LIAISON OFFICER. (a) The board of directors for an appraisal district created for a county with a population of more than 120,000 shall appoint a taxpayer liaison officer who shall serve at the pleasure of the board. The taxpayer liaison officer shall administer the public access functions required by Sections 6.04(d), (e), and (f), and is responsible for resolving disputes not involving matters that may be protested under Section 41.41. In addition, the taxpayer liaison officer is responsible for receiving, and compiling a list of, comments and suggestions filed by the chief appraiser, a property owner, or a property owner's agent concerning the matters listed in Section 5.103(b) or any other matter related to the fairness and efficiency of the appraisal review board established for the appraisal district. The taxpayer liaison officer shall forward to the comptroller comments and suggestions filed under this subsection in the form and manner prescribed by the comptroller.

(b) The taxpayer liaison officer shall provide to the public information and materials designed to assist property owners in understanding the appraisal process, protest procedures, the procedure for filing comments and suggestions under Subsection (a) of this section or a complaint under Section 6.04(g), and other matters. Information concerning the process for submitting comments and suggestions to the comptroller concerning an appraisal review board shall be provided at each protest hearing.

(c) The taxpayer liaison officer shall report to the board at each meeting on the status of all comments and suggestions filed with the officer under Subsection (a) of this section and all complaints filed with the board under Section 6.04(g).

(d) The taxpayer liaison officer is entitled to compensation as provided by the budget adopted by the board of directors.

(e) The chief appraiser or any other person who performs appraisal or legal services for the appraisal district for compensation is not eligible to be the taxpayer liaison officer.

(f) The taxpayer liaison officer for an appraisal district described by Section 6.41(d-1) is responsible for providing clerical

assistance to the local administrative district judge in the selection of appraisal review board members. The officer shall deliver to the local administrative district judge any applications to serve on the board that are submitted to the officer and shall perform other duties as requested by the local administrative district judge. The officer may not influence the process for selecting appraisal review board members.

Added by Acts 1989, 71st Leg., ch. 796, Sec. 8, eff. Jan. 1, 1990.
Amended by Acts 1991, 72nd Leg., ch. 371, Sec. 2, eff. Sept. 1, 1991.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1086 (H.B. 3038), Sec. 1, eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 7, eff. January 1, 2014.

Sec. 6.053. ASSISTANCE TO EMERGENCY MANAGEMENT AUTHORITIES. The chief appraiser shall, if requested by the emergency management authorities of a federal, state, or local government agency, provide information and assistance pertinent to disaster mitigation or recovery, including assisting in the estimation of damage from an actual or potential disaster event.

Added by Acts 2009, 81st Leg., R.S., Ch. 844 (S.B. 2148), Sec. 1, eff. June 19, 2009.

Sec. 6.054. RESTRICTION ON EMPLOYMENT BY APPRAISAL DISTRICT. An individual may not be employed by an appraisal district if the individual is:

(1) an officer of a taxing unit that participates in the appraisal district; or

(2) an employee of a taxing unit that participates in the appraisal district.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 17, eff. January 1, 2020.

Sec. 6.06. APPRAISAL DISTRICT BUDGET AND FINANCING. (a) Each

year the chief appraiser shall prepare a proposed budget for the operations of the district for the following tax year and shall submit copies to each taxing unit participating in the district and to the district board of directors before June 15. He shall include in the budget a list showing each proposed position, the proposed salary for the position, all benefits proposed for the position, each proposed capital expenditure, and an estimate of the amount of the budget that will be allocated to each taxing unit. Each taxing unit entitled to vote on the appointment of board members shall maintain a copy of the proposed budget for public inspection at its principal administrative office.

(b) The board of directors shall hold a public hearing to consider the budget. The secretary of the board shall deliver to the presiding officer of the governing body of each taxing unit participating in the district not later than the 10th day before the date of the hearing a written notice of the date, time, and place fixed for the hearing. The board shall complete its hearings, make any amendments to the proposed budget it desires, and finally approve a budget before September 15. If governing bodies of a majority of the taxing units entitled to vote on the appointment of board members adopt resolutions disapproving a budget and file them with the secretary of the board within 30 days after its adoption, the budget does not take effect, and the board shall adopt a new budget within 30 days of the disapproval.

(c) The board may amend the approved budget at any time, but the secretary of the board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit participating in the district not later than the 30th day before the date the board acts on it.

(d) Each taxing unit participating in the district is allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the district by the unit for the tax year in which the budget proposal is prepared bears to the sum of the total dollar amount of property taxes imposed in the district by each participating unit for that year. If a taxing unit participates in two or more districts, only the taxes imposed in a district are used to calculate the unit's cost allocations in that district. If the number of real property parcels in a taxing unit is less than 5 percent of the total number of real property parcels in the district and the taxing unit imposes in

excess of 25 percent of the total amount of the property taxes imposed in the district by all of the participating taxing units for a year, the unit's allocation may not exceed a percentage of the appraisal district's budget equal to three times the unit's percentage of the total number of real property parcels appraised by the district.

(e) Unless the governing body of a unit and the chief appraiser agree to a different method of payment, each taxing unit shall pay its allocation in four equal payments to be made at the end of each calendar quarter, and the first payment shall be made before January 1 of the year in which the budget takes effect. A payment is delinquent if not paid on the date it is due. A delinquent payment incurs a penalty of 5 percent of the amount of the payment and accrues interest at an annual rate of 10 percent. If the budget is amended, any change in the amount of a unit's allocation is apportioned among the payments remaining.

(f) Payments shall be made to a depository designated by the district board of directors. The district's funds may be disbursed only by a written check, draft, or order signed by the chairman and secretary of the board or, if authorized by resolution of the board, by the chief appraiser.

(g) If a taxing unit decides not to impose taxes for any tax year, the unit is not liable for any of the costs of operating the district in that year, and those costs are allocated among the other taxing units as if that unit had not imposed taxes in the year used to calculate allocations. However, if that unit has made any payments, it is not entitled to a refund.

(h) If a newly formed taxing unit or a taxing unit that did not impose taxes in the preceding year imposes taxes in any tax year, that unit is allocated a portion of the amount budgeted to operate the district as if it had imposed taxes in the preceding year, except that the amount of taxes the unit imposes in the current year is used to calculate its allocation. Before the amount of taxes to be imposed for the current year is known, the allocation may be based on an estimate to which the district board of directors and the governing body of the unit agree, and the payments made after that amount is known shall be adjusted to reflect the amount imposed. The payments of a newly formed taxing unit that has no source of funds are postponed until the unit has received adequate tax or other revenues.

(i) The fiscal year of an appraisal district is the calendar year unless the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of board members adopt resolutions proposing a different fiscal year and file them with the secretary of the board not more than 12 and not less than eight months before the first day of the fiscal year proposed by the resolutions. If the fiscal year of an appraisal district is changed under this subsection, the chief appraiser shall prepare a proposed budget for the fiscal year as provided by Subsection (a) of this section before the 15th day of the seventh month preceding the first day of the fiscal year established by the change, and the board of directors shall adopt a budget for the fiscal year as provided by Subsection (b) of this section before the 15th day of the fourth month preceding the first day of the fiscal year established by the change. Unless the appraisal district adopts a different method of allocation under Section 6.061 of this code, the allocation of the budget to each taxing unit shall be calculated as provided by Subsection (d) of this section using the amount of property taxes imposed by each participating taxing unit in the most recent tax year preceding the fiscal year established by the change for which the necessary information is available. Each taxing unit shall pay its allocation as provided by Subsection (e) of this section, except that the first payment shall be made before the first day of the fiscal year established by the change and subsequent payments shall be made quarterly. In the year in which a change in the fiscal year occurs, the budget that takes effect on January 1 of that year may be amended as necessary as provided by Subsection (c) of this section in order to accomplish the change in fiscal years.

(j) If the total amount of the payments made or due to be made by the taxing units participating in an appraisal district exceeds the amount actually spent or obligated to be spent during the fiscal year for which the payments were made, the chief appraiser shall credit the excess amount against each taxing unit's allocated payments for the following year in proportion to the amount of each unit's budget allocation for the fiscal year for which the payments were made. If a taxing unit that paid its allocated amount is not allocated a portion of the district's budget for the following fiscal year, the chief appraiser shall refund to the taxing unit its proportionate share of the excess funds not later than the 150th day after the end of the fiscal year for which the payments were made.

(k) For good cause shown, the board of directors may waive the penalty and interest on a delinquent payment under Subsection (e).

Acts 1979, 66th Leg., p. 2226, ch. 841, Sec. 1, eff. Jan. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 122, ch. 13, Sec. 17, 18, eff. Aug. 14, 1981; Acts 1985, 69th Leg., ch. 311, Sec. 1, eff. Aug. 26, 1985; Acts 1989, 71st Leg., ch. 796, Sec. 9, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 20, Sec. 16, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.07, eff. May 31, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 87 (S.B. 948), Sec. 1, eff. May 14, 2007.

Sec. 6.061. CHANGES IN METHOD OF FINANCING. (a) The board of directors of an appraisal district, by resolution adopted and delivered to each taxing unit participating in the district after June 15 and before August 15, may prescribe a different method of allocating the costs of operating the district unless the governing body of any taxing unit that participates in the district adopts a resolution opposing the different method, and files it with the board of directors before September 1. If a board proposal is rejected, the board shall notify, in writing, each taxing unit participating in the district before September 15.

(b) The taxing units participating in an appraisal district may adopt a different method of allocating the costs of operating the district if the governing bodies of three-fourths of the taxing units that are entitled to vote on the appointment of board members adopt resolutions providing for the other method. However, a change under this subsection is not valid if it requires any taxing unit to pay a greater proportion of the appraisal district's costs than the unit would pay under Section 6.06 of this code without the consent of the governing body of that unit.

(c) An official copy of a resolution under this section must be filed with the chief appraiser of the appraisal district after April 30 and before May 15 or the resolution is ineffective.

(d) Before May 20, the chief appraiser shall determine whether a sufficient number of eligible taxing units have filed valid resolutions proposing a change in the allocation of district costs for the change to take effect. Before May 25, the chief appraiser

shall notify each taxing unit participating in the district of each change that is adopted.

(e) A change in allocation of district costs made as provided by this section remains in effect until changed in a manner provided by this section or rescinded by resolution of a majority of the governing bodies that are entitled to vote on appointment of board members under Section 6.03 of this code.

(f) Repealed by Acts 1993, 73rd Leg., ch. 347, Sec. 4.13(2), eff. May 31, 1993.

Added by Acts 1981, 67th Leg., 1st C.S., p. 123, ch. 13, Sec. 19, eff. Aug. 14, 1981. Amended by Acts 1987, 70th Leg., ch. 59, Sec. 3, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 20, Sec. 17, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.13(2), eff. May 31, 1993.

Sec. 6.062. PUBLICATION OF BUDGET. (a) Not later than the 10th day before the date of the public hearing at which the board of directors considers the appraisal district budget, the chief appraiser shall give notice of the public hearing by publishing the notice in a newspaper having general circulation in the county for which the appraisal district is established. The notice may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper and may not be published in the part of the paper in which legal notices and classified advertisements appear.

(b) The notice must set out the time, date, and place of the public hearing and must set out a summary of the proposed budget. The summary must set out as separate items:

(1) the total amount of the proposed budget;

(2) the amount of increase proposed from the budget adopted for the current year; and

(3) the number of employees compensated under the current budget and the number of employees to be compensated under the proposed budget.

(c) The notice must state that the appraisal district is supported solely by payments from the local taxing units served by the appraisal district. The notice must also contain the following statement: "If approved by the appraisal district board of directors at the public hearing, this proposed budget will take effect

automatically unless disapproved by the governing bodies of the county, school districts, cities, and towns served by the appraisal district. A copy of the proposed budget is available for public inspection in the office of each of those governing bodies."

Added by Acts 1989, 71st Leg., ch. 796, Sec. 10, eff. Sept. 1, 1989.

Sec. 6.063. FINANCIAL AUDIT. (a) At least once each year, the board of directors of an appraisal district shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants.

(b) The report of the audit is a public record. A copy of the report shall be delivered to the presiding officer of the governing body of each taxing unit eligible to vote on the appointment of district directors, and a reasonable number of copies shall be available for inspection at the appraisal office.

Added by Acts 1987, 70th Leg., ch. 860, Sec. 2, eff. Sept. 1, 1987.

Sec. 6.07. TAXING UNIT BOUNDARIES. If a new taxing unit is formed or an existing taxing unit's boundaries are altered, the unit shall notify the appraisal office of the new boundaries within 30 days after the date the unit is formed or its boundaries are altered.

Acts 1979, 66th Leg., p. 2227, ch. 841, Sec. 1, eff. Jan. 1, 1980.

Sec. 6.08. NOTICE OF OPTIONAL EXEMPTIONS. If a taxing unit adopts, amends, or repeals an exemption that the unit by law has the option to adopt or not, the taxing unit shall notify the appraisal office of its action and of the terms of the exemption within 30 days after the date of its action.

Acts 1979, 66th Leg., p. 2227, ch. 841, Sec. 1, eff. Jan. 1, 1980.

Sec. 6.09. DESIGNATION OF DISTRICT DEPOSITORY. (a) The appraisal district depository must be a banking corporation incorporated under the laws of this state or the United States or a

savings and loan association in this state whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

(b) The appraisal district board of directors shall designate as the district depository the financial institution or institutions that offer the most favorable terms and conditions for the handling of the district's funds.

(c) The board shall solicit bids to be designated as depository for the district. The depository when designated shall serve for a term of two years and until its successor is designated and has qualified. The board and the depository may agree to extend a depository contract for one additional two-year period.

(d) To the extent that funds in the depository are not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties.

Added by Acts 1981, 67th Leg., 1st C.S., p. 124, ch. 13, Sec. 20, eff. Aug. 14, 1981. Amended by Acts 2003, 78th Leg., ch. 906, Sec. 1, eff. June 20, 2003.

Sec. 6.10. DISAPPROVAL OF BOARD ACTIONS. If the governing bodies of a majority of the taxing units entitled to vote on the appointment of board members adopt resolutions disapproving an action, other than adoption of the budget, by the appraisal district board of directors and file them with the secretary of the board within 15 days after the action is taken, the action is revoked effective the day after the day on which the required number of resolutions is filed.

Added by Acts 1981, 67th Leg., 1st C.S., p. 124, ch. 13, Sec. 21, eff. Aug. 14, 1981.

Sec. 6.11. PURCHASING AND CONTRACTING AUTHORITY. (a) An appraisal district is subject to the same requirements and has the same purchasing and contracting authority as a municipality under Chapter 252, Local Government Code.

(b) For purposes of this section, all the provisions of Chapter 252, Local Government Code, applicable to a municipality or to purchases and contracts by a municipality apply to an appraisal

district and to purchases and contracts by an appraisal district to the extent they can be made applicable, and all references to the municipality in that chapter mean the appraisal district. For purposes of applying Section 252.061, Local Government Code, to an appraisal district, any resident of the appraisal district may seek an injunction under that section. Sections 252.062 and 252.063, Local Government Code, apply to an officer or employee of an appraisal district in the same manner those sections apply to a municipal officer or employee.

Added by Acts 1981, 67th Leg., 1st C.S., p. 124, ch. 13, Sec. 21, eff. Aug. 14, 1981. Amended by Acts 1987, 70th Leg., ch. 149, Sec. 42, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 757, Sec. 21, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 152, Sec. 1, eff. July 1, 2003.

Sec. 6.12. AGRICULTURAL APPRAISAL ADVISORY BOARD. (a) The chief appraiser of each appraisal district shall appoint, with the advice and consent of the board of directors, an agricultural advisory board composed of three or more members as determined by the board.

(b) The agricultural advisory board 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.

(c) Members of the board serve for staggered terms of two years. In making the initial appointments of members of the agricultural advisory board the chief appraiser shall appoint for a term of one year one-half of the members, or if the number of members is an odd number, one fewer than a majority of the membership.

(d) The board shall meet at the call of the chief appraiser at least once a year.

(e) An employee or officer of an appraisal district may not be appointed and may not serve as a member of the agricultural advisory board.

(f) A member of the agricultural advisory board is not entitled to compensation.

(g) The board shall advise the chief appraiser on the valuation and use of land that may be designated for agricultural use or that

may be open space agricultural or timber land within the district.

Added by Acts 1989, 71st Leg., ch. 274, Sec. 1, eff. Aug. 28, 1989.
Amended by Acts 1999, 76th Leg., ch. 631, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 228 (H.B. 361), Sec. 1, eff. September 1, 2011.

Sec. 6.13. DISTRICT RECORDS. The preservation, microfilming, destruction, or other disposition of the records of each appraisal district is subject to the requirements of Subtitle C, Title 6, Local Government Code, and rules adopted under that subtitle.

Added by Acts 1989, 71st Leg., ch. 1248, Sec. 67, eff. Sept. 1, 1989.
Renumbered from Sec. 6.12 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(30), eff. Sept. 6, 1990.

Sec. 6.14. INFORMATION PROVIDED TO TEXAS LEGISLATIVE COUNCIL. (a) On the written request of the Texas Legislative Council, an appraisal district that maintains its appraisal records in electronic format shall provide a copy of the information or data maintained in the district's appraisal records to the council without charge.

(b) The appraisal district shall provide the requested information or data to the council as soon as practicable but not later than the 30th day after the date the request is received by the district.

(c) The information or data shall be provided in a form approved by the council.

Added by Acts 1999, 76th Leg., ch. 1585, Sec. 4, eff. June 20, 1999.

Sec. 6.15. EX PARTE COMMUNICATIONS; PENALTY. (a) A member of the board of directors of an appraisal district commits an offense if the member directly or indirectly communicates with the chief appraiser on any matter relating to the appraisal of property by the appraisal district, except in:

(1) an open meeting of the appraisal district board of directors or another public forum; or

(2) a closed meeting of the board of directors held to consult with the board's attorney about pending litigation, at which the chief appraiser's presence is necessary for full communication between the board and the board's attorney.

(b) A chief appraiser commits an offense if the chief appraiser directly or indirectly communicates with a member of the board of directors of the appraisal district on any matter relating to the appraisal of property by the appraisal district, except in:

(1) an open meeting of the board of directors or another public forum; or

(2) a closed meeting of the board of directors held to consult with the board's attorney about pending litigation, at which the chief appraiser's presence is necessary for full communication between the board and the board's attorney.

(c) Subsections (a) and (b) do not apply to a routine communication between the chief appraiser and the county assessor-collector that relates to the administration of an appraisal roll, including a communication made in connection with the certification, correction, or collection of an account, regardless of whether the county assessor-collector was appointed to the board of directors of the appraisal district or serves as a nonvoting director.

(c-1) Subsections (a) and (b) do not prohibit a member of the board of directors of an appraisal district from transmitting to the chief appraiser without comment a complaint by a property owner or taxing unit about the appraisal of a specific property, provided that the transmission is in writing.

(d) An offense under this section is a Class C misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 208 (H.B. 402), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 18, eff. January 1, 2020.

Sec. 6.16. RESIDENTIAL PROPERTY OWNER ASSISTANCE. (a) The chief appraiser of an appraisal district may maintain a list of the following individuals who have designated themselves as an individual who will provide free assistance to an owner of residential property that is occupied by the owner as the owner's principal residence:

(1) a real estate broker or sales agent licensed under Chapter 1101, Occupations Code;

(2) a real estate appraiser licensed or certified under Chapter 1103, Occupations Code; or

(3) a property tax consultant registered under Chapter 1152, Occupations Code.

(b) On the request of an owner described by Subsection (a), a chief appraiser who maintains a list under this section shall provide to the owner a copy of the list.

(c) A list must:

(1) be organized by county;

(2) be available on the appraisal district's Internet website, if the appraisal district maintains a website; and

(3) provide the name, contact information, and job title of each individual who will provide free assistance.

(d) A person must designate himself or herself as an individual who will provide free assistance by completing a form prescribed by the chief appraiser and submitting the form to the chief appraiser.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 19, eff. January 1, 2020.

SUBCHAPTER B. ASSESSORS AND COLLECTORS

Sec. 6.21. COUNTY ASSESSOR-COLLECTOR. (a) The assessor-collector for a county is determined as provided by Article VIII, Sections 14, 16, and 16a, of the Texas Constitution.

(b) If a county with a population of less than 10,000 authorizes a separate county assessor-collector as provided by Article VIII, Section 16a, of the Texas Constitution, the commissioners court may appoint a county assessor-collector to serve until an assessor-collector is elected at the next general election and has qualified.

Acts 1979, 66th Leg., p. 2227, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 6.22. ASSESSOR AND COLLECTOR FOR OTHER TAXING UNITS. (a) The assessor and collector for a taxing unit other than a county or a home-rule city are determined by the law creating or authorizing creation of the unit.

(b) The assessor and collector for a home-rule city are determined by the city's charter and ordinances.

(c) The governing body of a taxing unit authorized to have its own assessor and collector by official action in the manner required by law for official action by the body may require the county to assess and collect the taxes the unit imposes in the county in the manner in which the county assesses and collects its taxes. The governing body of the unit may revoke the requirement at any time by the same official action.

Acts 1979, 66th Leg., p. 2227, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 6.23. DUTIES OF ASSESSOR AND COLLECTOR. (a) The county assessor-collector shall assess and collect taxes on property in the county for the county. He shall also assess and collect taxes on property for another taxing unit if:

(1) the law creating or authorizing creation of the unit requires it to use the county assessor-collector for the taxes the unit imposes in the county;

(2) the law creating or authorizing creation of the unit does not mention who assesses and collects its taxes and the unit imposes taxes in the county;

(3) the governing body of the unit requires the county to assess and collect its taxes as provided by Subsection (c) of Section 6.22 of this code; or

(4) required by an intergovernmental contract.

(b) The assessor and collector for a taxing unit other than a county shall assess, collect, or assess and collect taxes, as applicable, for the unit. He shall also assess, collect, or assess and collect taxes, as applicable, for another unit if:

(1) required by or pursuant to the law creating or authorizing creation of the other unit; or

(2) required by an intergovernmental contract.

Acts 1979, 66th Leg., p. 2227, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 125, ch. 13, Sec. 22, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4819, ch. 851, Sec. 2, eff. Aug. 29, 1983.

Sec. 6.231. CONTINUING EDUCATION. (a) A county assessor-collector must successfully complete 20 hours of continuing education before each anniversary of the date on which the county assessor-collector takes office. The continuing education must include at least 10 hours of instruction on laws relating to the assessment and collection of property taxes for a county assessor-collector who assesses or collects property taxes.

(b) In addition to the requirement described by Subsection (a), a county assessor-collector shall:

(1) successfully complete continuing education courses on ethics and on the constitutional and statutory duties of the county assessor-collector not later than the 90th day after the date on which the county assessor-collector first takes office; and

(2) if the county assessor-collector assesses or collects property taxes, successfully complete at least 40 hours of continuing education courses on the assessment and collection of property taxes, including a course dedicated to Chapter 26, not later than the first anniversary of the date on which the county assessor-collector first takes office.

(c) Continuing education required by this section must be approved by a state agency or an accredited institution of higher education, including an institution that is a part of or associated with an accredited institution of higher education, such as the V. G. Young Institute of County Government.

(d) A county assessor-collector shall file annually a continuing education certificate of completion with the commissioners court of the county in which the county assessor-collector holds office.

(e) To satisfy the requirement described by Subsection (a), a county assessor-collector may carry forward from one 12-month period to the next not more than 10 continuing education hours that the county assessor-collector completes in excess of the required 20 hours.

(f) For purposes of removal under Subchapter B, Chapter 87, Local Government Code, "incompetency" in the case of a county assessor-collector includes the failure to complete continuing education requirements in accordance with this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 429 (S.B. 546), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 28 (S.B. 929), Sec. 1, eff. May 18, 2017.

Sec. 6.24. CONTRACTS FOR ASSESSMENT AND COLLECTION. (a) The governing body of a taxing unit other than a county may contract as provided by the Interlocal Cooperation Act with the governing body of another unit or with the board of directors of an appraisal district for the other unit or the district to perform duties relating to the assessment or collection of taxes.

(b) The commissioners court with the approval of the county assessor-collector may contract as provided by the Interlocal Cooperation Act with the governing body of another taxing unit in the county or with the board of directors of the appraisal district for the other unit or the district to perform duties relating to the assessment or collection of taxes for the county. If a county contracts to have its taxes assessed and collected by another taxing unit or by the appraisal district, except as provided by Subsection (c), the contract shall require the other unit or the district to assess and collect all taxes the county is required to assess and collect.

(c) A contract entered into under Subsection (b) may exclude from the taxes the other unit or the district is required to assess and collect taxes the county is required to assess and collect under one or more of the following provisions:

(1) Section 23.121;
(2) Section 23.122;
(3) Section 23.124;
(4) Section 23.1241;
(5) Section 23.1242;
(6) Section 23.125;
(7) Section 23.127; or
(8) Section 23.128.

(d) A contract under this section may provide for the entity that collects taxes to contract with an attorney, as provided by Section 6.30 of this code, for collection of delinquent taxes.

Acts 1979, 66th Leg., p. 2228, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 125, ch. 13, Sec. 23,

24, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 28, eff. Aug. 29, 1983; Acts 2001, 77th Leg., ch. 1430, Sec. 2, eff. Sept. 1, 2001.

Sec. 6.26. ELECTION TO CONSOLIDATE ASSESSING AND COLLECTING FUNCTIONS. (a) The qualified voters residing in an appraisal district by petition submitted to the county clerk of the county principally served by the appraisal district may require that an election be held to determine whether or not to require the appraisal district, the county assessor-collector, or a specified taxing unit within the appraisal district to assess, collect, or assess and collect property taxes on property appraised by the district for all taxing units.

(b) The qualified voters of a taxing unit that assesses, collects, or assesses and collects its own property taxes by petition submitted to the governing body of the taxing unit may require that an election be held to determine whether or not to require the appraisal district, the county assessor-collector, or another taxing unit that is assessing and collecting property taxes to assess, collect, or assess and collect the unit's property taxes.

(c) A petition is valid if:

(1) it states that it is intended to require an election in the appraisal district or taxing unit on the question of consolidation of assessing or collecting functions or both;

(2) it states the functions to be consolidated and identifies the entity or office that will be required to perform the functions; and

(3) it is signed by a number of qualified voters equal to at least 10 percent of the number of qualified voters, according to the most recent official list of qualified voters, residing in the appraisal district, if the petition is authorized by Subsection (a) of this section, or in the taxing unit, if the petition is authorized by Subsection (b) of this section, or by 10,000 qualified voters, whichever number is less.

(d) Not later than the 10th day after the day the petition is submitted, the commissioners court, if the petition is authorized by Subsection (a) of this section, or the governing body of the taxing unit, if the petition is authorized by Subsection (b) of this section, shall determine whether the petition is valid and pass a

resolution stating its finding. The signature of a person may not be counted for purposes of validating the petition under Subsection (c)(3) of this section if:

(1) the person does not enter beside his signature at the time of his signing the date on which he signs the petition; or

(2) the person signs the petition more than 30 days before the date on which the petition is submitted to the county clerk or the governing body.

(e) If the commissioners court or the governing body finds that the petition is valid, it shall order that an election be held in the district or taxing unit on the next uniform election date prescribed by the Texas Election Code that is more than 60 days after the last day on which it could have acted to approve or disapprove the petition. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Requiring the (name of entity or office) to (assess, collect, or assess and collect, as applicable) property taxes for (all taxing units in the appraisal district for _____ county or name of taxing unit or units, as applicable)."

(f) If a majority of the qualified voters voting on the question in the election favor the proposition, the entity or office named by the ballot shall perform the functions named by the ballot beginning with the next time property taxes are assessed or collected, as applicable, that is more than 90 days after the date of the election. If the governing bodies (and appraisal district board of directors when the district is involved) agree, a function may be consolidated when performance of the function begins in less than 90 days after the date of the election.

(g) A taxing unit shall pay the actual cost of performance of the functions to the office or entity that performs functions for it pursuant to an election as provided by this section.

(h) If a taxing unit is required by election pursuant to Subsection (b) of this section to assess, collect, or assess and collect property taxes for another taxing unit, it also shall perform the functions for all taxing units for which the other unit previously performed those functions pursuant to law or intergovernmental contract.

(i) If functions are consolidated by an election, a taxing unit may not terminate the consolidation within two years after the date of the consolidation.

(j) An appraisal district may not be required by an election to assess, collect, or assess and collect taxes on property outside the district's boundaries. A taxing unit may not be required by an election to assess, collect, or assess and collect taxes on property outside the boundaries of the appraisal district that appraises property for the unit.

Acts 1979, 66th Leg., p. 2229, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 125, ch. 13, Sec. 25, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4612, ch. 785, Sec. 1, eff. Sept. 1, 1983.

Sec. 6.27. COMPENSATION FOR ASSESSMENT AND COLLECTION. (a) Repealed by Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 28, eff. Aug. 29, 1983.

(b) Except as provided by Subsection (d), the county assessor-collector is entitled to a reasonable fee, which may not exceed the actual costs incurred, for assessing and collecting taxes for a taxing unit pursuant to Section 6.23(a)(1), (2), or (3).

(c) The assessor or collector for a taxing unit other than a county is entitled to reasonable compensation, which may not exceed the actual costs incurred, for assessing or collecting taxes for a taxing unit pursuant to Subsection (b) of Section 6.23 of this code.

(d) If a law enacted under Section 59, Article XVI, Texas Constitution, creating a river authority authorizes the river authority to impose a tax, specifies the maximum tax rate, and specifies the maximum fee that the authority may pay for the assessment and collection of the authority's taxes, and if the county assessor-collector assesses and collects the taxes the river authority imposes pursuant to Section 6.23(a)(1), (2), or (3), the county assessor-collector may not charge the river authority a fee for assessing and collecting the taxes that exceeds the fee specified in the law creating the river authority.

Acts 1979, 66th Leg., p. 2230, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 125, ch. 13, Sec. 26, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 28, eff. Aug. 29, 1983.
Amended by:

Acts 2005, 79th Leg., Ch. 32 (S.B. 692), Sec. 1, eff. May 9,

2005.

Sec. 6.275. RELEASE OF ASSESSOR AND COLLECTOR FROM LIABILITY. A county assessor-collector is not personally liable for the loss of public funds in the custody of the assessor-collector or the assessor-collector's office if a district court enters a declaratory judgment that the loss is due to a reason other than the negligence or misconduct of the assessor-collector.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 37, Sec. 1, eff. Oct. 20, 1987.

Sec. 6.28. BONDS FOR STATE AND COUNTY TAXES. (a) Before beginning to perform the duties of office, a person elected or appointed as county assessor-collector must give bonds to the state and to the county, conditioned on the faithful performance of the person's duties as assessor-collector.

(b) The bond for state taxes must be payable to the governor and his successors in office in an amount equal to five percent of the net state collections from motor vehicle sales and use taxes and motor vehicle registration fees in the county during the year ending August 31 preceding the date bond is given, except that the amount of bond may not be less than $2,500 or more than $100,000. To be effective, the bond must be approved by the commissioners court and the state comptroller of public accounts.

(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 bond under this subsection must be approved by the commissioners court.

(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 fails to give new bond within a reasonable time after demand.

(e) The assessor-collector's official oath and bonds for state and county taxes shall be recorded in the office of the county clerk, and the county judge shall submit the bond for state taxes to the state comptroller of public accounts.

(f) A county shall pay a reasonable premium for the assessor-collector's bonds for state and county taxes out of the county general revenue fund on presentation to the commissioners court of a bill for the premium authenticated as required by law for other claims against the county. A court of competent jurisdiction may determine the reasonableness of any amount claimed as premium.

Acts 1979, 66th Leg., p. 2230, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 126, ch. 13, Sec. 27, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4820, ch. 851, Sec. 3, eff. Aug. 29, 1983; Acts 1999, 76th Leg., ch. 1097, Sec. 1, eff. Aug. 30, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1155 (H.B. 2104), Sec. 1, eff. September 1, 2011.

Sec. 6.29. BONDS FOR OTHER TAXES. (a) A taxing unit, other than a county, that has its own collector shall require him to give bond conditioned on the faithful performance of his duties. To be effective, the bond must be made payable to and must be approved by the governing body of the unit in an amount determined by the governing body. The governing body may require a new bond at any time, and failure to give new bond within a reasonable time after demand is a ground for removal from office. The governing body may prescribe additional requirements for the bond.

(b) A taxing unit whose taxes are collected by the collector for another taxing unit, by an officer or employee of another taxing

unit or of an appraisal district, or by any other person other than the unit's own collector may require that collector, officer, employee, or other person to give bond conditioned on the faithful performance of his duties. To be effective, the bond must be made payable to and must be approved by and paid for by the governing body of the unit requiring bond in an amount determined by the governing body. The governing body may prescribe additional requirements for the bond.

(c) A taxing unit shall pay the premium for a bond required pursuant to this section from its general fund or as provided by intergovernmental contract.

Acts 1979, 66th Leg., p. 2231, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 125, Sec. 1, eff. May 20, 1987.

Sec. 6.30. ATTORNEYS REPRESENTING TAXING UNITS. (a) The county attorney or, if there is no county attorney, the district attorney shall represent the county to enforce the collection of delinquent taxes if the commissioners court does not contract with a private attorney as provided by Subsection (c) of this section.

(b) The governing body of a taxing unit other than a county may determine who represents the unit to enforce the collection of delinquent taxes. If a taxing unit collects taxes for another taxing unit, the attorney representing the unit to enforce the collection of delinquent taxes may represent the other unit with consent of its governing body.

(c) The governing body of a taxing unit may contract with any competent attorney to represent the unit to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected.

(d) Repealed by Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 28, eff. Aug. 29, 1983.

(e) A contract with an attorney that does not conform to the requirements of this section is void.

Acts 1979, 66th Leg., p. 2231, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 126, ch. 13, Sec. 28, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 4,

28, eff. Aug. 29, 1983.

SUBCHAPTER C. APPRAISAL REVIEW BOARD

Sec. 6.41. APPRAISAL REVIEW BOARD. (a) The appraisal review board is established for each appraisal district.

(b) Except as provided by Subsection (b-1) or (b-2), an appraisal review board consists of three members.

(b-1) An appraisal district board of directors by resolution of a majority of the board's members may increase the size of the district's appraisal review board to the number of members the board of directors considers appropriate.

(b-2) An appraisal district board of directors for a district established in a county with a population of one million or more by resolution of a majority of the board's members shall increase the size of the district's appraisal review board to the number of members the board of directors considers appropriate to manage the duties of the appraisal review board, including the duties of each special panel established under Section 6.425.

(c) To be eligible to serve on the board, an individual must be a resident of the district and must have resided in the district for at least two years.

(d) Except as provided by Subsection (d-1), members of the board are appointed by resolution of a majority of the appraisal district board of directors. A vacancy on the board is filled in the same manner for the unexpired portion of the term.

(d-1) In a county with a population of 120,000 or more the members of the board are appointed by the local administrative district judge under Subchapter D, Chapter 74, Government Code, in the county in which the appraisal district is established. All applications submitted to the appraisal district or to the appraisal review board from persons seeking appointment as a member of the appraisal review board shall be delivered to the local administrative district judge. The appraisal district may provide the local administrative district judge with information regarding whether an applicant for appointment to or a member of the board owes any delinquent ad valorem taxes to a taxing unit participating in the appraisal district.

(d-2) A local administrative district judge making appointments under Subsection (d-1) may make such appointments directly or may, by

written order, appoint from three to five persons to perform the duties of appraisal review board commissioner. If the local administrative district judge chooses to appoint appraisal review board commissioners, each commissioner shall possess the same qualifications as those required of an appraisal review board member.

(d-3) The local administrative judge making appointments under Subsection (d-1) shall cause the proper officer to notify such appointees of such appointment, and when and where they are to appear.

(d-4) If appraisal review board commissioners are appointed under Subsection (d-2), they shall meet as directed by the local administrative district judge in order to complete their duties.

(d-5) The appraisal district of the county shall provide to the local administrative district judge, or to the appraisal review board commissioners, as the case may be, the number of appraisal review board positions that require appointment and shall provide whatever reasonable assistance is requested by the local administrative district judge or the commissioners.

(d-6) An appraisal review board commissioner is not disqualified from serving as a member of the appraisal review board.

(d-7) If appraisal review board commissioners are appointed under this section, the commissioners shall return a list of proposed appraisal review board members to the local administrative district judge at a time directed by such local administrative judge, but in no event later than January 1 of each year. Such list shall be composed of no less than five (5) names in excess of the number of appraisal review board positions to be filled by the local administrative district judge. The local administrative judge may accept the proposed names, or reject the proposed list and return the proposed list to the commissioners upon which the commissioners shall propose a revised list until the local administrative judge accepts the list.

(d-8) Any appraisal review board commissioners appointed pursuant to this section shall hold office for a term of one year beginning January 1. A commissioner may be appointed to successive terms at the discretion of the local administrative district judge.

(d-9) In selecting individuals who are to serve as members of the appraisal review board for an appraisal district described by Subsection (b-2), the local administrative district judge shall select an adequate number of qualified individuals to permit the

chairman of the appraisal review board to fill the positions on each special panel established under Section 6.425.

(d-10) Upon selection of the individuals who are to serve as members of the appraisal review board, the local administrative district judge shall enter an appropriate order designating such members and setting each member's respective term of office, as provided elsewhere in this section.

(e) Members of the board hold office for terms of two years beginning January 1. The appraisal district board of directors by resolution shall provide for staggered terms, so that the terms of as close to one-half of the members as possible expire each year. In making the initial or subsequent appointments, the board of directors or the local administrative district judge or the judge's designee shall designate those members who serve terms of one year as needed to comply with this subsection.

(f) A member of the board may be removed from the board by a majority vote of the appraisal district board of directors, or by the local administrative district judge or the judge's designee, as applicable, that appointed the member. Grounds for removal are:

(1) a violation of Section 6.412, 6.413, 41.66(f), or 41.69;

(2) good cause relating to the attendance of members at called meetings of the board as established by written policy adopted by a majority of the appraisal district board of directors; or

(3) evidence of repeated bias or misconduct.

(g) Subsection (a) does not preclude the boards of directors of two or more adjoining appraisal districts from providing for the operation of a consolidated appraisal review board by interlocal contract.

(h) When adjoining appraisal districts by interlocal contract have provided for the operation of a consolidated appraisal review board:

(1) a reference in this or another section of this code to the appraisal district means the adjoining appraisal districts;

(2) a reference in this or another section of this code to the appraisal district board of directors means the boards of directors of the adjoining appraisal districts;

(3) a provision of this code that applies to an appraisal review board also applies to the consolidated appraisal review board; and

(4) a reference in this code to the appraisal review board shall be construed to also refer to the consolidated appraisal review board.

(i) This subsection applies only to an appraisal district described by Subsection (d-1). A chief appraiser or another employee or agent of the appraisal district, a member of the appraisal review board for the appraisal district, a member of the board of directors of the appraisal district, a property tax consultant, or an agent of a property owner commits an offense if the person communicates with the local administrative district judge regarding the appointment of appraisal review board members. This subsection does not apply to:

(1) a communication between a member of the appraisal review board and the local administrative district judge regarding the member's reappointment to the board;

(2) a communication between the taxpayer liaison officer for the appraisal district and the local administrative district judge in the course of the performance of the officer's clerical duties so long as the officer does not offer an opinion or comment regarding the appointment of appraisal review board members;

(3) a communication between a chief appraiser or another employee or agent of the appraisal district, a member of the appraisal review board for the appraisal district, or a member of the board of directors of the appraisal district and the local administrative district judge regarding information relating to or described by Subsection (d-1), (d-5), or (f) of this section or Section 411.1296, Government Code;

(4) a communication between a property tax consultant or a property owner or an agent of the property owner and the taxpayer liaison officer for the appraisal district regarding information relating to or described by Subsection (f). The taxpayer liaison officer for the appraisal district shall report the contents of the communication relating to or described by Subsection (f) to the local administrative district judge; or

(5) a communication between a property tax consultant or a property owner or an agent of the property owner and the local administrative district judge regarding information relating to or described by Subsection (f).

(j) A chief appraiser or another employee or agent of an appraisal district commits an offense if the person communicates with a member of the appraisal review board for the appraisal district, a

member of the board of directors of the appraisal district, or, if the appraisal district is an appraisal district described by Subsection (d-1), the local administrative district judge regarding a ranking, scoring, or reporting of the percentage by which the appraisal review board or a panel of the board reduces the appraised value of property.

(k) An offense under Subsection (i) or (j) is a Class A misdemeanor.

Acts 1979, 66th Leg., p. 2231, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, Sec. 29, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 796, Sec. 11, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 597, Sec. 107, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 8, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 154, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 299, Sec. 1, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1039, Sec. 4, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 639, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 354, Sec. 1, eff. Jan. 1, 2002; Acts 2001, 77th Leg., ch. 1430, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 408, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 970 (H.B. 3611), Sec. 1, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1267 (H.B. 1030), Sec. 2, eff. January 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 112, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 8, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1204 (S.B. 1468), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 802 (H.B. 2179), Sec. 1, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 20, eff. September 1, 2020.

Sec. 6.411. EX PARTE COMMUNICATIONS; PENALTY. (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).

(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 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.

(c) This section does not apply to communications between the board and its legal counsel.

(c-1) This section does not apply to communications with a member of an appraisal review board by the chief appraiser or another employee or a member of the 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:

(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.

(d) An offense under this section is a Class A misdemeanor.

Added by Acts 2003, 78th Leg., ch. 950, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 12, eff. January 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 9, eff. June 14, 2013.

Sec. 6.412. RESTRICTIONS ON ELIGIBILITY OF BOARD MEMBERS. (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;

(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:

(A) the appraisal district's board of directors; or

(B) the appraisal review board.

(b) A member of an appraisal review board commits an offense if the board member continues to hold office knowing that an individual related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to the board member 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. An offense under this subsection is a Class B misdemeanor.

(c) A person is ineligible to serve on the appraisal review board if the person is a member of the board of directors, an officer, or employee of the appraisal district, an employee of the

comptroller, or a member of the governing body, officer, or employee of a taxing unit.

(d) A person is ineligible to serve on the appraisal review board of an appraisal district established for a county described by Section 6.41(d-1) if the person:

(1) is a former member of the board of directors, former officer, or former employee of the appraisal district;

(2) served as a member of the governing body or officer of a taxing unit for which the appraisal district appraises property, until the fourth anniversary of the date the person ceased to be a member or officer;

(3) appeared before the appraisal review board for compensation during the two-year period preceding the date the person is appointed; or

(4) served for all or part of three previous terms as a board member or auxiliary board member on the appraisal review board.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 632, Sec. 2, eff. June 14, 2013.

Added by Acts 1989, 71st Leg., ch. 796, Sec. 12, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 561, Sec. 45, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 691, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 639, Sec. 2, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 354, Sec. 2, eff. Jan. 1, 2002; Acts 2001, 77th Leg., ch. 1430, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 730 (H.B. 896), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 4, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 632 (H.B. 326), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 632 (H.B. 326), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 714 (H.B. 3438), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 21, eff.

January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

Sec. 6.413. INTEREST IN CERTAIN CONTRACTS PROHIBITED. (a) An individual is not eligible to be appointed to or to serve on the appraisal review board established for an appraisal district if the individual or a business entity in which the individual has a substantial interest is a party to a contract with the appraisal district or with a taxing unit that participates in the appraisal district.

(b) An appraisal district may not enter into a contract with a member of the appraisal review board established for the appraisal district or with a business entity in which a member of the appraisal review board has a substantial interest.

(c) A taxing unit may not enter into a contract with a member of the appraisal review board established for an appraisal district in which the taxing unit participates or with a business entity in which a member of the appraisal review board has a substantial interest.

(d) For purposes of this section, an individual has a substantial interest in a business entity if:

(1) the combined ownership of the individual and the individual's spouse is at least 10 percent of the voting stock or shares of the business entity; or

(2) the individual or the individual's spouse is a partner, limited partner, or officer of the business entity.

(e) In this section, "business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

(f) This section does not limit the application of any other law, including the common law relating to conflicts of interest, to an appraisal review board member.

Added by Acts 1989, 71st Leg., ch. 796, Sec. 13, eff. Sept. 1, 1989.

Sec. 6.414. AUXILIARY APPRAISAL REVIEW BOARD MEMBERS. (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. An auxiliary board member may not hear taxpayer protests before a special panel established under Section 6.425 unless the member is eligible to be appointed to the special panel. If one or more auxiliary board members sit on a panel established under Section 6.425 or 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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 730 (H.B. 896), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 22, eff. September 1, 2020.

Sec. 6.42. ORGANIZATION, MEETINGS AND COMPENSATION. (a) A majority of the appraisal review board constitutes a quorum. The local administrative district judge under Subchapter D, Chapter 74, Government Code, in the county in which the appraisal district is established shall select a chairman and a secretary from among the members of the appraisal review board. The judge is encouraged to select as chairman a member of the appraisal review board, if any, who has a background in law and property appraisal.

(b) The board may meet at any time at the call of the chairman or as provided by rule of the board. The board shall meet to examine the appraisal records within 10 days after the date the chief appraiser submits the records to the board.

(c) Members of the board are entitled to per diem set by the appraisal district budget for each day the board meets and to reimbursement for actual and necessary expenses incurred in the performance of board functions as provided by the district budget.

(d) The concurrence of a majority of the members of the appraisal review board present at a meeting of the board is sufficient for a recommendation, determination, decision, or other action by the board. The concurrence of a majority of the members of a panel of the board present at a meeting of the panel is sufficient for a recommendation by the panel. The concurrence of more than a majority of the members of the board or panel may not be required.

Acts 1979, 66th Leg., p. 2232, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 836, Sec. 7.1, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 515, Sec. 1, eff. June 12, 1995. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1294 (H.B. 2317), Sec. 2, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 23, eff. January 1, 2020.

Sec. 6.425. SPECIAL APPRAISAL REVIEW BOARD PANELS IN CERTAIN

DISTRICTS. (a) This section applies only to the appraisal review board for an appraisal district described by Section 6.41(b-2).

(b) The appraisal review board shall establish special panels to conduct protest hearings under Chapter 41 relating to property that:

(1) has an appraised value as determined by the appraisal district equal to or greater than the minimum eligibility amount determined as provided by Subsection (g); and

(2) is included in one of the following classifications:

(A) commercial real and personal property;

(B) real and personal property of utilities;

(C) industrial and manufacturing real and personal property; and

(D) multifamily residential real property.

(c) Each special panel described by this section consists of three members of the appraisal review board appointed by the chairman of the board.

(d) To be eligible to be appointed to a special panel described by this section, a member of the appraisal review board must:

(1) hold a juris doctor or equivalent degree;

(2) hold a master of business administration degree;

(3) be licensed as a certified public accountant under Chapter 901, Occupations Code;

(4) be accredited by the American Society of Appraisers as an accredited senior appraiser;

(5) possess an MAI professional designation from the Appraisal Institute;

(6) possess a Certified Assessment Evaluator (CAE) professional designation from the International Association of Assessing Officers;

(7) have at least 10 years of experience in property tax appraisal or consulting; or

(8) be licensed as a real estate broker or sales agent under Chapter 1101, Occupations Code.

(e) Notwithstanding Subsection (d), the chairman of the appraisal review board may appoint to a special panel described by this section a member of the appraisal review board who does not meet the qualifications prescribed by that subsection if:

(1) the number of persons appointed to the board by the local administrative district judge who meet those qualifications is

not sufficient to fill the positions on each special panel; and

(2) the board member being appointed to the panel holds a bachelor's degree in any field.

(f) In addition to conducting protest hearings relating to property described by Subsection (b) of this section, a special panel may conduct protest hearings under Chapter 41 relating to property not described by Subsection (b) of this section as assigned by the chairman of the appraisal review board.

(g) By February 1 or as soon thereafter as practicable, the comptroller shall determine the minimum eligibility amount for the current tax year for purposes of Subsection (b)(1) and publish that amount in the Texas Register. The minimum eligibility amount for the 2020 tax year is $50 million. For each succeeding tax year, the minimum eligibility amount is equal to the minimum eligibility amount for the preceding tax year as adjusted by the comptroller to reflect the inflation rate.

(h) In this section:

(1) "Consumer price index" means the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, published by the Bureau of Labor Statistics of the United States Department of Labor.

(2) "Inflation rate" means the amount, expressed in decimal form rounded to the nearest thousandth, computed by determining the percentage change in the consumer price index for the preceding calendar year as compared to the consumer price index for the calendar year preceding that calendar year.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 24, eff. September 1, 2020.

Sec. 6.43. PERSONNEL. (a) The appraisal review board may employ legal counsel as provided by the district budget or use the services of the county attorney.

(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.

Acts 1979, 66th Leg., p. 2232, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 5, eff. September 1, 2011.

SUBTITLE C. TAXABLE PROPERTY AND EXEMPTIONS
CHAPTER 11. TAXABLE PROPERTY AND EXEMPTIONS
SUBCHAPTER A. TAXABLE PROPERTY

Sec. 11.01. REAL AND TANGIBLE PERSONAL PROPERTY. (a) All real and tangible personal property that this state has jurisdiction to

tax is taxable unless exempt by law.

(b) This state has jurisdiction to tax real property if located in this state.

(c) This state has jurisdiction to tax tangible personal property if the property is:

(1) located in this state for longer than a temporary period;

(2) temporarily located outside this state and the owner resides in this state; or

(3) used continually, whether regularly or irregularly, in this state.

(d) Tangible personal property that is operated or located exclusively outside this state during the year preceding the tax year and on January 1 of the tax year is not taxable in this state.

(e) For purposes of Subsection (c)(3), property is considered to be used continually, whether regularly or irregularly, in this state if the property is used in this state three or more times on regular routes or for three or more completed assignments occurring in close succession throughout the year. For purposes of this subsection, a series of events are considered to occur in close succession throughout the year if they occur in sequence within a short period at intervals from the beginning to the end of the year.

Acts 1979, 66th Leg., p. 2233, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1983, 68th Leg., p. 1908, ch. 353, Sec. 1, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 534, Sec. 2, eff. Jan. 1, 1990. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 893 (H.B. 3103), Sec. 1, eff. June 15, 2017.

Sec. 11.02. INTANGIBLE PERSONAL PROPERTY. (a) Except as provided by Subsection (b) of this section, intangible personal property is not taxable.

(b) Intangible property governed by Article 4.01, Insurance Code, or by Section 89.003, Finance Code, is taxable as provided by law, unless exempt by law, if this state has jurisdiction to tax those intangibles.

(c) This state has jurisdiction to tax intangible personal property if the property is:

(1) owned by a resident of this state; or
(2) located in this state for business purposes.

Acts 1979, 66th Leg., p. 2233, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 3, part A, Sec. 1, eff. Jan. 1, 1985; Acts 1999, 76th Leg., ch. 62, Sec. 7.88, eff. Sept. 1, 1999.

SUBCHAPTER B. EXEMPTIONS

Sec. 11.11. PUBLIC PROPERTY. (a) Except as provided by Subsections (b) and (c) of this section, property owned by this state or a political subdivision of this state is exempt from taxation if the property is used for public purposes.

(b) Land owned by the Permanent University Fund is taxable for county purposes. Any notice required by Section 25.19 of this code shall be sent to the comptroller, and the comptroller shall appear in behalf of the state in any protest or appeal relating to taxation of Permanent University Fund land.

(c) Agricultural or grazing land owned by a county for the benefit of public schools under Article VII, Section 6, of the Texas Constitution is taxable for all purposes. The county shall pay the taxes on the land from the revenue derived from the land. If revenue from the land is insufficient to pay the taxes, the county shall pay the balance from the county general fund.

(d) Property owned by the state that is not used for public purposes is taxable. Property owned by a state agency or institution is not used for public purposes if the property is rented or leased for compensation to a private business enterprise to be used by it for a purpose not related to the performance of the duties and functions of the state agency or institution or used to provide private residential housing for compensation to members of the public other than students and employees of the state agency or institution owning the property, unless the residential use is secondary to its use by an educational institution primarily for instructional purposes. Any notice required by Section 25.19 of this code shall be sent to the agency or institution that owns the property, and it shall appear in behalf of the state in any protest or appeal related to taxation of the property.

(e) Property that is held or dedicated for the support,

maintenance, or benefit of an institution of higher education as defined by Section 61.003, Education Code, but is not rented or leased for compensation to a private business enterprise to be used by it for a purpose not related to the performance of the duties and functions of the state or institution or is not rented or leased to provide private residential housing to members of the public other than students and employees of the state or institution is not taxable. If a portion of property of an institution of higher education is used for public purposes and a portion is not used for those purposes, the portion of the property used for public purposes is exempt under this subsection. All oil, gas, and other mineral interests owned by an institution of higher education are exempt from all ad valorem taxes. Property bequeathed to an institution is exempt from the assessment of ad valorem taxes from the date of the decedent's death, unless:

(1) the property is leased for compensation to a private business enterprise as provided in this subsection; or

(2) the transfer of the property to an institution is contested in a probate court, in which case ad valorem taxes shall be assessed to the estate of the decedent until the final determination of the disposition of the property is made. The property is exempt from the assessment of ad valorem taxes upon vesting of the property in the institution.

(f) Property of a higher education development foundation or an alumni association that is located on land owned by the state for the support, maintenance, or benefit of an institution of higher education as defined in Chapter 61, Education Code, is exempt from taxation if:

(1) the foundation or organization meets the requirements of Sections 11.18(e) and (f) and is organized exclusively to operate programs or perform other activities for the benefit of institutions of higher education; and

(2) the property is used exclusively in those programs or activities.

(g) For purposes of this section, an improvement is owned by the state and is used for public purposes if it is:

(1) located on land owned by the Texas Department of Criminal Justice;

(2) leased and used by the department; and

(3) subject to a lease-purchase agreement providing that

legal title to the improvement passes to the department at the end of the lease period.

(h) For purposes of this section, tangible personal property is owned by this state or a political subdivision of this state if it is subject to a lease-purchase agreement providing that the state or political subdivision, as applicable, is entitled to compel delivery of the legal title to the property to the state or political subdivision, as applicable, at the end of the lease term. The property ceases to be owned by the state or political subdivision, as applicable, if, not later than the 30th day after the date the lease terminates, the state or political subdivision, as applicable, does not exercise its right to acquire legal title to the property.

(i) A corporation organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), or a successor statute, that engages primarily in providing chilled water and steam to an eligible institution, as defined by Section 301.031, Health and Safety Code, is entitled to an exemption from taxation of the property the corporation owns as though the property of the corporation were owned by this state and used for health or educational purposes.

(j) For purposes of this section, any portion of a facility owned by the Texas Department of Transportation that 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, 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.

Acts 1979, 66th Leg., p. 2234, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, Sec. 30, eff. Jan. 1, 1984; Acts 1983, 68th Leg., p. 4821, ch. 851, Sec. 5, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5419, ch. 1007, Sec. 1, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 796, Sec. 14, eff. Jan. 1, 1990; Acts 1989, 71st Leg., ch. 1021, Sec. 1, eff. Aug. 28, 1989; Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(31), eff. Sept. 6, 1990; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 9, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 843, Sec. 1, eff. Jan. 1, 1998;

Acts 2001, 77th Leg., ch. 362, Sec. 1, eff. May 26, 2001; Acts 2003, 78th Leg., ch. 1266, Sec. 1.01, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.95, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 204 (S.B. 812), Sec. 1, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.152, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 1, eff. June 17, 2011.

Sec. 11.111. PUBLIC PROPERTY USED TO PROVIDE TRANSITIONAL HOUSING FOR INDIGENT PERSONS. (a) The governing body of a taxing unit by ordinance or order may exempt from ad valorem taxation residential property owned by the United States or an agency of the United States and used to provide transitional housing for the indigent under a program operated or directed by the United States Department of Housing and Urban Development.

(b) For purposes of this section, transitional housing for indigent individuals is housing provided at no cost or nominal cost to an indigent individual or family during a temporary period in which the individual or a member of the family participates in a job training program, job placement program, or other program intended to assist the individual or family to become self-sufficient.

(c) The exemption provided by this section applies even if the United States or its agency leases the property to a nonprofit organization in return for the organization's assistance in operating the program to provide transitional housing, as long as the lease does not require the nonprofit organization to pay more than a nominal amount to lease the property.

Added by Acts 1991, 72nd Leg., ch. 762, Sec. 13, eff. Jan. 1, 1992.

Sec. 11.12. FEDERAL EXEMPTIONS. Property exempt from ad valorem taxation by federal law is exempt from taxation.

Acts 1979, 66th Leg., p. 2234, ch. 841, Sec. 1, eff. Jan. 1, 1980.

Sec. 11.13. RESIDENCE HOMESTEAD. (a) A family or single adult is entitled to an exemption from taxation for the county purposes authorized in Article VIII, Section 1-a, of the Texas Constitution of $3,000 of the assessed value of his residence homestead.

(b) An adult is entitled to exemption from taxation by a school district of $25,000 of the appraised value of the adult's residence homestead, except that only $5,000 of the exemption applies to an entity operating under former Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those chapters existed on May 1, 1995, as permitted by Section 11.301, Education Code.

(c) In addition to the exemption provided by Subsection (b) of this section, an adult who is disabled or is 65 or older is entitled to an exemption from taxation by a school district of $10,000 of the appraised value of his residence homestead.

(d) In addition to the exemptions provided by Subsections (b) and (c) of this section, an individual who is disabled or is 65 or older is entitled to an exemption from taxation by a taxing unit of a portion (the amount of which is fixed as provided by Subsection (e) of this section) of the appraised value of his residence homestead if the exemption is adopted either:

(1) by the governing body of the taxing unit; or

(2) by a favorable vote of a majority of the qualified voters of the taxing unit at an election called by the governing body of a taxing unit, and the governing body shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the taxing unit.

(e) The amount of an exemption adopted as provided by Subsection (d) of this section is $3,000 of the appraised value of the residence homestead unless a larger amount is specified by:

(1) the governing body authorizing the exemption if the exemption is authorized as provided by Subdivision (1) of Subsection (d) of this section; or

(2) the petition for the election if the exemption is authorized as provided by Subdivision (2) of Subsection (d) of this section.

(f) Once authorized, an exemption adopted as provided by Subsection (d) of this section may be repealed or decreased or increased in amount by the governing body of the taxing unit or by the procedure authorized by Subdivision (2) of Subsection (d) of this section. In the case of a decrease, the amount of the exemption may

not be reduced to less than $3,000 of the market value.

(g) If the residence homestead exemption provided by Subsection (d) of this section is adopted by a county that levies a tax for the county purposes authorized by Article VIII, Section 1-a, of the Texas Constitution, the residence homestead exemptions provided by Subsections (a) and (d) of this section may not be aggregated for the county tax purposes. An individual who is eligible for both exemptions is entitled to take only the exemption authorized as provided by Subsection (d) of this section for purposes of that county tax.

(h) Joint, community, or successive owners may not each receive the same exemption provided by or pursuant to this section for the same residence homestead in the same year. An eligible disabled person who is 65 or older may not receive both a disabled and an elderly residence homestead exemption from the same taxing unit in the same year but may choose either if a taxing unit has adopted both. An eligible disabled person who is 65 or older may receive both a disabled and an elderly residence homestead exemption in the same year if the person receives the exemptions with respect to taxes levied by different taxing units. A person may not receive an exemption under this section for more than one residence homestead in the same year. An heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole recipient of any exemption granted to the owner for the residence homestead by or pursuant to this section.

(i) The assessor and collector for a taxing unit may disregard the exemptions authorized by Subsection (b), (c), (d), or (n) of this section and assess and collect a tax pledged for payment of debt without deducting the amount of the exemption if:

(1) prior to adoption of the exemption, the unit pledged the taxes for the payment of a debt; and

(2) granting the exemption would impair the obligation of the contract creating the debt.

(j) For purposes of this section:

(1) "Residence homestead" means a structure (including a mobile home) or a separately secured and occupied portion of a structure (together with the land, not to exceed 20 acres, and improvements used in the residential occupancy of the structure, if the structure and the land and improvements have identical ownership) that:

(A) is owned by one or more individuals, either directly or through a beneficial interest in a qualifying trust;

(B) is designed or adapted for human residence;

(C) is used as a residence; and

(D) is occupied as the individual's principal residence by an owner, by an owner's surviving spouse who has a life estate in the property, or, for property owned through a beneficial interest in a qualifying trust, by a trustor or beneficiary of the trust who qualifies for the exemption.

(2) "Trustor" means a person who transfers an interest in real or personal property to a qualifying trust, whether during the person's lifetime or at death, or the person's spouse.

(3) "Qualifying trust" means a trust:

(A) in which the agreement, will, or court order creating the trust, an instrument transferring property to the trust, or any other agreement that is binding on the trustee provides that the trustor of the trust or a beneficiary of the trust has the right to use and occupy as the trustor's or beneficiary's principal residence residential property rent free and without charge except for taxes and other costs and expenses specified in the instrument or court order:

(i) for life;

(ii) for the lesser of life or a term of years; or

(iii) until the date the trust is revoked or terminated by an instrument or court order that describes the property with sufficient certainty to identify it and is recorded in the real property records of the county in which the property is located; and

(B) that acquires the property in an instrument of title or under a court order that:

(i) describes the property with sufficient certainty to identify it and the interest acquired; and

(ii) is recorded in the real property records of the county in which the property is located.

(k) A qualified residential structure does not lose its character as a residence homestead if a portion of the structure is rented to another or is used primarily for other purposes that are incompatible with the owner's residential use of the structure. However, the amount of any residence homestead exemption does not apply to the value of that portion of the structure that is used

primarily for purposes that are incompatible with the owner's residential use.

(l) A qualified residential structure does not lose its character as a residence homestead when the owner who qualifies for the exemption temporarily stops occupying it as a principal residence if that owner does not establish a different principal residence and the absence is:

(1) for a period of less than two years and the owner intends to return and occupy the structure as the owner's principal residence; or

(2) caused by the owner's:

(A) military service inside or outside of the United States as a member of the armed forces of the United States or of this state; or

(B) residency in a facility that provides services related to health, infirmity, or aging.

(m) In this section:

(1) "Disabled" means under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance.

(2) "School district" means a political subdivision organized to provide general elementary and secondary public education. "School district" does not include a junior college district or a political subdivision organized to provide special education services.

(n) In addition to any other exemptions provided by this section, an individual is entitled to an exemption from taxation by a taxing unit of a percentage of the appraised value of his residence homestead if 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. If the percentage set by the taxing unit produces an exemption in a tax year of less than $5,000 when applied to a particular residence homestead, the individual is entitled to an exemption of $5,000 of the appraised value. The percentage adopted by the taxing unit may not exceed 20 percent.

(o) For purposes of this section, a residence homestead also may consist of an interest in real property created through ownership of stock in a corporation incorporated under the Cooperative Association Act (Article 1396-50.01, Vernon's Texas Civil Statutes) to provide dwelling places to its stockholders if:

(1) the interests of the stockholders of the corporation are appraised separately as provided by Section 23.19 of this code in the tax year to which the exemption applies;

(2) ownership of the stock entitles the owner to occupy a dwelling place owned by the corporation;

(3) the dwelling place is a structure or a separately secured and occupied portion of a structure; and

(4) the dwelling place is occupied as his principal residence by a stockholder who qualifies for the exemption.

(p) Exemption under this section for a homestead described by Subsection (o) of this section extends only to the dwelling place occupied as a residence homestead and to a portion of the total common area used in the residential occupancy that is equal to the percentage of the total amount of the stock issued by the corporation that is owned by the homestead claimant. The size of a residence homestead under Subsection (o) of this section, including any relevant portion of common area, may not exceed 20 acres.

(q) The surviving spouse of an individual who qualifies for an exemption under Subsection (d) for the residence homestead of a person 65 or older is entitled to an exemption for the same property from the same taxing unit in an amount equal to that of the exemption for which the deceased spouse qualified if:

(1) the deceased spouse died in a year in which the deceased spouse qualified for the exemption;

(2) the surviving spouse was 55 or older when the deceased spouse died; and

(3) the property was the residence homestead of the surviving spouse when the deceased spouse died and remains the residence homestead of the surviving spouse.

(r) An individual who receives an exemption under Subsection (d) is not entitled to an exemption under Subsection (q).

Acts 1979, 66th Leg., p. 2234, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, Sec. 31, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4822, ch. 851, Sec. 6, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 301, Sec. 1, eff. June 7, 1985; Acts 1987, 70th Leg., ch. 547, Sec. 1, eff. Jan. 1, 1988; Acts 1991, 72nd Leg., ch. 20, Sec. 18, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 20, Sec. 19(a), eff. Jan. 1, 1992; Acts 1991, 72nd Leg., ch. 391, Sec. 14; Acts 1993, 73rd Leg., ch. 347, Sec.

4.08, eff. May 31, 1993; Acts 1993, 73rd Leg., ch. 854, Sec. 1, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 76, Sec. 15.01, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 610, Sec. 1, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 194, Sec. 1, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 592, Sec. 2.01; Acts 1997, 75th Leg., ch. 1039, Sec. 6, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1059, Sec. 2, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1071, Sec. 28, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1199, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1481, Sec. 1, eff. Jan. 1, 2000; Acts 2003, 78th Leg., ch. 240, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 159 (H.B. 3240), Sec. 1, eff. January 1, 2006.

Acts 2013, 83rd Leg., R.S., Ch. 699 (H.B. 2913), Sec. 6, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 391 (H.B. 1022), Sec. 1, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 1, eff. November 3, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1169 (S.B. 833), Sec. 1, eff. June 19, 2015.

Acts 2019, 86th Leg., R.S., Ch. 457 (H.B. 2441), Sec. 1, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 3, eff. September 1, 2019.

Sec. 11.131. RESIDENCE HOMESTEAD OF 100 PERCENT OR TOTALLY DISABLED VETERAN. (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.

(b) A disabled veteran who receives from the United States Department of Veterans Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability is entitled to an exemption from taxation of the total appraised value

of the veteran's residence homestead.

(c) The surviving spouse of a disabled veteran who qualified for an exemption under Subsection (b) when the disabled veteran died, or of a disabled veteran who would have qualified for an exemption under that subsection if that subsection had been in effect on the date 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, or to which the disabled veteran's exemption would have applied if the exemption had been authorized on the date the disabled veteran died, 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.

(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.

Added by Acts 2009, 81st Leg., R.S., Ch. 1405 (H.B. 3613), Sec. 1(a), eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1222 (S.B. 516), Sec. 1, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1222 (S.B. 516), Sec. 2, eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 702 (H.B. 992), Sec. 1, eff.

January 1, 2016.

Sec. 11.132. DONATED RESIDENCE HOMESTEAD OF PARTIALLY DISABLED VETERAN. (a) In this section:

(1) "Charitable organization" means an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(2) "Disability rating" and "disabled veteran" have the meanings assigned by Section 11.22.

(3) "Residence homestead" has the meaning assigned by Section 11.13.

(4) "Surviving spouse" has the meaning assigned by Section 11.131.

(b) A disabled veteran who has a disability rating of less than 100 percent is entitled to an exemption from taxation of a percentage of the appraised value of the disabled veteran's residence homestead equal to the disabled veteran's disability rating if the residence homestead was donated to the disabled veteran by a charitable organization:

(1) at no cost to the disabled veteran; or

(2) at some cost to the disabled veteran in the form of a cash payment, a mortgage, or both in an aggregate amount that is not more than 50 percent of the good faith estimate of the market value of the residence homestead made by the charitable organization as of the date the donation is made.

(c) The surviving spouse of a disabled veteran who qualified for an exemption under Subsection (b) of a percentage of the appraised value of the disabled veteran's residence homestead when the disabled veteran died is entitled to an exemption from taxation of the same percentage of the 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.

(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 residence homestead in an amount equal to the dollar amount of the exemption from taxation of the former residence homestead under Subsection (c) in the last year in which the surviving spouse received an exemption under that subsection for that residence 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 residence homestead.

Added by Acts 2013, 83rd Leg., R.S., Ch. 122 (H.B. 97), Sec. 1, eff. January 1, 2014.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1131 (H.B. 150), Sec. 1, eff. January 1, 2018.

Sec. 11.133. RESIDENCE HOMESTEAD OF SURVIVING SPOUSE OF MEMBER OF ARMED SERVICES KILLED IN ACTION. (a) In this section:

(1) "Residence homestead" has the meaning assigned by Section 11.13.

(2) "Surviving spouse" means the individual who was married to a member of the armed services of the United States at the time of the member's death.

(b) The surviving spouse of a member of the armed services of the United States who is killed in action is entitled to an exemption from taxation of the total appraised value of the surviving spouse's residence homestead if the surviving spouse has not remarried since the death of the member of the armed services.

(c) A surviving spouse who receives an exemption under Subsection (b) for a residence homestead is entitled to receive an exemption from taxation of a property that the surviving spouse subsequently qualifies as the surviving spouse's residence homestead in an amount equal to the dollar amount of the exemption from

taxation of the first property for which the surviving spouse received the exemption under Subsection (b) in the last year in which the surviving spouse received that exemption if the surviving spouse has not remarried since the death of the member of the armed services. The surviving spouse is entitled to receive from the chief appraiser of the appraisal district in which the first property for which the surviving spouse claimed the exemption 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.

Added by Acts 2013, 83rd Leg., R.S., Ch. 138 (S.B. 163), Sec. 1, eff. January 1, 2014.
Redesignated from Tax Code, Section 11.132 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(44), eff. September 1, 2015.

Sec. 11.134. RESIDENCE HOMESTEAD OF SURVIVING SPOUSE OF FIRST RESPONDER KILLED IN LINE OF DUTY. (a) In this section:

(1) "First responder" means an individual listed under Section 615.003, Government Code.

(2) "Residence homestead" has the meaning assigned by Section 11.13.

(3) "Surviving spouse" means the individual who was married to a first responder at the time of the first responder's death.

(b) The surviving spouse of a first responder who is killed or fatally injured in the line of duty is entitled to an exemption from taxation of the total appraised value of the surviving spouse's residence homestead if the surviving spouse:

(1) is an eligible survivor for purposes of Chapter 615, Government Code, as determined by the Employees Retirement System of Texas under that chapter; and

(2) has not remarried since the death of the first responder.

(c) The exemption provided by this section applies regardless of the date of the first responder's death if the surviving spouse otherwise meets the qualifications of this section.

(d) A surviving spouse who receives an exemption under Subsection (b) for a residence homestead is entitled to receive an exemption from taxation of a property that the surviving spouse

subsequently qualifies as the surviving spouse's residence homestead in an amount equal to the dollar amount of the exemption from taxation of the first property for which the surviving spouse received the exemption under Subsection (b) in the last year in which the surviving spouse received that exemption if the surviving spouse has not remarried since the death of the first responder. The surviving spouse is entitled to receive from the chief appraiser of the appraisal district in which the first property for which the surviving spouse claimed the exemption 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.

Added by Acts 2017, 85th Leg., R.S., Ch. 511 (S.B. 15), Sec. 1, eff. January 1, 2018.

Sec. 11.135. CONTINUATION OF RESIDENCE HOMESTEAD EXEMPTION WHILE REPLACEMENT STRUCTURE IS CONSTRUCTED; SALE OF PROPERTY. (a) If a qualified residential structure for which the owner receives an exemption under Section 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land if the owner does not establish a different principal residence for which the owner receives an exemption under Section 11.13 during that period and intends to return and occupy the structure as the owner's principal residence. To continue to receive the exemption, the owner must begin active construction of the replacement qualified residential structure or other physical preparation of the site on which the structure is to be located not later than the first anniversary, or the fifth anniversary for a property described by Subsection (a-1)(1), of the date the owner ceases to occupy the former qualified residential structure as the owner's principal residence.

(a-1) An owner may not receive an exemption under Section 11.13 for property under the circumstances described by Subsection (a) for more than:

(1) five years if:

(A) the property is located in an area declared to be a disaster area by the governor following a disaster; and

(B) the residential structure located on the property is rendered uninhabitable or unusable as a result of the disaster; or

(2) two years if Subdivision (1) does not apply.

(b) For purposes of Subsection (a), the site of a replacement qualified residential structure is under physical preparation if the owner has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the structure or has conducted an environmental or land use study relating to the construction of the structure.

(c) If an owner receives an exemption for property under Section 11.13 under the circumstances described by Subsection (a) and sells the property before the owner completes construction of a replacement qualified residential structure on the property, an additional tax is imposed on the property equal to the difference between the taxes imposed on the property for each of the years in which the owner received the exemption and the tax that would have been imposed had the owner not received the exemption in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(d) A tax lien attaches to property on the date a sale under the circumstances described by Subsection (c) occurs to secure payment of the additional tax and interest imposed by that subsection and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(e) A determination that a sale of property under the circumstances described by Subsection (c) has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the property as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least

20 days after the date the bill is delivered to the owner of the property.

(f) The sanctions provided by Subsection (c) do not apply if the sale is:

(1) for right-of-way; or

(2) to this state or a political subdivision of this state to be used for a public purpose.

(g) The comptroller shall adopt rules and forms to implement this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 359 (H.B. 1257), Sec. 1(a), eff. June 19, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1417 (H.B. 770), Sec. 2, eff. January 1, 2010.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 422 (S.B. 443), Sec. 1, eff. June 4, 2019.

Sec. 11.14. TANGIBLE PERSONAL PROPERTY NOT PRODUCING INCOME. (a) A person is entitled to an exemption from taxation of all tangible personal property, other than manufactured homes, that the person owns and that is not held or used for production of income. This subsection does not exempt from taxation a structure that a person owns which is substantially affixed to real estate and is used or occupied as a residential dwelling.

(b) In this section:

(1) "Manufactured home" has the meaning assigned by Section 11.432.

(2) "Structure" does not include a vehicle that:

(A) is a trailer-type unit designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use;

(B) is built on a single chassis mounted on wheels;

(C) has a gross trailer area in the set-up mode of 400 square feet or less; and

(D) is certified by the manufacturer as complying with American National Standards Institute Standard A119.5.

(c) The governing body of a taxing unit, by resolution or order, depending upon the method prescribed by law for official

action by that governing body, may provide for taxation of tangible personal property exempted under Subsection (a). If a taxing unit provides for taxation of tangible personal property as provided by this subsection, the exemption prescribed by Subsection (a) does not apply to that unit.

(d) The central appraisal district for the county shall determine the cost of appraising tangible personal property required by a taxing unit under the provisions of Subsection (c) and shall assess those costs to the taxing unit or taxing units which provide for the taxation of tangible personal property.

(e) A political subdivision choosing to tax property otherwise made exempt by this section, pursuant to Article VIII, Section 1(e), of the Texas Constitution, may not do so until the governing body of the political subdivision has held a public hearing on the matter, after having given notice of the hearing at the times and in the manner required by this subsection, and has found that the action will be in the public interest of all the residents of that political subdivision. At the hearing, all interested persons are entitled to speak and present evidence for or against taxing the property. Not later than the 30th day prior to the date of a hearing held under this subsection, notice of the hearing must be:

(1) published in a newspaper having general circulation in the political subdivision and in a section of the newspaper other than the advertisement section;

(2) not less than one-half of one page in size; and

(3) republished on not less than three separate days during the period beginning with the 10th day prior to the hearing and ending with the actual date of the hearing.

Acts 1979, 66th Leg., p. 2236, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1987, 70th Leg., ch. 181, Sec. 1, eff. May 26, 1987; Acts 1989, 71st Leg., ch. 76, Sec. 1, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., ch. 391, Sec. 15, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.09, eff. May 31, 1993; Acts 2001, 77th Leg., ch. 521, Sec. 1, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 5, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1216 (H.B. 1928), Sec. 1, eff. January 1, 2009.

Sec. 11.141. PRECIOUS METAL HELD IN PRECIOUS METAL DEPOSITORY. (a) For purposes of this section:

(1) "Precious metal" has the meaning assigned by Section 2116.001, Government Code.

(2) "Precious metal depository" means a depository that:

(A) is primarily engaged in the business of providing precious metal storage to the general public; and

(B) maintains sufficient insurance to cover precious metal deposited in the depository.

(b) A person is entitled to an exemption from taxation of the precious metal that the person owns and that is held in a precious metal depository located in this state, regardless of whether the precious metal is held or used by the person for the production of income.

(c) Notwithstanding Section 11.14(c), the governing body of a taxing unit may not provide for the taxation of precious metal exempted from taxation under Subsection (b).

Added by Acts 2019, 86th Leg., R.S., Ch. 459 (H.B. 2859), Sec. 1, eff. January 1, 2020.

Sec. 11.145. INCOME-PRODUCING TANGIBLE PERSONAL PROPERTY HAVING VALUE OF LESS THAN $500. (a) A person is entitled to an exemption from taxation of the tangible personal property the person owns that is held or used for the production of income if that property has a taxable value of less than $500.

(b) The exemption provided by Subsection (a) applies to each separate taxing unit in which a person holds or uses tangible personal property for the production of income, and, for the purposes of Subsection (a), all property in each taxing unit is aggregated to determine taxable value.

Added by Acts 1995, 74th Leg., ch. 296, Sec. 1, eff. Jan. 1, 1996.

Sec. 11.146. MINERAL INTEREST HAVING VALUE OF LESS THAN $500. (a) A person is entitled to an exemption from taxation of a mineral interest the person owns if the interest has a taxable value of less than $500.

(b) The exemption provided by Subsection (a) applies to each

separate taxing unit in which a person owns a mineral interest and, for the purposes of Subsection (a), all mineral interests in each taxing unit are aggregated to determine value.

Added by Acts 1995, 74th Leg., ch. 296, Sec. 1, eff. Jan. 1, 1996.

Sec. 11.15. FAMILY SUPPLIES. A family is entitled to an exemption from taxation of its family supplies for home or farm use.

Acts 1979, 66th Leg., p. 2236, ch. 841, Sec. 1, eff. Jan. 1, 1980.

Sec. 11.16. FARM PRODUCTS. (a) A producer is entitled to an exemption from taxation of the farm products that the producer produces and owns. A nursery product, as defined by Section 71.041, Agriculture Code, is a farm product for purposes of this section if it is in a growing state. An egg, as defined by Section 132.001, Agriculture Code, is a farm product for purposes of this section, regardless of whether the egg is packaged.

(b) Farm products in the hands of the producer are exempt.

(c) For purposes of this exemption, the following definitions apply:

(1) "Farm products" include livestock, poultry, and timber.

(2) "In the hands of the producer," for livestock, poultry, and eggs, means under the ownership of the person who is financially providing for the physical requirements of such livestock, poultry, and eggs on January 1 of the tax year and, for timber, means standing timber or timber that has been harvested and, on January 1 of the tax year, is located on the real property on which it was produced and is under the ownership of the person who owned the timber when it was standing.

Acts 1979, 66th Leg., p. 2236, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., p. 457, ch. 192, Sec. 1, eff. Jan. 1, 1982; Acts 1981, 67th Leg. p. 1487, ch. 388, Sec. 3, eff. Sept. 1, 1981; Acts 1999, 76th Leg., ch. 631, Sec. 2, eff. Jan. 1, 2000. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 88 (H.B. 275), Sec. 1, eff. January 1, 2016.

Sec. 11.161. IMPLEMENTS OF HUSBANDRY. (a) Machinery and equipment items that are used in the production of farm or ranch products or of timber, regardless of their primary design, are considered to be implements of husbandry and are exempt from ad valorem taxation.

(b) For purposes of Subsection (a), a nursery stock weather protection unit, as defined by Section 71.041, Agriculture Code, is considered to be an implement of husbandry.

Added by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, Sec. 32, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4823, ch. 851, Sec. 7, eff. Aug. 29, 1983; Acts 1991, 72nd Leg., ch. 16, Sec. 17.01, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 631, Sec. 3, eff. Jan. 1, 2000.
Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 6, eff. January 1, 2006.

Acts 2019, 86th Leg., R.S., Ch. 370 (H.B. 1526), Sec. 1, eff. January 1, 2020.

Sec. 11.17. CEMETERIES. A person is entitled to an exemption from taxation of the property he owns and uses exclusively for human burial and does not hold for profit.

Acts 1979, 66th Leg., p. 2236, ch. 841, Sec. 1, eff. Jan. 1, 1980.

Sec. 11.18. CHARITABLE ORGANIZATIONS. (a) An organization that qualifies as a charitable organization as provided by this section is entitled to an exemption from taxation of:

(1) the buildings and tangible personal property that:

(A) are owned by the charitable organization; and

(B) except as permitted by Subsection (b), are used exclusively by qualified charitable organizations; and

(2) the real property owned by the charitable organization consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used

exclusively by qualified charitable organizations; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by qualified charitable organizations.

(b) Use of exempt property by persons who are not charitable organizations qualified as provided by this section does not result in the loss of an exemption authorized by this section if the use is incidental to use by qualified charitable organizations and limited to activities that benefit the beneficiaries of the charitable organizations that own or use the property.

(c) To qualify as a charitable organization for the purposes of this section, an organization, whether operated by an individual, or as a corporation, foundation, trust, or association, must meet the applicable requirements of Subsections (d), (e), (f), and (g).

(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 8501-8506;

(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;

(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;

(24) 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; or

(25) providing, without regard to the beneficiaries'

ability to pay, tax return preparation services and assistance with other financial matters.

(e) A charitable organization must be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain and, if the organization performs one or more of the charitable functions specified by Subsection (d) other than a function specified by Subdivision (1), (2), (8), (9), (12), (16), or (18), be organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(f) A charitable organization must:

(1) use its assets in performing the organization's charitable functions or the charitable functions of another charitable organization; and

(2) by charter, bylaw, or other regulation adopted by the organization to govern its affairs direct that on discontinuance of the organization by dissolution or otherwise:

(A) the assets are to be transferred to this state, the United States, or an educational, religious, charitable, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986, as amended; or

(B) if required for the organization to qualify as a tax-exempt organization under Section 501(c)(12), Internal Revenue Code of 1986, as amended, the assets are to be transferred directly to the organization's members, each of whom, by application for an acceptance of membership in the organization, has agreed to immediately transfer those assets to this state or to an educational, religious, charitable, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986, as amended, as designated in the bylaws, charter, or regulation adopted by the organization.

(g) A charitable organization that performs a charitable function specified by Subsection (d)(15) must:

(1) be affiliated with a state or national organization that authorizes, approves, or sanctions volunteer charitable fundraising organizations;

(2) qualify for exemption under Section 501(c)(3), Internal Revenue Code of 1986, as amended;

(3) be governed by a volunteer board of directors; and

(4) distribute contributions to at least five other associations to be used for general charitable purposes, with all recipients meeting the following criteria:

(A) be governed by a volunteer board of directors;

(B) qualify for exemption under Section 501(c)(3), Internal Revenue Code of 1986, as amended;

(C) receive a majority of annual revenue from private or corporate charitable gifts and government agencies; and

(D) provide services without regard to the ability of persons receiving the services to pay for the services.

(h) Performance of noncharitable functions by a charitable organization that owns or uses exempt property does not result in loss of an exemption authorized by this section if those other functions are incidental to the organization's charitable functions. The division of responsibilities between an organization that qualifies as a charitable organization under Subsection (c) and another organization will not disqualify the organizations or any property owned or used by either organization from receiving an exemption under this section if the collaboration furthers the provision of one or more of the charitable functions described in Subsection (d) and if the other organization:

(1) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code;

(2) meets the criteria for a charitable organization under Subsections (e) and (f); and

(3) is under common control with the charitable organization described in this subsection.

(i) In this section, "building" includes the land that is reasonably necessary for use of, access to, and ornamentation of the building.

(j) The exemption of an organization preserving or conserving wildlife is limited to land and improvements and may not exceed 1,000 acres in any one county.

(k) In connection with a nursing home or retirement community, for purposes of Subsection (d):

(1) "Assisted living services" means responsible adult

supervision of or assistance with routine living functions of an individual in instances where the individual's condition necessitates that supervision or assistance.

(2) "Charity care," "government-sponsored indigent health care," and "net resident revenue" are determined in the same manner for a retirement community or nursing home as for a hospital under Section 11.1801(a)(2).

(3) "Nursing care services" includes services provided by nursing personnel, including patient observation, the promotion and maintenance of health, prevention of illness or disability, guidance and counseling to individuals and families, and referral of patients to physicians, other health care providers, or community resources if appropriate.

(4) "Retirement community" means a collection of various types of housing that are under common ownership and designed for habitation by individuals over the age of 62.

(5) "Single campus" means a facility designed to provide multiple levels of retirement housing that is geographically situated on a site at which all levels of housing are contiguous to each other on a single property.

(l) A charitable organization described by Subsection (d)(3) that provides support to elderly persons must engage primarily in performing charitable functions described by Subsection (d)(3), but may engage in other activities that support or are related to its charitable functions.

(m) A property may not be exempted under Subsection (a)(2) for more than three years.

(n) For purposes of Subsection (a)(2), an incomplete improvement is under physical preparation if the charitable organization has:

(1) engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement; or

(2) conducted an environmental or land use study relating to the construction of the improvement.

(o) For purposes of Subsection (a)(2), real property acquired, held, and transferred by an organization that performs the function described by Subsection (d)(21) or (22) is considered to be used exclusively by the qualified charitable organization to perform that function.

(p) The exemption authorized by Subsection (d)(23) applies only to property that:

(1) is owned by a charitable organization that has been in existence for at least 12 years;

(2) is used to provide housing and related services to individuals described by that subsection; and

(3) is located on or consists of a single campus in a municipality with a population of more than 750,000 and less than 850,000 or within the extraterritorial jurisdiction of such a municipality.

(p-1) Notwithstanding Subsection (a)(1), the exemption authorized by Subsection (d)(23) applies to real property regardless of whether the real property is considered to constitute a building within the meaning of this section.

(q) Real property owned by a charitable organization and leased to an institution of higher education, as defined by Section 61.003, Education Code, is exempt from taxation to the same extent as the property would be exempt if the property were owned by the institution.

Acts 1979, 66th Leg., p. 2236, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, Sec. 33, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 2207, ch. 412, Sec. 1, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 960, Sec. 1, eff. Jan. 1, 1986; Acts 1987, 70th Leg., ch. 430, Sec. 1, eff. Jan. 1, 1988; Acts 1991, 72nd Leg., ch. 407, Sec. 1, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 360, Sec. 5, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 471, Sec. 1, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 781, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 715, Sec. 1, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1039, Sec. 7, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1411, Sec. 1, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 138, Sec. 1, eff. May 18, 1999; Acts 1999, 76th Leg., ch. 266, Sec. 1, eff. Jan. 1, 2000; Acts 1999, 76th Leg., ch. 924, Sec. 1, eff. Jan. 1, 2000; Acts 1999, 76th Leg., ch. 1443, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 18.001(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 288, Sec. 1.01, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 288, Sec. 2.01, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1034 (H.B. 1742), Sec. 13, eff.

September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1341 (S.B. 1908), Sec. 34, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.002, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1246 (S.B. 2442), Sec. 1, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1246 (S.B. 2442), Sec. 2, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1314 (H.B. 2628), Sec. 1, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1314 (H.B. 2628), Sec. 2, eff. January 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 23.001, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(55), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 113, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 849 (H.B. 294), Sec. 1, eff. January 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 1123 (S.B. 1345), Sec. 1, eff. January 1, 2018.

Sec. 11.1801. CHARITY CARE AND COMMUNITY BENEFITS REQUIREMENTS FOR CHARITABLE HOSPITAL. (a) To qualify as a charitable organization under Section 11.18(d)(1), a nonprofit hospital or hospital system must provide charity care and community benefits as follows:

(1) charity care and government-sponsored indigent health care must be provided at a level that is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;

(2) charity care and government-sponsored indigent health care must be provided in an amount equal to at least four percent of the hospital's or hospital system's net patient revenue;

(3) charity care and government-sponsored indigent health

care must be provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax; or

(4) charity care and community benefits must be provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of net patient revenue.

(b) A nonprofit hospital that has been designated as a disproportionate share hospital under the state Medicaid program in the current year or in either of the previous two fiscal years shall be considered to have provided a reasonable amount of charity care and government-sponsored indigent health care and is considered to be in compliance with the standards in Subsection (a).

(c) A hospital operated on a nonprofit basis that is located in a county with a population of less than 58,000 and in which the entire county or the population of the entire county has been designated as a health professionals shortage area is considered to be in compliance with the standards in Subsection (a).

(d) A hospital providing health care services to inpatients or outpatients without receiving any payment for providing those services from any source, including the patient or person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other state or local indigent care program but excluding charitable donations, legacies, bequests, or grants or payments for research, is considered to be in compliance with the standards in Subsection (a).

(e) For purposes of complying with Subsection (a)(4), a hospital or hospital system may not change its existing fiscal year unless the hospital or hospital system changes its ownership or corporate structure as a result of a sale or merger.

(f) For purposes of this section, a hospital that complies with Subsection (a)(1) or that is considered to be in compliance with the standards in Subsection (a) under Subsection (b), (c), or (d) shall be excluded in determining a hospital system's compliance with the standards in Subsection (a)(2), (3), or (4).

(g) For purposes of this section, "charity care," "government-sponsored indigent health care," "health care organization," "hospital system," "net patient revenue," "nonprofit hospital," and "tax-exempt benefits" have the meanings assigned by Sections 311.031

and 311.042, Health and Safety Code. A determination of the amount of community benefits and charity care and government-sponsored indigent health care provided by a hospital or hospital system and the hospital's or hospital system's compliance with Section 311.045, Health and Safety Code, shall be based on the most recently completed and audited prior fiscal year of the hospital or hospital system.

(h) The providing of charity care and government-sponsored indigent health care in accordance with Subsection (a)(1) shall be guided by the prudent business judgment of the hospital, which will ultimately determine the appropriate level of charity care and government-sponsored indigent health care based on the community needs, the available resources of the hospital, the tax-exempt benefits received by the hospital, and other factors that may be unique to the hospital, such as the hospital's volume of Medicare and Medicaid patients. These criteria shall not be determinative factors, but shall be guidelines contributing to the hospital's decision along with other factors that may be unique to the hospital. The formulas in Subsections (a)(2), (3), and (4) shall also not be considered determinative of a reasonable amount of charity care and government-sponsored indigent health care.

(i) The requirements of this section shall not apply to the extent a hospital or hospital system demonstrates that reductions in the amount of community benefits, charity care, and government-sponsored indigent health care are necessary to maintain financial reserves at a level required by a bond covenant or are necessary to prevent the hospital or hospital system from endangering its ability to continue operations, or if the hospital or hospital system, as a result of a natural or other disaster, is required substantially to curtail its operations.

(j) In any fiscal year that a hospital or hospital system, through unintended miscalculation, fails to meet any of the standards in Subsection (a) or fails to be considered to be in compliance with the standards in Subsection (a) under Subsection (b), (c), or (d), the hospital or hospital system shall not lose its tax-exempt status without the opportunity to cure the miscalculation in the fiscal year following the fiscal year the failure is discovered by both meeting one of the standards and providing an additional amount of charity care and government-sponsored indigent health care that is equal to the shortfall from the previous fiscal year. A hospital or hospital system may apply this provision only once every five years.

Acts 1979, 66th Leg., p. 2236, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 127, ch. 13, Sec. 33, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 2207, ch. 412, Sec. 1, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 960, Sec. 1, eff. Jan. 1, 1986; Acts 1987, 70th Leg., ch. 430, Sec. 1, eff. Jan. 1, 1988; Acts 1991, 72nd Leg., ch. 407, Sec. 1, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 360, Sec. 5, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 471, Sec. 1, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 781, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 715, Sec. 1, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1039, Sec. 7, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1411, Sec. 1, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 138, Sec. 1, eff. May 18, 1999; Acts 1999, 76th Leg., ch. 266, Sec. 1, eff. Jan. 1, 2000; Acts 1999, 76th Leg., ch. 924, Sec. 1, eff. Jan. 1, 2000; Acts 1999, 76th Leg., ch. 1443, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 118, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 18.001(a), eff. Sept. 1, 2001.

Sec. 11.181. CHARITABLE ORGANIZATIONS IMPROVING PROPERTY FOR LOW-INCOME HOUSING. (a) An organization is entitled to an exemption from taxation of improved or unimproved real property it owns if the organization:

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

(2) owns the property for the purpose of building or repairing housing on the property primarily with volunteer labor to sell without profit to an individual or family satisfying the organization's low-income and other eligibility requirements; and

(3) engages exclusively in the building, repair, and sale of housing as described by Subdivision (2), and related activities.

(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.

(c) An organization entitled to an exemption under Subsection

(a) is also entitled to an exemption from taxation of any building or tangible personal property the organization owns and uses in the administration of its acquisition, building, repair, or sale of property. To qualify for an exemption under this subsection, property must be used exclusively by the charitable organization, except that another individual or organization may use the property for activities incidental to the charitable organization's use that benefit the beneficiaries of the charitable organization.

(d) For the purposes of Subsection (e), the chief appraiser shall determine the market value of property exempted under Subsection (a) and shall record the market value in the appraisal records.

(e) If the organization that owns improved or unimproved real property that has been exempted under Subsection (a) sells the property to a person other than an individual or family satisfying the organization's low-income or other eligibility requirements, a penalty is imposed on the property equal to the amount of the taxes that would have been imposed on the property in each tax year that the property was exempted from taxation under Subsection (a), plus interest at an annual rate of 12 percent calculated from the dates on which the taxes would have become due.

(f) The charitable organization and the purchaser of the property from that organization are jointly and severally liable for the penalty and interest imposed under Subsection (e). A tax lien in favor of all taxing units for which the penalty is imposed attaches to the property to secure payment of the penalty and interest.

(g) The chief appraiser shall make an entry in the appraisal records for the property against which a penalty under Subsection (e) is imposed and shall deliver written notice of the imposition of the penalty and interest to the charitable organization and to the person who purchased the property from that organization.

Added by Acts 1993, 73rd Leg., ch. 345, Sec. 1, eff. Jan. 1, 1994.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1137 (H.B. 2555), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1309 (H.B. 3133), Sec. 1, eff. June 17, 2011.

Sec. 11.182. COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS IMPROVING PROPERTY FOR LOW-INCOME AND MODERATE-INCOME HOUSING: PROPERTY PREVIOUSLY EXEMPT. (a) In this section:

(1) "Cash flow" means the amount of money generated by a housing project for a fiscal year less the disbursements for that fiscal year for operation and maintenance of the project, including:

(A) standard property maintenance;

(B) debt service;

(C) employee compensation;

(D) fees required by government agencies;

(E) expenses incurred in satisfaction of requirements of lenders, including reserve requirements;

(F) insurance; and

(G) other justifiable expenses related to the operation and maintenance of the project.

(2) "Community housing development organization" has the meaning assigned by 42 U.S.C. Section 12704.

(b) An organization is entitled to an exemption from taxation of improved or unimproved real property it owns if the organization:

(1) is organized as a community housing development organization;

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

(3) owns the property for the purpose of building or repairing housing on the property to sell without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements or to rent without profit to such an individual or family; and

(4) engages exclusively in the building, repair, and sale or rental of housing as described by Subdivision (3) and related activities.

(c) Property owned by the organization may not be exempted under Subsection (b) after the third anniversary of the date the organization acquires the property unless the organization is offering to rent or is renting the property without profit to a low-income or moderate-income individual or family satisfying the organization's eligibility requirements.

(d) A multifamily rental property consisting of 36 or more dwelling units owned by the organization that is exempted under Subsection (b) may not be exempted in a subsequent tax year unless in

the preceding tax year the organization spent, for eligible persons in the county in which the property is located, an amount equal to at least 40 percent of the total amount of taxes that would have been imposed on the property in that year without the exemption on social, educational, or economic development services, capital improvement projects, or rent reduction. This subsection does not apply to property acquired by the organization using tax-exempt bond financing after January 1, 1997, and before December 31, 2001.

(e) In addition to meeting the applicable requirements of Subsections (b) and (c), to receive an exemption under Subsection (b) for improved real property that includes a housing project constructed after December 31, 2001, and financed with qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986, tax-exempt private activity bonds subject to volume cap, or low-income housing tax credits, the organization must:

(1) control 100 percent of the interest in the general partner if the project is owned by a limited partnership;

(2) comply with all rules of and laws administered by the Texas Department of Housing and Community Affairs applicable to community housing development organizations; and

(3) submit annually to the Texas Department of Housing and Community Affairs and to the governing body of each taxing unit for which the project receives an exemption for the housing project evidence demonstrating that the organization spent an amount equal to at least 90 percent of the project's cash flow in the preceding fiscal year as determined by the audit required by Subsection (g), for eligible persons in the county in which the property is located, on social, educational, or economic development services, capital improvement projects, or rent reduction.

(f) An organization entitled to an exemption under Subsection (b) is also entitled to an exemption from taxation of any building or tangible personal property the organization owns and uses in the administration of its acquisition, building, repair, sale, or rental of property. To qualify for an exemption under this subsection, property must be used exclusively by the organization, except that another person may use the property for activities incidental to the organization's use that benefit the beneficiaries of the organization.

(g) To receive an exemption under Subsection (b) or (f), an organization must annually:

(1) have an audit prepared by an independent auditor that includes a detailed report on the organization's sources and uses of funds; and

(2) deliver a copy of the audit to the Texas Department of Housing and Community Affairs and to the chief appraiser of the appraisal district in which the property subject to the exemption is located.

(h) Subsections (d) and (e)(3) do not apply to property owned by an organization if:

(1) the entity that provided the financing for the acquisition or construction of the property:

(A) requires the organization to make payments in lieu of taxes to the school district in which the property is located; or

(B) restricts the amount of rent the organization may charge for dwelling units on the property; or

(2) the organization has entered into an agreement with each taxing unit for which the property receives an exemption to spend in each tax year for the purposes provided by Subsection (d) or (e)(3) an amount equal to the total amount of taxes imposed on the property in the tax year preceding the year in which the organization acquired the property.

(i) If any property owned by an organization receiving an exemption under this section has been acquired or sold during the preceding year, such organization shall file by March 31 of the following year with the chief appraiser in the county in which the relevant property is located, on a form promulgated by the comptroller of public accounts, a list of such properties acquired or sold during the preceding year.

(j) An organization may not receive an exemption under Subsection (b) or (f) for property for a tax year unless the organization received an exemption under that subsection for the property for any part of the 2003 tax year.

(k) Notwithstanding Subsection (j) of this section and Sections 11.43(a) and (c), an exemption under Subsection (b) or (f) does not terminate because of a change in the ownership of the property if the property is sold at a foreclosure sale and, not later than the 30th day after the date of the sale, the owner of the property submits to the chief appraiser evidence that the property is owned by an organization that meets the requirements of Subsections (b)(1), (2), and (4). If the owner of the property submits the evidence required

by this subsection, the exemption continues to apply to the property for the remainder of the current tax year and for subsequent tax years until the owner ceases to qualify the property for the exemption. This subsection does not prohibit the chief appraiser from requiring the owner to file a new application to confirm the owner's current qualification for the exemption as provided by Section 11.43(c).

Added by Acts 1997, 75th Leg., ch. 715, Sec. 2, eff. Jan. 1, 1998. Amended by Acts 2001, 77th Leg., ch. 842, Sec. 2, 4, eff. June 14, 2001; Acts 2001, 77th Leg., ch. 1191, Sec. 1, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 1156, Sec. 1, 2, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 1275, Sec. 2(120), eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 505 (S.B. 426), Sec. 1, eff. June 16, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 399 (S.B. 193), Sec. 1, eff. January 1, 2014.

Sec. 11.1825. ORGANIZATIONS CONSTRUCTING OR REHABILITATING LOW-INCOME HOUSING: PROPERTY NOT PREVIOUSLY EXEMPT. (a) An organization is entitled to an exemption from taxation of real property owned by the organization that the organization constructs or rehabilitates and uses to provide housing to individuals or families meeting the income eligibility requirements of this section.

(b) To receive an exemption under this section, an organization must meet the following requirements:

(1) for at least the preceding three years, the organization:

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

(C) has had as one of its purposes providing low-income housing;

(2) a majority of the members of the board of directors of the organization have their principal place of residence in this state;

(3) at least two of the positions on the board of directors of the organization must be reserved for and held by:

(A) an individual of low income as defined by Section 2306.004, Government Code, whose principal place of residence is located in this state;

(B) an individual whose residence is located in an economically disadvantaged census tract as defined by Section 783.009(b), Government Code, in this state; or

(C) a representative appointed by a neighborhood organization in this state that represents low-income households; and

(4) the organization must have a formal policy containing procedures for giving notice to and receiving advice from low-income households residing in the county in which a housing project is located regarding the design, siting, development, and management of affordable housing projects.

(c) Notwithstanding Subsection (b), an owner of real property that is not an organization described by that subsection is entitled to an exemption from taxation of property under this section if the property otherwise qualifies for the exemption and the owner is:

(1) a limited partnership of which an organization that meets the requirements of Subsection (b) controls 100 percent of the general partner interest; or

(2) an entity the parent of which is an organization that meets the requirements of Subsection (b).

(d) If the owner of the property is an entity described by Subsection (c), the entity must:

(1) be organized under the laws of this state; and

(2) have its principal place of business in this state.

(e) A reference in this section to an organization includes an entity described by Subsection (c).

(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.

(g) Property may not receive an exemption under this section unless at least 50 percent of the total square footage of the dwelling units in the housing project is reserved for individuals or families described by Subsection (f).

(h) The annual total of the monthly rent charged or to be charged for each dwelling unit in the project reserved for an individual or family described by Subsection (f) may not exceed 30 percent of 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.

(i) Property owned for the purpose of constructing a housing project on the property is exempt under this section only if:

(1) the property is used to provide housing to individuals or families described by Subsection (f); or

(2) the housing project is under active construction or other physical preparation.

(j) For purposes of Subsection (i)(2), a housing project is under physical preparation if the organization has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the project or has conducted an environmental or land use study relating to the construction of the project.

(k) An organization may not receive an exemption for a housing project constructed by the organization if the construction of the project was completed before January 1, 2004.

(l) If the property is owned for the purpose of rehabilitating a housing project on the property:

(1) the original construction of the housing project must

have been completed at least 10 years before the date the organization began actual rehabilitation of the project;

(2) the person from whom the organization acquired the project must have owned the project for at least five years, if the organization is not the original owner of the project;

(3) the organization must provide to the chief appraiser and, if the project was financed with bonds, the issuer of the bonds a written statement prepared by a certified public accountant stating that the organization has spent on rehabilitation costs at least the greater of $5,000 or the amount required by the financial lender for each dwelling unit in the project; and

(4) the organization must maintain a reserve fund for replacements:

(A) in the amount required by the financial lender; or

(B) if the financial lender does not require a reserve fund for replacements, in an amount equal to $300 per unit per year.

(m) Beginning with the 2005 tax year, the amount of the reserve required by Subsection (l)(4)(B) is increased by an annual cost-of-living adjustment determined in the manner provided by Section 1(f)(3), Internal Revenue Code of 1986, as amended, substituting "calendar year 2004" for the calendar year specified in Section 1(f)(3)(B) of that code.

(n) A reserve must be established for each dwelling unit in the property, regardless of whether the unit is reserved for an individual or family described by Subsection (f). The reserve must be maintained on a continuing basis, with withdrawals permitted:

(1) only as authorized by the financial lender; or

(2) if the financial lender does not require a reserve fund for replacements, only to pay the cost of capital improvements needed for the property to maintain habitability under the Minimum Property Standards of the United States Department of Housing and Urban Development or the code of a municipality or county applicable to the property, whichever is more restrictive.

(o) For purposes of Subsection (n)(2), "capital improvement" means a property improvement that has a depreciable life of at least five years under generally accepted accounting principles, excluding typical "make ready" expenses such as expenses for plasterboard repair, interior painting, or floor coverings.

(p) If the organization acquires the property for the purpose of constructing or rehabilitating a housing project on the property,

the organization must be renting or offering to rent the applicable square footage of dwelling units in the property to individuals or families described by Subsection (f) not later than the third anniversary of the date the organization acquires the property.

(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.

(q) If property qualifies for an exemption under this section, the chief appraiser shall use the income method of appraisal as described 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.

(r) Not later than January 31 of each year, the appraisal district shall give public notice in the manner determined by the district, including posting on the district's website if applicable, of the capitalization rate to be used in that year to appraise property receiving an exemption under this section.

(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 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.

(s-1) For property described by Subsection (f)(2), the amount of the exemption under this section from taxation is 100 percent of the appraised value of the property.

(t) Notwithstanding Section 11.43(c), an exemption under this section does not terminate because of a change in ownership of the property if:

(1) the property is foreclosed on for any reason and, not later than the 30th day after the date of the foreclosure sale, the owner of the property submits to the chief appraiser evidence that the property is owned by:

(A) an organization that meets the requirements of Subsection (b); or

(B) an entity that meets the requirements of Subsections (c) and (d); or

(2) in the case of property owned by an entity described by Subsections (c) and (d), the organization meeting the requirements of Subsection (b) that controls the general partner interest of or is the parent of the entity as described by Subsection (c) ceases to serve in that capacity and, not later than the 30th day after the date the cessation occurs, the owner of the property submits evidence to the chief appraiser that the organization has been succeeded in that capacity by another organization that meets the requirements of Subsection (b).

(u) The chief appraiser may extend the deadline provided by Subsection (t)(1) or (2), as applicable, for good cause shown.

(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 million unless the exemption is approved by the governing body of the taxing unit in the manner provided by law for official action.

(w) To receive an exemption under this section from taxation by a taxing unit for which the approval of the governing body of the taxing unit is required by Subsection (v), an organization must submit to the governing body of the taxing unit a written request for approval of the exemption from taxation of the property described in the request.

(x) Not later than the 60th day after the date the governing body of the taxing unit receives a written request under Subsection (w) for an exemption under this section, the governing body shall:

(1) approve the exemption in the amount provided by Subsection (s);

(2) approve the exemption in a reasonable amount other than the amount provided by Subsection (s); or

(3) deny the exemption if the governing body determines that:

(A) the taxing unit cannot afford the loss of ad valorem tax revenue that would result from approving the exemption; or

(B) additional housing for individuals or families meeting the income eligibility requirements of this section is not needed in the territory of the taxing unit.

(y) Not later than the fifth day after the date the governing body of the taxing unit takes action under Subsection (x), the taxing unit shall issue a letter to the organization stating the governing body's action and, if the governing body denied the exemption, stating whether the denial was based on a determination under Subsection (x)(3)(A) or (B) and the basis for the determination. The taxing unit shall send a copy of the letter by regular mail to the chief appraiser of each appraisal district that appraises the property for the taxing unit. The governing body may charge the organization a fee not to exceed the administrative costs of processing the request of the organization, approving or denying the exemption, and issuing the letter required by this subsection. If the chief appraiser determines that the property qualifies for an exemption under this section and the governing body of the taxing unit approves the exemption, the chief appraiser shall grant the exemption in the amount approved by the governing body.

Added by Acts 2003, 78th Leg., ch. 1156, Sec. 3, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1264 (H.B. 3191), Sec. 1, eff. January 1, 2008.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 114, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1309 (H.B. 3133), Sec. 2, eff. June 17, 2011.

Sec. 11.1826. MONITORING OF COMPLIANCE WITH LOW-INCOME AND MODERATE-INCOME HOUSING EXEMPTIONS. (a) In this section, "department" means the Texas Department of Housing and Community Affairs.

(b) Property may not be exempted under Section 11.1825 for a tax year unless the organization owning or controlling the owner of the property:

(1) has an audit prepared by an independent auditor covering the organization's most recent fiscal year that:

(A) is conducted in accordance with generally accepted accounting principles; and

(B) includes an opinion on whether:

(i) the financial statements of the organization present fairly, in all material respects and in conformity with generally accepted accounting principles, the financial position, changes in net assets, and cash flows of the organization; and

(ii) the organization has complied with all of the terms and conditions of the exemption under Section 11.1825; and

(2) delivers a copy of the audit in accordance with Subsection (c).

(c) Not later than the 180th day after the last day of the organization's most recent fiscal year, the organization must deliver a copy of the audit to the department and the chief appraiser of the appraisal district in which the property is located. The chief appraiser may extend the deadline for good cause shown.

(d) Notwithstanding any other provision of this section, if the property contains not more than 36 dwelling units, the organization may deliver to the department and the chief appraiser a detailed report and certification as an alternative to an audit.

(e) Property may not be exempted under Section 11.182 for a tax year unless the organization owning or controlling the owner of the property complies with this section, except that the audit required by this section must address compliance with the requirements of Section 11.182.

(f) All information submitted to the department or the chief appraiser under this section is subject to required disclosure, is excepted from required disclosure, or is confidential in accordance with Chapter 552, Government Code, or other law.

Acts 2003, 78th Leg., ch. 1156, Sec. 3, eff. Jan. 1, 2004.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 399 (S.B. 193), Sec. 2, eff. January 1, 2014.

Sec. 11.1827. COMMUNITY LAND TRUST. (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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 2, eff. January 1, 2012.

Sec. 11.183. ASSOCIATION PROVIDING ASSISTANCE TO AMBULATORY HEALTH CARE CENTERS. (a) An association is entitled to an exemption from taxation of the property it owns and uses exclusively for the purposes for which the association is organized if the association:

(1) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code;

(2) complies with the criteria for a charitable organization under Sections 11.18(e) and (f);

(3) except as provided by Subsection (b), engages exclusively in providing assistance to ambulatory health care centers that provide medical care to individuals without regard to the individuals' ability to pay, including providing policy analysis, disseminating information, conducting continuing education, providing research, collecting and analyzing data, or providing technical assistance to the health care centers;

(4) is funded wholly or partly, or assists ambulatory health care centers that are funded wholly or partly, by a grant under Section 330, Public Health Service Act (42 U.S.C. Section 254b), and its subsequent amendments; and

(5) does not perform abortions or provide abortion referrals or provide assistance to ambulatory health care centers that perform abortions or provide abortion referrals.

(b) Use of the property by a person other than the association does not affect the eligibility of the property for an exemption authorized by this section if the use is incidental to use by the association and limited to activities that benefit:

(1) the ambulatory health care centers to which the association provides assistance; or

(2) the individuals to whom the health care centers provide medical care.

(c) Performance of noncharitable functions by the association does not affect the eligibility of the property for an exemption authorized by this section if those other functions are incidental to the association's charitable functions.

Added by Acts 1999, 76th Leg., ch. 675, Sec. 1, eff. Jan. 1, 2000.

Sec. 11.184. ORGANIZATIONS ENGAGED PRIMARILY IN PERFORMING CHARITABLE FUNCTIONS. (a) In this section:

(1) "Local charitable organization" means an organization that:

(A) is a chapter, subsidiary, or branch of a statewide charitable organization; and

(B) with respect to its activities in this state, is engaged primarily in performing functions listed in Section 11.18(d).

(2) "Qualified charitable organization" means a statewide charitable organization or a local charitable organization.

(3) "Statewide charitable organization" means a statewide organization that, with respect to its activities in this state, is engaged primarily in performing functions listed in Section 11.18(d).

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1137, Sec. 2(b), eff. January 1, 2010.

(c) A qualified charitable organization is entitled to an exemption from taxation of:

(1) the buildings and other real property and the tangible personal property that:

(A) are owned by the organization; and

(B) except as permitted by Subsection (d), are used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

(2) the real property owned by the organization consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used exclusively by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by the organization and other organizations eligible for an exemption from taxation under this section or Section 11.18.

(d) Use of exempt property by persons who are not charitable organizations eligible for an exemption from taxation under this section or Section 11.18 does not result in the loss of an exemption authorized by this section if the use is incidental to use by those charitable organizations and limited to activities that benefit the charitable organization that owns or uses the property.

(e) Before an organization may submit an application for an exemption under this section, the organization must apply to the comptroller for a determination of whether the organization is engaged primarily in performing functions listed in Section 11.18(d) and is eligible for an exemption under this section. In making the determination, the comptroller shall consider:

(1) whether the organization is recognized by the Internal Revenue Service as a tax-exempt organization under Section 501 of the Internal Revenue Code of 1986;

(2) whether the organization holds a letter of exemption issued by the comptroller certifying that the organization is entitled to issue an exemption certificate under Section 151.310;

(3) whether the charter or bylaws of the organization require charitable work or public service;

(4) the amount of monetary support contributed or in-kind charitable or public service performed by the organization in proportion to:

(A) the organization's operating expenses;

(B) the amount of dues received by the organization; and

(C) the taxes imposed on the organization's property during the preceding year if the property was taxed in that year or, if the property was exempt from taxation in that year, the taxes that would have been imposed on the property if it had not been exempt from taxation; and

(5) any other factor the comptroller considers relevant.

(f) Not later than the 30th day after the date the organization

submits an application under Subsection (e), the comptroller may request that the organization provide additional information the comptroller determines necessary. Not later than the 90th day after the date the application is submitted or, if applicable, the date the additional information is provided, the comptroller shall issue a letter to the organization stating the comptroller's determination.

(g) The comptroller may:

(1) adopt rules to implement this section;

(2) prescribe the form of an application for a determination letter under this section; and

(3) charge an organization a fee not to exceed the administrative costs of processing a request, making a determination, and issuing a determination letter under this section.

(h) An organization applying for an exemption under this section shall submit with the application a copy of the determination letter issued by the comptroller under Subsection (f). The chief appraiser shall accept the copy of the letter as conclusive evidence as to whether the organization engages primarily in performing charitable functions and is eligible for an exemption under this section.

(i) A property may not be exempted under Subsection (c)(2) for more than three years.

(j) For purposes of Subsection (c)(2), an incomplete improvement is under physical preparation if the charitable organization has:

(1) engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement; or

(2) conducted an environmental or land use study relating to the construction of the improvement.

(k) An exemption under this section expires at the end of the fifth tax year after the year in which the exemption is granted. To continue to receive an exemption under this section after that year, the organization must obtain a new determination letter and reapply for the exemption.

(l) Notwithstanding the other provisions of this section, a corporation that is not a qualified charitable organization is entitled to an exemption from taxation of property under this section if:

(1) the corporation is exempt from federal income taxation

under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(2) of that code;

(2) the corporation holds title to the property for, collects income from the property for, and turns over the entire amount of that income, less expenses, to a qualified charitable organization; and

(3) the qualified charitable organization would qualify for an exemption from taxation of the property under this section if the qualified charitable organization owned the property.

(m) Before a corporation described by Subsection (l) may submit an application for an exemption under this section, the qualified charitable organization for which the corporation holds title to the property must apply to the comptroller for the determination described by Subsection (e) with regard to the qualified charitable organization. The application for the determination must also include an application to the comptroller for a determination of whether the corporation meets the requirements of Subsections (l)(1) and (2). The corporation shall submit with the application for an exemption under this section a copy of the determination letter issued by the comptroller. The chief appraiser shall accept the copy of the letter as conclusive evidence of the matters described by Subsection (h) as well as of whether the corporation meets the requirements of Subsections (l)(1) and (2).

(n) Notwithstanding Subsection (k), in order for a corporation to continue to receive an exemption under Subsection (l) after the fifth tax year after the year in which the exemption is granted, the qualified charitable organization for which the corporation holds title to property must obtain a new determination letter and the corporation must reapply for the exemption.

Added by Acts 2001, 77th Leg., ch. 1040, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 288, Sec. 1.02, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 288, Sec. 2.02, eff. Jan. 1, 2006. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1137 (H.B. 2555), Sec. 2(a), eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1137 (H.B. 2555), Sec. 2(b), eff. January 1, 2010.

Sec. 11.185. COLONIA MODEL SUBDIVISION PROGRAM. (a) An organization is entitled to an exemption from taxation of unimproved real property it owns if the organization:

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

(2) purchased the property or is developing the property with proceeds of a loan made by the Texas Department of Housing and Community Affairs under the colonia model subdivision program under Subchapter GG, Chapter 2306, Government Code; and

(3) owns the property for the purpose of developing a model colonia subdivision.

(b) Property may not be exempted under Subsection (a) after the fifth anniversary of the date the organization acquires the property.

(c) An organization entitled to an exemption under Subsection (a) is also entitled to an exemption from taxation of any building or tangible personal property the organization owns and uses in the administration of its acquisition, building, repair, or sale of property. To qualify for an exemption under this subsection, property must be used exclusively by the charitable organization, except that another individual or organization may use the property for activities incidental to the charitable organization's use that benefit the beneficiaries of the charitable organization.

(d) For the purposes of Subsection (e), the chief appraiser shall determine the market value of property exempted under Subsection (a) and shall record the market value in the appraisal records.

(e) If the organization that owns improved or unimproved real property that has been exempted under Subsection (a) sells the property to a person other than a person described by Section 2306.786(b)(1), Government Code, a penalty is imposed on the property equal to the amount of the taxes that would have been imposed on the property in each tax year that the property was exempted from taxation under Subsection (a), plus interest at an annual rate of 12 percent computed from the dates on which the taxes would have become due.

Added by Acts 2001, 77th Leg., ch. 1367, Sec. 2.14, eff. Sept. 1, 2002. Renumbered from Tax Code Sec. 11.184 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(121), eff. Sept. 1, 2003.

Sec. 11.19. YOUTH SPIRITUAL, MENTAL, AND PHYSICAL DEVELOPMENT ASSOCIATIONS. (a) An association that qualifies as a youth development association as provided by Subsection (d) is entitled to an exemption from taxation of:

(1) the tangible property that:

(A) is owned by the association;

(B) except as permitted by Subsection (b), is used exclusively by qualified youth development associations; and

(C) is reasonably necessary for the operation of the association; and

(2) the real property owned by the youth development association consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used exclusively by qualified youth development associations when complete; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by qualified youth development associations.

(b) Use of exempt tangible property by persons who are not youth development associations qualified as provided by Subsection (d) of this section does not result in the loss of an exemption under this section if the use is incidental to use by qualified associations and benefits the individuals the associations serve.

(c) An association that qualifies as a youth development association as provided by Subsection (d) of this section is entitled to an exemption from taxation of those endowment funds the association owns that are used exclusively for the support of the association and are invested exclusively in bonds, mortgages, or property purchased at a foreclosure sale for the purpose of satisfying or protecting the bonds or mortgages. However, foreclosure-sale property that is held by an endowment fund for longer than the two-year period immediately following purchase at the foreclosure sale is not exempt from taxation.

(d) To qualify as a youth development association for the purposes of this section, an association must:

(1) be organized and operated primarily for the purpose of promoting the threefold spiritual, mental, and physical development

of boys, girls, young men, or young women;

(2) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain;

(3) operate in conjunction with a state or national organization that is organized and operated for the same purpose as the association;

(4) use its assets in performing the association's youth development functions or the youth development functions of another youth development association; and

(5) by charter, bylaw, or other regulation adopted by the association to govern its affairs direct that on discontinuance of the association by dissolution or otherwise the assets are to be transferred to this state, the United States, or a charitable, educational, religious, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended.

(e) A property may not be exempted under Subsection (a)(2) for more than three years.

(f) For purposes of Subsection (a)(2), an incomplete improvement is under physical preparation if the youth development association has:

(1) engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement; or

(2) conducted an environmental or land use study relating to the construction of the improvement.

Acts 1979, 66th Leg., p. 2237, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 129, ch. 13, Sec. 34, eff. Jan. 1, 1982; Acts 1997, 75th Leg., ch. 1039, Sec. 8, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1411, Sec. 2, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 138, Sec. 2, eff. May 18, 1999; Acts 2003, 78th Leg., ch. 288, Sec. 1.03, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 288, Sec. 2.03, eff. Jan. 1, 2006.

Sec. 11.20. RELIGIOUS ORGANIZATIONS. (a) An organization that

qualifies as a religious organization as provided by Subsection (c) is entitled to an exemption from taxation of:

(1) the real property that is owned by the religious organization, is used primarily as a place of regular religious worship, and is reasonably necessary for engaging in religious worship;

(2) the tangible personal property that is owned by the religious organization and is reasonably necessary for engaging in worship at the place of worship specified in Subdivision (1);

(3) the real property that is owned by the religious organization and is reasonably necessary for use as a residence (but not more than one acre of land for each residence) if the property:

(A) is used exclusively as a residence for those individuals whose principal occupation is to serve in the clergy of the religious organization; and

(B) produces no revenue for the religious organization;

(4) the tangible personal property that is owned by the religious organization and is reasonably necessary for use of the residence specified by Subdivision (3);

(5) the real property owned by the religious organization consisting of:

(A) an incomplete improvement that is under active construction or other physical preparation and that is designed and intended to be used by the religious organization as a place of regular religious worship when complete; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the religious organization's use of the improvement as a place of regular religious worship;

(6) the land that the religious organization owns for the purpose of expansion of the religious organization's place of regular religious worship or construction of a new place of regular religious worship if:

(A) the religious organization qualifies other property, including a portion of the same tract or parcel of land, owned by the organization for an exemption under Subdivision (1) or (5); and

(B) the land produces no revenue for the religious organization; and

(7) the real property owned by the religious organization

that is leased to another person and used by that person for the operation of a school that qualifies as a school under Section 11.21(d).

(b) An organization that qualifies as a religious organization as provided by Subsection (c) of this section is entitled to an exemption from taxation of those endowment funds the organization owns that are used exclusively for the support of the religious organization and are invested exclusively in bonds, mortgages, or property purchased at a foreclosure sale for the purpose of satisfying or protecting the bonds or mortgages. However, foreclosure-sale property that is held by an endowment fund for longer than the two-year period immediately following purchase at the foreclosure sale is not exempt from taxation.

(c) To qualify as a religious organization for the purposes of this section, an organization (whether operated by an individual, as a corporation, or as an association) must:

(1) be organized and operated primarily for the purpose of engaging in religious worship or promoting the spiritual development or well-being of individuals;

(2) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain;

(3) use its assets in performing the organization's religious functions or the religious functions of another religious organization; and

(4) by charter, bylaw, or other regulation adopted by the organization to govern its affairs direct that on discontinuance of the organization by dissolution or otherwise the assets are to be transferred to this state, the United States, or a charitable, educational, religious, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended.

(d) Use of property that qualifies for the exemption prescribed by Subsection (a)(1) or (2) or by Subsection (h)(1) for occasional secular purposes other than religious worship does not result in loss of the exemption if the primary use of the property is for religious worship and all income from the other use is devoted exclusively to the maintenance and development of the property as a place of

religious worship.

(e) For the purposes of this section, "religious worship" means individual or group ceremony or meditation, education, and fellowship, the purpose of which is to manifest or develop reverence, homage, and commitment in behalf of a religious faith.

(f) A property may not be exempted under Subsection (a)(5) for more than three years.

(g) For purposes of Subsection (a)(5), an incomplete improvement is under physical preparation if the religious organization has engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement or has conducted an environmental or land use study relating to the construction of the improvement.

(h) Property owned by this state or a political subdivision of this state, including a leasehold or other possessory interest in the property, that is held or occupied by an organization that qualifies as a religious organization as provided by Subsection (c) is entitled to an exemption from taxation if the property:

(1) is used by the organization primarily as a place of regular religious worship and is reasonably necessary for engaging in religious worship; or

(2) meets the qualifications for an exemption under Subsection (a)(5).

(i) For purposes of the exemption provided by Subsection (h), the religious organization may apply for the exemption and take other action relating to the exemption as if the organization owned the property.

(j) A tract of land that is contiguous to the tract of land on which the religious organization's place of regular religious worship is located may not be exempted under Subsection (a)(6) for more than six years. A tract of land that is not contiguous to the tract of land on which the religious organization's place of regular religious worship is located may not be exempted under Subsection (a)(6) for more than three years. For purposes of this subsection, a tract of land is considered to be contiguous with another tract of land if the tracts are divided only by a road, railroad track, river, or stream.

(k) For purposes of Subsection (a)(6), an application or statement accompanying an application for the exemption stating that the land is owned for the purposes described by Subsection (a)(6) and

signed by an authorized officer of the organization is sufficient to establish that the land is owned for those purposes.

Acts 1979, 66th Leg., p. 2238, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 129, ch. 13, Sec. 35, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 640, Sec. 1, eff. Jan. 1, 1988; Acts 1995, 74th Leg., ch. 458, Sec. 1, eff. June 9, 1995; Acts 1997, 75th Leg., ch. 1039, Sec. 9, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1411, Sec. 3, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 138, Sec. 3, eff. May 18, 1999; Acts 2003, 78th Leg., ch. 123, Sec. 1, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 288, Sec. 1.04, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 288, Sec. 2.04, eff. Jan. 1, 2006; Acts 2003, 78th Leg., ch. 1052, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(80), eff. September 1, 2005.

Sec. 11.201. ADDITIONAL TAX ON SALE OF CERTAIN RELIGIOUS ORGANIZATION PROPERTY. (a) If land is sold or otherwise transferred to another person in a year in which the land receives an exemption under Section 11.20(a)(6), an additional tax is imposed on the land equal to the tax that would have been imposed on the land had the land been taxed for each of the five years preceding the year in which the sale or transfer occurs in which the land received an exemption under that subsection, plus interest at an annual rate of seven percent calculated from the dates on which the taxes would have become due.

(b) A tax lien attaches to the land on the date the sale or transfer occurs to secure payment of the tax and interest imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the tax is imposed.

(c) If only part of a parcel of land that is exempted under Section 11.20(a)(6) is sold or transferred, the tax applies only to that part of the parcel and equals the taxes that would have been imposed had that part been taxed.

(d) The assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable after the sale or transfer occurs. The taxes and interest are due

and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(e) The sanctions provided by Subsection (a) do not apply if the sale or transfer occurs as a result of:

(1) a sale for right-of-way;

(2) a condemnation;

(3) a transfer of property to the state or a political subdivision of the state to be used for a public purpose; or

(4) a transfer of property to a religious organization that qualifies the property for an exemption under Section 11.20 for the tax year in which the transfer occurs.

Acts 2003, 78th Leg., ch. 1052, Sec. 2, eff. Jan. 1, 2004.

Sec. 11.21. SCHOOLS. (a) A person is entitled to an exemption from taxation of:

(1) the buildings and tangible personal property that the person owns and that are used for a school that is qualified as provided by Subsection (d) if:

(A) the school is operated exclusively by the person owning the property;

(B) except as permitted by Subsection (b), the buildings and tangible personal property are used exclusively for educational functions; and

(C) the buildings and tangible personal property are reasonably necessary for the operation of the school; and

(2) the real property owned by the person consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used for a school that is qualified as provided by Subsection (d); and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement for a school that is qualified as provided by Subsection (d).

(b) Use of exempt tangible property for functions other than

educational functions does not result in loss of an exemption authorized by this section if those other functions are incidental to use of the property for educational functions and benefit the students or faculty of the school.

(c) A person who operates a school that is qualified as provided by Subsection (d) of this section is entitled to an exemption from taxation of those endowment funds he owns that are used exclusively for the support of the school and are invested exclusively in bonds, mortgages, or property purchased at a foreclosure sale for the purpose of satisfying or protecting the bonds or mortgages. However, foreclosure-sale property that is held by an endowment fund for longer than the two-year period immediately following purchase at the foreclosure sale is not exempt from taxation.

(d) To qualify as a school for the purposes of this section, an organization (whether operated by an individual, as a corporation, or as an association) must:

(1) be organized and operated primarily for the purpose of engaging in educational functions;

(2) normally maintain a regular faculty and curriculum and normally have a regularly organized body of students in attendance at the place where its educational functions are carried on;

(3) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain and, if the organization is a corporation, be organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act;

(4) use its assets in performing the organization's educational functions or the educational functions of another educational organization; and

(5) by charter, bylaw, or other regulation adopted by the organization to govern its affairs direct that on discontinuance of the organization by dissolution or otherwise the assets are to be transferred to this state, the United States, or an educational, charitable, religious, or other similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1954, as amended.

(e) In this section, "building" includes the land that is

reasonably necessary for use of, access to, and ornamentation of the building.

(f) Notwithstanding Subsection (a), a person is entitled to an exemption from taxation of the buildings and tangible personal property the person acquires for use for a school that meets each requirement of Subsection (d) if:

(1) the person authorizes the former owner to continue to use the property pending the use of the property for a school; and

(2) the former owner would be entitled to an exemption from taxation of the property if the former owner continued to own the property.

(g) A property may not be exempted under Subsection (a)(2) for more than three years.

(h) For purposes of Subsection (a)(2), an incomplete improvement is under physical preparation if the person has:

(1) engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement; or

(2) conducted an environmental or land use study relating to the construction of the improvement.

Acts 1979, 66th Leg., p. 2239, ch. 841, Sec. 1, eff. Jan. 1. 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 130, ch. 13, Sec. 36, eff. Jan. 1, 1982; Acts 1997, 75th Leg., ch. 1039, Sec. 10, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1293, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1411, Sec. 4, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 138, Sec. 4, eff. May 18, 1999; Acts 2003, 78th Leg., ch. 288, Sec. 1.05, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 288, Sec. 2.05, eff. Jan. 1, 2006.

Sec. 11.22. DISABLED VETERANS. (a) A disabled veteran is entitled to an exemption from taxation of a portion of the assessed value of a property the veteran owns and designates as provided by Subsection (f) in accordance with the following schedule:

an exemption of	for a disability rating of	
up to:	at least:	but less than:
$5,000 of the assessed value	10%	30%
7,500	30	50

10,000	50	70
12,000	70 and over	

(b) A disabled veteran is entitled to an exemption from taxation of $12,000 of the assessed value of a property the veteran owns and designates as provided by Subsection (f) of this section if the veteran:

(1) is 65 years of age or older and has a disability rating of at least 10 percent;

(2) is totally blind in one or both eyes; or

(3) has lost the use of one or more limbs.

(c) If a disabled veteran who is entitled to an exemption by Subsection (a) or (b) of this section dies, the veteran's surviving spouse is entitled to an exemption from taxation of a portion of the assessed value of a property the spouse owns and designates as provided by Subsection (f) of this section. The amount of the exemption is the amount of the veteran's exemption at time of death. The spouse is entitled to an exemption by this subsection only for as long as the spouse remains unmarried. If the spouse does not survive the veteran, each of the veteran's surviving children who is younger than 18 years of age and unmarried is entitled to an exemption from taxation of a portion of the assessed value of a property the child owns and designates as provided by Subsection (f) of this section. The amount of exemption for each eligible child is computed by dividing the amount of the veteran's exemption at time of death by the number of eligible children.

(d) If an individual dies while on active duty as a member of the armed services of the United States:

(1) the individual's surviving spouse is entitled to an exemption from taxation of $5,000 of the assessed value of the property the spouse owns and designates as provided by Subsection (f) of this section; and

(2) each of the individual's surviving children who is younger than 18 years of age and unmarried is entitled to an exemption from taxation of a portion of the assessed value of a property the child owns and designates as provided by Subsection (f) of this section, the amount of exemption for each eligible child to be computed by dividing $5,000 by the number of eligible children.

(e) An individual who qualifies for more than one exemption authorized by this section is entitled to aggregate the amounts of

the exemptions, except that:

(1) a disabled veteran who qualifies for more than one exemption authorized by Subsections (a) and (b) of this section is entitled to only one exemption but may choose the greatest exemption for which he qualifies; and

(2) an individual who receives an exemption as a surviving spouse of a disabled veteran as provided by Subsection (c) of this section may not receive an exemption as a surviving child as provided by Subsection (c) or (d) of this section.

(f) An individual may receive an exemption to which he is entitled by this section against only one property, which must be the same for every taxing unit in which the individual claims the exemption. If an individual is entitled by Subsection (e) of this section to aggregate the amounts of more than one exemption, he must take the entire aggregated amount against the same property. An individual must designate on his exemption application form the property against which he takes an exemption under this section.

(g) An individual is not entitled to an exemption by this section unless he is a resident of this state.

(h) In this section:

(1) "Child" includes an adopted child or a child born out of wedlock whose paternity has been admitted or has been established in a legal action.

(2) "Disability rating" means a veteran's percentage of disability as certified by the Veterans' Administration or its successor or the branch of the armed services in which the veteran served.

(3) "Disabled veteran" means a veteran of the armed services of the United States who is classified as disabled by the Veterans' Administration or its successor or the branch of the armed services in which the veteran served and whose disability is service-connected.

(4) "Surviving spouse" means the individual who was married to a disabled veteran or member of the armed services at the time of the veteran's or member's death.

Acts 1979, 66th Leg., p. 2240, ch. 841, Sec. 1, eff. Jan. 1, 1980.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 18.002, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1405 (H.B. 3613), Sec. 1(b), eff. June 19, 2009.

Sec. 11.23. MISCELLANEOUS EXEMPTIONS. (a) Veteran's Organizations. A nonprofit organization that is composed primarily of members or former members of the armed forces of the United States or its allies and that is chartered or incorporated by the United States Congress is entitled to an exemption from taxation of each of the buildings (including the land that is reasonably necessary for use of, access to, and ornamentation of the buildings) and other property owned and primarily used by that organization if the property is not used to produce revenue or held for gain. Occasional renting of the post or chapter property for other nonprofit activities does not result in loss of the exemption provided by this subsection if the rental proceeds are used solely for the maintenance and improvement of the property. For purposes of this subsection, an organization is a nonprofit organization if it is organized and operated in a way that does not result in the accrual of distributable profits, realization of private gain from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain.

(b) Federation of Women's Clubs. The Texas Federation of Women's Clubs is entitled to an exemption from taxation of the tangible property it owns if the property is not held for gain.

(c) Nature Conservancy of Texas. The Nature Conservancy of Texas, Incorporated, is entitled to an exemption from taxation of the tangible property it owns if the property is not held for gain, as long as the organization is a nonprofit corporation as defined by the Texas Non-Profit Corporation Act.

(d) Congress of Parents and Teachers. The Texas Congress of Parents and Teachers is entitled to an exemption from taxation for state and county purposes of the buildings (including the land that is reasonably necessary for use of, access to, and ornamentation of the buildings) it owns and uses as its state headquarters.

(e) Private Enterprise Demonstration Associations. An association that engages exclusively in conducting nonprofit educational programs designed to demonstrate the American private enterprise system to children and young people and that operates under a state or national organization that is organized and operated

for the same purpose is entitled to an exemption from taxation of the tangible property that it owns and uses exclusively if it is reasonably necessary for the association's operation.

(f) Bison, Buffalo, and Cattalo. A person is entitled to an exemption from taxation of the bison, buffalo, and cattalo he owns that are not held for gain and that are used in experimental breeding with cattle for the purpose of producing an improved strain of meat animal or kept in parks to preserve the species.

(g) Theater Schools. A corporation that is organized to promote the teaching and study of the dramatic arts is entitled to an exemption from taxation of the property it owns and uses in the operation of a school for the dramatic arts if:

(1) the corporation is organized as a nonprofit corporation as defined by the Texas Non-Profit Corporation Act;

(2) the corporation is not self-sustaining in any fiscal year from income other than gifts, grants, or donations;

(3) the corporation is exempt from federal income taxes;

(4) the school maintains a theater-school program with regular classes for at least four grades, formal textbooks and curriculum, an enrollment of 150 or more students during each of at least two semesters every calendar year, and a faculty substantially all of whom hold degrees in theater arts from an accredited school of higher education;

(5) the school offers apprenticeship or other practical training in theater management and operation for college students or offers similar training for playwrights, actors, and production personnel; and

(6) more than one-half of each season's theatrical productions for which admission is charged have significant literary merit of the character that contributes to the educational programs of secondary schools and schools of higher education.

(h) County Fair Associations. A county fair association organized to hold agricultural fairs and encourage agricultural pursuits is entitled to an exemption from taxation of the land and buildings that it owns and uses to hold agricultural fairs. An association that holds a license issued after January 1, 2001, under Subtitle A-1, Title 13, Occupations Code (Texas Racing Act), to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering is not entitled to an exemption under this subsection. Land or a building used to conduct a horse race meeting

or a greyhound race meeting with pari-mutuel wagering under a license issued after January 1, 2001, under that subtitle may not be exempted under this subsection. To qualify for an exemption under this subsection, a county fair association must:

(1) be a nonprofit corporation governed by Chapter 22, Business Organizations Code;

(2) be exempt from federal income taxes as an organization described by Section 501(c)(3), (4), or (5), Internal Revenue Code of 1986;

(3) qualify for an exemption from the franchise tax under Section 171.060; and

(4) meet the requirements of a charitable organization provided by Sections 11.18(e) and (f), for which purpose the functions for which the association is organized are considered to be charitable functions.

(i) Community Service Clubs. An association that qualifies as a community service club is entitled to an exemption from taxation of the tangible property the club owns that qualifies under Article VIII, Section 2, of the constitution and that is not used for profit or held for gain. To qualify as a community service club for the purposes of this subsection, an association must:

(1) be organized to promote and must engage primarily in promoting:

(A) the religious, educational, and physical development of boys, girls, young men, or young women;

(B) the development of the concepts of patriotism and love of country; and

(C) the development of interest in community, national, and international affairs;

(2) be affiliated with a state or national organization of similar purpose;

(3) be open to membership without regard to race, religion, or national origin; and

(4) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain.

(j) Medical Center Development. All real and personal property owned by a nonprofit corporation, as defined in the Texas Non-Profit

Corporation Act, and held for use in the development of a medical center area or areas in which the nonprofit corporation has donated land for a state medical, dental, or nursing school, and for other hospital, medical, and educational uses and uses reasonably related thereto, during the time remaining property is held for the development to completion of the medical center and not leased or otherwise used with a view to profit, is exempt from all ad valorem taxation as though the property were, during that time, owned and held by the state for health and educational purposes.

(j-1) Medical Center Development in Populous Counties. In a county with a population of 3.3 million or more, all real and personal property owned by a nonprofit corporation, as that term is defined by Section 22.001, Business Organizations Code, organized exclusively for benevolent, charitable, and educational purposes, and held for use in the development or operation of a medical center area or areas in which the nonprofit corporation has donated land for a state medical, dental, or nursing school, for other hospital, medical, educational, research, or nonprofit uses and uses reasonably related to those uses, for auxiliary uses to support those benevolent, charitable, and educational functions, including the invention, development, and dissemination of materials, tools, technologies, processes, and similar means for translating and applying medical and scientific research for practical applications to advance public health, or for governmental or public purposes, including the relief of traffic congestion, is exempt from all ad valorem taxation. In connection with the application or enforcement of a deed restriction or a covenant related to the property, a use or purpose described in this subsection shall also be considered to be a hospital, medical, or educational use, or a use that is reasonably related to a hospital, medical, or educational use. This subsection may not be construed to exempt from taxation any interest in real or personal property, including a leasehold or other possessory interest, of a for-profit lessee of property for which a nonprofit corporation is entitled to an exemption from taxation under this subsection.

(k) Scientific Research Corporations. A nonprofit corporation as defined in the Texas Non-Profit Corporation Act is entitled to an exemption from taxation of the property it owns and uses in scientific research and educational activities for the benefit of one or more colleges and universities. Use of property exempted by this

subsection for purposes other than scientific research and education does not result in loss of the exemption if those other functions are incidental to use of the property for scientific research and education activities and benefit the scientific research corporation and the colleges or universities that it supports.

(l) Incomplete Improvements. A person described by Subsection (a)-(e), (g), or (i)-(k) is entitled to an exemption from taxation of the real property owned by the person consisting of an incomplete improvement that is under active construction or other physical preparation and that is designed and intended to be used by the person for a purpose described by that subsection when complete and the land on which the incomplete improvement is located that will be reasonably necessary for the person's use of the improvement for that purpose. A property may not be exempted under this subsection for more than three years. For purposes of this subsection, an incomplete improvement is under physical preparation if the person has:

(1) engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement; or

(2) conducted an environmental or land use study relating to the construction of the improvement.

(m) National Hispanic Institute. The National Hispanic Institute is entitled to an exemption from taxation of the real and tangible personal property it owns as long as the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

Acts 1979, 66th Leg., p. 2242, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 130, ch. 13, Sec. 37, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 430, Sec. 2, eff. Jan. 1, 1988; Acts 1987, 70th Leg., ch. 640, Sec. 5, eff. Aug. 31, 1987; Acts 1991, 72nd Leg., ch. 162, Sec. 1, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 954, Sec. 2, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 138, Sec. 5, eff. May 18, 1999; Acts 2001, 77th Leg., ch. 815, Sec. 1, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 288, Sec. 1.06, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 288, Sec. 2.06, eff. Jan. 1, 2006; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 20.01, eff. Jan. 11, 2004.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1119 (H.B. 3623), Sec. 1, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 280 (H.B. 2999), Sec. 1, eff. January 1, 2018.

Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 2.11, eff. April 1, 2019.

Sec. 11.231. NONPROFIT COMMUNITY BUSINESS ORGANIZATION PROVIDING ECONOMIC DEVELOPMENT SERVICES TO LOCAL COMMUNITY. (a) In this section, "nonprofit community business organization" means an organization that meets the following requirements:

(1) the organization has been in existence for at least the preceding five years;

(2) the organization:

(A) is a nonprofit corporation organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or a nonprofit corporation formed under the Texas Nonprofit Corporation Law, as described by Section 1.008, Business Organizations Code;

(B) is a nonprofit organization described by Section 501(c)(6), Internal Revenue Code of 1986; and

(C) is not a statewide organization;

(3) for at least the preceding three years, the organization has maintained a dues-paying membership of at least 50 members; and

(4) the organization:

(A) has a board of directors elected by the members;

(B) does not compensate members of the board of directors for service on the board;

(C) with respect to its activities in this state, is engaged primarily in performing functions listed in Subsection (d);

(D) is primarily supported by membership dues and other income from activities substantially related to its primary functions; and

(E) is not, has not formed, and does not financially support a political committee as defined by Section 251.001, Election Code.

(a-1) In addition to an organization described by Subsection

(a), in this section, "nonprofit community business organization" also means a Type A corporation governed by Chapter 504, Local Government Code, and a Type B corporation governed by Chapter 505, Local Government Code.

(b) An association that qualifies as a nonprofit community business organization as provided by this section is entitled to an exemption from taxation of:

(1) the buildings and tangible personal property that:

(A) are owned by the nonprofit community business organization; and

(B) except as permitted by Subsection (c), are used exclusively by qualified nonprofit community business organizations to perform their primary functions; and

(2) the real property owned by the nonprofit community business organization consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used exclusively by qualified nonprofit community business organizations; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by qualified nonprofit community business organizations.

(c) Use of exempt property by persons who are not nonprofit community business organizations qualified as provided by this section does not result in the loss of an exemption authorized by this section if the use is incidental to use by qualified nonprofit community business organizations and limited to activities that benefit the beneficiaries of the nonprofit community business organizations that own or use the property.

(d) To qualify for an exemption under this section, a nonprofit community business organization must be engaged primarily in performing one or more of the following functions in the local community:

(1) promoting the common economic interests of commercial enterprises;

(2) improving the business conditions of one or more types of business; or

(3) otherwise providing services to aid in economic

development.

(e) In this section, "building" includes the land that is reasonably necessary for use of, access to, and ornamentation of the building.

(f) A property may not be exempted under Subsection (b)(2) for more than three years.

(g) For purposes of Subsection (b)(2), an incomplete improvement is under physical preparation if the nonprofit community business organization has:

(1) engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement; or

(2) conducted an environmental or land use study relating to the construction of the improvement.

Added by Acts 2009, 81st Leg., R.S., Ch. 1417 (H.B. 770), Sec. 3, eff. January 1, 2010.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 20(a), eff. January 1, 2016.

Sec. 11.24. HISTORIC SITES. (a) The governing body of a taxing unit by official action of the body adopted in the manner required by law for official actions may exempt from taxation part or all of the assessed value of a structure or archeological site and the land necessary for access to and use of the structure or archeological site, if the structure or archeological site is:

(1) designated as a Recorded Texas Historic Landmark under Chapter 442, Government Code, or a state archeological landmark under Chapter 191, Natural Resources Code, by the Texas Historical Commission; or

(2) designated as a historically or archeologically significant site in need of tax relief to encourage its preservation pursuant to an ordinance or other law adopted by the governing body of the taxing unit.

(b) The governing body of a taxing unit may not repeal or reduce the amount of an exemption granted under Subsection (a) for a property that otherwise qualifies for the exemption unless:

(1) the owner of the property consents to the repeal or

reduction; or

(2) the taxing unit provides written notice of the repeal or reduction to the owner not later than five years before the date the governing body repeals or reduces the exemption.

Acts 1979, 66th Leg., p. 2243, ch. 841, Sec. 1, eff. Jan. 1, 1980.
Amended by Acts 1995, 74th Leg., ch. 109, Sec. 21, eff. Aug. 30, 1995.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 25, eff. January 1, 2020.

Sec. 11.25. MARINE CARGO CONTAINERS USED EXCLUSIVELY IN INTERNATIONAL COMMERCE. (a) A person is entitled to an exemption from taxation of a marine cargo container and the equipment related to the container that the person owns if:

(1) the person is:

(A) a citizen of a foreign country; or

(B) an entity organized under the laws of a foreign country; and

(2) the container is:

(A) based, registered, and subject to taxation in a foreign country; and

(B) used exclusively in international commerce.

(b) In this section, "marine cargo container":

(1) means a container that may be:

(A) used to transport goods by ship;

(B) readily handled;

(C) transferred from one mode of transport to another without reloading; and

(D) used repeatedly; and

(2) includes a container that is fully or partially enclosed so as to serve as a compartment for goods, has an open top suitable for loading goods into the container, or consists of a flat rack suitable for securing goods onto the container.

Added by Acts 1997, 75th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1997.

Sec. 11.251. TANGIBLE PERSONAL PROPERTY EXEMPT. (a) In this

section, "freeport goods" means property that under Article VIII, Section 1-j, of the Texas Constitution is not taxable.

(b) A person is entitled to an exemption from taxation by a taxing unit of the appraised value of that portion of the person's inventory or property consisting of freeport goods as determined under this section for the taxing unit.

(c) The exemption provided by Subsection (b) is subtracted from the market value of the inventory or property determined under Section 23.12 to determine the taxable value of the inventory or property for the taxing unit.

(d) Except as provided by Subsections (f) and (g), the chief appraiser shall determine the appraised value of freeport goods under this subsection. The chief appraiser shall determine the percentage of the market value of inventory or property owned by the property owner in the preceding calendar year that was contributed by freeport goods. The chief appraiser shall apply that percentage to the market value of the property owner's inventory or property for the current year to determine the appraised value of freeport goods for the current year.

(e) In determining the market value of freeport goods that in the preceding year were assembled, manufactured, repaired, maintained, processed, or fabricated in this state or used by the person who acquired or imported the property in the repair or maintenance of aircraft operated by a certificated air carrier, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the freeport goods but were not themselves freeport goods or that were not transported outside the state before the expiration of 175 days, or, if applicable, the greater number of days adopted by the taxing unit as authorized by Subsection (l), after they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held in this state by the property owner during the preceding year in determining whether the component parts were transported out of this state before the expiration of 175 days or, if applicable, the greater number of days adopted by the taxing unit as authorized by Subsection (l).

(f) If the property owner was not engaged in transporting freeport goods out of this state for the entire preceding year, the chief appraiser shall calculate the percentage of cost described in

Subsection (d) for the portion of the year in which the property owner was engaged in transporting freeport goods out of this state.

(g) If the property owner or the chief appraiser demonstrates that the method provided by Subsection (d) significantly understates or overstates the market value of the property qualified for an exemption under Subsection (b) in the current year, the chief appraiser shall determine the market value of the freeport goods to be exempt by determining, according to the property owner's records and any other available information, the market value of those freeport goods owned by the property owner on January 1 of the current year, excluding the cost of equipment, machinery, or materials that entered into and became component parts of the freeport goods but were not themselves freeport goods or that were not transported outside the state before the expiration of 175 days, or, if applicable, the greater number of days adopted by the taxing unit as authorized by Subsection (l), after they were brought into this state by the property owner or acquired by the property owner in this state.

(h) The chief appraiser by written notice delivered to a property owner who claims an exemption under this section may require the property owner or a person designated in writing by the importer of record to provide copies of inventory or property records in order to determine the amount and value of freeport goods. If the property owner or designated person fails to deliver the information requested in the notice before the 31st day after the date the notice is delivered to the property owner or before the date the appraisal review board approves the appraisal records under Section 41.12, whichever is later, the property owner forfeits the right to claim or receive the exemption for that year. If the property owner or designated person delivers the information requested in the notice before the date the appraisal review board approves the appraisal records but not before the 31st day after the date the notice is delivered to the property owner and the exemption is allowed, the property owner is liable to each taxing unit for a penalty in an amount equal to 10 percent of the difference between the amount of tax imposed by the taxing unit on the inventory or property and the amount that would otherwise have been imposed. The chief appraiser shall make an entry on the appraisal records for the inventory or property indicating the property owner's liability for the penalty and shall deliver a written notice of imposition of the penalty,

explaining the reason for its imposition, to the property owner. The assessor for a taxing unit that taxes the inventory or property shall add the amount of the penalty to the property owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner the collector collects the tax. The amount of the penalty constitutes a lien against the inventory or property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

(i) The exemption provided by Subsection (b) does not apply to a taxing unit that takes action to tax the property under Article VIII, Section 1-j, Subsection (b), of the Texas Constitution.

(j) Petroleum products as set forth in Article VIII, Section 1-j, of the Texas Constitution shall mean liquid and gaseous materials that are the immediate derivatives of the refining of oil or natural gas.

(k) Property that meets the requirements of Article VIII, Sections 1-j(a)(1) and (2), of the Texas Constitution and that is transported outside of this state not later than 175 days, or, if applicable, the greater number of days adopted by the taxing unit as authorized by Subsection (l), after the date the person who owns it on January 1 acquired it or imported it into this state is freeport goods regardless of whether the person who owns it on January 1 is the person who transports it outside of this state.

(l) The governing body of a taxing unit, in the manner provided by law for official action, may extend the date by which freeport goods that are aircraft parts must be transported outside the state to a date not later than the 730th day after the date the person acquired or imported the property in this state. An extension adopted by official action under this subsection applies only to the exemption from ad valorem taxation by the taxing unit adopting the extension and applies to:

(1) the tax year:

(A) in which the extension is adopted if officially adopted before June 1 of a tax year; or

(B) immediately following the tax year in which the extension is adopted if officially adopted on or after June 1 of a tax year; and

(2) each tax year following the year of adoption of the extension.

Added by Acts 1989, 71st Leg., ch. 534, Sec. 1. Amended by Acts 1991, 72nd Leg., ch. 504, Sec. 1, eff. June 13, 1991; Acts 1993, 73rd Leg., ch. 779, Sec. 1, eff. Jan. 1, 1994; Acts 2001, 77th Leg., ch. 125, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1402 (H.B. 3121), Sec. 1, eff. January 1, 2014.

Sec. 11.252. MOTOR VEHICLES LEASED FOR USE OTHER THAN PRODUCTION OF INCOME. (a) The owner of a motor vehicle that is subject to a lease is entitled to an exemption from taxation of the vehicle if:

(1) the lessee does not hold the vehicle for the production of income; and

(2) the vehicle is used primarily for activities that do not involve the production of income.

(b) For purposes of this section, a motor vehicle is presumed to be used primarily for activities that do not involve the production of income if:

(1) 50 percent or more of the miles the motor vehicle is driven in a year are for non-income producing purposes;

(2) the motor vehicle is leased to this state or a political subdivision of this state; or

(3) the motor vehicle:

(A) is leased to an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code; and

(B) would be exempt from taxation if the vehicle were owned by the organization.

(c) The comptroller by rule shall establish exemption application requirements and appropriate procedures to determine whether a motor vehicle subject to a lease qualifies for an exemption under Subsection (a).

(d) In connection with the requirements and procedures under Subsection (c), the comptroller by rule shall adopt a form to be completed by the lessee of a motor vehicle for which the owner of the vehicle may apply for an exemption under Subsection (a). The form shall require a lessee who is an individual to provide the lessee's

name, address, and driver's license or personal identification certificate number. The form shall require a lessee that is an entity described by Subsection (b) to provide the lessee's name, address, and, if applicable, federal tax identification number. The form shall require a lessee who is an individual, or the authorized representative of a lessee that is an entity described by Subsection (b), to certify under oath that the lessee does not hold the vehicle for the production of income and that the vehicle is used primarily for activities that do not involve the production of income. The comptroller shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making a false statement on the form.

(e) The owner of a motor vehicle that is subject to a lease shall maintain the form, an electronic image of the form, or a certified copy of the form completed by the lessee of the vehicle and make the form, electronic image, or certified copy available for inspection and copying by the chief appraiser of the applicable appraisal district at all reasonable times. If the owner does not maintain a completed form, electronic image of the completed form, or certified copy of the completed form relating to the vehicle, the owner:

(1) must render the vehicle for taxation in the applicable rendition statement or property report filed by the owner under Chapter 22; and

(2) may not file an application for an exemption under Subsection (a) for the vehicle.

(f) The governing body of a municipality by ordinance adopted before January 1, 2002, may provide for the taxation of leased motor vehicles otherwise exempted under Subsection (a). If the governing body of a municipality provides for the taxation of leased motor vehicles under this subsection, the exemption provided by Subsection (a) does not apply to that municipality.

(g) Repealed by Acts 2003, 78th Leg., ch. 866, Sec. 1.

(h) In this section:

(1) "Lease" has the meaning assigned by Section 152.001(6).

(2) "Motor vehicle" means a passenger car or truck with a shipping weight of not more than 9,000 pounds.

(i) In addition to the requirements of Subsections (c) and (d), the comptroller by rule shall prescribe a property report form to be completed by the lessor describing the leased motor vehicles that the

lessor owns. The property report form shall require the lessor to list each leased vehicle the lessor owns on January 1, to provide the year, make, model, and vehicle identification number of each leased vehicle, and to provide the name of the lessee, the address at which the vehicle is kept, and an indication of whether the lessee has designated the vehicle as not held for the production and not used for the production of income.

(j) The lessor shall provide the chief appraiser with the completed property report form adopted by the comptroller in the manner provided by Subchapter B, Chapter 22.

Added by Acts 2001, 77th Leg., ch. 1406, Sec. 1, eff. Jan. 1, 2002.
Amended by Acts 2003, 78th Leg., ch. 866, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 570 (S.B. 58), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 570 (S.B. 58), Sec. 2, eff. September 1, 2019.

Sec. 11.253. TANGIBLE PERSONAL PROPERTY IN TRANSIT. (a) In this section:

(1) "Dealer's motor vehicle inventory," "dealer's vessel and outboard motor inventory," "dealer's heavy equipment inventory," and "retail manufactured housing inventory" have the meanings assigned by Subchapter B, Chapter 23.

(2) "Goods-in-transit" means tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is stored under a contract of bailment by a public warehouse operator at one or more public warehouse facilities in this state that are not in any way owned or controlled by the owner of the personal property for the account of the person who acquired or imported the property;

(C) is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and

(D) does not include oil, natural gas, petroleum

products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

(3) "Location" means a physical address.

(4) "Petroleum product" means a liquid or gaseous material that is an immediate derivative of the refining of oil or natural gas.

(5) "Bailee" and "warehouse" have the meanings assigned by Section 7.102, Business & Commerce Code.

(6) "Public warehouse operator" means a person that:

(A) is both a bailee and a warehouse; and

(B) stores under a contract of bailment, at one or more public warehouse facilities, tangible personal property that is owned by other persons solely for the account of those persons and not for the operator's account.

(b) A person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit.

(c) The exemption provided by Subsection (b) is subtracted from the market value of the property determined under Section 23.01 or 23.12, as applicable, to determine the taxable value of the property.

(d) Except as provided by Subsections (f) and (g), the chief appraiser shall determine the appraised value of goods-in-transit under this subsection. The chief appraiser shall determine the percentage of the market value of tangible personal property owned by the property owner and used for the production of income in the preceding calendar year that was contributed by goods-in-transit. For the first year in which the exemption applies to a taxing unit, the chief appraiser shall determine that percentage as if the exemption applied in the preceding year. The chief appraiser shall apply that percentage to the market value of the property owner's tangible personal property used for the production of income for the current year to determine the appraised value of goods-in-transit for the current year.

(e) In determining the market value of goods-in-transit that in the preceding year were stored in this state, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the

expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held by the owner of the component parts during the preceding year at a location in this state that was not owned by or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state or outside this state before the expiration of 175 days.

(f) If the property owner was not engaged in transporting goods-in-transit to another location in this state or outside this state for the entire preceding year, the chief appraiser shall calculate the percentage of the market value described in Subsection (d) for the portion of the year in which the property owner was engaged in transporting goods-in-transit to another location in this state or outside this state.

(g) If the property owner or the chief appraiser demonstrates that the method provided by Subsection (d) significantly understates or overstates the market value of the property qualified for an exemption under Subsection (b) in the current year, the chief appraiser shall determine the market value of the goods-in-transit to be exempt by determining, according to the property owner's records and any other available information, the market value of those goods-in-transit owned by the property owner on January 1 of the current year, excluding the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state.

(h) The chief appraiser by written notice delivered to a property owner who claims an exemption under this section may require the property owner to provide copies of property records so the chief appraiser can determine the amount and value of goods-in-transit and that the location in this state where the goods-in-transit were detained for storage was not owned by or under the control of the owner of the goods-in-transit. If the property owner fails to deliver the information requested in the notice before the 31st day after the date the notice is delivered to the property owner, the

property owner forfeits the right to claim or receive the exemption for that year.

(i) Property that meets the requirements of this section constitutes goods-in-transit regardless of whether the person who owns the property on January 1 is the person who transports the property to another location in this state or outside this state.

(j) The governing body of a taxing unit, in the manner required for official action by the governing body, may provide for the taxation of goods-in-transit exempt under Subsection (b) and not exempt under other law. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the governing body of the taxing unit must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. If the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit. The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption prescribed by Subsection (b) will apply to that taxing unit.

(j-1) Notwithstanding Subsection (j) or official action that was taken under that subsection before October 1, 2011, to tax goods-in-transit exempt under Subsection (b) and not exempt under other law, a taxing unit may not tax such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes action on or after October 1, 2011, in the manner required for official action by the governing body, to provide for the taxation of the goods-in-transit. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the governing body of the taxing unit must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. If the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit. The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing

unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit or otherwise determines that the exemption prescribed by Subsection (b) will apply to that taxing unit.

(j-2) Notwithstanding Subsection (j-1), if under Subsection (j) the governing body of a taxing unit, before October 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the taxing unit, the tax officials of the taxing unit may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

(k) A property owner who receives the exemption from taxation provided by Subsection (b) is not eligible to receive the exemption from taxation provided by Section 11.251 for the same property.

Added by Acts 2007, 80th Leg., R.S., Ch. 830 (H.B. 621), Sec. 1, eff. January 1, 2008.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 48.01, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 48.02, eff. October 1, 2011.

Sec. 11.254. MOTOR VEHICLE USED FOR PRODUCTION OF INCOME AND FOR PERSONAL ACTIVITIES. (a) Except as provided by Subsection (c), an individual is entitled to an exemption from taxation of one motor vehicle owned by the individual that is used in the course of the individual's occupation or profession and is also used for personal activities of the owner that do not involve the production of income.

(b) In this section, "motor vehicle" means a passenger car or light truck as those terms are defined by Section 502.001, Transportation Code.

(c) A person who has been granted or applied for an exemption under this section may not apply for another exemption under this section until after the application or exemption has been denied.

(d) This section does not apply to a motor vehicle used to transport passengers for hire.

Added by Acts 2007, 80th Leg., R.S., Ch. 842 (H.B. 1022), Sec. 1.

Renumbered from Tax Code, Section 11.253 by Acts 2009, 81st Leg., R.S., Ch. 706 (H.B. 2814), Sec. 2, eff. January 1, 2010.

Sec. 11.26. LIMITATION OF SCHOOL TAX ON HOMESTEADS OF ELDERLY OR DISABLED. (a) The tax officials shall appraise the property to which this section applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the amount of the tax as limited by this section, except as otherwise provided by this section. A school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older or on the residence homestead of an individual who is disabled, as defined by Section 11.13, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for the applicable exemption provided by Section 11.13(c) for an individual who is 65 years of age or older or is disabled. If the individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the same exemption for the next year, and if the school district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a school district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed in the year immediately following the first year for which the individual qualified that residence homestead for the same exemption, except as provided by Subsection (b). If the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) for individuals 65 years of age or older or disabled was a tax year before the 2015 tax year, the amount of the limitation provided by this section is the amount of tax the school district imposed for the 2014 tax year less an amount equal to the amount determined by multiplying $10,000 times the tax rate of the school district for the 2015 tax year, plus any 2015 tax attributable to improvements made in 2014, other than improvements made to comply with governmental regulations or repairs.

(a-1) Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence

homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Section 11.13(c) for the same homestead was the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed by:

(1) multiplying the amount of tax the school district imposed on the homestead in the 2006 tax year by a fraction the numerator of which is the tax rate of the district for the 2007 tax year and the denominator of which is the tax rate of the district for the 2006 tax year; and

(2) adding any tax imposed in the 2007 tax year attributable to improvements made in the 2006 tax year as provided by Subsection (b) to the lesser of the amount computed under Subdivision (1) or the amount of tax the district imposed on the homestead in the 2006 tax year.

(a-2) Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Section 11.13(c) for the same homestead was a tax year before the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed by:

(1) multiplying the amount of tax the school district imposed on the homestead in the 2005 tax year by a fraction the numerator of which is the tax rate of the district for the 2006 tax year and the denominator of which is the tax rate of the district for the 2005 tax year;

(2) adding any tax imposed in the 2006 tax year attributable to improvements made in the 2005 tax year as provided by Subsection (b) to the lesser of the amount computed under Subdivision (1) or the amount of tax the district imposed on the homestead in the 2005 tax year;

(3) multiplying the amount computed under Subdivision (2) by a fraction the numerator of which is the tax rate of the district for the 2007 tax year and the denominator of which is the tax rate of the district for the 2006 tax year; and

(4) adding to the lesser of the amount computed under Subdivision (2) or (3) any tax imposed in the 2007 tax year attributable to improvements made in the 2006 tax year, as provided

by Subsection (b).

(a-3) Except as provided by Subsection (b), a limitation on tax increases provided by this section on a residence homestead computed under Subsection (a-1) or (a-2) continues to apply to the homestead in subsequent tax years until the limitation expires.

(b) If an individual makes improvements to the individual's residence homestead, other than improvements required to comply with governmental requirements or repairs, the school district may increase the tax on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference in the assessed value of the homestead with the improvements and the assessed value it would have had without the improvements. A limitation imposed by this section then applies to the increased amount of tax until more improvements, if any, are made.

(c) The limitation on tax increases required by this section expires if on January 1:

(1) none of the owners of the structure who qualify for the exemption and who owned the structure when the limitation first took effect is using the structure as a residence homestead; or

(2) none of the owners of the structure qualifies for the exemption.

(d) If the appraisal roll provides for taxation of appraised value for a prior year because a residence homestead exemption for individuals 65 years of age or older or for disabled individuals was erroneously allowed, the tax assessor shall add, as back taxes due as provided by Section 26.09(d), the positive difference if any between the tax that should have been imposed for that year and the tax that was imposed because of the provisions of this section.

(e) For each school district in an appraisal district, the chief appraiser shall determine the portion of the appraised value of residence homesteads of individuals on which school district taxes are not imposed in a tax year because of the limitation on tax increases imposed by this section. That portion is calculated by determining the taxable value that, if multiplied by the tax rate adopted by the school district for the tax year, would produce an amount equal to the amount of tax that would have been imposed by the school district on those residence homesteads if the limitation on

tax increases imposed by this section were not in effect, but that was not imposed because of that limitation. The chief appraiser shall determine that taxable value and certify it to the comptroller as soon as practicable for each tax year.

(f) The limitation on tax increases required by this section does not expire because the owner of an interest in the structure conveys the interest to a qualifying trust as defined by Section 11.13(j) if the owner or the owner's spouse is a trustor of the trust and is entitled to occupy the structure.

(g) Except as provided by Subsection (b), if an individual who receives a limitation on tax increases imposed by this section, including a surviving spouse who receives a limitation under Subsection (i), subsequently qualifies a different residence homestead for the same exemption under Section 11.13, a school district may not impose ad valorem taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes the school district would have imposed on the subsequently qualified homestead in the first year in which the individual receives that same exemption for the subsequently qualified homestead had the limitation on tax increases imposed by this section not been in effect, multiplied by a fraction the numerator of which is the total amount of school district taxes imposed on the former homestead in the last year in which the individual received that same exemption for the former homestead and the denominator of which is the total amount of school district taxes that would have been imposed on the former homestead in the last year in which the individual received that same exemption for the former homestead had the limitation on tax increases imposed by this section not been in effect.

(h) An individual who receives a limitation on tax increases under this section, including a surviving spouse who receives a limitation under Subsection (i), and who subsequently qualifies a different residence homestead for an exemption under Section 11.13, or an agent of the individual, is entitled to receive from the chief appraiser of the appraisal district in which the former homestead was located a written certificate providing the information necessary to determine whether the individual may qualify for that same limitation on the subsequently qualified homestead under Subsection (g) and to calculate the amount of taxes the school district may impose on the subsequently qualified homestead.

(i) If an individual who qualifies for the exemption provided

by Section 11.13(c) dies, the surviving spouse of the individual is entitled to the limitation applicable to the residence homestead of the individual if:

(1) the surviving spouse is 55 years of age or older when the individual dies; and

(2) the residence homestead of the individual:

(A) is the residence homestead of the surviving spouse on the date that the individual dies; and

(B) remains the residence homestead of the surviving spouse.

(i-1) A limitation under Subsection (i) applicable to the residence homestead of the surviving spouse of an individual who was disabled and who died before January 1, 2020, is calculated as if the surviving spouse was entitled to the limitation when the individual died.

(j) If an individual who qualifies for an exemption provided by Section 11.13(c) for an individual 65 years of age or older dies in the first year in which the individual qualified for the exemption and the individual first qualified for the exemption after the beginning of that year, except as provided by Subsection (k), the amount to which the surviving spouse's school district taxes are limited under Subsection (i) is the amount of school district taxes imposed on the residence homestead in that year determined as if the individual qualifying for the exemption had lived for the entire year.

(k) If in the first tax year after the year in which an individual dies in the circumstances described by Subsection (j) the amount of school district taxes imposed on the residence homestead of the surviving spouse is less than the amount of school district taxes imposed in the preceding year as limited by Subsection (j), in a subsequent tax year the surviving spouse's school district taxes on that residence homestead are limited to the amount of taxes imposed by the district in that first tax year after the year in which the individual dies.

(l) For the purpose of calculating a limitation on ad valorem tax increases by a school district under this section, an individual who qualified a residence homestead before January 1, 2003, for an exemption under Section 11.13(c) for a disabled individual is considered to have first qualified the homestead for that exemption on January 1, 2003.

(m) For the purpose of qualifying under Subsection (g) for the limitation on ad valorem taxes on a subsequently qualified homestead imposed by a school district, the residence homestead of a disabled individual may be considered to be a subsequently qualified homestead only if the disabled individual qualified the former homestead for an exemption under Section 11.13(c) for a disabled individual for a tax year beginning on or after January 1, 2003.

(n) Notwithstanding Subsection (c), the limitation on tax increases required by this section does not expire if the owner of the structure qualifies for an exemption under Section 11.13 under the circumstances described by Section 11.135(a).

(o) Notwithstanding Subsections (a), (a-3), and (b), an improvement to property that would otherwise constitute an improvement under Subsection (b) is not treated as an improvement under that subsection if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement under Subsection (b), the replacement structure is considered to be an improvement under that subsection only if:

(1) the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred; or

(2) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

(p) An heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole owner of the property for the purposes of this section.

Acts 1979, 66th Leg., p. 2244, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 130, ch. 13, Sec. 38, eff. Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, Sec. 16, eff. Sept. 1, 1984; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 10, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 854, Sec. 2, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 592, Sec. 2.02; Acts 1997, 75th Leg., ch. 1039, Sec. 11, 14; Acts 1997, 75th Leg., ch. 1059, Sec. 3, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 16.01, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1481, Sec. 2,

eff. Jan. 1, 2000; Acts 2001, 77th Leg., ch. 193, Sec. 1, eff. Jan. 1, 2002; Acts 2001, 77th Leg., ch. 1420, Sec. 18.003, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 411, Sec. 1, 2, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 19 (H.B. 5), Sec. 1, eff. May 12, 2007.

Acts 2009, 81st Leg., R.S., Ch. 359 (H.B. 1257), Sec. 1(b), eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1417 (H.B. 770), Sec. 4, eff. January 1, 2010.

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 2, eff. November 3, 2015.

Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1284 (H.B. 1313), Sec. 1, eff. January 1, 2020.

Sec. 11.261. LIMITATION OF COUNTY, MUNICIPAL, OR JUNIOR COLLEGE DISTRICT TAX ON HOMESTEADS OF DISABLED AND ELDERLY. (a) This section applies only to a county, municipality, or junior college district that has established a limitation on the total amount of taxes that may be imposed by the county, municipality, or junior college district on the residence homestead of a disabled individual or an individual 65 years of age or older under Section 1-b(h), Article VIII, Texas Constitution.

(b) The tax officials shall appraise the property to which the limitation applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation provided by this section, the tax imposed is the amount of the tax as limited by this section, except as otherwise provided by this section. The county, municipality, or junior college district may not increase the total annual amount of ad valorem taxes the county, municipality, or junior college district imposes on the residence homestead of a disabled individual or an individual 65 years of age or older above the amount of the taxes the county, municipality, or junior college district imposed on the residence homestead in the first tax year, other than a tax year preceding the tax year in which the county, municipality, or junior college district established the limitation described by Subsection (a), in which the individual qualified that residence

homestead for the exemption provided by Section 11.13(c) for a disabled individual or an individual 65 years of age or older. If the individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the exemption for the next year, and if the county, municipal, or junior college district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a county, municipality, or junior college district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed on the residence homestead in the year immediately following the first year, other than a tax year preceding the tax year in which the county, municipality, or junior college district established the limitation described by Subsection (a), for which the individual qualified that residence homestead for the exemption.

(c) If an individual makes improvements to the individual's residence homestead, other than repairs and other than improvements required to comply with governmental requirements, the county, municipality, or junior college district may increase the amount of taxes on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference between the appraised value of the homestead with the improvements and the appraised value it would have had without the improvements. A limitation provided by this section then applies to the increased amount of county, municipal, or junior college district taxes on the residence homestead until more improvements, if any, are made.

(d) A limitation on county, municipal, or junior college district tax increases provided by this section expires if on January 1:

(1) none of the owners of the structure who qualify for the exemption provided by Section 11.13(c) for a disabled individual or an individual 65 years of age or older and who owned the structure when the limitation provided by this section first took effect is using the structure as a residence homestead; or

(2) none of the owners of the structure qualifies for the exemption provided by Section 11.13(c) for a disabled individual or an individual 65 years of age or older.

(e) If the appraisal roll provides for taxation of appraised value for a prior year because a residence homestead exemption for disabled individuals or individuals 65 years of age or older was erroneously allowed, the tax assessor for the applicable county, municipality, or junior college district shall add, as back taxes due as provided by Section 26.09(d), the positive difference, if any, between the tax that should have been imposed for that year and the tax that was imposed because of the provisions of this section.

(f) A limitation on tax increases provided by this section does not expire because the owner of an interest in the structure conveys the interest to a qualifying trust as defined by Section 11.13(j) if the owner or the owner's spouse is a trustor of the trust and is entitled to occupy the structure.

(g) Except as provided by Subsection (c), if an individual who receives a limitation on county, municipal, or junior college district tax increases provided by this section subsequently qualifies a different residence homestead in the same county, municipality, or junior college district for an exemption under Section 11.13, the county, municipality, or junior college district may not impose ad valorem taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes the county, municipality, or junior college district would have imposed on the subsequently qualified homestead in the first year in which the individual receives that exemption for the subsequently qualified homestead had the limitation on tax increases provided by this section not been in effect, multiplied by a fraction the numerator of which is the total amount of taxes the county, municipality, or junior college district imposed on the former homestead in the last year in which the individual received that exemption for the former homestead and the denominator of which is the total amount of taxes the county, municipality, or junior college district would have imposed on the former homestead in the last year in which the individual received that exemption for the former homestead had the limitation on tax increases provided by this section not been in effect.

(h) An individual who receives a limitation on county, municipal, or junior college district tax increases under this section and who subsequently qualifies a different residence homestead in the same county, municipality, or junior college district for an exemption under Section 11.13, or an agent of the

individual, is entitled to receive from the chief appraiser of the appraisal district in which the former homestead was located a written certificate providing the information necessary to determine whether the individual may qualify for a limitation on the subsequently qualified homestead under Subsection (g) and to calculate the amount of taxes the county, municipality, or junior college district may impose on the subsequently qualified homestead.

(i) If an individual who qualifies for a limitation on county, municipal, or junior college district tax increases under this section dies, the surviving spouse of the individual is entitled to the limitation on taxes imposed by the county, municipality, or junior college district on the residence homestead of the individual if:

(1) the surviving spouse is disabled or is 55 years of age or older when the individual dies; and

(2) the residence homestead of the individual:

(A) is the residence homestead of the surviving spouse on the date that the individual dies; and

(B) remains the residence homestead of the surviving spouse.

(j) If an individual who is 65 years of age or older and qualifies for a limitation on county, municipal, or junior college district tax increases for the elderly under this section dies in the first year in which the individual qualified for the limitation and the individual first qualified for the limitation after the beginning of that year, except as provided by Subsection (k), the amount to which the surviving spouse's county, municipal, or junior college district taxes are limited under Subsection (i) is the amount of taxes imposed by the county, municipality, or junior college district, as applicable, on the residence homestead in that year determined as if the individual qualifying for the exemption had lived for the entire year.

(k) If in the first tax year after the year in which an individual who is 65 years of age or older dies under the circumstances described by Subsection (j) the amount of taxes imposed by a county, municipality, or junior college district on the residence homestead of the surviving spouse is less than the amount of taxes imposed by the county, municipality, or junior college district in the preceding year as limited by Subsection (j), in a subsequent tax year the surviving spouse's taxes imposed by the

county, municipality, or junior college district on that residence homestead are limited to the amount of taxes imposed by the county, municipality, or junior college district in that first tax year after the year in which the individual dies.

(l) Notwithstanding Subsection (d), a limitation on county, municipal, or junior college district tax increases provided by this section does not expire if the owner of the structure qualifies for an exemption under Section 11.13 under the circumstances described by Section 11.135(a).

(m) Notwithstanding Subsections (b) and (c), an improvement to property that would otherwise constitute an improvement under Subsection (c) is not treated as an improvement under that subsection if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement under Subsection (c), the replacement structure is considered to be an improvement under that subsection only if:

(1) the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred; or

(2) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

(n) An heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole owner of the property for the purposes of this section.

Added by Acts 2003, 78th Leg., ch. 396, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 359 (H.B. 1257), Sec. 1(c), eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1417 (H.B. 770), Sec. 5, eff. January 1, 2010.

Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 5, eff. September 1, 2019.

Sec. 11.27. SOLAR AND WIND-POWERED ENERGY DEVICES. (a) A person is entitled to an exemption from taxation of the amount of

appraised value of his property that arises from the installation or construction of a solar or wind-powered energy device that is primarily for production and distribution of energy for on-site use.

(b) The comptroller, with the assistance of the Texas Energy and Natural Resources Advisory Council, or its successor, shall develop guidelines to assist local officials in the administration of this section.

(c) In this section:

(1) "Solar energy device" means an apparatus designed or adapted to convert the radiant energy from the sun, including energy imparted to plants through photosynthesis employing the bioconversion processes of anaerobic digestion, gasification, pyrolysis, or fermentation, but not including direct combustion, into thermal, mechanical, or electrical energy; to store the converted energy, either in the form to which originally converted or another form; or to distribute radiant solar energy or the energy to which the radiant solar energy is converted.

(2) "Wind-powered energy device" means an apparatus designed or adapted to convert the energy available in the wind into thermal, mechanical, or electrical energy; to store the converted energy, either in the form to which originally converted or another form; or to distribute the converted energy.

Added by Acts 1981, 67th Leg., 1st C.S., p. 130, ch. 13, Sec. 39, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 11, eff. Sept. 1, 1991.

Sec. 11.271. OFFSHORE DRILLING EQUIPMENT NOT IN USE. (a) In this section:

(1) "Environmental protection agency of the United States" includes:

(A) the United States Department of the Interior and any agency, bureau, or other entity established in that department, including the Bureau of Safety and Environmental Enforcement and the Bureau of Ocean Energy Management, Regulation and Enforcement; and

(B) any other department, agency, bureau, or entity of the United States that prescribes rules or regulations described by Subdivision (2)(A).

(2) "Offshore spill response containment system" means a

marine or mobile containment system that:

(A) is designed and used or intended to be used solely to implement a response plan that meets or exceeds rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the control, reduction, or monitoring of air, water, or land pollution in the event of a blowout or loss of control of an offshore well drilled or used for the exploration for or production of oil or gas;

(B) has a design capability to respond to a blowout or loss of control of an offshore well drilled or used for the exploration for or production of oil or gas that is drilled in more than 5,000 feet of water;

(C) is used or intended to be used solely to respond to a blowout or loss of control of an offshore well drilled or used for the exploration for or production of oil or gas without regard to the depth of the water in which the well is drilled; and

(D) except for any monitoring function for which the system may be used, is used or intended to be used as a temporary measure to address fugitive oil, gas, sulfur, or other minerals after a leak has occurred and is not used or intended to be used after the leak has been contained as a continuing means of producing oil, gas, sulfur, or other minerals.

(3) "Rules or regulations adopted by any environmental protection agency of the United States" includes 30 C.F.R. Part 254 and any corresponding provision or provisions of succeeding, similar, substitute, proposed, or final federal regulations.

(b) An owner or lessee of a marine or mobile drilling unit designed for offshore drilling of oil or gas wells is entitled to an exemption from taxation of the drilling unit if the drilling unit:

(1) is being stored in a county bordering on the Gulf of Mexico or on a bay or other body of water immediately adjacent to the Gulf of Mexico;

(2) is not being stored for the sole purpose of repair or maintenance; and

(3) is not being used to drill a well at the location at which it is being stored.

(c) A person is entitled to an exemption from taxation of the personal property the person owns or leases that is used, constructed, acquired, stored, or installed solely as part of an

offshore spill response containment system, or that is used solely for the development, improvement, storage, deployment, repair, maintenance, or testing of such a system, if the system is being stored while not in use in a county bordering on the Gulf of Mexico or on a bay or other body of water immediately adjacent to the Gulf of Mexico. Property described by this subsection and not used for any other purpose is considered to be property used wholly as an integral part of mobile or marine drilling equipment designed for offshore drilling of oil or gas wells.

(d) Subsection (c) does not apply to personal property used, wholly or partly, for the exploration for or production of oil, gas, sulfur, or other minerals, including the equipment, piping, casing, and other components of an oil or gas well. For purposes of this subsection, the offshore capture of fugitive oil, gas, sulfur, or other minerals that is entirely incidental to the property's temporary use as an offshore spill response containment system is not considered to be production of those substances.

(e) Subsection (c) does not apply to personal property that was used, constructed, acquired, stored, or installed in this state on or before January 1, 2013.

(f) To qualify for an exemption under Subsection (c), the person owning or leasing the property must be an entity formed primarily for the purpose of designing, developing, modifying, enhancing, assembling, operating, deploying, and maintaining an offshore spill response containment system. A person may not qualify for the exemption by providing services to or for an offshore spill response containment system that the person does not own or lease.

Added by Acts 1987, 70th Leg., ch. 805, Sec. 1, eff. Jan. 1, 1988.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 942 (H.B. 1712), Sec. 1, eff. June 14, 2013.

Sec. 11.28. PROPERTY EXEMPTED FROM CITY TAXATION BY AGREEMENT. The owner of property to which an agreement made under the Property Redevelopment and Tax Abatement Act (Chapter 312 of this code) applies is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

Added by Acts 1981, 67th Leg., 1st C.S., p. 56, ch. 5, Sec. 7.
Amended by Acts 1987, 70th Leg., ch. 191, Sec. 2, eff. Sept. 1, 1987.

Sec. 11.29. INTRACOASTAL WATERWAY DREDGE DISPOSAL SITE. (a) A person is entitled to an exemption from taxation of land that the person owns and that has been dedicated by recorded donated easement dedicating said land as a disposal site for depositing and discharging materials dredged from the main channel of the Gulf Intracoastal Waterway by or under the direction of the state or federal government.

(b) An exemption granted under this section terminates when the land ceases to be used as an active dredge material disposal site described by Subsection (a) of this section and is no longer dedicated for that purpose.

Added by Acts 1987, 70th Leg., ch. 428, Sec. 1, eff. Jan. 1, 1988.

Sec. 11.30. NONPROFIT WATER SUPPLY OR WASTEWATER SERVICE CORPORATION. (a) A corporation organized under Chapter 67, Water Code, that provides in the bylaws of the corporation that on dissolution of the corporation the assets of the corporation remaining after discharge of the corporation's indebtedness shall be transferred to an entity that provides a water supply or wastewater service, or both, that is exempt from ad valorem taxation is entitled to an exemption from taxation of:

(1) property that the corporation owns and that is reasonably necessary for and used in the operation of the corporation:

(A) to acquire, treat, store, transport, sell, or distribute water; or

(B) to provide wastewater service; and

(2) the real property owned by the corporation consisting of:

(A) an incomplete improvement that:

(i) is under active construction or other physical preparation; and

(ii) is designed and intended to be used in the operation of the corporation for a purpose described by Subdivision

(1) when complete; and

(B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement in the operation of the corporation for a purpose described by Subdivision (1).

(b) A property may not be exempted under Subsection (a)(2) for more than three years.

(c) For purposes of Subsection (a)(2), an incomplete improvement is under physical preparation if the corporation has:

(1) engaged in architectural or engineering work, soil testing, land clearing activities, or site improvement work necessary for the construction of the improvement; or

(2) conducted an environmental or land use study relating to the construction of the improvement.

Added by Acts 1991, 72nd Leg., ch. 306, Sec. 1, eff. Jan. 1, 1992. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.46, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 138, Sec. 6, eff. May 18, 1999; Acts 2003, 78th Leg., ch. 288, Sec. 1.07, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 288, Sec. 2.07, eff. Jan. 1, 2006.

Sec. 11.31. POLLUTION CONTROL PROPERTY. (a) A person is entitled to an exemption from taxation of all or part of real and personal property that the person owns and that is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. A person is not entitled to an exemption from taxation under this section solely on the basis that the person manufactures or produces a product or provides a service that prevents, monitors, controls, or reduces air, water, or land pollution. Property used for residential purposes, or for recreational, park, or scenic uses as defined by Section 23.81, is ineligible for an exemption under this section.

(b) In this section, "facility, device, or method for the control of air, water, or land pollution" means land that is acquired after January 1, 1994, or any structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any

environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution. This section does not apply to a motor vehicle.

(c) In applying for an exemption under this section, a person seeking the exemption shall present in a permit application or permit exemption request to the executive director of the Texas Commission on Environmental Quality information detailing:

(1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;

(2) the estimated cost of the pollution control facility, device, or method; and

(3) the purpose of the installation of such facility, device, or method, and the proportion of the installation that is pollution control property.

If the installation includes property that is not used wholly for the control of air, water, or land pollution, the person seeking the exemption shall also present such financial or other data as the executive director requires by rule for the determination of the proportion of the installation that is pollution control property.

(d) Following submission of the information required by Subsection (c), the executive director of the Texas Commission on Environmental Quality shall determine if the facility, device, or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. As soon as practicable, the executive director shall send notice by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the property is located that the person has applied for a determination under this subsection. The executive director shall issue a letter to the person stating the executive director's determination of whether the facility, device, or method is used wholly or partly to control pollution and, if applicable, the proportion of the property that is pollution control property. The executive director shall send a copy of the letter by regular mail or by electronic means to the chief appraiser of the appraisal district for the county in which the property is located.

(e) Not later than the 20th day after the date of receipt of the letter issued by the executive director, the person seeking the exemption or the chief appraiser may appeal the executive director's

determination to the Texas Commission on Environmental Quality. The commission shall consider the appeal at the next regularly scheduled meeting of the commission for which adequate notice may be given. The person seeking the determination and the chief appraiser may testify at the meeting. The commission may remand the matter to the executive director for a new determination or deny the appeal and affirm the executive director's determination. On issuance of a new determination, the executive director shall issue a letter to the person seeking the determination and provide a copy to the chief appraiser as provided by Subsection (d). A new determination of the executive director may be appealed to the commission in the manner provided by this subsection. A proceeding under this subsection is not a contested case for purposes of Chapter 2001, Government Code.

(e-1) The executive director shall issue a determination letter required by Subsection (d) to the person seeking the exemption, and the commission shall take final action on the initial appeal under Subsection (e) if an appeal is made, not later than the first anniversary of the date the executive director declares the application to be administratively complete.

(f) The commission may charge a person seeking a determination that property is pollution control property an additional fee not to exceed its administrative costs for processing the information, making the determination, and issuing the letter required by this section.

(g) The commission shall adopt rules to implement this section. Rules adopted under this section must:

(1) establish specific standards for considering applications for determinations;

(2) be sufficiently specific to ensure that determinations are equal and uniform; and

(3) allow for determinations that distinguish the proportion of property that is used to control, monitor, prevent, or reduce pollution from the proportion of property that is used to produce goods or services.

(g-1) The standards and methods for making a determination under this section that are established in the rules adopted under Subsection (g) apply uniformly to all applications for determinations under this section, including applications relating to facilities, devices, or methods for the control of air, water, or land pollution included on a list adopted by the Texas Commission on Environmental

Quality under Subsection (k).

(h) The executive director may not make a determination that property is pollution control property unless the property meets the standards established under rules adopted under this section.

(i) A person seeking an exemption under this section shall provide to the chief appraiser a copy of the letter issued by the executive director of the Texas Commission on Environmental Quality under Subsection (d) determining that the facility, device, or method is used wholly or partly as pollution control property. The chief appraiser shall accept a final determination by the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property.

(j) This section does not apply to a facility, device, or method for the control of air, water, or land pollution that was subject to a tax abatement agreement executed before January 1, 1994.

(k) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, which must include:

(1) coal cleaning or refining facilities;

(2) atmospheric or pressurized and bubbling or circulating fluidized bed combustion systems and gasification fluidized bed combustion combined cycle systems;

(3) ultra-supercritical pulverized coal boilers;

(4) flue gas recirculation components;

(5) syngas purification systems and gas-cleanup units;

(6) enhanced heat recovery systems;

(7) exhaust heat recovery boilers;

(8) heat recovery steam generators;

(9) superheaters and evaporators;

(10) enhanced steam turbine systems;

(11) methanation;

(12) coal combustion or gasification byproduct and coproduct handling, storage, or treatment facilities;

(13) biomass cofiring storage, distribution, and firing systems;

(14) coal cleaning or drying processes, such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology;

(15) oxy-fuel combustion technology, amine or chilled

ammonia scrubbing, fuel or emission conversion through the use of catalysts, enhanced scrubbing technology, modified combustion technology such as chemical looping, and cryogenic technology;

(16) if the United States Environmental Protection Agency adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is geologically sequestered in this state;

(17) fuel cells generating electricity using hydrogen derived from coal, biomass, petroleum coke, or solid waste; and

(18) any other equipment designed to prevent, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.

(l) The Texas Commission on Environmental Quality by rule shall update the list adopted under Subsection (k) at least once every three years. An item may be removed from the list if the commission finds compelling evidence to support the conclusion that the item does not provide pollution control benefits.

(m) Notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in an application for an exemption under this section is a facility, device, or method included on the list adopted under Subsection (k), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the application is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the actions that are required by Subsection (d) in the event such a determination is made.

(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.

Added by Acts 1993, 73rd Leg., ch. 285, Sec. 1, eff. Jan. 1, 1994.
Amended by Acts 2001, 77th Leg., ch. 881, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. 3732), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 943 (H.B. 3206), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 962 (H.B. 3544), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 962 (H.B. 3544), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1006 (H.B. 2280), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 964 (H.B. 1897), Sec. 1, eff. September 1, 2013.

Sec. 11.311. LANDFILL-GENERATED GAS CONVERSION FACILITIES. (a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1244 , Sec. 1, eff. January 1, 2016.

(b) A person is entitled to an exemption from taxation of tangible personal property the person owns that is located on or in close proximity to a landfill and is used to:

(1) collect gas generated by the landfill;

(2) compress and transport the gas;

(3) process the gas so that it may be:

(A) delivered into a natural gas pipeline; or

(B) used as a transportation fuel in methane-powered on-road or off-road vehicles or equipment; and

(4) deliver the gas:

(A) into a natural gas pipeline; or

(B) to a methane fueling station.

(c) Property described by this section is considered to be property used as a facility, device, or method for the control of air, water, or land pollution.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1244 , Sec. 1, eff. January 1, 2016.

(e) Property described by Subsection (b) shall be appraised as tangible personal property for ad valorem tax purposes, regardless of whether the property is affixed to or incorporated into real property.

(f) This section may not be construed to exempt from taxation tangible personal property located on or in close proximity to a landfill that is not used in the manner prescribed by Subsection (b).

Added by Acts 2013, 83rd Leg., R.S., Ch. 964 (H.B. 1897), Sec. 2, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1244 (H.B. 994), Sec. 1, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1244 (H.B. 994), Sec. 2, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1244 (H.B. 994), Sec. 3, eff. January 1, 2016.

Sec. 11.315. ENERGY STORAGE SYSTEM IN NONATTAINMENT AREA. (a) In this section, "energy storage system" means a device capable of storing energy to be discharged at a later time, including a chemical, mechanical, or thermal storage device.

(b) A person is entitled to an exemption from taxation by a taxing unit of an energy storage system owned by the person if:

(1) the exemption is adopted by the governing body of the taxing unit in the manner provided by law for official action by the governing body; and

(2) the energy storage system:

(A) is used, constructed, acquired, or installed wholly or partly to meet or exceed 40 C.F.R. Section 50.11 or any other rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air pollution;

(B) is located in:

(i) an area designated as a nonattainment area within the meaning of Section 107(d) of the federal Clean Air Act (42

U.S.C. Section 7407); and

(ii) a municipality with a population of at least 100,000 adjacent to a municipality with a population of more than two million;

(C) has a capacity of at least 10 megawatts; and

(D) is installed on or after January 1, 2014.

(c) Once authorized, an exemption adopted under this section may be repealed by the governing body of a taxing unit in the manner provided by law for official action by the governing body.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1030 (H.B. 2712), Sec. 1, eff. January 1, 2014.

Sec. 11.32. CERTAIN WATER CONSERVATION INITIATIVES. The governing body of a taxing unit by official action of the governing body adopted in the manner required by law for official actions may exempt from taxation part or all of the assessed value of property on which approved water conservation initiatives, desalination projects, or brush control initiatives have been implemented. For purposes of this section, approved water conservation, desalination, and brush control initiatives shall be designated pursuant to an ordinance or other law adopted by the governing unit.

Added by Acts 1997, 75th Leg., ch. 1010, Sec. 5.11. Amended by Acts 2001, 77th Leg., ch. 966, Sec. 4.24, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1234, Sec. 38, eff. Sept. 1, 2001.

Sec. 11.33. RAW COCOA AND GREEN COFFEE HELD IN HARRIS COUNTY. (a) A person is entitled to an exemption from taxation of raw cocoa and green coffee that the person holds in Harris County.

(b) An exemption granted under this section, once allowed, need not be claimed in subsequent years, and the exemption applies to all raw cocoa and green coffee the person holds until the cocoa's or the coffee's qualification for the exemption changes. The chief appraiser may, however, require a person who holds raw cocoa or green coffee for which an exemption in a prior year has been granted to file a new application to confirm the cocoa's or the coffee'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.

Added by Acts 2001, 77th Leg., ch. 961, Sec. 1, eff. Jan. 1, 2002.

Sec. 11.34. LIMITATION OF TAXES ON REAL PROPERTY IN DESIGNATED AREAS OF CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality having a population of less than 10,000.

(b) Acting under the authority of Section 1-o, Article VIII, Texas Constitution, the governing body of a municipality, by official action, may call an election in the municipality to permit the voters of the municipality to determine whether to authorize the governing body to enter into an agreement with an owner of real property in or adjacent to an area in the municipality that has been approved for funding under the programs administered by the Department of Agriculture as described by Section 1-o, Article VIII, Texas Constitution, under which the parties agree that the ad valorem taxes imposed by any political subdivision on the owner's real property may not be increased for the first five tax years after the tax year in which the agreement is entered into, subject to the terms and conditions provided by the agreement.

(c) If the authority to limit tax increases under this section is approved by the voters and the governing body of the municipality enters into an agreement to limit tax increases under this section, the tax officials shall appraise the property to which the limitation applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation, the tax imposed is the amount of the tax as limited by this section, except as provided by Subsections (f) and (g).

(d) An agreement to limit tax increases under this section must be entered into before December 31 of the tax year in which the election was held.

(e) A taxing unit may not increase the total annual amount of ad valorem taxes the taxing unit imposes on the property above the amount of the taxes the taxing unit imposed on the property in the tax year in which the governing body of the municipality entered into an agreement to limit tax increases under this section.

(f) Subject to Subsection (g), an agreement to limit tax increases under this section expires on the earlier of:

(1) January 1 of the sixth tax year following the tax year

in which the agreement was entered into; or

(2) January 1 of the first tax year in which the owner of the property when the agreement was entered into ceases to own the property.

(g) If property subject to an agreement to limit tax increases under this section is owned by two or more persons, the limitation expires on January 1 of the first tax year following the year in which the ownership of at least a 50 percent interest in the property is sold or otherwise transferred.

(h) Notwithstanding Subsection (a), if the population of a municipality to which this section applies when the municipality enters into an agreement to limit taxes under this section subsequently increases to 10,000 or more, the validity of the agreement is not affected by that change in population, and the agreement does not expire because of that change.

Added by Acts 2009, 81st Leg., R.S., Ch. 464 (S.B. 252), Sec. 1, eff. June 19, 2009.

Sec. 11.35. TEMPORARY EXEMPTION FOR QUALIFIED PROPERTY DAMAGED BY DISASTER. (a) In this section, "qualified property" means property that:

(1) consists of:

(A) tangible personal property used for the production of income;

(B) an improvement to real property; or

(C) a manufactured home as that term is defined by Section 1201.003, Occupations Code, that is used as a dwelling, regardless of whether the owner of the manufactured home elects to treat the manufactured home as real property under Section 1201.2055, Occupations Code;

(2) is located in an area declared by the governor to be a disaster area following a disaster;

(3) is at least 15 percent damaged by the disaster, as determined by the chief appraiser under this section; and

(4) for property described by Subdivision (1)(A), is the subject of a rendition statement or property report filed by the property owner under Section 22.01 that demonstrates that the property had taxable situs in the disaster area for the tax year in

which the disaster occurred.

(b) A person is entitled to an exemption from taxation by a taxing unit of a portion of the appraised value of qualified property that the person owns in an amount determined under Subsection (h).

(c) Notwithstanding Subsection (b), if the governor first declares territory in a taxing unit to be a disaster area as a result of a disaster on or after the date a taxing unit adopts a tax rate for the tax year in which the declaration is issued, a person is not entitled to the exemption for that tax year unless the governing body of the taxing unit adopts the exemption in the manner provided by law for official action by the body.

(d) An exemption adopted by the governing body of a taxing unit under Subsection (c) must:

(1) specify the disaster to which the exemption pertains; and

(2) be adopted not later than the 60th day after the date the governor first declares territory in the taxing unit to be a disaster area as a result of the disaster.

(e) A taxing unit the governing body of which adopts an exemption under Subsection (c) shall, not later than the seventh day after the date the governing body adopts the exemption, notify the chief appraiser of each appraisal district in which the taxing unit participates, the assessor for the taxing unit, and the comptroller of the adoption of the exemption.

(f) On receipt of an application for the exemption authorized by this section, the chief appraiser shall determine whether any item of qualified property that is the subject of the application is at least 15 percent damaged by the disaster and assign to each such item of qualified property a damage assessment rating of Level I, Level II, Level III, or Level IV, as appropriate, as provided by Subsection (g). In determining the appropriate damage assessment rating, the chief appraiser may rely on information provided by a county emergency management authority, the Federal Emergency Management Agency, or any other source the chief appraiser considers appropriate.

(g) The chief appraiser shall assign to an item of qualified property:

(1) a Level I damage assessment rating if the property is at least 15 percent, but less than 30 percent, damaged, meaning that the property suffered minimal damage and may continue to be used as

intended;

(2) a Level II damage assessment rating if the property is at least 30 percent, but less than 60 percent, damaged, which, for qualified property described by Subsection (a)(1)(B) or (C), means that the property has suffered only nonstructural damage, including nonstructural damage to the roof, walls, foundation, or mechanical components, and the waterline, if any, is less than 18 inches above the floor;

(3) a Level III damage assessment rating if the property is at least 60 percent damaged but is not a total loss, which, for qualified property described by Subsection (a)(1)(B) or (C), means that the property has suffered significant structural damage requiring extensive repair due to the failure or partial failure of structural elements, wall elements, or the foundation, or the waterline is at least 18 inches above the floor; or

(4) a Level IV damage assessment rating if the property is a total loss, meaning that repair of the property is not feasible.

(h) Subject to Subsection (i), the amount of the exemption authorized by this section for an item of qualified property is determined by multiplying the appraised value, determined for the tax year in which the disaster occurred, of the property by:

(1) 15 percent, if the property is assigned a Level I damage assessment rating;

(2) 30 percent, if the property is assigned a Level II damage assessment rating;

(3) 60 percent, if the property is assigned a Level III damage assessment rating; or

(4) 100 percent, if the property is assigned a Level IV damage assessment rating.

(i) If a person qualifies for the exemption authorized by this section after the beginning of the tax year, the amount of the exemption is calculated by multiplying the amount determined under Subsection (h) by a fraction, the denominator of which is 365 and the numerator of which is the number of days remaining in the tax year after the day on which the governor first declares the area in which the person's qualified property is located to be a disaster area, including the day on which the governor makes the declaration.

(j) If a person qualifies for the exemption authorized by this section after the amount of the tax due on the qualified 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 applicable 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. No interest is due on an amount refunded under this subsection.

(k) The exemption authorized by this section expires as to an item of qualified property on January 1 of the first tax year in which the property is reappraised under Section 25.18.

Added by Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 1, eff. January 1, 2020.

SUBCHAPTER C. ADMINISTRATION OF EXEMPTIONS

Sec. 11.41. PARTIAL OWNERSHIP OF EXEMPT PROPERTY. (a) If a person who qualifies for an exemption as provided by this chapter is not the sole owner of the property to which the exemption applies, the exemption shall be multiplied by a fraction, the numerator of which is the value of the property interest the person owns and the denominator of which is the value of the property.

(b) In the application of this section, community ownership by a person who qualifies for the exemption and the person's spouse is treated as if the person owns the community interest of the person's spouse.

(c) An heir property owner who qualifies heir property as the owner's residence homestead under this chapter is considered the sole owner of the property for the purposes of this section.

Acts 1979, 66th Leg., p. 2244, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 194, Sec. 2, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1039, Sec. 15, eff. Jan. 1, 1998.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 6, eff. September 1, 2019.

Sec. 11.42. EXEMPTION QUALIFICATION DATE. (a) Except as provided by Subsections (b) and (c) and by Sections 11.421, 11.422, 11.434, 11.435, and 11.436, eligibility for and amount of an exemption authorized by this chapter for any tax year are determined by a claimant's qualifications on January 1. A person who does not qualify for an exemption on January 1 of any year may not receive the exemption that year.

(b) An exemption authorized by Section 11.11 or 11.141 is effective immediately on qualification for the exemption.

(c) An exemption authorized by Section 11.13(c) or (d), 11.132, 11.133, or 11.134 is effective as of January 1 of the tax year in which the person qualifies for the exemption and applies to the entire tax year.

(d) A person who acquires property after January 1 of a tax year may receive an exemption authorized by Section 11.17, 11.18, 11.19, 11.20, 11.21, 11.23, 11.231, or 11.30 for the applicable portion of that tax year immediately on qualification for the exemption.

(e) A person who qualifies for an exemption under Section 11.131 or 11.35 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.

Acts 1979, 66th Leg., p. 2245, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 640, Sec. 2, eff. Aug. 31, 1987; Acts 1991, 72nd Leg., ch. 836, Sec. 6.1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 345, Sec. 2, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 1039, Sec. 16, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1059, Sec. 1, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1155, Sec. 1, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 1481, Sec. 3, eff. Jan. 1, 2000; Acts 2003, 78th Leg., ch. 411, Sec. 3, eff. Jan. 1, 2004.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1417 (H.B. 770), Sec. 6, eff. January 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 597 (S.B. 201), Sec. 1, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 122 (H.B. 97), Sec. 2, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 138 (S.B. 163), Sec. 2, eff.

January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(25), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 511 (S.B. 15), Sec. 2, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 459 (H.B. 2859), Sec. 2, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 2, eff. January 1, 2020.

Sec. 11.421. QUALIFICATION OF RELIGIOUS ORGANIZATION. (a) If the chief appraiser denies a timely filed application for an exemption under Section 11.20 for an organization that otherwise qualified for the exemption on January 1 of the year but that did not satisfy the requirements of Subsection (c)(4) of that section on that date, the organization is eligible for the exemption for the tax year if the organization:

(1) satisfies the requirements of Section 11.20(c)(4) before the later of:

(A) June 1 of the year to which the exemption applies; or

(B) the 60th day after the date the chief appraiser notifies the organization of its failure to comply with those requirements; and

(2) within the time provided by Subdivision (1) files with the chief appraiser a new completed application for the exemption together with an affidavit stating that the organization has complied with the requirements of Section 11.20(c)(4).

(b) If the chief appraiser cancels an exemption for a religious organization under Section 11.20 that was erroneously allowed in a tax year because he determines that the organization did not satisfy the requirements of Section 11.20(c)(4) on January 1 of that year, the organization is eligible for the exemption for that tax year if the organization:

(1) was otherwise qualified for the exemption;

(2) satisfies the requirements of Section 11.20(c)(4) on or before the 60th day after the date the chief appraiser notifies the organization of the cancellation; and

(3) within the time provided by Subdivision (2) files with

the chief appraiser a new completed application for the exemption together with an affidavit stating that the organization has complied with the requirements of Section 11.20(c)(4).

Added by Acts 1987, 70th Leg., ch. 640, Sec. 3, eff. Aug. 31, 1987. Amended by Acts 1997, 75th Leg., ch. 1039, Sec. 17, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1411, Sec. 5, eff. June 20, 1997.

Sec. 11.422. QUALIFICATIONS OF A SCHOOL. (a) If the chief appraiser denies a timely filed application for an exemption under Section 11.21 for a school that otherwise qualified for the exemption on January 1 of the year but that did not satisfy the requirements of Subsection (d)(5) of that section on that date, the school is eligible for the exemption for the tax year if the school:

(1) satisfies the requirements of Section 11.21(d)(5) before the later of:

(A) July 1 of the year for which the exemption applies; or

(B) the 60th day after the date the chief appraiser notifies the school of its failure to comply with those requirements; and

(2) within the time provided by Subdivision (1), files with the chief appraiser a new completed application for the exemption together with an affidavit stating that the school has complied with the requirements of Section 11.21(d)(5).

(b) If the chief appraiser cancels an exemption for a school under Section 11.21 that was erroneously allowed in a tax year because the appraiser determines that the school did not satisfy the requirements of Section 11.21(d)(5) on January 1 of that year, the school is eligible for the exemption for that tax year if the school:

(1) was otherwise qualified for the exemption;

(2) satisfies the requirements of Section 11.21(d)(5) on or before the 30th day after the date the chief appraiser notifies the school of the cancellation; and

(3) in the time provided in Subdivision (2) files with the chief appraiser a new completed application stating that the school has complied with the requirements of Section 11.21(d)(5).

Added by Acts 1991, 72nd Leg., ch. 836, Sec. 6.2, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1039, Sec. 17, eff. Jan. 1,

1998; Acts 1997, 75th Leg., ch. 1411, Sec. 5, eff. June 20, 1997.

Sec. 11.423. QUALIFICATION OF CHARITABLE ORGANIZATION OR YOUTH ASSOCIATION. (a) If the chief appraiser denies a timely filed application for an exemption under Section 11.18 or 11.19 for an organization or association that otherwise qualified for the exemption on January 1 of the year but that did not satisfy the requirements of Section 11.18(f)(2) or 11.19(d)(5), as appropriate, on that date, the organization or association is eligible for the exemption for the tax year if the organization or association:

(1) satisfies the requirements of Section 11.18(f)(2) or 11.19(d)(5), as appropriate, before the later of:

(A) June 1 of the year to which the exemption applies; or

(B) the 60th day after the date the chief appraiser notifies the organization or association of its failure to comply with those requirements; and

(2) within the time provided by Subdivision (1) files with the chief appraiser a new completed application for the exemption together with an affidavit stating that the organization or association has complied with the requirements of Section 11.18(f)(2) or 11.19(d)(5), as appropriate.

(b) If the chief appraiser cancels an exemption for an organization or association under Section 11.18 or 11.19 that was erroneously allowed in a tax year because the chief appraiser determines that the organization or association did not satisfy the requirements of Section 11.18(f)(2) or 11.19(d)(5), as appropriate, on January 1 of that year, the organization or association is eligible for the exemption for that tax year if the organization or association:

(1) was otherwise qualified for the exemption;

(2) satisfies the requirements of Section 11.18(f)(2) or 11.19(d)(5), as appropriate, on or before the 60th day after the date the chief appraiser notifies the organization or association of the cancellation; and

(3) within the time provided by Subdivision (2) files with the chief appraiser a new completed application for the exemption together with an affidavit stating that the organization or association has complied with the requirements of Section 11.18(f)(2)

or 11.19(d)(5), as appropriate.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 18, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1411, Sec. 6, eff. June 20, 1997.

Sec. 11.424. CONFLICT BETWEEN GOVERNING REGULATION OF NONPROFIT ORGANIZATION, ASSOCIATION, OR ENTITY AND CONTRACT WITH UNITED STATES. To the extent of a conflict between a provision in a contract entered into by an organization, association, or entity with the United States and a provision in the charter, a bylaw, or other regulation adopted by the organization or entity to govern its affairs in compliance with Section 11.18(f)(2), 11.19(d)(5), 11.20(c)(4), or 11.21(d)(5), the existence of the contract or the organization's compliance with the contract does not affect the eligibility of the organization, association, or entity to receive an exemption under the applicable section of this code, and the organization, association, or entity may comply with the provision in the contract instead of the conflicting provision in the charter, bylaw, or other regulation.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 18, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1411, Sec. 6, eff. June 20, 1997.

Sec. 11.43. APPLICATION FOR EXEMPTION.

(a) To receive an exemption, a person claiming the exemption, other than an exemption authorized by Section 11.11, 11.12, 11.14, 11.141, 11.145, 11.146, 11.15, 11.16, 11.161, or 11.25, must apply for the exemption. To apply for an exemption, a person must file an exemption application form with the chief appraiser for each appraisal district in which the property subject to the claimed exemption has situs.

(b) Except as provided by Subsection (c) and by Sections 11.184 and 11.437, a person required to apply for an exemption must apply each year the person claims entitlement to the exemption.

(c) An exemption provided by Section 11.13, 11.131, 11.132, 11.133, 11.134, 11.17, 11.18, 11.182, 11.1827, 11.183, 11.19, 11.20, 11.21, 11.22, 11.23(a), (h), (j), (j-1), or (m), 11.231, 11.254, 11.27, 11.271, 11.29, 11.30, 11.31, 11.315, or 11.35, 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, except as provided by Subsection (r), 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. If the person previously allowed the exemption is 65 years of age or older, the chief appraiser may not cancel the exemption due to the person's failure to file the new application unless the chief appraiser complies with the requirements of Subsection (q), if applicable.

(d) To receive an exemption the eligibility for which is determined by the claimant's qualifications on January 1 of the tax year, a person required to claim an exemption must file a completed exemption application form before May 1 and must furnish the information required by the form. A person who after January 1 of a tax year acquires property that qualifies for an exemption covered by Section 11.42(d) must apply for the exemption for the applicable portion of that tax year before the first anniversary of the date the person acquires the property. For good cause shown the chief appraiser may extend the deadline for filing an exemption application by written order for a single period not to exceed 60 days.

(e) Except as provided by Section 11.422, 11.431, 11.433, 11.434, 11.435, or 11.439, or 11.4391, if a person required to apply for an exemption in a given year fails to file timely a completed application form, the person may not receive the exemption for that year.

(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.

(g) A person who receives an exemption that is not required to be claimed annually shall notify the appraisal office in writing before May 1 after his entitlement to the exemption ends.

(h) If the chief appraiser learns of any reason indicating that an exemption previously allowed should be canceled, the chief appraiser shall investigate. Subject to Subsection (q), if the chief appraiser determines that the property should not be exempt, the chief appraiser shall cancel the exemption and deliver written notice of the cancellation within five days after the date the exemption is canceled.

(i) If the chief appraiser discovers that an exemption that is not required to be claimed annually has been erroneously allowed in any one of the five preceding years, the chief appraiser shall add the property or appraised value that was erroneously exempted for each year to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation. If an exemption that was erroneously allowed did not apply to all taxing units in which the property was located, the chief appraiser shall note on the appraisal records, for each prior year, the taxing units that gave the exemption and are entitled to impose taxes on the property or value that escaped taxation.

(j) In addition to the items required by Subsection (f), an application for a residence homestead exemption prescribed by the comptroller and authorized by 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;

(4) include a copy of the applicant's driver's license or state-issued personal identification certificate unless the applicant:

(A) is a resident of a facility that provides services related to health, infirmity, or aging; or

(B) is certified for participation in the address confidentiality program administered by the attorney general under Subchapter B, Chapter 58, Code of Criminal Procedure;

(5) state that the applicant has read and understands the notice of the penalties required by Subsection (f); and

(6) be signed by the applicant.

(k) A person who qualifies for an exemption authorized by Section 11.13(c) or (d) or 11.132 must apply for the exemption no later than the first anniversary of the date the person qualified for the exemption.

(l) The form for an application under Section 11.13 must include a space for the applicant to state the applicant's date of birth. Failure to provide the date of birth does not affect the applicant's eligibility for an exemption under that section, other than an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older.

(m) Notwithstanding Subsections (a) and (k), a person who receives an exemption under Section 11.13, other than an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older, in a tax year is entitled to receive an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older in the next tax year on the same property without applying for the exemption if the person becomes 65 years of age in that next year as shown by:

(1) information in the records of the appraisal district that was provided to the appraisal district by the individual in an application for an exemption under Section 11.13 on the property or in correspondence relating to the property; or

(2) the information provided by the Texas Department of

Public Safety to the appraisal district under Section 521.049, Transportation Code.

(m-1) Subsection (m) does not apply if the chief appraiser determines that the individual is no longer entitled to any exemption under Section 11.13 on the property.

(n) Except as provided by Subsection (p), a chief appraiser may not allow an applicant an exemption provided by Section 11.13 if the applicant is required under Subsection (j) to provide a copy of the applicant's driver's license or state-issued personal identification certificate unless the address listed on the driver's license or state-issued personal identification certificate provided by the applicant corresponds to the address of the property for which the exemption is claimed.

(o) The application form for a residence homestead exemption must require an applicant who is not specifically identified on a deed or other appropriate instrument recorded in the real property records of the county in which the property is located as an owner of the residence homestead, including an heir property owner, to provide:

(1) an affidavit establishing the applicant's ownership of an interest in the property;

(2) a copy of the death certificate of the prior owner of the property, if the applicant is an heir property owner;

(3) a copy of the most recent utility bill for the property, if the applicant is an heir property owner; and

(4) a citation of any court record relating to the applicant's ownership of the property if available.

(o-1) The application form for a residence homestead exemption may not require an heir property owner to provide a copy of an instrument recorded in the real property records of the county in which the property is located.

(o-2) The application form for a residence homestead exemption must require:

(1) an applicant who is an heir property owner to state that the property for which the application is submitted is heir property; and

(2) each owner of an interest in heir property who occupies the property as the owner's principal residence, other than the applicant, to provide an affidavit that authorizes the submission of the application.

(p) A chief appraiser may waive the requirement provided by Subsection (n) that the address of the property for which the exemption is claimed correspond to the address listed on the driver's license or state-issued personal identification certificate provided by the applicant under Subsection (j) if the applicant:

(1) is an active duty member of the armed services of the United States or the spouse of an active duty member and the applicant includes with the application a copy of the applicant's or spouse's military identification card and a copy of a utility bill for the property subject to the claimed exemption in the applicant's or spouse's name; or

(2) holds a driver's license issued under Section 521.121(c) or 521.1211, Transportation Code, and includes with the application a copy of the application for that license provided to the Texas Department of Transportation.

(q) A chief appraiser may not cancel an exemption under Section 11.13 that is received by an individual who is 65 years of age or older without first providing written notice of the cancellation to the individual receiving the exemption. The notice must include a form on which the individual may indicate whether the individual is qualified to receive the exemption and a self-addressed postage prepaid envelope with instructions for returning the form to the chief appraiser. The chief appraiser shall consider the individual's response on the form in determining whether to continue to allow the exemption. If the chief appraiser does not receive a response on or before the 60th day after the date the notice is mailed, the chief appraiser may cancel the exemption on or after the 30th day after the expiration of the 60-day period, but only after making a reasonable effort to locate the individual and determine whether the individual is qualified to receive the exemption. For purposes of this subsection, sending an additional notice of cancellation that includes, in bold font equal to or greater in size than the surrounding text, the date on which the chief appraiser is authorized to cancel the exemption to the individual receiving the exemption immediately after the expiration of the 60-day period by first class mail in an envelope on which is written, in all capital letters, "RETURN SERVICE REQUESTED," or another appropriate statement directing the United States Postal Service to return the notice if it is not deliverable as addressed, or providing the additional notice in another manner that the chief appraiser determines is appropriate,

constitutes a reasonable effort on the part of the chief appraiser. This subsection does not apply to an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older that is canceled because the chief appraiser determines that the individual receiving the exemption no longer owns the property subject to the exemption.

(r) The chief appraiser may not require a person allowed an exemption under Section 11.131 to file a new application to determine the person's current qualification for the exemption if the person has a permanent total disability determined by the United States Department of Veterans Affairs under 38 C.F.R. Section 4.15.

(s) A person who qualifies for an exemption under Section 11.35(b) must apply for the exemption not later than the 105th day after the date the governor declares the area in which the person's qualified property is located to be a disaster area. A person who qualifies for an exemption under Section 11.35(c) must apply for the exemption not later than the 45th day after the date the governing body of the taxing unit adopts the exemption. The chief appraiser may extend the deadlines prescribed by this subsection for good cause shown.

Acts 1979, 66th Leg., p. 2245, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 131, ch. 13, Sec. 40, 41, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 3442, ch. 574, Sec. 1, eff. Jan. 1, 1984; Acts 1983, 68th Leg., p. 4823, ch. 851, Sec. 8, eff. Aug. 29, 1983; Acts 1987, 70th Leg., ch. 428, Sec. 2, eff. Jan. 1, 1988; Acts 1987, 70th Leg., ch. 791, Sec. 1, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 76, Sec. 2, eff. Jan. 1, 1990; Acts 1990, 71st Leg., 6th C.S., ch. 8, Sec. 2, eff. Sept. 6, 1990; Acts 1991, 72nd Leg., ch. 306, Sec. 2, eff. Jan. 1, 1992; Acts 1991, 72nd Leg., ch. 836, Sec. 6.5, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 12, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 198, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 285, Sec. 2, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 779, Sec. 2, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 296, Sec. 2, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 381, Sec. 1, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 194, Sec. 3, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 726, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1039, Sec. 19, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1059, Sec. 4, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1155, Sec. 2, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 62, Sec.

16.02, 16.03, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 675, Sec. 2, eff. Jan. 1, 2000; Acts 1999, 76th Leg., ch. 1481, Sec. 4, 5, eff. Jan. 1, 2000; Acts 2001, 77th Leg., ch. 125, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 213, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 842, Sec. 1, eff. June 14, 2001; Acts 2001, 77th Leg., ch. 1040, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 18.004, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 407, Sec. 1, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 411, Sec. 4, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 1275, Sec. 3(39), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 15.001(a), eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 20.02, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 766 (H.B. 3514), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 706 (H.B. 2814), Sec. 1, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1405 (H.B. 3613), Sec. 1(c), eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1417 (H.B. 770), Sec. 7, eff. January 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 221 (H.B. 252), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 3, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 712 (H.B. 645), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 122 (H.B. 97), Sec. 3, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 138 (S.B. 163), Sec. 3, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 298 (H.B. 1287), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 942 (H.B. 1712), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1030 (H.B. 2712), Sec. 2, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 373 (S.B. 918), Sec. 1, eff.

January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 390 (H.B. 706), Sec. 1, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 531 (H.B. 1463), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1119 (H.B. 3623), Sec. 2, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(26), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 130 (H.B. 1101), Sec. 1, eff. January 1, 2018.

Acts 2017, 85th Leg., R.S., Ch. 511 (S.B. 15), Sec. 3, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 459 (H.B. 2859), Sec. 3, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.64, eff. January 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 3, eff. January 1, 2020.

Sec. 11.431. LATE APPLICATION FOR HOMESTEAD EXEMPTION. (a) The chief appraiser shall accept and approve or deny an application for a residence homestead exemption, including an exemption under Section 11.131 or 11.132 for the residence homestead of a disabled veteran or the surviving spouse of a disabled veteran, an exemption under Section 11.133 for the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed in action, or an exemption under Section 11.134 for the residence homestead of the surviving spouse of a first responder who is killed or fatally injured in the line of duty, after the deadline for filing it has passed if it is filed not later than two years after the delinquency date for the taxes on the homestead.

(b) If a late application is approved after approval of the appraisal records by the appraisal review board, the chief appraiser shall notify the collector for each unit in which the residence is located not later than the 30th day after the date the late application is approved. The collector shall deduct from the

person's tax bill the amount of tax imposed on the exempted amount if the tax has not been paid. If the tax has been paid, the collector shall refund to the person who was the owner of the property on the date the tax was paid the amount of tax imposed on the exempted amount. The collector shall pay the refund not later than the 60th day after the date the chief appraiser notifies the collector of the approval of the exemption. A person is not required to apply for a refund under this subsection to receive the refund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 132, ch. 13, Sec. 42, eff. Jan. 1, 1982. Amended by Acts 2003, 78th Leg., ch. 650, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1405 (H.B. 3613), Sec. 1(d), eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1222 (S.B. 516), Sec. 3, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 122 (H.B. 97), Sec. 4, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 138 (S.B. 163), Sec. 4, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 4, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(27), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 239 (H.B. 626), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 511 (S.B. 15), Sec. 4, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 448 (S.B. 1856), Sec. 2, eff. September 1, 2019.

Sec. 11.432. HOMESTEAD EXEMPTION FOR MANUFACTURED HOME. (a) Except as provided by Subsection (a-1), for a manufactured home to qualify as a residence homestead under Section 11.13, the application for exemption required by Section 11.43 must be accompanied by:

(1) a copy of the statement of ownership 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 copy of the sales purchase agreement or other applicable contract or agreement or the 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 the applicable contract or agreement; and

(C) the applicant could not locate the seller after making a good faith effort.

(a-1) An 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.

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

(1) the land is owned by one or more individuals, including the applicant;

(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).

(c) The owner of land that qualifies as a residence homestead under this section 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 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) In this section, "manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

Added by Acts 1985, 69th Leg., ch. 846, Sec. 14, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 1039, Sec. 4.02, eff. Sept. 1,

1989; Acts 1993, 73rd Leg., ch. 274, Sec. 12, eff. Aug. 30, 1993; Acts 2003, 78th Leg., ch. 338, Sec. 44, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 70, eff. January 1, 2008.

Acts 2011, 82nd Leg., R.S., Ch. 221 (H.B. 252), Sec. 2(a), eff. January 1, 2012.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 80, eff. September 1, 2017.

Sec. 11.433. LATE APPLICATION FOR RELIGIOUS ORGANIZATION EXEMPTION. (a) The chief appraiser shall accept and approve or deny an application for a religious organization exemption under Section 11.20 after the filing deadline provided by Section 11.43 if the application is filed not later than December 31 of the fifth year after the year in which the taxes for which the exemption is claimed were imposed.

(b) The chief appraiser may not approve a late application for an exemption filed under this section if the taxes imposed on the property for the year for which the exemption is claimed are paid before the application is filed.

(c) If a late application is approved after approval of the appraisal records for the year for which the exemption is granted, the chief appraiser shall notify the collector for each taxing unit in which the property was taxable in the year for which the exemption is granted. The collector shall deduct from the organization's tax bill the amount of tax imposed on the property for that year if the tax has not been paid and any unpaid penalties and accrued interest relating to that tax. The collector may not refund taxes, penalties, or interest paid on the property for which an exemption is granted under this section.

(d) The chief appraiser may grant an exemption for property pursuant to an application filed under this section only if the property otherwise qualified for the exemption under the law in effect on January 1 of the tax year for which the exemption is claimed.

(e) Repealed by Acts 1999, 76th Leg., ch. 449, Sec. 5, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 817, Sec. 4, eff. September 1, 1999.

Added by Acts 1990, 71st Leg., 6th C.S., ch. 8, Sec. 1, eff. Sept. 6, 1990. Amended by Acts 1993, 73rd Leg., ch. 971, Sec. 1, eff. June 19, 1993; Acts 1997, 75th Leg., ch. 170, Sec. 1, eff. May 21, 1997; Acts 1999, 76th Leg., ch. 449, Sec. 1, 5, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 817, Sec. 4, eff. Sept. 1, 1999.

Sec. 11.434. LATE APPLICATION FOR A SCHOOL EXEMPTION. (a) The chief appraiser shall accept or deny an application for a school exemption under Section 11.21 after the filing deadline provided by Section 11.43 if the application is filed not later than December 31 of the fifth year after the year in which the taxes for which the exemption is claimed were imposed.

(b) The chief appraiser may not approve a late application for an exemption filed under this section if the taxes imposed on the property for the year for which the exemption is claimed are paid before the application is filed.

(c) If a late application is approved after approval of the appraisal records for the year for which the exemption is granted, the chief appraiser shall notify the collector for each taxing unit in which the property was taxable in the year for which the exemption is granted. The collector shall deduct from the school's tax bill the amount of tax imposed on the property for that year if the tax has not been paid and any unpaid penalties and accrued interest relating to that tax. The collector may not refund taxes, penalties, or interest paid on the property for which an exemption is granted under this section.

(d) Repealed by Acts 1999, 76th Leg., ch. 449, Sec. 5, eff. June 18, 1999.

Added by Acts 1991, 72nd Leg., ch. 836, Sec. 6.3, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 1411, Sec. 7, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 449, Sec. 2, 5, eff. June 18, 1999.

Sec. 11.435. LATE APPLICATION FOR CHARITABLE ORGANIZATION EXEMPTION. (a) The chief appraiser shall accept and approve or deny an application for a charitable organization exemption under Section 11.18 after the filing deadline provided by Section 11.43 if the application is filed not later than December 31 of the fifth year

after the year in which the taxes for which the exemption is claimed were imposed.

(b) The chief appraiser may not approve a late application for an exemption filed under this section if the taxes imposed on the property for the year for which the exemption is claimed are paid before the application is filed.

(c) If a late application is approved after approval of the appraisal records for the year for which the exemption is granted, the chief appraiser shall notify the collector for each taxing unit in which the property was taxable in the year for which the exemption is granted. The collector shall deduct from the organization's tax bill the amount of tax imposed on the property for that year if the tax has not been paid and any unpaid penalties and accrued interest relating to that tax. The collector may not refund taxes, penalties, or interest paid on the property for which an exemption is granted under this section.

(d) The chief appraiser may grant an exemption for property pursuant to an application filed under this section only if the property otherwise qualified for the exemption under the law in effect on January 1 of the tax year for which the exemption is claimed.

(e) Repealed by Acts 1999, 76th Leg., ch. 449, Sec. 5, eff. June 18, 1999.

Added by Acts 1991, 72nd Leg., ch. 836, Sec. 6.4, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 170, Sec. 2, eff. May 21, 1997; Acts 1999, 76th Leg., ch. 449, Sec. 3, 5, eff. June 18, 1999.

Sec. 11.436. APPLICATION FOR EXEMPTION OF CERTAIN PROPERTY USED FOR LOW-INCOME HOUSING. (a) An organization that acquires property that qualifies for an exemption under Section 11.181(a) or 11.1825 may apply for the exemption for the year of acquisition not later than the 30th day after the date the organization acquires the property, and the deadline provided by Section 11.43(d) does not apply to the application for that year.

(b) If the application is granted, the exemption for that year applies only to the portion of the year in which the property qualifies for the exemption, as provided by Section 26.111. If the application is granted after approval of the appraisal records by the

appraisal review board, the chief appraiser shall notify the collector for each taxing unit in which the property is located. The collector shall calculate the amount of tax due on the property in that year as provided by Section 26.111 and shall refund any amount paid in excess of that amount.

(c) To facilitate the financing associated with the acquisition of a property, an organization, before acquiring the property, may request from the chief appraiser of the appraisal district established for the county in which the property is located a preliminary determination of whether the property would qualify for an exemption under Section 11.1825 if acquired by the organization. The request must include the information that would be included in an application for an exemption for the property under Section 11.1825. Not later than the 45th day after the date a request is submitted under this subsection, the chief appraiser shall issue a written preliminary determination for the property included in the request. A preliminary determination does not affect the granting of an exemption under Section 11.1825.

Added by Acts 1993, 73rd Leg., ch. 345, Sec. 3, eff. Jan. 1, 1994. Amended by Acts 1997, 75th Leg., ch. 715, Sec. 3, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 842, Sec. 3, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 1156, Sec. 4, eff. Jan. 1, 2004.

Sec. 11.437. EXEMPTION FOR COTTON STORED IN WAREHOUSE. (a) A person who operates a warehouse used primarily for the storage of cotton for transportation outside of this state may apply for an exemption under Section 11.251 for cotton stored in the warehouse on behalf of all the owners of the cotton. An exemption granted under this section applies to all cotton stored in the warehouse that is eligible to be exempt under Section 11.251. Cotton that is stored in a warehouse covered by an exemption granted under this section and that is transported outside of this state is presumed to have been transported outside of this state within the time permitted by Article VIII, Section 1-j, of the Texas Constitution for cotton to qualify for an exemption under that section.

(b) An exemption granted under this section, once allowed, need not be claimed in subsequent years, and except as provided by Section 11.43(e), the exemption applies to cotton stored in the warehouse

until the warehouse changes ownership or the cotton's qualification for the exemption changes. The chief appraiser may, however, require a person who operates a warehouse for which an exemption for cotton has been granted in a prior year to file a new application to confirm the cotton'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.

Added by Acts 1993, 73rd Leg., ch. 779, Sec. 3, eff. Jan. 1, 1994. Renumbered from Tax Code Sec. 11.436 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(45), eff. Sept. 1, 1995.

Sec. 11.438. LATE APPLICATION FOR VETERAN'S ORGANIZATION EXEMPTION. (a) The chief appraiser shall accept and approve or deny an application for a veteran's organization exemption under Section 11.23(a) after the filing deadline provided by Section 11.43 if the application is filed not later than December 31 of the fifth year after the year in which the taxes for which the exemption is claimed were imposed.

(b) If the taxes and related penalties and interest imposed on the property for the year for which the exemption is claimed are paid before an application is filed under this section, the chief appraiser may approve the late application for an exemption only on a showing that the taxes, penalties, and interest were paid under protest.

(c) If a late application is approved after approval of the appraisal records for a year for which the exemption is granted, the chief appraiser shall notify the collector for each taxing unit in which the property was taxable in that year. The collector shall deduct from the organization's tax bill the amount of tax imposed on the property for that year and any penalties and interest relating to that tax if the tax and related penalties and interest have not been paid. If the tax and related penalties and interest on the property for a tax year for which an exemption is granted under this section were paid under protest, the organization is eligible for a refund of the tax, penalties, and interest paid as provided by Section 31.11. The deadline prescribed by Section 31.11(c) for applying for a refund does not apply to a refund under this section.

(d) Repealed by Acts 1999, 76th Leg., ch. 449, Sec. 5, eff.

June 18, 1999.

Added by Acts 1997, 75th Leg., ch. 1328, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 449, Sec. 4, 5, eff. June 18, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 494 (S.B. 798), Sec. 2, eff. January 1, 2010.

Sec. 11.439. LATE APPLICATION FOR DISABLED VETERANS EXEMPTION. (a) The chief appraiser shall accept and approve or deny an application for an exemption under Section 11.22 after the filing deadline provided by Section 11.43 if the application is filed not later than five years after the delinquency date for the taxes on the property.

(b) If a late application is approved after approval of the appraisal records for the year for which the exemption is granted, the chief appraiser shall notify the collector for each taxing unit in which the property was taxable in that year not later than the 30th day after the date the late application is approved. The collector shall correct the taxing unit's tax roll to reflect the amount of tax imposed on the property after applying the exemption and shall deduct from the person's tax bill the amount of tax imposed on the exempted portion of the property for that year. If the tax and any related penalties and interest have been paid, the collector shall pay to the person who was the owner of the property on the date the tax was paid a refund of the tax imposed on the exempted portion of the property and the corresponding portion of any related penalties and interest paid. The collector shall pay the refund not later than the 60th day after the date the chief appraiser notifies the collector of the approval of the exemption.

Added by Acts 2001, 77th Leg., ch. 213, Sec. 2, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 7, eff. September 1, 2005.
Acts 2017, 85th Leg., R.S., Ch. 239 (H.B. 626), Sec. 2, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 448 (S.B. 1856), Sec. 3, eff. September 1, 2019.

Sec. 11.4391. LATE APPLICATION FOR FREEPORT EXEMPTION. (a) The chief appraiser shall accept and approve or deny an application for an exemption for freeport goods under Section 11.251 after the deadline for filing it has passed if it is filed on or before the later of:

(1) June 15; or

(2) if applicable, the 60th day after the date on which the chief appraiser delivers notice to the property owner under Section 22.22.

(b) If the application is approved, the property owner is liable to each taxing unit for a penalty in an amount equal to 10 percent of the difference between the amount of tax imposed by the taxing unit on the inventory or property, a portion of which consists of freeport goods, and the amount that would otherwise have been imposed.

(c) The chief appraiser shall make an entry on the appraisal records for the inventory or property indicating the property owner's liability for the penalty and shall deliver a written notice of imposition of the penalty, explaining the reason for its imposition, to the property owner.

(d) The tax assessor for a taxing unit that taxes the inventory or property shall add the amount of the penalty to the property owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner the collector collects the tax. The amount of the penalty constitutes a lien against the inventory or property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Added by Acts 2001, 77th Leg., ch. 125, Sec. 3, eff. Sept. 1, 2002. Renumbered from Tax Code Sec. 11.439 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(122), eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 357 (H.B. 2228), Sec. 1, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 26, eff. January 1, 2020.

Sec. 11.44. NOTICE OF APPLICATION REQUIREMENTS. (a) Before February 1 of each year, the chief appraiser shall deliver an appropriate exemption application form to each person who in the preceding year was allowed an exemption that must be applied for annually. He shall include a brief explanation of the requirements of Section 11.43 of this code.

(b) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of Section 11.43 of this code and the availability of application forms.

(c) The comptroller shall prescribe by rule the content of the explanation required by Subsection (a) of this section, and shall require that each exemption application form be printed and prepared:

(1) as a separate form from any other form; or

(2) on the front of the form if the form also provides for other information.

Acts 1979, 66th Leg., p. 2246, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 132, ch. 13, Sec. 43, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 13, eff. Sept. 1, 1991.

Sec. 11.45. ACTION ON EXEMPTION APPLICATIONS. (a) The chief appraiser shall determine separately each applicant's right to an exemption. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and allow the exemption;

(2) modify the exemption applied for and allow the exemption as modified;

(3) disapprove the application and request additional information from the applicant in support of the claim; or

(4) deny the application.

(b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each

application for exemption filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser modifies or denies an exemption, he shall deliver a written notice of the modification or denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action.

(e) If the chief appraiser approves, modifies, or denies an application for an exemption under Section 11.35, the chief appraiser shall deliver a written notice of the approval, modification, or denial to the applicant not later than the fifth day after the date the chief appraiser makes the determination. The notice must include the damage assessment rating assigned by the chief appraiser to each item of qualified property that is the subject of the application and a brief explanation of the procedures for protesting the chief appraiser's determination. The notice required under this subsection is in lieu of any notice that would otherwise be required under Subsection (d).

Acts 1979, 66th Leg., p. 2246, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1981, 67th Leg., 1st C.S., p. 133, ch. 13, Sec. 44, eff. Jan. 1, 1982.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 4, eff. January 1, 2020.

Sec. 11.46. COMPILATION OF PARTIAL EXEMPTIONS. Each year the chief appraiser shall compile and make available to the public a list showing for each taxing unit in the district the number of each kind of partial exemption allowed in that tax year and the total assessed value of each taxing unit that is exempted by each kind of partial exemption.

Acts 1979, 66th Leg., p. 2246, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1981, 67th Leg., 1st C.S., p. 133, ch. 13, Sec. 45, eff. Jan. 1, 1982.

Sec. 11.47. MAIL SURVEY OF RESIDENCE HOMESTEADS. (a) Between

December 1 and December 31 of any year, the appraisal office may mail a card to each person who was allowed, in that year, one or more residence homestead exemptions that are not required to be claimed annually. The appraisal office shall include on the card the description of the property and the kind and amount of residence homestead exemptions allowed for the property according to the appraisal office records.

(b) The appraisal office shall include on each card mailed as authorized by this section a direction to the postal authorities not to forward it to any other address and to return it to the appraisal office if the addressee is no longer at the address to which the card was mailed.

(c) The appraisal office shall investigate each residence homestead exemption allowed a person whose card is returned undelivered.

Added by Acts 1981, 67th Leg., 1st C.S., p. 133, ch. 13, Sec. 46, eff. Jan. 1, 1982.

Sec. 11.48. CONFIDENTIAL INFORMATION. (a) A driver's license number, personal identification certificate number, or social security account number provided in an application for an exemption filed with a chief appraiser is confidential and not open to public inspection. The information may not be disclosed to anyone other than an employee or agent of the appraisal district who appraises property or performs appraisal services for the appraisal district, except as authorized by Subsection (b).

(b) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the application or to the person's representative authorized in writing to receive the information;

(3) to the comptroller and the comptroller's employees authorized by the comptroller in writing to receive the information or to an assessor or a chief appraiser if requested in writing;

(4) in a judicial or administrative proceeding relating to property taxation to which the person who filed the application is a

party; or

(5) if and to the extent the information is required to be included in a public document or record that the appraisal district is required by law to prepare or maintain.

(c) A person who legally has access to an application for an exemption or who legally obtains the information from the application made confidential by this section commits an offense if the person knowingly:

(1) permits inspection of the confidential information by a person not authorized by Subsection (b) to inspect the information; or

(2) discloses the confidential information to a person not authorized by Subsection (b) to receive the information.

(d) An offense under Subsection (c) is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 436, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1118 (H.B. 3532), Sec. 1, eff. September 1, 2015.

Sec. 11.49. LEGAL TITLE NOT AFFECTED. (a) The grant or denial of an application by an heir property owner for a residence homestead exemption under this chapter does not affect the legal title of the property subject to the application and does not operate to transfer title to that property.

(b) An appraisal district, chief appraiser, appraisal review board, or county assessor-collector may not be made a party to a proceeding to adjudicate ownership of property described by Subsection (a) except as prescribed by this title.

Added by Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 8, eff. September 1, 2019.

SUBTITLE D. APPRAISAL AND ASSESSMENT

CHAPTER 21. TAXABLE SITUS

Sec. 21.01. REAL PROPERTY. Real property is taxable by a taxing unit if located in the unit on January 1, except as provided by Chapter 49, Education Code.

Acts 1979, 66th Leg., p. 2247, ch. 841, Sec. 1, eff. Jan. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 347, Sec. 4.10, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.74, eff. Sept. 1, 1997. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.089, eff. September 1, 2019.

Sec. 21.02. TANGIBLE PERSONAL PROPERTY GENERALLY. (a) Except as provided by Subsections (b) and (e) and by Sections 21.021, 21.04, and 21.05, tangible personal property is taxable by a taxing unit if:

(1) it is located in the unit on January 1 for more than a temporary period;

(2) it normally is located in the unit, even though it is outside the unit on January 1, if it is outside the unit only temporarily;

(3) it normally is returned to the unit between uses elsewhere and is not located in any one place for more than a temporary period; or

(4) the owner resides (for property not used for business purposes) or maintains the owner's principal place of business in this state (for property used for business purposes) in the unit and the property is taxable in this state but does not have a taxable situs pursuant to Subdivisions (1) through (3) of this subsection.

(b) Tangible personal property having taxable situs at the same location as real property detached from a school district and annexed by another school district under Chapter 49, Education Code, is taxable in the tax year in which the detachment and annexation occurs by the same school district by which the real property is taxable in that tax year under Chapter 49, Education Code. For purposes of this subsection and Chapter 49, Education Code, tangible personal property has taxable situs at the same location as real property detached and annexed under Chapter 49, Education Code, if the detachment and annexation of the real property, had it occurred before January 1 of the tax year, would have changed the taxable situs of the tangible personal property determined as provided by Subsection (a) from the school district from which the real property was detached to the school district to which the real property was annexed.

(c) Tangible personal property has taxable situs in a school district that is the result of a consolidation under Chapter 49,

Education Code, in the year in which the consolidation occurs if the property would have had taxable situs in the consolidated district in that year had the consolidation occurred before January 1 of that year.

(d) A motor vehicle does not have taxable situs in a taxing unit under Subsection (a)(1) if, on January 1, the vehicle:

(1) has been located for less than 60 days at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Motor Vehicles under Chapter 503, Transportation Code, for that place of business; and

(2) is offered for resale.

(e) In this subsection, "portable drilling rig" includes equipment associated with the drilling rig. A portable drilling rig designed for land-based oil or gas drilling or exploration operations is taxable by each taxing unit in which the rig is located on January 1 if the rig was located in the appraisal district that appraises property for the unit for the preceding 365 consecutive days. If the drilling rig was not located in the appraisal district where it is located on January 1 for the preceding 365 days, it is taxable by each taxing unit in which the owner's principal place of business in this state is located on January 1, unless the owner renders the rig under Chapter 22 to the appraisal district in which the rig is located on January 1, in which event the rig is taxable by each taxing unit in which the rig is located on January 1. If an owner elects to render any portable drilling rig to the appraisal district in which the rig is located on January 1 when the rig otherwise would be taxable at the owner's principal place of business in this state, all the owner's portable drilling rigs are taxable by the taxing units in which each rig is located on January 1. Notwithstanding any other provision of this subsection, if the owner of a portable drilling rig does not have a place of business in this state, the rig is taxable by each taxing unit in which the rig is located on January 1.

Acts 1979, 66th Leg., p. 2247, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1908, ch. 353, Sec. 2, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 534, Sec. 5, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 347, Sec. 4.11, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.75, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 8, eff. September 1, 2005.

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 1(a), eff. January 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 1(a), eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.01, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.090, eff. September 1, 2019.

Sec. 21.021. VESSELS AND OTHER WATERCRAFT. (a) A vessel or other watercraft used as an instrumentality of commerce (as defined in Section 21.031(b) of this code) is taxable pursuant to Section 21.02 of this code.

(b) A special-purpose vessel or other watercraft not used as an instrumentality of commerce (as defined in Section 21.031(b) of this code) is deemed to be located on January 1 for more than a temporary period for purposes of Section 21.02 of this code in the taxing unit in which it was physically located during the year preceding the tax year. If the vessel or watercraft was physically located in more than one taxing unit during the year preceding the tax year, it is deemed to be located for more than a temporary period for purposes of Section 21.02 of this code in the taxing unit in which it was physically located for the longest period during the year preceding the tax year or for 30 days, whichever is longer. If a vessel or other watercraft is not deemed to be located in any taxing unit on January 1 for more than a temporary period pursuant to this subsection, the property is taxable as provided by Subdivisions (2) through (4) of Section 21.02 of this code.

(c) This section applies solely to a determination of taxable situs and does not apply to a determination of jurisdiction to tax under Section 11.01 of this code.

Added by Acts 1983, 68th Leg., p. 1908, ch. 353, Sec. 3, eff. Jan. 1, 1984.

Sec. 21.03. INTERSTATE ALLOCATION. (a) If personal property that is taxable by a taxing unit is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the total market value of the property that fairly reflects its use in this state.

(b) The comptroller shall adopt rules:

(1) identifying the kinds of property subject to this section; and

(2) establishing formulas for calculating the proportion of total market value to be allocated to this state.

Acts 1979, 66th Leg., p. 2247, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 14, eff. Sept. 1, 1991.

Sec. 21.031. ALLOCATION OF TAXABLE VALUE OF VESSELS AND OTHER WATERCRAFT USED OUTSIDE THIS STATE. (a) If a vessel or other watercraft that is taxable by a taxing unit is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the total market value of the vessel or watercraft that fairly reflects its use in this state. The appraisal office shall not allocate to this state the portion of the total market value of the vessel or watercraft that fairly reflects its use in another state or country, in international waters, or beyond the Gulfward boundary of this state.

(b) The appraisal office shall make the allocation as follows:

(1) The allocable portion of the total fair market value of a vessel or other watercraft used as an instrumentality of commerce that is taxable in this state is determined by multiplying the total fair market value by a fraction, the numerator of which is the number of miles the vessel or watercraft was operated in this state during the year preceding the tax year and the denominator of which is the total number of miles the vessel or watercraft was operated during the year preceding the tax year. For purposes of this section, "vessel or other watercraft used as an instrumentality of commerce" means a vessel or other watercraft that is primarily employed in the transportation of cargo, passengers, or equipment, and that is economically employed when it is moving from point to point as a means of transportation.

(2) The allocable portion of the total fair market value of a special-purpose vessel or other watercraft not used as an instrumentality of commerce is determined by multiplying the total fair market value by a fraction, the numerator of which is the number of days the vessel or watercraft was physically located in this state during the year preceding the tax year and the denominator of which is 365. For purposes of this section, "special-purpose vessel or other watercraft not used as an instrumentality of commerce" means a vessel or other watercraft that:

(A) is designed to be transient and customarily is moved from location to location on a more or less regular basis;

(B) is economically employed when operated in a localized area or in a fixed place; and

(C) is not primarily employed to transport cargo, passengers, and equipment but rather to perform some specialized function or operation not requiring constant movement from point to point.

(c) A vessel or other watercraft used as an instrumentality of commerce or a special-purpose vessel or other watercraft not used as an instrumentality of commerce that is used outside this state and is in this state solely to be converted, repaired, stored, or inspected is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02.

(d) If the allocation provisions of this section do not fairly reflect the use of a vessel or other watercraft in this state, an alternate allocation formula shall be utilized if the property owner or appraisal office demonstrates that:

(1) the allocation formula specified in this section is arbitrary and unreasonable as applied to the vessel or watercraft; and

(2) the formula or indication of use proposed by the property owner or appraisal office more fairly reflects the vessel or watercraft's use in this state than that specified in this section.

(e) To receive an allocation of value under this section, a property owner must apply for the allocation on a form that substantially complies with the form prescribed by the comptroller. The application must be filed with the chief appraiser for the district in which the property to which the application applies is taxable before the approval of the appraisal records by the appraisal

review board as provided by Section 41.12 of this code.

(f) The comptroller shall promulgate forms and may adopt rules consistent with the provisions of this section.

(g) A vessel or other watercraft to be used as an instrumentality of commerce or a special-purpose vessel or other watercraft not to be used as an instrumentality of commerce that is under construction in this state is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02.

(h) Tangible personal property in this state is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02 if the owner demonstrates to the chief appraiser that the owner intends to incorporate the property in or attach the property to an identified vessel or other watercraft described by Subsection (c) or (g).

Added by Acts 1983, 68th Leg., p. 1908, ch. 353, Sec. 3, eff. Jan. 1, 1984. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 15, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 117, Sec. 1, eff. Jan. 1, 2002.

Sec. 21.04. RAILROAD ROLLING STOCK. (a) A portion of the total market value of railroad rolling stock that is appraised as provided by Subchapter B of Chapter 24 of this code is taxable by each county in which the railroad operates.

(b) The portion of the total market value that is taxable by a county is determined by the provisions of Subchapter B of Chapter 24 of this code.

Acts 1979, 66th Leg., p. 2247, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4823, ch. 851, Sec. 9, eff. Aug. 29, 1983.

Sec. 21.05. COMMERCIAL AIRCRAFT. (a) If a commercial aircraft that is taxable by a taxing unit is used both in this state and outside this state, the appraisal office shall allocate to this state the portion of the fair market value of the aircraft that fairly

reflects its use in this state. The appraisal office shall not allocate to this state the portion of the total market value of the aircraft that fairly reflects its use beyond the boundaries of this state.

(b) The allocable portion of the total fair market value of a commercial aircraft that is taxable in this state is presumed to be the fair market value of the aircraft multiplied by a fraction, the numerator of which is the product of 1.5 and the number of revenue departures by the aircraft from Texas during the year preceding the tax year, and the denominator of which is the greater of (1) 8,760, or (2) the numerator.

(c) During the time in which any commercial aircraft is removed from air transportation service for repair, storage, or inspection, such aircraft is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Section 11.01 of this code.

(d) A certificated air carrier shall designate the tax situs of commercial aircraft that land in Texas as either the carrier's principal office in Texas or that Texas airport from which the carrier has the highest number of Texas departures.

(e) For purposes of this subchapter, a commercial aircraft shall mean an instrumentality of air commerce that is:

(1) primarily engaged in the transportation of cargo, passengers, or equipment for others for consideration;

(2) economically employed when it is moving from point to point as a means of transportation; and

(3) operated by a certificated air carrier. A certificated air carrier is one engaged in interstate or intrastate commerce under authority of the U.S. Department of Transportation.

Added by Acts 1989, 71st Leg., ch. 534, Sec. 6, eff. Aug. 28, 1989.

Sec. 21.055. BUSINESS AIRCRAFT. (a) If an aircraft is used for a business purpose of the owner, is taxable by a taxing unit, and is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the fair market value of the aircraft that fairly reflects its use in this state. The appraisal office shall not allocate to this state the portion of the total market value of the aircraft that

fairly reflects its use beyond the boundaries of this state.

(b) The allocable portion of the total fair market value of an aircraft described by Subsection (a) is presumed to be the fair market value of the aircraft multiplied by a fraction, the numerator of which is the number of departures by the aircraft from a location in this state during the year preceding the tax year and the denominator of which is the total number of departures by the aircraft from all locations during the year preceding the tax year.

(c) This section does not apply to a commercial aircraft as defined by Section 21.05.

Added by Acts 1999, 76th Leg., ch. 970, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1481, Sec. 7, eff. Sept. 1, 1999.

Sec. 21.06. INTANGIBLE PROPERTY GENERALLY. (a) Except as provided by Sections 21.07 through 21.09 of this code, intangible property is taxable by a taxing unit if the owner of the property resides in the unit on January 1, unless the property normally is used in this state for business purposes outside the unit. In that event, the intangible property is taxable by each taxing unit in which the property normally is used for business purposes.

(b) Depositing intangible property with an agency of the state pursuant to a law requiring or authorizing the deposit is not using it for a business purpose at the depository.

Acts 1979, 66th Leg., p. 2248, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 21.07. INTANGIBLES OF CERTAIN TRANSPORTATION BUSINESSES. (a) A portion of the total intangible value of a transportation business whose intangibles are appraised as provided by Subchapter A of Chapter 24 of this code is taxable by each county in which the business operates.

(b) The portion of the total value that is taxable as provided by Subsection (a) of this section is determined by the provisions of Subchapter A of Chapter 24 of this code.

Acts 1979, 66th Leg., p. 2248, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4823, ch. 851, Sec. 10, eff. Aug. 29, 1983.

Sec. 21.08. INTANGIBLES OF CERTAIN FINANCIAL INSTITUTIONS. (a) The taxable situs of intangible property owned by an insurance company incorporated under the laws of this state is determined as provided by Article 4.01, Insurance Code.

(b) The taxable situs of intangible property owned by a savings and loan association is determined as provided by Section 89.003, Finance Code.

Acts 1979, 66th Leg., p. 2248, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.89, eff. Sept. 1, 1999.

Sec. 21.09. ALLOCATION APPLICATION. (a) To receive an allocation authorized by Section 21.03, 21.031, 21.05, or 21.055, a person claiming the allocation must apply for the allocation. To apply for an allocation, a person must file an allocation application form with the chief appraiser in the appraisal district in which the property subject to the claimed allocation has taxable situs.

(b) A person claiming an allocation must apply for the allocation each year the person claims the allocation. A person claiming an allocation must file a completed allocation application form before May 1 and must provide the information required by the form. If the property was not on the appraisal roll in the preceding year, the deadline for filing the allocation application form is extended to the 30th day after the date of receipt of the notice of appraised value required by Section 25.19(a)(3). For good cause shown, the chief appraiser shall extend the deadline for filing an allocation application form by written order for a period not to exceed 30 days.

(c) The comptroller shall prescribe the contents of the allocation application form and shall ensure that the form requires an applicant to provide the information necessary to determine the validity of the allocation claim.

(d) If the chief appraiser learns of any reason indicating that an allocation previously allowed should be canceled, the chief appraiser shall investigate. If the chief appraiser determines that the property is not entitled to an allocation, the chief appraiser

shall cancel the allocation and deliver written notice of the cancellation not later than the fifth day after the date the chief appraiser makes the cancellation. A person may protest the cancellation of an allocation.

(e) The filing of a rendition under Chapter 22 is not a condition of qualification for an allocation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 10, eff. June 14, 2013.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 357 (H.B. 2228), Sec. 2, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 785 (H.B. 1815), Sec. 1, eff. January 1, 2020.

Sec. 21.10. LATE APPLICATION FOR ALLOCATION. (a) The chief appraiser shall accept and approve or deny an application for an allocation under Section 21.09 after the deadline for filing the application has passed if the application is filed before the date the appraisal review board approves the appraisal records.

(b) If the application is approved, the property owner is liable to each taxing unit for a penalty in an amount equal to 10 percent of the difference between the amount of tax imposed by the taxing unit on the property without the allocation and the amount of tax imposed on the property with the allocation.

(c) The chief appraiser shall make an entry on the appraisal records for the property indicating the property owner's liability for the penalty and shall deliver a written notice of imposition of the penalty, explaining the reason for its imposition, to the property owner.

(d) The tax assessor for a taxing unit that taxes the property shall add the amount of the penalty to the property owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner the collector collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if the penalty were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 10, eff. June 14, 2013.

CHAPTER 22. RENDITIONS AND OTHER REPORTS

SUBCHAPTER A. INFORMATION FROM TAXPAYER

Sec. 22.01. RENDITION GENERALLY. (a) Except as provided by Chapter 24, a person shall render for taxation all tangible personal property used for the production of income that the person owns or that the person manages and controls as a fiduciary on January 1. A rendition statement shall contain:

(1) the name and address of the property owner;

(2) a description of the property by type or category;

(3) if the property is inventory, a description of each type of inventory and a general estimate of the quantity of each type of inventory;

(4) the physical location or taxable situs of the property; and

(5) the property owner's good faith estimate of the market value of the property or, at the option of the property owner, the historical cost when new and the year of acquisition of the property.

(b) When required by the chief appraiser, a person shall render for taxation any other taxable property that he owns or that he manages and controls as a fiduciary on January 1.

(c) A person may render for taxation any property that he owns or that he manages and controls as a fiduciary on January 1, although he is not required to render it by Subsection (a) or (b) of this section.

(c-1) In this section:

(1) "Secured party" has the meaning assigned by Section 9.102, Business & Commerce Code.

(2) "Security interest" has the meaning assigned by Section 1.201, Business & Commerce Code.

(c-2) With the consent of the property owner, a secured party may render for taxation any property of the property owner in which the secured party has a security interest on January 1, although the secured party is not required to render the property by Subsection (a) or (b). This subsection applies only to property that has a historical cost when new of more than $50,000.

(d) A fiduciary who renders property shall indicate his fiduciary capacity and shall state the name and address of the owner.

(d-1) A secured party who renders property under Subsection (c-

2) shall indicate the party's status as a secured party and shall state the name and address of the property owner. A secured party is not liable for inaccurate information included on the rendition statement if the property owner supplied the information or for failure to timely file the rendition statement if the property owner failed to promptly cooperate with the secured party. A secured party may rely on information provided by the property owner with respect to:

(1) the accuracy of information in the rendition statement;

(2) the appraisal district in which the rendition statement must be filed; and

(3) compliance with any provisions of this chapter that require the property owner to supply additional information.

(e) Notwithstanding Subsections (a) and (b), a person is not required to render for taxation cotton that:

(1) the person manages and controls as a fiduciary;

(2) is stored in a warehouse for which an exemption for cotton has been granted under Section 11.437; and

(3) the person intends to transport outside of the state within the time permitted by Article VIII, Section 1-j, of the Texas Constitution for cotton to qualify for an exemption under that section.

(f) Notwithstanding Subsections (a) and (b), a rendition statement of a person who owns tangible personal property used for the production of income located in the appraisal district that, in the owner's opinion, has an aggregate value of less than $20,000 is required to contain only:

(1) the name and address of the property owner;

(2) a general description of the property by type or category; and

(3) the physical location or taxable situs of the property.

(g) A person's good faith estimate of the market value of the property under Subsection (a)(5) is solely for the purpose of compliance with the requirement to render tangible personal property and is inadmissible in any subsequent protest, hearing, appeal, suit, or other proceeding under this title involving the property, except for:

(1) a proceeding to determine whether the person complied with this section;

(2) a proceeding under Section 22.29(b); or

(3) a protest under Section 41.41.

(h) If the property that is the subject of the rendition is regulated by the Public Utility Commission of Texas, the Railroad Commission of Texas, the federal Surface Transportation Board, or the Federal Energy Regulatory Commission, the owner of the property is considered to have complied with the requirements of this section if the owner provides to the chief appraiser, on written request of the chief appraiser, a copy of the annual regulatory report covering the property and sufficient information to enable the chief appraiser to allocate the value of the property among the appropriate taxing units for which the appraisal district appraises property.

(i) Subsection (a) does not apply to a property owner whose property is subject to appraisal by a third party retained by the appraisal district if the property owner provides information substantially equivalent to that required by Subsection (a) regarding the property directly to the third party appraiser.

(j) Subsection (a) does not apply to property that is exempt from taxation.

(k) Notwithstanding Subsections (a) and (b), an individual who has been granted or has applied for an exemption from taxation under Section 11.254 for a motor vehicle the individual owns is not required to render the motor vehicle for taxation.

(l) If the information contained in the most recent rendition statement filed by a person in a prior tax year is accurate with respect to the current tax year, the person may comply with the requirements of Subsection (a) by filing a rendition statement on a form prescribed or approved by the comptroller under Section 22.24(c) on which the person has checked the appropriate box to affirm that the information continues to be complete and accurate.

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

Acts 1979, 66th Leg., p. 2249, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 134, ch. 13, Sec. 48, eff. Jan. 1, 1982; Acts 1993, 73rd Leg., ch. 779, Sec. 4, eff. Jan. 1, 1994; Acts 2003, 78th Leg., ch. 1173, Sec. 3, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 1276, Sec. 15.001(b), eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 941 (H.B. 809), Sec. 1, eff. January 1,

2006.

Acts 2007, 80th Leg., R.S., Ch. 602 (H.B. 264), Sec. 1, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 842 (H.B. 1022), Sec. 2.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(33), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 706 (H.B. 2814), Sec. 3, eff. January 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 234 (H.B. 533), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1215 (S.B. 1508), Sec. 1, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 11, eff. January 1, 2014.

Sec. 22.02. RENDITION OF PROPERTY LOSING EXEMPTION DURING TAX YEAR OR FOR WHICH EXEMPTION APPLICATION IS DENIED. (a) If an exemption applicable to a property on January 1 terminates during the tax year, the person who owns or acquires the property on the date applicability of the exemption terminates shall render the property for taxation within 30 days after the date of termination.

(b) If the chief appraiser denies an application for an exemption for property described by Section 22.01(a), the person who owns the property on the date the application is denied shall render the property for taxation in the manner provided by Section 22.01 within 30 days after the date of denial.

Acts 1979, 66th Leg., p. 2249, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2003, 78th Leg., ch. 1173, Sec. 4, eff. Jan. 1, 2004.

Sec. 22.03. REPORT OF DECREASED VALUE. (a) A person who believes the appraised value of his property decreased during the preceding tax year for any reason other than normal depreciation may file an information report describing the property involved and stating the nature and cause of the decrease.

(b) Except as provided by Subsection (d) of this section, before determining the appraised value of property that is the subject of a completed and timely filed report as provided by

Subsection (a) of this section, the chief appraiser must view the property to verify any reported change in appraised value and its cause and nature. The person who views the property shall note on the back of the property owner's report his name, the date he viewed the property, and his determination of any decrease in appraised value and its cause and nature.

(c) The chief appraiser shall deliver a written notice to the property owner of the determination made as provided by Subsection (b) of this section.

(d) Before determining the appraised value of oil and gas property that is the subject of a completed and timely filed report as provided by Subsection (a) of this section, the chief appraiser must review the appraisal of the property to verify any reported change in appraised value and its cause and nature. The person who reviews the appraisal of the property shall note on the back of the property owner's report his name, the date he reviewed the appraisal of the property, and his determination of any decrease in appraised value and its cause and nature.

Acts 1979, 66th Leg., p. 2249, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 134, ch. 13, Sec. 49, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 315, Sec. 1, 2, eff. Jan. 1, 1986.

Sec. 22.04. REPORT BY BAILEE, LESSEE, OR OTHER POSSESSOR. (a) When required by the chief appraiser, a person shall file a report listing the name and address of each owner of property that is in his possession or under his management on January 1 by bailment, lease, consignment, or other arrangement.

(b) When required by the chief appraiser, a person who leases or otherwise provides space to another for storage of personal property shall file an information report stating the name and address of each person to whom he leased or otherwise provided storage space on January 1.

(c) This section does not apply to a warehouse for which an exemption for cotton has been granted under Section 11.437.

(d) This section does not apply to a motor vehicle that on January 1 is located at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued

by the Texas Department of Motor Vehicles under Chapter 503, Transportation Code, for that place of business, and that:

(1) has not acquired taxable situs under Section 21.02(a)(1) in a taxing unit that participates in the appraisal district because the vehicle is described by Section 21.02(d);

(2) is offered for sale by a dealer who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles under Chapter 503, Transportation Code, and whose inventory of motor vehicles is subject to taxation in the manner provided by Sections 23.121 and 23.122; or

(3) is collateral possessed by a lienholder and offered for sale in foreclosure of a security interest.

Acts 1979, 66th Leg., p. 2249, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1981, 67th Leg., 1st C.S., p. 134, ch. 13, Sec. 50, eff. Jan. 1, 1982; Acts 1993, 73rd Leg., ch. 779, Sec. 5, eff. Jan. 1, 1994; Acts 2003, 78th Leg., ch. 1276, Sec. 15.001(c), eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 9, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.02, eff. September 1, 2009.

Sec. 22.05. RENDITION BY RAILROAD. (a) In addition to other reports required by Chapter 24 of this code, a railroad corporation shall render the property the railroad corporation owns or possesses as of January 1.

(b) The rendition shall:

(1) list all real property other than the property covered by Subdivision (2) of this subsection;

(2) list the number of miles of railroad together with the market value per mile, which value shall include right-of-way, roadbed, superstructure, and all buildings and improvements used in the operation of the railroad; and

(3) list all personal property as required by Section 22.01 of this code.

Acts 1979, 66th Leg., p. 2249, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1981, 67th Leg., 1st C.S., p. 134, ch. 13, Sec. 51,

eff. Jan. 1, 1982.

Sec. 22.07. INSPECTION OF PROPERTY. (a) The chief appraiser or his authorized representative may enter the premises of a business, trade, or profession and inspect the property to determine the existence and market value of tangible personal property used for the production of income and having a taxable situs in the district.

(b) An inspection under this section must be during normal business hours or at a time mutually agreeable to the chief appraiser or his representative and the person in control of the premises.

(c) The chief appraiser may request, either in writing or by electronic means, that the property owner provide a statement containing supporting information indicating how the value rendered under Section 22.01(a)(5) was determined. The statement must:

(1) summarize information sufficient to identify the property, including:

(A) the physical and economic characteristics relevant to the opinion of value, if appropriate; and

(B) the source of the information used;

(2) state the effective date of the opinion of value; and

(3) explain the basis of the value rendered. If the property owner is a business with 50 employees or less, the property owner may base the estimate of value on the depreciation schedules used for federal income tax purposes.

(d) The property owner shall deliver the statement to the chief appraiser, either in writing or by electronic means, not later than the 21st day after the date the chief appraiser's request is received. The owner's statement is solely for informational purposes and is not admissible in evidence in any subsequent protest, suit, appeal, or other proceeding under this title involving the property other than:

(1) a proceeding to determine whether the property owner has complied with this section;

(2) a proceeding under Section 22.29(b); or

(3) a protest under Section 41.41.

(e) A statement provided under this section is confidential information and may not be disclosed, except as provided by Section 22.27.

(f) Failure to comply with this section in a timely manner is

considered to be a failure to timely render under Section 22.01 and penalties as described in Section 22.28 shall be applied by the chief appraiser.

Added by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, Sec. 52, eff. Jan. 1, 1982. Amended by Acts 2003, 78th Leg., ch. 1173, Sec. 5, eff. Jan. 1, 2004.

SUBCHAPTER B. REQUIREMENTS AND PROCEDURES

Sec. 22.21. PUBLICIZING REQUIREMENTS. Each year the comptroller and each chief appraiser shall publicize in a manner reasonably designed to notify all property owners the requirements of the law relating to filing rendition statements and property reports and of the availability of forms.

Acts 1979, 66th Leg., p. 2250, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, Sec. 53, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 17, eff. Sept. 1, 1991.

Sec. 22.22. METHOD FOR REQUIRING RENDITION OR REPORT. The chief appraiser may require a rendition statement or property report he is authorized to require by this chapter by delivering written notice that the statement or report is required to the person responsible for filing it. He shall attach to the notice a copy of the appropriate form.

Acts 1979, 66th Leg., p. 2250, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, Sec. 53, eff. Jan. 1, 1982.

Sec. 22.23. FILING DATE. (a) Rendition statements and property reports must be delivered to the chief appraiser after January 1 and not later than April 15, except as provided by Section 22.02.

(b) On written request by the property owner, the chief appraiser shall extend a deadline for filing a rendition statement or property report to May 15. The chief appraiser may further extend

the deadline an additional 15 days upon good cause shown in writing by the property owner.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

(d) Notwithstanding any other provision of this section, rendition statements and property reports required to be filed by a property owner regulated by the Public Utility Commission of Texas, the Railroad Commission of Texas, the federal Surface Transportation Board, or the Federal Energy Regulatory Commission must be delivered to the chief appraiser not later than April 30, except as provided by Section 22.02. On written request by the property owner, the chief appraiser shall extend the filing deadline to May 15. The chief appraiser may further extend the deadline an additional 15 days for good cause shown in writing by the property owner.

Acts 1979, 66th Leg., p. 2250, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, Sec. 53, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 312, Sec. 1, eff. June 7, 1985; Acts 1987, 70th Leg., ch. 185, Sec. 1, eff. Jan. 1, 1988; Acts 1993, 73rd Leg., ch. 924, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1039, Sec. 20, eff. Jan. 1, 1998; Acts 2003, 78th Leg., ch. 1173, Sec. 6.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 357 (H.B. 2228), Sec. 3, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 27, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

Sec. 22.24. RENDITION AND REPORT FORMS. (a) A person required to render property or to file a report as provided by this chapter shall use a form that substantially complies with the appropriate form prescribed or approved by the comptroller.

(b) A person filing a rendition or report shall include all information required by Section 22.01.

(c) The comptroller may prescribe or approve different forms for different kinds of property but shall ensure that each form requires a property owner to furnish the information necessary to

identify the property and to determine its ownership, taxability, and situs. Each form must include a box that the property owner may check to permit the property owner to affirm that the information contained in the most recent rendition statement filed by the property owner in a prior tax year is accurate with respect to the current tax year in accordance with Section 22.01(l). A form may not require but may permit a property owner to furnish information not specifically required by this chapter to be reported. In addition, a form prescribed or approved under this subsection must contain the following statement in bold type: "If you make a false statement on this form, you could be found guilty of a Class A misdemeanor or a state jail felony under Section 37.10, Penal Code."

(d) Except as required by Section 22.01(a), a rendition or report form shall permit but not require a property owner to state the owner's good faith estimate of the market value of the property.

(e) To be valid, a rendition or report must be sworn to before an officer authorized by law to administer an oath. The comptroller may not prescribe or approve a rendition or report form unless the form provides for the person filing the form to swear that the information provided in the rendition or report is true and accurate to the best of the person's knowledge and belief. This subsection does not apply to a rendition or report filed by a secured party, as defined by Section 22.01, the property owner, an employee of the property owner, or an employee of a property owner on behalf of an affiliated entity of the property owner.

Acts 1979, 66th Leg., p. 2250, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, Sec. 54, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 18, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 316, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 463, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1173, Sec. 7, eff. Jan. 1, 2004. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 602 (H.B. 264), Sec. 2, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1215 (S.B. 1508), Sec. 2, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 12, eff. January 1, 2014.

Sec. 22.25. PLACE AND MANNER OF FILING. A rendition statement or property report required or authorized by this chapter must be filed with the chief appraiser for the district in which the property listed in the statement or report is taxable.

Acts 1979, 66th Leg., p. 2251, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 135, ch. 13, Sec. 55, eff. Jan. 1, 1982.

Sec. 22.26. SIGNATURE. (a) Each rendition statement or property report required or authorized by this chapter must be signed by an individual who is required to file the statement or report.

(b) When a corporation is required to file a statement or report, an officer of the corporation or an employee or agent who has been designated in writing by the board of directors or by an authorized officer to sign in behalf of the corporation must sign the statement or report.

Acts 1979, 66th Leg., p. 2251, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 22.27. CONFIDENTIAL INFORMATION. (a) Rendition statements, real and personal property reports, attachments to those statements and reports, and other information the owner of property provides to the appraisal office in connection with the appraisal of the property, including income and expense information related to a property filed with an appraisal office and information voluntarily disclosed to an appraisal office or the comptroller about real or personal property sales prices after a promise it will be held confidential, are confidential and not open to public inspection. The statements and reports and the information they contain about specific real or personal property or a specific real or personal property owner and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential may not be disclosed to anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.

(b) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to

a lawful subpoena;

(2) to the person who filed the statement or report or the owner of property subject to the statement, report, or information or to a representative of either authorized in writing to receive the information;

(3) to the comptroller and the comptroller's employees authorized by the comptroller in writing to receive the information or to an assessor or a chief appraiser if requested in writing;

(4) in a judicial or administrative proceeding relating to property taxation to which the person who filed the statement or report or the owner of the property that is a subject of the statement, report, or information is a party;

(5) for statistical purposes if in a form that does not identify specific property or a specific property owner;

(6) if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain;

(7) to a taxing unit or its legal representative that is engaged in the collection of delinquent taxes on the property that is the subject of the information;

(8) to an employee or agent of a taxing unit responsible for auditing, monitoring, or reviewing the operations of an appraisal district; or

(9) to an employee or agent of a school district that is engaged in the preparation of a protest of the comptroller's property value study in accordance with Section 403.303, Government Code.

(c) A person who legally has access to a statement or report or to other information made confidential by this section or who legally obtains the confidential information commits a Class B misdemeanor if he knowingly:

(1) permits inspection of the statement or report by a person not authorized to inspect it by Subsection (b) of this section; or

(2) discloses the confidential information to a person not authorized to receive the information by Subsection (b) of this section.

(d) No person who directly or indirectly provides information to the comptroller or appraisal office about real or personal property sales prices, either as set forth in Subsection (a) of this section under a promise of confidentiality, or otherwise, shall be

liable to any other person as the result of providing such information.

Acts 1979, 66th Leg., p. 2251, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 136, ch. 13, Sec. 56, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 148, Sec. 1, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 836, Sec. 1.1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 19, 20, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 316, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1430, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1153 (H.B. 2941), Sec. 2, eff. June 19, 2009.

Sec. 22.28. PENALTY FOR DELINQUENT REPORT; PENALTY COLLECTION PROCEDURES. (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 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.

Added by Acts 2003, 78th Leg., ch. 1173, Sec. 8, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 4, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 234 (H.B. 533), Sec. 2, eff. June 17, 2011.

Sec. 22.29. PENALTY FOR FRAUD OR INTENT TO EVADE TAX. (a) The chief appraiser shall impose an additional penalty on the person equal to 50 percent of the total amount of taxes imposed on the property for the tax year of the statement or report by the taxing units participating in the appraisal district if it is finally determined by a court that:

(1) the person filed a false statement or report with the intent to commit fraud or to evade the tax; or

(2) the person alters, destroys, or conceals any record, document, or thing, or presents to the chief appraiser any altered or fraudulent record, document, or thing, or otherwise engages in fraudulent conduct, for the purpose of affecting the course or outcome of an inspection, investigation, determination, or other proceeding before the appraisal district.

(b) Enforcement of this section shall be by a proceeding initiated by the district or county attorney of the county in which the appraisal is established, on behalf of the appraisal district.

(c) In making a determination of liability under this section, the court shall consider:

(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 violation;

(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 factor the court considers relevant.

(d) The chief appraiser may retain a portion of a penalty collected under this section, not to exceed 20 percent of the amount of the penalty, to cover the chief appraiser's costs of collecting the penalty. The chief appraiser shall distribute the remainder of the penalty to each taxing unit participating in the appraisal district that imposes taxes on the property in proportion to the taxing unit's share of the total amount of taxes imposed on the property by all taxing units participating in the district.

Added by Acts 2003, 78th Leg., ch. 1173, Sec. 8, eff. Jan. 1, 2004.

Sec. 22.30. WAIVER OF PENALTY. (a) The chief appraiser may waive the penalty imposed by Section 22.28 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 shall determine the protest 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 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.

(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.

Added by Acts 2003, 78th Leg., ch. 1173, Sec. 8, eff. Jan. 1, 2004.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 234 (H.B. 533), Sec. 2, eff. June 17, 2011.

SUBCHAPTER C. OTHER REPORTS

Sec. 22.41. REPORT OF POLITICAL SUBDIVISION ACTIONS AFFECTING REAL PROPERTY VALUES. (a) At the request of the chief appraiser of an appraisal district in which a political subdivision of this state has territory, the governing body of the political subdivision shall

deliver a written report to the chief appraiser describing each of the following actions taken by the governing body in the preceding period specified in the request:

(1) a zoning action;

(2) an action that directly restricts the use of real property or a class of real property specified by the action or that exempts real property or a class of real property specified by the action from an existing restriction on the use of the property; or

(3) an action that grants the owner or custodian of real property specified by the action the right or authority to make a change or improvement to the property.

(b) The report is not required to include an action that does not apply to real property in the appraisal district whose chief appraiser requested the report.

(c) The chief appraiser in the request for a report shall specify the period to be covered by the report. The governing body is not required to include in the report an action included in a previous report made to the chief appraiser of the same appraisal district. The governing body must deliver the report to the chief appraiser not later than the 30th day after the date of the request, unless the chief appraiser specifies or agrees to a later date.

(d) As soon as practicable after delivering a report to the chief appraiser under Subsection (c), the governing body making the report shall deliver a copy of the report to the governing body of each taxing unit in which is located property affected by an action included in the report.

Added by Acts 1989, 71st Leg., ch. 796, Sec. 15, eff. Sept. 1, 1989.

CHAPTER 23. APPRAISAL METHODS AND PROCEDURES

SUBCHAPTER A. APPRAISALS GENERALLY

Sec. 23.01. APPRAISALS GENERALLY. (a) Except as otherwise provided by this chapter, all taxable property is appraised at its market value as of January 1.

(b) The market value of property shall be determined by the application of generally accepted appraisal methods and techniques. If the appraisal district determines the appraised value of a property using mass appraisal standards, the mass appraisal standards must comply with the Uniform Standards of Professional Appraisal

Practice. The same or similar appraisal methods and techniques shall be used in appraising the same or similar kinds of property. However, each property shall be appraised based upon the individual characteristics that affect the property's market value, and all available evidence that is specific to the value of the property shall be taken into account in determining the property's market value.

(c) Notwithstanding Section 1.04(7)(C), in determining the market value of a residence homestead, the chief appraiser may not exclude from consideration the value of other residential property that is in the same neighborhood as the residence homestead being appraised and would otherwise be considered in appraising the residence homestead because the other residential property:

(1) was sold at a foreclosure sale conducted in any of the three years preceding the tax year in which the residence homestead is being appraised and was comparable at the time of sale based on relevant characteristics with other residence homesteads in the same neighborhood; or

(2) has a market value that has declined because of a declining economy.

(d) The market value of a residence homestead shall be determined solely on the basis of the property's value as a residence homestead, regardless of whether the residential use of the property by the owner is considered to be the highest and best use of the property.

(e) Notwithstanding any provision of this subchapter to the contrary, if the appraised value of property in a tax year is lowered under Subtitle F, the appraised value of the property as finally determined under that subtitle is considered to be the appraised value of the property for that tax year. In the next tax year in which the property is appraised, the chief appraiser may not increase the appraised value of the property unless the increase by the chief appraiser is reasonably supported by clear and convincing evidence when all of the reliable and probative evidence in the record is considered as a whole. If the appraised value is finally determined in a protest under Section 41.41(a)(2) or an appeal under Section 42.26, the chief appraiser may satisfy the requirement to reasonably support by clear and convincing evidence an increase in the appraised value of the property in the next tax year in which the property is appraised by presenting evidence showing that the inequality in the

appraisal of property has been corrected with regard to the properties that were considered in determining the value of the subject property. The burden of proof is on the chief appraiser to support an increase in the appraised value of property under the circumstances described by this subsection.

(f) The selection of comparable properties and the application of appropriate adjustments for the determination of an appraised value of property by any person under Section 41.43(b)(3) or 42.26(a)(3) must be based on the application of generally accepted appraisal methods and techniques. Adjustments must be based on recognized methods and techniques that are necessary to produce a credible opinion.

(g) Notwithstanding any other provision of this section, property owners representing themselves are entitled to offer an opinion of and present argument and evidence related to the market and appraised value or the inequality of appraisal of the owner's property.

(h) Appraisal methods and techniques included in the most recent versions of the following are considered generally accepted appraisal methods and techniques for the purposes of this title:

(1) the Appraisal of Real Estate published by the Appraisal Institute;

(2) the Dictionary of Real Estate Appraisal published by the Appraisal Institute;

(3) the Uniform Standards of Professional Appraisal Practice published by The Appraisal Foundation; and

(4) a publication that includes information related to mass appraisal.

Acts 1979, 66th Leg., p. 2252, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1985, 69th Leg., ch. 823, Sec. 5, eff. Jan. 1, 1986; Acts 1997, 75th Leg., ch. 1039, Sec. 21, eff. Jan. 1, 1998.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 619 (H.B. 1038), Sec. 1, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 1, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 1405 (H.B. 3613), Sec. 2, eff. January 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(56),

eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(57), eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 101 (H.B. 2083), Sec. 1, eff. January 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 28, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1284 (H.B. 1313), Sec. 2, eff. January 1, 2020.

Sec. 23.0101. CONSIDERATION OF ALTERNATE APPRAISAL METHODS. In determining the market value of property, the chief appraiser shall consider the cost, income, and market data comparison methods of appraisal and use the most appropriate method.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 22, eff. Jan. 1, 1998. Amended by Acts 1999, 76th Leg., ch. 1295, Sec. 1, eff. Jan. 1, 2000.

Sec. 23.011. COST METHOD OF APPRAISAL. If the chief appraiser uses the cost method of appraisal to determine the market value of real property, the chief appraiser shall:

(1) use cost data obtained from generally accepted sources;

(2) make any appropriate adjustment for physical, functional, or economic obsolescence;

(3) make available to the public on request cost data developed and used by the chief appraiser as applied to all properties within a property category and may charge a reasonable fee to the public for the data;

(4) clearly state the reason for any variation between generally accepted cost data and locally produced cost data if the data vary by more than 10 percent; and

(5) make available to the property owner on request all applicable market data that demonstrate the difference between the replacement cost of the improvements to the property and the depreciated value of the improvements.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 22, eff. Jan. 1, 1998.

Sec. 23.012. INCOME METHOD OF APPRAISAL. (a) If the income method of appraisal is the most appropriate method to use to determine the market value of real property, the chief appraiser shall:

(1) analyze comparable rental data available to the chief appraiser or the potential earnings capacity of the property, or both, to estimate the gross income potential of the property;

(2) analyze comparable operating expense data available to the chief appraiser to estimate the operating expenses of the property;

(3) analyze comparable data available to the chief appraiser to estimate rates of capitalization or rates of discount; and

(4) base projections of future rent or income potential and expenses on reasonably clear and appropriate evidence.

(b) In developing income and expense statements and cash-flow projections, the chief appraiser shall consider:

(1) historical information and trends;

(2) current supply and demand factors affecting those trends; and

(3) anticipated events such as competition from other similar properties under construction.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 22, eff. Jan. 1, 1998.
Amended by Acts 2003, 78th Leg., ch. 548, Sec. 1, eff. Jan. 1, 2004.

Sec. 23.013. MARKET DATA COMPARISON METHOD OF APPRAISAL. (a) If the chief appraiser uses the market data comparison method of appraisal to determine the market value of real property, the chief appraiser shall use comparable sales data and shall adjust the comparable sales to the subject property.

(b) A sale is not considered to be a comparable sale unless the sale occurred within 24 months of the date as of which the market value of the subject property is to be determined, except that a sale that did not occur during that period may be considered to be a comparable sale if enough comparable properties were not sold during that period to constitute a representative sample.

(b-1) Notwithstanding Subsection (b), for a residential property in a county with a population of more than 150,000, a sale

is not considered to be a comparable sale unless the sale occurred within 36 months of the date as of which the market value of the subject property is to be determined, regardless of the number of comparable properties sold during that period.

(c) A sale of a comparable property must be appropriately adjusted for any change in the market value of the comparable property during the period between the date of the sale of the comparable property and the date as of which the market value of the subject property is to be determined.

(d) Whether a property is comparable to the subject property shall be determined based on similarities with regard to location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy, and the existence of easements, deed restrictions, or other legal burdens affecting marketability.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 22, eff. Jan. 1, 1998.
Amended by Acts 1999, 76th Leg., ch. 1295, Sec. 2, eff. Jan. 1, 2000.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 2, eff. January 1, 2010.

Acts 2013, 83rd Leg., R.S., Ch. 611 (S.B. 1256), Sec. 1, eff. January 1, 2014.

Sec. 23.014. EXCLUSION OF PROPERTY AS REAL PROPERTY. Except as provided by Section 23.24(b), in determining the market value of real property, the chief appraiser shall analyze the effect on that value of, and exclude from that value the value of, any:

(1) tangible personal property, including trade fixtures;

(2) intangible personal property; or

(3) other property that is not subject to appraisal as real property.

Added by Acts 2003, 78th Leg., ch. 548, Sec. 2, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 2, eff. January 1, 2010.

Sec. 23.03. COMPILATION OF LARGE PROPERTIES AND PROPERTIES

SUBJECT TO LIMITATION ON APPRAISED VALUE. Each year the chief appraiser shall compile and send to the Texas Department of Economic Development a list of properties in the appraisal district that in that tax year:

(1) have a market value of $100 million or more; or

(2) are subject to a limitation on appraised value under Chapter 313.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 2, eff. Jan. 1, 2002.

SUBCHAPTER B. SPECIAL APPRAISAL PROVISIONS

Sec. 23.11. GOVERNMENTAL ACTION THAT CONSTITUTES TAKING. In appraising private real property, the effect of a governmental action on the market value of private real property as determined in a suit or contested case filed under Chapter 2007, Government Code, shall be taken into consideration by the chief appraiser in determining the market value of the property.

Added by Acts 1995, 74th Leg., ch. 517, Sec. 3, eff. Sept. 1, 1995.

Sec. 23.12. INVENTORY. (a) Except as provided by Sections 23.121, 23.1241, 23.124, and 23.127, the market value of an inventory is the price for which it would sell as a unit to a purchaser who would continue the business. An inventory shall include residential real property which has never been occupied as a residence and is held for sale in the ordinary course of a trade or business, provided that the residential real property remains unoccupied, is not leased or rented, and produces no income.

(b) The chief appraiser shall establish procedures for the equitable and uniform appraisal of inventory for taxation. In conjunction with the establishment of the procedures, the chief appraiser shall:

(1) establish, publish, and adhere to one procedure for the determination of the quantity of property held in inventory without regard to the kind, nature, or character of the property comprising the inventory; and

(2) apply the same enforcement, verification, and audit procedures, techniques, and criteria to the discovery, physical examination, or quantification of all inventories without regard to

the kind, nature, or character of the property comprising the inventory.

(c) In appraising an inventory, the chief appraiser shall use the information obtained pursuant to Subsection (b) of this section and shall apply generally accepted appraisal techniques in computing the market value as defined in Subsection (a) of this section.

(d) Subsections (b) and (c) of this section apply only to an inventory held for sale, lease, or rental.

(e) A person who owns an inventory to which Subsection (b) of this section applies may bring an action to enjoin the chief appraiser from certifying to a taxing unit any portion of the appraisal roll that lists an inventory for which the chief appraiser has not complied with the requirements of Subsection (b) of this section.

(f) The owner of an inventory other than a dealer's motor vehicle inventory as that term is defined by Section 23.121, a dealer's heavy equipment inventory as that term is defined by Section 23.1241, or a dealer's vessel and outboard motor inventory as that term is defined by Section 23.124, or a retail manufactured housing inventory as that term is defined by Section 23.127 may elect to have the inventory appraised at its market value as of September 1 of the year preceding the tax year to which the appraisal applies by filing an application with the chief appraiser requesting that the inventory be appraised as of September 1. The application must clearly describe the inventory to which it applies and be signed by the owner of the inventory. The application applies to the appraisal of the inventory in each tax year that begins after the next August 1 following the date the application is filed with the chief appraiser unless the owner of the inventory by written notice filed with the chief appraiser revokes the application or the ownership of the inventory changes. A notice revoking the application is effective for each tax year that begins after the next September following the date the notice of revocation is filed with the chief appraiser.

(g) Expired.

Acts 1979, 66th Leg., p. 2253, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 137, ch. 13, Sec. 58, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 590, Sec. 1, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 796, Sec. 16, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 672, Sec. 1, 2, eff. Jan. 1, 1994;

Acts 1995, 74th Leg., ch. 836, Sec. 1, 2, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 945, Sec. 1, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 165, Sec. 31.01(73), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1112, Sec. 1, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1184, Sec. 1, eff. Jan. 1, 1998.

Sec. 23.121. DEALER'S MOTOR VEHICLE INVENTORY; VALUE. (a) In this section:

(1) "Chief appraiser" means the chief appraiser for the appraisal district in which a dealer's motor vehicle inventory is located.

(2) "Collector" means the county tax assessor-collector in the county in which a dealer's motor vehicle inventory is located.

(3) "Dealer" means a person who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles under the authority of Chapter 503, Transportation Code, or who is legally recognized as a motor vehicle dealer pursuant to the law of another state and who complies with the terms of Section 152.063(f). The term does not include:

(A) a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code;

(B) an entity that is owned or controlled by a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code;

(C) a dealer whose general distinguishing number issued by the Texas Department of Motor Vehicles under the authority of Chapter 503, Transportation Code, prohibits the dealer from selling a vehicle to any person except a dealer; or

(D) a dealer who:

(i) does not sell motor vehicles described by Section 152.001(3)(A);

(ii) meets either of the following requirements:

(a) the total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the preceding tax year are 25 percent or less of the dealer's total revenue from all sources during that period; or

(b) the dealer did not sell a motor vehicle to a person other than another dealer during the 12-month period

corresponding to the preceding tax year and the dealer estimates that the dealer's total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the current tax year will be 25 percent or less of the dealer's total revenue from all sources during that period;

(iii) not later than August 31 of the preceding tax year, filed with the chief appraiser and the collector a declaration on a form prescribed by the comptroller stating that the dealer elected not to be treated as a dealer under this section in the current tax year; and

(iv) renders the dealer's motor vehicle inventory in the current tax year by filing a rendition with the chief appraiser in the manner provided by Chapter 22.

(4) "Dealer's motor vehicle inventory" means all motor vehicles held for sale by a dealer.

(5) "Dealer-financed sale" means the sale of a motor vehicle in which the seller finances the purchase of the vehicle, is the sole lender in the transaction, and retains exclusively the right to enforce the terms of the agreement evidencing the sale.

(6) "Declaration" means the dealer's motor vehicle inventory declaration form promulgated by the comptroller as required by this section.

(7) "Fleet transaction" means the sale of five or more motor vehicles from a dealer's motor vehicle inventory to the same person within one calendar year.

(8) "Motor vehicle" means a towable recreational vehicle or a fully self-propelled vehicle with at least two wheels which has as its primary purpose the transport of a person or persons, or property, whether or not intended for use on a public street, road, or highway. The term does not include:

(A) a vehicle with respect to which the certificate of title has been surrendered in exchange for a salvage certificate in the manner provided by law; or

(B) equipment or machinery designed and intended to be used for a specific work-related purpose other than the transporting of a person or property.

(9) "Owner" means a dealer who owes current year vehicle inventory taxes levied against a dealer's motor vehicle inventory.

(10) "Person" means a natural person, corporation,

partnership, or other legal entity.

(11) "Sales price" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles. In a transaction that does not involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

(12) "Subsequent sale" means a dealer-financed sale of a motor vehicle that, at the time of the sale, has been the subject of a dealer-financed sale from the same dealer's motor vehicle inventory in the same calendar year.

(13) "Total annual sales" means the total of the sales price from every sale from a dealer's motor vehicle inventory for a 12-month period.

(14) "Towable recreational vehicle" means a nonmotorized vehicle that is designed for temporary human habitation for recreational, camping, or seasonal use and:

(A) is titled and registered with the Texas Department of Motor Vehicles through the office of the collector;

(B) is permanently built on a single chassis;

(C) contains one or more life support systems; and

(D) is designed to be towable by a motor vehicle.

(a-1) A dealer who has elected to file the declaration described by Subsection (a)(3)(D)(iii) and to render the dealer's motor vehicle inventory as provided by Subsection (a)(3)(D)(iv) must continue to file the declaration and render the dealer's motor vehicle inventory so long as the dealer meets the requirements of Subsection (a)(3)(D)(ii)(a) or (b).

(b) For the purpose of the computation of property tax, the market value of a dealer's motor vehicle inventory on January 1 is the total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the prior tax year, divided by 12.

(c) For the purpose of the computation of property tax, the market value of the dealer's motor vehicle inventory of an owner who was not a dealer on January 1 of the prior tax year, the chief

appraiser shall estimate the market value of the dealer's motor vehicle inventory. In making the estimate required by this subsection the chief appraiser shall extrapolate using sales data, if any, generated by sales from the dealer's motor vehicle inventory in the prior tax year.

(d) Except for dealer's motor vehicle inventory, personal property held by a dealer is appraised as provided by other sections of this code. In the case of a dealer whose sales from dealer's motor vehicle inventory are made predominately to dealers, the chief appraiser shall appraise the dealer's motor vehicle inventory as provided by Section 23.12 of this code.

(e) A dealer is presumed to be an owner of a dealer's motor vehicle inventory on January 1 if, in the 12-month period ending on December 31 of the immediately preceding year, the dealer sold a motor vehicle to a person other than a dealer. The presumption created by this subsection is not rebutted by the fact that a dealer has no motor vehicles physically on hand for sale from dealer's motor vehicle inventory on January 1.

(f) The comptroller shall promulgate a form entitled Dealer's Motor Vehicle Inventory Declaration. Except as provided by Section 23.122(l), not later than February 1 of each year, or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, each dealer shall file a declaration with the chief appraiser and file a copy with the collector. For purposes of this subsection, a dealer is presumed to have commenced business on the date of issuance to the dealer of a dealer's general distinguishing number as provided by Chapter 503, Transportation Code. Notwithstanding the presumption created by this subsection, a chief appraiser may, at his or her sole discretion, designate as the date on which a dealer commenced business a date other than the date of issuance to the dealer of a dealer's general distinguishing number. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which the dealer owner conducts business;

(2) each of the dealer's general distinguishing numbers issued by the Texas Department of Motor Vehicles;

(3) a statement that the dealer owner is the owner of a dealer's motor vehicle inventory; and

(4) the market value of the dealer's motor vehicle

inventory for the current tax year as computed under Section 23.121(b).

(g) Under the terms provided by this subsection, the chief appraiser may examine the books and records of the holder of a general distinguishing number issued by the Texas Department of Motor Vehicles. A request made under this subsection must be made in writing, delivered personally to the custodian of the records, at the location for which the general distinguishing number has been issued, must provide a period not less than 15 days for the person to respond to the request, and must state that the person to whom it is addressed has the right to seek judicial relief from compliance with the request. In a request made under this section the chief appraiser may examine:

(1) the document issued by the Texas Department of Motor Vehicles showing the person's general distinguishing number;

(2) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.122 to the person;

(3) sales records to substantiate information set forth in the dealer's declaration filed by the person.

(h) If a dealer fails to file a declaration as required by this section, or if, on the declaration required by this section, a dealer reports the sale of fewer than five motor vehicles in the prior year, the chief appraiser shall report that fact to the Texas Department of Motor Vehicles and the department shall initiate termination proceedings. The chief appraiser shall include with the report a copy of a declaration, if any, indicating the sale by a dealer of fewer than five motor vehicles in the prior year. A report by a chief appraiser to the Texas Department of Motor Vehicles as provided by this subsection is prima facie grounds for the cancellation of the dealer's general distinguishing number under Section 503.038(a)(9), Transportation Code, or for refusal by the Texas Department of Motor Vehicles to renew the dealer's general distinguishing number.

(i) A dealer who fails to file a declaration required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $500. Each day during which a dealer fails to comply with the terms of this subsection is a separate violation.

(j) A dealer who violates Subsection (g) of this section commits an offense. An offense under this subsection is a

misdemeanor punishable by a fine not to exceed $500. Each day during which a person fails to comply with the terms of Subsection (g) of this section is a separate violation.

(k) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a declaration required by this section 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, county attorney, chief appraiser, or person designated by the chief appraiser shall collect the penalty established by this section in the name of the chief appraiser. Venue of an action brought under this subsection 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. 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.

Added by Acts 1993, 73rd Leg., ch. 672, Sec. 3, eff. Jan. 1, 1994. Renumbered from Tax Code Sec. 23.12A by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(46), eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 23.12A and amended by Acts 1995, 74th Leg., ch. 945, Sec. 2, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 165, Sec. 30.249, eff. Sept. 1, 1997; Amended by Acts 1997, 75th Leg., ch. 321, Sec. 1 to 3, eff. May 26, 1997; Acts 1999, 76th Leg., ch. 1038, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 116 (H.B. 2071), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.03, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.04, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 850 (H.B. 315), Sec. 1, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 850 (H.B. 315), Sec. 2, eff. January 1, 2014.

Sec. 23.1211. TEMPORARY PRODUCTION AIRCRAFT; VALUE. (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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 848 (H.B. 3727), Sec. 1, eff. September 1, 2011.

Sec. 23.122. PREPAYMENT OF TAXES BY CERTAIN TAXPAYERS. (a) In this section:

(1) "Aggregate tax rate" means the combined tax rates of all relevant taxing units authorized by law to levy property taxes against a dealer's motor vehicle inventory.

(2) "Chief appraiser" has the meaning given it in Section 23.121 of this code.

(3) "Collector" has the meaning given it in Section 23.121

of this code.

(4) "Dealer's motor vehicle inventory" has the meaning given it in Section 23.121 of this code.

(5) "Declaration" has the meaning given it in Section 23.121 of this code.

(6) "Owner" has the meaning given it in Section 23.121 of this code.

(7) "Relevant taxing unit" means a taxing unit, including the county, authorized by law to levy property taxes against a dealer's motor vehicle inventory.

(8) "Sales price" has the meaning given it in Section 23.121 of this code.

(9) "Statement" means the Dealer's Motor Vehicle Inventory Tax Statement filed on a form promulgated by the comptroller as required by this section.

(10) "Subsequent sale" has the meaning given it in Section 23.121 of this code.

(11) "Total annual sales" has the meaning given it in Section 23.121 of this code.

(12) "Unit property tax factor" means a number equal to one-twelfth of the prior year aggregate tax rate at the location where a dealer's motor vehicle inventory is located on January 1 of the current year.

(b) Except for a vehicle sold to a dealer, a vehicle included in a fleet transaction, or a vehicle that is the subject of a subsequent sale, an owner or a person who has agreed by contract to pay the owner's current year property taxes levied against the owner's motor vehicle inventory shall assign a unit property tax to each motor vehicle sold from a dealer's motor vehicle inventory. The unit property tax of each motor vehicle is determined by multiplying the sales price of the motor vehicle by the unit property tax factor. 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 a sum equal to the total of unit property tax assigned to all motor vehicles sold from the dealer's motor vehicle inventory in the prior month to which a unit property tax was assigned. The money shall be deposited by the collector in or otherwise credited by the collector to 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 motor vehicle inventory, and the owner shall fund the escrow account as provided by this subsection.

(c) The collector shall maintain the escrow account for each owner in the county depository. The collector is not required to maintain a separate account in the depository for each escrow account created as provided by this section but shall maintain separate records for each owner. The collector shall retain any interest generated by the escrow account to defray the cost of administration of the prepayment procedure established by this section. Interest generated by an escrow account created as provided by this section is the sole property of the collector, and that interest may be used by no entity other than the collector. Interest generated by an escrow account may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

(d) The owner may not withdraw funds in an escrow account created pursuant to this section.

(e) The comptroller shall promulgate a form entitled a Dealer's Motor Vehicle Inventory Tax Statement. Each month, a dealer shall complete the form regardless of whether a motor vehicle is sold. A dealer may use no other form for that purpose. The statement may include the information the comptroller deems appropriate but shall include at least the following:

(1) a description of each motor vehicle sold;

(2) the sales price of the motor vehicle;

(3) the unit property tax of the motor vehicle if any; and

(4) the reason no unit property tax is assigned if no unit property tax is assigned.

(f) On or before the 10th day of each month a dealer shall file with the collector the statement covering the sale of each motor vehicle sold by the dealer in the prior month. On or before the 10th day of a month following a month in which a dealer does not sell a motor vehicle, the dealer must file the statement with the collector and indicate that no sales 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 motor vehicle sold. A chief appraiser or collector may examine documents held by a dealer as required by this subsection in the same manner, and subject to the same provisions, as are set forth in Section 23.121(g).

(g) The requirements of Subsection (f) of this section apply to

all dealers, without regard to whether or not the dealer owes vehicle inventory tax for the current year. A dealer who owes no vehicle inventory tax for the current year because he was not in business on January 1 may neither assign a unit property tax to a motor vehicle sold by the dealer nor remit money with the statement unless pursuant to the terms of a contract as provided by Subsection (l) of this section.

(h) A collector may establish a procedure, voluntary or mandatory, by which the unit property tax of a vehicle is paid and deposited into an owner's escrow account at the time of processing the transfer of title to the motor vehicle.

(i) A relevant taxing unit shall, on its tax bill prepared for the owner of a dealer's motor vehicle inventory, separately itemize the taxes levied against the dealer's motor vehicle inventory. When the tax bill is prepared by a relevant taxing unit for a dealer's motor vehicle inventory, the assessor for the relevant taxing unit, or an entity, if any, other than the collector, that collects taxes on behalf of the taxing unit, shall provide the collector a true and correct copy of the tax bill sent to the owner, including taxes levied against the dealer's motor vehicle inventory. The collector shall apply the money in the owner's escrow account to the taxes imposed and deliver a tax receipt to the owner. The collector shall apply the amount to each relevant taxing unit in proportion to the amount of taxes levied, and the assessor of each relevant taxing unit shall apply the funds received from the collector to the taxes owed by the owner.

(j) If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due.

(k) The collector shall remit to each relevant taxing unit the total amount collected by the collector in deficiency payments. The assessor of each relevant taxing unit shall apply those funds to the taxes owed by the owner. Taxes that are due but not received by the collector on or before January 31 are delinquent. Not later than February 15 the collector shall distribute to relevant taxing units in the manner set forth in this section all funds collected pursuant to the authority of this section and held in escrow by the collector

as provided by this section. This section does not impose a duty on a collector to collect delinquent taxes that the collector is not otherwise obligated by law or contract to collect.

(l) A person who acquires the business or assets of an owner may, by contract, agree to pay the current year vehicle inventory taxes owed by the owner. The owner who owes the current year tax and the person who acquires the business or assets of the owner shall jointly notify the chief appraiser and the collector of the terms of the agreement and of the fact that the purchaser has agreed to pay the current year vehicle inventory taxes owed by the selling dealer. The chief appraiser and the collector shall adjust their records accordingly. Notwithstanding the terms of Section 23.121 of this code, a person who agrees to pay current year vehicle inventory taxes as provided by this subsection is not required to file a declaration until the year following the acquisition. This subsection does not relieve the selling owner of tax liability.

(m) A dealer who fails to file a statement as required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $100. Each day during which a dealer fails to comply with the terms of this subsection is a separate violation.

(n) 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 business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, county attorney, collector, or person designated by the collector shall collect the penalty established by this section in the name of the collector. Venue of an action brought under this subsection 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. 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.

(o) An owner who fails to remit unit property taxes due as required by this section shall pay a penalty of five percent of the amount due. If the amount is not paid within 10 days after the due date, the owner shall pay an additional penalty of five percent of the amount due. Notwithstanding the terms of this section, unit property taxes paid on or before January 31 of the year following the

date on which they are due are not delinquent. The collector, the collector's designated agent, or the county or district attorney shall enforce the terms of this subsection. A penalty under this subsection is in addition to any other penalty provided by law if the owner's taxes are delinquent.

(p) Fines collected pursuant to the authority of this section shall be deposited in the county depository to the credit of the general fund. Penalties collected pursuant to the authority of this section are the sole property of the collector, may be used by no entity other than the collector, and may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

Added by Acts 1993, 73rd Leg., ch. 672, Sec. 4, eff. Jan. 1, 1994. Renumbered from Tax Code Sec. 23.12B by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(47), eff. Sept. 1, 1995. Renumbered from Tax Code Sec. 23.12B and amended by Acts 1995, 74th Leg., ch. 945, Sec. 3, eff. Jan. 1, 1996; Amended by Acts 1997, 75th Leg., ch. 321, Sec. 4 to 7, eff. May 26, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 116 (H.B. 2071), Sec. 2, eff. September 1, 2009.

Sec. 23.123. DECLARATIONS AND STATEMENTS CONFIDENTIAL. (a) In this section:

(1) "Collector" has the meaning given it in Section 23.122 of this code.

(2) "Chief appraiser" has the meaning given it in Section 23.122 of this code.

(3) "Dealer" has the meaning given it in Section 23.121 of this code.

(4) "Declaration" has the meaning given it in Section 23.122 of this code.

(5) "Owner" has the meaning given it in Section 23.121 of this code.

(6) "Statement" has the meaning given it in Section 23.122 of this code.

(b) Except as provided by this section, a declaration or statement filed with a chief appraiser or collector as required by

Section 23.121 or Section 23.122 of this code is confidential and not open to public inspection. A declaration or statement and the information contained in either may not be disclosed to anyone except an employee of the appraisal office who appraises the property or to an employee of the county tax assessor-collector involved in the maintenance of the owner's escrow account.

(c) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;

(3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;

(4) to a collector or chief appraiser;

(5) to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.121 or Section 23.122;

(6) for statistical purposes if in a form that does not identify specific property or a specific property owner;

(7) if and to the extent that the information is required for inclusion in a public document or record that the appraisal or collection office is required by law to prepare or maintain; or

(8) to the Texas Department of Motor Vehicles for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.

(d) A person who knowingly permits inspection of a declaration or statement by a person not authorized to inspect the declaration or statement or who discloses confidential information contained in the declaration or statement to a person not authorized to receive the information commits an offense. An offense under this subsection is a Class B misdemeanor.

Added by Acts 1995, 74th Leg., ch. 945, Sec. 4, eff. Jan. 1, 1996.
Amended by Acts 1999, 76th Leg., ch. 1038, Sec. 2, eff. June 18, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.05, eff. September 1, 2009.

Sec. 23.124. DEALER'S VESSEL AND OUTBOARD MOTOR INVENTORY; VALUE. (a) In this section:

(1) "Chief appraiser" means the chief appraiser for the appraisal district in which a dealer's vessel and outboard motor inventory is located.

(2) "Collector" means the county tax assessor-collector in the county in which a dealer's vessel and outboard motor inventory is located.

(3) "Dealer" means a person who holds a dealer's and manufacturer's number issued by the Parks and Wildlife Department under the authority of Section 31.041, Parks and Wildlife Code, or is authorized by law or interstate reciprocity agreement to purchase vessels or outboard motors in Texas without paying the sales tax. The term does not include a person who is principally engaged in manufacturing vessels or outboard motors or an entity that is owned or controlled by such a person.

(4) "Dealer's vessel and outboard motor inventory" means all vessels and outboard motors held for sale by a dealer.

(5) "Dealer-financed sale" means the sale of a vessel or outboard motor in which the seller finances the purchase of the vessel or outboard motor, is the sole lender in the transaction, and retains exclusively the right to enforce the terms of the agreement evidencing the sale.

(6) "Declaration" means the dealer's vessel and outboard motor inventory declaration form promulgated by the comptroller as required by this section.

(7) "Fleet transaction" means the sale of five or more vessels or outboard motors from a dealer's vessel and outboard motor inventory to the same business entity within one calendar year.

(8) "Outboard motor" has the meaning given it by Section 31.003, Parks and Wildlife Code.

(9) "Owner" means a dealer who owes current year vessel and outboard motor inventory taxes levied against a dealer's vessel and outboard motor inventory.

(10) "Person" means a natural person, corporation, partnership, or other legal entity.

(11) "Sales price" means the total amount of money paid or to be paid for the purchase of:

(A) a vessel, other than a trailer that is treated as a vessel, as set forth as "sales price" in the form entitled "Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department;

(B) an outboard motor as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department; or

(C) a trailer that is treated as a vessel as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles.

In a transaction involving a vessel, an outboard motor, or a trailer that is treated as a vessel that does not involve the use of one of these forms, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader's Affidavit, the Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader's Affidavit, or the Application for Texas Certificate of Title if one of these forms were involved.

(12) "Subsequent sale" means a dealer-financed sale of a vessel or outboard motor that, at the time of the sale, has been the subject of a dealer-financed sale from the same dealer's vessel and outboard motor inventory in the same calendar year.

(13) "Total annual sales" means the total of the sales price from every sale from a dealer's vessel and outboard motor inventory for a 12-month period.

(14) "Vessel" has the meaning given it by Section 31.003, Parks and Wildlife Code, except such term shall not include:

(A) vessels of more than 65 feet in length, measured from end to end over the deck, excluding sheer; and

(B) canoes, kayaks, punts, rowboats, rubber rafts, or other vessels under 14 feet in length when paddled, poled, oared, or windblown.

The term "vessel" also includes trailers that are treated as vessels as defined in this section.

(15) "Trailer treated as a vessel" means a vehicle that:

(A) is designed to carry a vessel; and

(B) is either a "trailer" or "semitrailer" as such terms are defined by Section 501.002, Transportation Code.

(b) For the purpose of the computation of property tax, the market value of a dealer's vessel and outboard motor inventory on January 1 is the total annual sales from the dealer's vessel and outboard motor inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the prior tax year, divided by 12.

(c) For the purpose of the computation of property tax on the market value of a dealer's vessel and outboard motor inventory of an owner who was not a dealer on January 1 of the prior tax year, the chief appraiser shall estimate the market value of the dealer's vessel and outboard motor inventory. In making the estimate required by this subsection, the chief appraiser shall extrapolate using sales data, if any, generated by sales from the dealer's vessel and outboard motor inventory in the prior tax year.

(d) Except for the dealer's vessel and outboard motor inventory, personal property held by a dealer is appraised as provided by other sections of this code. In the case of a dealer whose sales from the dealer's vessel and outboard motor inventory are made predominantly to dealers, the chief appraiser shall appraise the dealer's vessel and outboard motor inventory as provided by Section 23.12 of this code.

(e) A dealer is presumed to be an owner of a dealer's vessel and outboard motor inventory on January 1 if, in the 12-month period ending on December 31 of the immediately preceding year, the dealer sold a vessel or outboard motor to a person other than a dealer. The presumption created by this subsection is not rebutted by the fact that a dealer has no vessels or outboard motors physically on hand for sale from a dealer's vessel and outboard motor inventory on January 1.

(f) The comptroller shall promulgate a form entitled "Dealer's Vessel and Outboard Motor Inventory Declaration." Except as provided by Section 23.125(l) of this code, not later than February 1 of each year or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, each dealer shall file a declaration with the chief appraiser and file a copy with the collector. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which

the dealer owner conducts business;

(2) each of the dealer's and manufacturer's numbers issued by the Parks and Wildlife Department;

(3) a statement that the dealer owner is the owner of a dealer's vessel and outboard motor inventory; and

(4) the market value of the dealer's vessel and outboard motor inventory for the current tax year as computed under Subsection (b) of this section.

(g) Under the terms provided by this subsection, the chief appraiser may examine the books and records of the holder of a dealer's and manufacturer's number issued by the Parks and Wildlife Department. A request made under this subsection must be made in writing, delivered personally to the custodian of the records, must provide a period not less than 15 days for the person to respond to the request, and must state that the person to whom it is addressed has the right to seek judicial relief from compliance with the request. In a request made under this section the chief appraiser may examine:

(1) the document issued by the Parks and Wildlife Department showing the person's dealer's and manufacturer's number;

(2) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.125 of this code to the person;

(3) sales records to substantiate information set forth in the dealer's declaration filed by the person.

(h) If a dealer fails to file a declaration required by this section, or if, on the declaration required by this section, a dealer reports the sale of fewer than five vessels or outboard motors in the prior year, the chief appraiser shall report that fact to the Parks and Wildlife Department.

(i) A dealer who fails to file a declaration required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $500. Each day during which a dealer fails to comply with the terms of this subsection is a separate violation.

(j) A dealer who violates Subsection (g) of this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $500. Each day during which a dealer fails to comply with the terms of Subsection (g) of this section is a separate violation.

(k) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a declaration required by this section 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 shall collect the penalty established by this section in the name of the chief appraiser or collector. Venue of an action brought under this subsection 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. 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.

Added by Acts 1995, 74th Leg., ch. 836, Sec. 3, eff. Jan. 1, 1996. Renumbered from Tax Code Sec. 23.12D by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(73), eff. Sept. 1, 1997. Amended by Acts 1997, 75th Leg., ch. 1052, Sec. 1, 2, eff. Jan. 1, 1998.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 116 (H.B. 2071), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.06, eff. September 1, 2009.

Sec. 23.1241. DEALER'S HEAVY EQUIPMENT INVENTORY; VALUE. (a) In this section:

(1) "Dealer" means a person engaged in the business in this state of selling, leasing, or renting heavy equipment. The term does not include a bank, savings bank, savings and loan association, credit union, or other finance company. In addition, for purposes of taxation of a person's inventory of heavy equipment in a tax year, the term does not include a person who renders the person's inventory of heavy equipment for taxation in that tax year by filing a rendition statement or property report in accordance with Chapter 22.

(2) "Dealer's heavy equipment inventory" means all items of heavy equipment that a dealer holds for sale, lease, or rent in this state during a 12-month period.

(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 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, the total amount of the lease or rental payments.

(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.

(b) For the purpose of the computation of property tax, 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.

(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.

(c) For the purpose of the computation of property tax on the market value of the dealer's heavy equipment inventory of an owner who was not a dealer on January 1 of the preceding tax year, the chief appraiser shall estimate the market value of the dealer's heavy equipment inventory. In making the estimate required by this subsection, the chief appraiser shall extrapolate using sales data, if any, generated by sales from the dealer's heavy equipment inventory in the preceding tax year.

(d) Except for dealer's heavy equipment inventory, personal property held by a dealer is appraised as provided by the other sections of this code. In the case of a dealer whose sales from the dealer's heavy equipment inventory are made predominately to other dealers, the chief appraiser shall appraise the dealer's heavy equipment inventory as provided by Section 23.12.

(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.

(f) The comptroller by rule shall adopt a dealer's heavy equipment inventory declaration form. Except as provided by Section 23.1242(k), not later than February 1 of each year, or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, each dealer shall file a declaration with the chief appraiser and file a copy with the collector. The declaration is sufficient to comply with this subsection if it sets forth:

(1) the name and business address of each location at which the declarant conducts business;

(2) a statement that the declarant is the owner of a dealer's heavy equipment inventory; and

(3) the market value of the declarant's heavy equipment inventory for the current tax year as computed under Subsection (b).

(g) As provided by this subsection, the chief appraiser may examine the books and records of a dealer. A request made under this

subsection must be made in writing, must be delivered personally to the custodian of the records at a location at which the dealer conducts business, must provide a period of not less than 15 days for the person to respond to the request, and must state that the person to whom the request is addressed has the right to seek judicial relief from compliance with the request. In a request made under this section, the chief appraiser may examine:

(1) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.1242 to the person; and

(2) sales records to substantiate information set forth in the declaration filed by the dealer.

(h) Repealed by Acts 1999, 76th Leg., ch. 574, Sec. 2(1), eff. June 18, 1999.

(i) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 322, Sec. 8, eff. January 1, 2012.

(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 collect the penalty established by this section in the name of the 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.

Added by Acts 1997, 75th Leg., ch. 1184, Sec. 2, eff. Jan. 1, 1998. Amended by Acts 1999, 76th Leg., ch. 574, Sec. 2(1), eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1550, Sec. 1 to 3, eff. Jan. 1,

2000.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 116 (H.B. 2071), Sec. 4, eff. September 1, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 322 (H.B. 2476), Sec. 1, eff. January 1, 2012.
Acts 2011, 82nd Leg., R.S., Ch. 322 (H.B. 2476), Sec. 2, eff. January 1, 2012.
Acts 2011, 82nd Leg., R.S., Ch. 322 (H.B. 2476), Sec. 8, eff. January 1, 2012.
Acts 2013, 83rd Leg., R.S., Ch. 884 (H.B. 826), Sec. 1, eff. January 1, 2014.

Sec. 23.1242. PREPAYMENT OF TAXES BY HEAVY EQUIPMENT DEALERS. (a) In this section:

(1) "Aggregate tax rate" means the combined tax rates of all appropriate taxing units authorized by law to levy property taxes against a dealer's heavy equipment inventory.

(2) "Dealer's heavy equipment inventory," "declaration," "dealer," "sales price," "subsequent sale," and "total annual sales" have the meanings assigned those terms by Section 23.1241.

(3) "Statement" means the dealer's heavy equipment inventory tax statement filed on a form adopted by the comptroller under this section.

(4) "Unit property tax factor" means a number equal to one-twelfth of the preceding year's aggregate ad valorem tax rate at the location where a dealer's heavy equipment inventory is located on January 1 of the current year.

(b) Except for an item of heavy equipment sold to a dealer, an item of heavy equipment included in a fleet transaction, 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 20th 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.

(c) The collector shall maintain the escrow account for each owner in the county depository. The collector is not required to maintain a separate account in the depository for each escrow account created as provided by this section but shall maintain separate records for each owner. The collector shall retain any interest generated by the escrow account to defray the cost of administration of the prepayment procedure established by this section. Interest generated by an escrow account created as provided by this section is the sole property of the collector and that interest may not be used by an entity other than the collector. Interest generated by an escrow account may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

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

(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.

(f) On or before the 20th 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 20th 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).

(g) Except as provided by this subsection, Subsection (f) applies to any dealer, regardless of whether a dealer owes heavy equipment inventory tax for the current year. A dealer who owes no heavy equipment inventory tax for the current year because the dealer was not in business on January 1:

(1) shall file the statement required by this section showing the information required by this section for each month that the dealer is in business; and

(2) may not assign a unit property tax to an item of heavy equipment sold by the dealer or remit money with the statement except in compliance with the terms of a contract as provided by Subsection (k).

(h) A taxing unit shall, on its tax bill prepared for the owner of a dealer's heavy equipment inventory, separately itemize the taxes levied against the dealer's heavy equipment inventory. When the tax bill is prepared for a dealer's heavy equipment inventory, the assessor for the taxing unit, or an entity, if any, other than the collector, that collects taxes on behalf of the taxing unit, shall provide the collector a true and correct copy of the tax bill sent to

the owner, including taxes levied against the dealer's heavy equipment inventory. The collector shall apply the money in the owner's escrow account to the taxes imposed and deliver a tax receipt to the owner. The collector shall apply the amount to each appropriate taxing unit in proportion to the amount of taxes levied, and the assessor of each taxing unit shall apply the funds received from the collector to the taxes owed by the owner.

(i) If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due.

(j) The collector shall remit to each appropriate taxing unit the total amount collected by the collector in deficiency payments. The assessor of each taxing unit shall apply those funds to the taxes owed by the owner. Taxes that are due but not received by the collector on or before January 31 are delinquent. Not later than February 15, the collector shall distribute to each appropriate taxing unit in the manner provided by this section all funds collected under authority of this section and held in escrow by the collector under this section. This section does not impose a duty on a collector to collect delinquent taxes that the collector is not otherwise obligated by law or contract to collect.

(k) A person who acquires the business or assets of an owner may, by contract, agree to pay the current year heavy equipment inventory taxes owed by the owner. The owner who owes the current year tax and the person who acquires the business or assets of the owner shall jointly notify the chief appraiser and the collector of the terms of the agreement and of the fact that the other person has agreed to pay the current year heavy equipment inventory taxes owed by the dealer. The chief appraiser and the collector shall adjust their records accordingly. Notwithstanding Section 23.1241, a person who agrees to pay current year heavy equipment inventory taxes as provided by this subsection is not required to file a declaration until the year following the acquisition. This subsection does not relieve the selling owner of the tax liability.

(l) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 322, Sec. 8, eff. January 1, 2012.

(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 business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, or county attorney may collect the penalty established by this section in the name of the 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.

(n) An owner who fails to remit unit property taxes due as required by this section shall pay a penalty of five percent of the amount due. If the amount is not paid within 10 days after the due date, the owner shall pay an additional penalty of five percent of the amount due. Notwithstanding this section, unit property taxes paid on or before January 31 of the year following the date on which they are due are not delinquent. The collector, the collector's designated agent, or the county or district attorney shall enforce this subsection. A penalty under this subsection is in addition to any other penalty provided by law if the owner's taxes are delinquent.

(o) A fine collected under this section shall be deposited in the county depository to the credit of the general fund. A penalty collected under this section is the sole property of the collector, may be used by no entity other than the collector, and may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

(p) Section 23.123 applies to a declaration or statement filed under this section in the same manner in which that section applies to a statement or declaration filed as required by Section 23.121 or 23.122.

Added by Acts 1997, 75th Leg., ch. 1184, Sec. 2, eff. Jan. 1, 1998.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 116 (H.B. 2071), Sec. 5, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 322 (H.B. 2476), Sec. 3, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 322 (H.B. 2476), Sec. 8, eff. January 1, 2012.

Acts 2017, 85th Leg., R.S., Ch. 89 (H.B. 1346), Sec. 1, eff. September 1, 2017.

Sec. 23.1243. REFUND OF PREPAYMENT OF TAXES ON FLEET TRANSACTION. (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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 322 (H.B. 2476), Sec. 4, eff. January 1, 2012.

Sec. 23.125. PREPAYMENT OF TAXES BY CERTAIN TAXPAYERS. (a) in this section:

(1) "Aggregate tax rate" means the combined tax rates of all relevant taxing units authorized by law to levy property taxes against a dealer's vessel and outboard motor inventory.

(2) "Chief appraiser" has the meaning given it in Section 23.124 of this code.

(3) "Collector" has the meaning given it in Section 23.124 of this code.

(4) "Dealer's vessel and outboard motor inventory" has the meaning given it in Section 23.124 of this code.

(5) "Declaration" has the meaning given it in Section 23.124 of this code.

(6) "Owner" has the meaning given it in Section 23.124 of this code.

(7) "Relevant taxing unit" means a taxing unit, including the county, authorized by law to levy property taxes against a dealer's vessel and outboard motor inventory.

(8) "Sales price" has the meaning given it in Section 23.124 of this code.

(9) "Statement" means the dealer's vessel and outboard motor inventory tax statement filed on a form promulgated by the comptroller as required by this section.

(10) "Subsequent sale" has the meaning given it in Section 23.124 of this code.

(11) "Total annual sales" has the meaning given it in Section 23.124 of this code.

(12) "Unit property tax factor" means a number equal to one-twelfth of the prior year aggregate tax rate at the location where a dealer's vessel and outboard motor inventory is located on January 1 of the current year.

(b) Except for a vessel or outboard motor sold to a dealer, a vessel or outboard motor included in a fleet transaction, or a vessel or outboard motor that is the subject of a subsequent sale, an owner or a person who has agreed by contract to pay the owner's current year property taxes levied against the owner's vessel and outboard motor inventory shall assign a unit property tax to each vessel and outboard motor sold from a dealer's vessel and outboard motor inventory. The unit property tax of each vessel or outboard motor is determined by multiplying the sales price of the vessel or outboard motor by the unit property tax factor. 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 a sum equal to the total of unit property tax assigned to all vessels and outboard motors sold from the dealer's vessel and outboard motor

inventory in the prior month to which a unit property tax was assigned. The money shall be deposited by the collector in or otherwise credited by the collector to 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 vessel and outboard motor inventory, and the owner shall fund the escrow account as provided by this subsection.

(c) The collector shall maintain the escrow account for each owner in the county depository. The collector is not required to maintain a separate account in the depository for each escrow account created as provided by this section but shall maintain separate records for each owner. The collector shall retain any interest generated by the escrow account to defray the cost of administration of the prepayment procedure established by this section. Interest generated by an escrow account created as provided by this section is the sole property of the collector, and that interest may be used by no entity other than the collector. Interest generated by an escrow account may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

(d) The owner may not withdraw funds in an escrow account created pursuant to this section.

(e) The comptroller shall promulgate a form entitled "Dealer's Vessel and Outboard Motor Inventory Tax Statement." Each month, a dealer shall complete the form regardless of whether a vessel and outboard motor is sold. A dealer may use no other form for that purpose. The statement may include the information the comptroller deems appropriate but shall include at least the following:

(1) a description of each vessel or outboard motor sold;

(2) the sales price of the vessel or outboard motor;

(3) the unit property tax of the vessel or outboard motor, if any; and

(4) the reason no unit property tax is assigned if no unit property tax is assigned.

(f) On or before the 10th day of each month a dealer shall file with the collector the statement covering the sale of each vessel or outboard motor sold by the dealer in the prior month. On or before the 10th day of a month following a month in which a dealer does not sell a vessel or outboard motor, the dealer must file the statement with the collector and indicate that no sales 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 vessel and outboard motor sold. 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 provisions, as are set forth in Section 23.124(g).

(g) Except as provided by this subsection, the requirements of Subsection (f) of this section apply to all dealers, without regard to whether or not the dealer owes vessel and outboard motor inventory tax for the current year. A dealer who owes no vessel and outboard motor inventory tax for the current year because he was not in business on January 1:

(1) shall file the statement required by this section showing the information required by this section for each month during which the dealer is in business; and

(2) may neither assign a unit property tax to a vessel or outboard motor sold by the dealer nor remit money with the statement unless pursuant to the terms of a contract as provided by Subsection (l) of this section.

(h) A collector may establish a procedure, voluntary or mandatory, by which the unit property tax of a vessel or outboard motor is paid and deposited into an owner's escrow account at the time of processing the transfer of title to the vessel or outboard motor.

(i) A relevant taxing unit shall, on its tax bill prepared for the owner of a dealer's vessel and outboard motor inventory, separately itemize the taxes levied against the dealer's vessel and outboard motor inventory. When the tax bill is prepared by a relevant taxing unit for a dealer's vessel and outboard motor inventory, the assessor for the relevant taxing unit, or an entity, if any, other than the collector, that collects taxes on behalf of the taxing unit, shall provide the collector a true and correct copy of the tax bill sent to the owner, including taxes levied against a dealer's vessel and outboard motor inventory. The collector shall apply the money in the owner's escrow account to the taxes imposed and deliver a tax receipt to the owner. The collector shall apply the amount to each relevant taxing unit in proportion to the amount of taxes levied, and the assessor of each relevant taxing unit shall apply the funds received from the collector to the taxes owed by the owner.

(j) If the amount in the escrow account is not sufficient to

pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due.

(k) The collector shall remit to each relevant taxing unit the total amount collected by the collector in deficiency payments. The assessor of each relevant taxing unit shall apply those funds to the taxes owed by the owner. Taxes that are due but not received by the collector on or before January 31 are delinquent. Not later than February 15, the collector shall distribute to relevant taxing units in the manner set forth in this section all funds collected pursuant to the authority of this section and held in escrow by the collector as provided by this section. This section does not impose a duty on a collector to collect delinquent taxes that the collector is not otherwise obligated by law or contract to collect.

(l) A person who acquires the business or assets of an owner may, by contract, agree to pay the current year vessel and outboard motor inventory taxes owed by the owner. The owner who owes the current year tax and the person who acquires the business or assets of the owner shall jointly notify the chief appraiser and the collector of the terms of the agreement and of the fact that the other person has agreed to pay the current year vessel and outboard motor inventory taxes owed by the dealer. The chief appraiser and the collector shall adjust their records accordingly. Notwithstanding the terms of Section 23.124 of this code, a person who agrees to pay current year vessel and outboard motor inventory taxes as provided by this subsection is not required to file a declaration until the year following the acquisition. This subsection does not relieve the selling owner of the tax liability.

(m) A dealer who fails to file a statement as required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $100. Each day during which a dealer fails to comply with the terms of this subsection is a separate violation.

(n) 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 owner's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, or

county attorney shall collect the penalty established by this section in the name of the chief appraiser or collector. Venue of an action brought under this subsection 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. 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.

(o) An owner who fails to remit unit property taxes due as required by this section shall pay a penalty of five percent of the amount due. If the amount is not paid within 10 days after the due date, the owner shall pay an additional penalty of five percent of the amount due. Notwithstanding the terms of this section, unit property taxes paid on or before January 31 of the year following the date on which they are due are not delinquent. The collector, the collector's designated agent, or the county or district attorney shall enforce the terms of this subsection. A penalty under this subsection is in addition to any other penalty provided by law if the owner's taxes are delinquent.

(p) Fines and penalties collected pursuant to the authority of this section shall be deposited in the county depository to the credit of the general fund.

Added by Acts 1995, 74th Leg., ch. 836, Sec. 4, eff. Jan. 1, 1996.
Renumbered from Tax Code Sec. 23.12E by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(73), eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 116 (H.B. 2071), Sec. 6, eff. September 1, 2009.

Sec. 23.126. DECLARATIONS AND STATEMENTS CONFIDENTIAL. (a) in this section:

(1) "Collector" has the meaning given it in Section 23.124 of this code.

(2) "Chief appraiser" has the meaning given it in Section 23.124 of this code.

(3) "Dealer" has the meaning given it in Section 23.124 of this code.

(4) "Declaration" has the meaning given it in Section 23.124 of this code.

(5) "Owner" has the meaning given it in Section 23.124 of this code.

(6) "Statement" has the meaning given it in Section 23.124 of this code.

(b) Except as provided by this section, a declaration or statement filed with a chief appraiser or collector as required by Section 23.124 or Section 23.125 of this code is confidential and not open to public inspection. A declaration or statement and the information contained in either may not be disclosed to anyone except an employee of the appraisal office who appraises the property or to an employee of the county tax assessor-collector involved in the maintenance of the owner's escrow account.

(c) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;

(3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;

(4) to a collector or chief appraiser;

(5) to a district attorney, criminal district attorney, or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.124 or Section 23.125 of this code;

(6) for statistical purposes if in a form that does not identify specific property or a specific property owner; or

(7) if and to the extent that the information is required for inclusion in a document or record that the appraisal or collection office is required by law to prepare or maintain.

(d) A person who knowingly permits inspection of a declaration or statement by a person not authorized to inspect the declaration or statement or who discloses confidential information contained in the declaration or statement to a person not authorized to receive the information commits an offense. An offense under this subsection is a Class B misdemeanor.

Added by Acts 1995, 74th Leg., ch. 836, Sec. 5, eff. Jan. 1, 1996. Renumbered from Tax Code Sec. 23.12F by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(73), eff. Sept. 1, 1997.

Sec. 23.127. RETAIL MANUFACTURED HOUSING INVENTORY; VALUE. (a) In this section:

(1) "Chief appraiser" means the chief appraiser for the appraisal district in which a retailer's retail manufactured housing inventory is located.

(2) "Collector" means the county tax assessor-collector for the county in which a retailer's retail manufactured housing inventory is located.

(3) "Declaration" means a retail manufactured housing inventory declaration form adopted by the comptroller under this section in relation to units of manufactured housing considered to be retail manufactured housing inventory.

(4) "Department" means the Texas Department of Housing and Community Affairs.

(5) "HUD-code manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

(6) "Manufactured housing" means:

(A) a HUD-code manufactured home as it would customarily be held by a retailer in the normal course of business in a retail manufactured housing inventory; or

(B) a mobile home as it would customarily be held by a retailer in the normal course of business in a retail manufactured housing inventory.

(7) "Mobile home" has the meaning assigned by Section 1201.003, Occupations Code.

(8) "Owner" means a retailer who owes current year inventory taxes imposed on a retailer's retail manufactured housing inventory.

(9) "Retail manufactured housing inventory" means all units of manufactured housing that a retailer holds for sale at retail and that are defined as inventory by Section 1201.201, Occupations Code.

(10) "Retailer" has the meaning assigned by Section 1201.003, Occupations Code.

(11) "Retailer-financed sale" means the sale at retail of a unit of manufactured housing in which the retailer finances the purchase of the unit of manufactured housing, is the sole lender in the transaction, and retains exclusively the right to enforce the terms of the agreement that evidences the sale.

(12) "Sales price" means the total amount of money paid or to be paid to a retailer for the purchase of a unit of manufactured housing, excluding any amount paid for the installation of the unit.

(13) "Subsequent sale" means a retailer-financed sale of a unit of manufactured housing that, at the time of the sale, has been the subject of a retailer-financed sale from the same retail manufactured housing inventory in the same calendar year.

(14) "Total annual sales" means the total of the sales price for each sale from a retail manufactured housing inventory in a 12-month period.

(b) For the purpose of the computation of property taxes, the market value of a retail manufactured housing inventory on January 1 is the total annual sales, less sales to retailers and subsequent sales, for the 12-month period corresponding to the preceding tax year, divided by 12.

(c) For the purpose of the computation of property taxes on the market value of the retail manufactured housing inventory of an owner who was not a retailer on January 1 of the preceding tax year, the chief appraiser shall estimate the market value of the retail manufactured housing inventory. In making the estimate required by this subsection, the chief appraiser shall extrapolate using any sales data generated by sales from the retail manufactured housing inventory in the preceding tax year.

(d) Except for a retail manufactured housing inventory, personal property held by a retailer is appraised as provided by the other sections of this code. In the case of a retailer whose sales from the retail manufactured housing inventory are made predominately to other retailers, the chief appraiser shall appraise the retail manufactured housing inventory as provided by Section 23.12.

(e) A retailer is presumed to be an owner of a retail manufactured housing inventory on January 1 if, in the 12-month period ending on December 31 of the immediately preceding year, the retailer sold a unit of manufactured housing to a person other than a retailer. The presumption created by this subsection is not rebutted by the fact that a retailer does not have any units of manufactured housing physically on hand for sale from the retail manufactured housing inventory on January 1.

(f) The comptroller by rule shall adopt a form entitled "Retail Manufactured Housing Inventory Declaration." Except as provided by Section 23.128(k), not later than February 1 of each year or, in the

case of a retailer who was not in business on January 1, not later than the 30th day after the date the retailer commences business, each retailer shall file a declaration with the chief appraiser and file a copy with the collector. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which the retailer conducts business;

(2) the retailer's license number issued by the department;

(3) a statement that the retailer is the owner of a retail manufactured housing inventory; and

(4) the market value of the retailer's manufactured housing inventory for the current tax year as computed under Subsection (b).

(g) The chief appraiser may examine the books and records of a retailer. A request made under this subsection must be made in writing, delivered personally to the custodian of the records at a location at which the retailer conducts business, provide a period of not less than 15 days for the person to respond to the request, and state that the person to whom the request is addressed has the right to seek judicial relief from compliance with the request. In an examination made under this section, the chief appraiser may examine:

(1) the document issued by the department showing the retailer's license number;

(2) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.128 to the retailer; and

(3) sales records to substantiate information stated in a retailer's declaration filed by the person.

(h) If a retailer fails to file a declaration as required by Subsection (f), or if, on the declaration required by Subsection (f) a retailer reports the sale of fewer than two units of manufactured housing in the preceding year, the chief appraiser shall report that fact to the department.

(i) A retailer who fails to file a declaration as required by Subsection (f) commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $500. Each day that a retailer fails to file the declaration as required by Subsection (f) is a separate violation.

(j) A retailer who violates Subsection (g) commits an offense. An offense under this subsection is a misdemeanor punishable by a

fine not to exceed $500. Each day that a retailer fails to comply with Subsection (g) is a separate violation.

(k) In addition to other penalties provided by law, a retailer who fails to file or fails to timely file a declaration required by Subsection (f) is liable for a penalty in the amount of $1,000 for each month or part of a month in which a declaration is not filed or timely filed after it is due. A lien attaches to the retailer's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, county attorney, chief appraiser, or person designated by the chief appraiser shall collect the penalty established by this section in the name of the chief appraiser. Venue of an action brought under this subsection is in the county in which the violation occurred or in the county in which the retailer maintains the retailer's principal place of business or residence.

(l) Section 23.123 applies to a declaration filed under this section in the same manner in which that section applies to a declaration filed as required by Section 23.121.

(m) Except as provided by Subsection (d), a chief appraiser shall appraise retail manufactured housing inventory in the manner provided by this section.

Added by Acts 1997, 75th Leg., ch. 1112, Sec. 2, eff. Jan. 1, 1998. Amended by Acts 1999, 76th Leg., ch. 1060, Sec. 1, eff. Jan. 1, 2000; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.812, eff. Sept. 1, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 116 (H.B. 2071), Sec. 7, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 81, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 82, eff. September 1, 2017.

Sec. 23.128. PREPAYMENT OF TAXES BY MANUFACTURED HOUSING RETAILERS. (a) In this section:

(1) "Aggregate tax rate" means the combined tax rates of all appropriate taxing units authorized by law to impose property taxes on a retail manufactured housing inventory.

(2) "Appropriate taxing unit" means a taxing unit,

including the county, authorized by law to impose property taxes on a retail manufactured housing inventory.

(3) "Chief appraiser," "collector," "declaration," "manufactured housing," "owner," "retail manufactured housing inventory," "retailer," "sales price," "subsequent sale," and "total annual sales" have the meanings assigned by Section 23.127.

(4) "Statement" means the retail manufactured housing inventory tax statement filed on a form adopted by the comptroller under this section.

(5) "Unit property tax factor" means a number equal to one-twelfth of the preceding year's aggregate ad valorem tax rate at the location at which a retail manufactured housing inventory is located on January 1 of the current year.

(b) Except for a unit of manufactured housing sold to a retailer or a unit of manufactured housing that is the subject of a subsequent sale, a retailer or a person who has agreed by contract to pay the retailer's current year property taxes imposed on the retailer's manufactured housing inventory shall assign a unit property tax to each unit of manufactured housing sold from a retail manufactured housing inventory. The unit property tax of each unit of manufactured housing is determined by multiplying the sales price of the unit by the unit property tax factor. On or before the 10th day of each month the retailer shall, together with the statement filed by the retailer as required by this section, deposit with the collector an amount equal to the total of the unit property tax assigned to all units of manufactured housing sold from the retail manufactured housing inventory in the preceding month to which a unit property tax was assigned. The collector shall deposit the money to the credit of the retailer'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 imposed on the retail manufactured housing inventory, and the retailer shall fund the escrow account as provided by this subsection.

(c) The collector shall maintain the escrow account for each retailer in the county depository. The collector is not required to maintain a separate account in the depository for each escrow account created as provided by this section but shall maintain separate records for each retailer. The collector shall retain any interest generated by the escrow account to defray the cost of administration of the prepayment procedure established by this section. Interest

generated by an escrow account created as provided by this section is the sole property of the collector and may not be used by an entity other than the collector. Interest generated by an escrow account may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

(d) The retailer may not withdraw money in an escrow account created under this section.

(e) The comptroller by rule shall adopt a form entitled "Retail Manufactured Housing Inventory Tax Statement." Each month, a retailer shall complete the form regardless of whether a unit of manufactured housing is sold. A retailer may not use another form for that purpose. The statement shall include:

(1) a description of the unit of manufactured housing sold, including any unique identification or serial number affixed to each unit by the manufacturer;

(2) the sales price of the unit of manufactured housing;

(3) any unit property tax of the unit of manufactured housing;

(4) the reason a unit property tax is not assigned if that is the case; and

(5) any other information the comptroller considers appropriate.

(f) On or before the 10th day of each month, a retailer shall file with the collector the statement covering the sale of each unit of manufactured housing sold by the retailer in the preceding month. On or before the 10th day of a month following a month in which a dealer does not sell a unit of manufactured housing, the dealer must file the statement with the collector and indicate that no sales were made in the prior month. A retailer shall file a copy of the statement with the chief appraiser and retain documentation relating to the disposition of each unit of manufactured housing sold. A chief appraiser or collector may examine documents held by a retailer as required by this subsection in the same manner, and subject to the same conditions, as in Section 23.127(g).

(g) Subsection (f) applies to a retailer regardless of whether the retailer owes retail manufactured housing inventory tax for the current year. A retailer who does not owe any retail manufactured housing inventory tax for the current year because the retailer was not in business on January 1 may not assign a unit property tax to a unit of manufactured housing sold by the retailer or remit money with

the statement unless under the terms of a contract as provided by Subsection (k).

(h) An appropriate taxing unit shall, on its tax bill prepared for the owner of a retail manufactured housing inventory, separately itemize the taxes imposed on the retail manufactured housing inventory. When the tax bill is prepared for a retail manufactured housing inventory, the assessor for the taxing unit, or an entity, if any, other than the collector, that collects taxes on behalf of the taxing unit, shall provide the collector a true and correct copy of the tax bill sent to the owner, including taxes imposed on the retail manufactured housing inventory. The collector shall apply the money in the owner's escrow account to the taxes imposed and deliver a tax receipt to the owner. The collector shall apply the amount to each appropriate taxing unit in proportion to the amount of taxes imposed, and the assessor of each taxing unit shall apply the money received from the collector to the taxes owed by the owner. No penalties or interest shall be assessed against an owner for property taxes which the owner has previously paid but which are not delivered to the appropriate taxing unit before the date on which such taxes become delinquent.

(i) If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due; however, no penalty or interest shall be assessed against an owner for that portion of the property taxes which represents the amount of the partial payment if the amount of the deficiency is not paid before the date the deficiency is delinquent.

(j) The collector shall remit to each appropriate taxing unit the total amount collected by the collector in deficiency payments. The assessor of each taxing unit shall apply that amount to the taxes owed by the owner. Taxes that are due but not received by the collector on or before January 31 are delinquent. Not later than February 15, the collector shall distribute to each appropriate taxing unit in the manner provided by this section all money collected under this section and held in escrow by the collector under this section. This section does not impose a duty on a collector to collect delinquent taxes that the collector is not otherwise obligated by law or contract to collect.

(k) A person who acquires the business or assets of a retailer may, by contract, agree to pay the current year retail manufactured housing inventory taxes owed by the retailer. The retailer who owes the current year tax and the person who acquires the business or assets of the retailer shall jointly notify the chief appraiser and the collector of the terms of the agreement and of the fact that the purchaser has agreed to pay the current year retail manufactured housing inventory taxes owed by the selling retailer. The chief appraiser and the collector shall adjust their records accordingly. Notwithstanding Section 23.127, a person who agrees to pay current year retail manufactured housing inventory taxes as provided by this subsection is not required to file a declaration until the year following the acquisition. This subsection does not relieve the selling retailer of tax liability.

(l) A retailer who fails to file a statement as required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $100. Each day that a retailer fails to comply with this subsection is a separate violation.

(m) In addition to other penalties provided by law, a retailer who fails to file or fails to timely file a statement as required by this section is liable for a penalty in the amount of $500 for each month or part of a month in which a statement is not filed after it is due. A tax lien attaches to the retailer's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, county attorney, collector, or person designated by the collector shall collect the penalty established by this section in the name of the collector. Venue of an action brought under this subsection is in the county in which the violation occurred or in the county in which the retailer maintains the retailer's principal place of business or residence.

(n) A retailer who fails to remit unit property taxes due as required by this section shall pay a penalty of five percent of the amount due. If the amount is not paid within 10 days after the due date, the retailer shall pay an additional penalty of five percent of the amount due. Notwithstanding this section, unit property taxes paid on or before January 31 of the year following the date on which they are due are not delinquent. The collector, the collector's designated agent, or the county or district attorney shall enforce this subsection. A penalty under this subsection is in addition to

any other penalty provided by law if the owner's taxes are delinquent.

(o) A fine collected under this section shall be deposited in the county depository to the credit of the general fund. A penalty collected under this section is the sole property of the collector and may not be used by an entity other than the collector or used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

(p) Section 23.123 applies to a statement filed under this section in the same manner in which that section applies to a statement filed as required by Section 23.122.

Added by Acts 1997, 75th Leg., ch. 1112, Sec. 2, eff. Jan. 1, 1998.
Amended by Acts 1999, 76th Leg., ch. 1060, Sec. 2, eff. Jan. 1, 2000; Acts 1999, 76th Leg., ch. 1060, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 116 (H.B. 2071), Sec. 8, eff. September 1, 2009.

Sec. 23.129. WAIVER OF CERTAIN PENALTIES. (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 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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 192 (S.B. 1385), Sec. 1, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 16, eff. June 14, 2013.

Sec. 23.13. TAXABLE LEASEHOLDS. A taxable leasehold or other possessory interest in real property that is exempt from taxation to the owner of the estate or interest encumbered by the possessory interest is appraised at the market value of the leasehold or other possessory interest. However, the appraised value may not be less than the total rental paid for the interest for the current tax year.

Acts 1979, 66th Leg., p. 2253, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 23.135. LICENSE TO OCCUPY DWELLING UNIT IN TAX-EXEMPT RETIREMENT COMMUNITY. A license to occupy a dwelling unit in a retirement community that is exempt from taxation under Section 11.18(d)(19) is not a taxable leasehold or other possessory interest in real property regardless of whether the occupant of the dwelling unit is required to pay a refundable or nonrefundable deposit or a periodic service fee under the contract granting the occupant the license to occupy the dwelling unit.

Added by Acts 2005, 79th Leg., Ch. 606 (H.B. 2080), Sec. 1, eff. June 17, 2005.

Sec. 23.14. APPRAISAL OF PROPERTY SUBJECT TO ENVIRONMENTAL RESPONSE REQUIREMENT. (a) In this section, "environmental response requirement" means remedial action by a property owner to correct, mitigate, or prevent a present or future air, water, or land pollution.

(b) In appraising real property that the chief appraiser knows is subject to an environmental response requirement, the present value of the estimated cost to the owner of the property of the environmental response requirement is an appropriate element that reduces market value and shall be taken into consideration by the chief appraiser in determining the market value of the property.

Added by Acts 1993, 73rd Leg., ch. 403, Sec. 1, eff. Aug. 30, 1993.

Sec. 23.15. INTANGIBLES OF AN INSURANCE COMPANY. Intangible property owned by an insurance company incorporated under the laws of this state is appraised as provided by Article 4.01, Insurance Code.

Acts 1979, 66th Leg., p. 2253, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 23.16. INTANGIBLES OF A SAVINGS AND LOAN ASSOCIATION. Intangible property owned by a savings and loan association is appraised as provided by Section 89.003, Finance Code.

Acts 1979, 66th Leg., p. 2253, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.90, eff. Sept. 1, 1999.

Sec. 23.17. MINERAL INTEREST NOT BEING PRODUCED. An interest in a mineral that may be removed by surface mining or quarrying from a deposit and that is not being produced is appraised at the price for which the interest would sell while the mineral is in place and not being produced. The appraised value is determined by applying a per acre value to the number of acres covered by the interest. The aggregate of the appraised value of the interest and the appraised value of all other interests that if not under separate ownership would constitute a fee simple estate in real property may not exceed the appraised value that would be placed on the fee estate if the interest in minerals were not owned separately.

Acts 1979, 66th Leg., p. 2253, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 23.175. OIL OR GAS INTEREST. (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 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. Except as otherwise provided by this subsection, the chief appraiser shall calculate the price adjustment factor by dividing the spot price of West Texas Intermediate crude oil in nominal dollars per barrel or the spot price of natural gas at the Henry Hub in nominal dollars per million British thermal units, as applicable, as projected for the current calendar year by the United States Energy Information Administration in the most recently published edition of the Annual Energy Outlook by the spot price of West Texas Intermediate crude oil in nominal dollars per barrel or the spot price of natural gas at the Henry Hub in nominal dollars per million British thermal units, as applicable, for the preceding calendar year as stated in the same report. If as of March 1 of the current calendar year the most recently published edition of the Annual Energy Outlook was published before December 1 of the preceding calendar year, the chief appraiser shall use the projected current and preceding calendar year spot price of West Texas Intermediate crude oil in nominal dollars per barrel or the spot price of natural gas at the Henry Hub in nominal dollars per million British thermal units, as applicable, as stated in the Short-Term Energy Outlook report published in January of the current calendar year by the United States Energy Information Administration in the price adjustment factor calculations. The price for the interest used in the second through the sixth 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.

(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).

Added by Acts 1993, 73rd Leg., ch. 998, Sec. 1, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 2, eff. January 1, 2008.

Acts 2011, 82nd Leg., R.S., Ch. 144 (S.B. 1505), Sec. 1, eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 4 (S.B. 1985), Sec. 1, eff. January 1, 2016.

Sec. 23.18. PROPERTY OWNED BY A NONPROFIT HOMEOWNERS' ORGANIZATION FOR THE BENEFIT OF ITS MEMBERS. (a) Because many residential subdivisions are developed on the basis of a nonprofit corporation or association maintaining nominal ownership to property, such as swimming pools, parks, meeting halls, parking lots, tennis courts, or other similar property, that is held for the use, benefit, and enjoyment of the members of the organization, that nominally owned property is to be appraised as provided by this section on the basis of a nominal value to avoid double taxation of the property that would result from taxation on the basis of market value of both the property of the organization and the residential units or lots of the members of the organization, whose property values are enhanced by the right to use the organization's property.

(b) All property owned by an organization that qualifies as a nonprofit homeowners' organization under this section is appraised at a nominal value as provided by this section if:

(1) the property is held for the use, benefit, and enjoyment of all members of the organization equally;

(2) each member of the organization owns an easement, license, or other nonrevokable right for the use and enjoyment on an equal basis of all property held by the organization, even if the right is subject to a restriction imposed by the instruments

conveying the right or interest or granting the easement or subject to a rule, regulation, or bylaw imposed by the organization pursuant to authority granted by articles of incorporation, declaration of covenants, conditions and restrictions, bylaws, or articles of association of the organization; and

(3) each member's easement, license, or other nonrevokable right to the use and enjoyment of the property is appurtenant to and an integral part of the taxable real property owned by the member.

(c) The chief appraiser, in appraising property owned by a member of a qualified nonprofit homeowners' organization who is entitled to the use and enjoyment of facilities owned by the organization, shall consider the enhanced value of the property resulting from the member's right to the use and benefit of those facilities.

(d) An organization qualifies as a nonprofit homeowners' organization under this section if:

(1) it engages in residential real estate management;

(2) it is organized and operated to provide for the acquisition, construction, management, maintenance, and care of property nominally owned by the organization and held for the use, benefit, and enjoyment of its members;

(3) 60 percent or more of the gross income of the organization consists of amounts received as membership dues, fees, or assessments from owners of residences or residential lots within an area subject to the jurisdiction and assessment of the organization;

(4) 90 percent or more of the expenditures of the organization is made for the purpose of acquiring, constructing, managing, maintaining, and caring for the property nominally held by the organization;

(5) each member owns an easement, a license, or other nonrevokable right for the use and enjoyment on an equal basis of all property nominally owned by the organization even if the right is subject to a restriction imposed by the instruments conveying the right or interest or granting the easement or subject to a rule, regulation, or bylaw imposed by the organization pursuant to authority granted by articles of incorporation, declaration of covenants, conditions and restrictions, the bylaws, or articles of association of the organization;

(6) net earnings of the organization do not inure to the

benefit of any member of the organization or individual, other than by acquiring, constructing, or providing management, maintenance, and care of the organization's property or by a rebate of excess membership dues, fees, or assessments; and

(7) it qualifies for taxation under Section 1301 of the Tax Reform Act of 1976, Section 528 of the Internal Revenue Code of 1954, as amended, entitled "Certain Homeowners Associations."

Added by Acts 1981, 67th Leg., 1st C.S., p. 138, ch. 13, Sec. 59, eff. Jan. 1, 1982.

Sec. 23.19. PROPERTY OCCUPIED BY STOCKHOLDERS OF CORPORATION INCORPORATED UNDER COOPERATIVE ASSOCIATION ACT. (a) In this section, "cooperative housing corporation" means a corporation incorporated under the Cooperative Association Act (Article 1396-50.01, Vernon's Texas Civil Statutes) to provide dwelling places for its stockholders.

(b) If an appraisal district receives a written request for the appraisal of real property and improvements of a cooperative housing corporation according to the separate interests of the corporation's stockholders, the chief appraiser shall separately appraise the interests described by Subsection (d) if the conditions required by Subsections (e) and (f) have been met. Separate appraisal under this section is for the purposes of administration of tax exemptions, determination of applicable limitations of taxes under Section 11.26 or 11.261, and apportionment by a cooperative housing corporation of property taxes among its stockholders but is not the basis for determining value on which a tax is imposed under this title. A stockholder whose interest is separately appraised under this section may protest and appeal the appraised value in the manner provided by this title for protest and appeal of the appraised value of other property.

(c) An appraisal under this section applies to the tax year in which a request is made under this section only if the request is received by the appraisal district before March 1. After the first separate appraisal of interests of stockholders of a cooperative housing corporation under this section, separate appraisals of interests of stockholders of the corporation shall be made in subsequent years without further request. A request may not be

rescinded after the first separate appraisal has been made, and a request is binding on future owners and stockholders of the corporation.

(d) The interest that is to be separately appraised under this section is the market value of the right of exclusive occupancy of each separate dwelling place that is transferable only concurrently with the transfer of stock ownership in the corporation by the person having the right of occupancy, together with the market value of the right of use of a portion of the total common area used in the residential occupancy that is equal to the percentage of the total amount of the stock issued by the corporation that is owned by the stockholder.

(e) A separate appraisal of interests under this section may not be made unless:

(1) the person making the request files a resolution of the board of directors of the corporation certifying that the stockholders of the corporation have approved the request in the manner provided by the corporate articles of incorporation or bylaws for approval of matters affecting the corporation generally; and

(2) a diagrammatic floor plan of the improvements and a survey plot map of the land showing the location of the improvements on the land have been filed with the appraisal district.

(f) The chief appraiser may require a cooperative housing corporation for which separate appraisal of interests has been requested under this section to submit or verify a list of stockholders of the corporation at least annually.

(g) A tax bill or a separate statement accompanying the tax bill to a cooperative housing corporation for which interests of stockholders are separately appraised under this section must state, in addition to the information required by Section 31.01, the appraised value and taxable value of each interest separately appraised. Each exemption claimed as provided by this title by a person entitled to the exemption shall also be deducted from the total appraised value of the property of the corporation. The total tax imposed by a school district, county, municipality, or junior college district shall be reduced by any amount that represents an increase in taxes attributable to separately appraised interests of the real property and improvements that are subject to the limitation of taxes prescribed by Section 11.26 or 11.261. The corporation shall apportion among its stockholders liability for reimbursing the

corporation for property taxes according to the relative taxable values of their interests.

(h) A cooperative housing corporation remains liable for payment of all taxes, penalties, and interest imposed under this title on property owned by the corporation, and the tax lien attaches to the entirety of the property.

(i) The chief appraiser may charge a fee in an amount not to exceed $100 for the initial cost of separately appraising interests in a cooperative housing corporation.

Added by Acts 1987, 70th Leg., ch. 547, Sec. 2, eff. Jan. 1, 1988.
Amended by Acts 2003, 78th Leg., ch. 396, Sec. 2, eff. Jan. 1, 2004.

Sec. 23.20. WAIVER OF SPECIAL APPRAISAL. (a) An owner of inventory or real property may in writing waive the right to special appraisal provided by Section 23.12 or Subchapter C, D, E, F, or G as to one or more taxing units designated in the waiver. In a tax year in which a waiver is in effect, the property is appraised for each taxing unit to which the waiver applies at the value determined under Subchapter A of this chapter or the value determined under Section 23.12 or Subchapter C, D, E, F, or G, whichever is the greater value.

(b) A waiver of the right to special appraisal provided by Section 23.12 may be submitted at any time. A waiver of the right to special appraisal provided by Subchapter C, D, E, F, or G may be submitted with an application for appraisal under that subchapter or at any other time. A property owner who has waived special appraisal under this section as to one or more taxing units may make additional waivers under this section as to other taxing units in which the property is located.

(c) A waiver under this section is effective for 25 consecutive tax years beginning on the first tax year in which the waiver is effective without regard to whether the property is subject to appraisal under Section 23.12 or Subchapter C, D, E, F, or G. To be effective in the year in which the waiver is executed, it must be filed before May 1 of that year with the chief appraiser of the appraisal district in which the property is located, unless for good cause shown the chief appraiser extends the filing deadline for not more than 60 days. An application filed after the year's deadline takes effect in the next tax year.

(d) A waiver filed under this section is applicable to the property for the term of the waiver, runs with any land to which the waiver applies, and is binding on the owner who executed the waiver and any successor in interest. A waiver may not be revoked as to any taxing unit except on approval by official action of the governing body of the taxing unit on a finding by the governing body that the revocation of the waiver would not materially impair the contractual, bond, or other debt obligation of the taxing unit wholly or partly payable from property taxes to which the property is subject. An application for revocation must be filed with the governing body of each taxing unit to which the revocation is to apply. A waiver may not be revoked if revocation is prohibited under a rule adopted under Subsection (e). The revocation is effective in the year in which the governing body approves the revocation if the chief appraiser receives a written notice of the approval before the appraisal review board approves the appraisal records. If the notice is not received before the deadline the revocation takes effect in the next tax year.

(e) The Texas Commission on Environmental Quality, a commissioners court, and the Texas Transportation Commission each, by rule, may ensure that a waiver under this section that applies to real property is properly and timely executed, and is irrevocable by the owner of the property to which the waiver applies or by any other related person receiving or proposing to receive, directly or indirectly, the proceeds of any bonds issued by or to be issued by the taxing unit. The rules of the Texas Commission on Environmental Quality apply to waivers applicable to taxing units that are conservation and reclamation districts subject to the jurisdiction of the commission. The rules of the commissioners court apply to waivers applicable to taxing units that are road districts created by the commissioners court. The rules of the Texas Transportation Commission apply to waivers applicable to taxing units that are road utility districts subject to the jurisdiction of the commission.

(f) For computations required to be made under this title, the appraised value of the property for taxation by a taxing unit to which a waiver applies is the value at which the property is taxed under this section.

(g) A waiver of a special appraisal of property under Subchapter C, D, E, F, or G of this chapter does not constitute a change of use of the property or diversion of the property to another use for purposes of the imposition of additional taxes under any of

those subchapters.

Added by Acts 1989, 71st Leg., ch. 796, Sec. 17, eff. June 15, 1989; Acts 1989, 71st Leg., ch. 1235, Sec. 1, eff. June 16, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 11.281, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 165, Sec. 22(68), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 700, Sec. 1, eff. Jan. 1, 2004.

Sec. 23.21. PROPERTY USED TO PROVIDE AFFORDABLE HOUSING. (a) In appraising real property that is rented or leased to a low-income individual or family meeting income-eligibility standards established by the owner of the property under regulations or restrictions limiting to a percentage of the individual's or the family's income the amount that the individual or 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.

(b) In appraising real property that is rented or leased to a low-income individual or family meeting income-eligibility standards established by a governmental entity or under a governmental contract for affordable housing limiting the amount that the individual or 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.

(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.

(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.

(e) 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.

Added by Acts 1997, 75th Leg., ch. 980, Sec. 53, eff. Jan. 1, 1998.
Amended by Acts 1999, 76th Leg., ch. 62, Sec. 16.04, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 383 (S.B. 402), Sec. 4, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1309 (H.B. 3133), Sec. 3, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(41), eff. September 1, 2013.

Sec. 23.215. APPRAISAL OF CERTAIN NONEXEMPT PROPERTY USED FOR LOW-INCOME OR MODERATE-INCOME HOUSING. (a) This section applies only to real property owned by an organization:

(1) that on the effective date of this section was rented to a low-income or moderate-income individual or family satisfying the organization's income eligibility requirements and that continues to be used for that purpose;

(2) that was financed under the low income housing tax credit program under Subchapter DD, Chapter 2306, Government Code;

(3) that does not receive an exemption under Section 11.182 or 11.1825; and

(4) the owner of which has not entered into an agreement with any taxing unit to make payments to the taxing unit instead of

taxes on the property.

(b) The chief appraiser shall appraise the property in the manner provided by Section 11.1825(q).

Acts 2003, 78th Leg., ch. 1156, Sec. 5, eff. Jan. 1, 2004.

Sec. 23.22. LAND USE OF WHICH IS RESTRICTED BY GOVERNMENTAL ENTITY. In appraising land the use of which is subject to a restriction that is imposed by a governmental entity and to which the owner of the land has not consented, including a restriction to preserve wildlife habitat, the chief appraiser shall consider the effect of the restriction on the value of the property.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 23, eff. Jan. 1, 1998. Renumbered from Sec. 23.21 by Acts 1999, 76th Leg., ch. 62, Sec. 16.05, eff. Sept. 1, 1999.

Sec. 23.23. LIMITATION ON APPRAISED VALUE OF RESIDENCE HOMESTEAD. (a) Notwithstanding the requirements of Section 25.18 and regardless of whether the appraisal office has appraised the property and determined the market value of the property for the tax year, an appraisal office may increase the appraised value of a residence homestead for a tax year to an amount not to exceed the lesser of:

(1) the market value of the property for the most recent tax year that the market value was determined by the appraisal office; or

(2) the sum of:

(A) 10 percent of the appraised value of the property for the preceding tax year;

(B) the appraised value of the property for the preceding tax year; and

(C) the market value of all new improvements to the property.

(b) When appraising a residence homestead, the chief appraiser shall:

(1) appraise the property at its market value; and

(2) include in the appraisal records both the market value of the property and the amount computed under Subsection (a)(2).

(c) The limitation provided by Subsection (a) takes effect as to a residence homestead on January 1 of the tax year following the first tax year the owner qualifies the property for an exemption under Section 11.13. The limitation expires on January 1 of the first tax year that neither the owner of the property when the limitation took effect nor the owner's spouse or surviving spouse qualifies for an exemption under Section 11.13.

(d) This section does not apply to property appraised under Subchapter C, D, E, F, or G.

(e) In this section, "new improvement" means an improvement to a residence homestead made after the most recent appraisal of the property that increases the market value of the property and the value of which is not included in the appraised value of the property for the preceding tax year. The term does not include repairs to or ordinary maintenance of an existing structure or the grounds or another feature of the property.

(f) Notwithstanding Subsections (a) and (e) and except as provided by Subdivision (2), an improvement to property that would otherwise constitute a new improvement is not treated as a new improvement if the improvement is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property under Subsection (a) in the tax year in which the structure would have constituted a new improvement:

(1) the appraised value the property would have had in the preceding tax year if the casualty or damage had not occurred is considered to be the appraised value of the property for that year, regardless of whether that appraised value exceeds the actual appraised value of the property for that year as limited by Subsection (a); and

(2) the replacement structure is considered to be a new improvement only if:

(A) the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred; or

(B) the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure.

(g) In this subsection, "disaster recovery program" means the disaster recovery program administered by the General Land Office or

by a political subdivision of this state that is funded with community development block grant disaster recovery money authorized by federal law. Notwithstanding Subsection (f)(2), and only to the extent necessary to satisfy the requirements of the disaster recovery program, a replacement structure described by that subdivision is not considered to be a new improvement if to satisfy the requirements of the disaster recovery program it was necessary that:

(1) the square footage of the replacement structure exceed that of the replaced structure as that structure existed before the casualty or damage occurred; or

(2) the exterior of the replacement structure be of higher quality construction and composition than that of the replaced structure.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 47, eff. Jan. 1, 1998.
Amended by Acts 2003, 78th Leg., ch. 1173, Sec. 9, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1355 (H.B. 438), Sec. 1, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 359 (H.B. 1257), Sec. 1(d), eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1417 (H.B. 770), Sec. 8, eff. January 1, 2010.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 15, eff. January 1, 2014.

Acts 2019, 86th Leg., R.S., Ch. 24 (S.B. 812), Sec. 1, eff. May 7, 2019.

Sec. 23.24. FURNITURE, FIXTURES, AND EQUIPMENT. (a) If real property is appraised by a method that takes into account the value of furniture, fixtures, and equipment in or on the real property, the furniture, fixtures, and equipment shall not be subject to additional appraisal or taxation as personal property.

(b) In determining the market value of the real property appraised on the basis of rental income, the chief appraiser may not separately appraise or take into account any personal property valued as a portion of the income of the real property, and the market value of the real property must include the combined value of the real property and the personal property.

Added by Acts 1999, 76th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 2, eff. January 1, 2010.

Sec. 23.25. APPRAISAL OF LAND USED FOR SINGLE-FAMILY RESIDENTIAL PURPOSES THAT IS CONTIGUOUS TO AGRICULTURAL OR OPEN-SPACE LAND WITH COMMON OWNERSHIP. (a) This section applies only to the appraisal of a parcel of land that:

(1) is used for single-family residential purposes; and

(2) is contiguous to a parcel of land that is:

(A) appraised under Subchapter C or D; and

(B) owned by:

(i) the same person;

(ii) the person's spouse;

(iii) an individual related within the first degree of consanguinity to the person; or

(iv) a legal entity that is affiliated with the person.

(b) In appraising the parcel of land, the chief appraiser shall:

(1) determine the price for which the parcel of land being appraised and the contiguous parcel of land described by Subsection (a)(2) would sell if both parcels were sold as a single combined parcel of land; and

(2) attribute a portion of the amount determined under Subdivision (1) to the parcel of land being appraised based on the proportion that the size of the parcel of land being appraised bears to the size of the single combined parcel of land described by Subdivision (1).

(c) If the chief appraiser uses the market data comparison method of appraisal to appraise the parcel of land, the chief appraiser may not use comparable sales data pertaining to the sale of land located in the corporate limits of a municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 1112 (H.B. 3630), Sec. 1, eff. January 1, 2008.

Sec. 23.26. SOLAR ENERGY PROPERTY. (a) In this section, "solar energy property" means a "solar energy device" as defined by Section 11.27(c)(1) that is used for a commercial purpose, including a commercial storage device, power conditioning equipment, transfer equipment, and necessary parts for the device and equipment.

(b) This section applies only to solar energy property that is constructed or installed on or after January 1, 2014.

(c) The chief appraiser shall use the cost method of appraisal to determine the market value of solar energy property.

(d) To determine the market value of solar energy property using the cost method of appraisal, the chief appraiser shall:

(1) use cost data obtained from generally accepted sources;

(2) make any appropriate adjustment for physical, functional, or economic obsolescence and any other justifiable factor; and

(3) calculate the depreciated value of the property by using a useful life that does not exceed 10 years.

(e) The chief appraiser may not in any tax year determine the depreciated value under Subsection (d)(3) to be less than 20 percent of the value computed after making appropriate adjustments under Subsection (d)(2) to the value determined under Subsection (d)(1).

Added by Acts 2013, 83rd Leg., R.S., Ch. 687 (H.B. 2500), Sec. 1, eff. January 1, 2014.

SUBCHAPTER C. LAND DESIGNATED FOR AGRICULTURAL USE

Sec. 23.41. APPRAISAL. (a) Land designated for agricultural use is appraised at its value based on the land's capacity to produce agricultural products. The value of land based on its capacity to produce agricultural products is determined by capitalizing the average net income the land would have yielded under prudent management from production of agricultural products during the five years preceding the current year. However, if the value of land as determined by capitalization of average net income exceeds the market value of the land as determined by other generally accepted appraisal methods, the land shall be appraised by application of the other appraisal methods.

(b) The comptroller shall promulgate rules specifying the methods to apply and the procedures to use in appraising land

designated for agricultural use.

(c), (d) Repealed by Acts 1999, 76th Leg., ch. 574, Sec. 2(2), eff. June 18, 1999.

(e) Improvements other than appurtenances to the land, the mineral estate, and all land used for residential purposes and for processing harvested agricultural products are appraised separately at market value. Riparian water rights, private roads, dams, reservoirs, water wells, and canals, ditches, terraces, and similar reshapings of or additions to the soil for agricultural purposes are appurtenances to the land, and the effect of each on the value of the land for agricultural use shall be considered in appraising the land. However, the comptroller shall provide that in calculating average net income from land a deduction from income be allowed for an appurtenance subject to depreciation or depletion.

Acts 1979, 66th Leg., p. 2254, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 139, ch. 13, Sec. 60, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 21, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 574, Sec. 2(2), eff. June 18, 1999.

Sec. 23.42. ELIGIBILITY. (a) An individual is entitled to have land he owns designated for agricultural use if, on January 1:

(1) the land has been devoted exclusively to or developed continuously for agriculture for the three years preceding the current year;

(2) the individual is using and intends to use the land for agriculture as an occupation or a business venture for profit during the current year; and

(3) agriculture is the individual's primary occupation and primary source of income.

(a-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 12 (H.B. 1254), Sec. 2, eff. January 1, 2020.

(b) Use of land for nonagricultural purposes does not deprive an owner of his right to an agricultural designation if the nonagricultural use is secondary to and compatible with the agricultural use of the land.

(c) Agriculture is an individual's primary occupation and primary source of income if as of January 1 he devotes a greater

portion of his time to and derives a greater portion of his gross income from agriculture than any other occupation. The time an individual devotes to each occupation and the gross income he derives from each is determined by averaging the time he devoted to each and the gross income he derived from each for any number of consecutive years not exceeding five years immediately preceding January 1 of the current year, that he has engaged in agriculture as an occupation. However, if he has not been engaged in agriculture as an occupation for the entire year preceding January 1, the time he has devoted to and the income he has derived from each occupation since the date he began engaging in agriculture as an occupation determine whether agriculture is his primary occupation and primary source of income.

(d) For purposes of this section:

(1) "Agriculture" means the use of land to produce plant or animal products, including fish or poultry products, under natural conditions but does not include the processing of plant or animal products after harvesting or the production of timber or forest products.

(2) "Occupation" includes employment and a business venture that requires continual supervision or management.

Acts 1979, 66th Leg., p. 2254, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1112 (H.B. 3630), Sec. 2, eff. January 1, 2008.

Acts 2019, 86th Leg., R.S., Ch. 12 (H.B. 1254), Sec. 1, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 12 (H.B. 1254), Sec. 2, eff. January 1, 2020.

Sec. 23.425. ELIGIBILITY OF LAND USED FOR GROWING FLORIST ITEMS IN CERTAIN COUNTIES. (a) This section applies only to land:

(1) that is located in a county with a population of 35,000 or less; and

(2) on which a greenhouse for growing florist items solely for wholesale purposes is located.

(b) A person who owns land described by Subsection (a) is entitled to have the land designated for agricultural use under this subchapter if the land otherwise qualifies for the designation under

Section 23.42 and the person who owns the land is not using it in conjunction with or contiguous to land being used to conduct retail sales of florist items. For purposes of Section 23.41, a greenhouse described by Subsection (a)(2) is an appurtenance to the land.

(c) In this section:

(1) "Florist item" has the meaning assigned by Section 71.041, Agriculture Code.

(2) "Greenhouse" means a building or permanent structure that is enclosed with a nonporous covering and is designed or constructed for growing plants in a protected or climate-controlled environment.

Added by Acts 2001, 77th Leg., ch. 365, Sec. 1, eff. Jan. 1, 2002.

Sec. 23.426. TEMPORARY CESSATION OF AGRICULTURAL USE DUE TO QUARANTINE FOR TICKS. (a) The entitlement of an individual to have land the individual owns designated for agricultural use under this subchapter does not end because the individual ceases exclusively or continuously using the land for agriculture as an occupation or a business venture for profit for the period prescribed by Subsection (b) if the land:

(1) is subject to a temporary quarantine established at any time during the tax year by the Texas Animal Health Commission for the purpose of regulating the handling of livestock and eradicating ticks or exposure to ticks under Chapter 167, Agriculture Code; and

(2) otherwise continues to qualify for the designation under Section 23.42.

(b) Subsection (a) applies to land eligible for appraisal under this subchapter only during the period that begins on the date the land is designated as a tick eradication area and that ends on the date the land is released from quarantine by the Texas Animal Health Commission.

(c) The owner of land to which this section applies must, not later than the 30th day after the date the land is designated as a tick eradication area, notify in writing the chief appraiser for each appraisal district in which the land is located that the land is located in a tick eradication area.

(d) The owner of land to which this section applies must, not later than the 30th day after the date the land is released from

quarantine by the Texas Animal Health Commission, notify in writing the chief appraiser for each appraisal district in which the land is located that the land has been released from quarantine by the Texas Animal Health Commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 101 (H.B. 3348), Sec. 1, eff. May 21, 2019.

Sec. 23.43. APPLICATION. (a) An individual claiming the right to have his land designated for agricultural use must apply for the designation each year he claims it. Application for the designation is made by filing a sworn application form with the chief appraiser for the appraisal district in which the land is located.

(b) A claimant must deliver a completed application form to the chief appraiser before May 1 and must furnish the information required by the form. For good cause shown the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

(c) If a claimant fails to timely file a completed application form in a given year, he may not receive the agricultural designation for that year.

(d) The comptroller in prescribing the contents of the application forms shall ensure that each form requires a claimant to furnish the information necessary to determine the validity of the claim. The comptroller shall require that the form permit a claimant who has previously been allowed an agricultural designation to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported. The form must include a space for the claimant to state the claimant's date of birth. Failure to provide the date of birth does not affect a claimant's right to an agricultural designation under this subchapter.

(e) Before February 1 the chief appraiser shall deliver an application form to each individual whose land was designated for agricultural use during the preceding year. He shall include with the application a brief explanation of the requirements for obtaining agricultural designation.

(f) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all

residents of the district, the requirements of this section and the availability of application forms.

Acts 1979, 66th Leg., p. 2255, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 139, ch. 13, Sec. 61, 62, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 22, eff. Sept. 1, 1991.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 352 (H.B. 1464), Sec. 2, eff. September 1, 2015.

Sec. 23.431. LATE APPLICATION FOR AGRICULTURAL DESIGNATION. (a) The chief appraiser shall accept and approve or deny an application for an agricultural designation after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If an application for agricultural designation is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed without the agricultural designation.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit to which an agricultural designation allowed after a late application applies shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Added by Acts 1981, 67th Leg., 1st C.S., p. 140, ch. 13, Sec. 63, eff. Jan. 1, 1982.

Sec. 23.44. ACTION ON APPLICATION. (a) The chief appraiser shall determine individually each claimant's right to the

agricultural designation. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and designate the land for agricultural use;

(2) disapprove the application and request additional information from the claimant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from a claimant, the claimant must furnish the information within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for agricultural designation filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the claimant within five days after the date of denial. The notice must include a brief explanation of the procedures for protesting the denial.

Acts 1979, 66th Leg., p. 2255, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 140, ch. 13, Sec. 64, eff. Jan. 1, 1982.

Sec. 23.45. APPLICATION CONFIDENTIAL. (a) An application for agricultural designation filed with a chief appraiser is confidential and not open to public inspection. The application and the information it contains about specific property or a specific owner may not be disclosed to anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.

(b) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the application or to his

representative authorized in writing to receive the information;

(3) to the comptroller and his employees authorized by him in writing to receive the information or to an assessor or a chief appraiser if requested in writing;

(4) in a judicial or administrative proceeding relating to property taxation to which the person who filed the application is a party;

(5) for statistical purposes if in a form that does not identify specific property or a specific property owner; or

(6) if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain.

(c) A person who legally has access to an application for agricultural designation or who legally obtains the confidential information the application contains commits a Class B misdemeanor if he knowingly:

(1) permits inspection of the application by a person not authorized to inspect it by Subsection (b) of this section; or

(2) discloses confidential information contained in the report to a person not authorized to receive the information by Subsection (b) of this section.

Acts 1979, 66th Leg., p. 2256, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 141, ch. 13, Sec. 65, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 23, eff. Sept. 1, 1991.

Sec. 23.46. ADDITIONAL TAXATION. (a) When appraising land designated for agricultural use, the chief appraiser also shall appraise the land at its market value and shall record both the market value and the value based on its capacity to produce agricultural products in the appraisal records.

(b) Property taxes imposed on land designated for agricultural use are based on the land's agricultural use value determined as provided by Section 23.41 of this code after the appropriate assessment ratio has been applied to that value. When an assessor calculates the amount of tax due on the land, however, he shall also calculate the amount of tax that would have been imposed had the land not been designated for agricultural use. The difference in the

amount of tax imposed and the amount that would have been imposed is the amount of additional tax for that year, and the assessor shall enter that amount in his tax records relating to the property.

(c) If land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three years preceding the year in which the land is sold or diverted plus interest at the rate provided for delinquent taxes becomes due. Subject to Subsection (f), a determination that the land has been diverted to a nonagricultural use is made by the chief appraiser. For purposes of this subsection, the chief appraiser may not consider any period during which land is owned by the state in determining whether the land has been diverted to a nonagricultural use. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable after the change of use occurs. If the additional taxes are due because of a sale of the land, the assessor for each taxing unit shall prepare and deliver the bill as soon as practicable after the sale occurs. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(d) A tax lien attaches to the land on the date the sale or change of use occurs to secure payment of the additional tax and interest imposed by Subsection (c) of this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(e) Land is not diverted to nonagricultural use for purposes of Subsection (c) of this section solely because the owner of the land claims it as part of his residence homestead for purposes of Section 11.13 of this code.

(f) If land designated for agricultural use under this subchapter is owned by an individual 65 years of age or older, before making a determination that the land has been diverted to a

nonagricultural use, the chief appraiser shall deliver a written notice to the owner stating that the chief appraiser believes the land may have been diverted to a nonagricultural use. The notice must include a form on which the owner may indicate that the owner remains entitled to have the land designated for agricultural use and a self-addressed postage prepaid envelope with instructions for returning the form to the chief appraiser. The chief appraiser shall consider the owner's response on the form in determining whether the land has been diverted to a nonagricultural use. If the chief appraiser does not receive a response on or before the 60th day after the date the notice is mailed, the chief appraiser must make a reasonable effort to locate the owner and determine whether the owner remains entitled to have the land designated for agricultural use before determining that the land has been diverted to a nonagricultural use. For purposes of this subsection, sending an additional notice to the owner immediately after the expiration of the 60-day period by first class mail in an envelope on which is written, in all capital letters, "RETURN SERVICE REQUESTED," or another appropriate statement directing the United States Postal Service to return the notice if it is not deliverable as addressed, or providing the additional notice in another manner that the chief appraiser determines is appropriate, constitutes a reasonable effort on the part of the chief appraiser.

Acts 1979, 66th Leg., p. 2256, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 141, ch. 13, Sec. 66, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4147, ch. 652, Sec. 1, eff. June 19, 1983; Acts 1983, 68th Leg., p. 4824, ch. 851, Sec. 11, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 796, Sec. 18, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 345, Sec. 4, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 352 (H.B. 1464), Sec. 3, eff. September 1, 2015.

Sec. 23.47. LOAN SECURED BY LIEN ON AGRICULTURAL-USE LAND. (a) A lender may not require as a condition to granting or amending the terms of a loan secured by a lien in favor of the lender on land appraised according to this subchapter that the borrower waive the

right to the appraisal or agree not to apply for or receive the appraisal.

(b) A provision in an instrument pertaining to a loan secured by a lien in favor of the lender on land appraised according to this subchapter is void to the extent that the provision attempts to require the borrower to waive the right to the appraisal or to prohibit the borrower from applying for or receiving the appraisal.

(c) A provision in an instrument pertaining to a loan secured by a lien in favor of the lender on land appraised according to this subchapter that requires the borrower to make a payment to protect the lender from loss because of the imposition of additional taxes and interest under Section 23.46 is void unless the provision:

(1) requires the borrower to pay into an escrow account established by the lender an amount equal to the additional taxes and interest that would be due under Section 23.46 if a sale or change of use occurred on January 1 of the year in which the loan is granted or amended;

(2) requires the escrow account to bear interest to be credited to the account monthly;

(3) permits the lender to apply money in the escrow account to the payment of a bill for additional taxes and interest under Section 23.46 before the loan is paid and requires the lender to refund the balance remaining in the escrow account after the bill is paid to the borrower; and

(4) requires the lender to refund the money in the escrow account to the borrower on the payment of the loan.

(d) On the request of the borrower or the borrower's representative, the assessor for each taxing unit shall compute the additional taxes and interest that would be due that taxing unit under Section 23.46 if a sale or change of use occurred on January 1 of the year in which the loan is granted or amended. The assessor may charge a reasonable fee not to exceed the actual cost of making the computation.

(e) In this section, "lender" means a lending institution, including a bank, trust company, banking association, savings and loan association, mortgage company, investment bank, credit union, life insurance company, or governmental agency that customarily provides financing or an affiliate of any of those entities. The term does not include an agency of the United States.

Added by Acts 1995, 74th Leg., ch. 82, Sec. 1, eff. May 11, 1995.

Sec. 23.48. REAPPRAISAL OF LAND SUBJECT TO TEMPORARY QUARANTINE FOR TICKS. (a) An owner of land designated for agricultural use 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.

(b) As soon as practicable after receiving a request for reappraisal, the chief appraiser shall complete the reappraisal. In determining the appraised value of the land under Section 23.41, the effect on the value of the land caused by the infestation of ticks is an additional factor that must be taken into account. The appraised value of land reappraised under this section may not exceed the lesser of:

(1) the market value of the land as determined by other appraisal methods; or

(2) one-half of the original appraised value of the land for the current tax year.

(c) A property owner may not be required to pay the appraisal district for the costs of making the reappraisal. Each taxing unit that participates in the appraisal district and imposes taxes on the land shall share the costs of the reappraisal in the proportion the total dollar amount of taxes imposed by that taxing unit on that land in the preceding year bears to the total dollar amount of taxes all taxing units participating in the appraisal district imposed on the land in the preceding year.

(d) If land is reappraised as provided by this section, the governing body of each taxing unit that participates in the appraisal district and imposes taxes on the land shall provide for prorating the taxes on the land for the tax year in which the reappraisal is conducted. If the taxes are prorated, taxes due on the land are determined as follows: the taxes on the land based on its value on January 1 of that year are multiplied by a fraction, the denominator of which is 365 and the numerator of which is the number of days in that year before the date the reappraisal was conducted; the taxes on the land based on its reappraised value are multiplied by a fraction,

the denominator of which is 365 and the numerator of which is the number of days, including the date the reappraisal was conducted, remaining in the year; and the total of the two amounts is the amount of taxes imposed on the land for that year. Notwithstanding Section 26.15, the assessor for each applicable taxing unit shall enter the reappraised value on the appropriate tax roll together with the original appraised value and the calculation of the taxes imposed on the land under this section. If for any tax year the reappraisal results in a decrease in the tax liability of the landowner, the assessor for the taxing unit shall prepare and mail a new tax bill in the manner provided by Chapter 31. If the owner has paid the tax, each taxing unit that imposed taxes on the land in that year shall promptly refund the difference between the tax paid and the tax due on the lower appraised value.

(e) In appraising the land for any subsequent tax year in which the Texas Animal Health Commission quarantine remains in place, the chief appraiser shall continue to take into account the effect on the value of the land caused by the infestation of ticks.

(f) If the owner of the land is informed by the Texas Animal Health Commission that the quarantine is no longer in place, not later than the 30th day after the date on which the owner received that information the owner of the land shall so notify the chief appraiser in writing. If the owner fails to notify the chief appraiser as required by this subsection, a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this section and the taxes that would otherwise have been imposed.

(g) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this section shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes

a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

Added by Acts 2007, 80th Leg., R.S., Ch. 1011 (H.B. 967), Sec. 2, eff. June 15, 2007.

SUBCHAPTER D. APPRAISAL OF AGRICULTURAL LAND

Sec. 23.51. DEFINITIONS. In this subchapter:

(1) "Qualified open-space land" means land that is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years or land that is used principally as an ecological laboratory by a public or private college or university and that has been used principally in that manner by a college or university for five of the preceding seven years. Qualified open-space land includes all appurtenances to the land. For the purposes of this subdivision, appurtenances to the land means private roads, dams, reservoirs, water wells, canals, ditches, terraces, and other reshapings of the soil, fences, and riparian water rights. Notwithstanding the other provisions of this subdivision, land that is currently devoted principally to wildlife management as defined by Subdivision (7)(B) or (C) to the degree of intensity generally accepted in the area qualifies for appraisal as qualified open-space land under this subchapter regardless of the manner in which the land was used in any preceding year.

(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. The term also includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than 5 or more than 20 acres.

(3) "Category" means the value classification of land considering the agricultural use to which the land is principally devoted. The chief appraiser shall determine the categories into which land in the appraisal district is classified. In classifying land according to categories, the chief appraiser shall distinguish between irrigated cropland, dry cropland, improved pasture, native pasture, orchard, and waste. The chief appraiser may establish additional categories. The chief appraiser shall further divide each category according to soil type, soil capability, irrigation, general topography, geographical factors, and other factors that influence the productive capacity of the category. The chief appraiser shall obtain information from the Texas Agricultural Extension Service, the Natural Resources Conservation Service of the United States Department of Agriculture, and other recognized agricultural sources for the purposes of determining the categories of land existing in the appraisal district.

(4) "Net to land" means the average annual net income derived from the use of open-space land that would have been earned from the land during the five-year period preceding the year before the appraisal by an owner using ordinary prudence in the management of the land and the farm crops or livestock produced or supported on the land and, in addition, any income received from hunting or recreational leases. The chief appraiser shall calculate net to land by considering the income that would be due to the owner of the land under cash lease, share lease, or whatever lease arrangement is typical in that area for that category of land, and all expenses directly attributable to the agricultural use of the land by the owner shall be subtracted from this owner income and the results shall be used in income capitalization. In calculating net to land, a reasonable deduction shall be made for any depletion that occurs of underground water used in the agricultural operation. For land that qualifies under Subdivision (7) for appraisal under this subchapter, the chief appraiser may not consider in the calculation of net to

land the income that would be due to the owner under a hunting or recreational lease of the land.

(5) "Income capitalization" means the process of dividing net to land by the capitalization rate to determine the appraised value.

(6) "Exotic animal" means a species of game not indigenous to this state, including axis deer, nilga antelope, red sheep, other cloven-hoofed ruminant mammals, or exotic fowl as defined by Section 142.001, Agriculture Code.

(7) "Wildlife management" means:

(A) actively using land that at the time the wildlife-management 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 propagate a sustaining breeding, migrating, or wintering population of indigenous wild animals for human use, including food, medicine, or recreation:

(i) habitat control;

(ii) erosion control;

(iii) predator control;

(iv) providing supplemental supplies of water;

(v) providing supplemental supplies of food;

(vi) providing shelters; and

(vii) making of census counts to determine population;

(B) actively using land to protect federally listed endangered species under a federal permit if the land is:

(i) included in a habitat preserve and is subject to a conservation easement created under Chapter 183, Natural Resources Code; or

(ii) part of a conservation development under a federally approved habitat conservation plan that restricts the use of the land to protect federally listed endangered species; or

(C) actively using land for a conservation or restoration project to provide compensation for natural resource damages pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. Section 2701 et seq.), the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), or Chapter 40, Natural Resources Code.

(8) "Endangered species," "federal permit," and "habitat

preserve" have the meanings assigned by Section 83.011, Parks and Wildlife Code.

Acts 1979, 66th Leg., p. 2257, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 142, ch. 13, Sec. 67, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 207, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 773, Sec. 1, eff. Jan. 1, 1988; Acts 1987, 70th Leg., ch. 780, Sec. 1, 2, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 796, Sec. 19, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., ch. 560, Sec. 1 to 3, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 203, Sec. 6, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 911, Sec. 1, eff. Jan. 1, 1996; Acts 2003, 78th Leg., ch. 775, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 817 (S.B. 760), Sec. 1, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 6, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 454 (H.B. 604), Sec. 1, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1112 (H.B. 3630), Sec. 3, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 495 (S.B. 801), Sec. 1, eff. January 1, 2010.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 46.01, eff. September 28, 2011.

Acts 2019, 86th Leg., R.S., Ch. 360 (H.B. 639), Sec. 1, eff. January 1, 2021.

Sec. 23.52. APPRAISAL OF QUALIFIED AGRICULTURAL LAND. (a) The appraised value of qualified open-space land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value as determined by other appraisal methods.

(b) The chief appraiser shall determine the appraised value according to this subchapter and, when requested by a landowner, the appraised value according to Subchapter C of this chapter of each category of open-space land owned by that landowner and shall make

each value and the market value according to the preceding year's appraisal roll available to a person seeking to apply for appraisal as provided by this subchapter or as provided by Subchapter C of this chapter.

(c) The chief appraiser may not change the appraised value of a parcel of open-space land unless the owner has applied for and the land has qualified for appraisal as provided by this subchapter or by Subchapter C of this chapter or unless the change is made as a result of a reappraisal.

(d) The comptroller by rule shall develop and distribute to each appraisal office appraisal manuals setting forth this method of appraising qualified open-space land, and each appraisal office shall use the appraisal manuals in appraising qualified open-space land. The comptroller by rule shall develop and the appraisal office shall enforce procedures to verify that land meets the conditions contained in Subdivision (1) of Section 23.51. The rules, before taking effect, must be approved by the comptroller with the review and counsel of the Department of Agriculture.

(e) For the purposes of Section 23.55 of this code, the chief appraiser also shall determine the market value of qualified open-space land and shall record both the market value and the appraised value in the appraisal records.

(f) The appraisal of minerals or subsurface rights to minerals is not within the provisions of this subchapter.

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

Acts 1979, 66th Leg., p. 2258, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 143, ch. 13, Sec. 68, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 24, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 911, Sec. 2, eff. Jan. 1, 1996; Acts 2001, 77th Leg., ch. 1172, Sec. 2, eff. Sept. 1, 2001. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 495 (S.B. 801), Sec. 2, eff. January 1, 2010.

Acts 2017, 85th Leg., R.S., Ch. 23 (S.B. 594), Sec. 1, eff. January 1, 2018.

Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 10(b), eff. September 1, 2017.

Sec. 23.521. STANDARDS FOR QUALIFICATION OF LAND FOR APPRAISAL BASED ON WILDLIFE MANAGEMENT USE. (a) The Parks and Wildlife Department, with the assistance of the comptroller, shall develop standards for determining whether land qualifies under Section 23.51(7) for appraisal under this subchapter. The comptroller by rule shall adopt the standards developed by the Parks and Wildlife Department and distribute those rules to each appraisal district. On request of the Parks and Wildlife Department, the Texas Agricultural Extension Service shall assist the department in developing the standards.

(b) The standards adopted under Subsection (a) may require that a tract of land be a specified minimum size to qualify under Section 23.51(7)(A) for appraisal under this subchapter, taking into consideration one or more of the following factors:

(1) the activities listed in Section 23.51(7)(A);

(2) the type of indigenous wild animal population the land is being used to propagate;

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

(4) any other factor the Parks and Wildlife Department determines is relevant.

(c) 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.

(d) In determining whether land qualifies under Section 23.51(7) 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).

Added by Acts 2001, 77th Leg., ch. 1172, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 454 (H.B. 604), Sec. 2, eff. January 1, 2008.

Sec. 23.522. TEMPORARY CESSATION OF AGRICULTURAL USE DURING DROUGHT. The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

(1) a drought declared by the governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production; and

(2) the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed when the declared drought ceases.

Added by Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 3, eff. January 1, 2010.

Sec. 23.523. TEMPORARY CESSATION OF AGRICULTURAL USE WHEN PROPERTY OWNER DEPLOYED OR STATIONED OUTSIDE STATE AS MEMBER OF ARMED SERVICES. (a) The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if the owner of the land:

(1) is a member of the armed services of the United States who is deployed or stationed outside this state; and

(2) intends that the use of the land in that manner and to that degree of intensity be resumed not later than the 180th day after the date the owner ceases to be deployed or stationed outside this state.

(b) The owner of land to which this section applies must notify the appraisal office in writing not later than the 30th day after the date the owner is deployed or stationed outside this state that the owner:

(1) will be or has been deployed or stationed outside this state; and

(2) intends to use the land in the manner, to the degree, and within the time described by Subsection (a)(2).

Added by Acts 2017, 85th Leg., R.S., Ch. 83 (H.B. 777), Sec. 1, eff. May 23, 2017.

Sec. 23.524. TEMPORARY CESSATION OF AGRICULTURAL USE TO MANAGE THE SPREAD OF CERTAIN PESTS. (a) In this section, "commissioner," "corporation," "infested," "pest," and "pest management zone" have the meanings assigned by Section 80.003, Agriculture Code.

(b) The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area for the period prescribed by Subsection (c) if:

(1) the land is:

(A) located in a pest management zone; and

(B) appraised under this subchapter primarily on the basis of the production of citrus in the tax year in which the agreement described by this subsection is executed;

(2) the owner of the land:

(A) has executed an agreement to destroy, remove, or treat all the citrus trees located on the land that are or could become infested with pests with:

(i) the corporation;

(ii) the commissioner; or

(iii) the United States Department of Agriculture; and

(B) complies with the requirements of Subsection (d); and

(3) the cessation of use is caused by the destruction, removal, or treatment of the citrus trees located on the land under the terms of the agreement described by this subsection.

(c) Subsection (b) applies to land eligible for appraisal under this subchapter only during the period that begins on the date the agreement described by that subsection regarding the land is executed and that ends on the fifth anniversary of that date.

(d) The owner of land to which this section applies must, not later than the 30th day after the date the owner executes an agreement described by Subsection (b):

(1) notify in writing the chief appraiser for each appraisal district in which the land is located that:

(A) the agreement has been executed; and

(B) the owner intends to destroy, remove, or treat the citrus trees located on the land under the terms of the agreement; and

(2) submit a copy of the agreement to each chief appraiser

with the notification.

(e) For the purposes of this subchapter, a change of use of the land subject to this section is considered to have occurred on the day the period prescribed by Subsection (c) begins if the owner has not fully complied with the terms of the agreement described by Subsection (b) on the date the agreement ends.

Added by Acts 2017, 85th Leg., R.S., Ch. 44 (S.B. 1459), Sec. 1, eff. May 19, 2017.

Sec. 23.525. OIL AND GAS OPERATIONS ON LAND. The eligibility of land for appraisal under this subchapter does not end because a lessee under an oil and gas lease begins conducting oil and gas operations over which the Railroad Commission of Texas has jurisdiction on the land if the portion of the land on which oil and gas operations are not being conducted otherwise continues to qualify for appraisal under this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 365 (H.B. 3198), Sec. 1, eff. September 1, 2017.
Redesignated from Tax Code, Section 23.524 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(43), eff. September 1, 2019.

Sec. 23.526. TEMPORARY CESSATION OF AGRICULTURAL USE DUE TO QUARANTINE FOR TICKS. (a) The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area for the period prescribed by Subsection (b) if the land:

(1) is subject to a temporary quarantine established at any time during the tax year by the Texas Animal Health Commission for the purpose of regulating the handling of livestock and eradicating ticks or exposure to ticks under Chapter 167, Agriculture Code;

(2) is appraised under this subchapter primarily on the basis of the livestock located in the area subject to quarantine in the tax year; and

(3) otherwise continues to qualify for appraisal under this subchapter.

(b) Subsection (a) applies to land eligible for appraisal under

this subchapter only during the period that begins on the date the land is designated as a tick eradication area and that ends on the date the land is released from quarantine by the Texas Animal Health Commission.

(c) The owner of land to which this section applies must, not later than the 30th day after the date the land is designated as a tick eradication area, notify in writing the chief appraiser for each appraisal district in which the land is located that the land is located in a tick eradication area.

(d) The owner of land to which this section applies must, not later than the 30th day after the date the land is released from quarantine by the Texas Animal Health Commission, notify in writing the chief appraiser for each appraisal district in which the land is located that the land has been released from quarantine by the Texas Animal Health Commission.

Added by Acts 2019, 86th Leg., R.S., Ch. 101 (H.B. 3348), Sec. 2, eff. May 21, 2019.

Sec. 23.53. CAPITALIZATION RATE. The capitalization rate to be used in determining the appraised value of qualified open-space land as provided by this subchapter is 10 percent or the interest rate specified by the Farm Credit Bank of Texas or its successor on December 31 of the preceding year plus 2-1/2 percentage points, whichever percentage is greater.

Acts 1979, 66th Leg., p. 2259, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 579, Sec. 4, eff. Jan. 1, 1996.

Sec. 23.54. APPLICATION. (a) A person claiming that his land is eligible for appraisal under this subchapter must file a valid application with the chief appraiser.

(b) To be valid, the application must:

(1) be on a form provided by the appraisal office and prescribed by the comptroller; and

(2) contain the information necessary to determine the validity of the claim.

(c) The comptroller shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or

filing an application containing a false statement. The comptroller, in prescribing the contents of the application form, shall require that the form permit a claimant who has previously been allowed appraisal under this subchapter to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported. The form must include a space for the claimant to state the claimant's date of birth. Failure to provide the date of birth does not affect a claimant's eligibility to have the claimant's land appraised under this subchapter.

(d) The form must be filed before May 1. However, for good cause the chief appraiser may extend the filing deadline for not more than 60 days.

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter in subsequent years without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, subject to Section 23.551, if the chief appraiser has good cause to believe that land is no longer eligible for appraisal under this subchapter, the chief appraiser may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible for appraisal under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(f) The appraisal office shall make a sufficient number of printed application forms readily available at no charge.

(g) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

(h) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends or after a change in the category of agricultural use. If a person fails to notify the appraisal office as required by this subsection a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is

erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(i) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

(j) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the five preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that its eligibility has ended, he shall add the difference between the appraised value of the land under this subchapter and the market value of the land to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

Acts 1979, 66th Leg., p. 2259, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 143, ch. 13, Sec. 69, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 25, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 1031, Sec. 14, eff. Sept. 1, 1993.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 352 (H.B. 1464), Sec. 4, eff. September 1, 2015.

Sec. 23.541. LATE APPLICATION FOR APPRAISAL AS AGRICULTURAL LAND. (a) The chief appraiser shall accept and approve or deny an application for appraisal under this subchapter after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If appraisal under this subchapter is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed if the property were taxed at market value.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit that taxes land based on an appraisal under this subchapter after a late application shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Added by Acts 1981, 67th Leg., 1st C.S., p. 144, ch. 13, Sec. 70, eff. Jan. 1, 1982.

Sec. 23.55. CHANGE OF USE OF LAND. (a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the three years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of five percent calculated from the dates on which the differences would have become due. For purposes of this subsection, the chief appraiser may not consider any period during which land is owned by the state in determining whether a change in the use of the land has occurred.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(c) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(d) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax applies only to that part of the parcel and equals the difference between the taxes imposed on that part of the parcel and the taxes that would have been imposed had that part been taxed on the basis of market value.

(e) Subject to Section 23.551, a determination that a change in use of the land has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes plus interest as soon as practicable. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(f) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of:

(1) a sale for right-of-way;

(2) a condemnation;

(3) a transfer of the property to the state or a political subdivision of the state to be used for a public purpose; or

(4) a transfer of the property from the state, a political subdivision of the state, or a nonprofit corporation created by a municipality with a population of more than one million under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code) to an individual or a business entity for purposes of economic development if the comptroller determines that the economic development is likely to generate for deposit in the general revenue fund during the next two fiscal bienniums an amount of taxes and other revenues that equals or exceeds 20 times the amount of additional taxes and interest that would have been imposed under Subsection (a) had the sanctions provided by that subsection applied to the transfer.

(g) If the use of the land changes to a use that qualifies under Subchapter E of this chapter, the sanctions provided by

Subsection (a) of this section do not apply.

(h) Additional taxes, if any, for a year in which land was designated for agricultural use as provided by Subchapter C of this chapter (or Article VIII, Section 1-d, of the constitution) are determined as provided by that subchapter, and the additional taxes imposed by this section do not apply for that year.

(i) The use of land does not change for purposes of Subsection (a) of this section solely because the owner of the land claims it as part of his residence homestead for purposes of Section 11.13 of this code.

(j) The sanctions provided by Subsection (a) do not apply to a change in the use of land if:

(1) the land is located in an unincorporated area of a county with a population of less than 100,000;

(2) the land does not exceed five acres;

(3) the land is owned by a not-for-profit cemetery organization;

(4) the cemetery organization dedicates the land for a cemetery purpose;

(5) the cemetery organization has not dedicated more than five acres of land in the county for a cemetery purpose in the five years preceding the date the cemetery organization dedicates the land for a cemetery purpose; and

(6) the land is adjacent to a cemetery that has been in existence for more than 100 years.

(k) In Subsection (j), "cemetery," "cemetery organization," and "cemetery purpose" have the meanings assigned those terms by Section 711.001, Health and Safety Code.

(l) The sanctions provided by Subsection (a) of this section do not apply to land owned by an organization that qualifies as a religious organization under Section 11.20(c) of this code if the organization converts the land to a use for which the land is eligible for an exemption under Section 11.20 of this code within five years.

(m) For purposes of determining whether a transfer of land qualifies for the exemption from additional taxes provided by Subsection (f)(4), on an application of the entity transferring or proposing to transfer the land or of the individual or entity to which the land is transferred or proposed to be transferred, the comptroller shall determine the amount of taxes and other revenues

likely to be generated as a result of the economic development for deposit in the general revenue fund during the next two fiscal bienniums. If the comptroller determines that the amount of those revenues is likely to equal or exceed 20 times the amount of additional taxes and interest that would be imposed under Subsection (a) if the sanctions provided by that subsection applied to the transfer, the comptroller shall issue a letter to the applicant stating the comptroller's determination and shall send a copy of the letter by regular mail to the chief appraiser.

(n) Within one year of the conclusion of the two fiscal bienniums for which the comptroller issued a letter as provided under Subsection (m), the board of directors of the appraisal district, by official board action, may direct the chief appraiser to request the comptroller to determine if the amount of revenues was equal to or exceeded 20 times the amount of taxes and interest that would have been imposed under Subsection (a). The comptroller shall issue a finding as to whether the amount of revenue met the projected increases. The chief appraiser shall review the results of the comptroller's finding and shall make a determination as to whether sanctions under Subsection (a) should be imposed. If the chief appraiser determines that the sanctions provided by Subsection (a) shall be imposed, the sanctions shall be based on the date of the transfer of the property under Subsection (f)(4).

(o) The sanctions provided by Subsection (a) do not apply to land owned by an organization that qualifies as a charitable organization under Section 11.18(c), is organized exclusively to perform religious or charitable purposes, and engages in performing the charitable functions described by Section 11.18(d)(19), if the organization converts the land to a use for which the land is eligible for an exemption under Section 11.18(d)(19) within five years.

(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.

(q) The sanctions provided by Subsection (a) do not apply to land owned by an organization that qualifies as a school under Section 11.21(d) if the organization converts the land to a use for which the land is eligible for an exemption under Section 11.21 within five years.

Acts 1979, 66th Leg., p. 2259, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 145, ch. 13, Sec. 71, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4147, ch. 652, Sec. 2, eff. June 19, 1983; Acts 1983, 68th Leg., p. 4824, ch. 851, Sec. 12, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 796, Sec. 20, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 471, Sec. 2, eff. June 12, 1995; Acts 1995, 74th Leg., ch. 811, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 31.01(74), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 345, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 351, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 288, Sec. 1.08, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1176, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(81), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.69, eff. April 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1309 (H.B. 3133), Sec. 4, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 865 (H.B. 561), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 352 (H.B. 1464), Sec. 5, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1361 (H.B. 1743), Sec. 1, eff. September 1, 2019.

Sec. 23.551. ADDITIONAL NOTICE TO CERTAIN LANDOWNERS. (a) If land appraised as provided by this subchapter is owned by an individual 65 years of age or older, before making a determination that a change in use of the land has occurred, the chief appraiser shall deliver a written notice to the owner stating that the chief appraiser believes a change in use of the land may have occurred.

(b) The notice must include a form on which the owner may indicate that the land remains eligible to be appraised as provided by this subchapter and a self-addressed postage prepaid envelope with instructions for returning the form to the chief appraiser.

(c) The chief appraiser shall consider the owner's response on the form in determining whether the land remains eligible for appraisal under this subchapter.

(d) If the chief appraiser does not receive a response on or before the 60th day after the date the notice is mailed, the chief appraiser must make a reasonable effort to locate the owner and determine whether the land remains eligible to be appraised as provided by this subchapter before determining that a change in use of the land has occurred.

(e) For purposes of this section, sending an additional notice to the owner immediately after the expiration of the 60-day period prescribed by Subsection (d) by first class mail in an envelope on which is written, in all capital letters, "RETURN SERVICE REQUESTED," or another appropriate statement directing the United States Postal Service to return the notice if it is not deliverable as addressed, or providing the additional notice in another manner that the chief appraiser determines is appropriate, constitutes a reasonable effort on the part of the chief appraiser.

Added by Acts 2015, 84th Leg., R.S., Ch. 352 (H.B. 1464), Sec. 6, eff. September 1, 2015.

Sec. 23.56. LAND INELIGIBLE FOR APPRAISAL AS OPEN-SPACE LAND. 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;

(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.

Acts 1979, 66th Leg., p. 2260, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 495 (S.B. 801), Sec. 3, eff. January 1, 2010.

Sec. 23.57. ACTION ON APPLICATIONS. (a) The chief appraiser shall determine separately each applicant's right to have his land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and allow appraisal under this subchapter;

(2) disapprove the application and request additional information from the applicant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action and a full explanation of the reasons for denial of the application.

Added by Acts 1981, 67th Leg., 1st C.S., p. 145, ch. 13, Sec. 72, eff. Jan. 1, 1982.

Sec. 23.58. LOAN SECURED BY LIEN ON OPEN-SPACE LAND. (a) A lender may not require as a condition to granting or amending the terms of a loan secured by a lien in favor of the lender on land appraised according to this subchapter that the borrower waive the right to the appraisal or agree not to apply for or receive the appraisal.

(b) A provision in an instrument pertaining to a loan secured by a lien in favor of the lender on land appraised according to this subchapter is void to the extent that the provision attempts to require the borrower to waive the right to the appraisal or to prohibit the borrower from applying for or receiving the appraisal.

(c) A provision in an instrument pertaining to a loan secured by a lien in favor of the lender on land appraised according to this subchapter that requires the borrower to make a payment to protect the lender from loss because of the imposition of additional taxes and interest under Section 23.55 is void unless the provision:

(1) requires the borrower to pay into an escrow account established by the lender an amount equal to the additional taxes and interest that would be due under Section 23.55 if a change of use occurred on January 1 of the year in which the loan is granted or amended;

(2) requires the escrow account to bear interest to be credited to the account monthly;

(3) permits the lender to apply money in the escrow account to the payment of a bill for additional taxes and interest under Section 23.55 before the loan is paid and requires the lender to refund the balance remaining in the escrow account after the bill is paid to the borrower; and

(4) requires the lender to refund the money in the escrow

account to the borrower on the payment of the loan.

(d) On the request of the borrower or the borrower's representative, the assessor for each taxing unit shall compute the additional taxes and interest that would be due that taxing unit under Section 23.55 if a change of use occurred on January 1 of the year in which the loan is granted or amended. The assessor may charge a reasonable fee not to exceed the actual cost of making the computation.

(e) In this section, "lender" has the meaning assigned by Section 23.47(e).

Added by Acts 1995, 74th Leg., ch. 82, Sec. 2, eff. May 11, 1995.

Sec. 23.59. APPRAISAL OF OPEN-SPACE LAND THAT IS CONVERTED TO TIMBER PRODUCTION. (a) If land that has been appraised under this subchapter for at least five preceding years is converted to production of timber after September 1, 1997, the owner may elect to have the land continue to be appraised under this subchapter for 15 years after the date of the conversion, so long as the land qualifies for appraisal as timber land under Subchapter E. In that event, the land is deemed to be the same category of land under this subchapter as it was immediately before conversion to timber production.

(b) The election must be made by a new application filed as provided by Section 23.54 and remains in effect for 15 years or until a change in use of the land occurs.

(c) This section applies to the appraisal of land converted to timber production only until the end of the tax year in which the 15th anniversary of the date of the conversion occurs. In the 16th and subsequent years, the land shall be appraised as timber land as provided by Subchapter E, so long as it qualifies as timber land under Subchapter E.

Added by Acts 1997, 75th Leg., ch. 765, Sec. 1, eff. Sept. 1, 1997.

Sec. 23.60. REAPPRAISAL OF LAND SUBJECT TO TEMPORARY QUARANTINE FOR TICKS. (a) An owner of qualified open-space land, other than land used for wildlife management, 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.

(b) As soon as practicable after receiving a request for reappraisal, the chief appraiser shall complete the reappraisal. In determining the appraised value of the land under Section 23.52, the effect on the value of the land caused by the infestation of ticks is an additional factor that must be taken into account. The appraised value of land reappraised under this section may not exceed the lesser of:

(1) the market value of the land as determined by other appraisal methods; or

(2) one-half of the original appraised value of the land for the current tax year.

(c) A property owner may not be required to pay the appraisal district for the costs of making the reappraisal. Each taxing unit that participates in the appraisal district and imposes taxes on the land shall share the costs of the reappraisal in the proportion the total dollar amount of taxes imposed by that taxing unit on that land in the preceding year bears to the total dollar amount of taxes all taxing units participating in the appraisal district imposed on that land in the preceding year.

(d) If land is reappraised as provided by this section, the governing body of each taxing unit that participates in the appraisal district and imposes taxes on the land shall provide for prorating the taxes on the land for the tax year in which the reappraisal is conducted. If the taxes are prorated, taxes due on the land are determined as follows: the taxes on the land based on its value on January 1 of that year are multiplied by a fraction, the denominator of which is 365 and the numerator of which is the number of days in that year before the date the reappraisal was conducted; the taxes on the land based on its reappraised value are multiplied by a fraction, the denominator of which is 365 and the numerator of which is the number of days, including the date the reappraisal was conducted, remaining in the year; and the total of the two amounts is the amount of taxes imposed on the land for that year. Notwithstanding Section 26.15, the assessor for each applicable taxing unit shall enter the reappraised value on the appropriate tax roll together with the original appraised value and the calculation of the taxes imposed on

the land under this section. If for any tax year the reappraisal results in a decrease in the tax liability of the landowner, the assessor for the taxing unit shall prepare and mail a new tax bill in the manner provided by Chapter 31. If the owner has paid the tax, each taxing unit that imposed taxes on the land in that year shall promptly refund the difference between the tax paid and the tax due on the lower appraised value.

(e) In appraising the land for any subsequent tax year in which the Texas Animal Health Commission quarantine remains in place, the chief appraiser shall continue to take into account the effect on the value of the land caused by the infestation of ticks.

(f) If the owner of the land is informed by the Texas Animal Health Commission that the quarantine is no longer in place, not later than the 30th day after the date on which the owner received that information the owner of the land shall so notify the chief appraiser. If the owner fails to notify the chief appraiser as required by this subsection, a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this section and the taxes that would otherwise have been imposed.

(g) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this section shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

Added by Acts 2007, 80th Leg., R.S., Ch. 1011 (H.B. 967), Sec. 3, eff. June 15, 2007.

SUBCHAPTER E. APPRAISAL OF TIMBER LAND

Sec. 23.71. DEFINITIONS. In this subchapter:

(1) "Category of the land" means the value classification of land for timber production, based on soil type, soil capability, general topography, weather, location, and other pertinent factors, as determined by competent governmental sources.

(2) "Net to land" means the average net income that would have been earned by a category of land over the preceding five years by a person using ordinary prudence in the management of the land and the timber produced on the land. The net income for each year is determined by multiplying the land's potential average annual growth, expressed in tons, by the stumpage value, expressed in price per ton, of large pine sawtimber, small pine sawtimber, pine pulpwood, hardwood sawtimber, hardwood pulpwood, and any other significant timber product, taking into consideration the three forest types and the four different soil types, as determined by using information for the East Texas timber-growing region as a whole from the U.S. Forest Service, the Natural Resources Conservation Service of the United States Department of Agriculture, the Texas Forest Service, and colleges and universities within this state, and by subtracting from the product reasonable management costs and other reasonable expenses directly attributable to the production of the timber that a prudent manager of the land and timber, seeking to maximize return, would incur in the management of the land and timber. Stumpage prices shall be determined by using information collected for all types of timber sales, including cutting contract and gatewood sales.

Acts 1979, 66th Leg., p. 2261, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 2003, 78th Leg., ch. 968, Sec. 1, eff. Jan. 1, 2004.

Sec. 23.72. QUALIFICATION FOR PRODUCTIVITY APPRAISAL. (a) Land qualifies for appraisal as provided by this subchapter if it is currently and actively devoted principally to production of timber or forest products to the degree of intensity generally accepted in the area with intent to produce income and has been devoted principally to production of timber or forest products or to agricultural use that would qualify the land for appraisal under Subchapter C or D for five of the preceding seven years.

(b) In determining whether land is currently and actively devoted principally to the production of timber or forest products to

the degree of intensity generally accepted in an area, a chief appraiser may not consider the purpose for which a portion of a parcel of land is used if the portion is:

(1) used for the production of timber or forest products, including a road, right-of-way, buffer area, or firebreak; or

(2) subject to a right-of-way that was taken through the exercise of the power of eminent domain.

(c) For the purpose of the appraisal of land under this subchapter, a portion of a parcel of land described by Subsection (b) is considered land that qualifies for appraisal under this subchapter if the remainder of the parcel of land qualifies for appraisal under this subchapter.

Acts 1979, 66th Leg., p. 2261, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1987, 70th Leg., ch. 780, Sec. 3, eff. Jan. 1, 1988.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 43 (H.B. 1409), Sec. 1, eff. September 1, 2019.

Sec. 23.73. APPRAISAL OF QUALIFIED TIMBER LAND. (a) The appraised value of qualified timber land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value of the land as determined by other appraisal methods.

(b) The comptroller by rule shall develop and distribute to each appraisal office appraisal manuals setting forth this method of appraising qualified timber land, and each appraisal office shall use the appraisal manuals in appraising qualified timber land. The comptroller by rule shall develop and the appraisal office shall enforce procedures to verify that land meets the conditions contained in Section 23.72. The rules, before taking effect, must be approved by the comptroller with the review and counsel of the Texas A&M Forest Service.

(c) For the purposes of Section 23.76 of this code, the chief appraiser also shall determine the market value of qualified timber land and shall record both the market value and the appraised value in the appraisal records.

(d) The appraisal of minerals or subsurface rights to minerals

is not within the provisions of this subchapter.

Acts 1979, 66th Leg., p. 2261, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg. 1st C.S., p. 145, ch. 13, Sec. 73, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 26, eff. Sept. 1, 1991.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 23 (S.B. 594), Sec. 2, eff. January 1, 2018.
Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 10(c), eff. September 1, 2017.

Sec. 23.74. CAPITALIZATION RATE. (a) The capitalization rate to be used in determining the appraised value of qualified timber land as provided by this subchapter is the greater of:

(1) the interest rate specified by the Farm Credit Bank of Texas or its successor on December 31 of the preceding year plus 2-1/2 percentage points; or

(2) the capitalization rate used in determining the appraised value of qualified timber land as provided by this subchapter for the preceding tax year.

(b) Notwithstanding Subsection (a):

(1) in the first tax year in which the capitalization rate determined under that subsection equals or exceeds 10 percent, the capitalization rate for that tax year is the rate determined under Subsection (a)(1); and

(2) for each tax year following the tax year described by Subdivision (1), the capitalization rate is the average of the rate determined under Subsection (a)(1) for the current tax year and the capitalization rate used for each of the four tax years preceding the current tax year other than a tax year preceding the tax year described by Subdivision (1).

Acts 1979, 66th Leg., p. 2262, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 579, Sec. 5, eff. Jan. 1, 1996; Acts 2003, 78th Leg., ch. 968, Sec. 2, eff. Jan. 1, 2004.

Sec. 23.75. APPLICATION. (a) A person claiming that his land is eligible for appraisal as provided by this subchapter must file a

valid application with the chief appraiser.

(b) To be valid, the application must:

(1) be on a form provided by the appraisal office and prescribed by the comptroller; and

(2) contain the information necessary to determine the validity of the claim.

(c) The comptroller shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The comptroller, in prescribing the contents of the application form, shall require that the form permit a claimant who has previously been allowed appraisal under this subchapter to indicate that previously reported information has not changed and to supply only the eligibility information not previously reported.

(d) The form must be filed before May 1. However, for good cause the chief appraiser may extend the filing deadline for not more than 60 days.

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter in subsequent years without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, the chief appraiser if he has good cause to believe the land's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(f) The appraisal office shall make a sufficient number of printed application forms readily available at no charge.

(g) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

(h) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends. If a

person fails to notify the appraisal office as required by this subsection a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(i) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

(j) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the five preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that its eligibility had ended, the chief appraiser shall add the difference between the appraised value of the land under this subchapter and the market value of the land to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

Acts 1979, 66th Leg., p. 2262, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 146, ch. 13, Sec. 74, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 27, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 579, Sec. 6, eff. Jan. 1, 1996.

Sec. 23.751. LATE APPLICATION FOR APPRAISAL AS TIMBER LAND. (a) The chief appraiser shall accept and approve or deny an application for appraisal under this subchapter after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If appraisal under this subchapter is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed if the property were taxed at market value.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit that taxes land based on an appraisal under this subchapter after a late application shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Added by Acts 1981, 67th Leg., 1st C.S., p. 147, ch. 13, Sec. 75, eff. Jan. 1, 1982.

Sec. 23.76. CHANGE OF USE OF LAND. (a) If the use of land that has been appraised as provided by this subchapter changes, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the three years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land been taxed on the basis of market value in each of those years, plus interest at an annual rate of five percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(c) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(d) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax

applies only to that part of the parcel and equals the difference between the taxes imposed on that part of the parcel and the taxes that would have been imposed had that part been taxed on the basis of market value.

(e) A determination that a change in use of the land has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes and interest as soon as practicable after the change of use occurs. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(f) The sanctions provided by Subsection (a) do not apply if the change of use occurs as a result of:

(1) a sale for right-of-way;

(2) a condemnation; or

(3) a transfer of the land to this state or a political subdivision of this state to be used for a public purpose.

(g) If the use of the land changes to a use that qualifies under Subchapter C, D, or H of this chapter, the sanctions provided by Subsection (a) of this section do not apply.

(h) The use of land does not change for purposes of Subsection (a) solely because the owner of the land claims it as part of the owner's residence homestead for purposes of Section 11.13.

(i) The sanctions provided by Subsection (a) do not apply to land owned by an organization that qualifies as a religious organization under Section 11.20(c) if the organization converts the land to a use for which the land is eligible for an exemption under Section 11.20 within five years.

(j) The sanctions provided by Subsection (a) do not apply to a change in the use of land if:

(1) the land is located in an unincorporated area of a county with a population of less than 100,000;

(2) the land does not exceed five acres;

(3) the land is owned by a not-for-profit cemetery organization;

(4) the cemetery organization dedicates the land for a cemetery purpose;

(5) the cemetery organization has not dedicated more than five acres of land in the county for a cemetery purpose in the five years preceding the date the cemetery organization dedicates the land for a cemetery purpose; and

(6) the land is adjacent to a cemetery that has been in existence for more than 100 years.

(k) In Subsection (j), "cemetery," "cemetery organization," and "cemetery purpose" have the meanings assigned those terms by Section 711.001, Health and Safety Code.

Acts 1979, 66th Leg., p. 2262, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 148, ch. 13, Sec. 76, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4824, ch. 851, Sec. 13, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 796, Sec. 21, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 723, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 631, Sec. 4, eff. Sept. 1, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 921 (H.B. 312), Sec. 1, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1361 (H.B. 1743), Sec. 2, eff. September 1, 2019.

Sec. 23.765. OIL AND GAS OPERATIONS ON LAND. The eligibility of land for appraisal under this subchapter does not end because a lessee under an oil and gas lease begins conducting oil and gas operations over which the Railroad Commission of Texas has jurisdiction on the land if the portion of the land on which oil and gas operations are not being conducted otherwise continues to qualify for appraisal under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 43 (H.B. 1409), Sec. 2, eff. September 1, 2019.

Sec. 23.77. LAND INELIGIBLE FOR APPRAISAL AS TIMBER LAND. 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; or

(B) the land has been devoted principally to production of timber or forest products continuously for the preceding five years;

(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.

Acts 1979, 66th Leg., p. 2263, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 23.78. MINIMUM TAXABLE VALUE OF TIMBER LAND. The taxable value of qualified timber land appraised as provided by this subchapter may not be less than the appraised value of that land for the taxing unit in the 1978 tax year, except that the taxable value used for any tax year may not exceed the market value of the land as determined by other generally accepted appraisal methods. If the appraised value of timber land determined as provided by this subchapter is less than a taxing unit's appraised value of that land in 1978, the assessor for the unit shall substitute the 1978 appraised value for that land on the unit's appraisal roll.

Acts 1979, 66th Leg., p. 2263, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 148, ch. 13, Sec. 77, eff. Jan. 1, 1982.

Sec. 23.79. ACTION ON APPLICATIONS. (a) The chief appraiser

shall determine separately each applicant's right to have his land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and allow appraisal under this subchapter;

(2) disapprove the application and request additional information from the applicant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the applicant within five days after the date he makes the determination. He shall include with the notice a brief explanation of the procedures for protesting his action.

Added by Acts 1981, 67th Leg., 1st C.S., p. 148, ch. 13, Sec. 78, eff. Jan. 1, 1982.

SUBCHAPTER F. APPRAISAL OF RECREATIONAL, PARK, AND SCENIC LAND

Sec. 23.81. DEFINITIONS. In this subchapter:

(1) "Recreational, park, or scenic use" means use for individual or group sporting activities, for park or camping activities, for development of historical, archaeological, or scientific sites, or for the conservation and preservation of scenic areas.

(2) "Deed restriction" means a valid and enforceable provision that limits the use of land and that is included in a written instrument filed and recorded in the deed records of the county in which the land is located.

Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, Sec. 79, eff. Jan. 1, 1982.

Sec. 23.82. VOLUNTARY RESTRICTIONS. (a) The owner of a fee simple estate in land of at least five acres may limit the use of the land to recreational, park, or scenic use by filing with the county clerk of the county in which the land is located a written instrument executed in the form and manner of a deed.

(b) The instrument must describe the land, name each owner of the land, and provide that the restricted land may be used only for recreational, park, or scenic uses during the term of the deed restriction. The term of the deed restriction must be for at least 10 years, and the length of the term must be stated in the instrument.

(c) The county attorney of the county in which the restricted land is located or any person owning or having an interest in the restricted land may enforce a deed restriction that complies with the requirements of this section.

Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, Sec. 79, eff. Jan. 1, 1982.

Sec. 23.83. APPRAISAL OF RESTRICTED LAND. (a) A person is entitled to have land he owns appraised under this subchapter if, on January 1:

(1) the land is restricted as provided by this subchapter;

(2) the land is used in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain;

(3) the land has been devoted exclusively to recreational, park, or scenic uses for the preceding year; and

(4) he is using and intends to use the land exclusively for those purposes in the current year.

(b) The chief appraiser may not consider any factor other than one relating to the value of the land as restricted. Sales of comparable land not restricted as provided by this subchapter may not

be used to determine the value of restricted land.

(c) Improvements other than appurtenances to the land and the mineral estate are appraised separately at market value. Riparian water rights, private roads, dams, reservoirs, water wells, and canals, ditches, terraces, and similar reshapings of or additions to the soil are appurtenances to the land and the effect of each on the value of the land for recreational, park, or scenic uses shall be considered in appraising the land.

(d) If land is appraised under this subchapter for a year, the chief appraiser shall determine at the end of that year whether the land was used exclusively for recreational, park, or scenic uses. If the land was not used exclusively for recreational, park, or scenic uses, the assessor for each taxing unit shall impose an additional tax equal to the difference in the amount of tax imposed and the amount that would have been imposed for that year if the land had not been restricted to recreational, park, or scenic uses. The assessor shall include the amount of additional tax plus interest on the next bill for taxes on the land.

(e) The comptroller shall promulgate rules specifying the methods to apply and the procedures to use in appraising land under this subchapter.

Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, Sec. 79, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 28, eff. Sept. 1, 1991.

Sec. 23.84. APPLICATION. (a) A person claiming the right to have his land appraised under this subchapter must apply for the right the first year he claims it. Application for appraisal under this chapter is made by filing a sworn application form with the chief appraiser for the appraisal district in which the land is located.

(b) A claimant must deliver a completed application form to the chief appraiser before May 1 and must furnish the information required by the form. For good cause shown the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

(c) If a claimant fails to timely file a completed application form, the land is ineligible for appraisal as provided by this

subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter during the term of the deed restriction without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, the chief appraiser, if he has good cause to believe the land's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(d) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends.

(e) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the five preceding years, the chief appraiser shall add the difference between the appraised value of the land under this subchapter and the market value of the land if it had not been restricted to recreational, park, or scenic uses to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

(f) The comptroller in prescribing the contents of the application forms shall ensure that each form requires a claimant to furnish the information necessary to determine the validity of the claim and that the form requires the claimant to state that the land for which he claims appraisal under this subchapter will be used exclusively for recreational, park, or scenic uses in the current year.

Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, Sec. 79, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 29, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 579, Sec. 7, eff. Jan. 1, 1996.

Sec. 23.85. ACTION ON APPLICATION. (a) The chief appraiser shall determine individually each claimant's right to appraisal under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and allow appraisal under this subchapter;

(2) disapprove the application and request additional information from the claimant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from a claimant, the claimant must furnish the information within 30 days after the date of the request or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the claimant within five days after the date of denial. The notice must include a brief explanation of the procedures for protesting the denial.

Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, Sec. 79, eff. Jan. 1, 1982.

Sec. 23.86. ADDITIONAL TAXATION FOR PRECEDING YEARS. (a) If land that has been appraised under this subchapter is no longer subject to a deed restriction or is diverted to a use other than recreational, park, or scenic uses, an additional tax is imposed on the land equal to the difference between the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs or the deed restriction expires that the land was appraised as provided by this subchapter and the tax that would have been imposed had the land not been restricted to recreational, park, or scenic uses in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the land on the date the change of use occurs or the deed restriction expires to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the

additional tax is imposed.

(c) The assessor shall prepare and deliver a statement for the additional taxes as soon as practicable after the change of use occurs or the deed restriction expires. The taxes become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next date on which the unit's taxes become delinquent that is more than 10 days after the date the statement is delivered.

(d) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, Sec. 79, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4824, ch. 851, Sec. 14, eff. Aug. 29, 1983.

Sec. 23.87. PENALTY FOR VIOLATING DEED RESTRICTION. (a) If land appraised under this subchapter is used for other than recreational, park, or scenic uses before the term of the deed restriction expires, a penalty is imposed on the land equal to the difference between the taxes imposed on the land for the year in which the violation occurs and the amount that would have been imposed for that year had the land not been restricted to recreational, park, or scenic uses.

(b) The chief appraiser shall make an entry in the appraisal records for the land against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who filed the application for appraisal under this subchapter. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty.

(c) The assessor for each taxing unit that imposed taxes on the land on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the land against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the land against which the penalty is imposed. The amount of the penalty constitutes a lien on the land against which the penalty is imposed and accrues penalties and interest in the same manner as a delinquent

tax.

Added by Acts 1981, 67th Leg., 1st C.S., p. 149, ch. 13, Sec. 79, eff. Jan. 1, 1982.

SUBCHAPTER G. APPRAISAL OF PUBLIC ACCESS AIRPORT PROPERTY

Sec. 23.91. DEFINITIONS. In this subchapter:

(1) "Airport property" means real property that is designed to be used or is used for airport purposes, including the landing, parking, shelter, or takeoff of aircraft and the accommodation of individuals engaged in the operation, maintenance, or navigation of aircraft or of aircraft passengers in connection with their use of aircraft or of airport property.

(2) "Public access airport property" means privately owned airport property that is regularly used by the public for or regularly provides services to the public in connection with airport purposes.

(3) "Deed restriction" means a valid and enforceable provision that restricts the use of property and that is included in a written instrument filed and recorded in the deed records of the county in which the property is located.

Added by Acts 1981, 67th Leg., p. 2355, ch. 581, Sec. 1, eff. Jan. 1, 1982.

Sec. 23.92. VOLUNTARY RESTRICTIONS. (a) The owner of a fee simple estate in property of at least five acres may limit the use of that part of the property which is airport property to public access airport property by filing with the county clerk of the county in which the property is located a written instrument executed in the form and manner of a deed.

(b) The instrument must describe the property and the restricted part of the property, name each owner of the property, and provide that the restricted property may only be used as public access airport property during the term of the deed restriction. The term of the deed restriction must be for at least 10 years, and the length of the term must be stated in the instrument.

(c) The county attorney of the county in which the restricted property is located or any person owning or having an interest in the

restricted property may enforce a deed restriction that complies with the requirements of this section.

Added by Acts 1981, 67th Leg., p. 2355, ch. 581, Sec. 1, eff. Jan. 1, 1982.

Sec. 23.93. APPRAISAL OF RESTRICTED LAND. (a) A person is entitled to have airport property he owns appraised under this subchapter if, on January 1:

(1) the property is restricted as provided by this subchapter;

(2) the property has been devoted exclusively to use as public access airport property for the preceding year; and

(3) he is using and intends to use the property exclusively as public access airport property in the current year.

(b) The chief appraiser may not consider any factor other than one relating to the value of the airport property as restricted. Sales of comparable airport property not restricted as provided by this subchapter may not be used to determine the value of restricted property.

(c) Improvements to the property that qualify as public access airport property are appraised as provided by this subchapter, but other improvements and the mineral estate are appraised separately at market value.

(d) If airport property is appraised under this subchapter for a year, the chief appraiser shall determine at the end of that year whether the property was used exclusively as public access airport property. If the airport property was not used exclusively as public access airport property, the assessor for each taxing unit shall impose an additional tax equal to the difference in the amount of tax imposed and the amount that would have been imposed for that year if the property had not been restricted to use as public access airport property. The assessor shall include the amount of additional tax plus interest on the next bill for taxes on the land.

(e) The comptroller shall promulgate rules specifying the methods to apply and the procedures to use in appraising property under this subchapter.

Added by Acts 1981, 67th Leg., p. 2355, ch. 581, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 152, ch. 13,

Sec. 81, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 30, eff. Sept. 1, 1991.

Sec. 23.94. APPLICATION. (a) A person claiming the right to have his airport property appraised under this subchapter must apply for the right the first year he claims it. Application for appraisal under this subchapter is made by filing a sworn application form with the chief appraiser for each appraisal district in which the land is located.

(b) A claimant must deliver a completed application form to the chief appraiser before May 1 and must furnish the information required by the form. For good cause shown the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

(c) If a claimant fails to timely file a completed application form, the property is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the property is eligible for appraisal under this subchapter during the term of the deed restriction without a new application unless the ownership of the property changes or its eligibility under this subchapter ends. However, the chief appraiser, if he has good cause to believe the property's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the property is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(d) A person whose property is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the property under this subchapter ends.

(e) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the five preceding years, the chief appraiser shall add the difference between the appraised value of the property under this subchapter and the value of the property if it had not been restricted to use as public access airport property to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

(f) The comptroller in prescribing the contents of the

application forms shall ensure that each form requires a claimant to furnish the information necessary to determine the validity of the claim and that the form requires the claimant to state that the airport property for which he claims appraisal under this subchapter will be used exclusively as public access airport property in the current year.

Added by Acts 1981, 67th Leg., p. 2355, ch. 581, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 152, ch. 13, Sec. 82, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 31, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 579, Sec. 8, eff. Jan. 1, 1996.

Sec. 23.95. ACTION ON APPLICATION. (a) The chief appraiser shall determine individually each claimant's right to appraisal under this subchapter. After considering the application and all relevant information, the chief appraiser shall, as the law and facts warrant:

(1) approve the application and allow appraisal under this subchapter;

(2) disapprove the application and request additional information from the claimant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from a claimant, the claimant must furnish the information within 30 days after the date of the request or before April 15, whichever is earlier, or the application is denied. However, for good cause shown the chief appraiser may extend the deadline for furnishing additional information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with him before he submits the appraisal records for review and determination of protests as provided by Chapter 41 of this code.

(d) If the chief appraiser denies an application, he shall deliver a written notice of the denial to the claimant within five days after the date of denial. The notice must include a brief explanation of the procedures for protesting the denial.

Added by Acts 1981, 67th Leg., p. 2355, ch. 581, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 153, ch. 13,

Sec. 83, eff. Jan. 1, 1982.

Sec. 23.96. TAXATION FOR PRECEDING YEARS. (a) If airport property that has been appraised under this subchapter is no longer subject to a deed restriction, an additional tax is imposed on the property equal to the difference between the taxes imposed on the property for each of the five years preceding the year in which the deed restriction expires that the property was appraised as provided by this subchapter and the tax that would have been imposed had the property not been restricted to use as public access airport property in each of those years, plus interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) A tax lien attaches to the property on the date the deed restriction expires to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(c) The assessor shall prepare and deliver a statement for the additional taxes as soon as practicable after the deed restriction expires. The taxes become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next date on which the unit's taxes become delinquent that is more than 10 days after the date the statement is delivered.

(d) The sanctions provided by Subsection (a) of this section do not apply if the change of use occurs as a result of a sale for right-of-way or a condemnation.

Added by Acts 1981, 67th Leg., p. 2355, ch. 581, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4824, ch. 851, Sec. 15, eff. Aug. 29, 1983.

Sec. 23.97. PENALTY FOR VIOLATING DEED RESTRICTION. (a) If airport property appraised under this subchapter is used as other than public access airport property before the term of the deed restriction expires, a penalty is imposed on the property equal to the difference between the taxes imposed on the property on the basis

of appraisal under this subchapter for the year in which the violation occurs and the amount that would have been imposed for that year had the property not been restricted to use as public access airport property.

(b) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who filed the application for appraisal under this subchapter. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty.

(c) The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The county assessor-collector shall add the amount of the penalty to the county's tax bill for taxes on the property. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

Added by Acts 1981, 67th Leg., p. 2355, ch. 581, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 154, ch. 13, Sec. 84, eff. Jan. 1, 1982.

SUBCHAPTER H. APPRAISAL OF RESTRICTED-USE TIMBER LAND

Sec. 23.9801. DEFINITIONS. In this subchapter:

(1) "Aesthetic management zone" means timber land on which timber harvesting is restricted for aesthetic or conservation purposes, including:

(A) maintaining standing timber adjacent to public rights-of-way, including highways and roads; and

(B) preserving an area in a forest, as defined by Section 152.003, Natural Resources Code, that is designated by the director of the Texas Forest Service as special or unique because of the area's natural beauty, topography, or historical significance.

(2) "Critical wildlife habitat zone" means timber land on

which the timber harvesting is restricted so as to provide at least three of the following benefits for the protection of an animal or plant that is listed as endangered or threatened under the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.) and its subsequent amendments or as endangered under Section 68.002, Parks and Wildlife Code:

(A) habitat control;

(B) erosion control;

(C) predator control;

(D) providing supplemental supplies of water;

(E) providing supplemental supplies of food;

(F) providing shelters; and

(G) making of census counts to determine population.

(3) "Management plan" means a plan that uses forestry best management practices consistent with the agricultural and silvicultural nonpoint source pollution management program administered by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code.

(4) "Regenerate" means to replant or manage natural regeneration.

(5) "Streamside management zone" means timber land on which timber harvesting is restricted in accordance with a management plan to:

(A) protect water quality; or

(B) preserve a waterway, including a lake, river, stream, or creek.

(6) "Qualified restricted-use timber land" means land that qualifies for appraisal as provided by this subchapter.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 5, eff. Jan. 1, 2000.

Sec. 23.9802. QUALIFICATION FOR APPRAISAL AS RESTRICTED-USE TIMBER LAND. (a) Land qualifies for appraisal as provided by this subchapter if the land is in an aesthetic management zone, critical wildlife habitat zone, or streamside management zone.

(b) Land qualifies for appraisal as provided by this subchapter if:

(1) timber was harvested from the land in a year in which the land was appraised under Subchapter E; and

(2) the land has been regenerated for timber production to the degree of intensity generally accepted in the area for commercial timber land and with intent to produce income.

(c) Land ceases to qualify for appraisal under Subsection (b) on the 10th anniversary of the date the timber was harvested under Subsection (b)(1). This subsection does not disqualify the land from qualifying for appraisal under this section in a tax year following that anniversary based on the circumstances existing in that subsequent tax year.

(d) In determining whether land qualifies for appraisal as provided by this subchapter, a chief appraiser may not consider the purpose for which a portion of a parcel of land is used if the portion is:

(1) used for the production of timber or forest products, including a road, right-of-way, buffer area, or firebreak; or

(2) subject to a right-of-way that was taken through the exercise of the power of eminent domain.

(e) For the purpose of the appraisal of land under this subchapter, a portion of a parcel of land described by Subsection (d) is considered land that qualifies for appraisal under this subchapter if the remainder of the parcel of land qualifies for appraisal under this subchapter.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 5, eff. Jan. 1, 2000.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 43 (H.B. 1409), Sec. 3, eff. September 1, 2019.

Sec. 23.9803. APPRAISAL OF QUALIFIED RESTRICTED-USE TIMBER LAND. (a) Except as provided by Subsection (b), the appraised value of qualified restricted-use timber land is one-half of the appraised value of the land as determined under Section 23.73(a).

(b) The appraised value determined under Subsection (a) may not exceed the lesser of:

(1) the market value of the land as determined by other appraisal methods; or

(2) the appraised value of the land for the year preceding the first year of appraisal under this subchapter.

(c) The chief appraiser shall determine the market value of

qualified restricted-use timber land and shall record both the market value and the appraised value in the appraisal records.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 5, eff. Jan. 1, 2000.

Sec. 23.9804. APPLICATION. (a) A person claiming that the person's land is eligible for appraisal as provided by this subchapter must file a valid application with the chief appraiser.

(b) To be valid, an application for appraisal under Section 23.9802(a) must:

(1) be on a form provided by the appraisal office and prescribed by the comptroller;

(2) provide evidence that the land qualifies for designation as an aesthetic management zone, critical wildlife habitat zone, or streamside management zone;

(3) specify the location of the proposed zone and the quantity of land, in acres, in the proposed zone; and

(4) contain other information necessary to determine the validity of the claim.

(c) To be valid, an application for appraisal under Section 23.9802(b) must:

(1) be on a form provided by the appraisal office and prescribed by the comptroller;

(2) provide evidence that the land on which the timber was harvested was appraised under Subchapter E in the year in which the timber was harvested;

(3) provide evidence that all of the land has been regenerated in compliance with Section 23.9802(b)(2); and

(4) contain other information necessary to determine the validity of the claim.

(d) The comptroller shall include on the form a notice of the penalties prescribed by Section 37.10, Penal Code, for making or filing an application containing a false statement. The comptroller, in prescribing the contents of the application form, shall require that the form permit a claimant who has previously been allowed appraisal under this subchapter to indicate that the previously reported information has not changed and to supply only the eligibility information not previously reported.

(e) The form must be filed before May 1. However, for good

cause shown, the chief appraiser may extend the filing deadline for not more than 15 days.

(f) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under the applicable provision of this subchapter in subsequent years without a new application unless the ownership of the land changes, the standing timber is harvested, or the land's eligibility under this subchapter ends. However, if the chief appraiser has good cause to believe the land's eligibility under this subchapter has ended, the chief appraiser may require a person allowed appraisal under this subchapter in a previous year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(g) The appraisal office shall make a sufficient number of printed application forms readily available at no charge.

(h) Each year the chief appraiser for each appraisal district shall publicize, in a manner reasonably designed to notify all residents of the district, the requirements of this section and the availability of application forms.

(i) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends. If a person fails to notify the appraisal office as required by this subsection, a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(j) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against

which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and on delinquency accrues penalty and interest in the same manner as a delinquent tax.

(k) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any of the 10 preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that the land's eligibility had ended, the chief appraiser shall add the difference between the appraised value of the land under this subchapter and the market value of the land for any year in which the land was ineligible for appraisal under this subchapter to the appraisal records as provided by Section 25.21 for other property that escapes taxation.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 5, eff. Jan. 1, 2000.

Sec. 23.9805. ACTION ON APPLICATION. (a) The chief appraiser shall determine separately each applicant's right to have the applicant's land appraised under this subchapter. After considering the application and all relevant information, the chief appraiser shall, based on the law and facts:

(1) approve the application and allow appraisal under this subchapter;

(2) disapprove the application and request additional information from the applicant in support of the claim; or

(3) deny the application.

(b) If the chief appraiser requests additional information from an applicant, the applicant must furnish it not later than the 30th day after the date of the request or the chief appraiser shall deny the application. However, for good cause shown, the chief appraiser may extend the deadline for furnishing the information by written order for a single period not to exceed 15 days.

(c) The chief appraiser shall determine the validity of each application for appraisal under this subchapter filed with the chief appraiser before the chief appraiser submits the appraisal records for review and determination of protests as provided by Chapter 41.

(d) If the chief appraiser denies an application, the chief appraiser shall deliver a written notice of the denial to the applicant not later than the fifth day after the date the chief appraiser makes the determination. The chief appraiser shall include with the notice a brief explanation of the procedures for protesting the denial.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 5, eff. Jan. 1, 2000.

Sec. 23.9806. APPLICATION DENIAL BASED ON ZONE LOCATION. (a) Before a chief appraiser may deny an application under Section 23.9805 on the ground that the land is not located in an aesthetic management zone, critical wildlife habitat zone, or streamside management zone, the chief appraiser must first request a determination letter from the director of the Texas Forest Service as to the type, location, and size of the zone, if any, in which the land is located.

(b) The chief appraiser shall notify the landowner and each taxing unit in which the land is located that a determination letter has been requested.

(c) The director's letter is conclusive as to the type, size, and location of the zone for purposes of appraisal of the land under this subchapter.

(d) If the land is located in a zone described in the determination letter, the chief appraiser shall approve the application and allow appraisal under this subchapter if the applicant is otherwise entitled to have the applicant's land appraised under this subchapter.

(e) The director of the Texas Forest Service by rule shall adopt procedures under this section. The procedures must allow the chief appraiser, the landowner, and a representative of each taxing unit in which the land is located to present information to the director before the director issues the determination letter.

(f) Chapters 41 and 42 do not apply to a determination under this section by the director of the Texas Forest Service of the type, size, and location of a zone.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 5, eff. Jan. 1, 2000.

Sec. 23.9807. CHANGE OF USE OF LAND. (a) If the use of land that has been appraised as provided by this subchapter changes to a use that qualifies the land for appraisal under Subchapter E, an additional tax is imposed on the land equal to the sum of:

(1) the difference between:

(A) the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter; and

(B) the taxes that would have been imposed had the land been appraised under Subchapter E in each of those years; and

(2) interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(b) If the use of land that has been appraised as provided by this subchapter changes to a use that does not qualify the land for appraisal under Subchapter E or under this subchapter, an additional tax is imposed on the land equal to the sum of:

(1) the difference between:

(A) the taxes imposed on the land for each of the five years preceding the year in which the change of use occurs that the land was appraised as provided by this subchapter; and

(B) the taxes that would have been imposed had the land been taxed on the basis of market value in each of those years; and

(2) interest at an annual rate of seven percent calculated from the dates on which the differences would have become due.

(c) A tax lien attaches to the land on the date the change of use occurs to secure payment of the additional tax and interest imposed by this section and any penalties incurred. The lien exists in favor of all taxing units for which the additional tax is imposed.

(d) The additional tax imposed by this section does not apply to a year for which the tax has already been imposed.

(e) If the change of use applies to only part of a parcel that has been appraised as provided by this subchapter, the additional tax applies only to that part of the parcel.

(f) A determination that a change in use of the land has occurred is made by the chief appraiser. The chief appraiser shall deliver a notice of the determination to the owner of the land as soon as possible after making the determination and shall include in the notice an explanation of the owner's right to protest the determination. If the owner does not file a timely protest or if the final determination of the protest is that the additional taxes are

due, the assessor for each taxing unit shall prepare and deliver a bill for the additional taxes and interest as soon as practicable after the change of use occurs. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the taxing unit if not paid before the next February 1 that is at least 20 days after the date the bill is delivered to the owner of the land.

(g) The harvesting of timber from the land before the expiration of the period provided by Section 23.9802(c) constitutes a change of use of the land for purposes of this section.

(h) The sanction provided by Subsection (a) or (b) does not apply if the change of use occurs as a result of a:

(1) sale for right-of-way;

(2) condemnation; or

(3) change in law.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 5, eff. Jan. 1, 2000.

Sec. 23.9808. OIL AND GAS OPERATIONS ON LAND. The eligibility of land for appraisal under this subchapter does not end because a lessee under an oil and gas lease begins conducting oil and gas operations over which the Railroad Commission of Texas has jurisdiction on the land if the portion of the land on which oil and gas operations are not being conducted otherwise continues to qualify for appraisal under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 43 (H.B. 1409), Sec. 4, eff. September 1, 2019.

CHAPTER 24. CENTRAL APPRAISAL

SUBCHAPTER B. RAILROAD ROLLING STOCK

Sec. 24.31. APPRAISAL AT HEADQUARTERS. The chief appraiser for the county in which the owner of rolling stock used by a railroad resides or maintains a principal place of business in this state shall appraise for taxation the rolling stock owned on January 1. However, if the owner does not reside or maintain a place of business in this state, the chief appraiser for the county in which a railroad that leases the rolling stock maintains its principal place of business in this state shall appraise it.

Acts 1979, 66th Leg., p. 2267, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 154, ch. 13, Sec. 88, eff. Aug. 14, 1981.

Sec. 24.32. ROLLING STOCK INFORMATION REPORTS. (a) In addition to any reports required by Chapter 22, a person who on January 1 owns or manages and controls as a fiduciary any rolling stock used in the operation of a railroad shall file a property information report listing the rolling stock with the chief appraiser for the county in which the owner maintains his principal place of business in this state.

(b) If the owner of a railroad is leasing or otherwise using rolling stock on January 1 for use in the operation of the railroad, he shall file a separate report, attached to the report required by Subsection (a) of this section, listing the rolling stock, the name and business address of the owner, and the full consideration for the lease or use.

(c) A report required by this section must be on a form prescribed by the comptroller. In prescribing the form, the comptroller shall ensure that it requires the information necessary to determine market value of rolling stock used in this state.

(d) The report must contain all the information required by the form and must be signed by the individual required to file the report by Subsection (a) of this section. When a corporation is required to file the report, an officer of the corporation or an employee or agent who has been designated in writing by the board of directors or by an authorized officer to sign in behalf of the corporation must sign the report.

(e) A report must be filed before May 1. For good cause shown the chief appraiser may extend the filing deadline by written order for a single period not to exceed 15 days.

Acts 1979, 66th Leg., p. 2267, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 154, ch. 13, Sec. 89, eff. Aug. 14, 1981; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 36, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 464, Sec. 2, eff. Jan. 1, 1994.

Sec. 24.33. REPORT OF LEASED ROLLING STOCK FORWARDED. If the owner of leased rolling stock resides in this state or maintains a place of business in this state, the chief appraiser receiving the lessee's report required by Subsection (b) of Section 24.32 of this code shall deliver a certified copy of the report by registered or certified mail to the chief appraiser responsible for appraising the rolling stock as provided by Section 24.31 of this code.

Acts 1979, 66th Leg., p. 2267, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, Sec. 90, eff. Aug. 14, 1981.

Sec. 24.34. INTERSTATE ALLOCATION. (a) If the railroad operates in another state or country, the chief appraiser shall allocate to this state the proportion of the total market value of the rolling stock that fairly reflects its use in this state during the preceding tax year.

(b) The comptroller shall adopt rules establishing formulas for interstate allocation of the value of railroad rolling stock.

Acts 1979, 66th Leg., p. 2267, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, Sec. 91, eff. Aug. 14, 1981; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 37, eff. Sept. 1, 1991.

Sec. 24.35. NOTICE, REVIEW, AND PROTEST. (a) The chief appraiser shall deliver notice to the owner of the rolling stock as provided by Section 25.19 of this code and present the appraised value for review and protest as provided by Chapter 41 of this code.

(b) Review and protests of appraisals of railroad rolling stock must be completed by July 1 or as soon thereafter as practicable and for that reason shall be given priority.

Acts 1979, 66th Leg., p. 2268, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, Sec. 92, eff. Aug. 14, 1981.

Sec. 24.36. CERTIFICATION TO COMPTROLLER. On approval of the

appraised value of the rolling stock as provided by Chapter 41 of this code, the chief appraiser shall certify to the comptroller the amount of market value allocated to this state for each owner whose rolling stock is appraised in the county and the name and business address of each owner.

Acts 1979, 66th Leg., p. 2268, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, Sec. 93, eff. Aug. 14, 1981; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 38, eff. Sept. 1, 1991.

Sec. 24.365. CORRECTION OF CERTIFIED AMOUNT. (a) A chief appraiser who discovers that the chief appraiser's certification to the comptroller of the amount of the market value of rolling stock allocated to this state under Section 24.36 was incomplete or incorrect shall immediately certify the correct amount of that market value to the comptroller.

(b) As soon as practicable after the comptroller receives the correct certification from the chief appraiser, the comptroller shall certify to the county assessor-collector for each affected county the information required by Section 24.38 as corrected.

Added by Acts 2001, 77th Leg., ch. 268, Sec. 2, eff. Sept. 1, 2001.

Sec. 24.37. INTRASTATE APPORTIONMENT. The comptroller shall apportion the appraised value of each owner's rolling stock to each county in which the railroad using it operates according to the ratio the mileage of road owned by the railroad in the county bears to the total mileage of road the railroad owns in this state.

Acts 1979, 66th Leg., p. 2268, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 38, eff. Sept. 1, 1991.

Sec. 24.38. CERTIFICATION OF APPORTIONED VALUE. Before July 26, the comptroller shall certify to the county assessor-collector for each county in which a railroad operates:

(1) the county's apportioned amount of the market value of

each owner's rolling stock; and

(2) the name and business address of each owner.

Acts 1979, 66th Leg., p. 2268, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1983, 68th Leg., p. 4825, ch. 851, Sec. 16, eff. Aug. 29, 1983; Acts. 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 38, eff. Sept. 1, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 908 (H.B. 1309), Sec. 1, eff. January 1, 2010.

Sec. 24.39. IMPOSITION OF TAX. The county assessor-collector and commissioners court may not change the apportioned values certified as provided by this subchapter. The county assessor-collector shall add each owner's rolling stock and the value apportioned to the county as certified to him to the appraisal roll certified to him by the chief appraiser as provided by Section 26.01 of this code for county tax purposes. He shall calculate the county tax due on the rolling stock as provided by Section 26.09 of this code.

Acts 1979, 66th Leg., p. 2268, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 155, ch. 13, Sec. 94, eff. Aug. 14, 1981; Acts 1983, 68th Leg., p. 4825, ch. 851, Sec. 16, eff. Aug. 29, 1983.

Sec. 24.40. OMITTED PROPERTY. (a) If a chief appraiser discovers that rolling stock used in this state and subject to appraisal by him has not been appraised and apportioned to the counties in one of the two preceding years, he shall appraise the property as of January 1 for each year it was omitted, submit the appraisal for review and protest, and certify the approved value to the comptroller.

(b) The certification shall show that the appraisal is for property that escaped taxation in a prior year and shall indicate the year and the appraised value for each year.

Acts 1979, 66th Leg., p. 2268, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1981, 67th Leg., 1st C.S., p. 156, ch. 13, Sec. 95,

eff. Aug. 14, 1981; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 39, eff. Sept. 1, 1991.

CHAPTER 25. LOCAL APPRAISAL

Sec. 25.01. PREPARATION OF APPRAISAL RECORDS. (a) By May 15 or as soon thereafter as practicable, the chief appraiser shall prepare appraisal records listing all property that is taxable in the district and stating the appraised value of each.

(b) The chief appraiser with the approval of the board of directors of the district may contract with a private appraisal firm to perform appraisal services for the district, subject to his approval. A contract for private appraisal services is void if the amount of compensation to be paid the private appraisal firm is contingent on the amount of or increase in appraised, assessed, or taxable value of property appraised by the appraisal firm.

(c) A contract for appraisal services for an appraisal district is invalid if it does not provide that copies of the appraisal, together with supporting data, must be made available to the appraisal district and such appraisals and supporting data shall be public records. "Supporting data" shall not be construed to include personal notes, correspondence, working papers, thought processes, or any other matters of a privileged or proprietary nature.

Acts 1979, 66th Leg., p. 2269, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 156, ch. 13, Sec. 96, eff. Jan. 1, 1982.

Sec. 25.011. SPECIAL APPRAISAL RECORDS. (a) The chief appraiser for each appraisal district shall prepare and maintain a record of property specially appraised under Chapter 23 of this code and subject, in the future, to additional taxation for change in use or status.

(b) The record for each type of specially appraised property must be maintained in a separate document for each 12-month period beginning June 1. The document must include the name of at least one owner of the property, the acreage of the property, and other information sufficient to identify the property as required by the comptroller. All entries in each document must be kept in

alphabetical order according to the last name of each owner whose name is part of the record.

Added by Acts 1981, 67th Leg., 1st C.S., p. 156, ch. 13, Sec. 97, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 40, eff. Sept. 1, 1991.

Sec. 25.02. FORM AND CONTENT. (a) The appraisal records shall be in the form prescribed by the comptroller and shall include:

(1) the name and address of the owner or, if the name or address is unknown, a statement that it is unknown;

(2) real property;

(3) separately taxable estates or interests in real property, including taxable possessory interests in exempt real property;

(4) personal property;

(5) the appraised value of land and, if the land is appraised as provided by Subchapter C, D, E, or H, Chapter 23, the market value of the land;

(6) the appraised value of improvements to land;

(7) the appraised value of a separately taxable estate or interest in land;

(8) the appraised value of personal property;

(9) the kind of any partial exemption the owner is entitled to receive, whether the exemption applies to appraised or assessed value, and, in the case of an exemption authorized by Section 11.23, the amount of the exemption;

(10) the tax year to which the appraisal applies; and

(11) an identification of each taxing unit in which the property is taxable.

(b) A mistake in the name or address of an owner does not affect the validity of the appraisal records, of any appraisal or tax roll based on them, or of the tax imposed. The mistake may be corrected as provided by this code.

Acts 1979, 66th Leg., p. 2270, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 157, ch. 13, Sec. 98, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 41, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 631, Sec. 6, eff. Sept. 1, 1999.

Sec. 25.025. CONFIDENTIALITY OF CERTAIN HOME ADDRESS INFORMATION.

(a) This section applies only to:

(1) a current or former peace officer as defined by Article 2.12, Code of Criminal Procedure, and the spouse or surviving spouse of the peace officer;

(2) the adult child of a current peace officer as defined by Article 2.12, Code of Criminal Procedure;

(3) a county jailer as defined by Section 1701.001, Occupations Code;

(4) an employee of the Texas Department of Criminal Justice;

(5) a commissioned security officer as defined by Section 1702.002, Occupations Code;

(6) an individual who shows that the individual, the individual's child, or another person in the individual's household is a victim of family violence as defined by Section 71.004, Family Code, by providing:

(A) a copy of a protective order issued under Chapter 85, Family Code, or a magistrate's order for emergency protection issued under Article 17.292, Code of Criminal Procedure; or

(B) other independent documentary evidence necessary to show that the individual, the individual's child, or another person in the individual's household is a victim of family violence;

(7) an individual who shows that the individual, the individual's child, or another person in the individual's household is a victim of sexual assault or abuse, stalking, or trafficking of persons by providing:

(A) a copy of a protective order issued under Subchapter A or B, Chapter 7B, Code of Criminal Procedure, or a magistrate's order for emergency protection issued under Article 17.292, Code of Criminal Procedure; or

(B) other independent documentary evidence necessary to show that the individual, the individual's child, or another person in the individual's household is a victim of sexual assault or abuse, stalking, or trafficking of persons;

(8) a participant in the address confidentiality program

administered by the attorney general under Subchapter B, Chapter 58, Code of Criminal Procedure, who provides proof of certification under Article 58.059, Code of Criminal Procedure;

(9) a federal judge, a state judge, or the spouse of a federal judge or state judge;

(10) a current or former district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;

(11) 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;

(12) 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;

(13) a criminal investigator of the United States as described by Article 2.122(a), Code of Criminal Procedure;

(14) a police officer or inspector of the United States Federal Protective Service;

(15) a current or former United States attorney or assistant United States attorney and the spouse and child of the attorney;

(16) 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;

(17) a medical examiner or person who performs forensic analysis or testing who is employed by this state or one or more political subdivisions of this state;

(18) a current or former member of the United States armed forces who has served in an area that the president of the United States by executive order designates for purposes of 26 U.S.C. Section 112 as an area in which armed forces of the United States are or have engaged in combat;

(19) a current or former employee of the Texas Juvenile Justice Department or of the predecessors in function of the department;

(20) a current or former juvenile probation or supervision officer certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code;

(21) a current or former employee of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code;

(22) a current or former employee of the Texas Civil Commitment Office or the predecessor in function of the office or a division of the office; and

(23) a current or former employee of a federal judge or state judge;

Text of subdivision as added by Acts 2019, 86th Leg., R.S., Ch. 1213 (S.B. 662), Sec. 4

(24) a state officer elected statewide or a member of the legislature

Text of subdivision as added by Acts 2019, 86th Leg., R.S., Ch. 1245 (H.B. 2446), Sec. 8

(24) a firefighter or volunteer firefighter or emergency medical services personnel as defined by Section 773.003, Health and Safety Code

Text of subdivision as added by Acts 2019, 86th Leg., R.S., Ch. 633 (S.B. 1494), Sec. 4

(24) a current or former child protective services caseworker, adult protective services caseworker, or investigator for the Department of Family and Protective Services or a current or former employee of a department contractor performing child protective services caseworker, adult protective services caseworker, or investigator functions for the contractor on behalf of the department; and

(25) a state officer elected statewide or a member of the legislature.

(a-1) In this section:

(1) "Federal judge" means:

(A) a judge, former judge, or retired judge of a United States court of appeals;

(B) a judge, former judge, or retired judge of a United States district court;

(C) a judge, former judge, or retired judge of a United States bankruptcy court; or

(D) a magistrate judge, former magistrate judge, or retired magistrate judge of a United States district court.

(2) "State judge" means:

(A) a judge, former judge, or retired judge of an appellate court, a district court, a statutory probate court, a constitutional county court, or a county court at law of this state;

(B) an associate judge appointed under Chapter 201, Family Code, or Chapter 54A, Government Code, or a retired associate judge or former associate judge appointed under either law;

(C) a justice of the peace;

(D) a master, magistrate, referee, hearing officer, or associate judge appointed under Chapter 54, Government Code; or

(E) a municipal court judge.

(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:

(1) the information identifies the home address of a named individual to whom this section applies; and

(2) the individual:

(A) chooses to restrict public access to the information on the form prescribed for that purpose by the comptroller under Section 5.07; or

(B) is a federal or state judge, or the spouse of a federal or state judge, beginning on the date the Office of Court Administration of the Texas Judicial System notifies the appraisal district of the judge's qualification for the judge's office.

(c) A choice made under Subsection (b) remains valid until rescinded in writing by the individual.

(d) This section does not prohibit the public disclosure of information in appraisal records that identifies property according to an address if the information does not identify an individual who has made an election under Subsection (b) in connection with the individual's address.

Added by Acts 2001, 77th Leg., ch. 119, Sec. 4, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 703, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 594 (H.B. 41), Sec. 11, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 621 (H.B. 455), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 851 (H.B. 1141), Sec. 1, eff.

June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.003, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 465 (S.B. 281), Sec. 7, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 732 (S.B. 390), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1259 (H.B. 559), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1259 (H.B. 559), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 348 (H.B. 3307), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 953 (H.B. 1046), Sec. 3, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.001, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 202 (S.B. 1896), Sec. 1, eff. May 25, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 996 (H.B. 2267), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1028 (H.B. 2676), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 527 (H.B. 1311), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 16.001, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 33, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 41 (S.B. 256), Sec. 7, eff. May 19, 2017.

Acts 2017, 85th Leg., R.S., Ch. 190 (S.B. 42), Sec. 26, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 193 (S.B. 510), Sec. 1, eff. May 27, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1006 (H.B. 1278), Sec. 3, eff. June 15, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1145 (H.B. 457), Sec. 1, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 415 (S.B. 73), Sec. 2, eff.

September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 14.002, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 469 (H.B. 4173), Sec. 2.65, eff. January 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 518 (S.B. 489), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 633 (S.B. 1494), Sec. 4, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1213 (S.B. 662), Sec. 4, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1245 (H.B. 2446), Sec. 8, eff. June 14, 2019.

Sec. 25.026. CONFIDENTIALITY OF CERTAIN SHELTER CENTER AND SEXUAL ASSAULT PROGRAM ADDRESS INFORMATION. (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, a sexual assault program, or a victims of trafficking shelter center.

Added by Acts 2001, 77th Leg., ch. 119, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1008 (H.B. 2329), Sec. 3, eff. September 1, 2011.

Sec. 25.027. RESTRICTION ON POSTING INFORMATION ON INTERNET WEBSITE. (a) Information in appraisal records may not be posted on the Internet if the information:

(1) is a photograph, sketch, or floor plan of an improvement to real property that is designed primarily for use as a human residence; or

(2) indicates the age of a property owner, including information indicating that a property owner is 65 years of age or older.

(b) Subsection (a)(1) does not apply to an aerial photograph that depicts five or more separately owned buildings.

Added by Acts 2005, 79th Leg., Ch. 29 (S.B. 541), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 337 (H.B. 394), Sec. 1, eff. September 1, 2015.

Sec. 25.03. DESCRIPTION. (a) Property shall be described in the appraisal records with sufficient certainty to identify it. The description of a manufactured home shall include the correct identification or serial number of the home or the Department of Housing and Urban Development label number or the state seal number in addition to the information required in Subsection (c) of this Section. A manufactured home shall not be included in the appraisal records unless this identification and descriptive information is included.

(b) The comptroller may adopt rules establishing minimum standards for descriptions of property.

(c) Each description of a manufactured home shall include the approximate square footage, the approximate age, the general physical condition, and any characteristics which distinguish the particular manufactured home.

Acts 1979, 66th Leg., p. 2270, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 617, Sec. 10, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 42, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 274, Sec. 13, eff. Aug. 30, 1993.

Sec. 25.04. SEPARATE ESTATES OR INTERESTS. Except as otherwise provided by this chapter, when different persons own land and improvements in separate estates or interests, each separately owned estate or interest shall be listed separately in the name of the owner of each if the estate or interest is described in a duly executed and recorded instrument of title.

Acts 1979, 66th Leg., p. 2270, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 25.05. LIFE ESTATES. Real property owned by a life tenant and remainderman shall be listed in the name of the life tenant.

Acts 1979, 66th Leg., p. 2270, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 25.06. PROPERTY ENCUMBERED BY POSSESSORY OR SECURITY INTEREST. (a) Except as provided by Section 25.07, property encumbered by a leasehold or other possessory interest or by a mortgage, deed of trust, or other interest securing payment or performance of an obligation shall be listed in the name of the owner of the property so encumbered.

(b) Except as otherwise directed in writing under Section 1.111(f), real property that is subject to an installment contract of sale shall be listed in the name of the seller if the installment contract is not filed of record in the real property records of the county.

(c) This section does not apply to:

(1) any portion of a facility owned by the Texas Department of Transportation that 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, 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 a rail facility or system or is a highway in the state highway system.

Acts 1979, 66th Leg., p. 2270, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 579, Sec. 9, eff. Jan. 1, 1996; Acts 1999, 76th Leg., ch. 1481, Sec. 6, eff. Jan. 1, 2000.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.96, eff. June 14, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 2, eff. June 17, 2011.

Sec. 25.07. LEASEHOLD AND OTHER POSSESSORY INTERESTS IN EXEMPT PROPERTY. (a) Except as provided by Subsection (b) of this section, a leasehold or other possessory interest in real property that is exempt from taxation to the owner of the estate or interest encumbered by the possessory interest shall be listed in the name of the owner of the possessory interest if the duration of the interest may be at least one year.

(b) Except as provided by Sections 11.11(b) and (c), a leasehold or other possessory interest in exempt property may not be listed if:

(1) the property is permanent university fund land;

(2) the property is county public school fund agricultural land;

(3) the property is a part of a public transportation facility owned by a municipality or county and:

(A) is an airport passenger terminal building or a building used primarily for maintenance of aircraft or other aircraft services, for aircraft equipment storage, or for air cargo;

(B) is an airport fueling system facility;

(C) is in a foreign-trade zone:

(i) that has been granted to a joint airport board under Subchapter C, Chapter 681, Business & Commerce Code;

(ii) the area of which in the portion of the zone located in the airport operated by the joint airport board does not exceed 2,500 acres; and

(iii) that is established and operating pursuant to federal law; or

(D)(i) is in a foreign trade zone established pursuant to federal law after June 1, 1991, that operates pursuant to federal law;

(ii) is contiguous to or has access via a taxiway to an airport located in two counties, one of which has a population of 500,000 or more according to the federal decennial census most

recently preceding the establishment of the foreign trade zone; and

(iii) is owned, directly or through a corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code), by the same municipality that owns the airport;

(4) the interest is in a part of:

(A) a park, market, fairground, or similar public facility that is owned by a municipality; or

(B) a convention center, visitor center, sports facility with permanent seating, concert hall, arena, or stadium that is owned by a municipality as such leasehold or possessory interest serves a governmental, municipal, or public purpose or function when the facility is open to the public, regardless of whether a fee is charged for admission;

(5) the interest involves only the right to use the property for grazing or other agricultural purposes;

(6) the property is:

(A) owned by a municipality, a public port, or a navigation district created or operating under Section 59, Article XVI, Texas Constitution, or under a statute enacted under Section 59, Article XVI, Texas Constitution; and

(B) used as an aid or facility incidental to or useful in the operation or development of a port or waterway or in aid of navigation-related commerce; or

(7) the property is part of a rail facility owned by a rural rail transportation district operating under Chapter 172, Transportation Code.

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

(1) any portion of a facility owned by the Texas Department of Transportation that 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, 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 a rail facility or system or is a highway in the state highway system.

Acts 1979, 66th Leg., p. 2270, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2615, ch. 700, Sec. 1, eff. Jan.

1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 157, ch. 13, Sec. 99, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 534, Sec. 7, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 582, Sec. 18, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 763, Sec. 2, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 829, Sec. 1, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 1127, Sec. 1, eff. Aug. 27, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.97, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 609 (H.B. 387), Sec. 7, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.36, eff. April 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.70, eff. April 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 1169 (H.B. 316), Sec. 1, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.11, eff. April 1, 2011.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.004, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 3, eff. June 17, 2011.

Sec. 25.08. IMPROVEMENTS. (a) Except as provided by Subsections (b) through (f), an improvement may be listed in the name of the owner of the land on which the improvement is located.

(b) If a person who is not entitled to exemption owns an improvement on exempt land, the improvement shall be listed in the name of the owner of the improvement.

(c) When a person other than the owner of an improvement owns the land on which the improvement is located, the land and the improvement shall be listed separately in the name of the owner of each if either owner files with the chief appraiser before May 1 a written request for separate taxation on a form furnished for that purpose together with proof of separate ownership. After an improvement qualifies for taxation separate from land, the qualification remains effective in subsequent tax years and need not be requested again. However, the qualification ceases when ownership

of the land or the improvement is transferred or either owner files a request to cancel the separate taxation.

(d) Within 30 days after an owner of land or an improvement qualifies for separate taxation or cancels a qualification, the chief appraiser shall deliver a written notice of the qualification or cancellation to the other owner.

(e) A manufactured home shall be listed together with the land on which the home is located if:

(1) the statement of ownership for the home issued under Section 1201.207, Occupations Code, reflects that the owner has elected to treat the home as real property; and

(2) a copy of the statement of ownership has been filed in the real property records in the county in which the home is located.

(f) A manufactured home shall be listed separately from the land on which the home is located if either of the conditions provided by Subsection (e) is not satisfied.

(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.

Acts 1979, 66th Leg., p. 2271, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 158, ch. 13, Sec. 100, eff. Jan. 1, 1982; Acts 2003, 78th Leg., ch. 338, Sec. 45, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 221 (H.B. 252), Sec. 2(b), eff. January 1, 2012.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 83, eff. September 1, 2017.

Sec. 25.09. CONDOMINIUMS AND PLANNED UNIT DEVELOPMENTS. (a) A separately owned apartment or unit in a condominium as defined in the Condominium Act shall be listed in the name of the owner of each particular apartment or unit. The value of each apartment or unit shall include the value of its fractional share in the common elements of the condominium.

(b) Property owned by a planned unit development association may be listed and taxes imposed proportionately against each member

of the association if the association files with the chief appraiser before May 1 a resolution adopted by vote of a majority of all members of the association authorizing the proportionate imposition of taxes. A resolution adopted as provided by this subsection remains effective in subsequent tax years unless it is revoked by a similar resolution.

(c) If property is listed and taxes imposed proportionately as authorized by Subsection (b) of this section, the amount of tax to be imposed on the association's property shall be divided by the number of parcels of real property in the development. The quotient is the proportionate amount of tax to be imposed on each parcel, and a tax lien attaches to each parcel to secure payment of its proportionate share of the tax on the association's property.

(d) For purposes of this section, "planned unit development association" means an association that owns and maintains property in a real property development project for the benefit of its members, who are owners of individual parcels of real property in the development and are members of the association because of that ownership.

Acts 1979, 66th Leg., p. 2271, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 158, ch. 13, Sec. 101, eff. Jan. 1, 1982.

Sec. 25.10. STANDING TIMBER. (a) Except as provided by Subsections (b) and (c) of this section, standing timber may be listed together with the land on which it is located in the name of the owner of the land.

(b) If a person who is not entitled to exemption owns standing timber on exempt land, the timber shall be listed separately in the name of the owner of the timber.

(c) When a person other than the owner of standing timber owns the land on which the timber is located, the land and the timber shall be listed separately in the name of the owner of each if either owner files with the chief appraiser before May 1 a written request for separate taxation on a form furnished for that purpose together with proof of separate ownership. A qualification for separate taxation of timber expires at the end of the tax year.

(d) Within 30 days after an owner of land or timber qualifies

for separate taxation, the chief appraiser shall deliver a written notice of the qualification to the other owner.

Acts 1979, 66th Leg., p. 2272, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 158, ch. 13, Sec. 102, eff. Jan. 1, 1982.

Sec. 25.11. UNDIVIDED INTERESTS. (a) Except as provided by Section 25.12 of this code and by Subsection (b) of this section, a property owned in undivided interests may be listed jointly in the name of all owners of undivided interests in the property or in the name of any one or more owners.

(b) An undivided interest in a property shall be listed separately from other undivided interests in the property in the name of its owner if the interest is described in a duly executed and recorded instrument of title and the owner files with the appraisal office before May 1 a written request for separate taxation on a form furnished for that purpose together with proof of ownership and of the proportion his interest bears to the whole. After an undivided interest qualifies for separate taxation, the qualification remains effective in subsequent tax years and need not be requested again. However, the qualification ceases when ownership is transferred or when any owner files a request to cancel separate taxation.

(c) Within 30 days after an owner qualifies for separate taxation or cancels a qualification, the chief appraiser shall deliver a written notice of the qualification or cancellation to the other owners.

Acts 1979, 66th Leg., p. 2272, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 158, ch. 13, Sec. 103, eff. Jan. 1, 1982.

Sec. 25.12. MINERAL INTEREST. (a) Except as provided by Subsection (b) of this section, each separate interest in minerals in place shall be listed separately from other interests in the minerals in place in the name of the owner of the interest.

(b) Separate interests in minerals in place, other than interests having a taxable value of less than $500, shall be listed jointly in the name of the operator designated with the railroad

commission or the name of all owners or any combination of owners if the designated operator files with the appraisal office before May 1 a written request for joint taxation on a form furnished for that purpose. A qualification pursuant to this subsection for joint taxation remains effective in subsequent tax years and need not be requested again. However, the qualification ceases when the designated operator files a request to cancel joint taxation.

Text of subsec. (c) as added by Acts 1989, 71st Leg., ch. 796, Sec. 22

(c) If a written request for joint taxation has been filed under Subsection (b), the notice of appraised value provided for by Section 25.19 for the owners included in the request for joint taxation shall be delivered to the operator, owner, or owners of the mineral interest in whose name the mineral interest is designated for joint taxation. The chief appraiser is not required to deliver a separate notice of appraised value to each owner included in the request for joint taxation. However, the chief appraiser shall deliver a separate notice of appraised value to an owner of an interest in the property who before May 1 files a written request to receive a separate notice of appraised value with the chief appraiser on a form provided by the appraisal district for that purpose. The request is effective for each subsequent year until revoked by the owner or until the owner no longer owns an interest in the property.

Text of subsec. (c) as added by Acts 1989, 71st Leg., ch. 450, Sec. 1

(c) If a written request for joint taxation has been filed under Subsection (b), the notice of appraised value provided for by Section 25.19 for the owners included in the request for joint taxation shall be delivered to the operator, owner, or owners of the mineral interest in whose name the mineral interest is designated for joint taxation. The chief appraiser is not required to deliver a separate notice of appraised value to each owner included in the request for joint taxation. Provided, however, a mineral interest owner may request a separate notice of appraised value and the chief appraiser shall deliver a separate notice of appraised value to such owner.

Acts 1979, 66th Leg., p. 2272, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 159, ch. 13, Sec. 104, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 450, Sec. 1, eff. Sept. 1, 1990; Acts 1989, 71st Leg., ch. 796, Sec. 22, eff. Sept. 1, 1989;

Acts 1997, 75th Leg., ch. 1299, Sec. 1, eff. Jan. 1, 1998.

Sec. 25.13. EXEMPT PROPERTY SUBJECT TO CONTRACT OF SALE. Property that is exempt from taxation to the titleholder but is subject on January 1 to a contract of sale to a person not entitled to exemption shall be listed in the name of the purchaser.

Acts 1979, 66th Leg., p. 2273, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 25.135. QUALIFYING TRUSTS. The interest of a qualifying trust as defined by Section 11.13(j) in a residence homestead shall be listed in the name of the trustor of the trust.

Added by Acts 1993, 73rd Leg., ch. 854, Sec. 3, eff. Jan. 1, 1994.

Sec. 25.16. PROPERTY LOSING EXEMPTION DURING TAX YEAR. (a) If an exemption applicable to a property on January 1 terminates during the tax year, the property shall be listed in the name of the person who owns or acquires the property on the date applicability of the exemption terminates.

(b) The chief appraiser shall make an entry on the appraisal records showing that taxes on the property are to be calculated as provided by Section 26.10 of this code and showing the date on which exemption terminated.

Acts 1979, 66th Leg., p. 2273, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 159, ch. 13, Sec. 105, eff. Jan. 1, 1982.

Sec. 25.17. PROPERTY OVERLAPPING TAXING UNIT OR APPRAISAL DISTRICT BOUNDARIES. (a) If real property is located partially outside and partially inside a taxing unit's boundaries, the portion inside the unit's boundaries shall be listed separately from the remaining portion.

(b) If real property is located partially inside the boundaries of more than one appraisal district, the chief appraisers who are responsible for appraising the property shall to the greatest extent

practicable coordinate their appraisals of each portion of the property to ensure to the greatest extent possible that the property as a whole is appraised at its market value.

Acts 1979, 66th Leg., p. 2273, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 648 (H.B. 1010), Sec. 2, eff. January 1, 2008.

Sec. 25.18. PERIODIC REAPPRAISALS. (a) Each appraisal office shall implement the plan for periodic reappraisal of property approved by the board of directors under Section 6.05(i).

(b) The plan shall provide for the following reappraisal activities for all real and personal property in the district at least once every three years:

(1) identifying properties to be appraised through physical inspection or by other reliable means of identification, including deeds or other legal documentation, aerial photographs, land-based photographs, surveys, maps, and property sketches;

(2) identifying and updating relevant characteristics of each property in the appraisal records;

(3) defining market areas in the district;

(4) identifying property characteristics that affect property value in each market area, including:

(A) the location and market area of property;

(B) physical attributes of property, such as size, age, and condition;

(C) legal and economic attributes; and

(D) easements, covenants, leases, reservations, contracts, declarations, special assessments, ordinances, or legal restrictions;

(5) developing an appraisal model that reflects the relationship among the property characteristics affecting value in each market area and determines the contribution of individual property characteristics;

(6) applying the conclusions reflected in the model to the characteristics of the properties being appraised; and

(7) reviewing the appraisal results to determine value.

(c) A taxing unit by resolution adopted by its governing body

may require the appraisal office to appraise all property within the unit or to identify and appraise newly annexed territory and new improvements in the unit as of a date specified in the resolution. On or before the deadline requested by the taxing unit, which deadline may not be less than 30 days after the date the resolution is delivered to the appraisal office, the chief appraiser shall complete the appraisal and deliver to the unit an estimate of the total appraised value of property taxable by the unit as of the date specified in such resolution. The unit must pay the appraisal district for the cost of making the appraisal. The chief appraiser shall provide sufficient personnel to make the appraisals required by this subsection on or before the deadline requested by the taxing unit. An appraisal made pursuant to this subsection may not be used by a taxing unit as the basis for the imposition of taxes.

Acts 1979, 66th Leg., p. 2273, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 159, ch. 13, Sec. 106, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 796, Sec. 23, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 10, eff. September 1, 2005.

Sec. 25.19. NOTICE OF APPRAISED VALUE. (a) By April 1 or as soon thereafter as practicable if the property is a single-family residence that qualifies for an exemption under Section 11.13, or by May 1 or as soon thereafter as practicable in connection with any other property, the chief appraiser shall deliver a clear and understandable written notice to a property owner of the appraised value of the property owner's property if:

(1) the appraised value of the property is greater than it was in the preceding year;

(2) the appraised value of the property is greater than the value rendered by the property owner;

(3) the property was not on the appraisal roll in the preceding year; or

(4) an exemption or partial exemption approved for the property for the preceding year was canceled or reduced for the current year.

Text of subsection effective until January 1, 2022

(b) The chief appraiser shall separate real from personal property and include in the notice for each:

(1) a list of the taxing units in which the property is taxable;

(2) the appraised value of the property in the preceding year;

(3) the taxable value of the property in the preceding year for each taxing unit taxing the property;

(4) the appraised value of the property for the current year, the kind and amount of each exemption and partial exemption, if any, approved for the property for the current year and for the preceding year, and, if an exemption or partial exemption that was approved for the preceding year was canceled or reduced for the current year, the amount of the exemption or partial exemption canceled or reduced;

(5) if the appraised value is greater than it was in the preceding year, the amount of tax that would be imposed on the property on the basis of the tax rate for the preceding year;

(6) in italic typeface, the following statement: "The Texas Legislature does not set the amount of your local taxes. Your property tax burden is decided by your locally elected officials, and all inquiries concerning your taxes should be directed to those officials";

(7) a detailed explanation of the time and procedure for protesting the value;

(8) the date and place the appraisal review board will begin hearing protests; and

(9) a brief explanation that the governing body of each taxing unit decides whether or not taxes on the property will increase and the appraisal district only determines the value of the property.

Text of subsection effective on January 1, 2022

(b) The chief appraiser shall separate real from personal property and include in the notice for each:

(1) a list of the taxing units in which the property is taxable;

(2) the appraised value of the property in the preceding year;

(3) the taxable value of the property in the preceding year

for each taxing unit taxing the property;

(4) the appraised value of the property for the current year, the kind and amount of each exemption and partial exemption, if any, approved for the property for the current year and for the preceding year, and, if an exemption or partial exemption that was approved for the preceding year was canceled or reduced for the current year, the amount of the exemption or partial exemption canceled or reduced;

(5) in italic typeface, the following statement: "The Texas Legislature does not set the amount of your local taxes. Your property tax burden is decided by your locally elected officials, and all inquiries concerning your taxes should be directed to those officials";

(6) a detailed explanation of the time and procedure for protesting the value;

(7) the date and place the appraisal review board will begin hearing protests; and

(8) a brief explanation that the governing body of each taxing unit decides whether or not taxes on the property will increase and the appraisal district only determines the value of the property.

(b-1) For real property, in addition to the information required by Subsection (b), the chief appraiser shall state in a notice required to be delivered under Subsection (a), the difference, expressed as a percent increase or decrease, as applicable, in the appraised value of the property for the current tax year as compared to the fifth tax year before the current tax year.

(b-2) Repealed by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

(b-3) This subsection applies only to an appraisal district described by Section 6.41(b-2). In addition to the information required by Subsection (b), the chief appraiser shall state in a notice of appraised value of property described by Section 6.425(b) that the property owner has the right to have a protest relating to the property heard by a special panel of the appraisal review board.

(b-4) Subsection (b)(5) applies only to a notice of appraised value required to be delivered by the chief appraiser of an appraisal district established in a county with a population of less than 120,000. This subsection expires January 1, 2022.

(c) In the case of the residence homestead of a person 65 years

of age or older or disabled that is subject to the limitation on a tax increase over the preceding year for school tax purposes, the chief appraiser shall indicate on the notice that the preceding year's taxes may not be increased.

(d) Failure to receive a notice required by this section does not affect the validity of the appraisal of the property, the imposition of any tax on the basis of the appraisal, the existence of any tax lien, the deadline for filing an application for a residence homestead exemption, or any proceeding instituted to collect the tax.

(e) The chief appraiser, with the approval of the appraisal district board of directors, may dispense with the notice required by Subsection (a)(1) if the amount of increase in appraised value is $1,000 or less.

(f) In the notice of appraised value for real property, the chief appraiser shall list separately:

(1) the market value of the land; and

(2) the total market value of the structures and other improvements on the property.

(g) By April 1 or as soon thereafter as practicable if the property is a single-family residence that qualifies for an exemption under Section 11.13, or by May 1 or as soon thereafter as practicable in connection with any other property, the chief appraiser shall deliver a written notice to the owner of each property not included in a notice required to be delivered under Subsection (a), if the property was reappraised in the current tax year, if the ownership of the property changed during the preceding year, or if the property owner or the agent of a property owner authorized under Section 1.111 makes a written request for the notice. The chief appraiser shall separate real from personal property and include in the notice for each property:

(1) the appraised value of the property in the preceding year;

(2) the appraised value of the property for the current year and the kind of each partial exemption, if any, approved for the current year;

(3) a detailed explanation of the time and procedure for protesting the value; and

(4) the date and place the appraisal review board will begin hearing protests.

(h) A notice required by Subsection (a) or (g) must be in the

form of a letter.

Text of subsection effective until January 1, 2022

(i) Delivery with a notice required by Subsection (a) or (g) of a copy of the pamphlet published by the comptroller under Section 5.06 or a copy of the notice published by the chief appraiser under Section 41.70 is sufficient to comply with the requirement that the notice include the information specified by Subsection (b)(7) or (g)(3), as applicable.

Text of subsection effective on January 1, 2022

(i) Delivery with a notice required by Subsection (a) or (g) of a copy of the pamphlet published by the comptroller under Section 5.06 or a copy of the notice published by the chief appraiser under Section 41.70 is sufficient to comply with the requirement that the notice include the information specified by Subsection (b)(6) or (g)(3), as applicable.

(j) The chief appraiser shall include with a notice required by Subsection (a) or (g):

(1) a copy of a notice of protest form as prescribed by the comptroller under Section 41.44(d); and

(2) instructions for completing and mailing the form to the appraisal review board and requesting a hearing on the protest.

(k) Notwithstanding any other provision of this section, the chief appraiser may not deliver a written notice concerning property that is required to be rendered or reported under Chapter 22 until after the applicable deadline for filing the rendition statement or property report.

(l) In addition to the information required by Subsection (b), the chief appraiser shall include with a notice required by Subsection (a) a brief explanation of each total or partial exemption of property from taxation required or authorized by this title that is available to:

(1) a disabled veteran or the veteran's surviving spouse or child;

(2) an individual who is 65 years of age or older or the individual's surviving spouse;

(3) an individual who is disabled or the individual's surviving spouse;

(4) the surviving spouse of a member of the armed services of the United States who is killed in action; or

(5) the surviving spouse of a first responder who is killed or fatally injured in the line of duty.

Acts 1979, 66th Leg., p. 2274, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 159, ch. 13, Sec. 107, 162, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 185, Sec. 2, eff. Jan. 1, 1987; Acts 1987, 70th Leg., ch. 947, Sec. 11, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 745, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 784, Sec. 1, eff. Jan. 1, 1990; Acts 1989, 71st Leg., ch. 796, Sec. 24, eff. Sept. 1, 1989; Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(32), eff. Sept. 6, 1990; Acts 1991, 72nd Leg., ch. 836, Sec. 2.1, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 1039, Sec. 24, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 1358, Sec. 4, eff. Jan. 1, 2000; Acts 1999, 76th Leg., ch. 1517, Sec. 1, eff. Jan. 1, 2000; Acts 2003, 78th Leg., ch. 1173, Sec. 10, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 11, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 12, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1255 (H.B. 1984), Sec. 1, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 1106 (H.B. 3496), Sec. 1, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1112 (H.B. 3630), Sec. 4, eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 632 (S.B. 1420), Sec. 1, eff. January 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 672 (S.B. 2060), Sec. 1, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 29, eff. January 1, 2022.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 29, eff. January 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

Sec. 25.192. NOTICE OF RESIDENCE HOMESTEAD EXEMPTION

ELIGIBILITY. (a) This section applies only to residential property that has not qualified for a residence homestead exemption in the current tax year.

(b) If the records of the appraisal district indicate that the address of the property is also the address of the owner of the property, the chief appraiser must send to the property owner a notice that contains:

(1) the following statement in boldfaced 18-point type at the top of the first page of the notice: "NOTICE: A residence homestead exemption from ad valorem taxation is NOT currently being allowed on the property listed below. However, our records show that this property may qualify for a residence homestead exemption, which will reduce your taxes.";

(2) following the statement described by Subdivision (1), the following statement in 12-point type: "According to the records of the appraisal district, the property described in this notice may be your primary residence and may qualify for a residence homestead exemption from ad valorem taxation. If the property is your home and you occupy it as your primary residence, the property likely qualifies for one or more residence homestead exemptions, which will reduce the amount of taxes imposed on the property. The form needed to apply for a residence homestead exemption is enclosed. Although the form may state that the deadline for filing an application for a residence homestead exemption is April 30, a late application for a residence homestead exemption will be accepted if filed before February 1, (insert year application must be filed). There is no fee or charge for filing an application or a late application for a residence homestead exemption."; and

(3) following the statement described by Subdivision (2), the address to which the notice is sent.

(c) The notice required by this section must be accompanied by an application form for a residence homestead exemption.

(d) If a property owner has elected to receive notices by e-mail as provided by Section 1.086, the notice required by this section must be sent in that manner separately from any other notice sent to the property owner by the chief appraiser.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 30, eff. January 1, 2020.

Sec. 25.193. NOTICE OF CERTAIN CANCELED OR REDUCED EXEMPTIONS. (a) By April 1 or as soon thereafter as practicable if the property is a single-family residence that qualifies for an exemption under Section 11.13, or by May 1 or as soon thereafter as practicable in connection with residential property that does not qualify for an exemption under Section 11.13, the chief appraiser shall deliver a clear and understandable written notice to a property owner if an exemption or partial exemption that was approved for the preceding year was canceled or reduced for the current year.

(b) If a property owner has elected to receive notices by e-mail as provided by Section 1.086, for property described by that section, the notice required by this section must be sent in that manner regardless of whether the information was also included in a notice under Section 25.19 and must be sent separately from any other notice sent to the property owner by the chief appraiser.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 30, eff. January 1, 2020.

Sec. 25.195. INSPECTION BY PROPERTY OWNER. (a) After the chief appraiser has submitted the appraisal records to the appraisal review board as provided by Section 25.22(a), a property owner or the owner's designated agent is entitled to inspect and copy the appraisal records relating to property of the property owner, together with supporting data, schedules, and, except as provided by Subsection (b), any other material or information held by the chief appraiser or required by Section 25.01(c) to be provided to the appraisal district under a contract for appraisal services, including material or information obtained under Section 22.27, that is obtained or used in making appraisals for the appraisal records relating to that property.

(b) The owner of property other than vacant land or real property used for residential purposes or the owner's agent may not inspect any material or information obtained under Section 22.27.

(c) A property owner or the designated agent of an owner whose property is appraised by a private appraisal firm under a contract for appraisal services with an appraisal district is entitled to inspect and copy, at the office of that firm, all information pertaining to the property that the firm considered in appraising the

property, including information showing each method of appraisal used to determine the value of the property and all calculations, personal notes, correspondence, and working papers used in appraising the property. This subsection does not apply to information made confidential by Section 22.27, except that the property owner or agent is entitled to inspect and copy any information relating to the owner's property, including otherwise confidential information.

(d) The appraisal firm shall make information covered by Subsection (c) available for inspection and copying by the owner or agent not later than the 15th day after the date the owner or agent delivers a written request to inspect the information, unless the owner or agent agrees in writing to a later date.

(e) If an owner or agent states under oath in a document filed with an appraisal review board in connection with a proceeding initiated under Section 25.25 or Chapter 41 that the applicable appraisal firm has not complied with a request for inspection or copying under Subsection (c) related to the property that is the subject of the proceeding, the board may not conduct a hearing on the merits of any claim relating to that property and may not approve the appraisal records relating to that property until the board determines in a hearing that:

(1) the appraisal firm has made the information available for inspection and copying as required by Subsection (c); or

(2) the owner or agent has withdrawn the motion or protest that initiated the proceeding.

Added by Acts 1983, 68th Leg., p. 5079, ch. 920, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1987, 70th Leg., ch. 38, Sec. 1, eff. April 29, 1987; Acts 1997, 75th Leg., ch. 1039, Sec. 25, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 268, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 372, Sec. 1, eff. May 26, 2001.

Sec. 25.20. ACCESS BY TAXING UNITS. The chief appraiser shall give the assessor for a taxing unit in the district reasonable access to the appraisal records at any time.

Acts 1979, 66th Leg., p. 2274, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 161, ch. 13, Sec. 108, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 312, Sec. 2, eff. June 7, 1985; Acts 1989, 71st Leg., ch. 796, Sec. 25, eff. Sept. 1, 1989.

Sec. 25.21. OMITTED PROPERTY. (a) If the chief appraiser discovers that real property was omitted from an appraisal roll in any one of the five preceding years or that personal property was omitted from an appraisal roll in one of the two preceding years, he shall appraise the property as of January 1 of each year that it was omitted and enter the property and its appraised value in the appraisal records.

(b) The entry shall show that the appraisal is for property that was omitted from an appraisal roll in a prior year and shall indicate the year and the appraised value for each year.

Acts 1979, 66th Leg., p. 2274, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 161, ch. 13, Sec. 109, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., ch. 367, Sec. 1, eff. Jan. 1, 1992; Acts 1991, 72nd Leg., ch. 836, Sec. 1.2, eff. Sept. 1, 1991.

Sec. 25.22. SUBMISSION FOR REVIEW AND PROTEST. (a) By May 15 or as soon thereafter as practicable, the chief appraiser shall submit the completed appraisal records to the appraisal review board for review and determination of protests. However, the chief appraiser may not submit the records until the chief appraiser has delivered the notices required by Subsection (d) of Section 11.45, Subsection (d) of Section 23.44, Subsection (d) of Section 23.57, Subsection (d) of Section 23.79, Subsection (d) of Section 23.85, Subsection (d) of Section 23.95, Subsection (d) of Section 23.9805, and Section 25.19.

(b) The chief appraiser shall make and subscribe an affidavit on the submission substantially as follows:

"I, _____, (Chief Appraiser) for _____ solemnly swear that I have made or caused to be made a diligent inquiry to ascertain all property in the district subject to appraisal by me and that I have included in the records all property that I am aware of at an appraised value determined as required by law."

(c) The chief appraiser may require of his employees who are engaged in listing and appraising property an affidavit similar to his own.

Acts 1979, 66th Leg., p. 2275, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2359, ch. 581, Sec. 2, eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 161, ch. 13, Sec. 110, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 312, Sec. 3, eff. June 7, 1985; Acts 1989, 71st Leg., ch. 796, Sec. 26, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 631, Sec. 7, eff. Sept. 1, 1999.

Sec. 25.23. SUPPLEMENTAL APPRAISAL RECORDS. (a) After submission of appraisal records, the chief appraiser shall prepare supplemental appraisal records listing:

(1) each taxable property the chief appraiser discovers that is not included in the records already submitted, including property that was omitted from an appraisal roll in a prior tax year;

(2) property on which the appraisal review board has not determined a protest at the time of its approval of the appraisal records; and

(3) property that qualifies for an exemption under Section 11.13(n) that was adopted by the governing body of a taxing unit after the date the appraisal records were submitted.

(b) Supplemental appraisal records shall be in the form prescribed by the comptroller and shall include the items required by Section 25.02 of this code.

(c) As soon as practicable after determining the appraised value of a property listed in supplemental appraisal records, the chief appraiser shall deliver the notice required by Section 25.19, if applicable, and submit the records for review and determination of protest as provided by Section 25.22.

(d) Supplemental appraisal records are subject to review, protest, and appeal as provided by Chapters 41 and 42 of this code. However, a property owner must file a notice of protest within 30 days after the date notice is delivered as required by Section 25.19. If a property owner files a notice of protest, the appraisal review board shall hear and determine the protest within 30 days after the filing of the protest or as soon thereafter as practicable. If a property owner does not file a protest within the protest deadline, the appraisal review board shall complete its review of the supplemental appraisal records within 30 days after the protest deadline or as soon thereafter as practicable.

(e) The chief appraiser shall add supplemental appraisal

records, as changed by the appraisal review board and approved by that board, to the appraisal roll for the district and certify the addition to the taxing units.

Acts 1979, 66th Leg., p. 2275, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 162, ch. 13, Sec. 111, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4945, ch. 884, Sec. 2, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 796, Sec. 27, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 836, Sec. 1.3, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 43, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1199, Sec. 2, eff. June 18, 1999. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 3, eff. June 15, 2015.

Sec. 25.24. APPRAISAL ROLL. The appraisal records, as changed by order of the appraisal review board and approved by that board, constitute the appraisal roll for the district.

Acts 1979, 66th Leg., p. 2276, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 162, ch. 13, Sec. 112, eff. Jan. 1, 1982.

Sec. 25.25. CORRECTION OF APPRAISAL ROLL. (a) Except as provided by Chapters 41 and 42 of this code and by this section, the appraisal roll may not be changed.

(b) The chief appraiser may change the appraisal roll at any time to correct a name or address, a determination of ownership, a description of property, multiple appraisals of a property, an erroneous denial or cancellation of any exemption authorized by Section 11.13 if the applicant or recipient is disabled or is 65 or older or an exemption authorized by Section 11.13(q), 11.131, or 11.22, or a clerical error or other inaccuracy as prescribed by board rule that does not increase the amount of tax liability. Before the 10th day after the end of each calendar quarter, the chief appraiser shall submit to the appraisal review board and to the board of directors of the appraisal district a written report of each change made under this subsection that decreases the tax liability of the owner of the property. The report must include:

(1) a description of each property; and

(2) the name of the owner of that property.

(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;

(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.

(d) At any time prior to the date the taxes become delinquent, a property owner or the chief appraiser may file a motion with the appraisal review board to change the appraisal roll to correct an error that resulted in an incorrect appraised value for the owner's property. However, the error may not be corrected unless it resulted in an appraised value that exceeds by more than:

(1) one-fourth the correct appraised value, in the case of property that qualifies as the owner's residence homestead under Section 11.13; or

(2) one-third the correct appraised value, in the case of property that does not qualify as the owner's residence homestead under Section 11.13.

(d-1) If the appraisal roll is changed under Subsection (d), the property owner must pay to each affected taxing unit a late-correction penalty equal to 10 percent of the amount of taxes as calculated on the basis of the corrected appraised value. Payment of the late-correction penalty is secured by the lien that attaches to the property under Section 32.01 and is subject to enforced collection under Chapter 33. The roll may not be changed under Subsection (d) if:

(1) the property was the subject of a protest brought by the property owner under Chapter 41, a hearing on the protest was conducted in which the property owner offered evidence or argument, and the appraisal review board made a determination of the protest on the merits; or

(2) the appraised value of the property was established as a result of a written agreement between the property owner or the owner's agent and the appraisal district.

(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. The property owner is entitled to elect to present the owner's evidence and argument before, after, or between the cases presented by the chief appraiser and each taxing unit. A property owner who files the motion must comply with the payment requirements of Section 25.26 or forfeit the right to a final determination of the motion.

(f) The chief appraiser shall certify each change made as provided by this section to the assessor for each unit affected by the change within five days after the date the change is entered.

(g) Within 60 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. A taxing unit may not be made a party to a suit filed by a property owner or chief appraiser under this subsection.

(g-1) In a suit filed under Subsection (g), if a hearing to review and determine compliance with Section 25.26 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.

(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 25.26. The taxing unit is entitled to process for witnesses and evidence and to be heard by the court.

(h) The appraisal review board, on the joint motion of the property owner and the chief appraiser filed at any time prior to the date the taxes become delinquent, shall by written order correct an error that resulted in an incorrect appraised value for the owner's property.

(i) A person who acquires property after January 1 of the tax year at issue is entitled to file any motion that this section authorizes the person who owned the property on January 1 of that year to file, if the deadline for filing the motion has not passed.

(j) If during the pendency of a motion under this section the ownership of property subject to the motion changes, the new owner of the property is entitled to proceed with the motion in the same manner as the property owner who filed the motion.

(k) The chief appraiser shall change the appraisal records and school district appraisal rolls promptly to reflect the detachment and annexation of property among school districts under Subchapter C or G, Chapter 49, Education Code.

(l) A motion may be filed under Subsection (c) regardless of whether, for a tax year to which the motion relates, the owner of the property protested under Chapter 41 an action relating to the value of the property that is the subject of the motion.

(m) The hearing on a motion under Subsection (c) or (d) shall be conducted in the manner provided by Subchapter C, Chapter 41.

(n) After a chief appraiser certifies a change under Subsection (b) that corrects multiple appraisals of a property, the liability of a taxing unit for a refund of taxes under Section 26.15(f), and any penalty or interest on those taxes, is limited to taxes paid for the tax year in which the appraisal roll is changed and the four tax years preceding that year.

(o) The failure or refusal of a chief appraiser to change an appraisal roll under Subsection (b) is not:

(1) an action that the appraisal review board is authorized to determine under this section;

(2) an action that may be the subject of a suit to compel filed under Subsection (g);

(3) an action that a property owner is entitled to protest under Section 41.41; or

(4) an action that may be appealed under Chapter 42.

(p) Not later than the 45th day after the date a dispute or error described by Section 72.010(c), Local Government Code, is resolved by an agreement between the taxing units under Section 31.112(c) of this code or by a final order of the supreme court entered under Section 72.010, Local Government Code, the chief appraiser of each applicable appraisal district shall correct the appraisal roll and other appropriate records as necessary to reflect the agreement or order.

Acts 1979, 66th Leg., p. 2276, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 162, ch. 13, Sec. 113, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 826, Sec. 1, eff. June 15, 1985; Acts 1989, 71st Leg., ch. 796, Sec. 28, eff. Jan. 1, 1990; Acts 1989, 71st Leg., ch. 829, Sec. 1, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 367, Sec. 2, eff. Jan. 1, 1992; Acts 1991, 72nd Leg., ch. 393, Sec. 2, eff. June 10, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.12, eff. May 31, 1993; Acts 1993, 73rd Leg., ch. 1031, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 17.01(48), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.76, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 177, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1039, Sec. 26, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 439, Sec. 1, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 6, eff. Sept. 1, 2001. Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 7, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 103 (S.B. 1341), Sec. 1, eff. May 20, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 445 (S.B. 1404), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 660 (S.B. 1441), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 6, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 793 (H.B. 2220), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.002,

eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 65 (S.B. 945), Sec. 1, eff. May 22, 2017.

Acts 2017, 85th Leg., R.S., Ch. 768 (S.B. 2242), Sec. 2, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 939 (S.B. 1767), Sec. 1, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.091, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1102 (H.B. 2159), Sec. 1, eff. June 14, 2019.

Sec. 25.26. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES. (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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 7, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 793 (H.B. 2220), Sec. 2, eff. June 17, 2011.

CHAPTER 26. ASSESSMENT

Sec. 26.01. SUBMISSION OF ROLLS TO TAXING UNITS. (a) By July 25, the chief appraiser shall prepare and certify to the assessor for each taxing unit participating in the district that part of the appraisal roll for the district that lists the property taxable by the unit. The part certified to the assessor is the appraisal roll for the unit. The chief appraiser shall consult with the assessor for each taxing unit and notify each unit in writing by April 1 of the form in which the roll will be provided to each unit.

(a-1) If by July 20 the appraisal review board for an appraisal district has not approved the appraisal records for the district as required under Section 41.12, the chief appraiser shall not later than July 25 prepare and certify to the assessor for each taxing unit participating in the district an estimate of the taxable value of property in that taxing unit.

(b) When a chief appraiser submits an appraisal roll for county taxes to a county assessor-collector, the chief appraiser also shall certify the appraisal district appraisal roll to the comptroller. However, the comptroller by rule may provide for submission of only a summary of the appraisal roll. The chief appraiser shall certify the district appraisal roll or the summary of that roll in the form and manner prescribed by the comptroller's rule.

(c) The chief appraiser shall prepare and certify to the assessor for each taxing unit a listing of those properties which are taxable by that unit but which are under protest and therefore not included on the appraisal roll approved by the appraisal review board and certified by the chief appraiser. This listing shall include the

appraised market value, productivity value (if applicable), and taxable value as determined by the appraisal district and shall also include the market value, taxable value, and productivity value (if applicable) as claimed by the property owner filing the protest if available. If the property owner does not claim a value and the appraised value of the property in the current year is equal to or less than its value in the preceding year, the listing shall include a reasonable estimate of the market value, taxable value, and productivity value (if applicable) that would be assigned to the property if the taxpayer's claim is upheld. If the property owner does not claim a value and the appraised value of the property is higher than its appraised value in the preceding year, the listing shall include the appraised market value, productivity value (if applicable) and taxable value of the property in the preceding year, except that if there is a reasonable likelihood that the appraisal review board will approve a lower appraised value for the property than its appraised value in the preceding year, the chief appraiser shall make a reasonable estimate of the taxable value that would be assigned to the property if the property owner's claim is upheld. The taxing unit shall use the lower value for calculations as prescribed in Sections 26.04 and 26.041 of this code.

(d) The chief appraiser shall prepare and certify to the assessor for each taxing unit a list of those properties of which the chief appraiser has knowledge that are reasonably likely to be taxable by that unit but that are not included on the appraisal roll certified to the assessor under Subsection (a) or included on the listing certified to the assessor under Subsection (c). The chief appraiser shall include on the list for each property the market value, appraised value, and kind and amount of any partial exemptions as determined by the appraisal district for the preceding year and a reasonable estimate of the market value, appraised value, and kind and amount of any partial exemptions for the current year. Until the property is added to the appraisal roll, the assessor for the taxing unit shall include each property on the list in the calculations prescribed by Sections 26.04 and 26.041, and for that purpose shall use the lower market value, appraised value, or taxable value, as appropriate, included on or computed using the information included on the list for the property.

(e) Except as provided by Subsection (f), not later than April 30, the chief appraiser shall prepare and certify to the assessor for

each county, municipality, and school district participating in the appraisal district an estimate of the taxable value of property in that taxing unit. The chief appraiser shall assist each county, municipality, and school district in determining values of property in that taxing unit for the taxing unit's budgetary purposes.

(f) Subsection (e) does not apply to a county or municipality that notifies the chief appraiser that the county or municipality elects not to receive the estimate or assistance described by that subsection.

Acts 1979, 66th Leg., p. 2276, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 162, ch. 13, Sec. 114, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4615, ch. 786, Sec. 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 4826, ch. 851, Sec. 17, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 4946, ch. 884, Sec. 3, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 312, Sec. 6, eff. June 7, 1985; Acts 1987, 70th Leg., ch. 947, Sec. 1, eff. Jan. 1, 1988; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 44, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1040, Sec. 67, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 643, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 898, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1087, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 55 (S.B. 1405), Sec. 1, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 85, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 31, eff. January 1, 2020.

Sec. 26.012. DEFINITIONS. In this chapter:

(1) "Additional sales and use tax" means an additional sales and use tax imposed by:

(A) a city under Section 321.101(b);

(B) a county under Chapter 323; or

(C) a hospital district, other than a hospital district:

(i) created on or after September 1, 2001, that:

(a) imposes the sales and use tax under

Subchapter I, Chapter 286, Health and Safety Code; or

(b) imposes the sales and use tax under Subchapter L, Chapter 285, Health and Safety Code; or

(ii) that imposes the sales and use tax under Subchapter G, Chapter 1061, Special District Local Laws Code.

(2) "Collection rate" means the amount, expressed as a percentage, calculated by:

(A) adding together estimates of the following amounts:

(i) the total amount of taxes to be levied in the current year and collected before July 1 of the next year, including any penalties and interest on those taxes that will be collected during that period;

(ii) any additional taxes imposed under Chapter 23 collected between July 1 of the current year and June 30 of the following year; and

(iii) the total amount of delinquent taxes levied in any preceding year that will be collected between July 1 of the current year and June 30 of the following year, including any penalties and interest on those taxes that will be collected during that period; and

(B) dividing the amount calculated under Paragraph (A) by the total amount of taxes that will be levied in the current year.

(3) "Current debt" means debt service for the current year.

(4) "Current debt rate" means a rate expressed in dollars per $100 of taxable value and calculated according to the following formula:

CURRENT DEBT RATE = [(CURRENT DEBT SERVICE - EXCESS COLLECTIONS) / (CURRENT TOTAL VALUE X COLLECTION RATE)] + CURRENT JUNIOR COLLEGE LEVY / CURRENT TOTAL VALUE

(5) "Current junior college levy" means the amount of taxes the governing body proposes to dedicate in the current year to a junior college district under Section 45.105(e), Education Code.

(6) "Current total value" means the total taxable value of property listed on the appraisal roll for the current year, including all appraisal roll supplements and corrections as of the date of the calculation, less the taxable value of property exempted for the current tax year for the first time under Section 11.31 or 11.315, except that:

(A) the current total value for a school district excludes:

(i) the total value of homesteads that qualify for a tax limitation as provided by Section 11.26; and

(ii) new property value of property that is subject to an agreement entered into under Chapter 313; and

(B) the current total value for a county, municipality, or junior college district excludes the total value of homesteads that qualify for a tax limitation provided by Section 11.261.

(7) "Debt" means a bond, warrant, certificate of obligation, or other evidence of indebtedness owed by a taxing unit that is payable solely from property taxes in installments over a period of more than one year, not budgeted for payment from maintenance and operations funds, and secured by a pledge of property taxes, or a payment made under contract to secure indebtedness of a similar nature issued by another political subdivision on behalf of the taxing unit.

(8) "Debt service" means the total amount expended or to be expended by a taxing unit from property tax revenues to pay principal of and interest on debts or other payments required by contract to secure the debts and, if the unit is created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, payments on debts that the unit anticipates incurring in the next calendar year.

(8-a) "De minimis rate" means the rate equal to the sum of:

(A) a taxing unit's no-new-revenue maintenance and operations rate;

(B) the rate that, when applied to a taxing unit's current total value, will impose an amount of taxes equal to $500,000; and

(C) a taxing unit's current debt rate.

(9) Redesignated and amended by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 33, eff. January 1, 2020.

(10) "Excess collections" means the amount, if any, by which debt taxes collected in the preceding year exceeded the amount anticipated in the preceding year's calculation of the voter-approval tax rate, as certified by the collector under Section 26.04(b).

(11) "Last year's debt levy" means the total of:

(A) the amount of taxes that would be generated by multiplying the total taxable value of property on the appraisal roll for the preceding year, including all appraisal roll supplements and corrections, other than corrections made pursuant to Section 25.25(d)

of this code, as of the date of calculation, by the debt rate adopted by the governing body in the preceding year under Section 26.05(a)(1) of this code; and

(B) the amount of debt taxes refunded by the taxing unit in the preceding year for tax years before that year.

(12) "Last year's junior college levy" means the amount of taxes dedicated by the governing body in the preceding year for use of a junior college district under Section 45.105(e), Education Code.

(13) "Last year's levy" means the total of:

(A) the amount of taxes that would be generated by multiplying the total tax rate adopted by the governing body in the preceding year by the total taxable value of property on the appraisal roll for the preceding year, including:

(i) taxable value that was reduced in an appeal under Chapter 42;

(ii) all appraisal roll supplements and corrections other than corrections made pursuant to Section 25.25(d), as of the date of the calculation, except that last year's taxable value for a school district excludes the total value of homesteads that qualified for a tax limitation as provided by Section 11.26 and last year's taxable value for a county, municipality, or junior college district excludes the total value of homesteads that qualified for a tax limitation as provided by Section 11.261; and

(iii) the portion of taxable value of property that is the subject of an appeal under Chapter 42 on July 25 that is not in dispute; and

(B) the amount of taxes refunded by the taxing unit in the preceding year for tax years before that year.

(14) "Last year's total value" means the total taxable value of property listed on the appraisal roll for the preceding year, including all appraisal roll supplements and corrections, other than corrections made pursuant to Section 25.25(d), as of the date of the calculation, except that:

(A) last year's taxable value for a school district excludes the total value of homesteads that qualified for a tax limitation as provided by Section 11.26; and

(B) last year's taxable value for a county, municipality, or junior college district excludes the total value of homesteads that qualified for a tax limitation as provided by Section 11.261.

(15) "Lost property levy" means the amount of taxes levied in the preceding year on property value that was taxable in the preceding year but is not taxable in the current year because the property is exempt in the current year under a provision of this code other than Section 11.251, 11.253, or 11.35, the property has qualified for special appraisal under Chapter 23 in the current year, or the property is located in territory that has ceased to be a part of the taxing unit since the preceding year.

(16) "Maintenance and operations" means any lawful purpose other than debt service for which a taxing unit may spend property tax revenues.

(17) "New property value" means:

(A) the total taxable value of property added to the appraisal roll in the current year by annexation and improvements listed on the appraisal roll that were made after January 1 of the preceding tax year, including personal property located in new improvements that was brought into the unit after January 1 of the preceding tax year;

(B) property value that is included in the current total value for the tax year succeeding a tax year in which any portion of the value of the property was excluded from the total value because of the application of a tax abatement agreement to all or a portion of the property, less the value of the property that was included in the total value for the preceding tax year; and

(C) for purposes of an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, property value that is included in the current total value for the tax year succeeding a tax year in which the following occurs:

(i) the subdivision of land by plat;

(ii) the installation of water, sewer, or drainage lines; or

(iii) the paving of undeveloped land.

(18) "No-new-revenue maintenance and operations rate" means a rate expressed in dollars per $100 of taxable value and calculated according to the following formula:

NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE = (LAST YEAR'S LEVY - LAST YEAR'S DEBT LEVY - LAST YEAR'S JUNIOR COLLEGE LEVY) / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)

(19) "Special taxing unit" means:

(A) a taxing unit, other than a school district, for

which the maintenance and operations tax rate proposed for the current tax year is 2.5 cents or less per $100 of taxable value;

(B) a junior college district; or

(C) a hospital district.

Added by Acts 1987, 70th Leg., ch. 947, Sec. 2, eff. Jan. 1, 1988. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.27(d)(1), 14.28(1), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 66, Sec. 4, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 534, Sec. 3; Acts 1993, 73rd Leg., ch. 285, Sec. 3, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 696, Sec. 1, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 696, Sec. 1, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 506, Sec. 1 to 3, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 6.77, 29.01, 29.02, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1070, Sec. 53, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1290, Sec. 15, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1505, Sec. 3, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 396, Sec. 3, eff. Jan. 1, 2004. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 830 (H.B. 621), Sec. 2, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.003, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1030 (H.B. 2712), Sec. 3, eff. January 1, 2014.

Acts 2019, 86th Leg., R.S., Ch. 560 (S.B. 1621), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 714 (H.B. 279), Sec. 4, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 32, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 33, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 5, eff. January 1, 2020.

Sec. 26.013. UNUSED INCREMENT RATE. (a) In this section:

(1) "Actual tax rate" means a taxing unit's actual tax rate used to levy taxes in the applicable preceding tax year.

(2) "Voter-approval tax rate" means a taxing unit's voter-

approval tax rate in the applicable preceding tax year less the unused increment rate for that preceding tax year.

(3) "Year 1" means the third tax year preceding the current tax year.

(4) "Year 2" means the second tax year preceding the current tax year.

(5) "Year 3" means the tax year preceding the current tax year.

(b) In this chapter, "unused increment rate" means the greater of:

(1) zero; or

(2) the rate expressed in dollars per $100 of taxable value calculated according to the following formula:

UNUSED INCREMENT RATE = (YEAR 1 VOTER-APPROVAL TAX RATE - YEAR 1 ACTUAL TAX RATE) + (YEAR 2 VOTER-APPROVAL TAX RATE - YEAR 2 ACTUAL TAX RATE) + (YEAR 3 VOTER-APPROVAL TAX RATE - YEAR 3 ACTUAL TAX RATE)

(c) Notwithstanding Subsection (b)(2), for each tax year before the 2020 tax year, the difference between the taxing unit's voter-approval tax rate and actual tax rate is considered to be zero. This subsection expires December 31, 2022.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 34, eff. January 1, 2020.

Sec. 26.02. ASSESSMENT RATIOS PROHIBITED. The assessment of property for taxation on the basis of a percentage of its appraised value is prohibited. All property shall be assessed on the basis of 100 percent of its appraised value.

Acts 1979, 66th Leg., p. 2277, ch. 841, Sec. 1, eff. Jan. 1, 1981. Amended by Acts 1983, 68th Leg., p. 4827, ch. 851, Sec. 18, eff. Aug. 29, 1983.

Sec. 26.03. TREATMENT OF CAPTURED APPRAISED VALUE AND TAX INCREMENT. (a) In this section, "captured appraised value," "reinvestment zone," "tax increment," and "tax increment fund" have the meanings assigned by Chapter 311.

(b) This section does not apply to a school district.

(c) The portion of the captured appraised value of real property taxable by a taxing unit that corresponds to the portion of the tax increment of the unit from that property that the unit has agreed to pay into the tax increment fund for a reinvestment zone and that is not included in the calculation of "new property value" as defined by Section 26.012 is excluded from the value of property taxable by the unit in any tax rate calculation under this chapter.

(d) The portion of the tax increment of a taxing unit that the unit has agreed to pay into the tax increment fund for a reinvestment zone is excluded from the amount of taxes imposed or collected by the unit in any tax rate calculation under this chapter, except that the portion of the tax increment is not excluded if in the same tax rate calculation there is no portion of captured appraised value excluded from the value of property taxable by the unit under Subsection (c) for the same reinvestment zone.

Added by Acts 2001, 77th Leg., ch. 503, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 150, Sec. 1, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 426, Sec. 1, eff. Jan. 1, 2004.

Sec. 26.04. SUBMISSION OF ROLL TO GOVERNING BODY; NO-NEW-REVENUE AND VOTER-APPROVAL TAX RATES. (a) On receipt of the appraisal roll, the assessor for a taxing unit shall determine the total appraised value, the total assessed value, and the total taxable value of property taxable by the unit. He shall also determine, using information provided by the appraisal office, the appraised, assessed, and taxable value of new property.

(b) The assessor shall submit the appraisal roll for the taxing unit showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property to the governing body of the taxing unit by August 1 or as soon thereafter as practicable. By August 1 or as soon thereafter as practicable, the taxing unit's collector shall certify the anticipated collection rate as calculated under Subsections (h), (h-1), and (h-2) for the current year to the governing body. If the collector certified an anticipated collection rate in the preceding year and the actual collection rate in that year exceeded the anticipated rate, the collector shall also certify the amount of debt taxes collected in excess of the anticipated amount in the preceding year.

(c) After the assessor for the taxing unit submits the appraisal roll for the taxing unit to the governing body of the taxing unit as required by Subsection (b), an officer or employee designated by the governing body shall calculate the no-new-revenue tax rate and the voter-approval tax rate for the taxing unit, where:

(1) "No-new-revenue tax rate" means a rate expressed in dollars per $100 of taxable value calculated according to the following formula:

NO-NEW-REVENUE TAX RATE = (LAST YEAR'S LEVY - LOST PROPERTY LEVY) / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)

; and

(2) "Voter-approval tax rate" means a rate expressed in dollars per $100 of taxable value calculated according to the following applicable formula:

(A) for a special taxing unit:

VOTER-APPROVAL TAX RATE = (NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE x 1.08) + CURRENT DEBT RATE

; or

(B) for a taxing unit other than a special taxing unit:

VOTER-APPROVAL TAX RATE = (NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE x 1.035) + (CURRENT DEBT RATE + UNUSED INCREMENT RATE)

(c-1) Notwithstanding any other provision of this section, the governing body of a taxing unit other than a special taxing unit may direct the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit if any part of the taxing unit is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States. The designated officer or employee shall continue calculating the voter-approval tax rate in the manner provided by this subsection until the earlier of:

(1) the second tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred; or

(2) the third tax year after the tax year in which the disaster occurred.

(c-2) Notwithstanding any other provision of this section, if

the assessor for a taxing unit receives a certified estimate of the taxable value of property in the taxing unit under Section 26.01(a-1), the officer or employee designated by the governing body of the taxing unit shall calculate the no-new-revenue tax rate and voter-approval tax rate using the certified estimate of taxable value.

(d) The no-new-revenue tax rate for a county is the sum of the no-new-revenue tax rates calculated for each type of tax the county levies and the voter-approval tax rate for a county is the sum of the voter-approval tax rates calculated for each type of tax the county levies.

(d-1) The designated officer or employee shall use the tax rate calculation forms prescribed by the comptroller under Section 5.07 in calculating the no-new-revenue tax rate and the voter-approval tax rate.

(d-2) The designated officer or employee may not submit the no-new-revenue tax rate and the voter-approval tax rate to the governing body of the taxing unit and the taxing unit may not adopt a tax rate until the designated officer or employee certifies on the tax rate calculation forms that the designated officer or employee has accurately calculated the tax rates and has used values that are the same as the values shown in the taxing unit's certified appraisal roll in performing the calculations.

(d-3) As soon as practicable after the designated officer or employee calculates the no-new-revenue tax rate and the voter-approval tax rate of the taxing unit, the designated officer or employee shall submit the tax rate calculation forms used in calculating the rates to the county assessor-collector for each county in which all or part of the territory of the taxing unit is located.

(e) By August 7 or as soon thereafter as practicable, the designated officer or employee shall submit the rates to the governing body. The designated officer or employee shall post prominently on the home page of the taxing unit's Internet website in the form prescribed by the comptroller:

(1) the no-new-revenue tax rate, the voter-approval tax rate, and an explanation of how they were calculated;

(2) the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt

obligation; and

(3) a schedule of the taxing unit's debt obligations showing:

(A) the amount of principal and interest that will be paid to service the taxing unit's debts in the next year from property tax revenue, including payments of lawfully incurred contractual obligations providing security for the payment of the principal of and interest on bonds and other evidences of indebtedness issued on behalf of the taxing unit by another political subdivision and, if the taxing unit is created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, payments on debts that the taxing unit anticipates to incur in the next calendar year;

(B) the amount by which taxes imposed for debt are to be increased because of the taxing unit's anticipated collection rate; and

(C) the total of the amounts listed in Paragraphs (A)-(B), less any amount collected in excess of the previous year's anticipated collections certified as provided in Subsection (b).

(e-1) The tax rate certification requirements imposed by Subsection (d-2) and the notice requirements imposed by Subsections (e)(1)-(3) do not apply to a school district.

(e-2) By August 7 or as soon thereafter as practicable, the chief appraiser of each appraisal district shall deliver by regular mail or e-mail to each owner of property located in the appraisal district a notice that the estimated amount of taxes to be imposed on the owner's property by each taxing unit in which the property is located may be found in the property tax database maintained by the appraisal district under Section 26.17. The notice must include:

(1) a statement directing the property owner to an Internet website from which the owner may access information related to the actions taken or proposed to be taken by each taxing unit in which the property is located that may affect the taxes imposed on the owner's property;

(2) a statement that the property owner may request from the county assessor-collector for the county in which the property is located or, if the county assessor-collector does not assess taxes for the county, the person who assesses taxes for the county under Section 6.24(b), contact information for the assessor for each taxing unit in which the property is located, who must provide the

information described by this subsection to the owner on request; and

(3) the name, address, and telephone number of the county assessor-collector for the county in which the property is located or, if the county assessor-collector does not assess taxes for the county, the person who assesses taxes for the county under Section 6.24(b).

(e-3) The statement described by Subsection (e-2)(1) must include a heading that is in bold, capital letters in type larger than that used in the other provisions of the notice.

(e-4) The comptroller:

(1) with the advice of the property tax administration advisory board, shall adopt rules prescribing the form of the notice required by Subsection (e-2); and

(2) may adopt rules regarding the format and delivery of the notice.

(e-5) The governing body of a taxing unit shall include as an appendix to the taxing unit's budget for a fiscal year the tax rate calculation forms used by the designated officer or employee of the taxing unit to calculate the no-new-revenue tax rate and the voter-approval tax rate of the taxing unit for the tax year in which the fiscal year begins.

(f) If as a result of consolidation of taxing units a taxing unit includes territory that was in two or more taxing units in the preceding year, the amount of taxes imposed in each in the preceding year is combined for purposes of calculating the no-new-revenue and voter-approval tax rates under this section.

(g) A person who owns taxable property is entitled to an injunction prohibiting the taxing unit in which the property is taxable from adopting a tax rate if the assessor or designated officer or employee of the taxing unit, the chief appraiser of the applicable appraisal district, or the taxing unit, as applicable, has not complied with the computation, publication, or posting requirements of this section or Section 26.16, 26.17, or 26.18. It is a defense in an action for an injunction under this subsection that the failure to comply was in good faith.

(h) For purposes of this section, the anticipated collection rate of a taxing unit is the percentage relationship that the total amount of estimated tax collections for the current year bears to the total amount of taxes imposed for the current year. The total amount of estimated tax collections for the current year is the sum of the

collector's estimate of:

(1) the total amount of property taxes imposed in the current year that will be collected before July 1 of the following year, including any penalties and interest on those taxes that will be collected during that period; and

(2) the total amount of delinquent property taxes imposed in previous years that will be collected on or after July 1 of the current year and before July 1 of the following year, including any penalties and interest on those taxes that will be collected during that period.

(h-1) Notwithstanding Subsection (h), if the anticipated collection rate of a taxing unit as calculated under that subsection is lower than the lowest actual collection rate of the taxing unit for any of the preceding three years, the anticipated collection rate of the taxing unit for purposes of this section is equal to the lowest actual collection rate of the taxing unit for any of the preceding three years.

(h-2) The anticipated collection rate of a taxing unit for purposes of this section is the rate calculated under Subsection (h) as modified by Subsection (h-1), if applicable, regardless of whether that rate exceeds 100 percent.

(i) This subsection applies to a taxing unit that has agreed by written contract to transfer a distinct department, function, or activity to another taxing unit and discontinues operating that distinct department, function, or activity if the operation of that department, function, or activity in all or a majority of the territory of the taxing unit is continued by another existing taxing unit or by a new taxing unit. The voter-approval tax rate of a taxing unit to which this subsection applies in the first tax year in which a budget is adopted that does not allocate revenue to the discontinued department, function, or activity is calculated as otherwise provided by this section, except that last year's levy used to calculate the no-new-revenue maintenance and operations rate of the taxing unit is reduced by the amount of maintenance and operations tax revenue spent by the taxing unit to operate the department, function, or activity for the 12 months preceding the month in which the calculations required by this chapter are made and in which the taxing unit operated the discontinued department, function, or activity. If the taxing unit did not operate that department, function, or activity for the full 12 months preceding

the month in which the calculations required by this chapter are made, the taxing unit shall reduce last year's levy used for calculating the no-new-revenue maintenance and operations rate of the taxing unit by the amount of the revenue spent in the last full fiscal year in which the taxing unit operated the discontinued department, function, or activity.

(j) This subsection applies to a taxing unit that had agreed by written contract to accept the transfer of a distinct department, function, or activity from another taxing unit and operates a distinct department, function, or activity if the operation of a substantially similar department, function, or activity in all or a majority of the territory of the taxing unit has been discontinued by another taxing unit, including a dissolved taxing unit. The voter-approval tax rate of a taxing unit to which this subsection applies in the first tax year after the other taxing unit discontinued the substantially similar department, function, or activity in which a budget is adopted that allocates revenue to the department, function, or activity is calculated as otherwise provided by this section, except that last year's levy used to calculate the no-new-revenue maintenance and operations rate of the taxing unit is increased by the amount of maintenance and operations tax revenue spent by the taxing unit that discontinued operating the substantially similar department, function, or activity to operate that department, function, or activity for the 12 months preceding the month in which the calculations required by this chapter are made and in which the taxing unit operated the discontinued department, function, or activity. If the taxing unit did not operate the discontinued department, function, or activity for the full 12 months preceding the month in which the calculations required by this chapter are made, the taxing unit may increase last year's levy used to calculate the no-new-revenue maintenance and operations rate by an amount not to exceed the amount of property tax revenue spent by the discontinuing taxing unit to operate the discontinued department, function, or activity in the last full fiscal year in which the discontinuing taxing unit operated the department, function, or activity.

Acts 1979, 66th Leg., p. 2277, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 163, ch. 13, Sec. 116, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 2165, ch. 400, Sec. 1,

eff. June 17, 1983; Acts 1983, 68th Leg., p. 5376, ch. 987, Sec. 3, eff. June 19, 1983; Acts 1983, 68th Leg., p. 5402, ch. 1001, Sec. 1, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 657, Sec. 1, 2, eff. June 14, 1985; Acts 1985, 69th Leg., 1st C.S., ch. 1, Sec. 2, eff. Sept. 1, 1985; Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 36, eff. Jan. 1, 1987; Acts 1987, 70th Leg., ch. 699, Sec. 1, eff. June 19, 1987; Acts 1987, 70th Leg., ch. 849, Sec. 2, eff. Aug. 31, 1987; Acts 1987, 70th Leg., ch. 947, Sec. 3, eff. Jan. 1, 1988; Acts 1987, 70th Leg., ch. 988, Sec. 1, eff. June 18, 1987; Acts 1991, 72nd Leg., ch. 14, Sec. 284 (18), eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 45, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 81, Sec. 2, eff. May 4, 1993; Acts 1993, 73rd Leg., ch. 611, Sec. 1, 2, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 29.01, 29.03, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1070, Sec. 54, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 398, Sec. 2, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 1358, Sec. 1, eff. Jan. 1, 2000; Acts 1999, 76th Leg., ch. 1561, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 4, eff. June 15, 2015.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 35, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 36, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 36, eff. January 1, 2021.

Sec. 26.041. TAX RATE OF UNIT IMPOSING ADDITIONAL SALES AND USE TAX. (a) In the first year in which an additional sales and use tax is required to be collected, the no-new-revenue tax rate and voter-approval tax rate for the taxing unit are calculated according to the following formulas:

NO-NEW-REVENUE TAX RATE = [(LAST YEAR'S LEVY - LOST PROPERTY LEVY) / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)] - SALES TAX GAIN RATE

and

VOTER-APPROVAL TAX RATE FOR SPECIAL TAXING UNIT = (NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE x 1.08) +

(CURRENT DEBT RATE - SALES TAX GAIN RATE)

or

VOTER-APPROVAL TAX RATE FOR TAXING UNIT OTHER THAN SPECIAL TAXING UNIT = (NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE x 1.035) + (CURRENT DEBT RATE + UNUSED INCREMENT RATE - SALES TAX GAIN RATE)

where "sales tax gain rate" means a number expressed in dollars per $100 of taxable value, calculated by dividing the revenue that will be generated by the additional sales and use tax in the following year as calculated under Subsection (d) by the current total value.

(b) Except as provided by Subsections (a) and (c), in a year in which a taxing unit imposes an additional sales and use tax, the voter-approval tax rate for the taxing unit is calculated according to the following formula, regardless of whether the taxing unit levied a property tax in the preceding year:

VOTER-APPROVAL TAX RATE FOR SPECIAL TAXING UNIT = [(LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE x 1.08) / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)] + (CURRENT DEBT RATE - SALES TAX REVENUE RATE)

or

VOTER-APPROVAL TAX RATE FOR TAXING UNIT OTHER THAN SPECIAL TAXING UNIT = [(LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE x 1.035) / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)] + (CURRENT DEBT RATE + UNUSED INCREMENT RATE - SALES TAX REVENUE RATE)

where "last year's maintenance and operations expense" means the amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year, and "sales tax revenue rate" means a number expressed in dollars per $100 of taxable value, calculated by dividing the revenue that will be generated by the additional sales and use tax in the current year as calculated under Subsection (d) by the current total value.

(c) In a year in which a taxing unit that has been imposing an additional sales and use tax ceases to impose an additional sales and use tax, the no-new-revenue tax rate and voter-approval tax rate for the taxing unit are calculated according to the following formulas:

NO-NEW-REVENUE TAX RATE = [(LAST YEAR'S LEVY - LOST PROPERTY LEVY) / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)] + SALES TAX LOSS RATE

and

VOTER-APPROVAL TAX RATE FOR SPECIAL TAXING UNIT = [(LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE x 1.08) / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)] + CURRENT DEBT RATE

or

VOTER-APPROVAL TAX RATE FOR TAXING UNIT OTHER THAN SPECIAL TAXING UNIT = [(LAST YEAR'S MAINTENANCE AND OPERATIONS EXPENSE x 1.035) / (CURRENT TOTAL VALUE - NEW PROPERTY VALUE)] + (CURRENT DEBT RATE + UNUSED INCREMENT RATE)

where "sales tax loss rate" means a number expressed in dollars per $100 of taxable value, calculated by dividing the amount of sales and use tax revenue generated in the last four quarters for which the information is available by the current total value and "last year's maintenance and operations expense" means the amount spent for maintenance and operations from property tax and additional sales and use tax revenues in the preceding year.

(c-1) Notwithstanding any other provision of this section, the governing body of a taxing unit other than a special taxing unit may direct the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit if any part of the taxing unit is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States. The designated officer or employee shall continue calculating the voter-approval tax rate in the manner provided by this subsection until the earlier of:

(1) the second tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred; or

(2) the third tax year after the tax year in which the disaster occurred.

(d) In order to determine the amount of additional sales and use tax revenue for purposes of this section, the designated officer or employee shall use the sales and use tax revenue for the last preceding four quarters for which the information is available as the basis for projecting the additional sales and use tax revenue for the current tax year. If the rate of the additional sales and use tax is

increased or reduced, the projection to be used for the first tax year after the effective date of the sales and use tax change shall be adjusted to exclude any revenue gained or lost because of the sales and use tax rate change. If the unit did not impose an additional sales and use tax for the last preceding four quarters, the designated officer or employee shall request the comptroller of public accounts to provide to the officer or employee a report showing the estimated amount of taxable sales and uses within the unit for the previous four quarters as compiled by the comptroller, and the comptroller shall comply with the request. The officer or employee shall prepare the estimate of the additional sales and use tax revenue for the first year of the imposition of the tax by multiplying the amount reported by the comptroller by the appropriate additional sales and use tax rate and by multiplying that product by .95.

(e) If a city that imposes an additional sales and use tax receives payments under the terms of a contract executed before January 1, 1986, in which the city agrees not to annex certain property or a certain area and the owners or lessees of the property or of property in the area agree to pay at least annually to the city an amount determined by reference to all or a percentage of the property tax rate of the city and all or a part of the value of the property subject to the agreement or included in the area subject to the agreement, the governing body, by order adopted by a majority vote of the governing body, may direct the designated officer or employee to add to the no-new-revenue and voter-approval tax rates the amount that, when applied to the total taxable value submitted to the governing body, would produce an amount of taxes equal to the difference between the total amount of payments for the tax year under contracts described by this subsection under the voter-approval tax rate calculated under this section and the total amount of payments for the tax year that would have been obligated to the city if the city had not adopted an additional sales and use tax.

(f) An estimate made by the comptroller under Subsection (d) of this section need not be adjusted to take into account any projection of additional revenue attributable to increases in the total value of items taxable under the state sales and use tax because of amendments of Chapter 151, Tax Code.

(g) If the rate of the additional sales and use tax is increased, the designated officer or employee shall make two

projections, in the manner provided by Subsection (d), of the revenue generated by the additional sales and use tax in the following year. The first projection must take into account the increase and the second projection must not take into account the increase. The designated officer or employee shall then subtract the amount of the result of the second projection from the amount of the result of the first projection to determine the revenue generated as a result of the increase in the additional sales and use tax. In the first year in which an additional sales and use tax is increased, the no-new-revenue tax rate for the taxing unit is the no-new-revenue tax rate before the increase minus a number the numerator of which is the revenue generated as a result of the increase in the additional sales and use tax, as determined under this subsection, and the denominator of which is the current total value minus the new property value.

(h) If the rate of the additional sales and use tax is decreased, the designated officer or employee shall make two projections, in the manner provided by Subsection (d), of the revenue generated by the additional sales and use tax in the following year. The first projection must take into account the decrease and the second projection must not take into account the decrease. The designated officer or employee shall then subtract the amount of the result of the first projection from the amount of the result of the second projection to determine the revenue lost as a result of the decrease in the additional sales and use tax. In the first year in which an additional sales and use tax is decreased, the no-new-revenue tax rate for the taxing unit is the no-new-revenue tax rate before the decrease plus a number the numerator of which is the revenue lost as a result of the decrease in the additional sales and use tax, as determined under this subsection, and the denominator of which is the current total value minus the new property value.

(i) Any amount derived from the sales and use tax that is or will be distributed by a county to the recipient of an economic development grant made under Chapter 381, Local Government Code, is not considered to be sales and use tax revenue for purposes of this section.

(j) Any amount derived from the sales and use tax that is retained by the comptroller under Chapters 476 or 477, Government Code, is not considered to be sales and use tax revenue for purposes of this section.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 17, eff. Jan. 1, 1987. Amended by Acts 1987, 70th Leg., ch. 11, Sec. 11, eff. April 2, 1987; Acts 1987, 70th Leg., ch. 947, Sec. 4, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 256, Sec. 3, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 184, Sec. 8, eff. May 24, 1991; Acts 1995, 74th Leg., ch. 1012, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 29.04, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 814, Sec. 5.08, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 301 (H.B. 4174), Sec. 2.02, eff. April 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 37, eff. January 1, 2020.

Sec. 26.043. VOTER-APPROVAL AND NO-NEW-REVENUE TAX RATES IN CITY IMPOSING MASS TRANSIT SALES AND USE TAX. (a) In the tax year in which a city has set an election on the question of whether to impose a local sales and use tax under Subchapter H, Chapter 453, Transportation Code, the officer or employee designated to make the calculations provided by Section 26.04 may not make those calculations until the outcome of the election is determined. If the election is determined in favor of the imposition of the tax, the designated officer or employee shall subtract from the city's voter-approval and no-new-revenue tax rates the amount that, if applied to the city's current total value, would impose an amount equal to the amount of property taxes budgeted in the current tax year to pay for expenses related to mass transit services.

(b) In a tax year to which this section applies, a reference in this chapter to the city's no-new-revenue or voter-approval tax rate refers to that rate as adjusted under this section.

(c) For the purposes of this section, "mass transit services" does not include the construction, reconstruction, or general maintenance of municipal streets.

Added by Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 35, eff. Jan. 1, 1987. Amended by Acts 1987, 70th Leg., ch. 947, Sec. 6, eff. Jan. 1, 1988; Acts 1991, 72nd Leg., ch. 736, Sec. 1, eff. June 15, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 29.05, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 38, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 39, eff. January 1, 2020.

Sec. 26.044. NO-NEW-REVENUE TAX RATE TO PAY FOR STATE CRIMINAL JUSTICE MANDATE. (a) The first time that a county adopts a tax rate after September 1, 1991, in which the state criminal justice mandate applies to the county, the no-new-revenue maintenance and operation rate for the county is increased by the rate calculated according to the following formula:

(State Criminal Justice Mandate) / (Current Total Value - New Property Value)

(b) In the second and subsequent years that a county adopts a tax rate, if the amount spent by the county for the state criminal justice mandate increased over the previous year, the no-new-revenue maintenance and operation rate for the county is increased by the rate calculated according to the following formula:

(This Year's State Criminal Justice Mandate - Previous Year's State Criminal Justice Mandate) / (Current Total Value - New Property Value)

(c) The county shall include a notice of the increase in the no-new-revenue maintenance and operation rate provided by this section, including a description and amount of the state criminal justice mandate, in the information published under Section 26.04(e) and, as applicable, in the notice prescribed by Section 26.06 or 26.061.

(d) In this section, "state criminal justice mandate" means the amount spent by the county in the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced to the Texas Department of Criminal Justice as certified by the county auditor based on information provided by the county sheriff, minus the amount received from state revenue for reimbursement of such costs.

Added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.10, eff. Aug. 29, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.153, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 40, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 41, eff. January 1, 2020.

Sec. 26.0441. TAX RATE ADJUSTMENT FOR INDIGENT HEALTH CARE. (a) In the first tax year in which a taxing unit adopts a tax rate after January 1, 2000, and in which the enhanced minimum eligibility standards for indigent health care established under Section 61.006, Health and Safety Code, apply to the taxing unit, the no-new-revenue maintenance and operations rate for the taxing unit is increased by the rate computed according to the following formula:

Amount of Increase = Enhanced Indigent Health Care Expenditures / (Current Total Value - New Property Value)

(b) In each subsequent tax year, if the taxing unit's enhanced indigent health care expenses exceed the amount of those expenses for the preceding year, the no-new-revenue maintenance and operations rate for the taxing unit is increased by the rate computed according to the following formula:

Amount of Increase = (Current Tax Year's Enhanced Indigent Health Care Expenditures - Preceding Tax Year's Indigent Health Care Expenditures) / (Current Total Value - New Property Value)

(c) The taxing unit shall include a notice of the increase in its no-new-revenue maintenance and operations rate provided by this section, including a brief description and the amount of the enhanced indigent health care expenditures, in the information published under Section 26.04(e) and, as applicable, in the notice prescribed by Section 26.06 or 26.061.

(d) In this section, "enhanced indigent health care expenditures" for a tax year means the amount spent by the taxing unit for the maintenance and operation costs of providing indigent health care at the increased minimum eligibility standards established under Section 61.006, Health and Safety Code, effective on or after January 1, 2000, in the period beginning on July 1 of the year preceding the tax year for which the tax is adopted and ending on June 30 of the tax year for which the tax is adopted, less the

amount of state assistance received by the taxing unit in accordance with Chapter 61, Health and Safety Code, that is attributable to those costs.

Added by Acts 1999, 76th Leg., ch. 1377, Sec. 1.27, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 42, eff. January 1, 2020.

Sec. 26.0442. TAX RATE ADJUSTMENT FOR COUNTY INDIGENT DEFENSE COMPENSATION EXPENDITURES. (a) In this section, "indigent defense compensation expenditures" for a tax year means the amount paid by a county to provide appointed counsel for indigent individuals in criminal or civil proceedings in accordance with the schedule of fees adopted under Article 26.05, Code of Criminal Procedure, in the period beginning on July 1 of the tax year preceding the tax year for which the tax is adopted and ending on June 30 of the tax year for which the tax is adopted, less the amount of any state grants received by the county during that period for the same purpose.

(b) If a county's indigent defense compensation expenditures exceed the amount of those expenditures for the preceding tax year, the no-new-revenue maintenance and operations rate for the county is increased by the lesser of the rates computed according to the following formulas:

(Current Tax Year's Indigent Defense Compensation Expenditures - Preceding Tax Year's Indigent Defense Compensation Expenditures) / (Current Total Value - New Property Value)

or

(Preceding Tax Year's Indigent Defense Compensation Expenditures x 0.05) / (Current Total Value - New Property Value)

(c) The county shall include a notice of the increase in the no-new-revenue maintenance and operations rate provided by this section, including a description and the amount of indigent defense compensation expenditures, in the information published under Section 26.04(e) and, as applicable, in the notice prescribed by Section 26.06 or 26.061.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 43, eff. January 1, 2020.

Sec. 26.0443. TAX RATE ADJUSTMENT FOR ELIGIBLE COUNTY HOSPITAL EXPENDITURES. (a) In this section:

(1) "Eligible county hospital" means a hospital that:

(A) is:

(i) owned or leased by a county and operated in accordance with Chapter 263, Health and Safety Code; or

(ii) owned or leased jointly by a municipality and a county and operated in accordance with Chapter 265, Health and Safety Code; and

(B) is located in an area not served by a hospital district created under Sections 4 through 11, Article IX, Texas Constitution.

(2) "Eligible county hospital expenditures" for a tax year means the amount paid by a county or municipality in the period beginning on July 1 of the tax year preceding the tax year for which the tax is adopted and ending on June 30 of the tax year for which the tax is adopted to maintain and operate an eligible county hospital.

(b) If a county's or municipality's eligible county hospital expenditures exceed the amount of those expenditures for the preceding tax year, the no-new-revenue maintenance and operations rate for the county or municipality, as applicable, is increased by the lesser of the rates computed according to the following formulas:

(Current Tax Year's Eligible County Hospital Expenditures - Preceding Tax Year's Eligible County Hospital Expenditures) / (Current Total Value - New Property Value)

or

(Preceding Tax Year's Eligible County Hospital Expenditures x 0.08) / (Current Total Value - New Property Value)

(c) The county or municipality shall include a notice of the increase in the no-new-revenue maintenance and operations rate provided by this section, including a description and amount of eligible county hospital expenditures, in the information published under Section 26.04(e) and, as applicable, in the notice prescribed

by Section 26.06 or 26.061.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 43, eff. January 1, 2020.

Sec. 26.045. VOTER-APPROVAL TAX RATE RELIEF FOR POLLUTION CONTROL REQUIREMENTS. (a) The voter-approval tax rate for a political subdivision of this state is increased by the rate that, if applied to the current total value, would impose an amount of taxes equal to the amount the political subdivision will spend out of its maintenance and operation funds under Section 26.012(16) to pay for a facility, device, or method for the control of air, water, or land pollution that is necessary to meet the requirements of a permit issued by the Texas Commission on Environmental Quality.

(b) In this section, "facility, device, or method for control of air, water, or land pollution" means any land, structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States or this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.

(c) To receive an adjustment to the voter-approval tax rate under this section, a political subdivision shall present information to the executive director of the Texas Commission on Environmental Quality in a permit application or in a request for any exemption from a permit that would otherwise be required detailing:

(1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;

(2) the estimated cost of the pollution control facility, device, or method; and

(3) the purpose of the installation of the facility, device, or method, and the proportion of the installation that is pollution control property.

(d) Following submission of the information required by Subsection (c), the executive director of the Texas Commission on Environmental Quality shall determine whether the facility, device,

or method is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. If the executive director determines that the facility, device, or method is used wholly or partly to control pollution, the director shall issue a letter to the political subdivision stating that determination and the portion of the cost of the installation that is pollution control property.

(e) The Texas Commission on Environmental Quality may charge a political subdivision seeking a determination that property is pollution control property an additional fee not to exceed its administrative costs for processing the information, making the determination, and issuing the letter required by this section. The commission may adopt rules to implement this section.

(f) The Texas Commission on Environmental Quality shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, which must include:

(1) coal cleaning or refining facilities;

(2) atmospheric or pressurized and bubbling or circulating fluidized bed combustion systems and gasification fluidized bed combustion combined cycle systems;

(3) ultra-supercritical pulverized coal boilers;

(4) flue gas recirculation components;

(5) syngas purification systems and gas-cleanup units;

(6) enhanced heat recovery systems;

(7) exhaust heat recovery boilers;

(8) heat recovery steam generators;

(9) superheaters and evaporators;

(10) enhanced steam turbine systems;

(11) methanation;

(12) coal combustion or gasification byproduct and coproduct handling, storage, or treatment facilities;

(13) biomass cofiring storage, distribution, and firing systems;

(14) coal cleaning or drying processes such as coal drying/moisture reduction, air jigging, precombustion decarbonization, and coal flow balancing technology;

(15) oxy-fuel combustion technology, amine or chilled ammonia scrubbing, fuel or emission conversion through the use of catalysts, enhanced scrubbing technology, modified combustion

technology such as chemical looping, and cryogenic technology;

(16) if the United States Environmental Protection Agency adopts a final rule or regulation regulating carbon dioxide as a pollutant, property that is used, constructed, acquired, or installed wholly or partly to capture carbon dioxide from an anthropogenic source in this state that is geologically sequestered in this state;

(17) fuel cells generating electricity using hydrogen derived from coal, biomass, petroleum coke, or solid waste; and

(18) any other equipment designed to prevent, capture, abate, or monitor nitrogen oxides, volatile organic compounds, particulate matter, mercury, carbon monoxide, or any criteria pollutant.

(g) The Texas Commission on Environmental Quality by rule shall update the list adopted under Subsection (f) at least once every three years. An item may be removed from the list if the commission finds compelling evidence to support the conclusion that the item does not render pollution control benefits.

(h) Notwithstanding the other provisions of this section, if the facility, device, or method for the control of air, water, or land pollution described in a permit application or in a request for any exemption from a permit that would otherwise be required is a facility, device, or method included on the list adopted under Subsection (f), the executive director of the Texas Commission on Environmental Quality, not later than the 30th day after the date of receipt of the information required by Subsections (c)(2) and (3) and without regard to whether the information required by Subsection (c)(1) has been submitted, shall determine that the facility, device, or method described in the permit application or in the request for an exemption from a permit that would otherwise be required is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution and shall take the action that is required by Subsection (d) in the event such a determination is made.

(i) A political subdivision of the state seeking an adjustment in its voter-approval tax rate under this section shall provide to its tax assessor a copy of the letter issued by the executive director of the Texas Commission on Environmental Quality under Subsection (d). The tax assessor shall accept the copy of the letter from the executive director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property and shall adjust the voter-approval tax rate for the

political subdivision as provided for by Subsection (a).

Added by Acts 1993, 73rd Leg., ch. 285, Sec. 4, eff. Aug. 30, 1993.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. 3732), Sec. 5, eff. September 1, 2007.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 44, eff. January 1, 2020.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 45, eff. January 1, 2020.

Sec. 26.05. TAX RATE. (a) The governing body of each taxing unit shall adopt a tax rate for the current tax year and shall notify the assessor for the taxing unit of the rate adopted. The governing body must adopt a tax rate before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the taxing unit, except that the governing body must adopt a tax rate that exceeds the voter-approval tax rate not later than the 71st day before the next uniform election date prescribed by Section 41.001, Election Code, that occurs in November of that year. The tax rate consists of two components, each of which must be approved separately. The components are:

(1) for a taxing unit other than a school district, the rate that, if applied to the total taxable value, will impose the total amount described by Section 26.04(e)(3)(C), less any amount of additional sales and use tax revenue that will be used to pay debt service, or, for a school district, the rate calculated under Section 44.004(c)(5)(A)(ii)(b), Education Code; and

(2) the rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the taxing unit for the next year.

(b) A taxing unit may not impose property taxes in any year until the governing body has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order, depending on the method prescribed by law for adoption of a law by the governing body. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. For a taxing unit other than a school district, the vote on the ordinance, resolution, or order setting a tax rate that exceeds

the no-new-revenue tax rate must be a record vote, and at least 60 percent of the members of the governing body must vote in favor of the ordinance, resolution, or order. For a school district, the vote on the ordinance, resolution, or order setting a tax rate that exceeds the sum of the no-new-revenue maintenance and operations tax rate of the district as determined under Section 26.08(i) and the district's current debt rate must be a record vote, and at least 60 percent of the members of the governing body must vote in favor of the ordinance, resolution, or order. A motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the no-new-revenue tax rate must be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the no-new-revenue tax rate) percent increase in the tax rate." If the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the taxing unit must:

(1) include in the ordinance, resolution, or order in type larger than the type used in any other portion of the document:

(A) the following statement: "THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE."; and

(B) if the tax rate exceeds the no-new-revenue maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $(Insert amount)."; and

(2) include on the home page of the Internet website of the taxing unit:

(A) the following statement: "(Insert name of taxing unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and

(B) if the tax rate exceeds the no-new-revenue maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A

$100,000 HOME BY APPROXIMATELY $(Insert amount)."

(c) If the governing body of a taxing unit does not adopt a tax rate before the date required by Subsection (a), the tax rate for the taxing unit for that tax year is the lower of the no-new-revenue tax rate calculated for that tax year or the tax rate adopted by the taxing unit for the preceding tax year. A tax rate established by this subsection is treated as an adopted tax rate. Before the fifth day after the establishment of a tax rate by this subsection, the governing body of the taxing unit must ratify the applicable tax rate in the manner required by Subsection (b).

(d) The governing body of a taxing unit other than a school district may not adopt a tax rate that exceeds the lower of the voter-approval tax rate or the no-new-revenue tax rate calculated as provided by this chapter until the governing body has held a public hearing on the proposed tax rate and has otherwise complied with Section 26.06 and Section 26.065. The governing body of a taxing unit shall reduce a tax rate set by law or by vote of the electorate to the lower of the voter-approval tax rate or the no-new-revenue tax rate and may not adopt a higher rate unless it first complies with Section 26.06.

(d-1) The governing body of a taxing unit other than a school district may not hold a public hearing on a proposed tax rate or a public meeting to adopt a tax rate until the fifth day after the date the chief appraiser of each appraisal district in which the taxing unit participates has:

(1) delivered the notice required by Section 26.04(e-2); and

(2) complied with Section 26.17(f).

(d-2) Notwithstanding Subsection (a), the governing body of a taxing unit other than a school district may not adopt a tax rate until the chief appraiser of each appraisal district in which the taxing unit participates has complied with Subsection (d-1).

(e) A person who owns taxable property is entitled to an injunction restraining the collection of taxes by a taxing unit in which the property is taxable if the taxing unit has not complied with the requirements of this section or Section 26.04. It is a defense in an action for an injunction under this subsection that the failure to comply was in good faith. An action to enjoin the collection of taxes must be filed not later than the 15th day after the date the taxing unit adopts a tax rate. A property owner is not

required to pay the taxes imposed by a taxing unit on the owner's property while an action filed by the property owner to enjoin the collection of taxes imposed by the taxing unit on the owner's property is pending. If the property owner pays the taxes and subsequently prevails in the action, the property owner is entitled to a refund of the taxes paid, together with reasonable attorney's fees and court costs. The property owner is not required to apply to the collector for the taxing unit to receive the refund.

(e-1) The governing body of a taxing unit that imposes an additional sales and use tax may not adopt the component of the tax rate of the taxing unit described by Subsection (a)(1) of this section until the chief financial officer or the auditor for the taxing unit submits to the governing body of the taxing unit a written certification that the amount of additional sales and use tax revenue that will be used to pay debt service has been deducted from the total amount described by Section 26.04(e)(3)(C) as required by Subsection (a)(1) of this section. The comptroller shall prescribe the form of the certification required by this subsection and the manner in which it is required to be submitted.

(f) Except as required by the law under which an obligation was created, the governing body may not apply any tax revenues generated by the rate described in Subsection (a)(1) of this section for any purpose other than the retirement of debt.

(g) Notwithstanding Subsection (a), the governing body of a school district that elects to adopt a tax rate before the adoption of a budget for the fiscal year that begins in the current tax year may adopt a tax rate for the current tax year before receipt of the certified appraisal roll for the school district if the chief appraiser of the appraisal district in which the school district participates has certified to the assessor for the school district an estimate of the taxable value of property in the school district as provided by Section 26.01(e). If a school district adopts a tax rate under this subsection, the no-new-revenue tax rate and the voter-approval tax rate of the district shall be calculated based on the certified estimate of taxable value.

Acts 1979, 66th Leg., p. 2268, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 164, ch. 13, Sec. 117, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 657, Sec. 3, eff. June 14, 1985; Acts 1987, 70th Leg., ch. 699, Sec. 2, eff. June 19, 1987;

Acts 1987, 70th Leg., ch. 947, Sec. 7, eff. Jan. 1, 1988; Acts 1987, 70th Leg., ch. 988, Sec. 2, eff. June 18, 1987; Acts 1991, 72nd Leg., ch. 404, Sec. 1, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 165, Sec. 29.06, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1039, Sec. 27, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 398, Sec. 3, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 423, Sec. 1, eff. Jan. 1, 2000; Acts 1999, 76th Leg., ch. 1358, Sec. 2, eff. Jan. 1, 2000.
Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 13, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1368 (S.B. 18), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.001, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 668 (H.B. 2291), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 86, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 57.28, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 5, eff. January 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 46, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 46, eff. January 1, 2021.

Sec. 26.051. EVIDENCE OF UNRECORDED TAX RATE ADOPTION. (a) If a taxing unit does not make a proper record of the adoption of a tax rate for a year but the tax rate can be determined by examining the tax rolls for that year, the governing body of the taxing unit may take testimony or make other inquiry to determine whether a tax rate was properly adopted for that year. If the governing body determines that a tax rate was properly adopted, it may order that its official records for that year be amended nunc pro tunc to reflect the adoption of the rate.

(b) An amendment of the official records made under Subsection (a) of this section is prima facie evidence that the tax rate entered into the records was properly and regularly adopted for that year.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 14.01(a), eff. Aug. 28, 1989.

Sec. 26.052. SIMPLIFIED TAX RATE NOTICE FOR TAXING UNITS WITH LOW TAX LEVIES. (a) This section applies only to a taxing unit for which the total tax rate proposed for the current tax year:

(1) is 50 cents or less per $100 of taxable value; and

(2) would impose taxes of $500,000 or less when applied to the current total value for the taxing unit.

(b) A taxing unit to which this section applies is exempt from the notice and publication requirements of Section 26.04(e) and is not subject to an injunction under Section 26.04(g) for failure to comply with those requirements.

(c) A taxing unit to which this section applies may provide public notice of its proposed tax rate in either of the following methods not later than the seventh day before the date on which the tax rate is adopted:

(1) mailing a notice of the proposed tax rate to each owner of taxable property in the taxing unit; or

(2) publishing notice of the proposed tax rate in the legal notices section of a newspaper having general circulation in the taxing unit.

(d) A taxing unit that provides public notice of a proposed tax rate under Subsection (c) is exempt from Sections 26.05(d) and 26.06 and is not subject to an injunction under Section 26.05(e) for failure to comply with Section 26.05(d). A taxing unit that provides public notice of a proposed tax rate under Subsection (c) may not adopt a tax rate that exceeds the rate set out in the notice unless the taxing unit provides additional public notice under Subsection (c) of the higher rate or complies with Sections 26.05(d) and 26.06, as applicable, in adopting the higher rate.

(e) Public notice provided under Subsection (c) must specify:

(1) the tax rate that the governing body proposes to adopt;

(2) the date, time, and location of the meeting of the governing body of the taxing unit at which the governing body will consider adopting the proposed tax rate; and

(3) if the proposed tax rate for the taxing unit exceeds the taxing unit's no-new-revenue tax rate calculated as provided by Section 26.04, a statement substantially identical to the following:

"The proposed tax rate would increase total taxes in (name of taxing unit) by (percentage by which the proposed tax rate exceeds the no-new-revenue tax rate)."

(f) A taxing unit to which this section applies that elects to provide public notice of its proposed tax rate under Subsection (c)(2) must also provide public notice of its proposed tax rate by posting notice of the proposed tax rate, including the information prescribed by Subsection (e), prominently on the home page of the Internet website of the taxing unit.

Added by Acts 1999, 76th Leg., ch. 255, Sec. 1, eff. May 28, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 47, eff. January 1, 2020.

Sec. 26.06. NOTICE, HEARING, AND VOTE ON TAX INCREASE. (a) A public hearing required by Section 26.05 may not be held before the fifth day after the date the notice of the public hearing is given. The hearing must be on a weekday that is not a public holiday. The hearing must be held inside the boundaries of the unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. At the hearing, the governing body must afford adequate opportunity for proponents and opponents of the tax increase to present their views.

(b) The notice of a public hearing may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 24-point or larger type.

(b-1) If the proposed tax rate exceeds the no-new-revenue tax rate and the voter-approval tax rate of the taxing unit, the notice must contain a statement in the following form:

"NOTICE OF PUBLIC HEARING ON TAX INCREASE

"PROPOSED TAX RATE $_____ per $100

"NO-NEW-REVENUE TAX RATE $_____ per $100

"VOTER-APPROVAL TAX RATE $_____ per $100

"The no-new-revenue tax rate is the tax rate for the (current tax year) tax year that will raise the same amount of property tax revenue for (name of taxing unit) from the same properties in both the (preceding tax year) tax year and the (current tax year) tax

year.

"The voter-approval tax rate is the highest tax rate that (name of taxing unit) may adopt without holding an election to seek voter approval of the rate.

"The proposed tax rate is greater than the no-new-revenue tax rate. This means that (name of taxing unit) is proposing to increase property taxes for the (current tax year) tax year.

"A public hearing on the proposed tax rate will be held on (date and time) at (meeting place).

"The proposed tax rate is also greater than the voter-approval tax rate. If (name of taxing unit) adopts the proposed tax rate, (name of taxing unit) is required to hold an election so that the voters may accept or reject the proposed tax rate. If a majority of the voters reject the proposed tax rate, the tax rate of the (name of taxing unit) will be the voter-approval tax rate. The election will be held on (date of election). You may contact the (name of office responsible for administering the election) for information about voting locations. The hours of voting on election day are (voting hours).

"Your taxes owed under any of the tax rates mentioned above can be calculated as follows:

"Property tax amount = tax rate x taxable value of your property / 100

"(Names of all members of the governing body, showing how each voted on the proposal to consider the tax increase or, if one or more were absent, indicating the absences.)

"The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state."

(b-2) If the proposed tax rate exceeds the no-new-revenue tax rate but does not exceed the voter-approval tax rate of the taxing unit, the notice must contain a statement in the following form:

"NOTICE OF PUBLIC HEARING ON TAX INCREASE

"PROPOSED TAX RATE $_____ per $100

"NO-NEW-REVENUE TAX RATE $_____ per $100

"VOTER-APPROVAL TAX RATE $_____ per $100

"The no-new-revenue tax rate is the tax rate for the (current tax year) tax year that will raise the same amount of property tax revenue for (name of taxing unit) from the same properties in both the (preceding tax year) tax year and the (current tax year) tax

year.

"The voter-approval tax rate is the highest tax rate that (name of taxing unit) may adopt without holding an election to seek voter approval of the rate.

"The proposed tax rate is greater than the no-new-revenue tax rate. This means that (name of taxing unit) is proposing to increase property taxes for the (current tax year) tax year.

"A public hearing on the proposed tax rate will be held on (date and time) at (meeting place).

"The proposed tax rate is not greater than the voter-approval tax rate. As a result, (name of taxing unit) is not required to hold an election at which voters may accept or reject the proposed tax rate. However, you may express your support for or opposition to the proposed tax rate by contacting the members of the (name of governing body) of (name of taxing unit) at their offices or by attending the public hearing mentioned above.

"Your taxes owed under any of the tax rates mentioned above can be calculated as follows:

"Property tax amount = tax rate x taxable value of your property / 100

"(Names of all members of the governing body, showing how each voted on the proposal to consider the tax increase or, if one or more were absent, indicating the absences.)

"The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state."

(b-3) If the proposed tax rate does not exceed the no-new-revenue tax rate but exceeds the voter-approval tax rate of the taxing unit, the notice must contain a statement in the following form:

"NOTICE OF PUBLIC HEARING ON TAX RATE

"PROPOSED TAX RATE $_____ per $100

"NO-NEW-REVENUE TAX RATE $_____ per $100

"VOTER-APPROVAL TAX RATE $_____ per $100

"The no-new-revenue tax rate is the tax rate for the (current tax year) tax year that will raise the same amount of property tax revenue for (name of taxing unit) from the same properties in both the (preceding tax year) tax year and the (current tax year) tax year.

"The voter-approval tax rate is the highest tax rate that (name

of taxing unit) may adopt without holding an election to seek voter approval of the rate.

"The proposed tax rate is not greater than the no-new-revenue tax rate. This means that (name of taxing unit) is not proposing to increase property taxes for the (current tax year) tax year.

"A public hearing on the proposed tax rate will be held on (date and time) at (meeting place).

"The proposed tax rate is greater than the voter-approval tax rate. If (name of taxing unit) adopts the proposed tax rate, (name of taxing unit) is required to hold an election so that the voters may accept or reject the proposed tax rate. If a majority of the voters reject the proposed tax rate, the tax rate of the (name of taxing unit) will be the voter-approval tax rate. The election will be held on (date of election). You may contact the (name of office responsible for administering the election) for information about voting locations. The hours of voting on election day are (voting hours).

"Your taxes owed under any of the tax rates mentioned above can be calculated as follows:

"Property tax amount = tax rate x taxable value of your property / 100

"(Names of all members of the governing body, showing how each voted on the proposal to consider the tax rate or, if one or more were absent, indicating the absences.)

"The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state."

(b-4) In addition to including the information described by Subsection (b-1), (b-2), or (b-3), as applicable, the notice must include the information described by Section 26.062.

(c) The notice of a public hearing under this section may be delivered by mail to each property owner in the taxing unit, or may be published in a newspaper. If the notice is published in a newspaper, it may not be in the part of the paper in which legal notices and classified advertisements appear. If the taxing unit publishes the notice in a newspaper, the taxing unit must also post the notice prominently on the home page of the Internet website of the taxing unit from the date the notice is first published until the public hearing is concluded.

(d) The governing body may vote on the proposed tax rate at the

public hearing. If the governing body does not vote on the proposed tax rate at the public hearing, the governing body shall announce at the public hearing the date, time, and place of the meeting at which it will vote on the proposed tax rate.

(e) A meeting to vote on the tax increase may not be held later than the seventh day after the date of the public hearing. The meeting must be held inside the boundaries of the taxing unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access.

(f) Repealed by Acts 2005, 79th Leg., Ch. 1368, Sec. 6, eff. June 18, 2005.

(g) This section does not apply to a school district. A school district shall provide notice of a public hearing on a tax increase as required by Section 44.004, Education Code.

Acts 1979, 66th Leg., p. 2278, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 164, ch. 13, Sec. 118, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 5464, ch. 1029, Sec. 1, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 657, Sec. 4, eff. June 14, 1985; Acts 1985, 69th Leg., 1st C.S., ch. 1, Sec. 3, eff. Sept. 1, 1986; Acts 1987, 70th Leg., ch. 456, Sec. 1, eff. Aug. 31, 1987; Acts 1987, 70th Leg., ch. 947, Sec. 8, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 940, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 46, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 165, Sec. 29.07, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1039, Sec. 28, 29, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 398, Sec. 4, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 1358, Sec. 3, eff. Jan. 1, 2000.

Amended by:

Acts 2005, 79th Leg., Ch. 807 (S.B. 567), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1368 (S.B. 18), Sec. 2, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1368 (S.B. 18), Sec. 6, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1105 (H.B. 3495), Sec. 1, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1112 (H.B. 3630), Sec. 5(a), eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1112 (H.B. 3630), Sec. 5(b), eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1112 (H.B. 3630), Sec. 5(c), eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.005, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 6, eff. January 1, 2016.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 48, eff. January 1, 2020.

Sec. 26.061. NOTICE OF MEETING TO VOTE ON PROPOSED TAX RATE THAT DOES NOT EXCEED LOWER OF NO-NEW-REVENUE OR VOTER-APPROVAL TAX RATE. (a) This section applies only to the governing body of a taxing unit other than a school district that proposes to adopt a tax rate that does not exceed the lower of the no-new-revenue tax rate or the voter-approval tax rate calculated as provided by this chapter.

(b) The notice of the meeting at which the governing body of the taxing unit will vote on the proposed tax rate must contain a statement in the following form:

"NOTICE OF MEETING TO VOTE ON TAX RATE

"PROPOSED TAX RATE $_____ per $100

"NO-NEW-REVENUE TAX RATE $_____ per $100

"VOTER-APPROVAL TAX RATE $_____ per $100

"The no-new-revenue tax rate is the tax rate for the (current tax year) tax year that will raise the same amount of property tax revenue for (name of taxing unit) from the same properties in both the (preceding tax year) tax year and the (current tax year) tax year.

"The voter-approval tax rate is the highest tax rate that (name of taxing unit) may adopt without holding an election to seek voter approval of the rate.

"The proposed tax rate is not greater than the no-new-revenue tax rate. This means that (name of taxing unit) is not proposing to increase property taxes for the (current tax year) tax year.

"A public meeting to vote on the proposed tax rate will be held on (date and time) at (meeting place).

"The proposed tax rate is also not greater than the voter-approval tax rate. As a result, (name of taxing unit) is not

required to hold an election to seek voter approval of the rate. However, you may express your support for or opposition to the proposed tax rate by contacting the members of the (name of governing body) of (name of taxing unit) at their offices or by attending the public meeting mentioned above.

"Your taxes owed under any of the above rates can be calculated as follows:

"Property tax amount = tax rate x taxable value of your property / 100

"(Names of all members of the governing body, showing how each voted on the proposed tax rate or, if one or more were absent, indicating the absences.)

"The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state."

(c) In addition to including the information described by Subsection (b), the notice must include the information described by Section 26.062.

(d) The notice required under this section must be provided in the manner required under Section 26.06(c).

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 49, eff. January 1, 2020.

Sec. 26.062. ADDITIONAL INFORMATION TO BE INCLUDED IN TAX RATE NOTICE. (a) In addition to the information described by Section 26.06(b-1), (b-2), or (b-3) or 26.061, as applicable, a notice required by that provision must include at the end of the notice:

(1) a statement in the following form:

"The following table compares the taxes imposed on the average residence homestead by (name of taxing unit) last year to the taxes proposed to be imposed on the average residence homestead by (name of taxing unit) this year:";

(2) a table in the form required by this section following the statement described by Subdivision (1); and

(3) a statement in the following form following the table:

(A) if the tax assessor for the taxing unit maintains an Internet website: "For assistance with tax calculations, please contact the tax assessor for (name of taxing unit) at (telephone

number) or (e-mail address), or visit (Internet website address) for more information."; or

(B) if the tax assessor for the taxing unit does not maintain an Internet website: "For assistance with tax calculations, please contact the tax assessor for (name of taxing unit) at (telephone number) or (e-mail address)."

(b) The table must contain five rows and four columns.

(c) The first row must appear as follows:

(1) the first column of the first row must be left blank;

(2) the second column of the first row must state the year corresponding to the preceding tax year;

(3) the third column of the first row must state the year corresponding to the current tax year; and

(4) the fourth column of the first row must be entitled "Change".

(d) The second row must appear as follows:

(1) the first column of the second row must be entitled "Total tax rate (per $100 of value)";

(2) the second column of the second row must state the adopted tax rate for the preceding tax year;

(3) the third column of the second row must state the proposed tax rate for the current tax year; and

(4) the fourth column of the second row must state the nominal and percentage difference between the adopted tax rate for the preceding tax year and the proposed tax rate for the current tax year as follows: "(increase or decrease, as applicable) of (nominal difference between tax rate stated in second column of second row and tax rate stated in third column of second row) per $100, or (percentage difference between tax rate stated in second column of second row and tax rate stated in third column of second row)%".

(e) The third row must appear as follows:

(1) the first column of the third row must be entitled "Average homestead taxable value";

(2) the second column of the third row must state the average taxable value of a residence homestead in the taxing unit for the preceding tax year;

(3) the third column of the third row must state the average taxable value of a residence homestead in the taxing unit for the current tax year; and

(4) the fourth column of the third row must state the

percentage difference between the average taxable value of a residence homestead in the taxing unit for the preceding tax year and the average taxable value of a residence homestead in the taxing unit for the current tax year as follows: "(increase or decrease, as applicable) of (percentage difference between amount stated in second column of third row and amount stated in third column of third row)%".

(f) The fourth row must appear as follows:

(1) the first column of the fourth row must be entitled "Tax on average homestead";

(2) the second column of the fourth row must state the amount of taxes imposed by the taxing unit in the preceding tax year on a residence homestead with a taxable value equal to the average taxable value of a residence homestead in the taxing unit in the preceding tax year;

(3) the third column of the fourth row must state the amount of taxes that would be imposed by the taxing unit in the current tax year on a residence homestead with a taxable value equal to the average taxable value of a residence homestead in the taxing unit in the current tax year if the taxing unit adopted the proposed tax rate; and

(4) the fourth column of the fourth row must state the nominal and percentage difference between the amount of taxes imposed by the taxing unit in the preceding tax year on a residence homestead with a taxable value equal to the average taxable value of a residence homestead in the taxing unit in the preceding tax year and the amount of taxes that would be imposed by the taxing unit in the current tax year on a residence homestead with a taxable value equal to the average taxable value of a residence homestead in the taxing unit in the current tax year if the taxing unit adopted the proposed tax rate, as follows: "(increase or decrease, as applicable) of (nominal difference between amount stated in second column of fourth row and amount stated in third column of fourth row), or (percentage difference between amount stated in second column of fourth row and amount stated in third column of fourth row)%".

(g) The fifth row must appear as follows:

(1) the first column of the fifth row must be entitled "Total tax levy on all properties";

(2) the second column of the fifth row must state the amount equal to last year's levy;

(3) the third column of the fifth row must state the amount computed by multiplying the proposed tax rate by the current total value and dividing the product by 100; and

(4) the fourth column of the fifth row must state the nominal and percentage difference between the total amount of taxes imposed by the taxing unit in the preceding tax year and the amount that would be imposed by the taxing unit in the current tax year if the taxing unit adopted the proposed tax rate, as follows: "(increase or decrease, as applicable) of (nominal difference between amount stated in second column of fifth row and amount stated in third column of fifth row), or (percentage difference between amount stated in second column of fifth row and amount stated in third column of fifth row)%".

(h) In calculating the average taxable value of a residence homestead in the taxing unit for the preceding tax year and the current tax year for purposes of Subsections (e) and (f), any residence homestead exemption available only to disabled persons, persons 65 years of age or older, or their surviving spouses must be disregarded.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 49, eff. January 1, 2020.

Sec. 26.063. ALTERNATE PROVISIONS FOR TAX RATE NOTICE WHEN DE MINIMIS RATE EXCEEDS VOTER-APPROVAL TAX RATE. (a) This section applies only to a taxing unit:

(1) that is:

(A) a taxing unit other than a special taxing unit; or

(B) a municipality with a population of less than 30,000, regardless of whether it is a special taxing unit;

(2) that is required to provide notice under Section 26.06(b-1) or (b-3); and

(3) for which the de minimis rate exceeds the voter-approval tax rate.

(b) This subsection applies only to a taxing unit that is required to hold an election under Section 26.07. In the notice required to be provided by the taxing unit under Section 26.06(b-1) or (b-3), as applicable, the taxing unit shall:

(1) add the following to the end of the list of rates

included in the notice:

"DE MINIMIS RATE $_____ per $100";

(2) substitute the following for the definition of "voter-approval tax rate": "The voter-approval tax rate is the highest tax rate that (name of taxing unit) may adopt without holding an election to seek voter approval of the rate, unless the de minimis rate for (name of taxing unit) exceeds the voter-approval tax rate for (name of taxing unit).";

(3) add the following definition of "de minimis rate": "The de minimis rate is the rate equal to the sum of the no-new-revenue maintenance and operations rate for (name of taxing unit), the rate that will raise $500,000, and the current debt rate for (name of taxing unit)."; and

(4) substitute the following for the provision that provides notice that an election is required: "The proposed tax rate is greater than the voter-approval tax rate and the de minimis rate. If (name of taxing unit) adopts the proposed tax rate, (name of taxing unit) is required to hold an election so that the voters may accept or reject the proposed tax rate. If a majority of the voters reject the proposed tax rate, the tax rate of the (name of taxing unit) will be the voter-approval tax rate of the (name of taxing unit). The election will be held on (date of election). You may contact the (name of office responsible for administering the election) for information about voting locations. The hours of voting on election day are (voting hours).".

(c) This subsection applies only to a taxing unit for which the qualified voters of the taxing unit may petition to hold an election under Section 26.075. In the notice required to be provided by the taxing unit under Section 26.06(b-1) or (b-3), as applicable, the taxing unit shall:

(1) add the following to the end of the list of rates included in the notice:

"DE MINIMIS RATE $_____ per $100";

(2) substitute the following for the definition of "voter-approval tax rate": "The voter-approval tax rate is the highest tax rate that (name of taxing unit) may adopt without holding an election to seek voter approval of the rate, unless the de minimis rate for (name of taxing unit) exceeds the voter-approval tax rate for (name of taxing unit).";

(3) add the following definition of "de minimis rate":

"The de minimis rate is the rate equal to the sum of the no-new-revenue maintenance and operations rate for (name of taxing unit), the rate that will raise $500,000, and the current debt rate for (name of taxing unit)."; and

(4) substitute the following for the provision that provides notice that an election is required: "The proposed tax rate is greater than the voter-approval tax rate but not greater than the de minimis rate. However, the proposed tax rate exceeds the rate that allows voters to petition for an election under Section 26.075, Tax Code. If (name of taxing unit) adopts the proposed tax rate, the qualified voters of the (name of taxing unit) may petition the (name of taxing unit) to require an election to be held to determine whether to reduce the proposed tax rate. If a majority of the voters reject the proposed tax rate, the tax rate of the (name of taxing unit) will be the voter-approval tax rate of the (name of taxing unit).".

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 49, eff. January 1, 2020.

Sec. 26.065. SUPPLEMENTAL NOTICE OF HEARING ON TAX RATE INCREASE. (a) In addition to the notice required under Section 26.06, the governing body of a taxing unit required to hold a public hearing by Section 26.05(d) shall give notice of the hearing in the manner provided by this section.

(b) The taxing unit shall post notice of the public hearing prominently on the home page of the Internet website of the taxing unit continuously for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate.

(c) If the taxing unit has free access to a television channel, the taxing unit shall request that the station carry a 60-second notice of the public hearing at least five times a day between the hours of 7 a.m. and 9 p.m. for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate.

(d) The notice of the public hearing required by Subsection (b)

must contain a statement that is substantially the same as the statement required by Section 26.06(b).

(e) This section does not apply to a taxing unit if the taxing unit:

(1) is unable to comply with the requirements of this section because of the failure of an electronic or mechanical device, including a computer or server; or

(2) is unable to comply with the requirements of this section due to other circumstances beyond its control.

(f) A person who owns taxable property is not entitled to an injunction restraining the collection of taxes by a taxing unit in which the property is taxable if the taxing unit has, in good faith, attempted to comply with the requirements of this section.

Added by Acts 1999, 76th Leg., ch. 1358, Sec. 5, eff. Jan. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1368 (S.B. 18), Sec. 3, eff. June 18, 2005.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 50, eff. January 1, 2020.

Sec. 26.07. AUTOMATIC ELECTION TO APPROVE TAX RATE OF TAXING UNIT OTHER THAN SCHOOL DISTRICT. (a) This section applies to a taxing unit other than a school district.

(b) If the governing body of a special taxing unit or a municipality with a population of 30,000 or more adopts a tax rate that exceeds the taxing unit's voter-approval tax rate, or the governing body of a taxing unit other than a special taxing unit or a municipality with a population of less than 30,000 regardless of whether it is a special taxing unit adopts a tax rate that exceeds the greater of the taxing unit's voter-approval tax rate or de minimis rate, the registered voters of the taxing unit at an election held for that purpose must determine whether to approve the adopted tax rate. When increased expenditure of money by a taxing unit is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, that has impacted the taxing unit and the governor has declared any part of the area in which the taxing unit is located as a disaster area, an election is not required under this section to approve the tax

rate adopted by the governing body for the year following the year in which the disaster occurs.

(c) The governing body shall order that the election be held in the taxing unit on the uniform election date prescribed by Section 41.001, Election Code, that occurs in November of the applicable tax year. The order calling the election may not be issued later than the 71st day before the date of the election. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving the ad valorem tax rate of $_____ per $100 valuation in (name of taxing unit) for the current year, a rate that is $_____ higher per $100 valuation than the voter-approval tax rate of (name of taxing unit), for the purpose of (description of purpose of increase). Last year, the ad valorem tax rate in (name of taxing unit) was $_____ per $100 valuation." The ballot proposition must include the adopted tax rate, the difference between the adopted tax rate and the voter-approval tax rate, and the taxing unit's tax rate for the preceding tax year in the appropriate places.

(d) If a majority of the votes cast in the election favor the proposition, the tax rate for the current year is the rate that was adopted by the governing body.

(e) If the proposition is not approved as provided by Subsection (d), the taxing unit's tax rate for the current tax year is the taxing unit's voter-approval tax rate.

(f) If, after tax bills for the taxing unit have been mailed, a proposition to approve the taxing unit's adopted tax rate is not approved by the voters of the taxing unit at an election held under this section, the assessor for the taxing unit shall prepare and mail corrected tax bills. The assessor shall include with the bill a brief explanation of the reason for and effect of the corrected bill.

(g) If a property owner pays taxes calculated using the originally adopted tax rate of the taxing unit and the proposition to approve the adopted tax rate is not approved by voters, the taxing unit shall refund the difference between the amount of taxes paid and the amount due under the voter-approval tax rate if the difference between the amount of taxes paid and the amount due under the voter-approval tax rate is $1 or more. If the difference between the amount of taxes paid and the amount due under the voter-approval tax rate is less than $1, the taxing unit shall refund the difference on request of the taxpayer. An application for a refund of less than $1 must be made within 90 days after the date the refund becomes due or

the taxpayer forfeits the right to the refund.

Acts 1979, 66th Leg., p. 2279, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 165, ch. 13, Sec. 119, eff. Jan. 1, 1982; Acts 1985, 69th Leg., 1st C.S., ch. 1, Sec. 2(a), eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 457, Sec. 13, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 947, Sec. 9, eff. Jan. 1, 1988; Acts 1993, 73rd Leg., ch. 292, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 728, Sec. 84, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 29.08, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 1368 (S.B. 18), Sec. 4, eff. June 18, 2005.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 51, eff. January 1, 2020.

Sec. 26.075. PETITION ELECTION TO REDUCE TAX RATE OF TAXING UNIT OTHER THAN SCHOOL DISTRICT. (a) This section applies only to a taxing unit other than:

(1) a special taxing unit;

(2) a school district; or

(3) a municipality with a population of 30,000 or more.

(b) This section applies to a taxing unit only in a tax year in which the taxing unit's:

(1) de minimis rate exceeds the taxing unit's voter-approval tax rate; and

(2) adopted tax rate is:

(A) equal to or lower than the taxing unit's de minimis rate; and

(B) greater than the greater of the taxing unit's:

(i) voter-approval tax rate calculated as if the taxing unit were a special taxing unit; or

(ii) voter-approval tax rate.

(c) The qualified voters of a taxing unit by petition may require that an election be held to determine whether to reduce the tax rate adopted by the governing body of the taxing unit for the current tax year to the voter-approval tax rate.

(d) A petition is valid only if the petition:

(1) states that it is intended to require an election in

the taxing unit on the question of reducing the taxing unit's adopted tax rate for the current tax year;

(2) is signed by a number of registered voters of the taxing unit equal to at least three percent of the registered voters of the taxing unit determined according to the most recent list of those voters; and

(3) is submitted to the governing body of the taxing unit not later than the 90th day after the date on which the governing body adopts the tax rate for the current tax year.

(e) Not later than the 20th day after the date on which a petition is submitted, the governing body shall determine whether the petition is valid and must by resolution state the governing body's determination. If the governing body fails to make the determination in the time and manner required by this subsection, the petition is considered to be valid for the purposes of this section.

(f) If the governing body determines that the petition is valid or fails to make the determination in the time and manner required by Subsection (e), the governing body shall order that an election be held in the taxing unit on the next uniform election date that allows sufficient time to comply with the requirements of other law.

(g) At the election, the ballots shall be prepared to permit voting for or against the proposition: "Reducing the tax rate in (name of taxing unit) for the current year from (insert tax rate adopted for current year) to (insert voter-approval tax rate)."

(h) If a majority of the votes cast in the election favor the proposition, the tax rate for the current tax year is the voter-approval tax rate.

(i) If the proposition is not approved as provided by Subsection (h), the tax rate for the taxing unit for the current tax year is the tax rate adopted by the governing body of the taxing unit for the current tax year.

(j) If the tax rate is reduced by an election held under this section after tax bills for the taxing unit have been mailed, the assessor for the taxing unit shall prepare and mail corrected tax bills. The assessor shall include with the bill a brief explanation of the reason for and effect of the corrected bill. The date on which the taxes become delinquent for the tax year is extended by a number of days equal to the number of days between the date the first tax bills were sent and the date the corrected tax bills were sent.

(k) If a property owner pays taxes calculated using the higher

tax rate when the tax rate is reduced by an election held under this section, the taxing unit shall refund the difference between the amount of taxes paid and the amount due under the reduced tax rate if the difference between the amount of taxes paid and the amount due under the reduced tax rate is $1 or more. If the difference between the amount of taxes paid and the amount due under the reduced rate is less than $1, the taxing unit shall refund the difference on request of the taxpayer. An application for a refund of less than $1 must be made within 90 days after the date the refund becomes due or the taxpayer forfeits the right to the refund.

(l) Except as otherwise expressly provided by law, this section does not apply to a tax imposed by a taxing unit if a provision of an uncodified local or special law enacted by the 86th Legislature, Regular Session, 2019, or by an earlier legislature provides that Section 26.07 does not apply to a tax imposed by the taxing unit.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 52, eff. January 1, 2020.

Sec. 26.08. AUTOMATIC ELECTION TO APPROVE TAX RATE OF SCHOOL DISTRICT. (a) If the governing body of a school district adopts a tax rate that exceeds the district's voter-approval tax rate, the registered voters of the district at an election held for that purpose must determine whether to approve the adopted tax rate.

(a-1) When increased expenditure of money by a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, that has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election is not required under this section to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs. A tax rate adopted under this subsection applies only in the year for which the rate is adopted. If a district adopts a tax rate under this subsection, the amount by which that rate exceeds the district's voter-approval tax rate for that tax year may not be considered when calculating the district's voter-approval tax rate for the tax year following the year in which the district adopts the rate.

(b) The governing body shall order that the election be held in

the school district on the next uniform election date prescribed by Section 41.001, Election Code, that occurs after the date of the election order and that allows sufficient time to comply with the requirements of other law. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Ratifying the ad valorem tax rate of ___ (insert adopted tax rate) in (name of school district) for the current year, a rate that will result in an increase of _____ (insert percentage increase in maintenance and operations tax revenue under the adopted tax rate as compared to maintenance and operations tax revenue in the preceding tax year) percent in maintenance and operations tax revenue for the district for the current year as compared to the preceding year, which is an additional $____ (insert dollar amount of increase in maintenance and operations tax revenue under the adopted tax rate as compared to maintenance and operations tax revenue in the preceding tax year)."

(c) If a majority of the votes cast in the election favor the proposition, the tax rate for the current year is the rate that was adopted by the governing body.

(d) If the proposition is not approved as provided by Subsection (c), the governing body may not adopt a tax rate for the school district for the current year that exceeds the school district's voter-approval tax rate.

(d-1) If, after tax bills for the school district have been mailed, a proposition to approve the school district's adopted tax rate is not approved by the voters of the district at an election held under this section, on subsequent adoption of a new tax rate by the governing body of the district, the assessor for the school shall prepare and mail corrected tax bills. The assessor shall include with each bill a brief explanation of the reason for and effect of the corrected bill. The date on which the taxes become delinquent for the year is extended by a number of days equal to the number of days between the date the first tax bills were sent and the date the corrected tax bills were sent.

(d-2) If a property owner pays taxes calculated using the originally adopted tax rate of the school district and the proposition to approve the adopted tax rate is not approved by voters, the school district shall refund the difference between the amount of taxes paid and the amount due under the subsequently adopted rate if the difference between the amount of taxes paid and the amount due under the subsequent rate is $1 or more. If the

difference between the amount of taxes paid and the amount due under the subsequent rate is less than $1, the school district shall refund the difference on request of the taxpayer. An application for a refund of less than $1 must be made within 90 days after the date the refund becomes due or the taxpayer forfeits the right to the refund.

(e) For purposes of this section, local tax funds dedicated to a junior college district under Section 45.105(e), Education Code, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district. However, the funds dedicated to the junior college district are subject to Section 26.085.

(f) Repealed by Acts 1999, 76th Leg., ch. 396, Sec. 3.01(c), eff. Sept. 1, 1999.

(g) In a school district that received distributions from an equalization tax imposed under former Chapter 18, Education Code, the no-new-revenue rate of that tax as of the date of the county unit system's abolition is added to the district's voter-approval tax rate.

(h) For purposes of this section, increases in taxable values and tax levies occurring within a reinvestment zone under Chapter 311 (Tax Increment Financing Act), in which the district is a participant, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district.

(i) For purposes of this section, "enrichment tax rate" has the meaning assigned by Section 45.0032, Education Code.

(n) For purposes of this section, the voter-approval tax rate of a school district is the sum of the following:

(1) the rate per $100 of taxable value that is equal to the district's maximum compressed tax rate, as determined under Section 48.2551, Education Code, for the current year;

(2) the greater of:

(A) the district's enrichment tax rate for the preceding tax year, less any amount by which the district is required to reduce the district's enrichment tax rate under Section 48.202(f), Education Code, in the current tax year; or

(B) the rate of $0.05 per $100 of taxable value; and

(3) the district's current debt rate.

(n-1) For the 2020 tax year, a school district shall substitute "$0.04" for "$0.05" in Subsection (n)(2)(B)(ii) if the governing body of the district does not adopt by unanimous vote for that tax year a

maintenance and operations tax rate at least equal to the sum of the rate described by Subsection (n)(2)(A) and the rate of $0.05 per $100 of taxable value.

(o) Repealed by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(c)(1), eff. September 1, 2019.

(p) Repealed by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(c)(1), eff. September 1, 2019.

Acts 1979, 66th Leg., p. 2280, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 166, ch. 13, Sec. 120, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 5377, ch. 987, Sec. 4, eff. June 19, 1983; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, Sec. 14, eff. Sept. 1, 1984; Acts 1987, 70th Leg., ch. 947, Sec. 10, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 816, Sec. 22, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 20, Sec. 20, 26, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 2.04, eff. May 31, 1993; Acts 1993, 73rd Leg., ch. 728, Sec. 85, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 260, Sec. 47, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 506, Sec. 4, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 828, Sec. 4(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 592, Sec. 2.03, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 396, Sec. 1.40, 3.01(c), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1187, Sec. 2.11, eff. Sept. 1, 2001.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.14, eff. May 31, 2006.

Acts 2009, 81st Leg., R.S., Ch. 777 (S.B. 1024), Sec. 1, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.063, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.065, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1A.008, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(c)(1), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 53, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 54, eff. January 1, 2020.

Sec. 26.081. PETITION SIGNATURES. (a) A voter's signature on a petition filed in connection with an election under this chapter is not required to appear exactly as the voter's name appears on the most recent official list of registered voters for the signature to be valid.

(b) If the governing body reviewing the petition is unable to verify the validity of a particular voter's signature, and the petition does not contain any reasonable means by which they might otherwise do so, such as the voter's registration number, home address, or telephone number, the governing body may then require the organizer of the petition to provide such information for that particular voter if the organizer wishes for the signature to be counted.

Added by Acts 1989, 71st Leg., ch. 319, Sec. 1, eff. Sept. 1, 1989.

Sec. 26.085. ELECTION TO LIMIT DEDICATION OF SCHOOL FUNDS TO JUNIOR COLLEGE. (a) If the percentage of the total tax levy of a school district dedicated by the governing body of the school district to a junior college district under Section 45.105(e), Education Code, exceeds the percentage of the total tax levy of the school district for the preceding year dedicated to the junior college district under that section, the qualified voters of the school district by petition may require that an election be held to determine whether to limit the percentage of the total tax levy dedicated to the junior college district to the same percentage as the percentage of the preceding year's total tax levy dedicated to the junior college district.

(b) A petition is valid only if:

(1) it states that it is intended to require an election on the question of limiting the amount of school district tax funds to be dedicated to the junior college district for the current year;

(2) it is signed by a number of registered voters of the school district equal to at least 10 percent of the number of registered voters of the school district according to the most recent official list of registered voters; and

(3) it is submitted to the governing body on or before the

90th day after the date on which the governing body made the dedication to the junior college district.

(c) Not later than the 20th day after the day a petition is submitted, the governing body shall determine whether the petition is valid and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is treated as if it had been found valid.

(d) If the governing body finds that the petition is valid (or fails to act within the time allowed), it shall order that an election be held in the school district on a date not less than 30 or more than 90 days after the last day on which it could have acted to approve or disapprove the petition. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Limiting the portion of the (name of school district) tax levy dedicated to the (name of junior college district) for the current year to the same portion that was dedicated last year."

(e) If a majority of the qualified voters voting on the question in the election favor the proposition, the percentage of the total tax levy of the school district for the year to which the election applies dedicated to the junior college district is reduced to the same percentage of the total tax levy that was dedicated to the junior college district by the school district in the preceding year. If the proposition is approved by a majority of the qualified voters voting in an election to limit the dedication to the junior college district in a year following a year in which there was no dedication of local tax funds to the junior college district under Section 45.105(e), Education Code, the school district may not dedicate any local tax funds to the junior college district in the year to which the election applies. If the proposition is not approved by a majority of the qualified voters voting in the election, the percentage of the total tax levy dedicated to the junior college district is the percentage adopted by the governing body.

Added by Acts 1983, 68th Leg., p. 5374, ch. 987, Sec. 2, eff. June 19, 1983. Amended by Acts 1993, 73rd Leg., ch. 728, Sec. 86, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.78, eff. Sept.

1, 1997.

Sec. 26.09. CALCULATION OF TAX. (a) On receipt of notice of the tax rate for the current tax year, the assessor for a taxing unit other than a county shall calculate the tax imposed on each property included on the appraisal roll for the unit.

(b) The county assessor-collector shall add the properties and their values certified to him as provided by Chapter 24 of this code to the appraisal roll for county tax purposes. The county assessor-collector shall use the appraisal roll certified to him as provided by Section 26.01 with the added properties and values to calculate county taxes.

(c) The tax is calculated by:

(1) subtracting from the appraised value of a property as shown on the appraisal roll for the unit the amount of any partial exemption allowed the property owner that applies to appraised value to determine net appraised value;

(2) multiplying the net appraised value by the assessment ratio to determine assessed value;

(3) subtracting from the assessed value the amount of any partial exemption allowed the property owner to determine taxable value; and

(4) multiplying the taxable value by the tax rate.

(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 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), the amount of back taxes due incurs interest calculated at the rate provided by Section 33.01(c) from the date the tax would have become delinquent had the tax been imposed in the proper tax year.

(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.

(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.

(e) The assessor shall enter the amount of tax determined as provided by this section in the appraisal roll and submit it to the governing body of the unit for approval. The appraisal roll with amounts of tax entered as approved by the governing body constitutes the unit's tax roll.

Acts 1979, 66th Leg., p. 2281, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S. p. 166, ch. 13, Sec. 121, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4827, ch. 851, Sec. 19, eff. Aug. 29, 1983.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 138 (S.B. 551), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 6, eff. June 15, 2015.

Sec. 26.10. PRORATING TAXES--LOSS OF EXEMPTION. (a) If the appraisal roll shows that a property is eligible for taxation for only part of a year because an exemption, other than a residence homestead exemption, applicable on January 1 of that year terminated during the year, the tax due against the property is calculated by multiplying the tax due for the entire year as determined as provided by Section 26.09 of this code by a fraction, the denominator of which is 365 and the numerator of which is the number of days the exemption is not applicable.

(b) If the appraisal roll shows that a residence homestead

exemption under Section 11.13(c) or (d), 11.132, 11.133, or 11.134 applicable to a property on January 1 of a year terminated during the year and if the owner of the property qualifies a different property for one of those residence homestead exemptions during the same year, the tax due against the former residence homestead is calculated by:

(1) subtracting:

(A) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the owner qualified for the residence homestead exemption for the entire year; from

(B) the amount of the taxes that otherwise would be imposed on the former residence homestead for the entire year had the owner not qualified for the residence homestead exemption during the year;

(2) multiplying the remainder determined under Subdivision (1) 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; and

(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(A).

(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.

Acts 1979, 66th Leg., p. 2282, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 5002, ch. 896, Sec. 1, eff. Jan. 1, 1984; Acts 1997, 75th Leg., ch. 1039, Sec. 30, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1059, Sec. 5, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 62, Sec. 16.06, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1061, Sec. 1, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 411, Sec. 5, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 597 (S.B. 201), Sec. 2, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 122 (H.B. 97), Sec. 5, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 138 (S.B. 163), Sec. 5, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(28), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 511 (S.B. 15), Sec. 5, eff. January 1, 2018.

Sec. 26.11. PRORATING TAXES--ACQUISITION BY GOVERNMENT. (a) If the federal government, the state, or a political subdivision of the state acquires the right to possession of taxable property under a court order issued in condemnation proceedings, takes possession of taxable property under a possession and use agreement or under Section 21.021, Property Code, or acquires title to taxable property, the amount of the tax due on the property is calculated by multiplying the amount of taxes imposed on the property for the entire year as determined as provided by Section 26.09 of this code by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed prior to the date of the conveyance, the effective date of the possession and use agreement, the date the entity took possession under Section 21.021, Property Code, or the date of the order granting the right of possession, as applicable.

(b) If the amount of taxes to be imposed on the property for the year of transfer has not been determined at the time of transfer, the assessor for each taxing unit in which the property is taxable may use the taxes imposed on the property for the preceding tax year as the basis for determining the amount of taxes to be imposed for the current tax year.

(c) If the amount of prorated taxes determined to be due as provided by this section is tendered to the collector for the unit, the collector shall accept the tender. The payment absolves:

(1) the transferor of liability for taxes by the unit on the property for the year of the transfer; and

(2) the taxing unit of liability for a refund in connection with taxes on the property for the year of the transfer.

Acts 1979, 66th Leg., p. 2282, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 8, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 674 (S.B. 2083), Sec. 1, eff. June 10, 2019.

Sec. 26.111. PRORATING TAXES--ACQUISITION BY CHARITABLE ORGANIZATION. (a) If an organization acquires taxable property that qualifies for and is granted an exemption under Section 11.181(a) or 11.182(a) for the year in which the property was acquired, the amount of tax due on the property for that year is calculated by multiplying the amount of taxes imposed on the property for the entire year as provided by Section 26.09 by a fraction, the denominator of which is 365 and the numerator of which is the number of days in that year before the date the charitable organization acquired the property.

(b) If the exemption terminates during the year of acquisition, the tax due is calculated by multiplying the taxes imposed for the entire year as provided by Section 26.09 by a fraction, the denominator of which is 365 and the numerator of which is the number of days the property does not qualify for the exemption.

Acts 1993, 73rd Leg., ch. 345, Sec. 4, eff. Jan. 1, 1994. Amended by Acts 1997, 75th Leg., ch. 715, Sec. 4, eff. Jan. 1, 1998.

Sec. 26.112. CALCULATION OF TAXES ON RESIDENCE HOMESTEAD OF CERTAIN PERSONS. (a) Except as provided by Section 26.10(b), if at any time during a tax year property is owned by an individual who qualifies for an exemption under Section 11.13(c) or (d), 11.133, or 11.134, the amount of the tax due on the property for the tax year is calculated as if the individual qualified for the exemption on January 1 and continued to qualify for the exemption for the remainder of the tax year.

(b) If an individual qualifies for an exemption under Section 11.13(c) or (d), 11.133, or 11.134 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 was the owner of the property on the date the tax was paid the amount by which the payment exceeded the tax due.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 31, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1059, Sec. 6, eff. June 19, 1997. Amended by Acts 1999, 76th Leg., ch. 1481, Sec. 8, eff. Jan. 1, 2000; Acts 2001, 77th Leg., ch. 1061, Sec. 2, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 411, Sec. 6, eff. Jan. 1, 2004.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 511 (S.B. 15), Sec. 6, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 448 (S.B. 1856), Sec. 4, eff. September 1, 2019.

Sec. 26.1125. CALCULATION OF TAXES ON RESIDENCE HOMESTEAD OF 100 PERCENT OR TOTALLY DISABLED VETERAN. (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 was the owner of the property on the date the tax was paid the amount by which the payment exceeded the tax due.

Added by Acts 2011, 82nd Leg., R.S., Ch. 597 (S.B. 201), Sec. 3, eff. January 1, 2012.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 448 (S.B. 1856), Sec. 5, eff. September 1, 2019.

Sec. 26.1127. CALCULATION OF TAXES ON DONATED RESIDENCE HOMESTEAD OF DISABLED VETERAN OR SURVIVING SPOUSE OF DISABLED VETERAN. (a) Except as provided by Section 26.10(b), if at any time during a tax year property is owned by an individual who qualifies for an exemption under Section 11.132, the amount of the tax due on the property for the tax year is calculated as if the individual qualified for the exemption on January 1 and continued to qualify for the exemption for the remainder of the tax year.

(b) If an individual qualifies for an exemption under Section 11.132 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 individual in whose name the property is listed on the tax roll or to the individual's authorized agent. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the individual who was the owner of the property on the date the tax was paid the amount by which the payment exceeded the tax due.

Added by Acts 2013, 83rd Leg., R.S., Ch. 122 (H.B. 97), Sec. 6, eff. January 1, 2014.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 448 (S.B. 1856), Sec. 6, eff. September 1, 2019.

Sec. 26.113. PRORATING TAXES--ACQUISITION BY NONPROFIT

ORGANIZATION. (a) If a person acquires taxable property that qualifies for and is granted an exemption covered by Section 11.42(d) for a portion of the year in which the property was acquired, the amount of tax due on the property for that year is computed by multiplying the amount of taxes imposed on the property for the entire year as provided by Section 26.09 by a fraction, the denominator of which is 365 and the numerator of which is the number of days in that year before the date the property qualified for the exemption.

(b) If the exemption terminates during the year of acquisition, the tax due is computed by multiplying the taxes imposed for the entire year as provided by Section 26.09 by a fraction, the denominator of which is 365 and the numerator of which is the number of days the property does not qualify for the exemption.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 31, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1155, Sec. 3, eff. Jan. 1, 1998. Amended by Acts 1999, 76th Leg., ch. 1481, Sec. 9, eff. Jan. 1, 2000.

Sec. 26.12. UNITS CREATED DURING TAX YEAR. (a) If a taxing unit is created after January 1 and before July 1, the chief appraiser shall prepare and deliver an appraisal roll for the unit as provided by Section 26.01 of this code as if the unit had existed on January 1.

(b) If the taxing unit created after January 1 and before July 1 imposes taxes for the year, it shall do so as provided by this chapter as if it had existed on January 1.

(c) If a taxing unit is created too late for observance of the deadline provided by Section 26.01 of this code for certification of the appraisal roll to the assessor for the unit, the chief appraiser shall submit the appraisal roll as provided by Section 26.01 as soon as practicable.

(d) Except as provided by Subsection (e), a taxing unit created after June 30 may not impose property taxes in the year in which the unit is created.

(e) Repealed by Acts 1993, 73rd Leg., ch. 347, Sec. 4.13(2), eff. May 31, 1993.

Acts 1979, 66th Leg., p. 2282, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 39, Sec. 1, eff. Jan. 1, 1988;

Acts 1989, 71st Leg., ch. 796, Sec. 29, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 20, Sec. 21, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.13(2), eff. May 31, 1993.

Sec. 26.13. TAXING UNIT CONSOLIDATION DURING TAX YEAR. (a) If two or more taxing units consolidate into a single taxing unit after January 1, the governing body of the consolidated unit may elect to impose taxes for the current tax year either as if the unit as consolidated had existed on January 1 or as if the consolidation had not occurred.

(b) The chief appraiser shall prepare and deliver an appraisal roll for the unit or units in accordance with the election made by the governing body.

(c) Whatever the election, the assessor and collector for the unit, as consolidated shall assess and collect taxes on property that is taxable by the unit as consolidated.

Acts 1979, 66th Leg., p. 2283, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 26.135. TAX DATES FOR CERTAIN SCHOOL DISTRICTS. (a) A school district that before January 1, 1989, has for at least 10 years followed a practice of adopting its tax rate at a different date than as provided by this chapter and of billing for and collecting its taxes at different dates than as provided by Chapters 31 and 33 may continue to follow that practice.

(b) This section does not affect the dates provided by this title for other purposes, including those relating to the appraisal and taxability of property, the attachment of tax liens and personal liability for taxes, and administrative and judicial review under Chapters 41 and 42.

Added by Acts 1989, 71st Leg., ch. 813, Sec. 6.11, eff. Sept. 1, 1989.

Sec. 26.14. ANNEXATION OF PROPERTY DURING TAX YEAR. (a) Except as provided by Subsection (b) of this section, a taxing unit may not impose a tax on property annexed by the unit after January 1.

(b) If a taxing unit annexes territory during a tax year that

was located in another taxing unit of like kind on January 1, each unit shall impose taxes on property located within its boundaries on the date the appraisal review board approves the appraisal roll for the district. The chief appraiser shall prepare and deliver an appraisal roll for each unit in accordance with the requirements of this subsection.

(c) For purposes of this section, "taxing units of like kind" are taxing units that are authorized by the laws by or pursuant to which they are created to perform essentially the same services.

Acts 1979, 66th Leg., p. 2283, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 26.15. CORRECTION OF TAX ROLL. (a) Except as provided by Chapters 41 and 42 of this code and in this section, the tax roll for a taxing unit may not be changed after it is completed.

(b) The assessor for a unit shall enter on the tax roll the changes made in the appraisal roll as provided by Section 25.25 of this code.

(c) At any time, the governing body of a taxing unit, on motion of the assessor for the unit or of a property owner, shall direct by written order changes in the tax roll to correct errors in the mathematical computation of a tax. The assessor shall enter the corrections ordered by the governing body.

(d) Except as provided by Subsection (e) of this section, if a correction in the tax roll that changes the tax liability of a property owner is made after the tax bill is mailed, the assessor shall prepare and mail a corrected tax bill in the manner provided by Chapter 31 of this code for tax bills generally. He shall include with the bill a brief explanation of the reason for and effect of the corrected bill.

(e) If a correction that increases the tax liability of a property owner is made after the tax is paid, the assessor shall prepare and mail a supplemental tax bill in the manner provided by Chapter 31 of this code for tax bills generally. He shall include with the supplemental bill a brief explanation of the reason for and effect of the supplemental bill. The additional tax is due on receipt of the supplemental bill and becomes delinquent if not paid before the delinquency date prescribed by Chapter 31 of this code or before the first day of the next month after the date of the mailing

that will provide at least 21 days for payment of the tax, whichever is later.

(f) If a correction that decreases the tax liability of a property owner is made after the owner has paid the tax, the taxing unit shall refund to the property owner who paid the tax the difference between the tax paid and the tax legally due, except as provided by Section 25.25(n). A property owner is not required to apply for a refund under this subsection to receive the refund.

(g) A taxing unit that determines a taxpayer is delinquent in ad valorem tax payments on property other than the property for which liability for a refund arises or for a tax year other than the tax year for which liability for a refund arises may apply the amount of an overpayment to the payment of the delinquent taxes if the taxpayer was the sole owner of the property:

(1) for which the refund is sought on January 1 of the tax year in which the taxes that were overpaid were assessed; and

(2) on which the taxes are delinquent on January 1 of the tax year for which the delinquent taxes were assessed.

Acts 1979, 66th Leg., p. 2283, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 418, Sec. 1, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 198, Sec. 2, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1430, Sec. 7, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 643 (H.B. 709), Sec. 1, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 7, eff. June 15, 2015.

Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 7, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 172 (H.B. 2989), Sec. 1, eff. May 26, 2017.

For expiration of this section, see Subsection (c).

Sec. 26.151. ESCROW ACCOUNT FOR PROPERTY TAXES. (a) In this section:

(1) "Home loan" has the meaning assigned by Section 343.001, Finance Code.

(2) "Home loan servicer" means a person who:

(A) receives scheduled payments from a borrower under the terms of a home loan, including amounts for escrow accounts; and

(B) makes the payments of principal and interest to the owner of the loan or other third party and makes any other payments with respect to the amounts received from the borrower as may be required under the terms of the servicing loan document or servicing contract.

(3) "Property tax escrow account" means an escrow account maintained by a lender or loan servicer to hold funds prepaid by the borrower on a loan for the payment of property taxes on real property securing the loan as the taxes become due.

(b) To the extent that H.B. 3, 86th Legislature, Regular Session, 2019, has the effect of reducing property taxes in this state, a lender or home loan servicer of a home loan that maintains a property tax escrow account must take into account the effect of that legislation in establishing the borrower's annual property tax payments to be held in that account and immediately adjust the borrower's monthly payments accordingly.

(c) This section expires September 1, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 1.064, eff. September 1, 2019.

Sec. 26.16. POSTING OF TAX-RELATED INFORMATION ON COUNTY'S INTERNET WEBSITE. (a) Each county shall maintain an Internet website. The county assessor-collector for each county shall post on the Internet website maintained by the county the following information for the most recent five tax years 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 no-new-revenue tax rate;

(5) the no-new-revenue maintenance and operations rate; and

(6) the voter-approval tax rate.

(a-1) For purposes of Subsection (a), a reference to the no-new-revenue tax rate or the no-new-revenue maintenance and operations rate includes the equivalent effective tax rate or effective maintenance and operations rate for a preceding year. This

subsection expires January 1, 2026.

(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 taxing 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 taxing unit's debt service for the following year.

"The no-new-revenue 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 no-new-revenue 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 voter-approval tax rate is the highest tax rate a taxing

unit may adopt before requiring voter approval at an election. An election will automatically be held if a taxing unit wishes to adopt a tax rate in excess of the taxing unit's voter-approval tax rate."

(d-1) In addition to posting the information described by Subsection (a), the county assessor-collector shall post on the Internet website of the county for each taxing unit all or part of the territory of which is located in the county:

(1) the tax rate calculation forms used by the designated officer or employee of each taxing unit to calculate the no-new-revenue and voter-approval tax rates of the taxing unit for the most recent five tax years beginning with the 2020 tax year, as certified by the designated officer or employee under Section 26.04(d-2); and

(2) the name and official contact information for each member of the governing body of the taxing unit.

(d-2) By August 7 or as soon thereafter as practicable, the county assessor-collector shall post on the website the tax rate calculation forms described by Subsection (d-1)(1) for the current tax year.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 803 (H.B. 2338), Sec. 1, eff. September 1, 2011.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 55, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 56, eff. January 1, 2020.

Sec. 26.17. DATABASE OF PROPERTY-TAX-RELATED INFORMATION. (a) The chief appraiser of each appraisal district shall create and maintain a property tax database that:

(1) is identified by the name of the county in which the appraisal district is established instead of the name of the appraisal district;

(2) contains information that is provided by designated officers or employees of the taxing units that are located in the appraisal district in the manner required by the comptroller;

(3) is continuously updated as preliminary and revised data become available to and are provided by the designated officers or employees of taxing units;

(4) is accessible to the public;

(5) is searchable by property address and owner, except to the extent that access to the information in the database is restricted by Section 25.025 or 25.026; and

(6) includes the following statement: "The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state.".

(b) The database must include, with respect to each property listed on the appraisal roll for the appraisal district:

(1) the property's identification number;

(2) the property's market value;

(3) the property's taxable value;

(4) the name of each taxing unit in which the property is located;

(5) for each taxing unit other than a school district in which the property is located:

(A) the no-new-revenue tax rate; and

(B) the voter-approval tax rate;

(6) for each school district in which the property is located:

(A) the tax rate that would maintain the same amount of state and local revenue per weighted student that the district received in the school year beginning in the preceding tax year; and

(B) the voter-approval tax rate;

(7) the tax rate proposed by the governing body of each taxing unit in which the property is located;

(8) for each taxing unit other than a school district in which the property is located, the taxes that would be imposed on the property if the taxing unit adopted a tax rate equal to:

(A) the no-new-revenue tax rate; and

(B) the proposed tax rate;

(9) for each school district in which the property is located, the taxes that would be imposed on the property if the district adopted a tax rate equal to:

(A) the tax rate that would maintain the same amount of state and local revenue per weighted student that the district

received in the school year beginning in the preceding tax year; and

(B) the proposed tax rate;

(10) for each taxing unit other than a school district in which the property is located, the difference between the amount calculated under Subdivision (8)(A) and the amount calculated under Subdivision (8)(B);

(11) for each school district in which the property is located, the difference between the amount calculated under Subdivision (9)(A) and the amount calculated under Subdivision (9)(B);

(12) the date, time, and location of the public hearing, if applicable, on the proposed tax rate to be held by the governing body of each taxing unit in which the property is located;

(13) the date, time, and location of the public meeting, if applicable, at which the tax rate will be adopted to be held by the governing body of each taxing unit in which the property is located; and

(14) for each taxing unit in which the property is located, an e-mail address at which the taxing unit is capable of receiving written comments regarding the proposed tax rate of the taxing unit.

(c) The database must provide a link to the Internet website used by each taxing unit in which the property is located to post the information described by Section 26.18.

(d) The database must allow the property owner to electronically complete and submit to a taxing unit in which the owner's property is located a form on which the owner may provide the owner's opinion as to whether the tax rate proposed by the governing body of the taxing unit should be adopted. The form must require the owner to provide the owner's name and contact information and the physical address of the owner's property located in the taxing unit. The database must allow a property owner to complete and submit the form at any time during the period beginning on the date the governing body of the taxing unit proposes the tax rate for that tax year and ending on the date the governing body adopts a tax rate for that tax year.

(e) The officer or employee designated by the governing body of each taxing unit in which the property is located to calculate the no-new-revenue tax rate and the voter-approval tax rate for the taxing unit must electronically incorporate into the database:

(1) the information described by Subsections (b)(5), (6),

(7), (12), and (13), as applicable, as the information becomes available; and

(2) the tax rate calculation forms prepared under Section 26.04(d-1) at the same time the designated officer or employee submits the tax rates to the governing body of the taxing unit under Section 26.04(e).

(f) The chief appraiser shall make the information described by Subsection (e)(1) and the tax rate calculation forms described by Subsection (e)(2) available to the public not later than the third business day after the date the information and forms are incorporated into the database.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 57, eff. January 1, 2020.

Sec. 26.18. POSTING OF TAX RATE AND BUDGET INFORMATION BY TAXING UNIT ON WEBSITE. Each taxing unit shall maintain an Internet website or have access to a generally accessible Internet website that may be used for the purposes of this section. Each taxing unit shall post or cause to be posted on the Internet website the following information in a format prescribed by the comptroller:

(1) the name of each member of the governing body of the taxing unit;

(2) the mailing address, e-mail address, and telephone number of the taxing unit;

(3) the official contact information for each member of the governing body of the taxing unit, if that information is different from the information described by Subdivision (2);

(4) the taxing unit's budget for the preceding two years;

(5) the taxing unit's proposed or adopted budget for the current year;

(6) the change in the amount of the taxing unit's budget from the preceding year to the current year, by dollar amount and percentage;

(7) in the case of a taxing unit other than a school district, the amount of property tax revenue budgeted for maintenance and operations for:

(A) the preceding two years; and

(B) the current year;

(8) in the case of a taxing unit other than a school district, the amount of property tax revenue budgeted for debt service for:

(A) the preceding two years; and

(B) the current year;

(9) the tax rate for maintenance and operations adopted by the taxing unit for the preceding two years;

(10) in the case of a taxing unit other than a school district, the tax rate for debt service adopted by the taxing unit for the preceding two years;

(11) in the case of a school district, the interest and sinking fund tax rate adopted by the district for the preceding two years;

(12) the tax rate for maintenance and operations proposed by the taxing unit for the current year;

(13) in the case of a taxing unit other than a school district, the tax rate for debt service proposed by the taxing unit for the current year;

(14) in the case of a school district, the interest and sinking fund tax rate proposed by the district for the current year; and

(15) the most recent financial audit of the taxing unit.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 57, eff. January 1, 2020.

SUBTITLE E. COLLECTIONS AND DELINQUENCY

CHAPTER 31. COLLECTIONS

Sec. 31.01. TAX BILLS. (a) Except as provided by Subsections (f), (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.

(b) The county assessor-collector shall mail the tax bill for Permanent University Fund land to the comptroller. The comptroller shall pay all county tax bills on Permanent University Fund land with warrants drawn on the General Revenue Fund and mailed to the county assessors-collectors before February 1.

(c) The tax bill or a separate statement accompanying the tax bill shall:

(1) identify the property subject to the tax;

(2) state the appraised value, assessed value, and taxable value of the property;

(3) if the property is land appraised as provided by Subchapter C, D, E, or H, Chapter 23, state the market value and the taxable value for purposes of deferred or additional taxation as provided by Section 23.46, 23.55, 23.76, or 23.9807, as applicable;

(4) state the assessment ratio for the unit;

(5) state the type and amount of any partial exemption applicable to the property, indicating whether it applies to appraised or assessed value;

(6) state the total tax rate for the unit;

(7) state the amount of tax due, the due date, and the delinquency date;

(8) explain the payment option and discounts provided by Sections 31.03 and 31.05, if available to the unit's taxpayers, and state the date on which each of the discount periods provided by Section 31.05 concludes, if the discounts are available;

(9) state the rates of penalty and interest imposed for delinquent payment of the tax;

(10) include the name and telephone number of the assessor for the unit and, if different, of the collector for the unit;

(11) for real property, state for the current tax year and each of the preceding five tax years:

(A) the appraised value and taxable value of the property;

(B) the total tax rate for the unit;

(C) the amount of taxes imposed on the property by the unit; and

(D) the difference, expressed as a percent increase or decrease, as applicable, in the amount of taxes imposed on the property by the unit compared to the amount imposed for the preceding tax year; and

(12) for real property, state the differences, expressed as a percent increase or decrease, as applicable, in the following for the current tax year as compared to the fifth tax year before that tax year:

(A) the appraised value and taxable value of the property;

(B) the total tax rate for the unit; and

(C) the amount of taxes imposed on the property by the unit.

(c-1) If for any of the preceding six tax years any information required by Subsection (c)(11) or (12) to be included in a tax bill or separate statement is unavailable, the tax bill or statement must state that the information is not available for that year.

(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.

(d) Each tax bill shall also state the amount of penalty, if any, imposed pursuant to Sections 23.431, 23.54, 23.541, 23.75, 23.751, 23.87, 23.97, and 23.9804.

(d-1) This subsection applies only to a school district. In addition to stating the total tax rate for the school district, the tax bill or the separate statement shall separately state:

(1) the maintenance and operations rate of the school district;

(2) if the school district has outstanding debt, as defined by Section 26.012, the debt rate of the district;

(3) the maintenance and operations rate of the school district for the preceding tax year;

(4) if for the current tax year the school district imposed taxes for debt, as defined by Section 26.012, the debt rate of the district for the current tax year;

(5) if for the preceding tax year the school district

imposed taxes for debt, as defined by Section 26.012, the debt rate of the district for that year; and

(6) the total tax rate of the district for the preceding tax year.

(e) An assessor may include taxes for more than one taxing unit in the same tax bill, but he shall include the information required by Subsection (c) of this section for the tax imposed by each unit included in the bill.

(f) A collector may provide that a tax bill not be sent until the total amount of unpaid taxes the collector collects on the property for all taxing units the collector serves is $15 or more. A collector may not send a tax bill for an amount of taxes less than $15 if before the tax bill is prepared the property owner files a written request with the collector that a tax bill not be sent until the total amount of unpaid taxes the collector collects on the property is $15 or more. The request applies to all subsequent taxes the collector collects on the property until the property owner in writing revokes the request or the person no longer owns the property.

(g) Except as provided by Subsection (f), 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.

(h) An assessor who assesses taxes for more than one taxing unit may prepare and deliver separate bills for the taxes of a taxing unit that does not adopt a tax rate for the year before the 60th day after the date the chief appraiser certifies the appraisal roll for the unit under Section 26.01 of this code or, if the taxing unit participates in more than one appraisal district, before the 60th day after the date it receives a certified appraisal roll from any of the appraisal districts in which it participates. If separate tax bills are prepared and delivered under this subsection, the taxing unit or taxing units that failed to adopt the tax rate before the prescribed deadline must pay the additional costs incurred in preparing and mailing the separate bills in addition to any other compensation required or agreed to be paid for the appraisal services rendered.

(i) For a city or town that imposes an additional sales and use tax under Section 321.101(b) of this code, or a county that imposes a

sales and use tax under Chapter 323 of this code, the tax bill shall indicate the amount of additional ad valorem taxes, if any, that would have been imposed on the property if additional ad valorem taxes had been imposed in an amount equal to the amount of revenue estimated to be collected from the additional city sales and use tax or from the county sales and use tax, as applicable, for the year determined as provided by Section 26.041 of this code.

(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.

(j) If a tax bill is mailed under Subsection (a) or delivered by electronic means under Subsection (k) 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.

(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.

(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.

Acts 1979, 66th Leg., p. 2284, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2359, ch. 581, Sec. 3, eff. Jan. 1, 1982; Acts 1981, 67th Leg., 1st C.S., p. 166, ch. 13, Sec. 122, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 15, ch. 5, Sec. 1, eff. March 14, 1983; Acts 1985, 69th Leg., ch. 429, Sec. 1, eff. June 11, 1985; Acts 1987, 70th Leg., ch. 11, Sec. 13, eff. April 2, 1987; Acts 1987, 70th Leg., ch. 834, Sec. 1, eff. June 18, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 14.27(d)(2), 14.28(2), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 969, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 836, Sec. 9.1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 47, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 926, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1012, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 906, Sec. 1, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1039, Sec. 32, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 547, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 631, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 846 (S.B. 898), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1255 (H.B. 1984), Sec. 2, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 1368 (S.B. 18), Sec. 5, eff. June 18, 2005.

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.15(a), eff. May 31, 2006.

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.15(b), eff. May 31, 2006.

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.15(c), eff. May 31, 2006.

Acts 2007, 80th Leg., R.S., Ch. 107 (H.B. 923), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1106 (H.B. 3496), Sec. 2, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1205 (S.B. 562), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 138 (S.B. 551), Sec. 2, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 483 (H.B. 843), Sec. 2, eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 8, eff. June 15, 2015.

Sec. 31.02. DELINQUENCY DATE. (a) Except as provided by Subsection (b) of this section and by Sections 31.03 and 31.04 of this code, taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed.

(b) An eligible person serving on active duty in any branch of the United States armed forces may pay delinquent property taxes on property in which the person owns any interest without penalty or interest no later than the 60th day after the date on which the earliest of the following occurs:

(1) the person is discharged from active military service;

(2) the person returns to the state for more than 10 days; or

(3) the person returns to non-active duty status in the reserves.

(c) "Eligible person" means a person on active military duty in this state who was transferred out of this state or a person in the reserve forces who was placed on active military duty and transferred out of this state.

(d) A person eligible under Subsection (b) or any co-owner of property that is owned by an eligible person may notify the county tax assessor or collector or central appraisal district for the county in which the property is located of the person's eligibility for exemption under Subsection (b). The county tax assessor or collector or central appraisal district shall provide the forms necessary for those individuals giving notice under this subsection. If the notice is timely given, a taxing unit in the county may not bring suit for delinquent taxes for the tax year in which the notice is given. Failure to file a notice does not affect eligibility for the waiver of penalties and interest.

(e) On verification that notice was properly filed under Subsection (d), a suit for delinquent taxes must be abated without cost to the defendant. The exemptions provided for under this

section shall immediately stop all actions against eligible persons until the person's eligibility expires as provided in Subsection (b).

(f) This section applies only to property in which the person eligible for the exemption owned an interest on the date the person was transferred out of this state as described by Subsection (c) or in which the person acquired the interest by gift, devise, or inheritance after that date.

(g) For the purposes of this section, a person is considered to be on active military duty if the person is covered by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. Section 501 et seq.) or the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended.

(h) Repealed by Acts 2003, 78th Leg., ch. 129, Sec. 2.

Acts 1979, 66th Leg., p. 2285, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 381, Sec. 1, eff. Aug. 26, 1991; Acts 2003, 78th Leg., ch. 129, Sec. 1, 2, eff. May 27, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 9, eff. June 15, 2015.

Acts 2019, 86th Leg., R.S., Ch. 788 (H.B. 1883), Sec. 1, eff. September 1, 2019.

Sec. 31.03. SPLIT PAYMENT OF TAXES. (a) The governing body of a taxing unit that collects its own taxes may provide, in the manner required by law for official action by the body, that a person who pays one-half of the unit's taxes before December 1 may pay the remaining one-half of the taxes without penalty or interest before July 1 of the following year.

(b) Except as provided by Subsection (d), the split-payment option, if adopted, applies to taxes for all units for which the adopting taxing unit collects taxes.

(c) If one or more taxing units contract with the appraisal district for collection of taxes, the split-payment option provided by Subsection (a) of this section does not apply to taxes collected by the district unless approved by resolution adopted by a majority of the governing bodies of the taxing units whose taxes the district collects and filed with the secretary of the appraisal district board of directors. After an appraisal district provides for the split-

payment option, the option applies to all taxes collected by the district until revoked. It may be revoked in the same manner as provided for adoption.

(d) This subsection applies only to a taxing unit located in a county having a population of not less than 285,000 and not 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.

Acts 1979, 66th Leg., p. 2285, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1981, 67th Leg., 1st C.S., p. 167, ch. 13, Sec. 123, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4827, ch. 851, Sec. 20, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 4875, ch. 862, Sec. 1, eff. Sept. 1, 1983.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 395 (S.B. 796), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 115, eff. September 1, 2011.

Sec. 31.031. INSTALLMENT PAYMENTS OF CERTAIN HOMESTEAD TAXES. (a) This section applies only to:

(1) an individual who is:

(A) disabled or at least 65 years of age; and

(B) qualified for an exemption under Section 11.13(c); or

(2) an individual who is:

(A) a disabled veteran or the unmarried surviving spouse of a disabled veteran; and

(B) qualified for an exemption under Section 11.132 or 11.22.

(a-1) An individual to whom this section applies may pay a taxing unit's taxes imposed on property that the person owns and occupies as a residence homestead in four equal installments without penalty or interest if the first installment is paid before the

delinquency date and is accompanied by notice to the taxing unit that the person will pay the remaining taxes in three equal installments. If the delinquency date is February 1, the second installment must be paid before April 1, the third installment must be paid before June 1, and the fourth installment must be paid before August 1. If the delinquency date is a date other than February 1, the second installment must be paid before the first day of the second month after the delinquency date, the third installment must be paid before the first day of the fourth month after the delinquency date, and the fourth installment must be paid before the first day of the sixth month after the delinquency date.

(a-2) Notwithstanding the deadline prescribed by Subsection (a-1) for payment of the first installment, an individual to whom this section applies may pay the taxes in four equal installments as provided by Subsection (a-1) if the first installment is paid and the required notice is provided before the first day of the first month after the delinquency date.

(b) If the individual fails to make a payment, including the first payment, before the applicable date provided by Subsection (a-1), the unpaid installment is delinquent and incurs a penalty of six percent and interest as provided by Section 33.01(c). The penalty provided by Section 33.01(a) does not apply to the unpaid installment.

(c) An individual may pay more than the amount due for each installment and the amount in excess of the amount due shall be credited to the next installment. An individual may not pay less than the total amount due for each installment unless the collector provides for the acceptance of partial payments under this section. If the collector accepts a partial payment, penalties and interest are incurred only by the amount of each installment that remains unpaid on the applicable date provided by Subsection (a-1).

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 226 , Sec. 6, eff. September 1, 2015.

Added by Acts 1989, 71st Leg., ch. 746, Sec. 1, eff. Sept. 1, 1990.
Amended by Acts 1993, 73rd Leg., ch. 171, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 510, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 1274 (H.B. 2254), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 36.01, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 122 (H.B. 97), Sec. 7, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.004, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 643 (H.B. 709), Sec. 2, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 935 (H.B. 1597), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 226 (H.B. 1933), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 226 (H.B. 1933), Sec. 6, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 725 (S.B. 1047), Sec. 1, eff. January 1, 2018.

Sec. 31.032. INSTALLMENT PAYMENTS OF TAXES ON PROPERTY IN DISASTER AREA. (a) This section applies only to:

(1) real property that:

(A) is:

(i) the residence homestead of the owner or consists of property that is used for residential purposes and that has fewer than five living units; or

(ii) owned or leased by a business entity that had not more than the amount calculated as provided by Subsection (h) in gross receipts in the entity's most recent federal tax year or state franchise tax annual period, according to the applicable federal income tax return or state franchise tax report of the entity;

(B) is located in a disaster area; and

(C) has been damaged as a direct result of the disaster;

(2) tangible personal property that is owned or leased by a business entity described by Subdivision (1)(A)(ii); and

(3) taxes that are imposed on the property by a taxing unit before the first anniversary of the disaster.

(b) A person may pay a taxing unit's taxes imposed on property that the person owns in four equal installments without penalty or interest if the first installment is paid before the delinquency date

and is accompanied by notice to the taxing unit that the person will pay the remaining taxes in three equal installments. If the delinquency date is February 1, the second installment must be paid before April 1, the third installment must be paid before June 1, and the fourth installment must be paid before August 1. If the delinquency date is a date other than February 1, the second installment must be paid before the first day of the second month after the delinquency date, the third installment must be paid before the first day of the fourth month after the delinquency date, and the fourth installment must be paid before the first day of the sixth month after the delinquency date.

(b-1) Notwithstanding the deadline prescribed by Subsection (b) for payment of the first installment, a person to whom this section applies may pay the taxes in four equal installments as provided by Subsection (b) if the first installment is paid and the required notice is provided before the first day of the first month after the delinquency date.

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

(d) A person may pay more than the amount due for each installment and the amount in excess of the amount due shall be credited to the next installment. A person may not pay less than the total amount due for each installment unless the collector provides for the acceptance of partial payments under this section. If the collector accepts a partial payment, penalties and interest are incurred only by the amount of each installment that remains unpaid on the applicable date provided by Subsection (b).

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 226 , Sec. 6, eff. September 1, 2015.

(f) The comptroller shall adopt rules to implement this section.

(g) In this section:

(1) "Disaster" has the meaning assigned by Section 418.004, Government Code.

(2) "Disaster area" has the meaning assigned by Section 151.350.

(h) For the 2009 tax year, the limit on gross receipts under Subsection (a)(1)(A)(ii) is $5 million. For each subsequent tax

year, the comptroller shall adjust the limit to reflect inflation by using the index that the comptroller considers to most accurately report changes in the purchasing power of the dollar for consumers in this state and shall publicize the adjusted limit. Each collector shall use the adjusted limit as calculated by the comptroller under this subsection to determine whether property is owned or leased by a business entity described by Subsection (a)(1)(A)(ii).

Added by Acts 1995, 74th Leg., ch. 1041, Sec. 1, eff. June 17, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 359 (H.B. 1257), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 387 (S.B. 432), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 226 (H.B. 1933), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 226 (H.B. 1933), Sec. 6, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 725 (S.B. 1047), Sec. 2, eff. January 1, 2018.

Sec. 31.035. PERFORMANCE OF SERVICE IN LIEU OF PAYMENT OF TAXES ON HOMESTEAD OF ELDERLY PERSON. (a) The governing body of a taxing unit by order or resolution may permit an individual who is at least 65 years of age to perform service for the taxing unit in lieu of paying taxes imposed by the taxing unit on property owned by the individual and occupied as the individual's residence homestead.

(b) The governing body of the taxing unit shall determine:

(1) the number of property owners who will be permitted to perform service for the taxing unit under this section; and

(2) the maximum number of hours of service that a property owner may perform for the taxing unit under this section.

(c) The governing body shall require that each property owner permitted to perform service for the taxing unit under this section execute a contract with the taxing unit. The contract must be executed before the delinquency date and must:

(1) specify:

(A) the nature of the service that the property owner will perform for the taxing unit;

(B) the facility or location where the service will be performed;

(C) the number of hours of service the property owner will perform; and

(D) when the property owner will perform the service; and

(2) set out or describe the provisions of Subsections (d), (e), and (f).

(d) For each hour of service performed for the taxing unit, the property owner receives a credit against the taxes owed in an amount equal to the amount that would be earned by working one hour at the federal hourly minimum wage rate. The contract must require the property owner to perform the service not later than one year after the delinquency date for the taxes against which the property owner receives credit.

(e) Taxes for which the property owner is to receive credit under the contract do not become delinquent on the delinquency date otherwise provided by this chapter as long as the contract is in effect and are considered paid when the service is performed. If the property owner fails to perform the service, or if the taxing unit determines that the service of the property owner is unsatisfactory, the taxing unit shall terminate the contract and notify the property owner of the termination. The unpaid taxes for which the property owner was to receive credit under the contract for service not yet performed become delinquent and incur penalty and interest provided by Section 33.01 on the later of:

(1) the delinquency date otherwise provided by this chapter for the unpaid taxes; or

(2) the first day of the next calendar month that begins at least 21 days after the date the taxing unit delivers notice to the property owner that the contract has been terminated.

(f) While performing service for a taxing unit, the property owner:

(1) is not an employee of the taxing unit; and

(2) is not entitled to any benefit, including workers' compensation coverage, that the taxing unit provides to an employee of the taxing unit.

(g) Property owners performing services for a taxing unit under this section may only supplement or complement the regular personnel of the taxing unit. A taxing unit may not reduce the number of

persons the taxing unit employs or reduce the number of hours to be worked by employees of the taxing unit because the taxing unit permits property owners to perform services for the taxing unit under this section.

(h) A person performing service for a taxing unit under this section is not entitled to indemnification from the taxing unit for injury or property damage the person sustains or liability the person incurs in performing service under this section. The taxing unit is not liable for any damages arising from an act or omission of the person in performing service under this section.

Added by Acts 1999, 76th Leg., ch. 637, Sec. 1, eff. Aug. 30, 1999.

Sec. 31.036. PERFORMANCE OF TEACHING SERVICES IN LIEU OF PAYMENT OF SCHOOL TAXES ON HOMESTEAD. (a) The governing body of a school district by resolution may permit qualified individuals to perform teaching services for the school district at a junior high school or high school of the district in lieu of paying taxes imposed by the district on property owned and occupied by the individual as a residence homestead.

(b) The governing body of the school district shall determine:

(1) the number of qualified individuals who will be permitted to perform teaching services for the district under this section;

(2) the courses that a qualified individual may teach for the district under this section; and

(3) the amount of the tax credit that a qualified individual may earn.

(c) The governing body shall require that each qualified individual permitted to perform teaching services for the district under this section execute a contract with the district. The contract must be executed before the delinquency date and must:

(1) specify:

(A) the course or courses that the qualified individual will teach for the district;

(B) the high school or junior high school of the district where the qualified individual will perform the teaching services;

(C) the semester in which the qualified individual will

perform the teaching services; and

(D) the amount of the tax credit that the qualified individual will receive on successful completion of the individual's contractual obligations; and

(2) set out or describe the provisions of Subsections (d)-(g).

(d) A qualified individual who teaches a course for an entire school semester is entitled to a maximum credit of $500 against the taxes imposed, except that if the qualified individual teaches a course for which a student receives a full year's credit for one semester, the qualified individual is entitled to a maximum credit of $1,000 for each such course taught for one semester by the qualified individual. A qualified individual may not receive credits for teaching more than two courses in any school year.

(e) The district shall terminate the contract if:

(1) the qualified individual fails to perform the teaching services; or

(2) the district determines that the teaching services of the qualified individual are unsatisfactory.

(f) If the contract is terminated under Subsection (e), on the termination date the district may grant the individual a portion of the tax credit based on the portion of the teaching services performed.

(g) While performing teaching services for a school district, the qualified individual:

(1) is not an employee of the district; and

(2) is not entitled to any benefit, including workers' compensation coverage, that the district provides to an employee of the district.

(h) An individual is qualified to perform teaching services for a school district under this section only if the individual holds a baccalaureate or more advanced degree in a field related to each course to be taught and:

(1) is certified as a classroom teacher under Subchapter B, Chapter 21, Education Code; or

(2) obtains a school district teaching permit under Section 21.055, Education Code.

Added by Acts 1999, 76th Leg., ch. 637, Sec. 2, eff. Aug. 30, 1999.

Sec. 31.037. PERFORMANCE OF TEACHING SERVICES BY EMPLOYEE IN LIEU OF PAYMENT OF SCHOOL TAXES ON PROPERTY OF BUSINESS ENTITY. (a) The governing body of a school district by resolution may authorize a corporation or other business entity to permit a qualified individual employed by the business entity to perform teaching services in a high school or a junior high school for the school district in lieu of paying taxes imposed by the district on property owned by the business entity.

(b) The governing body of the school district shall determine:

(1) the number of business entities that will be eligible for a tax credit under this section;

(2) the courses that an employee of the business entity may teach for the district under this section; and

(3) the amount of the tax credit that a business entity may earn.

(c) The governing body shall require that each business entity permitted to provide an employee to perform teaching services for the district under this section execute a contract with the district. The contract must be executed before the delinquency date and must:

(1) specify:

(A) the course or courses that the employee will teach for the district;

(B) the high school or junior high school of the district where the employee will perform the teaching services;

(C) the semester in which the employee will perform the teaching services; and

(D) the amount of the tax credit that the business entity will receive on successful completion of the contractual obligations of the business entity and its employee; and

(2) set out or describe the provisions of Subsections (d)-(h).

(d) For each course taught for the entire school semester by an employee of the business entity for the school district, the business entity is entitled to a maximum credit of $500 against the taxes imposed, except that if the employee teaches a course for which a student receives a full year's credit for one semester, the business entity is entitled to a maximum credit of $1,000 for each such course taught for one semester by the employee.

(e) The district shall terminate the contract if:

(1) the employee fails to perform the teaching services;

or

(2) the district determines that the teaching services of the employee of the business entity are unsatisfactory.

(f) If the contract is terminated under Subsection (e), on the termination date the district may grant the business entity a portion of the tax credit based on the portion of the teaching services performed.

(g) While performing teaching services for a school district, the employee of the business entity:

(1) is not an employee of the district; and

(2) is not entitled to any benefit, including workers' compensation coverage, that the district provides to an employee of the district.

(h) An individual may not perform teaching services for which a business entity receives a tax credit under this section if the individual enters into a contract with the same school district to provide teaching services for a tax credit for the same tax year under Section 31.036.

(i) An individual is qualified to perform teaching services for a school district under this section only if the individual holds a baccalaureate or more advanced degree in a field related to the course to be taught and:

(1) is certified as a classroom teacher under Subchapter B, Chapter 21, Education Code; or

(2) obtains a school district teaching permit under Section 21.055, Education Code.

Added by Acts 1999, 76th Leg., ch. 637, Sec. 2, eff. Aug. 30, 1999.

Sec. 31.04. POSTPONEMENT OF DELINQUENCY DATE. (a) If a tax bill is mailed after January 10, the delinquency date provided by Section 31.02 of this code is postponed to the first day of the next month that will provide a period of at least 21 days after the date of mailing for payment of taxes before delinquent unless the taxing unit has adopted the discounts provided by Section 31.05(c) of this code, in which case the delinquency date is determined by Subsection (d) of this section.

(a-1) If a tax bill is mailed that includes taxes for one or more preceding tax years because the property was erroneously omitted

from the tax roll in those tax years, the delinquency date provided by Section 31.02 is postponed to February 1 of the first year that will provide a period of at least 180 days after the date the tax bill is mailed in which to pay the taxes before they become delinquent.

(b) If the delinquency date is postponed as provided by this section, the assessor who mails the bills shall notify the governing body of each taxing unit whose taxes are included in the bills of the postponement.

(c) A payment option provided by Section 31.03 of this code or a discount adopted under Section 31.05(b) of this code does not apply to taxes that are calculated too late for it to be available.

(d) If a taxing unit mails its tax bills after September 30 and adopts the discounts provided by Section 31.05(c) of this code, the delinquency date is postponed to the first day of the next month following the fourth full calendar month following the date the tax bills were mailed.

(e) If the delinquency date for a tax is postponed under Subsection (a) or (a-1), that postponed delinquency date is the date on which penalties and interest begin to be incurred on the tax as provided by Section 33.01.

Acts 1979, 66th Leg., p. 2285, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 16, ch. 5, Sec. 2, eff. March 14, 1983; Acts 1985, 69th Leg., ch. 753, Sec. 1, eff. June 14, 1985; Acts 2003, 78th Leg., ch. 151, Sec. 1, eff. Sept. 1, 2003.

Sec. 31.05. DISCOUNTS. (a) The governing body of a taxing unit may adopt the discounts provided by Subsection (b) or Subsection (c), or both, in the manner required by law for official action by the body. The discounts, if adopted, apply only to that taxing unit's taxes. If a taxing unit adopts both discounts under Subsections (b) and (c), the discounts adopted under Subsection (b) apply unless the tax bills for the unit are mailed after September 30, in which case only the discounts under Subsection (c) apply. A taxing unit that collects taxes for another taxing unit that adopts the discounts may prepare and mail separate tax bills on behalf of the adopting taxing unit and may charge an additional fee for preparing and mailing the separate tax bills and for collecting the

taxes imposed by the adopting taxing unit. If under an intergovernmental contract a county assessor-collector collects taxes for a taxing unit that adopts the discounts, the county assessor-collector may terminate the contract if the county has adopted a discount policy that is different from the discount policy adopted by the adopting taxing unit.

(b) A taxing unit may adopt the following discounts to apply regardless of the date on which it mails its tax bills:

(1) three percent if the tax is paid in October or earlier;

(2) two percent if the tax is paid in November; and

(3) one percent if the tax is paid in December.

(c) A taxing unit may adopt the following discounts to apply when it mails its tax bills after September 30:

(1) three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed;

(2) two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed; and

(3) one percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.

(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.

Acts 1979, 66th Leg., p. 2285, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 167, ch. 13, Sec. 124, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 16, ch. 5, Sec. 2, eff. March 14, 1983; Acts 1983, 68th Leg., pp. 4875, 4876, ch. 862, Sec. 2, 3, eff. Sept. 1, 1983.

Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 9, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 999 (H.B. 2169), Sec. 1, eff. June 17, 2011.

Sec. 31.06. MEDIUM OF PAYMENT. (a) Except as provided by

Section 31.061, taxes are payable only as provided by this section. A collector shall accept United States currency or a check or money order in payment of taxes and shall accept payment by credit card or electronic funds transfer.

(b) Acceptance by a collector of a check or money order or of payment by credit card constitutes payment of a tax as of the date of acceptance if the check, money order, or credit card invoice is duly paid or honored. If the check, money order, or credit card invoice is not duly paid or honored, the collector shall deliver written notice of nonpayment to the person who attempted payment by check, money order, or credit card. Until payment is made in full by cash or by a check, money order, or credit card that is duly paid or honored, the lien securing payment of the tax remains in effect, whether or not the person receives notice of nonpayment.

(c) If a tax is paid by credit card, the collector may collect a fee for processing the payment. The collector shall set the fee in an amount that is reasonably related to the expense incurred by the collector or taxing unit in processing the payment by credit card, not to exceed five percent of the amount of taxes and any penalties or interest being paid. The fee is in addition to the amount of taxes, penalties, or interest.

(d) If a check or money order accepted in payment of taxes or the invoice for a payment of taxes by credit card is not duly paid or honored, the amount of any charge against the taxing unit for processing the check, order, or credit card invoice is added to the amount of tax due in the same manner as penalties and interest are added for taxes that are delinquent. The tax lien on the property also secures payment of the amount of the charge.

Acts 1979, 66th Leg., p. 2285, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 167, ch. 13, Sec. 125, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 737, Sec. 1, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 697, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 606, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 529, Sec. 2, eff. June 11, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 88, eff. September 1, 2009.

Sec. 31.061. PAYMENT OF TAXES ASSESSED AGAINST REAL PROPERTY BY CONVEYANCE TO TAXING UNIT OF PROPERTY. (a) An owner of real property may, subject to the approval of the governing body of all of the taxing units, by deed convey the property to the taxing unit that is owed the largest amount of the taxes, penalties, and interest assessed against the property in payment of the taxes, including delinquent taxes, penalties, and interest assessed against the property by each taxing unit. The taxing unit acquiring the property holds title to the property on behalf of each taxing unit. The lien of each taxing unit on the property conveyed is extinguished at the time of the conveyance. The taxing unit acquiring the property may, subject to the approval of the governing body of another taxing unit, by deed convey the property to that taxing unit. The taxing unit acquiring the property holds title to the property on behalf of each taxing unit.

(b) A taxing unit acquiring property under this section may sell the property. The sale may be conducted in a manner provided by Section 34.05. If the taxing unit sells the property within six months after the date the owner conveys the property, the taxing unit shall pay to each taxing unit its proportionate share of the sale proceeds according to each taxing unit's share of the total amount of the taxes, penalties, and interest owed at the time of the acquisition.

(c) A taxing unit that does not sell property acquired under this section within six months after the date the owner conveys the property shall pay to each taxing unit its proportionate share, as determined under Subsection (b), of the appraised market value of the property as shown on the most recent tax roll, less the value of all encumbrances burdening the property. On making the payment provided by this subsection, the taxing unit owns the property outright and not on behalf of each taxing unit. The period during which a taxing unit may hold title to the property on behalf of each taxing unit may be extended subject to the approval of the governing body of each taxing unit.

(d) The collector shall credit against the taxes, penalties, and interest owed each taxing unit:

(1) the taxing unit's share, as determined under Subsection (b), of the sale price if the property is sold within six months after the date the owner conveys the property; or

(2) the taxing unit's share, as determined under Subsection

(b), of the appraised market value of the property as shown on the most recent tax roll, less the value of all encumbrances burdening the property, if the property is not sold within six months after the date the owner conveys the property.

(e) The owner remains personally liable to each taxing unit to the extent the amount of the taxes, penalties, and interest owed each taxing unit exceeds the amount credited under Subsection (d). The owner is entitled to a refund from each taxing unit to the extent the amount credited under Subsection (d) exceeds the amount of the taxes, penalties, and interest owed the taxing unit.

(f) A conveyance of property to a taxing unit under this section is voidable by the taxing unit at any time that the taxing unit owns the property and determines that the condition of the property on the date the owner conveyed it was or may have been in violation of a federal or state law, regulation, rule, or order. If the taxing unit voids the conveyance:

(1) the taxing unit shall execute a quitclaim deed of the property to the owner, file the deed in the county records, and give notice of the deed and its filing to the owner;

(2) the collector shall remove the credit against the taxes, penalties, and interest owed each taxing unit made under this section;

(3) a taxing unit that does not acquire the property shall refund the payment made to it by the taxing unit that acquires the property and reinstate the taxes, penalties, and interest owed the taxing unit; and

(4) the lien of each taxing unit is reinstated as of the date it originally attached.

(g) Repealed by Acts 1997, 75th Leg., ch. 1111, Sec. 8, eff. Sept. 1, 1997.

Added by Acts 1993, 73rd Leg., ch. 697, Sec. 2, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1111, Sec. 1, 8, eff. Sept. 1, 1997.

Sec. 31.07. CERTAIN PAYMENTS ACCEPTED. (a) A person may pay the tax imposed on any one property without simultaneously paying taxes imposed on other property he owns.

(b) A collector shall accept payment of the tax imposed on a

property by a taxing unit that has adopted the discounts under Section 31.05 of this code separately from taxes imposed on that property by other taxing units using the same collector, even if the taxes are included in the same bill. The collector may adopt a policy of accepting separate payments in other circumstances. If the tax paid is included in the same bill as other taxes that are not paid, the collector shall send a revised bill or receipt to reflect the tax payment, if a discount applies to the payment, and may send a revised bill or receipt to reflect the tax payment in other circumstances. The sending of a revised bill does not affect the date on which the unpaid taxes become delinquent.

(c) A collector may adopt a policy of accepting partial payments of property taxes. A payment option provided by Section 31.03 of this code or a discount adopted under Section 31.05 of this code does not apply to any portion of a partial payment. If a collector accepts a partial payment on a tax bill that includes taxes for more than one taxing unit, the collector shall allocate the partial payment among all the taxing units included in the bill in proportion to the amount of tax included in the bill for each taxing unit, unless the collector under Subsection (b) has adopted a policy of accepting payments of a taxing unit's taxes separate from the taxes of other taxing units included in the same bill and the taxpayer directs that the partial payment be allocated in specific amounts to one or more specific taxing units. Acceptance of a partial payment does not affect the date that the tax becomes delinquent, but the penalties and interest provided by Section 33.01 of this code are incurred only by the portion of a tax that remains unpaid on the date the tax becomes delinquent.

(d) Notwithstanding Subsection (c), a collector shall accept a partial payment of property taxes on a tax bill that includes taxes for more than one taxing unit if one or more of the taxing units has adopted the discounts under Section 31.05 of this code, the taxpayer directs that the partial payment be allocated first to the payment of the taxes owed one or more of the taxing units that have adopted the discounts, and the amount of the payment is equal to or greater than the amount of the taxes owed the taxing units designated by the taxpayer.

Acts 1979, 66th Leg., p. 2286, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4827, ch. 851, Sec. 21, eff. Aug.

29, 1983; Acts 1985, 69th Leg., ch. 493, Sec. 1, eff. June 12, 1985; Acts 1989, 71st Leg., ch. 745, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 539, Sec. 1, eff. Sept. 1, 1993.

Sec. 31.071. CONDITIONAL PAYMENTS. (a) The collector of a taxing unit shall accept conditional payments of taxes before the delinquency date for property taxes that are subject to a pending challenge or protest.

(b) A property owner whose property is subject to a pending protest or challenge may pay the tax due on the amount of value of the property involved in the pending action that is not in dispute or the amount of tax paid on the property in the preceding year, whichever is greater, but not to exceed the amount of tax that would be due on the appraised value that is subject to protest or challenge. The collector of the taxing unit shall provide the property owner with a temporary receipt of taxes paid under this section.

(c) If the property is no longer subject to a challenge, protest, or appeal at any time before the delinquency date, the collector shall apply the amount paid by the property owner under this section to the tax imposed on the property and shall refund the remainder, if any, to the property owner. If the property is still subject to an appeal on the last working day before the delinquency date, or at an earlier date if so requested by the property owner, the collector shall apply the amount paid under this section to the payment required by Section 42.08(b) of this code and shall retain the remainder, if any, until the appeal is completed. When the appeal is completed, the collector shall apply any amount retained under this section to the tax ultimately imposed on the property that is not covered by the payment under Section 42.08(b) and shall refund the remainder, if any, to the property owner.

Added by Acts 1987, 70th Leg., ch. 999, Sec. 1, eff. Aug. 31, 1987.

Sec. 31.072. ESCROW ACCOUNTS. (a) The collector for a taxing unit may enter a contract with a property owner under which the property owner deposits money in an escrow account maintained by the collector to provide for the payment of property taxes collected by

the collector on any property the person owns.

(b) A contract may not be made before October 1 of the year preceding the tax year for which the account is established. The collector may agree to establish a combined account for more than one item of property having the same owner on the property owner's request. If a collector collects taxes for more than one taxing unit, an account must apply to taxes on the affected property for each of the taxing units.

(c) A contract under this section must require the property owner to make monthly deposits to the escrow account until the amount set in the contract under Subsection (d) of this section accrues in the account or until the tax bill for the property is prepared, whichever occurs earlier.

(d) On request by a property owner to establish an escrow account under this section, the collector shall estimate the amount of taxes to be imposed on the property by the affected taxing units in that year. A contract to establish an escrow account must provide for deposits that would provide, as of the date the collector estimates the tax bill for the property will be prepared, a total deposit that is not less than the amount of taxes estimated by the collector or the amount of taxes imposed on the property by the affected taxing units in the preceding year, whichever is less. The collector may agree to a deposit of a greater amount on the property owner's request.

(e) The county tax assessor-collector shall maintain the escrow account in the county depository. Any other collector shall maintain the escrow account in the depository of the taxing unit or other entity that employs the collector. The collector is not required to maintain a separate account in the depository for each escrow account but shall maintain separate records for each escrow account.

(f) The property owner may withdraw from the collector the money the owner deposited in an escrow account only if the withdrawal is made before the date the tax bill is prepared or October 1 of the tax year, whichever occurs earlier. On and after that date and until the taxes are paid, the collector must agree to a withdrawal by the taxpayer. The property owner may not withdraw less than the total amount deposited in the escrow account.

(g) When the tax bill is prepared for property for which an escrow account is established, the collector shall apply the money in the account to the taxes imposed and deliver a tax receipt to the

taxpayer together with a refund of any amount in the account in excess of the amount of taxes paid. If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the taxpayer a tax receipt for the partial payment and a tax bill for the unpaid amount. If the escrow account applies to more than one taxing unit or to more than one item of property, the collector shall apply the amount to each taxing unit or item of property in proportion to the amount of taxes imposed unless the contract provides otherwise.

(h) Notwithstanding Subsection (a), if the property owner requesting a collector to establish an escrow account under this section is a disabled veteran as defined by Section 11.22 or a recipient of the Purple Heart, the Congressional Medal of Honor, the Bronze Star Medal, the Silver Star, the Legion of Merit, or a service cross awarded by a branch of the United States armed forces and the escrow account is to be used solely to provide for the payment of property taxes collected by the collector on the property owner's residence homestead, the collector shall enter into a contract with the property owner under this section.

(i) Notwithstanding Subsection (a), if the property owner requesting a collector to establish an escrow account under this section is the owner of a manufactured home and the escrow account is to be used solely to provide for the payment of property taxes collected by the collector on the property owner's manufactured home, the collector shall enter into a contract with the property owner under this section.

Added by Acts 1989, 71st Leg., ch. 737, Sec. 2, eff. Aug. 28, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 85 (S.B. 580), Sec. 1, eff. May 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 71, eff. January 1, 2008.

Sec. 31.073. RESTRICTED OR CONDITIONAL PAYMENTS PROHIBITED. A restriction or condition placed on a check in payment of taxes, penalties, or interest by the maker that limits the amount of taxes, penalties, or interest owed to an amount less than that stated in the tax bill or shown by the tax collector's records is void unless the

restriction or condition is authorized by this code.

Added by Acts 1993, 73rd Leg., ch. 539, Sec. 2, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 10, eff. September 1, 2005.

Sec. 31.075. TAX RECEIPT. (a) At the request of a property owner or a property owner's agent, the collector for a taxing unit shall issue a receipt showing the taxable value and the amount of tax imposed by the unit on the property in one or more tax years for which the information is requested, the tax rate for each of those tax years, and the amount of tax paid in each of those years. The receipt must describe the property in the manner prescribed by the comptroller. If the amount of the tax for the current year has not been calculated when the request is made, the collector shall on request issue to the property owner or agent a statement indicating that taxes for the current year have not been calculated.

(b) In any judicial proceeding, including a suit to collect delinquent taxes under Chapter 33 of this code, a tax receipt issued under this section that states that a tax has been paid constitutes prima facie evidence that the tax has been paid as stated by the receipt.

Added by Acts 1987, 70th Leg., ch. 52, Sec. 1, eff. May 6, 1987.
Amended by Acts 1991, 72nd Leg., ch. 836, Sec. 5.5, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 48, eff. Sept. 1, 1991.
Amended by:
Acts 2005, 79th Leg., Ch. 1154 (H.B. 3101), Sec. 2, eff. September 1, 2005.

Sec. 31.08. TAX CERTIFICATE. (a) At the request of any person, a collector for a taxing unit shall issue a certificate showing the amount of delinquent taxes, penalties, interest, and any known costs and expenses under Section 33.48 due the unit on a property according to the unit's current tax records. If the collector collects taxes for more than one taxing unit, the certificate must show the amount of delinquent taxes, penalties,

interest, and any known costs and expenses under Section 33.48 due on the property to each taxing unit for which the collector collects the taxes. The collector shall charge a fee not to exceed $10 for each certificate issued. The collector shall pay all fees collected under this section into the treasury of the taxing unit that employs the collector.

(b) Except as provided by Subsection (c) of this section, if a person transfers property accompanied by a tax certificate that erroneously indicates that no delinquent taxes, penalties, or interest are due a taxing unit on the property or that fails to include property because of its omission from an appraisal roll as described under Section 25.21, the unit's tax lien on the property is extinguished and the purchaser of the property is absolved of liability to the unit for delinquent taxes, penalties, or interest on the property or for taxes based on omitted property. The person who was liable for the tax for the year the tax was imposed or the property was omitted remains personally liable for the tax and for any penalties or interest.

(c) A tax certificate issued through fraud or collusion is void.

Acts 1979, 66th Leg., p. 2286, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 662, ch. 149, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 105, Sec. 1, eff. Sept. 1, 1987. Amended by:

Acts 2005, 79th Leg., Ch. 846 (S.B. 898), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 11, eff. September 1, 2005.

Sec. 31.081. PROPERTY TAX WITHHOLDING ON PURCHASE OF BUSINESS OR INVENTORY. (a) This section applies only to a person who purchases a business, an interest in a business, or the inventory of a business from a person who is liable under this title for the payment of taxes imposed on personal property used in the operation of that business.

(b) The purchaser shall withhold from the purchase price an amount sufficient to pay all of the taxes imposed on the personal property of the business, plus any penalties and interest incurred,

until the seller provides the purchaser with:

(1) a receipt issued by each appropriate collector showing that the taxes due the applicable taxing unit, plus any penalties and interest, have been paid; or

(2) a tax certificate issued under Section 31.08 stating that no taxes, penalties, or interest is due the applicable taxing unit.

(c) A purchaser who fails to withhold the amount required by this section is liable for that amount to the applicable taxing units to the extent of the value of the purchase price, including the value of a promissory note given in consideration of the sale to the extent of the note's market value on the effective date of the purchase, regardless of whether the purchaser has been required to make any payments on that note.

(d) The purchaser may request each appropriate collector to issue a tax certificate under Section 31.08 or a statement of the amount of the taxes, penalties, and interest that are due to each taxing unit for which the collector collects taxes. The collector shall issue the certificate or statement before the 10th day after the date the request is made. If a collector does not timely provide or mail the certificate or statement to the purchaser, the purchaser is released from the duties and liabilities imposed by Subsections (b) and (c) in connection with taxes, penalties, and interest due the applicable taxing unit.

(e) An action to enforce a duty or liability imposed on a purchaser by Subsection (b) or (c) must be brought before the fourth anniversary of the effective date of the purchase. An action to enforce the purchaser's duty or liability is subject to a limitation plea by the purchaser as to any taxes that have been delinquent at least four years as of the date the collector issues the statement under Subsection (d).

(f) This section does not release a person who sells a business or the inventory of a business from any personal liability imposed on the person for the payment of taxes imposed on the personal property of the business or for penalties or interest on those taxes.

(g) For purposes of this section:

(1) a person is considered to have purchased a business if the person purchases the name of the business or the goodwill associated with the business; and

(2) a person is considered to have purchased the inventory

of a business if the person purchases inventory of a business, the value of which is at least 50 percent of the value of the total inventory of the business on the date of the purchase.

Added by Acts 1999, 76th Leg., ch. 1481, Sec. 10, eff. Jan. 1, 2000.

Sec. 31.10. REPORTS AND REMITTANCES OF OTHER TAXES. (a) Each month the collector of taxes for a taxing unit shall prepare and submit to the governing body of the unit a written report made under oath accounting for all taxes collected for the unit during the preceding month. Reports of collections made in the months of October through January are due on the 25th day of the month following the month that is the subject of the report. Reports of collections made in all other months are due on the 15th day of the month following the month that is the subject of the report. A collector for more than one taxing unit may prepare one report accounting for taxes collected for all units, and he may submit a certified copy of the report as his monthly report to the governing body of each unit.

(b) The collector for a taxing unit shall prepare and submit to the governing body of the unit an annual report made under oath accounting for all taxes of the unit collected or delinquent on property taxed by the unit during the preceding 12-month period. Annual reports are due on the 60th day following the last day of the fiscal year.

(c) Except as otherwise provided by Subsection (d) of this section, at least monthly the collector for a taxing unit shall deposit in the unit's depository all taxes collected for the unit. The governing body of a unit may require deposits to be made more frequently.

(d) If the taxes of a taxing unit are collected by the collector or other officer or employee of another taxing unit or by an appraisal district as provided by the law creating or authorizing creation of the unit or as the result of an election held under Section 6.26 of this code, the entity that collects the taxes shall deposit the taxes in the unit's depository daily, unless the governing body of that unit by official action provides that those deposits may be made less often than daily.

Acts 1979, 66th Leg., p. 2286, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 5462, ch. 1027, Sec. 1, eff. Aug. 29, 1983; Acts 1987, 70th Leg., ch. 488, Sec. 1, eff. Jan. 1, 1988.

Sec. 31.11. REFUNDS OF OVERPAYMENTS OR ERRONEOUS PAYMENTS. (a) If a taxpayer applies to the tax collector of a taxing unit for a refund of an overpayment or erroneous payment of taxes, the collector for the unit determines that the payment was erroneous or excessive, and the auditor for the unit agrees with the collector's determination, the collector shall refund the amount of the excessive or erroneous payment from available current tax collections or from funds appropriated by the unit for making refunds. However, the collector may not make the refund unless:

(1) in the case of a collector who collects taxes for one taxing unit, the governing body of the taxing unit also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds:

(A) $5,000 for a refund to be paid by a county with a population of two million or more; or

(B) $500 for a refund to be paid by any other taxing unit; or

(2) in the case of a collector who collects taxes for more than one taxing unit, the governing body of the taxing unit that employs the collector also determines that the payment was erroneous or excessive and approves the refund if the amount of the refund exceeds:

(A) $5,000 for a refund to be paid by a county with a population of two million or more; or

(B) $2,500 for a refund to be paid by any other taxing unit.

(b) A taxing unit that determines a taxpayer is delinquent in ad valorem tax payments on property other than the property for which liability for a refund arises or for a tax year other than the tax year for which liability for a refund arises may apply the amount of an overpayment or erroneous payment to the payment of the delinquent taxes if the taxpayer was the sole owner of the property:

(1) for which the refund is sought on January 1 of the tax year in which the taxes that were overpaid or erroneously paid were assessed; and

(2) on which the taxes are delinquent on January 1 of the

tax year for which the delinquent taxes were assessed.

(c) Except as provided by Subsection (c-1), an application for a refund must be made within three years after the date of the payment or the taxpayer waives the right to the refund. A taxpayer may apply for a refund by filing:

(1) an application on a form prescribed by the comptroller by rule; or

(2) a written request that includes information sufficient to enable the collector and the auditor for the taxing unit and, if applicable, the governing body of the taxing unit to determine whether the taxpayer is entitled to the refund.

(c-1) The governing body of the taxing unit may extend the deadline provided by Subsection (c) for a single period not to exceed two years on a showing of good cause by the taxpayer.

(d) The collector for a taxing unit shall provide a copy of the refund application form without charge on request of a taxpayer or a taxpayer's representative.

(e) An application for a refund must:

(1) include an affirmation by the taxpayer that the information in the application is true and correct; and

(2) be signed by the taxpayer.

(f) This subsection applies only to a refund that is required to be approved by the governing body of a taxing unit. The presiding officer of the governing body of the taxing unit is not required to sign the application for the refund or any document accompanying the application to indicate the governing body's approval or disapproval of the refund. The collector for the taxing unit shall indicate on the application whether the governing body approved or disapproved the refund and the date of the approval or disapproval.

(g) If a taxpayer submits a payment of taxes that exceeds by $5 or more the amount of taxes owed for a tax year to a taxing unit, the collector for the taxing unit, without charge, shall mail to the taxpayer or the taxpayer's representative a written notice of the amount of the overpayment accompanied by a refund application form.

(h) This section does not apply to an overpayment caused by a change of exemption status or correction of a tax roll. Such an overpayment is covered by Section 26.15 or 42.43, as applicable.

(i) Notwithstanding the other provisions of this section, in the case of an overpayment or erroneous payment of taxes submitted by a taxpayer to a collector who collects taxes for one or more taxing

units one of which is a county with a population of two million or more:

(1) a taxpayer is not required to apply to the collector for the refund to be entitled to receive the refund if the amount of the refund is at least $5 but does not exceed $5,000; and

(2) the collector is not required to comply with Subsection (g) unless the amount of the payment exceeds by more than $5,000 the amount of taxes owed for a tax year to a taxing unit for which the collector collects taxes.

(j) If the collector for a taxing unit does not respond to an application for a refund on or before the 90th day after the date the application is filed with the collector, the application is presumed to have been denied.

(k) Not later than the 60th day after the date the collector for a taxing unit denies an application for a refund, the taxpayer may file suit against the taxing unit in district court to compel the payment of the refund. If the collector collects taxes for more than one taxing unit, the taxpayer shall join in the suit each taxing unit on behalf of which the collector denied the refund. If the taxpayer prevails in the suit, the taxpayer may be awarded:

(1) costs of court; and

(2) reasonable attorney's fees in an amount not to exceed the greater of:

(A) $1,500; or

(B) 30 percent of the total amount of the refund determined by the court to be due.

Added by Acts 1981, 67th Leg., 1st C.S., p. 167, ch. 13, Sec. 126, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 198, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 565, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 915, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 673, Sec. 1, eff. Jan. 1, 2002; Acts 2001, 77th Leg., ch. 843, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 756, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 464 (H.B. 1210), Sec. 1, eff. June 16, 2007.

Acts 2009, 81st Leg., R.S., Ch. 69 (H.B. 1205), Sec. 1, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 494 (S.B. 798), Sec. 1, eff. January 1, 2010.

Acts 2013, 83rd Leg., R.S., Ch. 643 (H.B. 709), Sec. 3, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 17, eff. June 14, 2013.

Sec. 31.111. REFUNDS OF DUPLICATE PAYMENTS. (a) The collector of a taxing unit who determines that a person erred in making a payment of taxes because the identical taxes were paid by another person shall refund the amount of the taxes to the person who erred in making the payment.

(b) A refund under Subsection (a) shall be made as soon as practicable after the collector discovers the erroneous payment. The refund shall be accompanied by a description of the property subject to the taxes sufficient to identify the property. If the property is assigned an account number, the collector shall include that number.

(c) Each month, the collector shall inform the auditor of each appropriate taxing unit of refunds of taxes made under Subsection (a) during the preceding month.

Added by Acts 2001, 77th Leg., ch. 673, Sec. 2, eff. Jan. 1, 2002 and by Acts 2001, 77th Leg., ch. 1430, Sec. 9, eff. Sept. 1, 2001.

Sec. 31.112. REFUNDS OF PAYMENTS MADE TO MULTIPLE LIKE TAXING UNITS. (a) In this section, "like taxing units" has the meaning assigned by Section 72.010(a), Local Government Code.

(b) This section applies only to taxing units described by Section 72.010(b), Local Government Code.

(c) Like taxing units to which a property owner has made tax payments under protest as a result of a dispute or error described by Section 72.010(c), Local Government Code, may enter into an agreement to resolve the dispute or error. An agreement under this subsection:

(1) must establish the correct geographic boundary between the taxing units;

(2) may include an allocation between the taxing units of all or part of the taxes that were paid under protest before the dispute or error was resolved, less any amount that is required to be

refunded to the property owner;

(3) must require the taxing units to refund to the property owner any amount by which the amount paid by the owner to the taxing units exceeds the amount due; and

(4) must be in writing.

(d) If a dispute or error described by Section 72.010(c), Local Government Code, is resolved by the agreement of the taxing units, a refund required by Subsection (c)(3) of this section must be made not later than the 90th day after the date on which the agreement is made.

(e) If a dispute or error described by Section 72.010(c), Local Government Code, is not resolved by the agreement of the taxing units and the supreme court enters a final order in a suit under Section 72.010, Local Government Code, determining the amount of taxes owed on the property and the taxing unit or units to which the taxes are owed, a refund required as a result of the order must be made not later than the 180th day after the date the order is entered.

(f) A refund under this section shall be accompanied by:

(1) a description sufficient to identify the property on which the taxes were imposed; and

(2) the tax account number, if applicable.

(g) A collector making a refund under this section shall notify the auditor of each appropriate taxing unit not later than the 30th day after the date the refund is made.

Added by Acts 2017, 85th Leg., R.S., Ch. 768 (S.B. 2242), Sec. 3, eff. June 12, 2017.

Sec. 31.115. PAYMENT OF TAX UNDER PROTEST. Payment of an ad valorem tax is involuntary if the taxpayer indicates that the tax is paid under protest:

(1) on the instrument by which the tax is paid; or

(2) in a document accompanying the payment.

Added by Acts 1995, 74th Leg., ch. 993, Sec. 1, eff. June 17, 1995.

Sec. 31.12. PAYMENT OF TAX REFUNDS; INTEREST. (a) If a refund of a tax provided by Section 11.431(b), 26.07(g), 26.075(k), 26.15(f), 31.11, 31.111, or 31.112 is paid on or before the 60th day

after the date the liability for the refund arises, no interest is due on the amount refunded. If not paid on or before that 60th day, the amount of the tax to be refunded accrues interest at a rate of one percent for each month or part of a month that the refund is unpaid, beginning with the date on which the liability for the refund arises.

(b) For purposes of this section, liability for a refund arises:

(1) if the refund is required by Section 11.431(b), on the date the chief appraiser notifies the collector for the taxing unit of the approval of the late homestead exemption;

(2) if the refund is required by Section 26.07(g) or 26.075(k), on the date the results of the election to approve or reduce the tax rate, as applicable, are certified;

(3) if the refund is required by Section 26.15(f):

(A) for a correction to the tax roll made under Section 26.15(b), on the date the change in the tax roll is certified to the assessor for the taxing unit under Section 25.25; or

(B) for a correction to the tax roll made under Section 26.15(c), on the date the change in the tax roll is ordered by the governing body of the taxing unit;

(4) if the refund is required by Section 31.11, on the date the auditor for the taxing unit determines that the payment was erroneous or excessive or, if the amount of the refund exceeds the applicable amount specified by Section 31.11(a), on the date the governing body of the taxing unit approves the refund;

(5) if the refund is required by Section 31.111, on the date the collector for the taxing unit determines that the payment was erroneous; or

(6) if the refund is required by Section 31.112, on the date required by Section 31.112(d) or (e), as applicable.

(c) This section does not apply to a refund in an amount less than $5.

Added by Acts 1987, 70th Leg., ch. 112, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 796, Sec. 30, eff. June 15, 1989; Acts 1999, 76th Leg., ch. 915, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 673, Sec. 3, eff. Jan. 1, 2002; Acts 2001, 77th Leg., ch. 1430, Sec. 10, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 768 (S.B. 2242), Sec. 4, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 58, eff. January 1, 2020.

CHAPTER 32. TAX LIENS AND PERSONAL LIABILITY

Sec. 32.01. TAX LIEN. (a) On January 1 of each year, a tax lien attaches to property to secure the payment of all taxes, penalties, and interest ultimately imposed for the year on the property, whether or not the taxes are imposed in the year the lien attaches. The lien exists in favor of each taxing unit having power to tax the property.

(b) A tax lien on inventory, furniture, equipment, or other personal property is a lien in solido and attaches to all inventory, furniture, equipment, and other personal property that the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires.

(c) If an owner's real property is described with certainty by metes and bounds in one or more instruments of conveyance and part of that property is the owner's residence homestead taxed separately and apart from the remainder of the property, each of the liens under this section that secures the taxes imposed on that homestead and on the remainder of that property extends in solido to all the real property described in the instrument or instruments of conveyance, unless the homestead is identified as a separate parcel and is separately described in the conveyance or another instrument recorded in the real property records.

(d) The lien under this section is perfected on attachment and, except as provided by Section 32.03(b), perfection requires no further action by the taxing unit.

Acts 1979, 66th Leg., p. 2287, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4827, ch. 851, Sec. 22, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 1031, Sec. 3, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1481, Sec. 11, eff. Jan. 1, 2000.

Sec. 32.014. TAX LIEN ON MANUFACTURED HOME. (a) If the owner of a manufactured home has elected to treat the home as real property

under Section 25.08, the tax lien shall be attached to the land on which the manufactured home is located.

(b) If the owner of a manufactured home does not elect to treat the home as real property with the land on which the manufactured home is located, the tax lien on the manufactured home does not attach to the land on which the home is located.

(c) In this section, "manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

(d) This section prevails over Chapter 1201, Occupations Code, to the extent of any conflict.

Added by Acts 1987, 70th Leg., ch. 633, Sec. 2, eff. Aug. 31, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.02(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1039, Sec. 4.04, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 978, Sec. 20, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1055, Sec. 8, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 338, Sec. 46, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.813, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 31, eff. June 18, 2005.

Sec. 32.015. TAX LIEN ON MANUFACTURED HOME. (a) On payment of the taxes, penalties, and interest for a year for which a valid tax lien has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department or when no suit to collect a personal property tax lien has been filed and the lien has been delinquent for more than four years, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

(b) In this section, "department" and "manufactured home" have the meanings assigned by Section 1201.003, Occupations Code; however, the term "manufactured home" does not include a manufactured

home that has been attached to real property and for which the document of title has been canceled under Section 1201.217 of that code.

Added by Acts 1985, 69th Leg., ch. 846, Sec. 15, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1134, Sec. 22, eff. June 18, 1987; Acts 1989, 71st Leg., ch. 1039, Sec. 4.05, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 617, Sec. 11, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 978, Sec. 21, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1481, Sec. 12, eff. Jan. 1, 2000; Acts 2001, 77th Leg., ch. 988, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.814, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 32, eff. June 18, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1095 (H.B. 3613), Sec. 1, eff. September 1, 2013.

Sec. 32.02. RESTRICTIONS ON A MINERAL INTEREST TAX LIEN. (a) If a mineral estate is severed from a surface estate and if different persons own the mineral estate and surface estate, the lien resulting from taxes imposed against each interest in the mineral estate exists only for the duration of the interest it encumbers. After an interest in the mineral estate terminates, the lien encumbering it expires and is not enforceable:

(1) against any part of the surface estate not owned by the owner of the interest encumbered by the lien;

(2) against any part of the mineral estate not owned by the owner of the interest encumbered by the lien; or

(3) against the owner of the surface estate as a personal obligation, unless he also owns the interest encumbered by the lien.

(b) Taxes imposed on a severed interest in a mineral estate that has terminated remain the personal liability of the person who owned the interest on January 1 of the year for which the tax was imposed.

Acts 1979, 66th Leg., p. 2287, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 32.03. RESTRICTIONS ON PERSONAL PROPERTY TAX LIEN. (a)

Except as provided by Subsection (a-1), a tax lien may not be enforced against personal property transferred to a buyer in ordinary course of business as defined by Section 1.201(9) of the Business & Commerce Code for value who does not have actual notice of the existence of the lien.

(a-1) With regard to a manufactured home, a tax lien may be recorded at any time not later than six months after the end of the year for which the tax was owed. A tax lien on a manufactured home may be enforced if it has been recorded in accordance with the laws in effect at the time of the recordation of the lien. A properly recorded tax lien may not be enforced against a new manufactured home that is owned by a person who acquired the manufactured home from a retailer as a buyer in the ordinary course of business.

(a-2) A person may not transfer ownership of a manufactured home until all tax liens perfected on the home that have been timely filed with the Texas Department of Housing and Community Affairs have been extinguished or satisfied and released and any personal property taxes on the manufactured home which accrued on each January 1 that falls within the 18 months preceding the date of the sale have been paid. This subsection does not apply to the sale of a manufactured home in inventory.

(b) A bona fide purchaser for value or the holder of a lien recorded on a manufactured home statement of ownership is not required to pay any taxes that have not been recorded with the Texas Department of Housing and Community Affairs. In this section, manufactured home has the meaning assigned by Section 32.015(b). Unless a tax lien has been filed timely with the Texas Department of Housing and Community Affairs, no taxing unit, nor anyone acting on its behalf, may use a tax warrant or any other method to attempt to execute or foreclose on the manufactured home.

(c) A taxpayer may designate in writing which tax year will be credited with a particular payment. If a taxpayer pays all the amounts owing for a given year, the taxing unit shall issue a receipt for the payment of the taxes for the designated year.

(d) Notwithstanding any other provision of this section, if a manufactured home was omitted from the tax roll for either or both of the two preceding tax years, the taxing unit may file a tax lien within the 150-day period following the date on which the tax becomes delinquent.

(e) If personal property taxes on a manufactured home have not

been levied by the taxing unit, the taxing unit shall provide, upon request, an estimated amount of taxes computed by multiplying the taxable value of the manufactured home, according to the most recent certified appraisal roll for the taxing unit, by the taxing unit's adopted tax rate for the preceding tax year. In order to enable the transfer of the manufactured home, the tax collector shall accept the payment of the estimated personal property taxes and issue a certification to the Texas Department of Housing and Community Affairs that the estimated taxes are being held in escrow until the taxes are levied. Once the taxes are levied, the tax collector shall apply the escrowed sums to the levied taxes. At the time the tax collector accepts the payment of the taxes, the tax collector shall provide notice that the payment of the estimated taxes is an estimate that may be raised once the appraisal rolls for the year are certified and that the new owner may be liable for the payment of any difference between the tax established by the certified appraisal roll and the estimate actually paid.

Acts 1979, 66th Leg., p. 2287, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 846, Sec. 16, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 617, Sec. 12, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 836, Sec. 5.2, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 978, Sec. 22, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 988, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 338, Sec. 47, eff. Jan. 1, 2004.
Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 33, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1284 (H.B. 2438), Sec. 34, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 863 (H.B. 1460), Sec. 72, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 408 (H.B. 2019), Sec. 84, eff. September 1, 2017.

Sec. 32.04. PRIORITIES AMONG TAX LIENS. (a) Whether or not a tax lien provided by this chapter takes priority over a tax lien of the United States is determined by federal law. In the absence of federal law, a tax lien provided by this chapter takes priority over

a tax lien of the United States.

(b) Tax liens provided by this chapter have equal priority.

Acts 1979, 66th Leg., p. 2287, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 32.05. PRIORITY OF TAX LIENS OVER OTHER PROPERTY INTERESTS. (a) A tax lien on real property takes priority over a homestead interest in the property.

(b) Except as provided by Subsection (c)(1), a tax lien provided by this chapter takes priority over:

(1) the claim of any creditor of a person whose property is encumbered by the lien;

(2) the claim of any holder of a lien on property encumbered by the tax lien, including any lien held by a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime under a restrictive covenant, condominium declaration, master deed, or other similar instrument that secures regular or special maintenance assessments, fees, dues, interest, fines, costs, attorney's fees, or other monetary charges against the property; and

(3) any right of remainder, right or possibility of reverter, or other future interest in, or encumbrance against, the property, whether vested or contingent.

(b-1) The priority given to a tax lien by Subsection (b) prevails, regardless of whether the debt, lien, future interest, or other encumbrance existed before attachment of the tax lien.

(c) A tax lien provided by this chapter is inferior to:

(1) a claim for any survivor's allowance, funeral expenses, or expenses of the last illness of a decedent made against the estate of a decedent as provided by law;

(2) except as provided by Subsection (b)(2), a recorded restrictive covenant that runs with the land and was recorded before January 1 of the year the tax lien arose; or

(3) a valid easement of record recorded before January 1 of the year the tax lien arose.

(d) In an action brought under Chapter 33 for the enforced collection of a delinquent tax against property, a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime that holds

a lien for regular or special maintenance assessments, fees, dues, interest, fines, costs, attorney's fees, or other monetary charges against the property is not a necessary party to the action unless, at the time the action is commenced, notice of the lien in a liquidated amount is evidenced by a sworn instrument duly executed by an authorized person and recorded with the clerk of the county in which the property is located. A tax sale of the property extinguishes the lien held by a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime for all amounts that accrued before the date of sale if:

(1) the holder of the lien is joined as a party to an action brought under Chapter 33 by virtue of a notice of the lien on record at the time the action is commenced; or

(2) the notice of lien is not of record at the time the action is commenced, regardless of whether the holder of the lien is made a party to the action.

(e) The existence of a recorded restrictive covenant, declaration, or master deed that generally provides for the lien held by a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime does not, by itself, constitute actual or constructive notice to a taxing unit of a lien under Subsection (d).

Acts 1979, 66th Leg., p. 2287, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 854, Sec. 1, eff. June 16, 1991; Acts 1999, 76th Leg., ch. 1481, Sec. 13, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 12, eff. September 1, 2005.

Sec. 32.06. PROPERTY TAX LOANS; TRANSFER OF TAX LIEN. (a) In this section:

(1) "Mortgage servicer" has the meaning assigned by Section 51.0001, Property Code.

(2) "Transferee" means a person who is licensed under Chapter 351, Finance Code, or is exempt from the application of that chapter under Section 351.051(c), Finance Code, and who is:

(A) authorized to pay the taxes of another; or

(B) a successor in interest to a tax lien that is transferred under this section.

(a-1) A property owner may authorize another person to pay the taxes imposed by a taxing unit on the owner's real property by executing and filing with the collector for the taxing unit:

(1) a sworn document stating:

(A) the authorization for payment of the taxes;

(B) the name and street address of the transferee authorized to pay the taxes of the property owner;

(C) a description of the property by street address, if applicable, and legal description; and

(D) notice has been given to the property owner that if the property owner is disabled, the property owner may be eligible for a tax deferral under Section 33.06; and

(2) the information required by Section 351.054, Finance Code.

(a-2) Except as provided by Subsection (a-8), a tax lien may be transferred to the person who pays the taxes on behalf of the property owner under the authorization described by Subsection (a-1) for:

(1) taxes that are delinquent at the time of payment; or

(2) taxes that are due but not delinquent at the time of payment if the property is not subject to a recorded mortgage lien.

(a-3) A person who is 65 years of age or older may not authorize a transfer of a tax lien on real property on which the person is eligible to claim an exemption from taxation under Section 11.13(c).

(a-4) The Finance Commission of Texas shall:

(1) prescribe the form and content of an appropriate disclosure statement to be provided to a property owner before the execution of a tax lien transfer;

(2) adopt rules relating to the reasonableness of closing costs, fees, and other charges permitted under this section;

(3) by rule prescribe the form and content of the sworn document under Subsection (a-1) and the certified statement under Subsection (b); and

(4) by rule prescribe the form and content of a request a lender with an existing recorded lien on the property must use to request a payoff statement and the transferee's response to the request, including the period within which the transferee must

respond.

(a-5) At the time the transferee provides the disclosure statement required by Subsection (a-4)(1), the transferee must also describe the type and approximate cost range of each additional charge or fee that the property owner may incur in connection with the transfer.

(a-6) Notwithstanding Subsection (f-3), a lender described by Subsection (a-4)(4) may request a payoff statement before the tax loan becomes delinquent. The Finance Commission of Texas by rule shall require a transferee who receives a request for a payoff statement to deliver the requested payoff statement on the prescribed form within a period prescribed by finance commission rule. The prescribed period must allow the transferee at least seven business days after the date the request is received to deliver the payoff statement. The consumer credit commissioner may assess an administrative penalty under Subchapter F, Chapter 14, Finance Code, against a transferee who wilfully fails to provide the payoff statement as prescribed by finance commission rule.

(a-7) A contract between a transferee and a property owner that purports to authorize payment of taxes that are not delinquent or due at the time of the authorization, or that lacks the authorization described by Subsection (a-1), is void.

(a-8) A tax lien may not be transferred to the person who pays the taxes on behalf of the property owner under the authorization described by Subsection (a-1) if the real property:

(1) has been financed, wholly or partly, with a grant or below market rate loan provided by a governmental program or nonprofit organization and is subject to the covenants of the grant or loan; or

(2) is encumbered by a lien recorded under Subchapter A, Chapter 214, Local Government Code.

(a-9) The Finance Commission of Texas may adopt rules to implement Subsection (a-8).

(b) If a transferee authorized to pay a property owner's taxes under Subsection (a-1) pays the taxes and any penalties, interest, and collection costs imposed, the collector shall issue a tax receipt to that transferee. In addition, the collector or a person designated by the collector shall certify that the taxes and any penalties, interest, and collection costs on the subject property have been paid by the transferee on behalf of the property owner and

that the taxing unit's tax lien is transferred to that transferee. The collector shall attach to the certified statement the collector's seal of office or sign the statement before a notary public and deliver a tax receipt and the certified statement attesting to the transfer of the tax lien to the transferee within 30 days. The tax receipt and certified statement may be combined into one document. The collector shall identify in a discrete field in the applicable property owner's account the date of the transfer of a tax lien transferred under this section. When a tax lien is released, the transferee shall file a release with the county clerk of each county in which the property encumbered by the lien is located for recordation by the clerk and send a copy to the collector. The transferee may charge the property owner a reasonable fee for filing the release.

(b-1) Not later than the 10th business day after the date the certified statement is received by the transferee, the transferee shall send by certified mail a copy of the sworn document described by Subsection (a-1) to any mortgage servicer and to each holder of a recorded first lien encumbering the property. The copy must be sent, as applicable, to the address shown on the most recent payment invoice, statement, or payment coupon provided by the mortgage servicer to the property owner, or the address of the holder of a recorded first lien as shown in the real property records.

(c) Except as otherwise provided by this section, the transferee of a tax lien is entitled to foreclose the lien in the manner provided by law for foreclosure of tax liens.

(c-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 206, Sec. 10, eff. May 29, 2013.

(d) A transferee shall record a tax lien transferred as provided by this section with the certified statement attesting to the transfer of the tax lien as described by Subsection (b) in the deed records of each county in which the property encumbered by the lien is located.

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

(e) A transferee holding a tax lien transferred as provided by this section may not charge a greater rate of interest than 18 percent a year on the funds advanced. Funds advanced are limited to

the taxes, penalties, interest, and collection costs paid as shown on the tax receipt, expenses paid to record the lien, plus reasonable closing costs.

(e-1) A transferee of a tax lien may not charge a fee for any expenses arising after the closing of a loan secured by a tax lien transferred under this section, 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.

(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.

(f) The holder of a loan secured by a transferred tax lien that is delinquent for 90 consecutive days must send a notice of the delinquency by certified mail on or before the 120th day of delinquency or, if the 120th day is not a business day, on the next business day after the 120th day of delinquency, to any holder of a recorded preexisting lien on the property. The holder or mortgage servicer of a recorded preexisting lien on property encumbered by a tax lien transferred as provided by Subsection (b) is entitled, within six months after the date on which the notice is sent, to obtain a release of the transferred tax lien by paying the transferee of the tax lien the amount owed under the contract between the property owner and the transferee.

(f-1) If an obligation secured by a preexisting first lien on the property is delinquent for at least 90 consecutive days and the obligation has been referred to a collection specialist, the mortgage

servicer or the holder of the first lien may send a notice of the delinquency to the transferee of a tax lien. The mortgage servicer or the first lienholder is entitled, within six months after the date on which that notice is sent, to obtain a release of the transferred tax lien by paying the transferee of the tax lien the amount owed under the contract between the property owner and the transferee. The Finance Commission of Texas by rule shall prescribe the form and content of the notice under this subsection.

(f-2) The rights granted by Subsections (f) and (f-1) do not affect a right of redemption in a foreclosure proceeding described by Subsection (k) or (k-1).

(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.

(f-4) Failure to comply with Subsection (b-1), (f), or (f-1) does not invalidate a tax lien transferred under this section or a deed of trust.

(g) At any time after the end of the six-month period specified by Subsection (f) and before a notice of foreclosure of the transferred tax lien is sent, the transferee of the tax lien may require the property owner to provide written authorization and pay a reasonable fee before providing information regarding the current balance owed by the property owner to the transferee.

(h) A mortgage servicer who pays a property tax loan secured by a tax lien transferred under this section becomes subrogated to all rights in the lien.

(i) A judicial foreclosure of a tax lien transferred under this section may not be instituted within one year from the date on which the lien is recorded in all counties in which the property is located, unless the contract between the owner of the property and the transferee provides otherwise.

(j) After one year from the date on which a tax lien

transferred under 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 the contract between the transferee and the owner of the property encumbered by the lien provides otherwise. 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.

(k) Beginning on the date the foreclosure deed is recorded, the person whose property is sold as provided by Subsection (c) or the mortgage servicer of a prior recorded lien against the property is entitled to redeem the foreclosed property from the purchaser or the purchaser's successor by paying the purchaser or successor:

(1) 125 percent of the purchase price during the first year of the redemption period or 150 percent of the purchase price during the second year of the redemption period with cash or cash equivalent funds; and

(2) the amount reasonably spent by the purchaser in connection with the property as costs within the meaning of Section 34.21(g) and the legal judgment rate of return on that amount.

(k-1) The right of redemption provided by Subsection (k) may be exercised on or before the second anniversary of the date on which the purchaser's deed is filed of record if the property sold was the residence homestead of the owner, was land designated for agricultural use, or was a mineral interest. For any other property, the right of redemption must be exercised not later than the 180th day after the date on which the purchaser's deed is filed of record. If a person redeems the property as provided by Subsection (k) and this subsection, the purchaser at the tax sale or the purchaser's successor shall deliver a deed without warranty to the property to the person redeeming the property. If the person who owned the property at the time of foreclosure redeems the property, all liens existing on the property at the time of the tax sale remain in effect to the extent not paid from the sale proceeds.

(l) Except as specifically provided by this section, a property owner cannot waive or limit any requirement imposed on a transferee by this section.

Acts 1979, 66th Leg., p. 2288, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1995, 74th Leg., ch. 131, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 406 (S.B. 1587), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 13, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1220 (H.B. 2138), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1329 (S.B. 1520), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.006, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 104 (H.B. 1465), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1382 (S.B. 1620), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 622 (S.B. 762), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 206 (S.B. 247), Sec. 6, eff. May 29, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 206 (S.B. 247), Sec. 7, eff. May 29, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 206 (S.B. 247), Sec. 8, eff. May 29, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 206 (S.B. 247), Sec. 10, eff. May 29, 2013.

Sec. 32.065. CONTRACT FOR FORECLOSURE OF TAX LIEN. (a) Section 32.06 does not abridge the right of an owner of real property to enter into a contract for the payment of taxes.

(b) Notwithstanding any agreement to the contrary, a contract entered into under Subsection (a) between a transferee and the property owner under Section 32.06 that is secured by a priority lien on the property shall provide for foreclosure in the manner provided by Section 32.06(c) and:

(1) an event of default;

(2) notice of acceleration; and

(3) recording of the deed of trust or other instrument

securing the contract entered into under Subsection (a) in each county in which the property is located.

(b-1) On an event of default and notice of acceleration, the mortgage servicer of a recorded lien encumbering real property may obtain a release of a transferred tax lien on the property by paying the transferee of the tax lien or the holder of the tax lien the amount owed by the property owner to that transferee or holder.

(c) Notwithstanding any other provision of this code, a transferee of a tax lien or the transferee's assignee is subrogated to and is entitled to exercise any right or remedy possessed by the transferring taxing unit, including or related to foreclosure or judicial sale, but is prohibited from exercising a remedy of foreclosure or judicial sale where the transferring taxing unit would be prohibited from foreclosure or judicial sale.

(d) Chapters 342 and 346, Finance Code, and the provisions of Chapter 343, Finance Code, other than Sections 343.203 and 343.205, do not apply to a transaction covered by this section.

(e) If in a contract under this section a person contracts for, charges, or receives a rate or amount of interest that exceeds the rate or amount allowed by this section, the amount of the penalty for which the person is obligated is determined in the manner provided by Chapter 349, Finance Code.

(f) Before accepting an application fee or executing a contract, the transferee shall disclose to the transferee's prospective borrower each type and the amount of possible additional charges or fees that may be incurred by the borrower in connection with the loan or contract under this section.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1329, Sec. 3, eff. September 1, 2007.

(h) An affidavit of the transferee executed after foreclosure of a tax lien that recites compliance with the terms of Section 32.06 and this section and is recorded in each county in which the property is located:

(1) is prima facie evidence of compliance with Section 32.06 and this section; and

(2) may be relied on conclusively by a bona fide purchaser for value without notice of any failure to comply.

(i) An agreement under this section that attempts to create a lien for the payment of taxes that are not delinquent or due at the time the property owner executes the sworn document under Section

32.06(a-1) is void.

Acts 1979, 66th Leg., p. 2288, ch. 841, Sec. 1, eff. Jan. 1, 1982. Redesignated from Tax Code Sec. 32.06(j) and amended by Acts 1995, 74th Leg., ch. 131, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1396, Sec. 39, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.91, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 406 (S.B. 1587), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 14, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(66), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1220 (H.B. 2138), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1329 (S.B. 1520), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1329 (S.B. 1520), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.007, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 206 (S.B. 247), Sec. 9, eff. May 29, 2013.

Sec. 32.07. PERSONAL LIABILITY FOR TAX. (a) Except as provided by Subsections (b) and (c) of this section, property taxes are the personal obligation of the person who owns or acquires the property on January 1 of the year for which the tax is imposed or would have been imposed had property not been omitted as described under Section 25.21. A person is not relieved of the obligation because he no longer owns the property.

(b) The person in whose name a property is required to be listed by Section 25.13 of this code is personally liable for the taxes imposed on the property.

(c) A qualifying trust as defined by Section 11.13(j) and each trustor of the trust are jointly and severally liable for the tax imposed on the interest of the trust in a residence homestead.

(d) Any person who receives or collects an ad valorem tax or

any money represented to be a tax from another person holds the amount so collected in trust for the benefit of the taxing unit and is liable to the taxing unit for the full amount collected plus any accrued penalties and interest on the amount collected.

(e) With respect to an ad valorem tax or other money subject to the provisions of Subsection (d), an individual who controls or supervises the collection of tax or money from another person, or an individual who controls or supervises the accounting for and paying over of the tax or money, and who wilfully fails to pay or cause to be paid the tax or money is liable as a responsible individual for an amount equal to the tax or money, plus all interest, penalties, and costs, not paid or caused to be paid. The liability imposed by this subsection is in addition to any other penalty provided by law. The dissolution of a corporation, association, limited liability company, or partnership does not affect a responsible individual's liability under this subsection.

(f) Venue for suits arising under this section shall be governed by Section 33.41(a).

(g) In this section:

(1) "Responsible individual" includes an officer, manager, director, or employee or a corporation, association, or limited liability company or a member of a partnership who, as an officer, manager, director, employee, or member, is under a duty to perform an act with respect to the collection, accounting, or payment of a tax or money subject to the provisions of Subsection (d).

(2) "Tax" includes any ad valorem tax or money subject to the provisions of Subsection (d), including the penalty and interest computed by reference to the amount of the tax or money.

(h) For purposes of Subsection (a), a person is considered to be an owner of property subject to an installment contract of sale if the person is:

(1) the seller of the property; or

(2) a purchaser of the property who has the duty under the installment contract to pay taxes on the property.

Acts 1979, 66th Leg., p. 2289, ch. 841, Sec. 1, eff. Jan. 1, 1980. Amended by Acts 1993, 73rd Leg., ch. 854, Sec. 4, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 579, Sec. 10, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 906, Sec. 2, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 1481, Sec. 14, 15, eff. Jan. 1, 2000.

Amended by:

Acts 2005, 79th Leg., Ch. 846 (S.B. 898), Sec. 3, eff. September 1, 2005.

CHAPTER 33. DELINQUENCY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 33.01. PENALTIES AND INTEREST. (a) A delinquent tax incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of twelve percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent. A delinquent tax continues to incur the penalty provided by this subsection as long as the tax remains unpaid, regardless of whether a judgment for the delinquent tax has been rendered.

(b) If a person who exercises the split-payment option provided by Section 31.03 of this code fails to make the second payment before July 1, the second payment is delinquent and incurs a penalty of twelve percent of the amount of unpaid tax.

(c) A delinquent tax accrues interest at a rate of one percent for each month or portion of a month the tax remains unpaid. Interest payable under this section is to compensate the taxing unit for revenue lost because of the delinquency. A delinquent tax continues to accrue interest under this subsection as long as the tax remains unpaid, regardless of whether a judgment for the delinquent tax has been rendered.

(d) In lieu of the penalty imposed under Subsection (a), a delinquent tax incurs a penalty of 50 percent of the amount of the tax without regard to the number of months the tax has been delinquent if the tax is delinquent because the property owner received an exemption under:

(1) Section 11.13 and the chief appraiser subsequently cancels the exemption because the residence was not the principal residence of the property owner and the property owner received an exemption for two or more additional residence homesteads for the tax year in which the tax was imposed;

(2) Section 11.13(c) or (d) for a person who is 65 years of

age or older and the chief appraiser subsequently cancels the exemption because the property owner was younger than 65 years of age; or

(3) Section 11.13(q) and the chief appraiser subsequently cancels the exemption because the property owner was younger than 55 years of age when the property owner's spouse died.

(e) A penalty imposed under Subsection (d) does not apply if:

(1) the exemption was granted by the appraisal district or board and not at the request or application of the property owner or the property owner's agent; or

(2) at any time before the date the tax becomes delinquent, the property owner gives to the chief appraiser of the appraisal district in which the property is located written notice of circumstances that would disqualify the owner for the exemption.

(f) Notwithstanding the other provisions of this section, a delinquent tax for which a person defers payment under Section 31.02(b) that is not paid on or before the date the deferral period prescribed by that subsection expires:

(1) accrues interest at a rate of six percent for each year or portion of a year the tax remains unpaid; and

(2) does not incur a penalty.

Acts 1979, 66th Leg., p. 2290, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 168, ch. 13, Sec. 127, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., ch. 836, Sec. 5.3, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 906, Sec. 3, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1039, Sec. 33, eff. Jan. 1, 1998. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 788 (H.B. 1883), Sec. 2, eff. September 1, 2019.

Sec. 33.011. WAIVER OF PENALTIES AND INTEREST. (a) The governing body of a taxing unit:

(1) shall waive penalties and may provide for the waiver of interest on a delinquent tax if an act or omission of an officer, employee, or agent of the taxing unit or the appraisal district in which the taxing unit participates caused or resulted in the taxpayer's failure to pay the tax before delinquency and if the tax is paid not later than the 21st day after the date the taxpayer knows

or should know of the delinquency;

(2) may waive penalties and provide for the waiver of interest on a delinquent tax if:

(A) the property for which the tax is owed is acquired by a religious organization; and

(B) before the first anniversary of the date the religious organization acquires the property, the organization pays the tax and qualifies the property for an exemption under Section 11.20 as evidenced by the approval of the exemption by the chief appraiser under Section 11.45; and

(3) may waive penalties and provide for the waiver of interest on a delinquent tax if the taxpayer submits evidence showing that:

(A) the taxpayer attempted to pay the tax before the delinquency date by mail;

(B) the taxpayer mailed the tax payment to an incorrect address that in a prior tax year was the correct address for payment of the taxpayer's tax;

(C) the payment was mailed to the incorrect address within one year of the date that the former address ceased to be the correct address for payment of the tax; and

(D) the taxpayer paid the tax not later than the 21st day after the date the taxpayer knew or should have known of the delinquency.

(b) If a tax bill is returned undelivered to the taxing unit by the United States Postal Service, the governing body of the taxing unit shall waive penalties and interest if:

(1) the taxing unit does not send another tax bill on the property in question at least 21 days before the delinquency date to the current mailing address furnished by the property owner and the property owner establishes that a current mailing address was furnished to the appraisal district by the property owner for the tax bill before September 1 of the year in which the tax is assessed; or

(2) the tax bill was returned because of an act or omission of an officer, employee, or agent of the taxing unit or the appraisal district in which the taxing unit participates and the taxing unit or appraisal district did not send another tax bill on the property in question at least 21 days before the delinquency date to the proper mailing address.

(c) For the purposes of this section, a property owner is

considered to have furnished a current mailing address to the taxing unit or to the appraisal district if the current address is expressly communicated to the appraisal district in writing or if the appraisal district received a copy of a recorded instrument transferring ownership of real property and the current mailing address of the new owner is included in the instrument or in accompanying communications or letters of transmittal.

(d) A request for a waiver of penalties and interest under Subsection (a)(1) or (3), (b), (h), (j), or (k) must be made before the 181st day after the delinquency date. A request for a waiver of penalties and interest under Subsection (a)(2) must be made before the first anniversary of the date the religious organization acquires the property. A request for a waiver of penalties and interest under Subsection (i) must be made before the 181st day after the date the property owner making the request receives notice of the delinquent tax that satisfies the requirements of Section 33.04(c). To be valid, a waiver of penalties or interest under this section must be requested in writing. If a written request for a waiver is not timely made, the governing body of a taxing unit may not waive any penalties or interest under this section.

(e) Penalties and interest do not accrue during the period that a bill is not sent under Section 31.01(f).

(f) A property owner is not entitled to relief under Subsection (b) of this section if the property owner or the owner's agent furnished an incorrect mailing address to the appraisal district or the taxing unit or to an employee or agent of the district or unit.

(g) Taxes for which penalties and interest have been waived under Subsection (b) of this section must be paid within 21 days of the property owner having received a bill for those taxes at the current mailing address.

(h) The governing body of a taxing unit shall waive penalties and interest on a delinquent tax if:

(1) the tax is payable by electronic funds transfer under an agreement entered into under Section 31.06(a); and

(2) the taxpayer submits evidence sufficient to show that:

(A) the taxpayer attempted to pay the tax by electronic funds transfer in the proper manner before the delinquency date;

(B) the taxpayer's failure to pay the tax before the delinquency date was caused by an error in the transmission of the funds; and

(C) the tax was properly paid by electronic funds transfer or otherwise not later than the 21st day after the date the taxpayer knew or should have known of the delinquency.

(i) The governing body of a taxing unit may waive penalties and interest on a delinquent tax that relates to a date preceding the date on which the property owner acquired the property if:

(1) the property owner or another person liable for the tax pays the tax not later than the 181st day after the date the property owner receives notice of the delinquent tax that satisfies the requirements of Section 33.04(c); and

(2) the delinquency is the result of taxes imposed on:

(A) omitted property entered in the appraisal records as provided by Section 25.21;

(B) erroneously exempted property or appraised value added to the appraisal roll as provided by Section 11.43(i); or

(C) property added to the appraisal roll under a different account number or parcel when the property was owned by a prior owner.

(j) The governing body of a taxing unit may waive penalties and interest on a delinquent tax if the taxpayer submits evidence sufficient to show that the taxpayer delivered payment for the tax before the delinquency date to:

(1) the United States Postal Service for delivery by mail, but an act or omission of the postal service resulted in the taxpayer's payment being postmarked after the delinquency date; or

(2) a private delivery service for delivery, but an act or omission of the private carrier resulted in the taxpayer's payment being received by the taxing unit after the delinquency date.

(k) The governing body of a taxing unit may waive penalties and interest on a delinquent tax if:

(1) the property for which the tax is owed is subject to a mortgage that does not require the owner of the property to fund an escrow account for the payment of the taxes on the property;

(2) the tax bill was mailed or delivered by electronic means to the mortgagee of the property, but the mortgagee failed to mail a copy of the bill to the owner of the property as required by Section 31.01(j); and

(3) the taxpayer paid the tax not later than the 21st day after the date the taxpayer knew or should have known of the delinquency.

Added by Acts 1985, 69th Leg., ch. 769, Sec. 1, eff. June 14, 1985. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 31, eff. June 15, 1989; Acts 1991, 72nd Leg., ch. 836, Sec. 5.1, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 926, Sec. 1, eff. Sept. 1, 1993, and redesignated from Tax Code Sec. 31.015 and amended by Acts 1995, 74th Leg., ch. 579, Sec. 11, eff. Jan. 1, 1996; Acts 1999, 76th Leg., ch. 606, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 817, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 768, Sec. 1, eff. June 30, 2001; Acts 2003, 78th Leg., ch. 151, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 15, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 413 (S.B. 1063), Sec. 1, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 967 (H.B. 1913), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 226 (H.B. 1933), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 482 (H.B. 1885), Sec. 1, eff. January 1, 2020.

Sec. 33.02. INSTALLMENT PAYMENT OF DELINQUENT TAXES. (a) The collector for a taxing unit may enter into an agreement with a person delinquent in the payment of the tax for payment of the tax, penalties, and interest in installments. The collector for a taxing unit shall, on request by a person delinquent in the payment of the tax on a residence homestead for which the property owner has been granted an exemption under Section 11.13, enter into an agreement with the person for payment of the tax, penalties, and interest in installments if the person has not entered into an installment agreement with the collector for the taxing unit under this section in the preceding 24 months.

(a-1) An installment agreement under this section:

(1) must be in writing;

(2) must provide for payments to be made in monthly installments;

(3) must extend for a period of at least 12 months if the property that is the subject of the agreement is a residence

homestead for which the person entering into the agreement has been granted an exemption under Section 11.13; and

(4) may not extend for a period of more than 36 months.

(b) Except as provided by Subsection (b-1), interest and a penalty accrue as provided by Sections 33.01(a) and (c) on the unpaid balance during the period of the agreement.

(b-1) Except as otherwise provided by this subsection, a penalty does not accrue as provided by Section 33.01(a) on the unpaid balance during the period of the agreement if the property that is the subject of the agreement is a residence homestead for which the property owner has been granted an exemption under Section 11.13. If the property owner fails to make a payment as required by the agreement, a penalty accrues as provided by Section 33.01(a) on the unpaid balance as if the owner had not entered into the agreement.

(c) A property owner's execution of an installment agreement under this section is an irrevocable admission of liability for all taxes, penalties, and interest that are subject to the agreement.

(d) Property may not be seized and sold and a suit may not be filed to collect a delinquent tax subject to an installment agreement unless the property owner:

(1) fails to make a payment as required by the agreement;

(2) fails to pay other property taxes collected by the unit when due as required by the collector; or

(3) breaches any other condition of the agreement.

(e) Execution of an installment agreement tolls the limitation periods provided by Section 33.05 of this code for the period during which enforced collection is barred by Subsection (d) of this section.

(f) The collector for a taxing unit must deliver a notice of default to a person who is in breach of an installment agreement under this section and to any other owner of an interest in the property subject to the agreement whose name appears on the delinquent tax roll before the collector may seize and sell the property or file a suit to collect a delinquent tax subject to the agreement.

Acts 1979, 66th Leg., p. 2290, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 906, Sec. 5, eff. Jan. 1, 1998.
Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 16, eff.

September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 935 (H.B. 1597), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 226 (H.B. 1933), Sec. 4, eff. September 1, 2015.

Sec. 33.03. DELINQUENT TAX ROLL. Each year the collector for each taxing unit shall prepare a current and a cumulative delinquent tax roll for the unit.

Acts 1979, 66th Leg., p. 2290, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 33.04. NOTICE OF DELINQUENCY. (a) At least once each year the collector for a taxing unit shall deliver a notice of delinquency to each person whose name appears on the current delinquent tax roll. However, the notice need not be delivered if:

(1) a bill for the tax was not mailed under Section 31.01(f); or

(2) the collector does not know and by exercising reasonable diligence cannot determine the delinquent taxpayer's name and address.

(b) A notice of delinquency under this section must contain the following statement in capital letters: "IF THE PROPERTY DESCRIBED IN THIS DOCUMENT IS YOUR RESIDENCE HOMESTEAD, YOU SHOULD CONTACT THE TAX COLLECTOR FOR (NAME OF TAXING UNIT) REGARDING A RIGHT YOU MAY HAVE TO ENTER INTO AN INSTALLMENT AGREEMENT DIRECTLY WITH THE TAX COLLECTOR FOR (NAME OF TAXING UNIT) FOR THE PAYMENT OF THESE TAXES."

(c) If the delinquency is the result of taxes imposed on property described by Section 33.011(i), the first page of the notice of delinquency must include, in 14-point boldfaced type or 14-point uppercase letters, a statement that reads substantially as follows: "THE TAXES ON THIS PROPERTY ARE DELINQUENT. THE PROPERTY IS SUBJECT TO A LIEN FOR THE DELINQUENT TAXES. IF THE DELINQUENT TAXES ARE NOT PAID, THE LIEN MAY BE FORECLOSED."

Acts 1979, 66th Leg., p. 2290, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 168, ch. 13, Sec. 128, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 761, Sec. 1, eff. Aug. 26, 1985; Acts 1999, 76th Leg., ch. 1481, Sec. 16, eff. Jan. 1,

2000; Acts 2001, 77th Leg., ch. 1430, Sec. 11, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 935 (H.B. 1597), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 967 (H.B. 1913), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 226 (H.B. 1933), Sec. 5, eff. September 1, 2015.

Sec. 33.045. NOTICE OF PROVISIONS AUTHORIZING DEFERRAL OR ABATEMENT. (a) A tax bill mailed by an assessor or collector under Section 31.01 and any written communication delivered to a property owner by an assessor or collector for a taxing unit or an attorney or other agent of a taxing unit that specifically threatens a lawsuit to collect a delinquent tax assessed against property that may qualify as a residence homestead shall contain the following explanation in capital letters: "IF YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED, AND YOU OCCUPY THE PROPERTY DESCRIBED IN THIS DOCUMENT AS YOUR RESIDENCE HOMESTEAD, YOU SHOULD CONTACT THE APPRAISAL DISTRICT REGARDING ANY ENTITLEMENT YOU MAY HAVE TO A POSTPONEMENT IN THE PAYMENT OF THESE TAXES".

(b) This section does not apply to a communication that relates to taxes that are the subject of pending litigation.

Added by Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 18, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 31 (S.B. 456), Sec. 1, eff. September 1, 2007.

Sec. 33.05. LIMITATION ON COLLECTION OF TAXES. (a) Personal property may not be seized and a suit may not be filed:

(1) to collect a tax on personal property that has been delinquent more than four years; or

(2) to collect a tax on real property that has been delinquent more than 20 years.

(b) A tax delinquent for more than the limitation period prescribed by this section and any penalty and interest on the tax is

presumed paid unless a suit to collect the tax is pending.

(c) If there is no pending litigation concerning the delinquent tax at the time of the cancellation and removal, the collector for a taxing unit shall cancel and remove from the delinquent tax roll:

(1) a tax on real property that has been delinquent for more than 20 years;

(2) a tax on personal property that has been delinquent for more than 10 years; and

(3) a tax on real property that has been delinquent for more than 10 years if the property has been owned for at least the preceding eight years by a home-rule municipality in a county with a population of more than 3.3 million.

Acts 1979, 66th Leg., p. 2291, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 836, Sec. 5.4, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 63, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 119, eff. Sept. 1, 2001.

Sec. 33.06. DEFERRED COLLECTION OF TAXES ON RESIDENCE HOMESTEAD OF ELDERLY OR DISABLED PERSON OR DISABLED VETERAN. (a) An individual is entitled to defer collection of a tax, abate a suit to collect a delinquent tax, or abate a sale to foreclose a tax lien if:

(1) the individual:

(A) is 65 years of age or older;

(B) is disabled as defined by Section 11.13(m); or

(C) is qualified to receive an exemption under Section 11.22; and

(2) the tax was imposed against property that the individual owns and occupies as a residence homestead.

(b) To obtain a deferral, an individual must file with the chief appraiser for the appraisal district in which the property is located an affidavit stating the facts required to be established by Subsection (a). The chief appraiser shall notify each taxing unit participating in the district of the filing. After an affidavit is filed under this subsection, a taxing unit may not file suit to collect delinquent taxes on the property and the property may not be sold at a sale to foreclose the tax lien until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead.

(c) To obtain an abatement of a pending suit, the individual must file in the court in which suit is pending an affidavit stating the facts required to be established by Subsection (a). If no controverting affidavit is filed by the taxing unit filing suit or if, after a hearing, the court finds the individual is entitled to the deferral, the court shall abate the suit until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead. The clerk of the court shall deliver a copy of the judgment abating the suit to the chief appraiser of each appraisal district that appraises the property.

(c-1) To obtain an abatement of a pending sale to foreclose the tax lien, the individual must deliver an affidavit stating the facts required to be established by Subsection (a) to the chief appraiser of each appraisal district that appraises the property, the collector for the taxing unit that requested the order of sale or the attorney representing that unit for the collection of delinquent taxes, and the officer charged with selling the property not later than the fifth day before the date of the sale. After an affidavit is delivered under this subsection, the property may not be sold at a tax sale until the 181st day after the date the individual no longer owns and occupies the property as a residence homestead. If property is sold in violation of this section, the property owner may file a motion to set aside the sale under the same cause number and in the same court as a judgment reference in the order of sale. The motion must be filed during the applicable redemption period as set forth in Section 34.21(a) or, if the property is bid off to a taxing entity, on or before the 180th day following the date the taxing unit's deed is filed of record, whichever is later. This right is not transferable to a third party.

(d) A tax lien remains on the property and interest continues to accrue during the period collection of taxes is deferred or abated under this section. The annual interest rate during the deferral or abatement period is five percent instead of the rate provided by Section 33.01. Interest and penalties that accrued or that were incurred or imposed under Section 33.01 or 33.07 before the date the individual files the deferral affidavit under Subsection (b) or the date the judgment abating the suit is entered, as applicable, are preserved. A penalty under Section 33.01 is not incurred during a deferral or abatement period. The additional penalty under Section 33.07 may be imposed and collected only if the taxes for which

collection is deferred or abated remain delinquent on or after the 181st day after the date the deferral or abatement period expires. A plea of limitation, laches, or want of prosecution does not apply against the taxing unit because of deferral or abatement of collection as provided by this section.

(e) Each year the chief appraiser for each appraisal district shall publicize in a manner reasonably designed to notify all residents of the district or county of the provisions of this section and, specifically, the method by which eligible persons may obtain a deferral or abatement.

(f) Notwithstanding the other provisions of this section, if an individual who qualifies for a deferral or abatement of collection of taxes on property as provided by this section dies, the deferral or abatement continues in effect until the 181st day after the date the surviving spouse of the individual no longer owns and occupies the property as a residence homestead if:

(1) the property was the residence homestead of the deceased spouse when the deceased spouse died;

(2) the surviving spouse was 55 years of age or older when the deceased spouse died; and

(3) the property was the residence homestead of the surviving spouse when the deceased spouse died.

(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.

(h) An heir property owner who qualifies heir property as the owner's residence homestead under Chapter 11 is considered the sole owner of the property for the purposes of this section.

Acts 1979, 66th Leg., p. 2291, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 168, ch. 13, Sec. 129, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 793, Sec. 1, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1039, Sec. 35, eff. Jan. 1, 1998;

Acts 2001, 77th Leg., ch. 892, Sec. 1, 2, eff. June 14, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 12, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 754, Sec. 1, 2, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1049 (S.B. 5), Sec. 4.05, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 18 (H.B. 217), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 18 (H.B. 217), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1131 (H.B. 150), Sec. 2, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 9, eff. September 1, 2019.

Sec. 33.065. DEFERRED COLLECTION OF TAXES ON APPRECIATING RESIDENCE HOMESTEAD. (a) An individual is entitled to defer or abate a suit to collect a delinquent tax imposed on the portion of the appraised value of property the individual owns and occupies as the individual's residence homestead that exceeds the sum of:

(1) 105 percent of the appraised value of the property for the preceding year; and

(2) the market value of all new improvements to the property.

(b) An individual may not obtain a deferral or abatement under this section, and any deferral or abatement previously received expires, if the taxes on the portion of the appraised value of the property that does not exceed the amount provided by Subsection (a) are delinquent.

(c) To obtain a deferral, an individual must file with the chief appraiser for the appraisal district in which the property is located an affidavit stating the facts required to be established by Subsection (a). The chief appraiser shall notify each taxing unit participating in the district of the filing. After an affidavit is filed under this subsection, a taxing unit may not file suit to collect delinquent taxes on the property for which collection is deferred until the individual no longer owns and occupies the property as a residence homestead.

(d) To obtain an abatement, the individual must file in the

court in which the delinquent tax suit is pending an affidavit stating the facts required to be established by Subsection (a). If the taxing unit that filed the suit does not file a controverting affidavit or if, after a hearing, the court finds the individual is entitled to the deferral, the court shall abate the suit until the individual no longer owns and occupies the property as the individual's residence homestead. The clerk of the court shall deliver a copy of the judgment abating the suit to the chief appraiser of each appraisal district that appraises the property.

(e) A deferral or abatement under this section applies only to ad valorem taxes imposed beginning with the tax year following the first tax year the individual entitled to the deferral or abatement qualifies the property for an exemption under Section 11.13. For purposes of this subsection, the owner of a residence homestead that is qualified for an exemption under Section 11.13 on January 1, 1998, is considered to have qualified the property for the first time in the 1997 tax year.

(f) If the collection of delinquent taxes on the property was deferred in a prior tax year and the sum of the amounts described by Subsections (a)(1) and (2) exceeds the appraised value of the property for the current tax year, the amount of taxes the collection of which may be deferred is reduced by the amount calculated by multiplying the taxing unit's tax rate for the current year by the amount by which that sum exceeds the appraised value of the property.

(g) A tax lien remains on the property and interest continues to accrue during the period collection of delinquent taxes is deferred or abated under this section. The annual interest rate during the deferral or abatement period is eight percent instead of the rate provided by Section 33.01. Interest and penalties that accrued or that were incurred or imposed under Section 33.01 or 33.07 before the date the individual files the deferral affidavit under Subsection (c) or the date the judgment abating the suit is entered, as applicable, are preserved. A penalty is not incurred on the delinquent taxes for which collection is deferred or abated during a deferral or abatement period. The additional penalty under Section 33.07 may be imposed and collected only if the delinquent taxes for which collection is deferred or abated remain delinquent on or after the 91st day after the date the deferral or abatement period expires. A plea of limitation, laches, or want of prosecution does not apply against the taxing unit because of deferral or abatement of

collection as provided by this section.

(h) Each year the chief appraiser for each appraisal district shall publicize in a manner reasonably designed to notify all residents of the county for which the appraisal district is established of the provisions of this section and, specifically, the method by which an eligible person may obtain a deferral.

(i) In this section:

(1) "New improvement" means an improvement to a residence homestead that is made after the appraisal of the property for the preceding year and that increases the market value of the property. The term does not include ordinary maintenance of an existing structure or the grounds or another feature of the property.

(2) "Residence homestead" has the meaning assigned that term by Section 11.13.

(j) An heir property owner who qualifies heir property as the owner's residence homestead under Chapter 11 is considered the sole owner of the property for the purposes of this section.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 36, eff. Jan. 1, 1998.
Amended by Acts 2001, 77th Leg., ch. 1430, Sec. 13, eff. Sept. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 663 (S.B. 1943), Sec. 10, eff. September 1, 2019.

Sec. 33.07. ADDITIONAL PENALTY FOR COLLECTION COSTS FOR TAXES DUE BEFORE JUNE 1. (a) A taxing unit or appraisal district may provide, in the manner required by law for official action by the body, that taxes that become delinquent on or after February 1 of a year but not later than May 1 of that year and that remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection, if the unit or district or another unit that collects taxes for the unit has contracted with an attorney pursuant to Section 6.30. The amount of the penalty may not exceed the amount of the compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes.

(b) A tax lien attaches to the property on which the tax is imposed to secure payment of the penalty.

(c) If a penalty is imposed pursuant to this section, a taxing unit may not recover attorney's fees in a suit to collect delinquent taxes subject to the penalty.

(d) If a taxing unit or appraisal district provides for a penalty under this section, the collector shall deliver a notice of delinquency and of the penalty to the property owner at least 30 and not more than 60 days before July 1.

Added by Acts 1981, 67th Leg., 1st C.S., p. 168, ch. 13, Sec. 130, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 1481, Sec. 17, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1430, Sec. 14, eff. Sept. 1, 2001.

Sec. 33.08. ADDITIONAL PENALTY FOR COLLECTION COSTS FOR TAXES DUE ON OR AFTER JUNE 1. (a) This section applies to a taxing unit or appraisal district only if:

(1) the governing body of the taxing unit or appraisal district has imposed the additional penalty for collection costs under Section 33.07; and

(2) the taxing unit or appraisal district, or another taxing unit that collects taxes for the unit, has entered into a contract with an attorney under Section 6.30 for the collection of the unit's delinquent taxes.

(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 26.075(j), 26.15(e), 31.03, 31.031, 31.032, 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.

(c) After the taxes become delinquent, the collector for a taxing unit or appraisal district that has provided for the additional penalty under this section shall send a notice of the delinquency and the penalty to the property owner. The penalty is incurred on the first day of the first month that begins at least 21 days after the date the notice is sent.

(d) A tax lien attaches to the property on which the tax is

imposed to secure payment of the additional penalty.

(e) A taxing unit or appraisal district that imposes the additional penalty under this section may not recover attorney's fees in a suit to collect delinquent taxes subject to the penalty.

Added by Acts 1999, 76th Leg., ch. 1481, Sec. 18, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 1430, Sec. 15, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 704 (H.B. 499), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 59, eff. January 1, 2020.

Sec. 33.10. RESTRICTED OR CONDITIONAL PAYMENTS OF DELINQUENT TAXES, PENALTIES, AND INTEREST PROHIBITED. Unless the restriction or condition is authorized by this title, a restriction or condition placed on a check in payment of delinquent taxes by the maker that purports to limit the amount of delinquent taxes owed to an amount less than that stated in the applicable delinquent tax roll, or a restriction or condition placed on a check in payment of penalties and interest on delinquent taxes by the maker that purports to limit the amount of the penalties and interest to an amount less than the amount of penalties and interest accrued on the delinquent taxes, is void.

Added by Acts 2003, 78th Leg., ch. 651, Sec. 1, eff. June 20, 2003.

Sec. 33.11. EARLY ADDITIONAL PENALTY FOR COLLECTION COSTS FOR TAXES IMPOSED ON PERSONAL PROPERTY. (a) In order to defray costs of collection, the governing body of a taxing unit or appraisal district in the manner required by law for official action may provide that taxes imposed on tangible personal property that become delinquent on or after February 1 of a year incur an additional penalty on a date that occurs before July 1 of the year in which the taxes become delinquent if:

(1) the taxing unit or appraisal district or another unit that collects taxes for the unit has contracted with an attorney under Section 6.30; and

(2) the taxes on the personal property become subject to the attorney's contract before July 1 of the year in which the taxes become delinquent.

(b) A penalty imposed under Subsection (a) is incurred by the delinquent taxes on the later of:

(1) the date those taxes become subject to the attorney's contract; or

(2) 60 days after the date the taxes become delinquent.

(c) The amount of the penalty may not exceed the amount of the compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes.

(d) A tax lien attaches to the property on which the tax is imposed to secure payment of the penalty.

(e) If a penalty is provided under this section, a taxing unit or appraisal district may not:

(1) recover attorney's fees in a suit to collect delinquent taxes subject to the penalty; or

(2) impose an additional penalty under Section 33.07 on a delinquent personal property tax.

(f) If the governing body of a taxing unit or appraisal district provides for a penalty under this section, the collector for the taxing unit or appraisal district shall send a notice of the penalty to the property owner. The notice shall state the date on which the penalty is incurred, and the tax collector shall deliver the notice at least 30 and not more than 60 days before that date. If the amount of personal property tax, penalty and interest owed to all taxing units for which the tax collector collects exceeds $10,000 on a single account identified by a unique property identification number, the notice regarding that account must be delivered by certified mail, return receipt requested. All other notices under this section may be delivered by regular first-class mail.

(g) The authority granted to taxing units and appraisal districts under this section is to be construed as an alternative, with regards to delinquent personal property taxes, to the authority given by Section 33.07.

Added by Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 19, eff. September 1, 2005.

SUBCHAPTER B. SEIZURE OF PERSONAL PROPERTY

Sec. 33.21. PROPERTY SUBJECT TO SEIZURE. (a) A person's personal property is subject to seizure for the payment of a delinquent tax, penalty, and interest he owes a taxing unit on property.

(b) A person's personal property is subject to seizure for the payment of a tax imposed by a taxing unit on the person's property before the tax becomes delinquent if:

(1) the collector discovers that property on which the tax has been or will be imposed is about to be:

(A) removed from the county; or

(B) sold in a liquidation sale in connection with the cessation of a business; and

(2) the collector knows of no other personal property in the county from which the tax may be satisfied.

(c) Current wages in the possession of an employer are not subject to seizure.

(d) In this subchapter, "personal property" means:

(1) tangible personal property;

(2) cash on hand;

(3) notes or accounts receivable, including rents and royalties;

(4) demand or time deposits; and

(5) certificates of deposit.

Acts 1979, 66th Leg., p. 2292, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4828, ch. 851, Sec. 23, eff. Aug. 29, 1983; Acts 2001, 77th Leg., ch. 1430, Sec. 17, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 309 (H.B. 1910), Sec. 1, eff. September 1, 2007.

Sec. 33.22. INSTITUTION OF SEIZURE. (a) At any time after a tax becomes delinquent, a collector may apply for a tax warrant to any court in any county in which the person liable for the tax has personal property. If more than one collector participates in the seizure, all may make a joint application.

(b) A collector may apply at any time for a tax warrant

authorizing seizure of property as provided by Subsection (b) of Section 33.21 of this code.

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

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

(2) 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.

(d) A collector is entitled to recover attorney's fees in an amount equal to the compensation specified in the contract with the attorney if:

(1) recovery of the attorney's fees is requested in the application for the tax warrant;

(2) the taxing unit served by the collector contracts with an attorney under Section 6.30;

(3) the existence of the contract and the amount of attorney's fees that equals the compensation specified in the contract are supported by the affidavit of the collector; and

(4) the tax sought to be recovered is not subject to the additional penalty under Section 33.07 or 33.08 at the time the application is filed.

(e) If a taxing unit is represented by an attorney who is also an officer or employee of the taxing unit, the collector for the taxing unit is entitled to recover attorney's fees in an amount equal to 15 percent of the total amount of delinquent taxes, penalties, and interest that the property owner owes the taxing unit.

Acts 1979, 66th Leg., p. 2292, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 17, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 242 (H.B. 930), Sec. 1, eff. June

17, 2011.

Sec. 33.23. TAX WARRANT. (a) A tax warrant shall direct a peace officer in the county and the collector to seize as much of the person's personal property as may be reasonably necessary for the payment of all taxes, penalties, interest, and attorney's fees included in the application and all costs of seizure and sale. The warrant shall direct the person whose property is seized to disclose to the officer executing the warrant the name and the address if known of any other person having an interest in the property.

(b) A bond may not be required of a taxing unit for issuance or delivery of a tax warrant, and a fee or court cost may not be charged for issuance or delivery of a warrant.

(c) After a tax warrant is issued, the collector or peace officer shall take possession of the property pending its sale. The person against whom a tax warrant is issued or another person having possession of property of the person against whom a tax warrant is issued shall surrender the property on demand. Pending the sale of the property, the collector or peace officer may secure the property at the location where it is seized or may move the property to another location.

(d) A person who possesses personal property owned by the person against whom a tax warrant is issued and who surrenders the property on demand is not liable to any person for the surrender. At the time of surrender, the collector shall provide the person surrendering the property a sworn receipt describing the property surrendered.

(e) Subsection (d) does not create an obligation on the part of a person who surrenders property owned by the person against whom a tax warrant is issued that exceeds or materially differs from that person's obligation to the person against whom the tax warrant is issued.

Acts 1979, 66th Leg., p. 2292, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4828, ch. 851, Sec. 24, eff. Aug. 29, 1983; Acts 2001, 77th Leg., ch. 1430, Sec. 18, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 20, eff.

September 1, 2005.

Sec. 33.24. BOND FOR PAYMENT OF TAXES. A person may prevent seizure of property or sale of property seized by delivering to the collector a cash or surety bond conditioned on payment of the tax before delinquency. The bond must be approved by the collector in an amount determined by him, but he may not require an amount greater than the amount of tax if imposed or the collector's reasonable estimate of the amount of tax if not yet imposed.

Acts 1979, 66th Leg., p. 2293, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 33.25. TAX SALE: NOTICE; METHOD; DISPOSITION OF PROCEEDS. (a) After a seizure of personal property, the collector shall make a reasonable inquiry to determine the identity and to ascertain the address of any person having an interest in the property other than the person against whom the tax warrant is issued. The collector shall provide in writing the name and address of each other person the collector identifies as having an interest in the property to the peace officer charged with executing the warrant. The peace officer shall deliver as soon as possible a written notice stating the time and place of the sale and briefly describing the property seized to the person against whom the warrant is issued and to any other person having an interest in the property whose name and address the collector provided to the peace officer. The posting of the notice and the sale of the property shall be conducted:

(1) in a county other than a county to which Subdivision (2) applies, by the peace officer in the manner required for the sale under execution of personal property; or

(2) in a county having a population of three million or more:

(A) by the peace officer or collector, as specified in the warrant, in the manner required for the sale under execution of personal property; or

(B) under an agreement authorized by Subsection (b).

(b) The commissioners court of a county having a population of three million or more by official action may authorize a peace

officer or the collector for the county charged with selling property under this subchapter by public auction to enter into an agreement with a person who holds an auctioneer's license to advertise the auction sale of the property and to conduct the auction sale of the property. The agreement may provide for on-line bidding and sale.

(c) The commissioners court of a county that authorizes a peace officer or the collector for the county to enter into an agreement under Subsection (b) may by official action authorize the peace officer or collector to enter into an agreement with a service provider to advertise the auction and to conduct the auction sale of the property or to accept bids during the auction sale of the property under Subsection (b) using the Internet.

(d) The terms of an agreement entered into under Subsection (b) or (c) must be approved in writing by the collector for each taxing unit entitled to receive proceeds from the sale of the property. An agreement entered into under Subsection (b) or (c) is presumed to be commercially reasonable, and the presumption may not be rebutted by any person.

(e) Failure to send or receive a notice required by this section does not affect the validity of the sale or title to the seized property.

(f) The proceeds of a sale of property under this section shall be applied to:

(1) any compensation owed to or any expense advanced by the licensed auctioneer under an agreement entered into under Subsection (b) or a service provider under an agreement entered into under Subsection (c);

(2) all usual costs, expenses, and fees of the seizure and sale, payable to the peace officer conducting the sale;

(3) all additional expenses incurred in advertising the sale or in removing, storing, preserving, or safeguarding the seized property pending its sale;

(4) all usual court costs payable to the clerk of the court that issued the tax warrant; and

(5) taxes, penalties, interest, and attorney's fees included in the application for warrant.

(g) The peace officer or licensed auctioneer conducting the sale shall pay all proceeds from the sale to the collector designated in the tax warrant for distribution as required by Subsection (f).

(h) After a seizure of personal property defined by Sections

33.21(d)(2)-(5), the collector shall apply the seized property toward the payment of the taxes, penalties, interest, and attorney's fees included in the application for warrant and all costs of the seizure as required by Subsection (f).

(i) After a tax warrant is issued, the seizure or sale of the property may be canceled and terminated at any time by the applicant or an authorized agent or attorney of the applicant.

Acts 1979, 66th Leg., p. 2293, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 1430, Sec. 19, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 319, Sec. 1, eff. June 18, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 21, eff. September 1, 2005.

SUBCHAPTER C. DELINQUENT TAX SUITS

Sec. 33.41. SUIT TO COLLECT DELINQUENT TAX. (a) At any time after its tax on property becomes delinquent, a taxing unit may file suit to foreclose the lien securing payment of the tax, to enforce personal liability for the tax, or both. The suit must be in a court of competent jurisdiction for the county in which the tax was imposed.

(b) A suit to collect a delinquent tax takes precedence over all other suits pending in appellate courts.

(c) In a suit brought under Subsection (a), a taxing unit may foreclose any other lien on the property in favor of the taxing unit or enforce personal liability of the property owner for the other lien.

(d) In a suit brought under this section, a court shall grant a taxing unit injunctive relief on a showing that the personal property on which the taxing unit seeks to foreclose a tax lien is about to be:

(1) removed from the county in which the tax was imposed; or

(2) transferred to another person and the other person is not a buyer in the ordinary course of business, as defined by Section 1.201, Business & Commerce Code.

(e) Injunctive relief granted under Subsection (d) must:

(1) prohibit alienation or dissipation of the property;

(2) order that proceeds from the sale of the property in an amount equal to the taxes claimed to be due be paid into the court registry; or

(3) order any other relief to ensure the payment of the taxes owed.

(f) A taxing unit is not required to file a bond as a condition to the granting of injunctive relief under Subsection (d).

(g) In a petition for relief under Subsection (d), the taxing unit may also seek to secure the payment of taxes for a current tax year that are not delinquent and shall estimate the amount due if those taxes are not yet assessed.

(h) The tax lien attaches to any amounts paid into the court's registry with the same priority as for the property on which taxes are owed.

Acts 1979, 66th Leg., p. 2293, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2644, ch. 707, Sec. 4(33), eff. Aug. 31, 1981; Acts 1993, 73rd Leg., ch. 1031, Sec. 4, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1430, Sec. 20, eff. Sept. 1, 2001.

Sec. 33.42. TAXES INCLUDED IN FORECLOSURE SUIT. (a) In a suit to foreclose a lien securing payment of its tax on real property, a taxing unit shall include all delinquent taxes due the unit on the property.

(b) If a taxing unit's tax on real property becomes delinquent after the unit files suit to foreclose a tax lien on the property but before entry of judgment, the court shall include the amount of the tax and any penalty and interest in its judgment.

(c) If a tax required by this section to be included in a suit is omitted from the judgment in the suit, the taxing unit may not enforce collection of the tax at a later time except as provided by Section 34.04(c)(2).

Acts 1979, 66th Leg., p. 2293, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 1430, Sec. 21, eff. Sept. 1, 2001.

Sec. 33.43. PETITION. (a) A petition initiating a suit to collect a delinquent property tax is sufficient if it alleges that:

(1) the taxing unit is legally constituted and authorized to impose and collect ad valorem taxes on property;

(2) tax in a stated amount was legally imposed on each separately described property for each year specified and on each person named if known who owned the property on January 1 of the year for which the tax was imposed;

(3) the tax was imposed in the county in which the suit is filed;

(4) the tax is delinquent;

(5) penalties, interest, and costs authorized by law in a stated amount for each separately assessed property are due;

(6) the taxing unit is entitled to recover each penalty that is incurred and all interest that accrues on delinquent taxes imposed on the property from the date of the judgment to the date of the sale under Section 34.01 or under Section 253.010, Local Government Code, as applicable, if the suit seeks to foreclose a tax lien;

(7) the person sued owned the property on January 1 of the year for which the tax was imposed if the suit seeks to enforce personal liability;

(8) the person sued owns the property when the suit is filed if the suit seeks to foreclose a tax lien;

(9) the taxing unit asserts a lien on each separately described property to secure the payment of all taxes, penalties, interest, and costs due if the suit seeks to foreclose a tax lien;

(10) all things required by law to be done have been done properly by the appropriate officials; and

(11) the attorney signing the petition is legally authorized to prosecute the suit on behalf of the taxing unit.

(b) If the petition alleges that the person sued owns the property on which the taxing unit asserts a lien, the prayer in the petition shall be for foreclosure of the lien and payment of all taxes, penalties, interest, and costs that are due or will become due and that are secured by the lien. If the petition alleges that the person sued owned the property on January 1 of the year for which the taxes were imposed, the prayer shall be for personal judgment for all taxes, penalties, interest, and costs that are due or will become due on the property. If the petition contains the appropriate allegations, the prayer may be for both foreclosure of a lien on the property and personal judgment.

(c) If the suit is for personal judgment against the person who owned personal property on January 1 of the year for which the tax was imposed on the property, the personal property may be described generally.

(d) The petition need not be verified.

(e) The comptroller shall prepare forms for petitions initiating suits to collect delinquent taxes. An attorney representing a taxing unit may use the forms or develop his own form.

Acts 1979, 66th Leg., p. 2293, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 49, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 981, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 19, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 18.006, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 22, eff. Sept. 1, 2001.

Sec. 33.44. JOINDER OF OTHER TAXING UNITS. (a) A taxing unit filing suit to foreclose a tax lien on real property shall join other taxing units that have claims for delinquent taxes against all or part of the same property.

(b) For purposes of joining a county, citation may be served on the county tax assessor-collector. For purposes of joining any other taxing unit, citation may be served on the officer charged with collecting taxes for the unit or on the presiding officer or secretary of the governing body of the unit. Citation may be served by certified mail, return receipt requested. A person on whom service is authorized by this subsection may waive the issuance and service of citation in behalf of his taxing unit.

(c) A taxing unit joined in a suit as provided by this section must file its claim for delinquent taxes against the property or its lien on the property is extinguished. The court's judgment in the suit shall reflect the extinguishment of a lien under this subsection.

Acts 1979, 66th Leg., p. 2294, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4828, ch. 851, Sec. 25, eff. Aug. 29, 1983.

Sec. 33.445. JOINDER OF TAX LIEN TRANSFEREE. (a) A taxing

unit acting under Section 33.44(a) shall also join each transferee of a tax lien against the property that may appear of record under Section 32.06. After the joinder, the transferee of the tax lien may file its claim and seek foreclosure in the suit for all amounts owed the transferee that are secured by the transferred tax lien, regardless of when the original transfer of tax lien was recorded or whether the original loan secured by the transferred tax lien is delinquent. In the alternative, the transferee may pay all taxes, penalties, interest, court costs, and attorney's fees owing to the taxing unit that filed the foreclosure suit and each other taxing unit that is joined.

(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.

(c) On transfer of all applicable tax liens, the transferee may seek to foreclose the tax liens in the pending suit or in any other manner provided by Section 32.06, regardless of when the original transfer of tax lien was recorded or whether the original loan secured by the transferred tax lien is delinquent. The foreclosure may include all amounts owed to the transferee, including any amount secured by the original transfer of tax lien.

(d) All liens held by a transferee who is joined under this section but fails to act in the manner provided by this section are extinguished, and the court's judgment shall reflect the extinguishment of those liens.

Added by Acts 2009, 81st Leg., R.S., Ch. 104 (H.B. 1465), Sec. 2, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 622 (S.B. 762), Sec. 2, eff. September 1, 2011.

Sec. 33.45. PLEADING AND ANSWERING TO CLAIMS FILED. A party to the suit must take notice of and plead and answer to all claims and pleadings filed by other parties that have been joined or have intervened, and each citation must so state.

Acts 1979, 66th Leg., p. 2294, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 33.46. PARTITION OF REAL PROPERTY. (a) If suit is filed to foreclose a tax lien on real property owned in undivided interests by two or more persons, one or more of the owners may have the property partitioned in the manner prescribed by law for the partition of real property in district court.

(b) The court shall apportion the taxes, penalties, interest, and costs sued for to the owners of the property in proportion to the interest of each. If an owner pays the taxes, penalties, interest, and costs apportioned to him, the property partitioned to him is free from further claim or lien for the taxes involved in the suit. If an owner refuses to pay the amount apportioned to him, the suit shall proceed against him for that amount.

(c) The court shall allow reasonable attorney's fees and costs of partitioning for each property partitioned. The fee shall be taxed as costs against each owner in proportion to his interest and constitutes a lien against the property until paid.

Acts 1979, 66th Leg., p. 2294, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 33.47. TAX RECORDS AS EVIDENCE. (a) In a suit to collect a delinquent tax, the taxing unit's current tax roll and delinquent tax roll or certified copies of the entries showing the property and the amount of the tax and penalties imposed and interest accrued constitute prima facie evidence that each person charged with a duty relating to the imposition of the tax has complied with all requirements of law and that the amount of tax alleged to be delinquent against the property and the amount of penalties and interest due on that tax as listed are the correct amounts.

(b) If the description of a property in the tax roll or delinquent tax roll is insufficient to identify the property, the records of the appraisal office are admissible to identify the property.

(c) In a suit to collect a tax, a tax receipt issued under Section 31.075 of this code, or an electronic replica of the receipt, that states that a tax has been paid is prima facie evidence that the tax has been paid as stated by the receipt or electronic replica.

Acts 1979, 66th Leg., p. 2295, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 52, Sec. 2, eff. May 6, 1987; Acts 1995, 74th Leg., ch. 828, Sec. 1, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1481, Sec. 20, eff. Sept. 1, 1999.

Sec. 33.475. ATTORNEY AD LITEM REPORT; APPROVAL OF FEES. (a) In a suit to collect a delinquent tax, an attorney ad litem appointed by a court to represent the interests of a defendant served with process by means of citation by publication or posting shall submit to the court a report describing the actions taken by the attorney ad litem to locate and represent the interests of the defendant.

(b) The court may not approve the fees of the attorney ad litem until the attorney ad litem submits the report required by this section and the court determines that the actions taken by the attorney ad litem as described in the report were sufficient to discharge the attorney's duties to the defendant.

Added by Acts 2015, 84th Leg., R.S., Ch. 1090 (H.B. 2710), Sec. 1, eff. September 1, 2015.

Sec. 33.48. RECOVERY OF COSTS AND EXPENSES. (a) In addition to other costs authorized by law, a taxing unit is entitled to recover the following costs and expenses in a suit to collect a delinquent tax:

(1) all usual court costs, including the cost of serving process and electronic filing fees;

(2) costs of filing for record a notice of lis pendens against property;

(3) expenses of foreclosure sale;

(4) reasonable expenses that are incurred by the taxing unit in determining the name, identity, and location of necessary parties and in procuring necessary legal descriptions of the property on which a delinquent tax is due;

(5) attorney's fees in the amount of 15 percent of the total amount of taxes, penalties, and interest due the unit; and

(6) reasonable attorney ad litem fees approved by the court that are incurred in a suit in which the court orders the appointment of an attorney to represent the interests of a defendant served with

process by means of citation by publication or posting.

(b) Each item specified by Subsection (a) of this section is a charge against the property subject to foreclosure in the suit and shall be collected out of the proceeds of the sale of the property or, if the suit is for personal judgment, charged against the defendant.

(c) Fees collected for attorneys and other officials are fees of office, except that fees for contract attorneys representing a taxing unit that is joined or intervenes shall be applied toward the compensation due the attorney under the contract.

(d) A collector who accepts a payment of the court costs and other expenses described by this section shall disburse the amount of the payment as follows:

(1) amounts owing under Subsections (a)(1), (2), (3), and (6) are payable to the clerk of the court in which the suit is pending; and

(2) expenses described by Subsection (a)(4) are payable to the general fund of the taxing unit or to the person or entity who advanced the expense.

Acts 1979, 66th Leg., p. 2295, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, Sec. 131, eff. Jan. 1, 1982; Acts 1993, 73rd Leg., ch. 1031, Sec. 16, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 906, Sec. 6(a), eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 1430, Sec. 23, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 22, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 18, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1290 (H.B. 2302), Sec. 19, eff. September 1, 2013.

Sec. 33.49. LIABILITY OF TAXING UNIT FOR COSTS. (a) Except as provided by Subsection (b), a taxing unit is not liable in a suit to collect taxes for court costs, including any fees for service of process or electronic filing, an attorney ad litem, arbitration, or mediation, and may not be required to post security for costs.

(b) A taxing unit shall pay the cost of publishing citations, notices of sale, or other notices from the unit's general fund as soon as practicable after receipt of the publisher's claim for payment. The taxing unit is entitled to reimbursement from other taxing units that are parties to the suit for their proportionate share of the publication costs on satisfaction of any portion of the tax indebtedness before further distribution of the proceeds. A taxing unit may not pay a word or line rate for publication of citation or other required notice that exceeds the rate the newspaper publishing the notice charges private entities for similar classes of advertising.

Acts 1979, 66th Leg., p. 2295, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1993, 73rd Leg., ch. 850, Sec. 1, eff. June 19, 1993; Acts 2001, 77th Leg., ch. 1430, Sec. 24, eff. Sept. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 19, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1290 (H.B. 2302), Sec. 20, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 16.002, eff. September 1, 2015.

Sec. 33.50. ADJUDGED VALUE. (a) In a suit for foreclosure of a tax lien on property, the court shall determine the market value of the property on the date of trial. The appraised value of the property according to the most recent appraisal roll approved by the appraisal review board is presumed to be its market value on the date of trial, and the person being sued has the burden of establishing that the market value of the property differs from that appraised value. The court shall incorporate a finding of the market value of the property on the date of trial in the judgment.

(b) If the judgment in a suit to collect a delinquent tax is for the foreclosure of a tax lien on property, the order of sale shall specify that the property may be sold to a taxing unit that is a party to the suit or to any other person, other than a person owning an interest in the property or any party to the suit that is not a taxing unit, for the market value of the property stated in the judgment or the aggregate amount of the judgments against the

property, whichever is less.

(c) The order of sale shall also specify that the property may not be sold to a person owning an interest in the property or to a person who is a party to the suit other than a taxing unit unless:

(1) that person is the highest bidder at the tax sale; and

(2) the amount bid by that person is equal to or greater than the aggregate amount of the judgments against the property, including all costs of suit and sale.

Acts 1979, 66th Leg., p. 2296, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 914, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 21, eff. Sept. 1, 1999.

Sec. 33.51. WRIT OF POSSESSION. (a) If the court orders the foreclosure of a tax lien and the sale of real property, the judgment shall provide for the issuance by the clerk of said court of a writ of possession to the purchaser at the sale or to the purchaser's assigns no sooner than 20 days following the date on which the purchaser's deed from the sheriff or constable is filed of record.

(b) The officer charged with executing the writ shall place the purchaser or the purchaser's assigns in possession of the property described in the purchaser's deed without further order from any court and in the manner provided by the writ, subject to any notice to vacate that may be required to be given to a tenant under Section 24.005(b), Property Code.

(c) The writ of possession shall order the officer executing the writ to:

(1) post a written warning that is at least 8-1/2 by 11 inches on the exterior of the front door of the premises notifying the occupant that the writ has been issued and that the writ will be executed on or after a specific date and time stated in the warning that is not sooner than the 10th day after the date the warning is posted; and

(2) on execution of the writ:

(A) deliver possession of the premises to the purchaser or the purchaser's assigns;

(B) instruct the occupants to immediately leave the premises and, if the occupants fail or refuse to comply, physically remove them from the premises;

(C) instruct the occupants to remove, or to allow the purchaser or purchaser's assigns, representatives, or other persons acting under the officer's supervision to remove, all personal property from the premises; and

(D) place, or have an authorized person place, the removed personal property outside the premises at a nearby location, but not so as to block a public sidewalk, passageway, or street and not while it is raining, sleeting, or snowing.

(d) The writ of possession shall authorize the officer, at the officer's discretion, to engage the services of a bonded or insured warehouseman to remove and store, subject to applicable law, all or part of the personal property at no cost to the purchaser, the purchaser's assigns, or the officer executing the writ. The officer may not require the purchaser or the purchaser's assigns to store the personal property.

(e) The writ of possession shall contain notice to the officer that under Section 7.003, Civil Practice and Remedies Code, the officer is not liable for damages resulting from the execution of the writ if the officer executes the writ in good faith and with reasonable diligence.

(f) The warehouseman's lien on stored property, the officer's duties, and the occupants' rights of redemption as provided by Section 24.0062, Property Code, are all applicable with respect to any personal property that is removed under Subsection (d).

(g) A sheriff or constable may use reasonable force in executing a writ under this section.

(h) If a taxing unit is a purchaser and is entitled to a writ of possession in the taxing unit's name:

(1) a bond may not be required of the taxing unit for issuance or delivery of a writ of possession; and

(2) a fee or court cost may not be charged for issuance or delivery of a writ of possession.

(i) In this section:

(1) "Premises" means all of the property described in the purchaser's deed, including the buildings, dwellings, or other structures located on the property.

(2) "Purchaser" includes a taxing unit to which property is bid off under Section 34.01(j).

Acts 1979, 66th Leg., p. 2296, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1997, 75th Leg., ch. 906, Sec. 7, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 914, Sec. 6, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1111, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 42(1).
Amended by:
Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 23, eff. September 1, 2005.

Sec. 33.52. TAXES INCLUDED IN JUDGMENT. (a) Only taxes that are delinquent on the date of a judgment may be included in the amount recoverable under the judgment by the taxing units that are parties to the suit.

(b) In lieu of stating as a liquidated amount the aggregate total of taxes, penalties, and interest due, a judgment may:

(1) set out the tax due each taxing unit for each year; and

(2) provide that penalties and interest accrue on the unpaid taxes as provided by Subchapter A.

(c) For purposes of calculating penalties and interest due under the judgment, it is presumed that the delinquency date for a tax is February 1 of the year following the year in which the tax was imposed, unless the judgment provides otherwise.

(d) Except as provided by Section 34.05(k), 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.

Amended by Acts 1997, 75th Leg., ch. 906, Sec. 8, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 981, Sec. 2; Acts 1997, 75th Leg., ch. 1111, Sec. 3; Acts 1999, 76th Leg., ch. 1481, Sec. 22, eff. Sept. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 740 (H.B. 1118), Sec. 1, eff. June 17, 2011.

Sec. 33.53. ORDER OF SALE; PAYMENT BEFORE SALE. (a) If judgment in a suit to collect a delinquent tax is for foreclosure of

a tax lien, the court shall order the property sold in satisfaction of the amount of the judgment.

(b) On application by a taxing unit that is a party to the judgment, the district clerk shall prepare an order to an officer authorized to conduct execution sales ordering the sale of the property. If more than one parcel of property is included in the judgment, the taxing unit may specify particular parcels to be sold. A taxing unit may request more than one order of sale as necessary to collect all amounts due under the judgment.

(c) An order of sale:

(1) shall be returned to the district clerk as unexecuted if not executed before the 181st day after the date the order is issued; and

(2) may be accompanied by a copy of the judgment and a bill of costs attached to the order and incorporate the terms of the judgment or bill of costs by reference.

(d) A judgment or a bill of costs attached to the order of sale is not required to be certified.

(e) If the owner pays the amount of the judgment before the property is sold, the taxing unit shall:

(1) release the tax lien held by the taxing unit on the property; and

(2) file for record with the clerk of the court in which the judgment was rendered a release of the lien.

Acts 1979, 66th Leg., p. 2296, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 537, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 23, eff. Sept. 1, 1999.

Sec. 33.54. LIMITATION ON ACTIONS RELATING TO PROPERTY SOLD FOR TAXES. (a) Except as provided by Subsection (b), an action relating to the title to property may not be maintained against the purchaser of the property at a tax sale unless the action is commenced:

(1) before the first anniversary of the date that the deed executed to the purchaser at the tax sale is filed of record; or

(2) before the second anniversary of the date that the deed executed to the purchaser is filed of record, if on the date that the suit to collect the delinquent tax was filed the property was:

(A) the residence homestead of the owner; or

(B) land appraised or eligible to be appraised under Subchapter C or D, Chapter 23.

(b) If a person other than the purchaser at the tax sale or the person's successor in interest pays taxes on the property during the applicable limitations period and until the commencement of an action challenging the validity of the tax sale and that person was not served citation in the suit to foreclose the tax lien, that limitations period does not apply to that person.

(c) When actions are barred by this section, the purchaser at the tax sale or the purchaser's successor in interest has full title to the property, precluding all other claims.

Acts 1979, 66th Leg., p. 2296, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 1136, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1192, Sec. 1, eff. Sept. 1, 1997.

Sec. 33.55. EFFECT OF JUDGMENT ON ACCRUAL OF PENALTIES AND INTEREST. A judgment for delinquent taxes does not affect the accrual after the date of the judgment of penalties and interest under this chapter on the taxes included in the judgment.

Added by Acts 1997, 75th Leg., ch. 1111, Sec. 4, eff. Sept. 1, 1997.

Sec. 33.56. VACATION OF JUDGMENT. (a) If, in a suit to collect a delinquent tax, a court renders a judgment for foreclosure of a tax lien on behalf of a taxing unit, any taxing unit that was a party to the judgment may file a petition to vacate the judgment on one or more of the following grounds:

(1) failure to join a person needed for just adjudication under the Texas Rules of Civil Procedure, including a taxing unit required to be joined under Section 33.44(a);

(2) failure to serve a person needed for just adjudication under the Texas Rules of Civil Procedure, including a taxing unit required to be joined under Section 33.44(a);

(3) failure of the judgment to adequately describe the property that is the subject of the suit; or

(4) that the property described in the judgment was subject to multiple appraisals for the tax years included in the judgment.

(b) The taxing unit must file the petition under the same cause

number as the delinquent tax suit and in the same court.

(c) The taxing unit may not file a petition if a tax sale of the property has occurred unless:

(1) the tax sale has been vacated by an order of a court;

(2) the property was bid off to a taxing unit under Section 34.01(j) and has not been resold; or

(3) the tax sale or resale purchaser, or the purchaser's heirs, successors, or assigns, consents to the petition.

(d) Consent of the purchaser to a petition may be shown by:

(1) a written memorandum signed by the purchaser and filed with the court;

(2) the purchaser's joinder in the taxing unit's petition;

(3) a statement of the purchaser made in open court on the record in a hearing on the petition; or

(4) the purchaser's signature of approval to an agreed order to grant the petition.

(e) A copy of the petition must be served in a manner authorized by Rule 21a, Texas Rules of Civil Procedure, on each party to the delinquent tax suit.

(f) If the court grants the petition, the court shall enter an order providing that:

(1) the judgment, any tax sale based on that judgment, and any subsequent resale are vacated;

(2) any applicable tax deed or applicable resale deed is canceled;

(3) the delinquent tax suit is revived; and

(4) except in a case in which judgment is vacated under Subsection (a)(4), the taxes, penalties, interest, and attorney's fees and costs, and the liens that secure each of those items, are reinstated.

Added by Acts 1999, 76th Leg., ch. 626, Sec. 1, eff. August 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1430, Sec. 25, eff. Sept. 1, 2001.

Sec. 33.57. ALTERNATIVE NOTICE OF TAX FORECLOSURE ON CERTAIN PARCELS OF REAL PROPERTY. (a) In this section, "appraised value" means the appraised value according to the most recent appraisal roll approved by the appraisal review board.

(b) This section may be invoked and used by one or more taxing units if there are delinquent taxes, penalties, interest, and attorney's fees owing to a taxing unit on a parcel of real property, and:

(1) the total amount of delinquent taxes, penalties, interest, and attorney's fees owed exceeds the appraised value of the parcel; or

(2) there are 10 or more years for which delinquent taxes are owed on the parcel.

(c) One or more taxing units may file a single petition for foreclosure under this section that includes multiple parcels of property and multiple owners. Alternatively, separate petitions may be filed and docketed separately for each parcel of property. Another taxing unit with a tax claim against the same parcel may intervene in an action for the purpose of establishing and foreclosing its tax lien without further notice to a defendant. The petition must be filed in the county in which the tax was imposed and is sufficient if it is in substantially the form prescribed by Section 33.43 and further alleges that:

(1) the amount owed in delinquent taxes, penalties, interest, and attorney's fees exceeds the appraised value of the parcel; or

(2) there are 10 or more years for which delinquent taxes are owed on the parcel.

(d) Simultaneously with the filing of the petition under this section, a taxing unit shall also file a motion with the court seeking an order approving notice of the petition to each defendant by certified mail in lieu of citation and, if the amount of delinquent taxes, penalties, interest, and attorney's fees alleged to be owed exceeds the appraised value of the parcel, waiving the appointment of an attorney ad litem. The motion must be supported by certified copies of tax records that show the tax years for which delinquent taxes are owed, the amounts of delinquent taxes, penalties, interest, and attorney's fees, and, if appropriate, the appraised value of the parcel.

(e) The court shall approve a motion under Subsection (d) if the documents in support of the motion show that:

(1) the amount of delinquent taxes, penalties, interest, and attorney's fees that are owed exceeds the appraised value of the parcel; or

(2) there are 10 or more years for which delinquent taxes are owed on the parcel.

(f) Before filing a petition under this section, or as soon afterwards as practicable, the taxing unit or its attorney shall determine the address of each owner of a property interest in the parcel for the purpose of providing notice of the pending petition. If the title search, the taxing unit's tax records, and the appraisal district records do not disclose an address of a person with a property interest, consulting the following sources of information is to be considered a reasonable effort by the taxing unit or its attorney to determine the address of a person with a property interest in the parcel subject to foreclosure:

(1) telephone directories, electronic or otherwise, that cover:

(A) the area of any last known address for the person; and

(B) the county in which the parcel is located;

(2) voter registration records in the county in which the parcel is located; and

(3) where applicable, assumed name records maintained by the county clerk of the county in which the parcel is located and corporate records maintained by the secretary of state.

(g) Not later than the 45th day before the date on which a hearing on the merits on a taxing unit's petition is scheduled, the taxing unit or its attorney shall send a copy of the petition and a notice by certified mail to each person whose address is determined under Subsection (f), informing the person of the pending foreclosure action and the scheduled hearing. A copy of each notice shall be filed with the clerk of the court together with an affidavit by the tax collector or by the taxing unit's attorney attesting to the fact and date of mailing of the notice.

(h) In addition to the notice required by Subsection (g), the taxing unit shall provide notice by publication and by posting to all persons with a property interest in the parcel subject to foreclosure. The notice shall be published in the English language once a week for two weeks in a newspaper that is published in the county in which the parcel is located and that has been in general circulation for at least one year immediately before the date of the first publication, with the first publication to be not less than the 45th day before the date on which the taxing unit's petition is

scheduled to be heard. When returned and filed in the trial court, an affidavit of the editor or publisher of the newspaper attesting to the date of publication, together with a printed copy of the notice as published, is sufficient proof of publication under this subsection. If a newspaper is not published in the county in which the parcel is located, publication in an otherwise qualifying newspaper published in an adjoining county is sufficient. The maximum fee for publishing the citation shall be the lowest published word or line rate of that newspaper for classified advertising. The notice by posting shall be in the English language and given by posting a copy of the notice at the courthouse door of the county in which the foreclosure is pending not less than the 45th day before the date on which the taxing unit's petition is scheduled to be heard. Proof of the posting of the notice shall be made by affidavit of the attorney for the taxing unit, or of the person posting it. If the publication of the notice cannot be had for the maximum fee established in this subsection, and that fact is supported by the affidavit of the attorney for the taxing unit, the notice by posting under this subsection is sufficient.

(i) The notice required by Subsections (g) and (h) must include:

(1) a statement that foreclosure proceedings have been commenced and the date the petition was filed;

(2) a legal description, tax account number, and, if known, a street address for the parcel in which the addressee owns a property interest;

(3) the name of the person to whom the notice is addressed and the name of each other person who, according to the title search, has an interest in the parcel in which the addressee owns a property interest;

(4) the date, time, and place of the scheduled hearing on the petition;

(5) a statement that the recipient of the notice may lose whatever property interest the recipient owns in the parcel as a result of the hearing and any subsequent tax sale;

(6) a statement explaining how a person may contest the taxing unit's petition as provided by Subsection (j) and that a person's interest in the parcel may be preserved by paying all delinquent taxes, penalties, interest, attorney's fees, and court costs before the date of the scheduled hearing on the petition;

(7) the name, address, and telephone number of the taxing unit and the taxing unit's attorney of record; and

(8) the name of each other taxing unit that imposes taxes on the parcel, together with a notice that any taxing unit may intervene without further notice and set up its claims for delinquent taxes.

(j) A person claiming a property interest in a parcel subject to foreclosure may contest a taxing unit's petition by filing with the clerk of the court a written response to the petition not later than the seventh day before the date scheduled for hearing on the petition and specifying in the response any affirmative defense of the person. A copy of the response must be served on the taxing unit's attorney of record in the manner required by Rule 21a, Texas Rules of Civil Procedure. The taxing unit is entitled on request to a continuance of the hearing if a written response filed to a notice of the hearing contains an affirmative defense or requests affirmative relief against the taxing unit.

(k) Before entry of a judgment under this section, a taxing unit may remove a parcel erroneously included in the petition and may take a voluntary nonsuit as to one or more parcels of property without prejudicing its action against the remaining parcels.

(l) If before the hearing on a taxing unit's petition the taxing unit discovers a deficiency in the provision of notice under this section, the taxing unit shall take reasonable steps in good faith to correct the deficiency before the hearing. A notice provided by Subsections (g)-(i) is in lieu of citation issued and served under Rule 117a, Texas Rules of Civil Procedure. Regardless of the manner in which notice under this section is given, an attorney ad litem may not be appointed for a person with an interest in a parcel with delinquent taxes, penalties, interest, and attorney's fees against the parcel in an amount that exceeds the parcel's appraised value. To the extent of any additional conflict between this section and the Texas Rules of Civil Procedure, this section controls. Except as otherwise provided by this section, a suit brought under this section is governed generally by the Texas Rules of Civil Procedure and by Subchapters C and D of this chapter.

(m) A judgment in favor of a taxing unit under this section must be only for foreclosure of the tax lien against the parcel. The judgment may not include a personal judgment against any person.

(n) A person is considered to have been provided sufficient

notice of foreclosure and opportunity to be heard for purposes of a proceeding under this section if the taxing unit follows the procedures required by this section for notice by certified mail or by publication and posting or if one or more of the following apply:

(1) the person had constructive notice of the hearing on the merits by acquiring an interest in the parcel after the date of the filing of the taxing unit's petition;

(2) the person appeared at the hearing on the taxing unit's petition or filed a responsive pleading or other communication with the clerk of the court before the date of the hearing; or

(3) before the hearing on the taxing unit's petition, the person had actual notice of the hearing.

Added by Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 24, eff. September 1, 2005.

SUBCHAPTER D. TAX MASTERS

Sec. 33.71. MASTERS FOR TAX SUITS. (a) The court may, in delinquent tax suits, for good cause appoint a master in chancery for each case as desired, who shall be a citizen of this state and not an attorney for either party to the action, nor related to either party, who shall perform all of the duties required by the court, be under orders of the court, and have the power the master of chancery has in a court of equity.

(b) The order of reference to the master may specify or limit the master's powers, and may direct the master to report only upon particular issues, or to do or perform particular acts, or to receive and report evidence only, and may fix the time and place for beginning and closing the hearings and for the filing of the master's report.

(c) Subject to the limitations and specifications stated in the order, the master may:

(1) regulate all proceedings in every hearing before the master and do all acts and take all measures necessary or proper for the efficient performance of duties under the order;

(2) require the production of evidence upon all matters embraced in the reference, including the production of books, papers, vouchers, documents, and other writings applicable to the case;

(3) rule upon the admissibility of evidence, unless

otherwise directed by the order of reference;

(4) put witnesses on oath, and examine them; and

(5) call the parties to the action and examine them upon oath.

(d) When a party requests, the master shall make a record of the evidence offered and excluded in the same manner as provided for a court sitting in the trial of a case.

(e) The clerk of the court shall forthwith furnish the master with a copy of the order of reference.

(f) The parties may procure the attendance of witnesses before the master by the issuance and service of process as provided by law.

(g) A pretrial ruling of a tax master from which a mandamus is sought must be appealed to the referring court before the initiation of mandamus proceedings before the court of appeals.

(h) Notwithstanding any other law or requirement, an attorney appointed a master under this section may practice law in the referring court if otherwise qualified to do so.

Added by Acts 1983, 68th Leg., p. 5058, ch. 916, Sec. 1, eff. Sept. 1, 1983. Transferred from Sec. 1.13, and amended by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 326, Sec. 1, eff. May 24, 2001.

Sec. 33.72. REPORT TRANSMITTED TO COURT; NOTICE. (a) At the conclusion of any hearing conducted by a master that results in a recommendation of a final judgment or on the request of the referring court, the master shall transmit to the referring court all papers relating to the case, with the master's signed and dated report.

(b) After the master's report has been signed, the master shall give to the parties participating in the hearing notice of the substance of the report. The master's report may contain the master's findings, conclusions, or recommendations. The master's report must be in writing in a form as the referring court may direct. The form may be a notation on the referring court's docket sheet.

(c) If the master's report recommends a final judgment, notice of the right of appeal to the judge of the referring court shall be given to all parties.

Added by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991.

Sec. 33.73. COURT ACTION ON MASTER'S REPORT; MASTER'S COMPENSATION. (a) After the master's report is filed, and unless a party has filed a written notice of appeal to the referring court, the court may confirm, modify, correct, reject, reverse, or recommit the report as the court may deem proper and necessary in the particular circumstances of the case.

(b) The court shall award reasonable compensation to the master to be taxed as costs of suit.

(c) The district clerk shall collect the fees taxed as costs of suit and award the fees to the master as required under Subsection (b) in each delinquent tax suit for which a master is appointed under Section 33.71, regardless of the disposition of the suit subject to this subsection. Fees may not be collected or awarded in a suit dismissed by the master unless the master:

(1) held at least one hearing on the suit; or

(2) prepared for the suit for at least a number of hours equivalent to the time typically required to conduct a hearing.

Added by Acts 1983, 68th Leg., p. 5058, ch. 916, Sec. 1, eff. Sept. 1, 1983. Transferred from Sec. 1.13, and amended by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 368 (H.B. 3389), Sec. 1, eff. September 1, 2017.

Sec. 33.74. APPEAL OF RECOMMENDATION OF FINAL JUDGMENT TO THE REFERRING COURT OR ON REQUEST OF THE REFERRING COURT. (a) Any party is entitled to a hearing by the judge of the referring court, if within 10 days, computed in the manner provided by Rule 4 of the Texas Rules of Civil Procedure, after the master gives the notice required by Section 33.72(c), an appeal of the master's report is filed with the referring court. The first day of the appeal time to the referring court begins on the day after the date on which the master gives the notice.

(b) The notice required by Section 33.72(c) may be given in open court or may be given by first class mail. If the notice is given by first class mail the notice is considered to have been given

on the third day after the date of the mailing.

(c) All appeals to the referring court shall be in writing specifying the findings and conclusions of the master that are objected to and the appeal shall be limited to those findings and conclusions.

(d) On appeal to the referring court, the parties may present witnesses as in a hearing de novo only on the issues raised in the appeal.

(e) Notice of any appeal to the referring court shall be given to opposing counsel under Rule 72 of the Texas Rules of Civil Procedure.

(f) If an appeal to the referring court is filed by a party, any other party may file an appeal to the referring court not later than the seventh day after the date the initial appeal was filed.

(g) The referring court, after notice to the parties, shall hold a hearing on all appeals not later than the 45th day after the date on which the initial appeal was filed with the referring court.

(h) Before a hearing before a master, the parties may waive the right of appeal to the referring court in writing or on the record.

(i) The failure to appeal to the referring court, by waiver or otherwise, a master's report that is approved by the referring court does not deprive any party of the right to appeal to or request other relief from a court of appeals or the supreme court. The date of the signing of an order or judgment by the referring court is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

Added by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991.

Sec. 33.75. DECREE OR ORDER OF COURT. If an appeal to the referring court is not filed or the right to an appeal to the referring court is waived, the findings and recommendations of the master become the decree or order of the referring court on the referring court's signing an order or decree conforming to the master's report.

Added by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991.

Sec. 33.76. JURY TRIAL DEMANDED. (a) In a trial on the

merits, if a jury trial is demanded and a jury fee is paid, as prescribed by Rule 216, Texas Rules of Civil Procedure, the master shall refer any matters requiring a jury back to the referring court for a full trial before the referring court and jury. However, the master shall conduct all pretrial work necessary to prepare the case for a jury trial.

(b) The master may require all parties to submit a proposed jury charge or other pretrial order or sanction the parties for failure to present or prepare a proper pretrial order.

Added by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991.

Sec. 33.77. EFFECT OF MASTER'S REPORT PENDING APPEAL. Pending appeal of the master's report to the referring court, the decisions and recommendations of the master are in full force and effect and are enforceable as an order of the referring court, except for orders providing for incarceration or for the appointment of a receiver.

Added by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991.

Sec. 33.78. MASTERS MAY NOT BE APPOINTED UNDER TEXAS RULES OF CIVIL PROCEDURE. A court may not appoint a master under Rule 171, Texas Rules of Civil Procedure, in a delinquent tax suit.

Added by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991.

Sec. 33.79. IMMUNITY. A master appointed under this subchapter has the judicial immunity of a district judge. All existing immunity granted masters by law, express or implied, continues in full force and effect.

Added by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991.

Sec. 33.80. COURT REPORTER. A court reporter is not required during a hearing held by a master appointed under this subchapter. A party, the master, or the referring court may provide for a reporter during the hearing. The record may be preserved by any other means

approved by the master. The referring court or master may tax the expense of preserving the record as costs.

Added by Acts 1991, 72nd Leg., ch. 525, Sec. 1, eff. Sept. 1, 1991.

SUBCHAPTER E. SEIZURE OF REAL PROPERTY

Sec. 33.91. PROPERTY SUBJECT TO SEIZURE BY MUNICIPALITY. (a) After notice has been provided to a person, the person's real property, whether improved or unimproved, is subject to seizure by a municipality for the payment of delinquent ad valorem taxes, penalties, and interest the person owes on the property and the amount secured by a municipal health or safety lien on the property if:

(1) the property:

(A) is in a municipality;

(B) is less than one acre; and

(C) has been abandoned for at least one year;

(2) the taxes on the property are delinquent for:

(A) each of the preceding five years; or

(B) each of the preceding three years if a lien on the property has been created on the property in favor of the municipality for the cost of remedying a health or safety hazard on the property; and

(3) the tax collector of the municipality determines that seizure of the property under this subchapter for the payment of the delinquent taxes, penalties, and interest, and of a municipal health and safety lien on the property, would be in the best interest of the municipality and the other taxing units after determining that the sum of all outstanding tax and municipal claims against the property plus the estimated costs under Section 33.48 of a standard judicial foreclosure exceed the anticipated proceeds from a tax sale.

(b) The seizure and sale may not be set aside or voided because of any error in determination.

(c) For purposes of this section, a property is presumed to have been abandoned for at least one year if, during that period, the property has remained vacant and a lawful act of ownership of the property has not been exercised. The tax collector of a municipality may rely on the affidavit of any competent person with personal knowledge of the facts in determining whether a property has been

abandoned or vacant. For purposes of this subsection:

(1) property is considered vacant if there is an absence of any activity by the owner, a tenant, or a licensee related to residency, work, trade, business, leisure, or recreation; and

(2) "lawful act of ownership" includes mowing or cutting grass or weeds, repairing or demolishing a structure or fence, removing debris, or other form of property upkeep or maintenance performed by or at the request of the owner of the property.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 1, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 914, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 319, Sec. 2, eff. June 18, 2003.

Sec. 33.911. PROPERTY SUBJECT TO SEIZURE BY COUNTY. (a) After notice has been provided to a person, the person's real property, whether improved or unimproved, is subject to seizure by a county for the payment of delinquent ad valorem taxes, penalties, and interest the person owes on the property if:

(1) the property:

(A) is in the county;

(B) is not in a municipality; and

(C) has been abandoned for at least one year;

(2) the taxes on the property are delinquent for each of the preceding five years; and

(3) the county tax assessor-collector determines that seizure of the property under this subchapter for the payment of the delinquent taxes, penalties, and interest would be in the best interest of the county and the other taxing units after determining that the sum of all outstanding tax and county claims against the property plus the estimated costs under Section 33.48 of a standard judicial foreclosure exceed the anticipated proceeds from a tax sale.

(b) The seizure and sale may not be set aside or voided because of any error in determination.

(c) For purposes of this section, a property is presumed to have been abandoned for at least one year if, during that period, the property has remained vacant and a lawful act of ownership of the property has not been exercised. The tax collector of a county may rely on the affidavit of any competent person with personal knowledge of the facts in determining whether a property has been abandoned or

vacant. For purposes of this subsection:

(1) property is considered vacant if there is an absence of any activity by the owner, a tenant, or a licensee related to residency, work, trade, business, leisure, or recreation; and

(2) "lawful act of ownership" includes mowing or cutting grass or weeds, repairing or demolishing a structure or fence, removing debris, or other form of property upkeep or maintenance performed by or at the request of the owner of the property.

Added by Acts 1997, 75th Leg., ch. 914, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 319, Sec. 3, eff. June 18, 2003.

Sec. 33.912. NOTICE. (a) A person is considered to have been provided the notice required by Sections 33.91 and 33.911 if by affidavit or otherwise the collector shows that the assessor or collector for the municipality or county mailed the person each bill for municipal or county taxes required to be sent the person by Section 31.01:

(1) in each of the five preceding years, if the taxes on the property are delinquent for each of those years; or

(2) in each of the three preceding years, if:

(A) the taxes on the property are delinquent for each of those years; and

(B) a lien on the property has been created on the property in favor of the municipality for the cost of remedying a health or safety hazard on the property.

(b) If notice under Subsection (a) is not provided, the notice required by Section 33.91 or 33.911 shall be given by the assessor or the collector for the municipality or county, as applicable, by:

(1) serving, in the manner provided by Rule 21a, Texas Rules of Civil Procedure, a true and correct copy of the application for a tax warrant filed under Section 33.92 to each person known, or constructively known through reasonable inquiry, to own or have an interest in the property;

(2) publishing in the English language a notice of the assessor's intent to seize the property in a newspaper published in the county in which the property is located if, after exercising reasonable diligence, the assessor or collector cannot determine ownership or the address of the known owners; or

(3) if required under Subsection (g), posting in the English language a notice of the assessor's intent to seize the property if, after exercising reasonable diligence, the assessor or collector cannot determine ownership or the address of the known owners.

(c) A notice under Subsection (b)(1) shall be provided at the time of filing the application for a tax warrant and must be supported by a certificate of service appearing on the application in the same manner and form as provided by Rule 21a, Texas Rules of Civil Procedure. The notice is sufficient if sent to the person's last known address.

(d) A notice by publication or posting under Subsection (b) must substantially comply with this subsection. The notice must:

(1) be published or posted at least 10 days but not more than 180 days before the date the application for tax warrant under Section 33.92 is filed;

(2) be directed to the owners of the property by name, if known, or, if unknown, to "the unknown owners of the property described below";

(3) state that the assessor or collector intends to seize the property as abandoned property and that the property will be sold at public auction without further notice unless all delinquent taxes, penalties, and interest are paid before the sale of the property; and

(4) describe the property.

(e) A description of the property under Subsection (d)(4) is sufficient if it is the same as the property description appearing on the current tax roll for the county or municipality.

(f) A notice by publication or posting under Subsection (b) may relate to more than one property or to multiple owners of property.

(g) For publishing a notice under Subsection (b)(2), a newspaper may charge a rate that does not exceed the greater of two cents per word or an amount equal to the published word or line rate of that newspaper for the same class of advertising. If notice cannot be provided under Subsection (b)(1) and there is not a newspaper published in the county where the property is located, or a newspaper that will publish the notice for the rate authorized by this subsection, the assessor shall post the notice in writing in three public places in the county. One of the posted notices must be at the door of the county courthouse. Proof of the posting shall be

made by affidavit of the person posting the notice or by the attorney for the assessor or collector.

(h) A person is considered to have been provided the notice under Section 33.91 or 33.911 in the manner provided by Subsection (b) if the application for the tax warrant under Section 33.92:

(1) contains the certificate of service as required by Subsection (b)(1);

(2) is accompanied by an affidavit on behalf of the applicable assessor or collector stating the fact of publication under Subsection (b)(2), with a copy of the published notice attached; or

(3) is accompanied by an affidavit of posting on behalf of the applicable assessor or collector under Subsection (g) stating the fact of posting and facts supporting the necessity of posting.

(i) A failure to provide, give, or receive a notice provided under this section does not affect the validity of a sale of the seized property or title to the property.

(j) The costs of publishing notice under this section are chargeable as costs and payable from the proceeds of the sale of the property.

Added by Acts 1997, 75th Leg., ch. 914, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 319, Sec. 4, eff. June 18, 2003.

Sec. 33.92. INSTITUTION OF SEIZURE. (a) After property becomes subject to seizure under Section 33.91 or 33.911, the collector for a municipality or a county, as appropriate, may apply for a tax warrant to a district court in the county in which the property is located.

(b) The court shall issue the tax warrant if by affidavit the collector shows that the property is subject to seizure under Section 33.91 or 33.911. The collector may show that the property has been abandoned or vacant for at least one year, as required by Section 33.91(a)(1)(C) or 33.911(a)(1)(C) by affidavit of any competent person with personal knowledge of the relevant facts.

(c) The court issuing the tax warrant shall include a statement as to the appraised value of the property according to the most recent appraisal roll approved by the appraisal review board. That value is presumed to be the market value of the property on the date

that the warrant is issued.

(d) The collector is entitled, on request in the application, to recover attorney's fees in an amount equal to the compensation specified in the contract with the attorney for collection of the delinquent taxes, penalties, and interest on the property if:

(1) the taxing unit served by the collector contracts with an attorney under Section 6.30;

(2) the existence of the contract and the amount of attorney's fees that equal the compensation specified in the contract are supported by the affidavit of the collector; and

(3) the delinquent tax sought to be recovered is not subject to an additional penalty under Section 33.07 or 33.08 at the time the application is filed.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 1, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 914, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 319, Sec. 5, eff. June 18, 2003.

Sec. 33.93. TAX WARRANT. (a) A tax warrant shall direct the sheriff or a constable in the county and the collector for the municipality or the county to seize the property described in the warrant, subject to the right of redemption, for the payment of the ad valorem taxes, penalties, and interest owing on the property included in the application, any attorney's fees included in the application as provided by Section 33.92(d), the amount secured by a municipal health or safety lien on the property included in the application, and the costs of seizure and sale. The warrant shall direct the person whose property is seized to disclose to a person executing the warrant the name and address if known of any other person having an interest in the property.

(b) A bond may not be required of a municipality or county for issuance or delivery of a tax warrant, and a fee or court cost may not be charged for issuance or delivery of the warrant.

(c) On issuance of a tax warrant, the collector shall take possession of the property pending its sale by the officer charged with selling the property.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 1, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 914, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 319, Sec. 6, eff. June 18, 2003.

Sec. 33.94. NOTICE OF TAX SALE. (a) After a seizure of property, the collector for the municipality or county shall make a reasonable inquiry to determine the identity and address of any person, other than the person against whom the tax warrant is issued, having an interest in the property. The collector shall deliver as soon as possible a notice stating the time and place of the sale and briefly describing the property seized to:

(1) the person against whom the warrant is issued, including each person to whom notice was provided under Section 33.912(a);

(2) each person to whom notice was provided under Section 33.912(b)(1); and

(3) any other person the collector determines has an interest in the property if the collector can ascertain the address of the other person.

(b) Failure to send or receive a notice required by this section does not affect the validity of the sale of the seized property or title to the property.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 1, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 914, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 319, Sec. 7, eff. June 18, 2003.

Sec. 33.95. PURCHASER. A purchaser for value at or subsequent to the tax sale may conclusively presume the validity of the sale and takes free of any claim of a party with a prior interest in the property subject to the provisions of Section 16.002(b), Civil Practice and Remedies Code, and subject to applicable rights of redemption.

Added by Acts 1995, 74th Leg., ch. 1017, Sec. 1, eff. Aug. 28, 1995. Amended by Acts 1997, 75th Leg., ch. 914, Sec. 1, eff. Sept. 1, 1997.

CHAPTER 34. TAX SALES AND REDEMPTION

SUBCHAPTER A. TAX SALES

Sec. 34.01. SALE OF PROPERTY. (a) Real property seized under a tax warrant issued under Subchapter E, Chapter 33, or ordered sold

pursuant to foreclosure of a tax lien shall be sold by the officer charged with selling the property, unless otherwise directed by the taxing unit that requested the warrant or order of sale or by an authorized agent or attorney for that unit. The sale shall be conducted in the manner similar property is sold under execution except as otherwise provided by this subtitle.

(a-1) The commissioners court of a county by official action may authorize the officer charged with selling property under this section to conduct a public auction using online bidding and sale. The commissioners court may adopt rules governing online auctions authorized under this subsection. Rules adopted by the commissioners court under this subsection take effect on the 90th day after the date the rules are published in the real property records of the county.

(b) On receipt of an order of sale of real property, the officer charged with selling the property shall endorse on the order the date and exact time when the officer received the order. The endorsement is a levy on the property without necessity for going upon the ground. The officer shall calculate the total amount due under the judgment, including all taxes, penalties, and interest, plus any other amount awarded by the judgment, court costs, and the costs of the sale. The costs of a sale include the costs of advertising, an auctioneer's commission and fees, and deed recording fees anticipated to be paid in connection with the sale of the property. To assist the officer in making the calculation, the collector of any taxing unit that is party to the judgment may provide the officer with a certified tax statement showing the amount of the taxes included in the judgment that remain due that taxing unit and all penalties, interest, and attorney's fees provided by the judgment as of the date of the proposed sale. If a certified tax statement is provided to the officer, the officer shall rely on the amount included in the statement and is not responsible or liable for the accuracy of the applicable portion of the calculation. A certified tax statement is not required to be sworn to and is sufficient if the tax collector or the collector's deputy signs the statement.

(c) The officer charged with the sale shall give written notice of the sale in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended, or that rule's successor to each person who was a defendant to the judgment or that person's attorney.

(d) An officer's failure to send the written notice of sale or a defendant's failure to receive that notice is insufficient by itself to invalidate:

(1) the sale of the property; or

(2) the title conveyed by that sale.

(e) A notice of sale under Subsection (c) must substantially comply with this subsection. The notice must include:

(1) a statement of the authority under which the sale is to be made;

(2) the date, time, and location of the sale; and

(3) a brief description of the property to be sold.

(f) A notice of sale is not required to include field notes describing the property. A description of the property is sufficient if the notice:

(1) states the number of acres and identifies the original survey;

(2) as to property located in a platted subdivision or addition, regardless of whether the subdivision or addition is recorded, states the name by which the land is generally known with reference to that subdivision or addition; or

(3) by reference adopts the description of the property contained in the judgment.

(g) For publishing a notice of sale, a newspaper may charge a rate that does not exceed the greater of:

(1) two cents per word; or

(2) an amount equal to the published word or line rate of that newspaper for the same class of advertising.

(h) If there is not a newspaper published in the county of the sale, or a newspaper that will publish the notice of sale for the rate authorized by Subsection (g), the officer shall post the notice in writing in three public places in the county not later than the 20th day before the date of the sale. One of the notices must be posted at the door of the county courthouse.

(i) The owner of real property subject to sale may file with the officer charged with the sale a written request that the property be divided and that only as many portions be sold as necessary to pay the amount due against the property, as calculated under Subsection (b). In the request the owner shall describe the desired portions and shall specify the order in which the portions should be sold. The owner may not specify more than four portions or a portion that

divides a building or other contiguous improvement. The request must be delivered to the officer not later than the seventh day before the date of the sale.

(j) If a bid sufficient to pay the lesser of the amount calculated under Subsection (b) or the adjudged value is not received, the taxing unit that requested the order of sale may terminate the sale. If the taxing unit does not terminate the sale, the officer making the sale shall bid the property off to the taxing unit that requested the order of sale, unless otherwise agreed by each other taxing unit that is a party to the judgment, for the aggregate amount of the judgment against the property or for the market value of the property as specified in the judgment, whichever is less. The duty of the officer conducting the sale to bid off the property to a taxing unit under this subsection is self-executing. The actual attendance of a representative of the taxing unit at the sale is not a prerequisite to that duty.

(k) The taxing unit to which the property is bid off takes title to the property for the use and benefit of itself and all other taxing units that established tax liens in the suit. The taxing unit's title includes all the interest owned by the defendant, including the defendant's right to the use and possession of the property, subject only to the defendant's right of redemption. Payments in satisfaction of the judgment and any costs or expenses of the sale may not be required of the purchasing taxing unit until the property is redeemed or resold by the purchasing taxing unit.

(l) Notwithstanding that property is bid off to a taxing unit under this section, a taxing unit that established a tax lien in the suit may continue to enforce collection of any amount for which a former owner of the property is liable to the taxing unit, including any post-judgment taxes, penalties, and interest, in any other manner provided by law.

(m) The officer making the sale shall prepare a deed to the purchaser of real property at the sale, to any other person whom the purchaser may specify, or to the taxing unit to which the property was bid off. The taxing unit that requested the order of sale may elect to prepare a deed for execution by the officer. If the taxing unit prepares the deed, the officer shall execute that deed. An officer who executes a deed prepared by the taxing unit is not responsible or liable for any inconsistency, error, or other defect in the form of the deed. As soon as practicable after a deed is

executed by the officer, the officer shall either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the order of sale, which shall file the deed for recording with the county clerk. The county clerk shall file and record each deed filed under this subsection and after recording shall return the deed to the grantee.

(n) The deed vests good and perfect title in the purchaser or the purchaser's assigns to the interest owned by the defendant in the property subject to the foreclosure, including the defendant's right to the use and possession of the property, subject only to the defendant's right of redemption, the terms of a recorded restrictive covenant running with the land that was recorded before January 1 of the year in which the tax lien on the property arose, a recorded lien that arose under that restrictive covenant that was not extinguished in the judgment foreclosing the tax lien, and each valid easement of record as of the date of the sale that was recorded before January 1 of the year the tax lien arose. The deed may be impeached only for fraud.

(o) If a bid sufficient to pay the amount specified by Subsection (p) is not received, the officer making the sale, with the consent of the collector who applied for the tax warrant, may offer property seized under Subchapter E, Chapter 33, to a person described by Section 11.181 or 11.20 for less than that amount. If the property is offered to a person described by Section 11.181 or 11.20, the officer making the sale shall reopen the bidding at the amount of that person's bid and bid off the property to the highest bidder. Consent to the sale by the taxing units entitled to receive proceeds of the sale is not required. The acceptance of a bid by the officer under this subsection is conclusive and binding on the question of its sufficiency. An action to set aside the sale on the grounds that a bid is insufficient may not be sustained, except that a taxing unit that participates in distribution of proceeds of the sale may file an action before the first anniversary of the date of the sale to set aside the sale on the grounds of fraud or collusion between the officer making the sale and the purchaser.

(p) Except as provided by Subsection (o), property seized under Subchapter E, Chapter 33, may not be sold for an amount that is less than the lesser of the market value of the property as specified in the warrant or the total amount of taxes, penalties, interest, costs, auctioneer's commission and fees, and other claims for which the

warrant was issued. If a sufficient bid is not received by the officer making the sale, the officer shall bid off the property to a taxing unit in the manner specified by Subsection (j) and subject to the other provisions of that subsection. A taxing unit that takes title to property under this subsection takes title for the use and benefit of that taxing unit and all other taxing units that established tax liens in the suit or that, on the date of the seizure, were owed delinquent taxes on the property.

(q) A sale of property under this section to a purchaser other than a taxing unit:

(1) extinguishes each lien securing payment of the delinquent taxes, penalties, and interest against that property and included in the judgment; and

(2) does not affect the personal liability of any person for those taxes, penalties, and interest included in the judgment that are not satisfied from the proceeds of the sale.

(r) Except as provided by Subsection (a-1) and this subsection, a sale of real property under this section must take place at the county courthouse in the county in which the land is located. The commissioners court of the county may designate an area other than an area at the county courthouse where sales under this section will take place that is in a public place within a reasonable proximity of the county courthouse as determined by the commissioners court and in a location as accessible to the public as the courthouse door. The commissioners court shall record that designation in the real property records of the county. A designation by a commissioners court under this section is not a ground for challenging or invalidating any sale. A sale must be held at an area designated under this subsection if the sale is held on or after the 90th day after the date the designation is recorded.

(r-1) A sale of real property under this section, other than a sale conducted by means of a public auction using online bidding and sale under Subsection (a-1), must take place between 10 a.m. and 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a month occurs on January 1 or July 4, between 10 a.m. and 4 p.m. on the first Wednesday of the month.

(r-2) A sale of real property conducted by means of a public auction using online bidding and sale under Subsection (a-1) may begin at any time and must conclude at 4 p.m. on the first Tuesday of a month or, if the first Tuesday of a month occurs on January 1 or

July 4, at 4 p.m. on the first Wednesday of the month.

(s) To the extent of a conflict between this section and a provision of the Texas Rules of Civil Procedure that relates to an execution, this section controls.

Acts 1979, 66th Leg., p. 2297, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 32, eff. June 15, 1989; Acts 1991, 72nd Leg., ch. 854, Sec. 2, eff. June 16, 1991; Acts 1995, 74th Leg., ch. 1017, Sec. 2, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 914, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 817, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1481, Sec. 24, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1430, Sec. 26, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 319, Sec. 8, eff. June 18, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 642 (H.B. 699), Sec. 3, eff. October 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 27 (S.B. 1452), Sec. 1, eff. May 15, 2015.

Acts 2017, 85th Leg., R.S., Ch. 133 (H.B. 1128), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 293 (H.B. 2650), Sec. 1, eff. May 29, 2019.

Sec. 34.011. BIDDER REGISTRATION. (a) This section applies only to a sale of real property under this chapter conducted in a county in which the commissioners court by order has adopted the provisions of this section.

(b) A commissioners court may require that, to be eligible to bid at a sale of real property under this chapter, a person must be registered as a bidder with the county assessor-collector before the sale begins. The county assessor-collector may adopt rules governing the registration of bidders under this section. The county assessor-collector may require a person registering as a bidder:

(1) to designate the person's name and address;

(2) to provide valid proof of identification;

(3) to provide written proof of authority to bid on behalf of another person, if applicable;

(4) to provide any additional information reasonably

required by the county assessor-collector; and

(5) to at least annually execute a statement on a form provided by the county assessor-collector certifying that there are no delinquent ad valorem taxes owed by the person registering as a bidder to the county or to any taxing unit having territory in the county.

(c) The county assessor-collector shall issue a written registration statement to a person who has registered as a bidder under this section. A person is not eligible to bid at a sale of real property under this chapter unless the county assessor-collector has issued a written registration statement to the person before the sale begins.

Added by Acts 2015, 84th Leg., R.S., Ch. 1126 (H.B. 3951), Sec. 1, eff. January 1, 2016.

Sec. 34.015. PERSONS ELIGIBLE TO PURCHASE REAL PROPERTY. (a) In this section, "person" does not include a taxing unit or an individual acting on behalf of a taxing unit.

(b) An officer conducting a sale of real property under Section 34.01 may not execute a deed in the name of or deliver a deed to any person other than the person who was the successful bidder. The officer may not execute or deliver a deed to the purchaser of the property unless the purchaser exhibits to the officer an unexpired written statement issued under this section to the person by the county assessor-collector of the county in which the sale is conducted showing that:

(1) there are no delinquent taxes owed by the person to that county; and

(2) for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality.

(c) On the written request of any person, a county assessor-collector shall issue a written statement stating whether there are any delinquent taxes owed by the person to that county or to a school district or municipality having territory in that county. A request for the issuance of a statement by the county assessor-collector under this subsection must:

(1) sufficiently identify any property subject to taxation by the county or by a school district or municipality having territory in the county, regardless of whether the property is located in the county, that the person owns or formerly owned so that the county assessor-collector and the collector for each school district or municipality having territory in the county may determine whether the property is included on a current or a cumulative delinquent tax roll for the county, the school district, or the municipality under Section 33.03;

(2) specify the address to which the county assessor-collector should send the statement;

(3) include any additional information reasonably required by the county assessor-collector; and

(4) be sworn to and signed by the person requesting the statement.

(d) On receipt of a request under Subsection (c), the county assessor-collector shall send to the collector for each school district and municipality having territory in the county, other than a school district or municipality for which the county assessor-collector is the collector, a request for information as to whether there are any delinquent taxes owed by the person to that school district or municipality. The county assessor-collector shall specify the date by which the collector must respond to the request.

(e) If the county assessor-collector determines that there are delinquent taxes owed to the county, the county assessor-collector shall include in the statement issued under Subsection (c) the amount of delinquent taxes owed by the person to that county. If the county assessor-collector is the collector for a school district or municipality having territory in the county and the county assessor-collector determines that there are delinquent ad valorem taxes owed by the person to the school district or municipality, the assessor-collector shall include in the statement issued under Subsection (c) the amount of delinquent taxes owed by the person to that school district or municipality.

(f) If the county assessor-collector receives a response from the collector for a school district or municipality having territory in the county indicating that there are delinquent taxes owed to that school district or municipality on the person's current or former property for which the person is personally liable, the county assessor-collector shall include in the statement issued under

Subsection (c):

(1) the amount of delinquent taxes owed by the person to that school district or municipality; and

(2) the name and address of the collector for that school district or municipality.

(g) If the county assessor-collector determines that there are no delinquent taxes owed by the person to the county or to a school district or municipality for which the county assessor-collector is the collector, the county assessor-collector shall indicate in the statement issued under Subsection (c) that there are no delinquent ad valorem taxes owed by the person to the county or to the school district or municipality.

(h) If the county assessor-collector receives a response from the collector for any school district or municipality having territory in that county indicating that there are no delinquent ad valorem taxes owed by the person to that school district or municipality, the county assessor-collector shall indicate in the statement issued under Subsection (c) that there are no delinquent ad valorem taxes owed by the person to that school district or municipality.

(i) If the county assessor-collector does not receive a response from the collector for any school district or municipality to whom the county assessor-collector sent a request under Subsection (d) as to whether there are delinquent taxes on the person's current or former property owed by the person to that school district or municipality, the county assessor-collector shall indicate in the statement issued under Subsection (c) that there are no reported delinquent taxes owed by the person to that school district or municipality.

(j) To cover the costs associated with the issuance of statements under Subsection (c), a county assessor-collector may charge the person requesting a statement a fee not to exceed $10 for each statement requested.

(k) A statement under Subsection (c) must be issued in the name of the requestor, bear the requestor's name, include the dates of issuance and expiration, and be eligible for recording under Section 12.001(b), Property Code. A statement expires on the 90th day after the date of issuance.

(k-1) If within six months of the date of a sale of real property under Section 34.01, the successful bidder does not exhibit

to the officer who conducted the sale an unexpired statement that complies with Subsection (k), the officer who conducted the sale shall provide a copy of the officer's return to the county assessor-collector for each county in which the real property is located. On receipt of the officer's return, the county assessor-collector shall file the copy with the county clerk of the county in which the county assessor-collector serves. The county clerk shall record the return in records kept for that purpose and shall index and cross-index the return in the name of the successful bidder at the auction and each former owner of the property. The chief appraiser of each appraisal district that appraises the real property for taxation may list the successful bidder in the appraisal records of that district as the owner of the property.

(l) The deed executed by the officer conducting the sale must name the successful bidder as the grantee and recite that the successful bidder exhibited to that officer an unexpired written statement issued to the person in the manner prescribed by this section, showing that the county assessor-collector of the county in which the sale was conducted determined that:

(1) there are no delinquent ad valorem taxes owed by the person to that county; and

(2) for each school district or municipality having territory in the county there are no known or reported delinquent ad valorem taxes owed by the person to that school district or municipality.

(m) If a deed contains the recital required by Subsection (l), it is conclusively presumed that this section was complied with.

(n) A person who knowingly violates this section commits an offense. An offense under this subsection is a Class B misdemeanor.

(o) To the extent of a conflict between this section and any other law, this section controls.

(p) This section applies only to a sale of real property under Section 34.01 that is conducted in:

(1) a county with a population of 250,000 or more in which the commissioners court has not by order adopted the provisions of Section 34.011; or

(2) a county with a population of less than 250,000 in which the commissioners court by order has adopted the provisions of this section.

Added by Acts 2003, 78th Leg., ch. 1010, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 86 (S.B. 644), Sec. 2, eff. May 17, 2005.

Acts 2005, 79th Leg., Ch. 1147 (H.B. 2926), Sec. 1, eff. June 18, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1126 (H.B. 3951), Sec. 2, eff. January 1, 2016.

Sec. 34.02. DISTRIBUTION OF PROCEEDS. (a) The proceeds of a tax sale under Section 33.94 or 34.01 shall be applied in the order prescribed by Subsection (b). The amount included under each subdivision of Subsection (b) must be fully paid before any of the proceeds may be applied to the amount included under a subsequent subdivision.

(b) The proceeds shall be applied to:

(1) the costs of advertising the tax sale;

(2) any fees ordered by the judgment to be paid to an appointed attorney ad litem;

(3) the original court costs payable to the clerk of the court;

(4) the fees and commissions payable to the officer conducting the sale;

(5) the expenses incurred by a taxing unit in determining necessary parties and in procuring necessary legal descriptions of the property if those expenses were awarded to the taxing unit by the judgment under Section 33.48(a)(4);

(6) the taxes, penalties, interest, and attorney's fees that are due under the judgment; and

(7) any other amount awarded to a taxing unit under the judgment.

(c) If the proceeds are not sufficient to pay the total amount included under any subdivision of Subsection (b), each participant in the amount included under that subdivision is entitled to a share of the proceeds in an amount equal to the proportion its entitlement bears to the total amount included under that subdivision.

(d) The officer conducting a sale under Section 33.94 or 34.01 shall pay any excess proceeds after payment of all amounts due all participants in the sale as specified by Subsection (b) to the clerk

of the court issuing the warrant or order of sale.

(e) In this section, "taxes" includes a charge, fee, or expense that is expressly authorized by Section 32.06 or 32.065.

Acts 1979, 66th Leg., p. 2297, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 131, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1481, Sec. 25, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 319, Sec. 9, eff. June 18, 2003.

Sec. 34.021. DISTRIBUTION OF EXCESS PROCEEDS IN OTHER TAX FORECLOSURE PROCEEDINGS. A person conducting a sale for the foreclosure of a tax lien under Rule 736 of the Texas Rules of Civil Procedure shall, within 10 days of the sale, pay any excess proceeds after payment of all amounts due all participants in the sale to the clerk of the court that issued the order authorizing the sale. The excess proceeds from such a sale shall be handled according to Sections 34.03 and 34.04 of this code.

Added by Acts 2009, 81st Leg., R.S., Ch. 254 (H.B. 406), Sec. 1, eff. September 1, 2009.

Sec. 34.03. DISPOSITION OF EXCESS PROCEEDS. (a) The clerk of the court shall:

(1) if the amount of excess proceeds is more than $25, before the 31st day after the date the excess proceeds are received by the clerk, send by certified mail, return receipt requested, a written notice to the former owner of the property, at the former owner's last known address according to the records of the court or any other source reasonably available to the court, that:

(A) states the amount of the excess proceeds;

(B) informs the former owner of that owner's rights to claim the excess proceeds under Section 34.04; and

(C) includes a copy or the complete text of this section and Section 34.04;

(2) regardless of the amount, keep the excess proceeds paid into court as provided by Section 34.02(d) for a period of two years after the date of the sale unless otherwise ordered by the court; and

(3) regardless of the amount, send to the attorney general notice of the deposit and amount of excess proceeds if the attorney

general or a state agency represented by the attorney general is named as an in rem defendant in the underlying suit for seizure of the property or foreclosure of a tax lien on the property.

(b) If no claimant establishes entitlement to the proceeds within the period provided by Subsection (a), the clerk shall distribute the excess proceeds to each taxing unit participating in the sale in an amount equal to the proportion its taxes, penalties, and interests bear to the total amount of taxes, penalties, and interest due all participants in the sale.

(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.

Acts 1979, 66th Leg., p. 2298, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, Sec. 132, eff. Jan. 1, 1982; Acts 1999, 76th Leg., ch. 1185, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 421 (S.B. 886), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 636 (S.B. 1725), Sec. 1, eff. September 1, 2015.

Sec. 34.04. CLAIMS FOR EXCESS PROCEEDS. (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.

(b) A copy of the petition shall be served, in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended, or that rule's successor, on all parties to the underlying action not later than the 20th day before the date set for a hearing on the

petition.

(c) At the hearing the court shall order that the proceeds be paid according to the following priorities to each party that establishes its claim to the proceeds:

(1) to the tax sale purchaser if the tax sale has been adjudged to be void and the purchaser has prevailed in an action against the taxing units under Section 34.07(d) by final judgment;

(2) to a taxing unit for any taxes, penalties, or interest that have become due or delinquent on the subject property subsequent to the date of the judgment or that were omitted from the judgment by accident or mistake;

(3) to any other lienholder, consensual or otherwise, for the amount due under a lien, in accordance with the priorities established by applicable law;

(4) to a taxing unit for any unpaid taxes, penalties, interest, or other amounts adjudged due under the judgment that were not satisfied from the proceeds from the tax sale; and

(5) to each former owner of the property, as the interest of each may appear, provided that the former owner:

(A) was a defendant in the judgment;

(B) is related within the third degree by consanguinity or affinity to a former owner that was a defendant in the judgment; or

(C) acquired by will or intestate succession the interest in the property of a former owner that was a defendant in the judgment.

(c-1) Except as provided by Subsections (c)(5)(B) and (C), a former owner of the property that acquired an interest in the property after the date of the judgment may not establish a claim to the proceeds. For purposes of this subsection, a former owner of the property is considered to have acquired an interest in the property after the date of the judgment if the deed by which the former owner acquired the interest was recorded in the real property records of the county in which the property is located after the date of the judgment.

(d) Interest or costs may not be allowed under this section.

(e) An order under this section directing that all or part of the excess proceeds be paid to a party is appealable.

(f) A person may not take an assignment or other transfer of an owner's claim to excess proceeds unless:

(1) the assignment or transfer is taken on or after the 36th day after the date the excess proceeds are deposited in the registry of the court;

(2) the assignment or transfer is in writing and signed by the assignor or transferor;

(3) the assignment or transfer is not the result of an in-person or telephone solicitation;

(4) the assignee or transferee pays the assignor or transferor on the date of the assignment or transfer an amount equal to at least 80 percent of the amount of the assignor's or transferor's claim to the excess proceeds; and

(5) the assignment or transfer document contains a sworn statement by the assignor or transferor affirming:

(A) that the assignment or transfer was given voluntarily;

(B) the date on which the assignment or transfer was made and that the date was not earlier than the 36th day after the date the excess proceeds were deposited in the registry of the court;

(C) that the assignor or transferor has received the notice from the clerk required by Section 34.03;

(D) the nature and specific amount of consideration given for the assignment or transfer;

(E) the circumstances under which the excess proceeds are in the registry of the court;

(F) the amount of the claim to excess proceeds in the registry of the court;

(G) that the assignor or transferor has made no other assignments or transfers of the assignor's or transferor's claim to the excess proceeds;

(H) that the assignor or transferor knows that the assignor or transferor may retain counsel; and

(I) that the consideration was paid in full on the date of the assignment or transfer and that the consideration paid was an amount equal to at least 80 percent of the amount of the assignor's or transferor's claim to the excess proceeds.

(g) An assignee or transferee who obtains excess proceeds without complying with Subsection (f) is liable to the assignor or transferor for the amount of excess proceeds obtained plus attorney's fees and expenses. An assignee or transferee who attempts to obtain excess proceeds without complying with Subsection (f) is liable to

the assignor or transferor for attorney's fees and expenses.

(h) An assignee or transferee who files a petition setting forth a claim to excess proceeds must attach a copy of the assignment or transfer document and produce the original of the assignment or transfer document in court at the hearing on the petition. If the original assignment or transfer document is lost, the assignee or transferee must obtain the presence of the assignor or transferor to testify at the hearing. In addition, the assignee or transferee must produce at the hearing the original of any evidence verifying the payment of the consideration given for the assignment or transfer. If the original of any evidence of the payment is lost or if the payment was in cash, the assignee or transferee must obtain the presence of the assignor or transferor to testify at the hearing.

(i) A fee charged by an attorney to obtain excess proceeds for an owner may not be greater than 25 percent of the amount obtained or $1,000, whichever is less. A person who is not an attorney may not charge a fee to obtain excess proceeds for an owner.

(j) The amount of the excess proceeds the court may order be paid to an assignee or transferee may not exceed 125 percent of the amount the assignee or transferee paid the assignor or transferor on the date of the assignment or transfer.

Acts 1979, 66th Leg., p. 2298, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 26, eff. Aug. 29, 1983; Acts 1999, 76th Leg., ch. 1185, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1481, Sec. 26, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 18.007, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 27, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 319, Sec. 10, eff. June 18, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 254 (H.B. 406), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 508 (H.B. 1674), Sec. 22, eff. September 1, 2011.

Sec. 34.05. RESALE BY TAXING UNIT. (a) If property is sold to a taxing unit that is a party to the judgment, the taxing unit may sell the property at any time by public or private sale. In selling the property, the taxing unit may, but is not required to, use the

procedures provided by Section 263.001, Local Government Code, or Section 272.001, Local Government Code. The sale is subject to any right of redemption of the former owner. The redemption period begins on the date the deed to the taxing unit is filed for record.

(b) Property sold pursuant to Subsections (c) and (d) of this section may be sold for any amount. This subsection does not authorize a sale of property in violation of Section 52, Article III, Texas Constitution.

(c) The taxing unit purchasing the property by resolution of its governing body may request the sheriff or a constable to sell the property at a public sale. If the purchasing taxing unit has not sold the property within six months after the date on which the owner's right of redemption terminates, any taxing unit that is entitled to receive proceeds of the sale by resolution of its governing body may request the sheriff or a constable in writing to sell the property at a public sale. On receipt of a request made under this subsection, the sheriff or constable shall sell the property as provided by Subsection (d), unless the property is sold under Subsection (h) or (i) before the date set for the public sale.

(d) Except as provided by this subsection, all public sales requested as provided by Subsection (c) must be conducted in the manner prescribed by the Texas Rules of Civil Procedure for the sale of property under execution or, if directed by the commissioners court of the county, in accordance with Section 34.01(a-1) and the rules adopted under that section providing for public auction using online bidding and sale. The notice of the sale must contain a description of the property to be sold, the number and style of the suit under which the property was sold at the tax foreclosure sale, and the date of the tax foreclosure sale. The description of the property in the notice is sufficient if it is stated in the manner provided by Section 34.01(f). If the commissioners court of a county by order specifies the date or time at which or location in the county where a public sale requested under Subsection (c) shall be conducted, the sale shall be conducted on the date and at the time and location specified in the order. The acceptance of a bid by the officer conducting the sale is conclusive and binding on the question of its sufficiency. An action to set aside the sale on the grounds that the bid is insufficient may not be sustained in court, except that a taxing unit that participates in distribution of proceeds of the sale may file an action before the first anniversary of the date

of the sale to set aside the sale on the grounds of fraud or collusion between the officer making the sale and the purchaser. On conclusion of the sale, the officer making the sale shall prepare a deed to the purchaser. The taxing unit that requested the sale may elect to prepare a deed for execution by the officer. If the taxing unit prepares the deed, the officer shall execute that deed. An officer who executes a deed prepared by the taxing unit is not responsible or liable for any inconsistency, error, or other defect in the form of the deed. As soon as practicable after a deed is executed by the officer, the officer shall either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the sale, which shall file the deed for recording with the county clerk. The county clerk shall file and record each deed under this subsection and after recording shall return the deed to the grantee.

(e) The presiding officer of a taxing unit selling real property under Subsection (h) or (i), under Section 34.051, or under Section 253.010, Local Government Code, or the sheriff or constable selling real property under Subsections (c) and (d) 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 shall be made subject to any remaining right of redemption at the time of the sale.

(f) An action attacking the validity of a resale of property pursuant to this section may not be instituted after the expiration of one year after the date of the resale.

(g) A taxing unit to which property is bid off may recover its costs of upkeep, maintenance, and environmental cleanup from the resale proceeds without further court order.

(h) In lieu of a sale pursuant to Subsections (c) and (d) of this section, the taxing unit that purchased the property may sell the property at a private sale. Consent of each taxing unit entitled to receive proceeds of the sale under the judgment is not required. Property sold under this subsection may not be sold for an amount that is less than the lesser of:

(1) the market value specified in the judgment of foreclosure; or

(2) the total amount of the judgments against the property.

(i) In lieu of a sale pursuant to Subsections (c) and (d) of

this section, the taxing unit that purchased the property may sell the property at a private sale for an amount less than required under Subsection (h) of this section with the consent of each taxing unit entitled to receive proceeds of the sale under the judgment. This subsection does not authorize a sale of property in violation of Section 52, Article III, Texas Constitution.

(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.

(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.

(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.

Acts 1979, 66th Leg., p. 2298, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 27, eff. Aug. 29, 1983; Acts 1995, 74th Leg., ch. 499, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 310, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 712, Sec. 3, 4, eff. June 17, 1997; Acts 1997, 75th Leg., ch. 906, Sec. 9, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1111, Sec. 5, 8, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1136, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1192, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 27 to 29, 42(2), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1430, Sec. 28, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 740 (H.B. 1118), Sec. 2, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1075 (H.B. 1652), Sec. 1, eff. June 14, 2019.

Sec. 34.051. RESALE BY TAXING UNIT FOR THE PURPOSE OF URBAN REDEVELOPMENT. (a) A municipality is authorized to resell tax foreclosed property for less than the market value specified in the judgment of foreclosure or less than the total amount of the judgments against the property if consent to the conveyance is evidenced by an interlocal agreement between the municipality and each taxing unit that is a party to the judgment, provided, however, that the interlocal agreement complies with the requirements of Subsection (b).

(b) Any taxing unit may enter into an interlocal agreement with the municipality for the resale of tax foreclosed properties to be used for a purpose consistent with the municipality's urban redevelopment plans or the municipality's affordable housing policy. If the tax foreclosed property is resold pursuant to this section to be used for a purpose consistent with the municipality's urban redevelopment plan or affordable housing policy, the deed of conveyance must refer to or set forth the applicable terms of the urban redevelopment plan or affordable housing policy. Any such interlocal agreement should include the following:

(1) a general statement and goals of the municipality's

urban redevelopment plans or affordable housing policy, as applicable;

(2) a statement that the interlocal agreement concerns only tax foreclosed property that is either vacant or distressed and has a tax delinquency of six or more years;

(3) a statement that the properties will be used only for a purpose consistent with an urban redevelopment plan or affordable housing policy, as applicable, that is primarily aimed at providing housing for families of low or moderate income;

(4) a statement that the principal goal of the interlocal agreement is to provide an efficient mechanism for returning deteriorated or unproductive properties to the tax rolls, enhancing the value of ownership to the surrounding properties, and improving the safety and quality of life in deteriorating neighborhoods; and

(5) a provision that all properties are sold subject to any right of redemption.

(c) The deed of conveyance of property sold under this section conveys to the purchaser the right, title, and interest acquired or held by each taxing unit that was a party to the judgment of foreclosure, subject to any remaining right of redemption at the time of the sale.

(d) An action attacking the validity of a sale of property pursuant to this section may not be instituted after the expiration of one year after the date of the sale and then only after the unconditional tender into the registry of the court of an amount equal to all taxes, penalties, interest, costs, and post-judgment interest of all judgments on which the original foreclosure sale was based.

Added by Acts 1997, 75th Leg., ch. 1136, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 819, Sec. 1, eff. June 14, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 29, eff. Sept. 1, 2001.

Sec. 34.06. DISTRIBUTION OF PROCEEDS OF RESALE. (a) The proceeds of a resale of property purchased by a taxing unit at a tax foreclosure sale shall be paid to the purchasing taxing unit.

(b) The proceeds of the resale shall be distributed as required by Subsections (c)-(e).

(c) The purchasing taxing unit shall first retain an amount

from the proceeds to reimburse the unit for reasonable costs, as defined by Section 34.21, incurred by the unit for:

(1) maintaining, preserving, and safekeeping the property;

(2) marketing the property for resale; and

(3) costs described by Subsection (f).

(d) After retaining the amount authorized by Subsection (c), the purchasing taxing unit shall then pay all costs of the suit and the sale of the property in the same manner and in the same order of priority as provided by Sections 34.02(b)(1)-(5).

(e) After making the distribution under Subsection (d), any remaining balance of the proceeds shall be paid to each taxing unit participating in the sale in an amount equal to the proportion each participant's taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest adjudged to be due all participants in the sale.

(f) The purchasing taxing unit is entitled to recover from the proceeds of a resale of the property any cost incurred by the taxing unit in inspecting the property to determine whether there is a release or threatened release of solid waste from the property in violation of Chapter 361, Health and Safety Code, or a rule adopted or permit or order issued by the Texas Natural Resource Conservation Commission under that chapter, or a discharge or threatened discharge of waste or a pollutant into or adjacent to water in this state from a point of discharge on the property in violation of Chapter 26, Water Code, or a rule adopted or permit or order issued by the commission under that chapter, and in taking action to remove or remediate the release or threatened release or discharge or threatened discharge regardless of whether the taxing unit:

(1) was required by law to incur the cost; or

(2) obtained the consent of each taxing unit entitled to receive proceeds of the sale under the judgment of foreclosure to incur the cost.

Acts 1979, 66th Leg., p. 2299, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 38, Sec. 1, eff. May 5, 1997; Acts 1997, 75th Leg., ch. 906, Sec. 10, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 914, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 30, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 319, Sec. 11, eff. June 18, 2003.

Sec. 34.07. SUBROGATION OF PURCHASER AT VOID SALE. (a) The purchaser at a void or defective tax sale or tax resale is subrogated to the rights of the taxing unit in whose behalf the property was sold or resold to the same extent a purchaser at a void or defective sale conducted in behalf of a judgment creditor is subrogated to the rights of the judgment creditor.

(b) Except as provided by Subsection (c), the purchaser at a void or defective tax sale or tax resale is subrogated to the tax lien of the taxing unit in whose behalf the property was sold or resold to the same extent a purchaser at a void or defective mortgage or other lien foreclosure sale is subrogated to the lien of the lienholder, and the purchaser is entitled to a reforeclosure of the lien to which the purchaser is subrogated.

(c) If the purchaser at a void or defective tax sale or tax resale paid less than the total amount of the judgment against the property, the purchaser is subrogated to the tax lien only in the amount the purchaser paid at the sale or resale.

(d) In lieu of pursuing the subrogation rights provided by this section to which a purchaser is subrogated, a purchaser at a void tax sale or tax resale may elect to file an action against the taxing units to which proceeds of the sale were distributed to recover an amount from each taxing unit equal to the distribution of taxes, penalties, interest, and attorney's fees the taxing unit received. In a suit filed under this subsection, the purchaser may include a claim for, and is entitled to recover, any excess proceeds of the sale that remain on deposit in the registry of the court or, in the alternative, is entitled to have judgment against any party to whom the excess proceeds have been distributed. A purchaser who files a suit authorized by this subsection waives all rights of subrogation otherwise provided by this section. This subsection applies only to an original purchaser at a tax sale or resale and only if that purchaser has not subsequently sold the property to another person.

(e) If the purchaser prevails in a suit filed under Subsection (d), the court shall expressly provide in its final judgment that:

(1) the tax sale is vacated and set aside; and

(2) any lien on the property extinguished by the tax sale is reinstated on the property effective as of the date on which the lien originally attached to the property.

(f) A suit filed against the taxing units under Subsection (d) may not be maintained unless the action is instituted before the

first anniversary of the date of sale or resale. In this subsection:

(1) "Date of sale" means the date on which the sheriff or constable conducted the sale of the property under Section 34.01.

(2) "Date of resale" means the date on which the grantor's acknowledgment was taken or, in the case of multiple grantors, the latest date of acknowledgment by the grantors as shown in the deed.

Acts 1979, 66th Leg., p. 2299, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 1481, Sec. 31, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1430, Sec. 30, eff. Sept. 1, 2001. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 133 (H.B. 1128), Sec. 5, eff. September 1, 2017.

Sec. 34.08. CHALLENGE TO VALIDITY OF TAX SALE. (a) A person may not commence an action that challenges the validity of a tax sale under this chapter unless the person:

(1) deposits into the registry of the court an amount equal to the amount of the delinquent taxes, penalties, and interest specified in the judgment of foreclosure obtained against the property plus all costs of the tax sale; or

(2) files an affidavit of inability to pay under Rule 145, Texas Rules of Civil Procedure.

(b) A person may not commence an action challenging the validity of a tax sale after the time set forth in Section 33.54(a)(1) or (2), as applicable to the property, against a subsequent purchaser for value who acquired the property in reliance on the tax sale. The purchaser may conclusively presume that the tax sale was valid and shall have full title to the property free and clear of the right, title, and interest of any person that arose before the tax sale, subject only to recorded restrictive covenants and valid easements of record set forth in Section 34.01(n) and subject to applicable rights of redemption.

(c) If a person is not barred from bringing an action challenging the validity of a tax sale under Subsection (b) or any other provision of this title or applicable law, the person must bring an action no later than two years after the cause of action accrues to recover real property claimed by another who:

(1) pays applicable taxes on the real property before

overdue; and

(2) claims the property under a registered deed executed pursuant to Section 34.01.

(d) Subsection (c) does not apply to a claim based on a forged deed.

Added by Acts 1997, 75th Leg., ch. 1136, Sec. 4, eff. Sept. 1, 1997; Acts 1997 75th Leg., ch. 1192, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1481, Sec. 32, eff. Sept. 1, 1999.

SUBCHAPTER B. REDEMPTION

Sec. 34.21. RIGHT OF REDEMPTION. (a) The owner of real property sold at a tax sale to a purchaser other than a taxing unit that was used as the residence homestead of the owner or that was land designated for agricultural use when the suit or the application for the warrant was filed, or the owner of a mineral interest sold at a tax sale to a purchaser other than a taxing unit, may redeem the property on or before the second anniversary of the date on which the purchaser's deed is filed for record by paying the purchaser the amount the purchaser bid for the property, the amount of the deed recording fee, and the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus a redemption premium of 25 percent of the aggregate total if the property is redeemed during the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed during the second year of the redemption period.

(b) If property that was used as the owner's residence homestead or was land designated for agricultural use when the suit or the application for the warrant was filed, or that is a mineral interest, is bid off to a taxing unit under Section 34.01(j) or (p) and has not been resold by the taxing unit, the owner having a right of redemption may redeem the property on or before the second anniversary of the date on which the deed of the taxing unit is filed for record by paying the taxing unit:

(1) the lesser of the amount of the judgment against the property or the market value of the property as specified in that judgment, plus the amount of the fee for filing the taxing unit's deed and the amount spent by the taxing unit as costs on the property, if the property was judicially foreclosed and bid off to

the taxing unit under Section 34.01(j); or

(2) the lesser of the amount of taxes, penalties, interest, and costs for which the warrant was issued or the market value of the property as specified in the warrant, plus the amount of the fee for filing the taxing unit's deed and the amount spent by the taxing unit as costs on the property, if the property was seized under Subchapter E, Chapter 33, and bid off to the taxing unit under Section 34.01(p).

(c) If real property that was used as the owner's residence homestead or was land designated for agricultural use when the suit or the application for the warrant was filed, or that is a mineral interest, has been resold by the taxing unit under Section 34.05, the owner of the property having a right of redemption may redeem the property on or before the second anniversary of the date on which the taxing unit files for record the deed from the sheriff or constable by paying the person who purchased the property from the taxing unit the amount the purchaser paid for the property, the amount of the fee for filing the purchaser's deed for record, the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus a redemption premium of 25 percent of the aggregate total if the property is redeemed in the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed in the second year of the redemption period.

(d) If the amount paid by the owner of the property under Subsection (c) is less than the amount of the judgment under which the property was sold, the owner shall pay to the taxing unit to which the property was bid off under Section 34.01 an amount equal to the difference between the amount paid under Subsection (c) and the amount of the judgment. The taxing unit shall issue a receipt for a payment received under this subsection and shall distribute the amount received to each taxing unit that participated in the judgment and sale in an amount proportional to the unit's share of the total amount of the aggregate judgments of the participating taxing units. The owner of the property shall deliver the receipt received from the taxing unit to the person from whom the property is redeemed.

(e) The owner of real property sold at a tax sale other than property that was used as the residence homestead of the owner or that was land designated for agricultural use when the suit or the application for the warrant was filed, or that is a mineral interest, may redeem the property in the same manner and by paying the same amounts as prescribed by Subsection (a), (b), (c), or (d), as

applicable, except that:

(1) the owner's right of redemption may be exercised not later than the 180th day following the date on which the purchaser's or taxing unit's deed is filed for record; and

(2) the redemption premium payable by the owner to a purchaser other than a taxing unit may not exceed 25 percent.

(f) The owner of real property sold at a tax sale may redeem the real property by paying the required amount as prescribed by this section to the assessor-collector for the county in which the property was sold, if the owner of the real property makes an affidavit stating:

(1) that the period in which the owner's right of redemption must be exercised has not expired; and

(2) that the owner has made diligent search in the county in which the property is located for the purchaser at the tax sale or for the purchaser at resale, and has failed to find the purchaser, that the purchaser is not a resident of the county in which the property is located, that the owner and the purchaser cannot agree on the amount of redemption money due, or that the purchaser refuses to give the owner a quitclaim deed to the property.

(f-1) An assessor-collector who receives an affidavit and payment under Subsection (f) shall accept that the assertions set out in the affidavit are true and correct. The assessor-collector receiving the payment shall give the owner a signed receipt witnessed by two persons. The receipt, when recorded, is notice to all persons that the property described has been redeemed. The assessor-collector shall on demand pay the money received by the assessor-collector to the purchaser. An assessor-collector is not liable to any person for performing the assessor-collector's duties under this subsection in reliance on the assertions contained in an affidavit.

(g) In this section:

(1) "Land designated for agricultural use" means land for which an application for appraisal under Subchapter C or D, Chapter 23, has been finally approved.

(2) "Costs" includes:

(A) the amount reasonably spent by the purchaser for maintaining, preserving, and safekeeping the property, including the cost of:

(i) property insurance;

(ii) repairs or improvements required by a local

ordinance or building code or by a lease of the property in effect on the date of the sale;

(iii) discharging a lien imposed by a municipality to secure expenses incurred by the municipality in remedying a health or safety hazard on the property;

(iv) dues or assessments for maintenance paid to a property owners' association under a recorded restrictive covenant to which the property is subject; and

(v) impact or standby fees imposed under the Local Government Code or Water Code and paid to a political subdivision; and

(B) if the purchaser is a taxing unit to which the property is bid off under Section 34.01, personnel and overhead costs reasonably incurred by the purchaser in connection with maintaining, preserving, safekeeping, managing, and reselling the property.

(3) "Purchaser" includes a taxing unit to which property is bid off under Section 34.01.

(4) "Residence homestead" has the meaning assigned by Section 11.13.

(h) The right of redemption does not grant or reserve in the former owner of the real property the right to the use or possession of the property, or to receive rents, income, or other benefits from the property while the right of redemption exists.

(i) The owner of property who is entitled to redeem the property under this section may request that the purchaser of the property, or the taxing unit to which the property was bid off, provide that owner a written itemization of all amounts spent by the purchaser or taxing unit in costs on the property. The owner must make the request in writing and send the request to the purchaser at the address shown for the purchaser in the purchaser's deed for the property, or to the business address of the collector for the taxing unit, as applicable. The purchaser or the collector shall itemize all amounts spent on the property in costs and deliver the itemization in writing to the owner not later than the 10th day after the date the written request is received. Delivery of the itemization to the owner may be made by depositing the document in the United States mail, postage prepaid, addressed to the owner at the address provided in the owner's written request. Only those amounts included in the itemization provided to the owner may be allowed as costs for purposes of redemption.

(j) A quitclaim deed to an owner redeeming property under this section is not notice of an unrecorded instrument. The grantee of a quitclaim deed and a successor or assign of the grantee may be a bona fide purchaser in good faith for value under recording laws.

(k) The inclusion of dues and assessments for maintenance paid to a property owners' association within the definition of "costs" under Subsection (g) may not be construed as:

(1) a waiver of any immunity to which a taxing unit may be entitled from a suit or from liability for those dues or assessments; or

(2) authority for a taxing unit to make an expenditure of public funds in violation of Section 50, 51, or 52(a), Article III, or Section 3, Article XI, Texas Constitution.

(l) An owner of real property who is entitled to redeem the property under this section may not transfer the owner's right of redemption to another person. Any instrument purporting to transfer the owner's right of redemption is void.

Acts 1979, 66th Leg., p. 2300, ch. 841, Sec. 1, eff. Jan. 1, 1979. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 33, eff. June 15, 1989; Acts 1991, 72nd Leg., ch. 419, Sec. 1, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 349, Sec. 1, eff. May 29, 1993; Acts 1997, 75th Leg., ch. 906, Sec. 11, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 914, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1111, Sec. 6, 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1481, Sec. 33, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 231, Sec. 1, eff. May 22, 2001; Acts 2001, 77th Leg., ch. 1430, Sec. 31, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 319, Sec. 12, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 510, Sec. 1, eff. Jan. 1, 2004. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 374 (H.B. 1407), Sec. 1, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1345 (S.B. 1642), Sec. 1, eff. June 14, 2019.

Sec. 34.22. EVIDENCE OF TITLE TO REDEEM REAL PROPERTY. (a) A person asserting ownership of real property sold for taxes is entitled to redeem the property if he had title to the property or he was in possession of the property in person or by tenant either at

the time suit to foreclose the tax lien on the property was instituted or at the time the property was sold. A defect in the chain of title to the property does not defeat an offer to redeem.

(b) A person who establishes title to real property that is superior to the title of one who has previously redeemed the property is entitled to redeem the property during the redemption period by paying the amounts provided by law to the person who previously redeemed the property.

Acts 1979, 66th Leg., p. 2300, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 34.23. DISTRIBUTION OF REDEMPTION PROCEEDS. (a) If the owner of property sold for taxes to a taxing unit redeems the property before the property is resold, the taxing unit shall distribute the redemption proceeds in the manner that proceeds of the resale of property are distributed.

(b) Except as provided by Section 34.21(e), the owner of property sold for taxes to a taxing unit may not redeem the property from the taxing unit after the property has been resold.

Acts 1979, 66th Leg., p. 2300, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 906, Sec. 12, eff. Jan. 1, 1998.

SUBTITLE F. REMEDIES
CHAPTER 41. LOCAL REVIEW
SUBCHAPTER A. REVIEW OF APPRAISAL RECORDS BY APPRAISAL REVIEW BOARD

Sec. 41.01. DUTIES OF APPRAISAL REVIEW BOARD. (a) The appraisal review board shall:

(1) determine protests initiated by property owners;

(2) determine challenges initiated by taxing units;

(3) correct clerical errors in the appraisal records and the appraisal rolls;

(4) act on motions to correct appraisal rolls under Section 25.25;

(5) determine whether an exemption or a partial exemption is improperly granted and whether land is improperly granted appraisal as provided by Subchapter C, D, E, or H, Chapter 23; and

(6) take any other action or make any other determination that this title specifically authorizes or requires.

(b) The board may not review or reject an agreement between a property owner or the owner's agent and the chief appraiser under Section 1.111(e).

Acts 1979, 66th Leg., p. 2302, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, Sec. 133, eff. Jan. 1, 1982; Acts 1993, 73rd Leg., ch. 1031, Sec. 5, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1039, Sec. 37, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 631, Sec. 9, eff. Sept. 1, 1999.

Sec. 41.02. ACTION BY BOARD. After making a determination or decision under Section 41.01, the appraisal review board shall by written order direct the chief appraiser to correct or change the appraisal records or the appraisal roll to conform the appraisal records or the appraisal roll to the board's determination or decision.

Acts 1979, 66th Leg., p. 2302, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 1031, Sec. 6, eff. Sept. 1, 1993.

Sec. 41.03. CHALLENGE BY TAXING UNIT. (a) A taxing unit is entitled to challenge before the appraisal review board:

(1) an exclusion of property from the appraisal records;

(2) a grant in whole or in part of a partial exemption, other than an exemption under Section 11.35;

(3) a determination that land qualifies for appraisal as provided by Subchapter C, D, E, or H, Chapter 23; or

(4) a failure to identify the taxing unit as one in which a particular property is taxable.

(b) If a taxing unit challenges a determination that land qualifies for appraisal under Subchapter H, Chapter 23, on the ground that the land is not located in an aesthetic management zone, critical wildlife habitat zone, or streamside management zone, the taxing unit must first seek a determination letter from the director of the Texas Forest Service. The appraisal review board shall accept the letter as conclusive proof of the type, size, and location of the zone.

Acts 1979, 66th Leg., p. 2302, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, Sec. 134, eff. Jan. 1, 1984; Acts 1999, 76th Leg., ch. 631, Sec. 10, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 60, eff. January 1, 2020.
Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 6, eff. January 1, 2020.

Sec. 41.04. CHALLENGE PETITION. The appraisal review board is not required to hear or determine a challenge unless the taxing unit initiating the challenge files a petition with the board before June 1 or within 15 days after the date that the appraisal records are submitted to the appraisal review board, whichever is later. The petition must include an explanation of the grounds for the challenge.

Acts 1979, 66th Leg., p. 2302, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 169, ch. 13, Sec. 134, eff. Jan. 1, 1982.

Sec. 41.05. HEARING ON CHALLENGE. (a) On the filing of a challenge petition, the appraisal review board shall schedule a hearing on the challenge.

(b) The taxing unit initiating the challenge and each taxing unit in which property involved in the challenge is or may be taxable are entitled to an opportunity to appear to offer evidence or argument.

(c) The chief appraiser shall appear at each hearing to represent the appraisal office.

(d) If the challenge relates to a taxable leasehold or other possessory interest in real property that is owned by this state or a political subdivision of this state, the attorney general or a representative of the state agency that owns the real property, if the real property is owned by this state, or a person designated by the political subdivision that owns the real property, as applicable, is entitled to appear at the hearing and offer evidence and argument.

Acts 1979, 66th Leg., p. 2303, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1999, 76th Leg., ch. 416, Sec. 1, eff. Sept. 1, 1999.

Sec. 41.06. NOTICE OF CHALLENGE HEARING. (a) The secretary of the appraisal review board shall deliver to the presiding officer of the governing body of each taxing unit entitled to appear at a challenge hearing written notice of the date, time, and place fixed for the hearing. The secretary shall deliver the notice not later than the 10th day before the date of the hearing.

(b) The secretary shall give the chief appraiser advance notice of the date, time, place, and subject matter of each challenge hearing.

(c) If the challenge relates to a taxable leasehold or other possessory interest in real property that is owned by this state or a political subdivision of this state, the secretary shall deliver notice of the hearing as provided by Subsection (a) to:

(1) the attorney general and the state agency that owns the real property, in the case of real property owned by this state; or

(2) the governing body of the political subdivision, in the case of real property owned by a political subdivision.

Acts 1979, 66th Leg., p. 2303, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1999, 76th Leg., ch. 416, Sec. 2, eff. Sept. 1, 1999.

Sec. 41.07. DETERMINATION OF CHALLENGE. (a) The appraisal review board shall determine each challenge and make its decision by written order.

(b) If on determining a challenge the board finds that the appraisal records are incorrect in some respect raised by the challenge, the board shall refer the matter to the appraisal office and by its order shall direct the chief appraiser to make the reappraisals or corrections in the records that are necessary to conform the records to the requirements of law.

(c) The board shall determine all challenges before approval of the appraisal records as provided by Section 41.12 of this code.

(d) The board shall deliver by certified mail a notice of the issuance of the order and a copy of the order to the taxing unit.

Acts 1979, 66th Leg., p. 2303, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, Sec. 135, eff. Jan. 1, 1982.

Sec. 41.08. CORRECTION OF RECORDS ON ORDER OF BOARD. The chief appraiser shall make the reappraisals or other corrections of the appraisal records ordered by the appraisal review board as provided by this subchapter. The chief appraiser shall submit a copy of the corrected records to the board for its approval as promptly as practicable.

Acts 1979, 66th Leg., p. 2303, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 41.09. CLERICAL ERRORS. At any time before approval of the appraisal records as provided by Section 41.12 of this code, the appraisal review board in writing may correct a clerical error in the records without referring the matter to the appraisal office if the correction will not affect the tax liability of a property owner and if the chief appraiser does not object in writing.

Acts 1979, 66th Leg., p. 2303, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 41.10. CORRECTION OF RECORDS ON RECOMMENDATION OF CHIEF APPRAISER. At any time before approval of the appraisal records as provided by Section 41.12 of this code, the chief appraiser may submit written recommendations to the appraisal review board for corrections in the records. If the board approves a recommended correction and it will not result in an increase in the tax liability of a property owner, the board may make the correction by written order.

Acts 1979, 66th Leg., p. 2303, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 41.11. NOTICE TO PROPERTY OWNER OF CHANGE IN RECORDS. (a) Not later than the date the appraisal review board approves the appraisal records as provided by Section 41.12, the secretary of the board shall deliver written notice to a property owner of any change in the records that is ordered by the board as provided by this

subchapter and that will result in an increase in the tax liability of the property owner. An owner who receives a notice as provided by this section shall be entitled to protest such action as provided by Section 41.44(a)(2).

(b) The secretary shall include in the notice a brief explanation of the procedure for protesting the change.

(c) Failure to deliver notice to a property owner as required by this section nullifies the change in the records to the extent the change is applicable to that property owner.

Acts 1979, 66th Leg., p. 2303, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 906, Sec. 13, eff. Jan. 1, 1998.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1106 (H.B. 3496), Sec. 3, eff. January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 357 (H.B. 2228), Sec. 4, eff. January 1, 2018.

Sec. 41.12. APPROVAL OF APPRAISAL RECORDS BY BOARD. (a) By July 20, the appraisal review board shall:

(1) hear and determine all or substantially all timely filed protests;

(2) determine all timely filed challenges;

(3) submit a list of its approved changes in the records to the chief appraiser; and

(4) approve the records.

(b) The appraisal review board must complete substantially all timely filed protests before approving the appraisal records and may not approve the records if the sum of the appraised values, as determined by the chief appraiser, of all properties on which a protest has been filed but not determined is more than five percent of the total appraised value of all other taxable properties.

(c) The board of directors of an appraisal district established for a county with a population of at least one million by resolution may:

(1) postpone the deadline established by Subsection (a) for the performance of the functions listed in that subsection to a date not later than August 30; or

(2) provide that the appraisal review board may approve the

appraisal records if the sum of the appraised values, as determined by the chief appraiser, of all properties on which a protest has been filed but not determined does not exceed 10 percent of the total appraised value of all other taxable properties.

Acts 1979, 66th Leg., p. 2304, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, Sec. 136, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 312, Sec. 4, eff. June 7, 1985; Acts 1985, 69th Leg., ch. 630, Sec. 1, eff. June 14, 1985; Acts 1993, 73rd Leg., ch. 1031, Sec. 7, 8, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 626 (H.B. 538), Sec. 1, eff. January 1, 2008.

SUBCHAPTER C. TAXPAYER PROTEST

Sec. 41.41. RIGHT OF PROTEST. (a) A property owner is entitled to protest before the appraisal review board the following actions:

(1) determination of the appraised value of the owner's property or, in the case of land appraised as provided by Subchapter C, D, E, or H, Chapter 23, determination of its appraised or market value;

(2) unequal appraisal of the owner's property;

(3) inclusion of the owner's property on the appraisal records;

(4) denial to the property owner in whole or in part of a partial exemption;

(5) determination that the owner's land does not qualify for appraisal as provided by Subchapter C, D, E, or H, Chapter 23;

(6) identification of the taxing units in which the owner's property is taxable in the case of the appraisal district's appraisal roll;

(7) determination that the property owner is the owner of property;

(8) a determination that a change in use of land appraised under Subchapter C, D, E, or H, Chapter 23, has occurred; or

(9) any other action of the chief appraiser, appraisal district, or appraisal review board that applies to and adversely affects the property owner.

(b) Each year the chief appraiser for each appraisal district shall publicize in a manner reasonably designed to notify all residents of the district:

(1) the provisions of this section; and

(2) the method by which a property owner may protest an action before the appraisal review board.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 7

(c) Notwithstanding Subsection (a), a property owner is entitled to protest before the appraisal review board only the following actions of the chief appraiser in relation to an exemption under Section 11.35:

(1) the modification or denial of an application for an exemption under that section; or

(2) the determination of the appropriate damage assessment rating for an item of qualified property under that section.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 1284 (H.B. 1313), Sec. 3

(c) An appraisal district or the appraisal review board for an appraisal district may not require a property owner to pay a fee in connection with a protest filed by the owner with the board.

Acts 1979, 66th Leg., p. 2305, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, Sec. 137, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 823, Sec. 3, eff. Jan. 1, 1986; Acts 1989, 71st Leg., ch. 796, Sec. 34, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 113, Sec. 1, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 631, Sec. 11, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 7, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1284 (H.B. 1313), Sec. 3, eff. January 1, 2020.

Sec. 41.411. PROTEST OF FAILURE TO GIVE NOTICE. (a) A property owner is entitled to protest before the appraisal review board the failure of the chief appraiser or the appraisal review board to provide or deliver any notice to which the property owner is entitled.

(b) If failure to provide or deliver the notice is established, the appraisal review board shall determine 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.

(c) A property owner who protests as provided by this section must comply with the payment requirements of Section 41.4115 or the property owner forfeits the property owner's right to a final determination of the protest.

Added by Acts 1985, 69th Leg., ch. 504, Sec. 1, eff. June 12, 1985.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1106 (H.B. 3496), Sec. 4(a), eff. January 1, 2008.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 8, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 793 (H.B. 2220), Sec. 3, eff. June 17, 2011.

Sec. 41.4115. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES. (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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 9, eff. September 1, 2011.
Added by Acts 2011, 82nd Leg., R.S., Ch. 793 (H.B. 2220), Sec. 4, eff. June 17, 2011.

Sec. 41.412. PERSON ACQUIRING PROPERTY AFTER JANUARY 1. (a) A person who acquires property after January 1 and before the deadline for filing notice of the protest may pursue a protest under this subchapter in the same manner as a property owner who owned the property on January 1.

(b) If during the pendency of a protest under this subchapter the ownership of the property subject to the protest changes, the new owner of the property on application to the appraisal review board may proceed with the protest in the same manner as the property owner who initiated the protest.

Added by Acts 1987, 70th Leg., ch. 451, Sec. 1, eff. Aug. 31, 1987.

Sec. 41.413. PROTEST BY PERSON LEASING PROPERTY. (a) A person leasing tangible personal property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the appraisal review board a determination of the appraised value of the property if the property owner does not file a protest relating to the property.

(b) A person leasing real property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the appraisal review board a determination of the appraised value of the property if the property owner does not file a protest relating to the property. The protest provided by this subsection is limited to a single protest by either the property owner or the lessee.

(c) A person bringing a protest under this section is considered the owner of the property for purposes of the protest. The appraisal review board shall deliver a copy of any notice relating to the protest and of the order determining the protest to the owner of the property and the person bringing the protest.

(d) A property owner shall send to a person leasing property under a contract described by this section a copy of any notice of appraised value of the property received by the property owner. The property owner must send the notice not later than the 10th day after the date the property owner receives the notice. Failure of the property owner to send a copy of the notice to the person leasing the property does not affect the time within which the person leasing the property may protest the appraised value. This subsection does not apply if the property owner and the person leasing the property have agreed in the contract to waive the requirements of this subsection or that the person leasing the property will not protest the appraised value of the property.

(e) A person leasing property under a contract described by this section may request that the chief appraiser of the appraisal district in which the property is located send the notice described by Subsection (d) to the person. Except as provided by Subsection (f), the chief appraiser shall send the notice to the person leasing the property not later than the fifth day after the date the notice is sent to the property owner if the person demonstrates that the person is contractually obligated to reimburse the property owner for

the taxes imposed on the property.

(f) A chief appraiser who receives a request under Subsection (e) is not required to send the notice requested under that subsection if the appraisal district in which the property that is the subject of the notice is located posts the appraised value of the property on the district's Internet website not later than the fifth day after the date the notice is sent to the property owner.

(g) A person leasing property under a contract described by this section may designate another person to act as the agent of the lessee for any purpose under this title. The lessee must make the designation in the manner provided by Section 1.111. An agent designated under this subsection has the same authority and is subject to the same limitations as an agent designated by a property owner under Section 1.111.

Added by Acts 1995, 74th Leg., ch. 581, Sec. 1, eff. Aug. 28, 1995.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 332 (H.B. 804), Sec. 1, eff. September 1, 2017.

Text of section as added by Acts 2009, 81st Leg., R.S., Ch. 1267 (H.B. 1030), Sec. 3

For text of section as added by Acts 2009, 81st Leg., R.S., Ch. 1370 (S.B. 873), Sec. 1, see other Sec. 41.415.

Sec. 41.415. ELECTRONIC FILING OF NOTICE OF PROTEST. (a) This section applies only to an appraisal district established for a county having a population of 500,000 or more.

(b) The appraisal district shall implement a system that allows the owner of a property that for the current tax year has been granted a residence homestead exemption under Section 11.13, in connection with the property, to electronically:

(1) file a notice of protest under Section 41.41(a)(1) or (2) with the appraisal review board;

(2) receive and review comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing before the board;

(3) receive, as applicable:

(A) a settlement offer from the district to correct the appraisal records by changing the market value and, if applicable,

the appraised value of the property to the value as redetermined by the district; or

(B) a notice from the district that a settlement offer will not be made; and

(4) accept or reject a settlement offer received from the appraisal district under Subdivision (3)(A).

(c) With each notice sent under Section 25.19 to an eligible property owner, the chief appraiser shall include information about the system required by this section, including instructions for accessing and using the system.

(d) A notice of protest filed electronically under this section must include, at a minimum:

(1) a statement as to whether the protest is brought under Section 41.41(a)(1) or under Section 41.41(a)(2);

(2) a statement of the property owner's good faith estimate of the value of the property; and

(3) an electronic mail address that the district may use to communicate electronically with the property owner in connection with the protest.

(e) If the property owner accepts a settlement offer made by the appraisal district, the chief appraiser shall enter the settlement in the appraisal records as an agreement made under Section 1.111(e).

(f) If the property owner rejects a settlement offer, the appraisal review board shall hear and determine the property owner's protest in the manner otherwise provided by this subchapter and Subchapter D.

(g) An appraisal district is not required to make the system required by this section available to an owner of a residence homestead located in an area in which the chief appraiser determines that the factors affecting the market value of real property are unusually complex or to an owner who has designated an agent to represent the owner in a protest as provided by Section 1.111.

(h) An electronic mail address provided by a property owner to an appraisal district under Subsection (d)(3) is confidential and may not be disclosed by the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 1267 (H.B. 1030), Sec. 3, eff. January 1, 2010.

Text of section as added by Acts 2009, 81st Leg., R.S., Ch. 1370 (S.B. 873), Sec. 1

For text of section as added by Acts 2009, 81st Leg., R.S., Ch. 1267 (H.B. 1030), Sec. 3, see other Sec. 41.415.

Sec. 41.415. ELECTRONIC FILING OF NOTICE OF PROTEST. (a) This section applies only to an appraisal district that:

(1) on January 1, 2008, maintained an Internet website accessible to the public; or

(2) after that date established or establishes such an Internet website.

(b) Each appraisal district shall implement a system that allows the owner of a property that for the current tax year has been granted a residence homestead exemption under Section 11.13, in connection with the property, to electronically:

(1) file a notice of protest under Section 41.41(a)(1) or (2) with the appraisal review board;

(2) receive and review comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing before the board;

(3) receive, as applicable:

(A) a settlement offer from the district to correct the appraisal records by changing the market value and, if applicable, the appraised value of the property to the value as redetermined by the district; or

(B) a notice from the district that a settlement offer will not be made; and

(4) accept or reject a settlement offer received from the appraisal district under Subdivision (3)(A).

(c) With each notice sent under Section 25.19 to an eligible property owner, the chief appraiser shall include information about the system required by this section, including instructions for accessing and using the system.

(d) A notice of protest filed electronically under this section must include, at a minimum:

(1) a statement as to whether the protest is brought under Section 41.41(a)(1) or under Section 41.41(a)(2);

(2) a statement of the property owner's good faith estimate of the value of the property; and

(3) an electronic mail address that the district may use to communicate electronically with the property owner in connection with

the protest.

(e) If the property owner accepts a settlement offer made by the appraisal district, the chief appraiser shall enter the settlement in the appraisal records as an agreement made under Section 1.111(e).

(f) If the property owner rejects a settlement offer, the appraisal review board shall hear and determine the property owner's protest in the manner otherwise provided by this subchapter and Subchapter D.

(g) An appraisal district is not required to make the system required by this section available to an owner of a residence homestead located in an area in which the chief appraiser determines that the factors affecting the market value of real property are unusually complex.

(h) An electronic mail address provided by a property owner to an appraisal district under Subsection (d)(3) is confidential and may not be disclosed by the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 1370 (S.B. 873), Sec. 1, eff. January 1, 2011.

Sec. 41.42. PROTEST OF SITUS. A protest against the inclusion of property on the appraisal records for an appraisal district on the ground that the property does not have taxable situs in that district shall be determined in favor of the protesting party if he establishes that the property is subject to appraisal by another district or that the property is not taxable in this state. The chief appraiser of a district in which the property owner prevails in a protest of situs shall notify the appraisal office of the district in which the property owner has established situs.

Acts 1979, 66th Leg., p. 2305, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, Sec. 137, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 5034, ch. 906, Sec. 1, eff. Jan. 1, 1984.

Sec. 41.43. PROTEST OF DETERMINATION OF VALUE OR INEQUALITY OF APPRAISAL. (a) Except as provided by Subsections (a-1), (a-3), and (d), in a protest authorized by Section 41.41(a)(1) or (2), the

appraisal district has the burden of establishing the value of the property by a preponderance of the evidence presented at the hearing. If the appraisal district fails to meet that standard, the protest shall be determined in favor of the property owner.

(a-1) If in the protest relating to a property with a market or appraised value of $1 million or less as determined by the appraisal district the property owner files with the appraisal review board and, not later than the 14th day before the date of the first day of the hearing, delivers to the chief appraiser a copy of an appraisal of the property performed not later than the 180th day before the date of the first day of the hearing by an appraiser certified under Chapter 1103, Occupations Code, that supports the appraised or market value of the property asserted by the property owner, the appraisal district has the burden of establishing the value of the property by clear and convincing evidence presented at the hearing. If the appraisal district fails to meet that standard, the protest shall be determined in favor of the property owner.

(a-2) To be valid, an appraisal filed under Subsection (a-1) must be attested to before an officer authorized to administer oaths and include:

(1) the name and business address of the certified appraiser;

(2) a description of the property that was the subject of the appraisal;

(3) a statement that the appraised or market value of the property:

(A) was, as applicable, the appraised or market value of the property as of January 1 of the current tax year; and

(B) was determined using a method of appraisal authorized or required by Chapter 23; and

(4) a statement that the appraisal was performed in accordance with the Uniform Standards of Professional Appraisal Practice.

(a-3) In a protest authorized by Section 41.41(a)(1) or (2), the appraisal district has the burden of establishing the value of the property by clear and convincing evidence presented at the hearing if:

(1) the appraised value of the property was lowered under this subtitle in the preceding tax year;

(2) the appraised value of the property in the preceding

tax year was not established as a result of a written agreement between the property owner or the owner's agent and the appraisal district under Section 1.111(e); and

(3) not later than the 14th day before the date of the first day of the hearing, the property owner files with the appraisal review board and delivers to the chief appraiser:

(A) information, such as income and expense statements or information regarding comparable sales, that is sufficient to allow for a determination of the appraised or market value of the property if the protest is authorized by Section 41.41(a)(1); or

(B) information that is sufficient to allow for a determination of whether the property was appraised unequally if the protest is authorized by Section 41.41(a)(2).

(a-4) If the appraisal district has the burden of establishing the value of property by clear and convincing evidence presented at the hearing on a protest as provided by Subsection (a-3) and the appraisal district fails to meet that standard, the protest shall be determined in favor of the property owner.

(a-5) Subsection (a-3)(3) does not impose a duty on a property owner to provide any information in a protest authorized by Section 41.41(a)(1) or (2). That subdivision is merely a condition to the applicability of the standard of evidence provided by Subsection (a-3).

(b) A protest on the ground of unequal appraisal of property shall be determined in favor of the protesting party unless the appraisal district establishes that:

(1) the appraisal ratio of the property is equal to or less than the median level of appraisal of a reasonable and representative sample of other properties in the appraisal district;

(2) the appraisal ratio of the property is equal to or less than the median level of appraisal of a sample of properties in the appraisal district consisting of a reasonable number of other properties similarly situated to, or of the same general kind or character as, the property subject to the protest; or

(3) the appraised value of the property is equal to or less than the median appraised value of a reasonable number of comparable properties appropriately adjusted.

(c) For purposes of this section, evidence includes the data, schedules, formulas, or other information used to establish the matter at issue.

(d) If the property owner fails to deliver, before the date of the hearing, a rendition statement or property report required by Chapter 22 or a response to the chief appraiser's request for information under Section 22.07(c), the property owner has the burden of establishing the value of the property by a preponderance of the evidence presented at the hearing. If the property owner fails to meet that standard, the protest shall be determined in favor of the appraisal district.

Acts 1979, 66th Leg., p. 2305, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, Sec. 137, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4924, ch. 877, Sec. 2, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 823, Sec. 3, eff. Jan. 1, 1986; Acts 1989, 71st Leg., ch. 796, Sec. 35, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1039, Sec. 37, eff. Jan. 1, 1998; Acts 2003, 78th Leg., ch. 1041, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1173, Sec. 11, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1085 (H.B. 3024), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 20(a), eff. September 1, 2013.

Sec. 41.44. NOTICE OF PROTEST.

(a) Except as provided by Subsections (b), (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) not later than May 15 or the 30th day after the date that notice to the property owner was delivered to the property owner as provided by Section 25.19, whichever is later;

(2) 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;

(3) 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;

(4) 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; or

(5) in the case of a protest of the modification or denial of an application for an exemption under Section 11.35, or the determination of an appropriate damage assessment rating for an item of qualified property under that section, not later than the 30th day after the date the property owner receives the notice required under Section 11.45(e).

(b) A property owner who files his notice of protest after the deadline prescribed by Subsection (a) of this section but before the appraisal review board approves the appraisal records is entitled to a hearing and determination of the protest if he shows good cause as determined by the board for failure to file the notice on time.

(b-1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 357 (H.B. 2228), Sec. 6, eff. January 1, 2018.

(c) A property owner who files notice of a protest authorized by Section 41.411 is entitled to a hearing and determination of the protest if the property owner files the notice prior to the date the taxes on the property to which the notice applies become delinquent. An owner of land who files a notice of protest under Subsection (a)(3) is entitled to a hearing and determination of the protest without regard to whether the appraisal records are approved.

(c-1) A property owner who files a notice of protest after the deadline prescribed by Subsection (a) but before the taxes on the property to which the notice applies become delinquent is entitled to a hearing and determination of the protest if the property owner was continuously employed in the Gulf of Mexico, including employment on an offshore drilling or production facility or on a vessel, for a period of not less than 20 days during which the deadline prescribed by Subsection (a) passed, and the property owner provides the appraisal review board with evidence of that fact through submission of a letter from the property owner's employer or supervisor or, if the property owner is self-employed, a sworn affidavit.

(c-2) A property owner who files a notice of protest after the deadline prescribed by Subsection (a) but before the taxes on the property to which the notice applies become delinquent is entitled to a hearing and determination of the protest if the property owner was

serving on full-time active duty in the United States armed forces outside the United States on the day on which the deadline prescribed by Subsection (a) passed and the property owner provides the appraisal review board with evidence of that fact through submission of a valid military identification card from the United States Department of Defense and a deployment order.

(c-3) Notwithstanding Subsection (c), a property owner who files a protest under Section 41.411 on or after the date the taxes on the property to which the notice applies become delinquent, but not later than the 125th day after the property owner, in the protest filed, claims to have first received written notice of the taxes in question, is entitled to a hearing solely on the issue of whether one or more taxing units timely delivered a tax bill. If at the hearing the appraisal review board determines that all of the taxing units failed to timely deliver a tax bill, the board shall determine the date on which at least one taxing unit first delivered written notice of the taxes in question, and for the purposes of this section the delinquency date is postponed to the 125th day after that date.

(d) A notice of protest is sufficient if it identifies the protesting property owner, including a person claiming an ownership interest in the property even if that person is not listed on the appraisal records as an owner of the property, identifies the property that is the subject of the protest, and indicates apparent dissatisfaction with some determination of the appraisal office. The notice need not be on an official form, but the comptroller shall prescribe a form that provides for more detail about the nature of the protest. The form must permit a property owner to include each property in the appraisal district that is the subject of a protest. The form must permit a property owner to request that the protest be heard by a special panel established under Section 6.425 if the protest will be determined by an appraisal review board to which that section applies and the property is included in a classification described by Section 6.425(b). The comptroller, each appraisal office, and each appraisal review board shall make the forms readily available and deliver one to a property owner on request.

(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).

Acts 1979, 66th Leg., p. 2306, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 170, ch. 13, Sec. 137, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4945, ch. 884, Sec. 1, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 504, Sec. 2, eff. June 12, 1985; Acts 1987, 70th Leg., ch. 185, Sec. 3, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 796, Sec. 36, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 836, Sec. 1.4, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 50, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 631, Sec. 12, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 829 (S.B. 828), Sec. 1, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 1106 (H.B. 3496), Sec. 4(b), eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1106 (H.B. 3496), Sec. 5, eff. January 1, 2008.

Acts 2011, 82nd Leg., R.S., Ch. 322 (H.B. 2476), Sec. 5, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 10, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 357 (H.B. 2228), Sec. 5, eff. January 1, 2018.

Acts 2017, 85th Leg., R.S., Ch. 357 (H.B. 2228), Sec. 6, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 61, eff. September 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 1034 (H.B. 492), Sec. 8, eff. January 1, 2020.

Sec. 41.45. HEARING ON PROTEST. (a) On the filing of a notice as required by Section 41.44, the appraisal review board shall schedule a hearing on the protest. If more than one protest is filed relating to the same property, the appraisal review board shall schedule a single hearing on all timely filed protests relating to the property. A hearing for a property that is owned in undivided or fractional interests, including separate interests in a mineral in place, shall be scheduled to provide for participation by all owners who have timely filed a protest.

(b) A property owner initiating a protest is entitled to appear to offer evidence or argument. A property owner may offer evidence or argument by affidavit without personally appearing and may appear by telephone conference call to offer argument. A property owner who appears by telephone conference call must offer any evidence by affidavit. A property owner must submit an affidavit described by this subsection to the board hearing the protest before the board begins the hearing on the protest. On receipt of an affidavit, the board shall notify the chief appraiser. The chief appraiser may inspect the affidavit and is entitled to a copy on request.

(b-1) An appraisal review board shall conduct a hearing on a protest by telephone conference call if:

(1) the property owner notifies the board that the property owner intends to appear by telephone conference call in the owner's notice of protest or by written notice filed with the board not later than the 10th day before the date of the hearing; or

(2) the board proposes that the hearing be conducted by telephone conference call and the property owner agrees to the hearing being conducted in that manner.

(b-2) If a property owner elects to have a hearing on a protest conducted by telephone conference call, the appraisal review board shall:

(1) provide a telephone number for the property owner to call to participate in the hearing; and

(2) hold the hearing in a location equipped with telephone equipment that allows each board member and the other parties to the protest who are present at the hearing to hear the property owner offer argument.

(b-3) A property owner is responsible for providing access to a hearing on a protest conducted by telephone conference call to another person that the owner invites to participate in the hearing.

(c) The chief appraiser shall appear at each protest hearing before the appraisal review board to represent the appraisal office.

(d) This subsection does not apply to a special panel established under Section 6.425. An appraisal review board consisting of more than three members may sit in panels of not fewer than three members to conduct protest hearings. If the recommendation of a panel is not accepted by the board, the board may refer the matter for rehearing to a panel composed of members who did not hear the original protest or, if there are not at least three members who did not hear the original protest, the board may determine the protest.

(d-1) An appraisal review board to which Section 6.425 applies shall sit in special panels established under that section to conduct protest hearings. A special panel may conduct a protest hearing relating to property only if the property is described by Section 6.425(b) and the property owner has requested that a special panel conduct the hearing or if the protest is assigned to the special panel under Section 6.425(f). If the recommendation of a special panel is not accepted by the board, the board may refer the matter for rehearing to another special panel composed of members who did not hear the original protest or, if there are not at least three other special panel members who did not hear the original protest, the board may determine the protest.

(d-2) The determination of a protest heard by a panel under Subsection (d) or (d-1) must be made by the board.

(d-3) The board must deliver notice of a hearing or meeting to determine a protest heard by a panel, or to rehear a protest, under Subsection (d) or (d-1) in accordance with the provisions of this subchapter.

(e) On request made to the appraisal review board before the date of the hearing, a property owner who has not designated an agent under Section 1.111 to represent the owner at the hearing is entitled to one postponement of the hearing to a later date without showing cause. In addition and without limitation as to the number of postponements, the board shall postpone the hearing to a later date if the property owner or the owner's agent at any time shows good cause for the postponement or if the chief appraiser consents to the postponement. The hearing may not be postponed to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought unless the date and time of the

hearing as postponed are agreed to by the chairman of the appraisal review board or the chairman's representative, the property owner, and the chief appraiser. A request by a property owner for a postponement under this subsection may be made in writing, including by facsimile transmission or electronic mail, by telephone, or in person to the appraisal review board, a panel of the board, or the chairman of the board. The chairman or the chairman's representative may take action on a postponement under this subsection without the necessity of action by the full board if the hearing for which the postponement is requested is scheduled to occur before the next regular meeting of the board. The granting by the appraisal review board, the chairman, or the chairman's representative of a postponement under this subsection does not require the delivery of additional written notice to the property owner.

(e-1) A property owner or a person designated by the property owner as the owner's agent to represent the owner at the hearing 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.

(e-2) For purposes of Subsections (e) and (e-1), "good cause" means a reason that includes an error or mistake that:

(1) was not intentional or the result of conscious indifference; and

(2) will not cause undue delay or other injury to the person authorized to extend the deadline or grant a rescheduling.

(f) A property owner who has been denied a hearing to which the property owner is entitled under this chapter may bring suit against the appraisal review board by filing a petition or application in district court to compel the board to provide the hearing. If the property owner is entitled to the hearing, the court shall order the hearing to be held and may award court costs and reasonable attorney fees to the property owner.

(g) In addition to the grounds for a postponement under Subsection (e), the board shall postpone the hearing to a later date if:

(1) the owner of the property or the owner's agent is also scheduled to appear at a hearing on a protest filed with the appraisal review board of another appraisal district;

(2) the hearing before the other appraisal review board is scheduled to occur on the same date as the hearing set by the appraisal review board from which the postponement is sought;

(3) the notice of hearing delivered to the property owner or the owner's agent by the other appraisal review board bears an earlier postmark than the notice of hearing delivered by the board from which the postponement is sought or, if the date of the postmark is identical, the property owner or agent has not requested a postponement of the other hearing; and

(4) the property owner or the owner's agent includes with the request for a postponement a copy of the notice of hearing delivered to the property owner or the owner's agent by the other appraisal review board.

(h) Before the hearing on a protest or immediately after the hearing begins, the chief appraiser and the property owner or the owner's agent shall each provide the other with a copy of any written material or material preserved on a portable device designed to maintain a reproduction of a document or image that the person intends to offer or submit to the appraisal review board at the hearing. Each person must provide the copy of material in the manner and form prescribed by comptroller rule.

(i) To be valid, an affidavit offered under Subsection (b) must be attested to before an officer authorized to administer oaths and include:

(1) the name of the property owner initiating the protest;

(2) a description of the property that is the subject of the protest; and

(3) evidence or argument.

(j) A statement from the property owner that specifies the determination or other action of the chief appraiser, appraisal district, or appraisal review board relating to the subject property from which the property owner seeks relief constitutes sufficient argument under Subsection (i).

(k) The comptroller shall prescribe a standard form for an affidavit offered under Subsection (b). Each appraisal district shall make copies of the affidavit form available to property owners without charge.

(l) A property owner is not required to use the affidavit form prescribed by the comptroller when offering an affidavit under Subsection (b).

(m) If the protest relates to a taxable leasehold or other possessory interest in real property that is owned by this state or a political subdivision of this state, the attorney general or a representative of the state agency that owns the land, if the real property is owned by this state, or a person designated by the political subdivision that owns the real property, as applicable, is entitled to appear at the hearing and offer evidence and argument.

(n) A property owner does not waive the right to appear in person at a protest hearing by submitting an affidavit to the appraisal review board or by electing to appear by telephone conference call. The board may consider an affidavit submitted under this section only if the property owner does not appear in person at the hearing. For purposes of scheduling the hearing, the property owner must state in the affidavit that the property owner does not intend to appear at the hearing or that the property owner intends to appear at the hearing in person or by telephone conference call and that the affidavit may be used only if the property owner does not appear at the hearing in person. If the property owner does not state in the affidavit whether the owner intends to appear at the hearing and has not elected to appear by telephone conference call, the board shall consider the submission of the affidavit as an indication that the property owner does not intend to appear at the hearing. If the property owner states in the affidavit that the owner does not intend to appear at the hearing or does not state in the affidavit whether the owner intends to appear at the hearing and has not elected to appear by telephone conference call, the board is not required to consider the affidavit at the scheduled hearing and may consider the affidavit at a hearing designated for the specific purpose of processing affidavits.

(o) If the chief appraiser uses audiovisual equipment at a hearing on a protest, the appraisal office shall provide audiovisual equipment of the same general type, kind, and character, as prescribed by comptroller rule, for use during the hearing by the property owner or the property owner's agent.

(p) The comptroller by rule shall prescribe:

(1) the manner and form, including security requirements, in which a person must provide a copy of material under Subsection (h), which must allow the appraisal review board to retain the material as part of the board's hearing record; and

(2) specifications for the audiovisual equipment provided

by an appraisal district for use by a property owner or the property owner's agent under Subsection (o).

Acts 1979, 66th Leg., p. 2306, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 171, ch. 13, Sec. 138, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 794, Sec. 1, eff. June 18, 1987; Acts 1989, 71st Leg., ch. 796, Sec. 37; Acts 1991, 72nd Leg., ch. 836, Sec. 3.1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 828, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1039, Sec. 38, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 416, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 463, Sec. 2, eff. Jan. 1, 2000; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(99), eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 626 (H.B. 538), Sec. 2, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1267 (H.B. 1030), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 11, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 924 (S.B. 1546), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 21, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1201 (S.B. 1394), Sec. 1, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 80 (H.B. 455), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 744 (S.B. 1286), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 62, eff. September 1, 2020.

Sec. 41.455. POOLED OR UNITIZED MINERAL INTERESTS. (a) If a property owner files protests relating to a pooled or unitized mineral interest that is being produced at one or more production sites located in a single county with the appraisal review boards of more than one appraisal district, the appraisal review board for the appraisal district established for the county in which the production

site or sites are located must determine the protest filed with that board and make its decision before another appraisal review board may hold a hearing to determine the protest filed with that other board.

(b) If a property owner files protests relating to a pooled or unitized mineral interest that is being produced at two or more production sites located in more than one county with the appraisal review boards of more than one appraisal district and at least two-thirds of the surface area of the mineral interest is located in the county for which one of the appraisal districts is established, the appraisal review board for that appraisal district must determine the protest filed with that board and make its decision before another appraisal review board may hold a hearing to determine the protest filed with that other board.

(c) A protest determined by an appraisal review board in violation of this section is void.

Added by Acts 1999, 76th Leg., ch. 810, Sec. 1, eff. Jan. 1, 2000.

Sec. 41.46. NOTICE OF PROTEST HEARING. (a) The appraisal review board before which a protest hearing is scheduled shall deliver written notice to the property owner initiating a protest not later than the 15th day before the date of the hearing. The notice must include:

(1) the date, time, and place of the hearing;

(2) a description of the subject matter of the hearing that is sufficient to identify the specific action being protested, such as:

(A) the determination of the appraised value of the property owner's property;

(B) the denial to the property owner in whole or in part of a partial exemption; or

(C) the determination that the property owner's land does not qualify for appraisal as provided by Subchapter C, D, E, or H, Chapter 23; and

(3) a statement that the property owner is entitled to a postponement of the hearing as provided by Section 41.45 unless the property owner waives in writing notice of the hearing.

(b) The board shall give the chief appraiser advance notice of the date, time, place, and subject matter of each protest hearing.

(c) If the protest relates to a taxable leasehold or other possessory interest in real property that is owned by this state or a political subdivision of this state, the board shall deliver notice of the hearing as provided by Subsection (a) to:

(1) the attorney general and the state agency that owns the real property, in the case of real property owned by this state; or

(2) the governing body of the political subdivision, in the case of real property owned by a political subdivision.

(d) The appraisal review board shall deliver notice of the hearing by certified mail if, in the notice of protest under Section 41.44, the property owner requests delivery by certified mail. The board may require the property owner to pay the cost of postage under this subsection.

(e) Notwithstanding Section 1.085, the appraisal review board shall deliver notice of the hearing by electronic mail if, in the notice of protest under Section 41.44, the property owner requests delivery by electronic mail and provides a valid electronic mail address.

Acts 1979, 66th Leg., p. 2306, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1981, 67th Leg., 1st C.S., p. 172, ch. 13, Sec. 139, eff. Jan. 1, 1982; Acts 1997, 75th Leg., ch. 1039, Sec. 39, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 416, Sec. 4, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 626 (H.B. 538), Sec. 3, eff. January 1, 2008.

Acts 2019, 86th Leg., R.S., Ch. 753 (H.B. 1060), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 63, eff. January 1, 2020.

Sec. 41.461. NOTICE OF CERTAIN MATTERS BEFORE HEARING; DELIVERY OF REQUESTED INFORMATION. (a) At least 14 days before a hearing on a protest, the chief appraiser shall:

(1) deliver a copy of the pamphlet prepared by the comptroller under Section 5.06 to the property owner initiating the protest, or to an agent representing the owner if requested by the agent;

(2) inform the property owner that the owner or the agent of the owner is entitled on request to a copy of the data, schedules, formulas, and all other information the chief appraiser will introduce at the hearing to establish any matter at issue; and

(3) deliver a copy of the hearing procedures established by the appraisal review board under Section 41.66 to the property owner.

(b) The chief appraiser may not charge a property owner or the designated agent of the owner for copies provided to the owner or designated agent under this section, regardless of the manner in which the copies are prepared or delivered.

(c) A chief appraiser shall deliver information requested by a property owner or the agent of the owner under Subsection (a)(2):

(1) by regular first-class mail, deposited in the United States mail, postage prepaid, and addressed to the property owner or agent at the address provided in the request for the information;

(2) in an electronic format as provided by an agreement under Section 1.085; or

(3) subject to Subsection (d), by referring the property owner or the agent of the owner to a secure Internet website with user registration and authentication or to the exact Internet location or uniform resource locator (URL) address on an Internet website maintained by the appraisal district on which the requested information is identifiable and readily available.

(d) If a chief appraiser provides a property owner or the designated agent of the owner information under Subsection (c)(3), the notice must contain a statement in a conspicuous font that clearly indicates that the property owner or the agent of the owner may on request receive the information by regular first-class mail or in person at the appraisal office. On request by a property owner or the agent of the owner, the chief appraiser must provide the information by regular first-class mail or in person at the appraisal office.

Added by Acts 1991, 72nd Leg., ch. 364, Sec. 1, eff. Jan. 1, 1992.
Amended by Acts 1993, 73rd Leg., ch. 1031, Sec. 17, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(100), eff. Sept. 1, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 64, eff. January 1, 2020.

Sec. 41.47. DETERMINATION OF PROTEST. (a) The appraisal review board hearing a protest shall determine the protest and make its decision by written order.

(b) If on determining a protest the board finds that the appraisal records are incorrect in some respect raised by the protest, the board by its order shall correct the appraisal records by changing the appraised value placed on the protesting property owner's property or by making the other changes in the appraisal records that are necessary to conform the records to the requirements of law. If the appraised value of a taxable property interest, other than an interest owned by a public utility or by a cooperative corporation organized to provide utility service, is changed as the result of a protest or challenge, the board shall change the appraised value of all other interests, other than an interest owned by a public utility or by a cooperative corporation organized to provide utility service, in the same property, including a mineral in place, in proportion to the ownership interests.

(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.

(c-1) 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).

(c-2) The board may not determine the appraised value of the property that is the subject of a protest to be an amount greater than the appraised value of the property as shown in the appraisal records submitted to the board by the chief appraiser under Section 25.22 or 25.23, except as requested and agreed to by the property owner. This subsection does not apply if the action being protested is the cancellation, modification, or denial of an exemption or the determination that the property does not qualify for appraisal as

provided by Subchapter C, D, E, or H, Chapter 23.

(d) The board shall deliver by certified mail:

(1) a notice of issuance of the order and a copy of the order to the property owner and the chief appraiser; and

(2) a copy of the appraisal review board survey prepared under Section 5.104 and instructions for completing and submitting the survey to the property owner.

(e) The notice of the issuance of the order must contain a prominently printed statement in upper-case bold lettering informing the property owner in clear and concise language of the property owner's right to appeal the order of the board to district court. The statement must describe the deadline prescribed by Section 42.06(a) for filing a written notice of appeal and the deadline prescribed by Section 42.21(a) for filing the petition for review with the district court.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 699 (S.B. 2531), Sec. 1

(f) The chief appraiser and the property owner or the designated agent of the owner may file a joint motion with the appraisal review board notifying the board that the chief appraiser and the property owner or the designated agent of the owner have agreed to a disposition of the protest and requesting the board to issue an agreed order. The joint motion must contain the terms of the disposition of the protest. The chairman of the board shall issue the agreed order not later than the fifth day after the date on which the joint motion is filed with the board. If the chairman is unable to issue the agreed order within the five-day period, the board shall issue the agreed order not later than the 30th day after the date on which the joint motion is filed with the board. The chief appraiser and the property owner or the designated agent of the owner may provide in the joint motion that the agreed order is appealable in the same manner as any other order issued by the board under this section.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 65

(f) The appraisal review board shall take the actions required by Subsections (a) and (d) not later than:

(1) the 30th day after the date the hearing on the protest is concluded, if the board is established for an appraisal district

located in a county with a population of less than four million; or

(2) the 45th day after the date the hearing on the protest is concluded, if the board is established for an appraisal district located in a county with a population of four million or more.

(g) The chief appraiser and the property owner or the designated agent of the owner may file a joint motion with the appraisal review board notifying the board that the chief appraiser and the property owner or the designated agent of the owner have agreed to a disposition of the protest and requesting the board to issue an agreed order. The joint motion must contain the terms of the disposition of the protest. The board shall issue the agreed order not later than the fifth day after the date on which the joint motion is filed with the board. The chief appraiser and the property owner or the designated agent of the owner may provide in the joint motion that the agreed order is appealable in the same manner as any other order issued by the board under this section.

Acts 1979, 66th Leg., p. 2307, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 172, ch. 13, Sec. 140, eff. Jan. 1, 1982; Acts 1985, 69th Leg., ch. 504, Sec. 3, eff. June 12, 1985; Acts 1987, 70th Leg., ch. 145, Sec. 1, eff. Jan. 1, 1988; Acts 1987, 70th Leg., ch. 773, Sec. 2, eff. Jan. 1, 1988; Acts 1987, 70th Leg., ch. 794, Sec. 2, eff. June 18, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 14.03, eff. Aug. 28, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 322 (H.B. 2476), Sec. 6, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 12, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(42), eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 699 (S.B. 2531), Sec. 1, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 65, eff. January 1, 2020.

SUBCHAPTER D. ADMINISTRATIVE PROVISIONS

Sec. 41.61. ISSUANCE OF SUBPOENA. (a) If reasonably necessary in the course of a protest provided by this chapter, the appraisal

review board on its own motion or at the written request of a party to the protest, may subpoena witnesses or books, records, or other documents of the property owner or appraisal district that relate to the protest.

(b) On the written request of a party to a protest provided by this chapter, the appraisal review board shall issue a subpoena if the requesting party:

(1) shows good cause for issuing the subpoena; and

(2) deposits with the board a sum the board determines is reasonably sufficient to insure payment of the costs estimated to accrue for issuance and service of the subpoena and for compensation of the individual to whom it is directed.

(c) An appraisal review board may not issue a subpoena under this section unless the board holds a hearing at which the board determines that good cause exists for the issuance of the subpoena. The appraisal review board before which a good cause hearing is scheduled shall deliver written notice to the party being subpoenaed and parties to the protest of the date, time, and place of the hearing. The board shall deliver the notice not later than the 5th day before the date of the good cause hearing. The party being subpoenaed must have an opportunity to be heard at the good cause hearing.

Acts 1979, 66th Leg., p. 2307, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 172, ch. 13, Sec. 141, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 796, Sec. 38, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 828, Sec. 3, eff. Sept. 1, 1995.

Sec. 41.62. SERVICE AND ENFORCEMENT OF SUBPOENA. (a) A sheriff or constable shall serve a subpoena issued as provided by this subchapter.

(b) If the person to whom a subpoena is directed fails to comply, the issuing board or the party requesting the subpoena may bring suit in the district court to enforce the subpoena. If the district court determines that good cause exists for issuance of the subpoena, the court shall order compliance. The district court may modify the requirements of a subpoena that the court determines are unreasonable. Failure to obey the order of the district court is

punishable as contempt.

(c) The county attorney or, if there is no county attorney, the district attorney shall represent the board in a suit to enforce a subpoena.

Acts 1979, 66th Leg., p. 2307, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 172, ch. 13, Sec. 142, eff. Jan. 1, 1982.

Sec. 41.63. COMPENSATION FOR SUBPOENAED WITNESS. (a) An individual who is not a party to the proceeding and who complies with a subpoena issued as provided by this subchapter is entitled to:

(1) the reasonable costs of producing the documents;

(2) mileage of 15 cents a mile for going to and returning from the place of the proceeding; and

(3) a fee of $10 a day for each whole or partial day that the individual is necessarily present at the proceedings.

(b) The appraisal review board by rule may prescribe greater mileage or fee, but an increase is not effective unless uniformly applicable to all individuals who are entitled to mileage or fee as provided by Subsection (a) of this section.

(c) Compensation authorized as provided by this section is paid by the appraisal office if the subpoena is issued on the motion of the appraisal review board or by the party requesting the subpoena.

(d) Compensation is not payable unless the amount claimed is approved by the appraisal review board that issued the subpoena.

Acts 1979, 66th Leg., p. 2307, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, Sec. 143, eff. Jan. 1, 1982.

Sec. 41.64. INSPECTION OF TAX RECORDS. The appraisal review board may inspect the records or other materials of the appraisal office that are not made confidential under this code. On demand of the board, the chief appraiser shall produce the materials as soon as practicable.

Acts 1979, 66th Leg., p. 2308, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, Sec. 144,

eff. Jan. 1, 1982.

Sec. 41.65. REQUEST FOR STATE ASSISTANCE. The appraisal review board may request the comptroller to assist in determining the accuracy of appraisals by the appraisal office or to provide other professional assistance. The appraisal office shall reimburse the costs of providing assistance if the comptroller requests reimbursement.

Acts 1979, 66th Leg., p. 2308, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, Sec. 144, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 51, eff. Sept. 1, 1991.

Sec. 41.66. HEARING PROCEDURES. (a) The appraisal review board shall establish by rule the procedures for hearings it conducts as provided by Subchapters A and C of this chapter. On request made by a property owner in the owner's notice of protest or in a separate writing delivered to the appraisal review board on or before the date the notice of protest is filed, the property owner is entitled to a copy of the hearing procedures. The copy of the hearing procedures shall be delivered to the property owner not later than the 10th day before the date the hearing on the protest begins and may be delivered with the notice of the protest hearing required under Section 41.46(a). The notice of protest form prescribed by the comptroller under Section 41.44(d) or any other notice of protest form made available to a property owner by the appraisal review board or the appraisal office shall provide the property owner an opportunity to make or decline to make a request under this subsection. The appraisal review board shall post a copy of the hearing procedures in a prominent place in the room in which the hearing is held.

(b) Hearing procedures to the greatest extent practicable shall be informal. Each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present argument on the matters subject to the hearing. A property owner who is a party to a protest is entitled to elect to present the owner's case at a hearing on the protest either before or after the appraisal

district presents the district's case.

(c) A property owner who is entitled as provided by this chapter to appear at a hearing may appear by himself or by his agent. A taxing unit may appear by a designated agent.

(d) Except as provided by Subsection (d-1), hearings conducted as provided by this chapter are open to the public.

(d-1) Notwithstanding Chapter 551, Government Code, the appraisal review board shall conduct a hearing that is closed to the public if the property owner or the chief appraiser intends to disclose proprietary or confidential information at the hearing that will assist the review board in determining the protest. The review board may hold a closed hearing under this subsection only on a joint motion by the property owner and the chief appraiser.

(d-2) Information described by Subsection (d-1) is considered information obtained under Section 22.27.

(e) The appraisal review board may not consider any appraisal district information on a protest that was not presented to the appraisal review board during the protest hearing.

(f) A member of the appraisal review board may not communicate with another person concerning:

(1) the evidence, argument, facts, merits, or any other matters related to an owner's protest, except during the hearing on the protest; or

(2) a property that is the subject of the protest, except during a hearing on another protest or other proceeding before the board at which the property is compared to other property or used in a sample of properties.

(g) At the beginning of a hearing on a protest, each member of the appraisal review board hearing the protest must sign an affidavit stating that the board member has not communicated with another person in violation of Subsection (f). If a board member has communicated with another person in violation of Subsection (f), the member must be recused from the proceeding and may not hear, deliberate on, or vote on the determination of the protest. The board of directors of the appraisal district shall adopt and implement a policy concerning the temporary replacement of an appraisal review board member who has communicated with another person in violation of Subsection (f).

(h) The appraisal review board shall postpone a hearing on a protest if the property owner or the designated agent of the owner

requests additional time to prepare for the hearing and establishes to the board that the chief appraiser failed to comply with Section 41.461. The board is not required to postpone a hearing more than one time under this subsection.

(i) A hearing on a protest filed by a property owner or the designated agent of the owner shall be set for a time and date certain. If the hearing is not commenced within two hours of the time set for the hearing, the appraisal review board shall postpone the hearing on the request of the property owner or the designated agent of the owner.

(j) On the request of a property owner or the designated agent of the owner, an appraisal review board shall schedule hearings on protests concerning up to 20 designated properties to be held consecutively on the same day. The designated properties must be identified in the same notice of protest, and the notice must contain in boldfaced type the statement "request for same-day protest hearings." A property owner or the designated agent of the owner may file more than one request under this subsection with the appraisal review board in the same tax year. The appraisal review board may schedule hearings on protests concerning more than 20 properties filed by the same property owner or the designated agent of the owner and may use different panels to conduct the hearings based on the board's customary scheduling. The appraisal review board may follow the practices customarily used by the board in the scheduling of hearings under this subsection.

(j-1) An appraisal review board may schedule the hearings on all protests filed by a property owner or the designated agent of the owner to be held consecutively. The notice of the hearings must state the date and time that the first hearing will begin, state the date the last hearing will end, and list the order in which the hearings will be held. The order of the hearings listed in the notice may not be changed without the agreement of the property owner or the designated agent of the owner, the chief appraiser, and the appraisal review board. The board may not reschedule a hearing for which notice is given under this subsection to a date earlier than the seventh day after the date the last hearing was scheduled to end unless agreed to by the property owner or the designated agent of the owner, the chief appraiser, and the appraisal review board. Unless agreed to by the parties, the board must provide written notice of the date and time of the rescheduled hearing to the property owner or

the designated agent of the owner not later than the seventh day before the date of the hearing.

(j-2) An appraisal review board must schedule a hearing on a protest filed by a property owner who is 65 years of age or older, disabled, a military service member, a military veteran, or the spouse of a military service member or military veteran before scheduling a hearing on a protest filed by a designated agent of a property owner.

(k) This subsection does not apply to a special panel established under Section 6.425. If an appraisal review board sits in panels to conduct protest hearings, protests shall be randomly assigned to panels, except that the board may consider the type of property subject to the protest or the ground of the protest for the purpose of using the expertise of a particular panel in hearing protests regarding particular types of property or based on particular grounds. If a protest is scheduled to be heard by a particular panel, the protest may not be reassigned to another panel without the consent of the property owner or the designated agent of the owner. If the appraisal review board has cause to reassign a protest to another panel, a property owner or the designated agent of the owner may agree to reassignment of the protest or may request that the hearing on the protest be postponed. The board shall postpone the hearing on that request. A change of members of a panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel.

(k-1) On the request of a property owner or the designated agent of the owner, an appraisal review board to which Section 6.425 applies shall assign a protest relating to property described by Section 6.425(b) to a special panel. In addition, the chairman of the appraisal review board may assign a protest relating to property not described by Section 6.425(b) to a special panel as authorized by Section 6.425(f), but only if the assignment is requested or consented to by the property owner or the designated agent of the owner. Protests assigned to special panels shall be randomly assigned to those panels. If a protest is scheduled to be heard by a particular special panel, the protest may not be reassigned to another special panel without the consent of the property owner or the designated agent of the owner. If the board has cause to reassign a protest to another special panel, a property owner or the

designated agent of the owner may agree to reassignment of the protest or may request that the hearing on the protest be postponed. The board shall postpone the hearing on that request. A change of members of a special panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another special panel.

(l) A property owner, attorney, or agent offering evidence or argument in support of a protest brought under Section 41.41(a)(1) or (2) of this code is not subject to Chapter 1103, Occupations Code, unless the person offering the evidence or argument states that the person is offering evidence or argument as a person holding a license or certificate under Chapter 1103, Occupations Code. A person holding a license or certificate under Chapter 1103, Occupations Code, shall state the capacity in which the person is appearing before the appraisal review board.

(m) An appraisal district or appraisal review board may not make decisions with regard to membership on a panel or chairmanship of a panel based on a member's voting record in previous protests.

(n) A request for postponement of a hearing must contain the mailing address and e-mail address of the person requesting the postponement. An appraisal review board shall respond in writing or by e-mail to a request for postponement of a hearing not later than the seventh day after the date of receipt of the request.

(o) The chairman of an appraisal review board or a member designated by the chairman may make decisions with regard to the scheduling or postponement of a hearing. The chief appraiser or a person designated by the chief appraiser may agree to a postponement of an appraisal review board hearing.

(p) At the end of a hearing on a protest, the appraisal review board shall provide the property owner or the designated agent of the owner one or more documents indicating that the members of the board hearing the protest signed the affidavit required by Subsection (g).

Acts 1979, 66th Leg., p. 2308, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, Sec. 145, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 796, Sec. 39, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 364, Sec. 2, eff. Jan. 1, 1992; Acts 1991, 72nd Leg., ch. 836, Sec. 3.2, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 8.01(23), eff. Nov. 12,

1991.
Amended by:
Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 19.001, eff. September 1, 2005.
Acts 2013, 83rd Leg., R.S., Ch. 1035 (H.B. 2792), Sec. 1, eff. June 14, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 22, eff. January 1, 2014.
Acts 2017, 85th Leg., R.S., Ch. 939 (S.B. 1767), Sec. 2, eff. January 1, 2018.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 66, eff. January 1, 2020.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 66, eff. September 1, 2020.

Sec. 41.67. EVIDENCE. (a) A member of the appraisal review board may swear witnesses who testify in proceedings under this chapter. All testimony must be given under oath.
(b) Documentary evidence may be admitted in the form of a copy if the appraisal review board conducting the proceeding determines that the original document is not readily available. A party is entitled to an opportunity to compare a copy with the original document on request.
(c) Official notice may be taken of any fact judicially cognizable. A party is entitled to an opportunity to contest facts officially noticed.
(d) Information that was previously requested under Section 41.461 by the protesting party that was not delivered to the protesting party at least 14 days before the scheduled or postponed hearing may not be used or offered in any form as evidence in the hearing, including as a document or through argument or testimony. This subsection does not apply to information offered to rebut evidence or argument presented at the hearing by the protesting party or that party's designated agent.

Acts 1979, 66th Leg., p. 2308, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, Sec. 146, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., ch. 364, Sec. 3, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 463, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 67, eff. January 1, 2020.

Sec. 41.68. RECORD OF PROCEEDING. The appraisal review board shall keep a record of its proceedings in the form and manner prescribed by the comptroller.

Acts 1979, 66th Leg., p. 2309, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, Sec. 147, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 51, eff. Sept. 1, 1991.

Sec. 41.69. CONFLICT OF INTEREST. A member of the appraisal review board may not participate in the determination of a taxpayer protest in which he is interested or in which he is related to a party by affinity within the second degree or by consanguinity within the third degree, as determined under Chapter 573, Government Code.

Acts 1979, 66th Leg., p. 2309, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 173, ch. 13, Sec. 147, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., ch. 561, Sec. 46, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

Sec. 41.70. PUBLIC NOTICE OF PROTEST AND APPEAL PROCEDURES. (a) On or after May 1 but not later than May 15, the chief appraiser shall publish notice of the manner in which a protest under this chapter may be brought by a property owner. The notice must describe how to initiate a protest and must describe the deadlines for filing a protest. The notice must also describe the manner in which an order of the appraisal review board may be appealed. The comptroller by rule shall adopt minimum standards for the form and content of the notice required by this section.

(b) The chief appraiser shall publish the notice in a newspaper having general circulation in the county for which the appraisal district is established. The notice may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and may

not be published in the part of the paper in which legal notices and classified advertisements appear.

Added by Acts 1989, 71st Leg., ch. 796, Sec. 40, eff. Sept. 1, 1989.
Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 52, eff. Sept. 1, 1991.

Sec. 41.71. EVENING AND WEEKEND HEARINGS. (a) An appraisal review board by rule shall provide for hearings on protests on a Saturday or after 5 p.m. on a weekday.

(b) The board may not schedule:

(1) the first hearing on a protest held on a weekday evening to begin after 7 p.m.; or

(2) a hearing on a protest on a Sunday.

Added by Acts 1997, 75th Leg., ch. 1039, Sec. 40, eff. Jan. 1, 1998.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 68, eff. January 1, 2020.

CHAPTER 41A. APPEAL THROUGH BINDING ARBITRATION

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. As an alternative to filing an appeal under Section 42.01, a property owner is entitled to appeal through binding arbitration under this chapter an appraisal review board order determining a protest filed under Section 41.41(a)(1) or (2) concerning the appraised or market value of property if:

(1) the property qualifies as the owner's residence homestead under Section 11.13; or

(2) the appraised or market value, as applicable, of the property as determined by the order is $5 million or less.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 4, eff. January 1, 2010.

Acts 2013, 83rd Leg., R.S., Ch. 610 (S.B. 1255), Sec. 1, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 474 (S.B. 849), Sec. 1, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 570 (S.B. 731), Sec. 1, eff. September 1, 2017.

Sec. 41A.02. NOTICE OF RIGHT TO ARBITRATION. An appraisal review board that delivers notice of issuance of an order described by Section 41A.01 and a copy of the order to a property owner as required by Section 41.47 shall include with the notice and copy:

(1) a notice of the property owner's rights under this chapter; and

Text of subdivision as added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1

(2) a copy of the form prescribed under Section 41A.04.

Text of subdivision as added by Acts 2005, 79th Leg., R.S., Ch. 372 (S.B. 1351), Sec. 1

(2) a copy of the form prescribed under Section 41A.03(a)(1).

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.

Sec. 41A.03. REQUEST FOR ARBITRATION. (a) To appeal an appraisal review board order under this chapter, a property owner must file with the appraisal district not later than the 60th day after the date the property owner receives notice of the order:

(1) a completed request for binding arbitration under this chapter in the form prescribed by Section 41A.04; and

(2) an arbitration deposit made payable to the comptroller in the amount of:

(A) $450, if the property qualifies as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is $500,000 or less, as determined by the order;

(B) $500, if the property qualifies as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is more than $500,000, as determined by the order;

(C) $500, if the property does not qualify as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is $1 million or less, as determined by the order;

(D) $800, if the property does not qualify as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is more than $1 million but not more than $2 million, as determined by the order;

(E) $1,050, if the property does not qualify as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is more than $2 million but not more than $3 million, as determined by the order; or

(F) $1,550, if the property does not qualify as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is more than $3 million but not more than $5 million, as determined by the order.

(a-1) If a property owner requests binding arbitration under this chapter to appeal appraisal review board orders involving two or more contiguous tracts of land that are owned by the property owner, a single arbitration deposit in the amount provided by Subsection (a)(2) is sufficient to satisfy the requirement of Subsection (a)(2). For purposes of this subsection, "contiguous tracts of land" means improved or unimproved tracts of land that are touching or that share a common boundary, as determined using appraisal district records or legal descriptions of the tracts.

(b) A property owner who fails to strictly comply with this section waives the property owner's right to request arbitration under this chapter. A property owner who appeals an appraisal review board order determining a protest concerning the appraised or market value, as applicable, of the owner's property under Chapter 42 waives the owner's right to request binding arbitration under this chapter regarding the value of that property. An arbitrator shall dismiss any pending arbitration proceeding if the property owner's rights are waived under this subsection.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff.

September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1034 (H.B. 4412), Sec. 1, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 5, eff. January 1, 2010.
Acts 2013, 83rd Leg., R.S., Ch. 488 (S.B. 1662), Sec. 1, eff. January 1, 2014.
Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 23, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 474 (S.B. 849), Sec. 2, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 570 (S.B. 731), Sec. 2, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 47 (H.B. 1802), Sec. 1, eff. May 17, 2019.
Acts 2019, 86th Leg., R.S., Ch. 659 (S.B. 1876), Sec. 1, eff. June 10, 2019.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 69, eff. January 1, 2020.

Sec. 41A.04. CONTENTS OF REQUEST FORM. The comptroller by rule shall prescribe the form of a request for binding arbitration under this chapter. The form must require the property owner to provide only:

(1) a brief statement that explains the basis for the property owner's appeal of the appraisal review board order;

(2) a statement of the property owner's opinion of the appraised or market value, as applicable, of the property that is the subject of the appeal; and

(3) any other information reasonably necessary for the appraisal district to request appointment of an arbitrator.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.

Sec. 41A.05. PROCESSING OF REGISTRATION REQUEST. (a) Not later than the 10th day after the date an appraisal district receives from a property owner a completed request for binding arbitration under this chapter and an arbitration deposit as required by Section 41A.03, the appraisal district shall:

(1) submit the request and deposit to the comptroller; and

(2) request the comptroller to appoint a qualified arbitrator to conduct the arbitration.

(b) The comptroller may retain $50 of the deposit to cover the comptroller's administrative costs.

(c) The comptroller may not reject an application submitted to the comptroller under this section unless:

(1) the comptroller delivers written notice to the applicant of the defect in the application that would be the cause of the rejection; and

(2) the applicant fails to cure the defect on or before the 15th day after the date the comptroller delivers the notice.

(d) An applicant may cure a defect in accordance with Subsection (c) at any time before the expiration of the period provided by that subsection, without regard to the deadline for filing the request for binding arbitration under Section 41A.03(a).

(e) For purposes of this section, a reference to the applicant includes the applicant's representative if the applicant has retained a representative as provided by Section 41A.08 for purposes of representing the applicant in an arbitration proceeding under this chapter.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 474 (S.B. 849), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 47 (H.B. 1802), Sec. 2(a), eff. May 17, 2019.

Sec. 41A.06. REGISTRY AND QUALIFICATION OF ARBITRATORS. (a) The comptroller shall maintain a registry listing the qualified persons who have agreed to serve as arbitrators under this chapter.

(b) To initially qualify to serve as an arbitrator under this chapter, a person must:

(1) meet the following requirements, as applicable:

(A) be licensed as an attorney in this state; or

(B) have:

(i) completed at least 30 hours of training in arbitration and alternative dispute resolution procedures from a university, college, or legal or real estate trade association; and

(ii) been licensed or certified continuously during the five years preceding the date the person agrees to serve as an arbitrator as:

(a) a real estate broker or sales agent under Chapter 1101, Occupations Code;

(b) a real estate appraiser under Chapter 1103, Occupations Code; or

(c) a certified public accountant under Chapter 901, Occupations Code;

(2) complete the courses for training and education of appraisal review board members established under Sections 5.041(a) and (e-1) and be issued a certificate for each course indicating course completion;

(3) complete the training program on property tax law for the training and education of arbitrators established under Section 5.043; and

(4) agree to conduct an arbitration for a fee that is not more than:

(A) $400, if the property qualifies as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is $500,000 or less, as determined by the order;

(B) $450, if the property qualifies as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is more than $500,000, as determined by the order;

(C) $450, if the property does not qualify as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is $1 million or less,

as determined by the order;

(D) $750, if the property does not qualify as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is more than $1 million but not more than $2 million, as determined by the order;

(E) $1,000, if the property does not qualify as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is more than $2 million but not more than $3 million, as determined by the order; or

(F) $1,500, if the property does not qualify as the owner's residence homestead under Section 11.13 and the appraised or market value, as applicable, of the property is more than $3 million but not more than $5 million, as determined by the order.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 8, eff. January 1, 2010.

Acts 2013, 83rd Leg., R.S., Ch. 610 (S.B. 1255), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 610 (S.B. 1255), Sec. 3, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 474 (S.B. 849), Sec. 4, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 570 (S.B. 731), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 70, eff. January 1, 2020.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 91(4), eff. January 1, 2020.

Sec. 41A.061. CONTINUED QUALIFICATION OF ARBITRATOR; RENEWAL OF AGREEMENT. (a) The comptroller shall include a qualified arbitrator in the registry until the second anniversary of the date the person

was added to the registry. To continue to be included in the registry after the second anniversary of the date the person was added to the registry, the person must renew the person's agreement with the comptroller to serve as an arbitrator on or as near as possible to the date on which the person's license or certification issued under Chapter 901, 1101, or 1103, Occupations Code, is renewed.

(b) To renew the person's agreement to serve as an arbitrator, the person must:

(1) file a renewal application with the comptroller at the time and in the manner prescribed by the comptroller;

(2) continue to meet the requirements provided by Sections 41A.06(b)(1) and (4);

(3) during the preceding two years have completed at least eight hours of continuing education in arbitration and alternative dispute resolution procedures offered by a university, college, real estate trade association, or legal association; and

(4) complete a revised training program on property tax law for the training and education of arbitrators established under Section 5.043 not later than the 120th day after the date the program is available to be taken if the comptroller:

(A) revises the program after the person is included in the registry; and

(B) determines that the program is substantially revised.

(c) The comptroller shall remove a person from the registry if:

(1) the person fails or declines to renew the person's agreement to serve as an arbitrator in the manner required by this section;

(2) the comptroller determines by clear and convincing evidence that there is good cause to remove the person from the registry, including evidence of repeated bias or misconduct by the person while acting as an arbitrator; or

(3) the person fails to complete a revised training program on property tax law for the training and education of arbitrators established under Section 5.043 not later than the 120th day after the date the program is available to be taken if the comptroller:

(A) revises the program after the person is included in the registry; and

(B) determines that the program is substantially

revised.

Added by Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 9, eff. January 1, 2010.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 744 (S.B. 1286), Sec. 2, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 71, eff. January 1, 2020.

Sec. 41A.07. APPOINTMENT OF ARBITRATOR. (a) On receipt of the request and deposit under Section 41A.05, the comptroller shall:

(1) appoint an eligible arbitrator who is listed in the comptroller's registry; and

(2) send notice to the appointed arbitrator requesting the individual to conduct the hearing on the arbitration.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 744 (S.B. 1286), Sec. 4, eff. September 1, 2017.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 744 (S.B. 1286), Sec. 4, eff. September 1, 2017.

(d) If the arbitrator appointed is unable or unwilling to conduct the arbitration for any reason, the arbitrator shall promptly notify the comptroller that the arbitrator does not accept the appointment and state the reason. The comptroller shall appoint a substitute arbitrator promptly after receipt of the notice.

(e) To be eligible for appointment as an arbitrator under this section, the arbitrator must reside in this state.

(f) A person is not eligible for appointment as an arbitrator under this section if at any time during the preceding two years, the person has:

(1) represented a person for compensation in a proceeding under this title in the appraisal district in which the property that is the subject of the appeal is located;

(2) served as an officer or employee of that appraisal district; or

(3) served as a member of the appraisal review board for that appraisal district.

(g) The comptroller may not appoint an arbitrator under this section if the comptroller determines that there is good cause not to

appoint the arbitrator, including information or evidence indicating repeated bias or misconduct by the person while acting as an arbitrator.

(h) A property owner may request that, in appointing an initial arbitrator under this section, the comptroller appoint an arbitrator who resides in the county in which the property that is the subject of the appeal is located or an arbitrator who resides outside that county. In appointing an initial arbitrator under Subsection (a), the comptroller shall comply with the request of the property owner unless the property owner requests that the comptroller appoint an arbitrator who resides in the county in which the property that is the subject of the appeal is located and there is not an available arbitrator who resides in that county. In appointing a substitute arbitrator under Subsection (d), the comptroller shall consider but is not required to comply with the request of the property owner. This subsection does not authorize a property owner to request the appointment of a specific individual as an arbitrator.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 744 (S.B. 1286), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 744 (S.B. 1286), Sec. 4, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 72, eff. January 1, 2020.

Sec. 41A.08. NOTICE AND HEARING; REPRESENTATION OF PARTIES. (a) On acceptance of an appointment to conduct an arbitration under this chapter, the arbitrator shall set the date, time, and place of a hearing on the arbitration. The arbitrator shall give notice of and conduct the hearing in the manner provided by Subchapter C, Chapter 171, Civil Practice and Remedies Code. The arbitrator:

(1) shall continue a hearing if both parties agree to the continuance; and

(2) may continue a hearing for reasonable cause.

(b) The parties to an arbitration proceeding under this chapter may represent themselves or, at their own cost, may be represented by:

(1) an employee of the appraisal district;

(2) an attorney who is licensed in this state;

(3) a person who is licensed as a real estate broker or salesperson under Chapter 1101, Occupations Code, or is licensed or certified as a real estate appraiser under Chapter 1103, Occupations Code;

(4) a property tax consultant registered under Chapter 1152, Occupations Code; or

(5) an individual who is licensed as a certified public accountant under Chapter 901, Occupations Code.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 10, eff. January 1, 2010.

Sec. 41A.09. AWARD; PAYMENT OF ARBITRATOR'S FEE. (a) Not later than the 20th day after the date the hearing under Section 41A.08 is concluded, the arbitrator shall make an arbitration award and deliver a copy of the award to the property owner, appraisal district, and comptroller.

(b) An award under this section:

(1) must include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal;

(2) may include any remedy or relief a court may order under Chapter 42 in an appeal relating to the appraised or market value of property;

(3) shall specify the arbitrator's fee, which may not exceed the amount provided by Section 41A.06(b)(4);

(4) is final and may not be appealed except as permitted under Section 171.088, Civil Practice and Remedies Code, for an award subject to that section; and

(5) may be enforced in the manner provided by Subchapter D, Chapter 171, Civil Practice and Remedies Code.

(c) If the arbitrator determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration submitted under Section 41A.03 than the value determined by the appraisal review board:

(1) the comptroller, on receipt of a copy of the award, shall refund the property owner's arbitration deposit, less the amount retained by the comptroller under Section 41A.05(b);

(2) the appraisal district, on receipt of a copy of the award, shall pay the arbitrator's fee; and

(3) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the arbitrator's determination.

(d) If the arbitrator determines that the appraised or market value, as applicable, of the property that is the subject of the appeal is not nearer to the property owner's opinion of the appraised or market value, as applicable, of the property as stated in the request for binding arbitration submitted under Section 41A.03 than the value determined by the appraisal review board:

(1) the comptroller, on receipt of a copy of the award, shall:

(A) pay the arbitrator's fee out of the owner's arbitration deposit; and

(B) refund to the owner the owner's arbitration deposit, less the arbitrator's fee and the amount retained by the comptroller under Section 41A.05(b); and

(2) the chief appraiser shall correct the appraised or market value, as applicable, of the property as shown in the appraisal roll to reflect the arbitrator's determination if the value as determined by the arbitrator is less than the value as determined by the appraisal review board.

(e) The comptroller by rule may prescribe a standard form for an award and may require arbitrators to use the award form when making awards under this chapter.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1211 (S.B. 771), Sec. 11, eff. January 1, 2010.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 73, eff. January 1, 2020.

Sec. 41A.10. PAYMENT OF TAXES PENDING APPEAL. (a) The pendency of an appeal under this chapter does not affect the delinquency date for the taxes on the property subject to the appeal. A property owner who appeals an appraisal review board order under this chapter shall pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute. If the final determination of an appeal under this chapter decreases the property owner's tax liability to less than the amount of taxes paid, the taxing unit shall refund to the property owner the difference between the amount of taxes paid and the amount of taxes for which the property owner is liable.

(b) A property owner may not file an appeal under this chapter if the taxes on the property subject to the appeal are delinquent. An arbitrator who determines that the taxes on the property subject to an appeal are delinquent shall dismiss the pending appeal with prejudice. If an appeal is dismissed under this subsection, the comptroller shall refund the property owner's arbitration deposit, less the amount retained by the comptroller under Section 41A.05(b).

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.

Sec. 41A.11. POSTAPPEAL ADMINISTRATIVE PROCEDURES. An arbitration award under this chapter is considered to be a final determination of an appeal for purposes of Subchapter C, Chapter 42.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.

Sec. 41A.12. USE OF PROPERTIES AS SAMPLES. An arbitrator's determination of market value under this chapter is the market value of the property subject to the appeal for the purposes of the study conducted under Section 403.302, Government Code.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 288 (H.B. 8), Sec. 10, eff. January 1, 2010.

Sec. 41A.13. RULES. The comptroller may adopt rules necessary to implement and administer this chapter.

Added by Acts 2005, 79th Leg., Ch. 372 (S.B. 1351), Sec. 1, eff. September 1, 2005.
Added by Acts 2005, 79th Leg., Ch. 912 (H.B. 182), Sec. 1, eff. September 1, 2005.

CHAPTER 42. JUDICIAL REVIEW

SUBCHAPTER A. IN GENERAL

Sec. 42.01. RIGHT OF APPEAL BY PROPERTY OWNER. (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;

(B) a motion filed under Section 25.25;

(C) 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;

(D) eligibility for a refund requested under Section 23.1243; or

(E) that the appraisal review board lacks jurisdiction to finally determine a protest by the property owner under Subchapter C, Chapter 41, or a motion filed by the property owner under Section 25.25 because the property owner failed to comply with a requirement of Subchapter C, Chapter 41, or Section 25.25, 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.

(c) A property owner who establishes that the appraisal review board had jurisdiction to issue a final determination of the protest by the property owner under Subchapter C, Chapter 41, or of the motion filed by the property owner under Section 25.25 in an appeal under Subsection (a)(1)(E) of this section is entitled to a final determination by the court of the protest under Subchapter C, Chapter 41, or of the motion filed under Section 25.25. A final determination of a protest under Subchapter C, Chapter 41, by the court under this subsection may be on any ground of protest authorized by this title applicable to the property that is the subject of the protest, regardless of whether the property owner included the ground in the property owner's notice of protest.

Acts 1979, 66th Leg., p. 2309, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 148, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 53, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1039, Sec. 41, eff. Jan. 1, 1998.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 322 (H.B. 2476), Sec. 7, eff.

January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 13, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 793 (H.B. 2220), Sec. 5, eff. June 17, 2011.

Reenacted and amended by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.005, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 157 (H.B. 380), Sec. 1, eff. September 1, 2019.

Sec. 42.015. APPEAL BY PERSON LEASING PROPERTY. (a) A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to appeal an order of the appraisal review board determining a protest brought by the person under Section 41.413.

(b) A person appealing an order of the appraisal review board under this section is considered the owner of the property for purposes of the appeal. The chief appraiser shall deliver a copy of any notice relating to the appeal to the owner of the property and to the person bringing the appeal.

Added by Acts 1995, 74th Leg., ch. 581, Sec. 2, eff. Aug. 28, 1995.

Sec. 42.016. INTERVENTION IN APPEAL BY CERTAIN PERSONS. 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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 14, eff. September 1, 2011.

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

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

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

(b) Except as provided by Subsection (c), the chief appraiser may not appeal an order of the appraisal review board determining a taxpayer protest under Subsection (a)(1) if:

(1) the protest involved a determination of the appraised or market value of the taxpayer's property and that value according to the order that is the subject of the appeal is less than $1 million; or

(2) for any other taxpayer protest, the property to which the protest applies has an appraised value according to the appraisal roll for the current year of less than $1 million.

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

(1) dismiss the appeal; and

(2) award court costs and reasonable attorney's fees to the taxpayer.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 1430, Sec. 32, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1033 (H.B. 1680), Sec. 1, eff. June 15, 2007.

Sec. 42.03. RIGHT OF APPEAL BY COUNTY. A county may appeal the order of the comptroller issued as provided by Subchapter B, Chapter 24 of this code apportioning among the counties the appraised value of railroad rolling stock.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 53, eff. Sept. 1, 1991.

Sec. 42.031. RIGHT OF APPEAL BY TAXING UNIT. (a) A taxing unit is entitled to appeal an order of the appraisal review board determining a challenge by the taxing unit.

(b) A taxing unit may not intervene in or in any other manner be made a party, whether as defendant or otherwise, to an appeal of an order of the appraisal review board determining a taxpayer protest under Subchapter C, Chapter 41, if the appeal was brought by the property owner.

Added by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 149, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 41, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 1481, Sec. 34, eff. Jan. 1, 2000.

Sec. 42.04. INTERVENTION BY STATE OR POLITICAL SUBDIVISION OWNING PROPERTY SUBJECT TO TAXABLE LEASEHOLD. If the challenge or protest relates to a taxable leasehold or other possessory interest in real property that is owned by this state or a political subdivision of this state, the attorney general or a representative of the state agency that owns the real property, if the real property is owned by this state, or a person designated by the political subdivision that owns the real property, as applicable, may intervene

in an appeal of an order of an appraisal review board determining a challenge by a taxing unit or a taxpayer protest.

Added by Acts 1999, 76th Leg., ch. 416, Sec. 5, eff. Sept. 1, 1999.

Sec. 42.05. COMPTROLLER AS PARTY. The comptroller is an opposing party in an appeal by:

(1) a property owner of an order of the comptroller determining a protest of the appraisal, interstate allocation, or intrastate apportionment of transportation business intangibles; or

(2) a county or a property owner of an order of the comptroller apportioning among the counties the appraised value of railroad rolling stock.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 53, eff. Sept. 1, 1991.

Sec. 42.06. NOTICE OF APPEAL. (a) To exercise the party's right to appeal an order of an appraisal review board, a party other than a property owner must file written notice of appeal within 15 days after the date the party receives the notice required by Section 41.47 or, in the case of a taxing unit, by Section 41.07 that the order appealed has been issued. To exercise the right to appeal an order of the comptroller, a party other than a property owner must file written notice of appeal within 15 days after the date the party receives the comptroller's order. A property owner is not required to file a notice of appeal under this section.

(b) A party required to file a notice of appeal under this section other than a chief appraiser who appeals an order of an appraisal review board shall file the notice with the chief appraiser of the appraisal district for which the appraisal review board is established. A chief appraiser who appeals an order of an appraisal review board shall file the notice with the appraisal review board. A party who appeals an order of the comptroller shall file the notice with the comptroller.

(c) If the chief appraiser, a taxing unit, or a county appeals, the chief appraiser, if the appeal is of an order of the appraisal review board, or the comptroller, if the appeal is of an order of the

comptroller, shall deliver a copy of the notice to the property owner whose property is involved in the appeal within 10 days after the date the notice is filed.

(d) On the filing of a notice of appeal, the chief appraiser shall indicate where appropriate those entries on the appraisal records that are subject to the appeal.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 150, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 898, Sec. 1, eff. Jan. 1, 1988; Acts 1989, 71st Leg., ch. 796, Sec. 42, eff. June 15, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 53, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1039, Sec. 41, eff. Jan. 1, 1998.

Sec. 42.07. COSTS OF APPEAL. The reviewing court in its discretion may charge all or part of the costs of an appeal taken as provided by this chapter against any of the parties.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 42.08. FORFEITURE OF REMEDY FOR NONPAYMENT OF TAXES. (a) The pendency of an appeal as provided by this chapter does not affect the delinquency date for the taxes on the property subject to the appeal. 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 by Section 42.42(c), and that additional amount is not delinquent before that date.

(b) Except as provided in Subsection (d), a property owner who appeals as provided by this chapter must pay taxes on the property subject to the appeal in the amount required by this subsection before the delinquency date or the property owner forfeits the right to proceed to a final determination of the appeal. The amount of taxes the property owner must pay on the property before the delinquency date to comply with this subsection is the lesser of:

(1) the amount of taxes due on the portion of the taxable value of the property that is not in dispute;

(2) the amount of taxes due on the property under the order

from which the appeal is taken; or

(3) the amount of taxes imposed on the property in the preceding tax year.

(b-1) This subsection applies only to an appeal in which the property owner elects to pay the amount of taxes described by Subsection (b)(1). The appeal filed by the property owner must be accompanied by a statement in writing of the amount of taxes the property owner proposes to pay. The failure to provide the statement required by this subsection is not a jurisdictional error.

(c) A property owner that 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 appeal by making the payment. The property owner may pay an additional amount of taxes at any time. If the property owner files a timely appeal under this chapter, taxes paid on the property are considered paid under protest, even if paid before the appeal is filed. If the taxes are subject to the split-payment option provided by Section 31.03, the property owner may comply with Subsection (b) of this section by paying one-half of the amount otherwise required to be paid under that subsection before December 1 and paying the remaining one-half of that amount before July 1 of the following year.

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

(e) Not later than the 45th day before the date of a hearing to review and determine compliance with this section, 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.

(f) Regardless of whether the collector for the taxing unit receives a notice under Subsection (e), a taxing unit that imposes taxes on the property may intervene in an appeal under this chapter and participate in the proceedings for the limited purpose of determining whether the property owner has complied with this section. The taxing unit is entitled to process for witnesses and evidence and to be heard by the court.

Acts 1979, 66th Leg., p. 2310, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 5049, ch. 910, Sec. 1, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 195, Sec. 1, eff. May 24, 1985; Acts 1989, 71st Leg., ch. 796, Sec. 43, eff. June 15, 1989; Acts 1995, 74th Leg., ch. 579, Sec. 12, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 203, Sec. 1, eff. May 21, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1033 (H.B. 1680), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 530 (S.B. 1359), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 24, eff. June 14, 2013.

Sec. 42.081. DEFERRAL OF DELINQUENT TAX SUIT DURING APPEAL. A taxing unit that imposes taxes on property that is the subject of an appeal under this chapter may not file a suit to collect a delinquent tax on the property during the pendency of the appeal unless it is determined by the court that the property owner failed to comply with Section 42.08.

Added by Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 74, eff. January 1, 2020.

Sec. 42.09. REMEDIES EXCLUSIVE. (a) Except as provided by Subsection (b) of this section, procedures prescribed by this title for adjudication of the grounds of protest authorized by this title are exclusive, and a property owner may not raise any of those grounds:

(1) in defense to a suit to enforce collection of delinquent taxes; or

(2) as a basis of a claim for relief in a suit by the property owner to arrest or prevent the tax collection process or to obtain a refund of taxes paid.

(b) A person against whom a suit to collect a delinquent property tax is filed may plead as an affirmative defense:

(1) if the suit is to enforce personal liability for the tax, that the defendant did not own the property on which the tax was imposed on January 1 of the year for which the tax was imposed; or

(2) if the suit is to foreclose a lien securing the payment of a tax on real property, that the property was not located within the boundaries of the taxing unit seeking to foreclose the lien on January 1 of the year for which the tax was imposed.

(c) For purposes of this section, "suit" includes a counterclaim, cross-claim, or other claim filed in the course of a lawsuit.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1987, 70th Leg., ch. 53, Sec. 1, eff. May 6, 1987.

SUBCHAPTER B. REVIEW BY DISTRICT COURT

Sec. 42.21. PETITION FOR REVIEW. (a) A party who appeals as provided by this chapter must file a petition for review with the district court within 60 days after the party received notice that a final order has been entered from which an appeal may be had or at any time after the hearing but before the 60-day deadline. Failure to timely file a petition bars any appeal under this chapter.

(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 Section 42.01(a)(2) or 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 not be brought against the appraisal review board. 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.

(c) If an appeal under this chapter is pending when the appraisal review board issues an order in a subsequent year under a protest by the same property owner and that protest relates to the same property that is involved in the pending appeal, the property owner may appeal the subsequent appraisal review board order by amending the original petition for the pending appeal to include the grounds for appealing the subsequent order. The amended petition must be filed with the court in the period provided by Subsection (a) for filing a petition for review of the subsequent order. A property owner may appeal the subsequent appraisal review board order under this subsection or may appeal the order independently of the pending appeal as otherwise provided by this section, but may not do both. A property owner may change the election of remedies provided by this subsection at any time before the end of the period provided by Subsection (a) for filing a petition for review.

(d) An appraisal district is served by service on the chief appraiser at any time or by service on any other officer or employee of the appraisal district present at the appraisal office at a time when the appraisal office is open for business with the public. An appraisal review board is served by service on the chairman of the appraisal review board. Citation of a party is issued and served in the manner provided by law for civil suits generally.

(e) A petition that is timely filed under Subsection (a) or amended under Subsection (c) may be subsequently amended to:

(1) correct or change the name of a party; or

(2) not later than the 120th day before the date of trial, identify or describe the property originally involved in the appeal.

(f) A petition filed by an owner or lessee of property may include multiple properties that are owned or leased by the same person and are of a similar type or are part of the same economic unit and would typically sell as a single property. If a petition is filed by multiple plaintiffs or includes multiple properties that are not of a similar type, are not part of the same economic unit, or are part of the same economic unit but would not typically sell as a single property, the court may on motion and a showing of good cause sever the plaintiffs or the properties.

(g) A petition filed by an owner or lessee of property may be amended to include additional properties in the same county that are

owned or leased by the same person, are of a similar type as the property originally involved in the appeal or are part of the same economic unit as the property originally involved in the appeal and would typically sell as a single property, and are the subject of an appraisal review board order issued in the same year as the order that is the subject of the original appeal. The amendment must be filed within the period during which a petition for review of the appraisal review board order pertaining to the additional properties would be required to be filed under Subsection (a).

(h) The court has jurisdiction over an appeal under this chapter brought on behalf of a property owner or lessee and the owner or lessee is considered to have exhausted the owner's or lessee's administrative remedies regardless of whether the petition correctly identifies the plaintiff as the owner or lessee of the property or correctly describes the property so long as the property was the subject of an appraisal review board order, the petition was filed within the period required by Subsection (a), and the petition provides sufficient information to identify the property that is the subject of the petition. Whether the plaintiff is the proper party to bring the petition or whether the property needs to be further identified or described must be addressed by means of a special exception and correction of the petition by amendment as authorized by Subsection (e) and may not be the subject of a plea to the jurisdiction or a claim that the plaintiff has failed to exhaust the plaintiff's administrative remedies. If the petition is amended to add a plaintiff, the court on motion shall enter a docket control order to provide proper deadlines in response to the addition of the plaintiff.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 5344, ch. 981, Sec. 1, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 760, Sec. 1, eff. Aug. 26, 1985; Acts 1989, 71st Leg., ch. 796, Sec. 44, eff. June 15, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 54, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1113, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 905 (H.B. 986), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 15, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.006, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 25, eff. June 14, 2013.

Text of section as amended by Acts 1993, 73rd Leg., ch. 667, Sec. 1

Sec. 42.22. VENUE. Venue is in the county in which the appraisal review board that issued the order appealed is located, except as provided by Section 42.221. Venue is in Travis County if the order appealed was issued by the comptroller.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 151, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 55, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 667, Sec. 1, eff. Sept. 1, 1993.

Text of section as amended by Acts 1993, 73rd Leg., ch. 1033, Sec. 1

Sec. 42.22. VENUE. (a) Except as provided by Subsections (b) and (c), and by Section 42.221, venue is in the county in which the appraisal review board that issued the order appealed is located.

(b) Venue of an action brought under Section 42.01(1) is in the county in which the property is located or in the county in which the appraisal review board that issued the order is located.

(c) Venue is in Travis County if the order appealed was issued by the comptroller.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 151, eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 55, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 1033, Sec. 1, eff. Sept. 1, 1993.

Sec. 42.221. CONSOLIDATED APPEALS FOR MULTICOUNTY PROPERTY. (a) The owner of property of a telecommunications provider, as defined by Section 51.002, Utilities Code, or the owner of property regulated by the Railroad Commission of Texas, the federal Surface

Transportation Board, or the Federal Energy Regulatory Commission that runs through or operates in more than one county and is appraised by more than one appraisal district may appeal an order of an appraisal review board relating to the property running through or operating in more than one county to the district court of any county in which a portion of the property is located or operated if the order relating to that portion of the property is appealed.

(b) A petition for review of each appraisal review board order under this section must be filed with the court as provided by Section 42.21.

(c) If only one appeal by the owner of property subject to this section is pending before the court in an appeal from the decision of an appraisal review board of a district other than the appraisal district for that county, any party to the suit may, not earlier than the 30th day before and not later than the 10th day before the date set for the hearing, make a motion to transfer the suit to a district court of the county in which the appraisal review board from which the appeal is taken is located. In the absence of a showing that further appeals under this section will be filed, the court shall transfer the suit.

(d) When the owner files the first petition for review under this section for a tax year, the owner shall include with the petition a list of each appraisal district in which the property is appraised for taxation in that tax year.

(e) The court shall consolidate all the appeals for a tax year relating to a single property subject to this section for which a petition for review is filed with the court and may consolidate other appeals relating to other property subject to this section of the same owner if the property is located in one or more of the counties on the list required by Subsection (d). Except as provided by this subsection, on the motion of the owner of a property subject to this section the court shall grant a continuance to provide the owner with an opportunity to include in the proceeding appeals of appraisal review board orders from additional appraisal districts. The court may not grant a continuance to include an appeal of an appraisal review board order that relates to a property subject to this section in that tax year after the time for filing a petition for review of that order has expired.

(f) This section does not affect the property owner's right to file a petition for review of an individual appraisal district's

order relating to a property subject to this section in the district court in the county in which the appraisal review board is located.

(g) On a joint motion or the separate motions of at least 60 percent of the appraisal districts that are defendants in a consolidated suit filed before the 45th day after the date on which the property owner's petitions for review of the appraisal review board orders relating to a property subject to this section for that tax year must be filed, the court shall transfer the suit to a district court of the county named in the motion or motions if that county is one in which one of the appraisal review boards from which an appeal was taken is located.

Added by Acts 1993, 73rd Leg., ch. 667, Sec. 2, eff. Sept. 1, 1993 and Acts 1993, 73rd Leg., ch. 1033, Sec. 2, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 1041, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1141 (S.B. 287), Sec. 3, eff. June 19, 2015.

Sec. 42.225. PROPERTY OWNER'S RIGHT TO APPEAL THROUGH ARBITRATION. (a) On motion by a property owner who appeals an appraisal review board order under this chapter, the court shall submit the appeal to nonbinding arbitration. The court shall order the nonbinding arbitration to be conducted in accordance with Chapter 154, Civil Practice and Remedies Code. If the appeal proceeds to trial following an arbitration award or finding under this subsection, either party may introduce the award or finding into evidence. In addition, the court shall award the property owner reasonable attorney fees if the trial was not requested by the property owner and the determination of the appeal results in an appraised value for the owner's property that is equal to or less than the appraised value under the arbitration award or finding. However, the amount of an award of attorney fees under this subsection is subject to the same limitations as those provided by Section 42.29.

(b) On motion by the property owner, the court shall order the parties to an appeal of an appraisal review board order under this chapter to submit to binding arbitration if the appraisal district

joins in the motion or consents to the arbitration. A binding arbitration award under this subsection is binding and enforceable in the same manner as a contract obligation.

(c) The court shall appoint an impartial third party to conduct an arbitration under this section. The impartial third party is appointed by the court and serves as provided by Subchapter C, Chapter 154, Civil Practice and Remedies Code.

(d) Each party or counsel for the party may present the position of the party before the impartial third party, who must render a specific arbitration award.

(e) Prior to submission of a case to arbitration the court shall determine matters related to jurisdiction, venue, and interpretation of the law.

(f) Except as provided in this section, an arbitration award may include any remedy or relief that a court could order under this chapter.

Added by Acts 1991, 72nd Leg., ch. 412, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 1031, Sec. 9, eff. Sept. 1, 1993.

Sec. 42.226. MEDIATION. 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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 16, eff. September 1, 2011.

Sec. 42.227. PRETRIAL SETTLEMENT DISCUSSIONS. (a) A property owner or appraisal district that is a party to an appeal under this chapter may request that the parties engage in settlement discussions, including through an informal settlement conference or a form of alternative dispute resolution. The request must be in writing and delivered to the other party before the date of trial. The court on motion of either party shall enter orders necessary to implement this section, including an order:

(1) specifying the form that the settlement discussions must take; or

(2) changing a deadline to designate experts prescribed by Subsection (c).

(b) On or before the 120th day after the date the written request is delivered under Subsection (a), each party or the party's attorney of record shall attend the settlement discussions and make a good faith effort to resolve the matter under appeal.

(c) If the appraisal district is unable for any reason to attend the settlement discussions on or before the 120th day after the date the written request is delivered under Subsection (a), the deadline to designate experts for the appeal is, notwithstanding a deadline prescribed by the Texas Rules of Civil Procedure:

(1) with regard to all experts testifying for a party seeking affirmative relief, 60 days before the date of trial; and

(2) with regard to all other experts, 30 days before the date of trial.

(d) If a property owner is unable for any reason to attend the settlement discussions on or before the 120th day after the date the written request is delivered under Subsection (a), Section 42.23(d) does not apply to the parties to the appeal.

(e) An appraisal district may not request or require a property owner to waive a right under this title as a condition of attending a settlement discussion.

Added by Acts 2015, 84th Leg., R.S., Ch. 1270 (S.B. 593), Sec. 1, eff. June 20, 2015.

Sec. 42.23. SCOPE OF REVIEW. (a) Review is by trial de novo. The district court shall try all issues of fact and law raised by the pleadings in the manner applicable to civil suits generally.

(b) The court may not admit in evidence the fact of prior action by the appraisal review board or comptroller, except to the extent necessary to establish its jurisdiction.

(c) Any party is entitled to trial by jury on demand.

(d) Each party to an appeal is considered a party seeking affirmative relief for the purpose of discovery regarding expert witnesses under the Texas Rules of Civil Procedure if, on or before the 120th day after the date the appeal is filed, the property owner:

(1) makes a written offer of settlement;

(2) requests alternative dispute resolution; and

(3) designates, in response to an appropriate written discovery request, which cause of action under this chapter is the basis for the appeal.

(e) For purposes of Subsection (d), a property owner may designate a cause of action under Section 42.25 or 42.26 as the basis for an appeal, but may not designate a cause of action under both sections as the basis for the appeal. Discovery regarding a cause of action that is not specifically designated by the property owner under Subsection (d) shall be conducted as provided by the Texas Rules of Civil Procedure. The court may enter a protective order to modify the provisions of this subsection under Rule 192.6 of the Texas Rules of Civil Procedure.

(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.

(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.

(h) Evidence, argument, or other testimony offered at an appraisal review board hearing by a property owner or agent is not admissible in an appeal under this chapter unless:

(1) the evidence, argument, or other testimony is offered to demonstrate that there is sufficient evidence to deny a no-evidence motion for summary judgment filed by a party to the appeal or is necessary for the determination of the merits of a motion for summary judgment filed on another ground;

(2) the property owner or agent is designated as a witness for purposes of trial and the testimony offered at the appraisal review board hearing is offered for impeachment purposes; or

(3) the evidence is the plaintiff's testimony at the appraisal review board hearing as to the value of the property.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 152,

eff. Jan. 1, 1982; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 56, eff. Sept. 1, 1991.
Amended by:
Acts 2005, 79th Leg., Ch. 1126 (H.B. 2491), Sec. 25, eff. September 1, 2005.
Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 17, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 26, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 9, eff. January 1, 2020.
Acts 2019, 86th Leg., R.S., Ch. 944 (S.B. 2), Sec. 92, eff. September 1, 2019.

Sec. 42.231. JURISDICTION OF DISTRICT COURT; REMAND OF CERTAIN APPEALS. (a) This section applies only to an appeal by a property owner of an order of the appraisal review board determining:

(1) a protest by the property owner as provided by Subchapter C, Chapter 41; or

(2) a motion filed by the property owner under Section 25.25.

(b) Subject to the provisions of this section and notwithstanding any other law, if a plea to the jurisdiction is filed in the appeal on the basis that the property owner failed to exhaust the property owner's administrative remedies, the court may, in lieu of dismissing the appeal for lack of jurisdiction, remand the action to the appraisal review board with instructions to allow the property owner an opportunity to cure the property owner's failure to exhaust administrative remedies.

(c) An action remanded to the appraisal review board under Subsection (b) is considered to be a timely filed protest under Subchapter C, Chapter 41, or motion under Section 25.25, as applicable. The appraisal review board shall schedule a hearing on the protest or motion and issue a written decision determining the protest or motion in the manner required by Subchapter C, Chapter 41, or Section 25.25, as applicable.

(d) A determination of the appraisal review board relating to the remanded action may be appealed to the court that remanded the action to the board. A determination appealed to the court under

this subsection may not be the subject of a plea to the jurisdiction on the basis of the property owner's failure to exhaust administrative remedies.

(e) Notwithstanding Subsection (b), on agreement of each party to the appeal and with the approval of the court, the parties to the appeal may waive remand of the action to the appraisal review board and elect that the court determine the appeal on the merits. If the parties waive remand of the action under this subsection, each party is considered to have exhausted the party's administrative remedies.

Added by Acts 2019, 86th Leg., R.S., Ch. 157 (H.B. 380), Sec. 2, eff. September 1, 2019.

Sec. 42.24. ACTION BY COURT. In determining an appeal, the district court may:

(1) fix the appraised value of property in accordance with the requirements of law if the appraised value is at issue;

(2) enter the orders necessary to ensure equal treatment under the law for the appealing property owner if inequality in the appraisal of his property is at issue; or

(3) enter other orders necessary to preserve rights protected by and impose duties required by the law.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 42.25. REMEDY FOR EXCESSIVE APPRAISAL. If the court determines that the appraised value of property according to the appraisal roll exceeds the appraised value required by law, the property owner is entitled to a reduction of the appraised value on the appraisal roll to the appraised value determined by the court.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 42.26. REMEDY FOR UNEQUAL APPRAISAL. (a) The district court shall grant relief on the ground that a property is appraised unequally if:

(1) the appraisal ratio of the property exceeds by at least 10 percent the median level of appraisal of a reasonable and

representative sample of other properties in the appraisal district;

(2) the appraisal ratio of the property exceeds by at least 10 percent the median level of appraisal of a sample of properties in the appraisal district consisting of a reasonable number of other properties similarly situated to, or of the same general kind or character as, the property subject to the appeal; or

(3) the appraised value of the property exceeds the median appraised value of a reasonable number of comparable properties appropriately adjusted.

(b) If a property owner is entitled to relief under Subsection (a)(1), the court shall order the property's appraised value changed to the value as calculated on the basis of the median level of appraisal according to Subsection (a)(1). If a property owner is entitled to relief under Subsection (a)(2), the court shall order the property's appraised value changed to the value calculated on the basis of the median level of appraisal according to Subsection (a)(2). If a property owner is entitled to relief under Subsection (a)(3), the court shall order the property's appraised value changed to the value calculated on the basis of the median appraised value according to Subsection (a)(3). If a property owner is entitled to relief under more than one subdivision of Subsection (a), the court shall order the property's appraised value changed to the value that results in the lowest appraised value. The court shall determine each applicable median level of appraisal or median appraised value according to law, and is not required to adopt the median level of appraisal or median appraised value proposed by a party to the appeal. The court may not limit or deny relief to the property owner entitled to relief under a subdivision of Subsection (a) because the appraised value determined according to another subdivision of Subsection (a) results in a higher appraised value.

(c) For purposes of establishing the median level of appraisal under Subsection (a)(1), the median level of appraisal in the appraisal district as determined by the comptroller under Section 5.10 is admissible as evidence of the median level of appraisal of a reasonable and representative sample of properties in the appraisal district for the year of the comptroller's determination, subject to the Texas Rules of Evidence and the Texas Rules of Civil Procedure.

(d) For purposes of this section, the value of the property subject to the suit and the value of a comparable property or sample property that is used for comparison must be the market value

determined by the appraisal district when the property is a residence homestead subject to the limitation on appraised value imposed by Section 23.23.

Acts 1979, 66th Leg., p. 2311, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 174, ch. 13, Sec. 153, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 4924, ch. 877, Sec. 3, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 823, Sec. 3, eff. Jan. 1, 1986; Acts 1989, 71st Leg., ch. 796, Sec. 45, eff. June 15, 1989; Acts 1991, 72nd Leg., ch. 843, Sec. 12, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1039, Sec. 42, eff. Jan. 1, 1998; Acts 2003, 78th Leg., ch. 1041, Sec. 4, eff. Sept. 1, 2003.

Sec. 42.28. APPEAL OF DISTRICT COURT JUDGMENT. A party may appeal the final judgment of the district court as provided by law for appeal of civil suits generally, except that an appeal bond is not required of the chief appraiser, the county, the comptroller, or the commissioners court.

Acts 1979, 66th Leg., p. 2312, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 57, eff. Sept. 1, 1991.

Sec. 42.29. ATTORNEY'S FEES. (a) A property owner who prevails in an appeal to the court under Section 42.25 or 42.26, in an appeal to the court of a determination of an appraisal review board on a motion filed under Section 25.25, or in an appeal to the court of a determination of an appraisal review board of a protest of the denial in whole or in part of an exemption under Section 11.17, 11.22, 11.23, 11.231, or 11.24 may be awarded reasonable attorney's fees. The amount of the award may not exceed the greater of:

(1) $15,000; or

(2) 20 percent of the total amount by which the property owner's tax liability is reduced as a result of the appeal.

(b) Notwithstanding Subsection (a), the amount of an award of attorney's fees may not exceed the lesser of:

(1) $100,000; or

(2) the total amount by which the property owner's tax liability is reduced as a result of the appeal.

Added by Acts 1983, 68th Leg., p. 5033, ch. 905, Sec. 1, eff. Aug. 29, 1983. Amended by Acts 1991, 72nd Leg., ch. 836, Sec. 4.1, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 203, Sec. 2, eff. May 21, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1267 (H.B. 1030), Sec. 5, eff. June 19, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1259 (H.B. 585), Sec. 27, eff. June 14, 2013.

Sec. 42.30. ATTORNEY NOTICE OF CERTAIN ENGAGEMENTS. (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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 18, eff. September 1, 2011.

SUBCHAPTER C. POSTAPPEAL ADMINISTRATIVE PROCEDURES

Sec. 42.41. CORRECTION OF ROLLS. (a) Not later than the 45th day after the date an appeal is finally determined, the chief appraiser shall:

(1) correct the appraisal roll and other appropriate records as necessary to reflect the final determination of the appeal; and

(2) certify the change to the assessor for each affected taxing unit.

(b) The assessor for each affected taxing unit shall correct the tax roll and other appropriate records for which the assessor is responsible.

(c) A chief appraiser is irrebutably presumed to have complied with Subsection (a)(2).

Acts 1979, 66th Leg., p. 2312, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., 1st C.S., p. 175, ch. 13, Sec. 155, eff. Jan. 1, 1982; Acts 2003, 78th Leg., ch. 481, Sec. 1, eff. Sept. 1, 2003.

Sec. 42.42. CORRECTED AND SUPPLEMENTAL TAX BILLS. (a) Except as provided by Subsection (b) of this section, if the final determination of an appeal that changes a property owner's tax liability occurs after the tax bill is mailed, the assessor for each affected taxing unit shall prepare and mail a corrected tax bill in the manner provided by Chapter 31 of this code for tax bills generally. The assessor shall include with the bill a brief explanation of the reason for and effect of the corrected bill.

(b) If the final determination of an appeal that increases a property owner's tax liability occurs after the property owner has paid his taxes, the assessor for each affected taxing unit shall prepare and mail a supplemental tax bill in the manner provided by Chapter 31 for tax bills generally. The assessor shall include with the bill a brief explanation of the reason for and effect of the

supplemental bill. The additional tax is due on receipt of the supplemental bill and becomes delinquent if not paid before the delinquency date prescribed by Chapter 31 or before the first day of the next month after the date of mailing that will provide at least 21 days for payment of the tax, whichever is later.

(c) If the final determination of an appeal occurs after the property owner has paid a portion of the tax finally determined to be due as required by Section 42.08, the assessor for each affected taxing unit shall prepare and mail a supplemental tax bill in the form and manner prescribed by Subsection (b). The additional tax is due and becomes delinquent as provided by Subsection (b). If the additional tax is not paid by the delinquency date for the additional tax, the property owner is liable for penalties and interest on the tax included in the supplemental bill calculated as provided by Section 33.01 as if the tax included in the supplemental bill became delinquent on the original delinquency date prescribed by Chapter 31.

(d) If the property owner did not pay any portion of the taxes imposed on the property because the court found that payment would constitute an unreasonable restraint on the owner's right of access to the courts as provided by Section 42.08(d), after the final determination of the appeal the assessor for each affected taxing unit shall prepare and mail a supplemental tax bill in the form and manner prescribed by Subsection (b). The additional tax is due and becomes delinquent as provided by Subsection (b). If the additional tax is not paid by the delinquency date for the additional tax, the property owner is liable for interest on the tax included in the supplemental bill calculated as provided by Section 33.01 as if the tax included in the supplemental bill became delinquent on the delinquency date prescribed by Chapter 31.

Acts 1979, 66th Leg., p. 2312, ch. 841, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 203, Sec. 3, eff. May 21, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 252 (H.B. 861), Sec. 1, eff. September 1, 2019.

Sec. 42.43. REFUND. (a) If the final determination of an appeal that decreases a property owner's tax liability occurs after the property owner has paid his taxes, the taxing unit shall refund

to the property owner the difference between the amount of taxes paid and amount of taxes for which the property owner is liable.

(b) For a refund made under this section, the taxing unit shall include with the refund interest on the amount refunded calculated at an annual rate of 9.5 percent, calculated from the delinquency date for the taxes until the date the refund is made.

(b-1) A taxing unit may not send a refund made under this section before the earlier of:

(1) the 21st day after the final determination of the appeal; or

(2) the date the property owner files the form prescribed by Subsection (i) with the taxing unit.

(c) Notwithstanding Subsection (b), if a taxing unit does not make a refund, including interest, required by this section before the 60th day after the date the chief appraiser certifies a correction to the appraisal roll under Section 42.41, the taxing unit shall include with the refund interest on the amount refunded at an annual rate of 12 percent, calculated from the delinquency date for the taxes until the date the refund is made. A refund is not considered made under this section until sent to the proper person as provided by this section.

(d) A property owner who prevails in a suit to compel a refund, including interest, required by this section that is filed on or after the 180th day after the date the chief appraiser certifies a correction to the appraisal roll is entitled to court costs and reasonable attorney's fees.

(e) Except as provided by Subsection (f) or (g), a taxing unit shall send a refund made under this section to the property owner.

(f) The final judgment in an appeal under this chapter may designate to whom and where a refund is to be sent.

(g) If a form prescribed by the comptroller under Subsection (i) is filed with a taxing unit before the 21st day after the final determination of an appeal that requires a refund be made, the taxing unit shall send the refund to the person and address designated on the form.

(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 revoked in a written revocation filed with the taxing unit by the property owner.

(i) The comptroller shall prescribe the form necessary to allow

a property owner to designate the person to whom a refund must be sent. The comptroller shall include on the form a space for the property owner to designate to whom and where the refund must be sent and provide options to mail the refund to:

(1) the property owner;

(2) the business office of the property owner's attorney of record in the appeal; or

(3) any other individual and address designated by the property owner.

(j) A property owner is not entitled to a refund under this section resulting from the final determination of an appeal of the denial of an exemption under Section 11.31, wholly or partly, unless the property owner is entitled to the refund under Subsection (a) or has entered into a written agreement with the chief appraiser that authorizes the refund as part of an agreement related to the taxation of the property pending a final determination by the Texas Commission on Environmental Quality under Section 11.31.

(k) Not later than the 10th day after the date a property owner and the chief appraiser enter into a written agreement described by Subsection (j), the chief appraiser shall provide to each taxing unit that taxes the property a copy of the agreement. The agreement is void if a taxing unit that taxes the property objects in writing to the agreement on or before the 60th day after the date the taxing unit receives a copy of the agreement.

Acts 1979, 66th Leg., p. 2313, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 640, Sec. 4, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 796, Sec. 46, eff. June 15, 1989; Acts 1993, 73rd Leg., ch. 592, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1039, Sec. 43, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 253, Sec. 1, eff. May 22, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 905 (H.B. 986), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 771 (H.B. 1887), Sec. 19, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 956 (H.B. 1090), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 964 (H.B. 1897), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 481 (S.B. 1760), Sec. 10, eff. January 1, 2016.

CHAPTER 43. SUIT AGAINST APPRAISAL OFFICE

Sec. 43.01. AUTHORITY TO BRING SUIT. A taxing unit may sue the appraisal district that appraises property for the unit to compel the appraisal district to comply with the provisions of this title, rules of the comptroller, or other applicable law.

Acts 1979, 66th Leg., p. 2313, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 58, eff. Sept. 1, 1991.

Sec. 43.02. VENUE. Venue is in the county in which the appraisal district is established.

Acts 1979, 66th Leg., p. 2313, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 43.03. ACTION BY COURT. The court as the evidence warrants shall enter those orders necessary to compel compliance by the appraisal office.

Acts 1979, 66th Leg., p. 2313, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 43.04. SUIT TO COMPEL COMPLIANCE WITH DEADLINES. The governing body of a taxing unit may sue the chief appraiser or members of the appraisal review board, as applicable, for failure to comply with the deadlines imposed by Section 25.22(a), 26.01(a), or 41.12. If the court finds that the chief appraiser or appraisal review board failed to comply for good cause shown, the court shall enter an order fixing a reasonable deadline for compliance. If the court finds that the chief appraiser or appraisal review board failed to comply without good cause, the court shall enter an order requiring the chief appraiser or appraisal review board to comply with the deadline not later than the 10th day after the date the judgment is signed. In a suit brought under this section, the court may enter any other order the court considers necessary to ensure

compliance with the court's deadline or the applicable statutory requirements. Failure to obey an order of the court is punishable as contempt.

Added by Acts 1985, 69th Leg., ch. 312, Sec. 5, eff. June 7, 1985. Amended by Acts 1989, 71st Leg., ch. 796, Sec. 47, eff. Sept. 1, 1989.

TITLE 2. STATE TAXATION
SUBTITLE A. GENERAL PROVISIONS
CHAPTER 101. GENERAL PROVISIONS

Sec. 101.001. PURPOSE OF TITLE. (a) This title is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in Chapter 448, Acts of the 58th Legislature, 1963 (Article 5429b-1, Vernon's Texas Civil Statutes). The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent state tax laws more accessible and understandable by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible.

Acts 1981, 67th Leg., p. 1492, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 101.002. CONSTRUCTION OF CODE. (a) The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this title, except as specifically provided by this title.

(b) Except as otherwise provided by statute, the jurisdiction and authority of the state to determine the subjects and objects of taxation shall extend to the limits of the then-current

interpretations of the Texas Constitution and United States Constitution and laws.

Acts 1981, 67th Leg., p. 1492, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 73, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 231, Sec. 1, eff. Aug. 28, 1989.

Sec. 101.0021. APPLICABILITY OF PENAL CODE. In addition to Section 1.03, Penal Code, Sections 15.02 and 15.04, Penal Code, and Title 11, Penal Code, apply to offenses prescribed by this code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 9, eff. September 1, 2011.

Sec. 101.003. DEFINITIONS. In this title:

(1) "Comptroller" means the comptroller of public accounts of the State of Texas.

(2) "Month" means a calendar month.

(3) "Year" means a calendar year.

(4) "Effects" means personal property or an interest in personal property.

(5) "Affidavit" means a statement in writing of a fact signed by the party making the statement, sworn to before some officer authorized to administer oaths, and officially certified by the officer under the officer's seal of office.

(6) "Officer" means a state officer.

(7) "Standard time" means that designation of time prescribed by Section 312.016, Government Code.

(8) "Taxpayer" means a person liable for a tax, fee, assessment, or other amount imposed by a statute or under the authority of a statutory function administered by the comptroller.

(9) "Attorney general" means the attorney general of the State of Texas.

(10) "Report" means a tax return, declaration, statement, or other document required to be filed with the comptroller.

(11) "Obligation" means the duty of a person to pay a tax, fee, assessment, or other amount or to make, file, or keep a report, certificate, affidavit, or other document.

(12) "Obligation" means the duty of a person to pay a tax,

fee, assessment, or other amount or to make, file, or keep a report, certificate, affidavit, or other document.

(13) "Tax" means a tax, fee, assessment, charge, or other amount that the comptroller is authorized to administer.

Acts 1981, 67th Leg., p. 1492, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 1.01, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 685, Sec. 3.27, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(2), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.01, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.10, eff. Oct. 1, 1999.

Sec. 101.004. COMMON LAW. The rule that statutes in derogation of the common law shall be construed strictly does not apply to this title.

Acts 1981, 67th Leg., p. 1493, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 101.005. GRAMMATICAL ERRORS: PUNCTUATION. (a) A grammatical error does not vitiate a law, and when a sentence or clause is without meaning, words and clauses may be transposed to determine the intended meaning.

(b) The punctuation of a sentence does not control or affect the intention of the legislature in the enactment of this title.

Acts 1981, 67th Leg., p. 1493, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 101.006. FISCAL YEAR. Subchapter G, Chapter 316, Government Code, establishing a fiscal year for the state, applies to this title.

Acts 1981, 67th Leg., p. 1493, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(1), eff. Sept. 1, 1995.

Sec. 101.007. REFERENCES TO STATE OFFICERS. A reference in

this code to the comptroller or another officer includes authorized representatives and employees of the officer unless the provision indicates that only the officer is intended in the reference.

Acts 1981, 67th Leg., p. 1493, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 3, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 1031, Sec. 18, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.02, eff. Sept. 1, 1997.

Sec. 101.008. OCCUPATION TAXES LEVIED BY LOCAL GOVERNMENTS. No city, county, or other political subdivision may levy an occupation tax imposed by this title unless specifically permitted to do so by state law.

Acts 1981, 67th Leg., p. 1493, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 101.009. ALLOCATION AND TRANSFER OF NET REVENUES. (a) Except as provided by Subsection (b) of this section, all revenues collected from the taxes imposed by the chapters of this title and by Chapter 8, Title 132, Revised Civil Statutes of Texas, 1925, as amended, after deduction of the portion allocated for collection, enforcement, and administration purposes, shall first be deposited in the general revenue fund. After the initial deposit, transfers from the general revenue fund to other funds shall be made at the time, in the manner, and in the amounts provided by law.

(b) Cigarette tax revenue allocated under Section 154.603(b) shall be allocated as provided by Section 154.603. Motor fuel tax revenue shall be allocated and deposited as provided by Subchapter F, Chapter 162.

Added by Acts 1981, 67th Leg., p. 2776, ch. 752, Sec. 9(a), eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 1, eff. Sept. 1, 1984.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 1, eff. September 1, 2009.

SUBTITLE B. ENFORCEMENT AND COLLECTION

CHAPTER 111. COLLECTION PROCEDURES
SUBCHAPTER A. COLLECTION DUTIES AND POWERS

Sec. 111.001. COMPTROLLER TO COLLECT TAXES. The comptroller shall collect the taxes imposed by this title except as otherwise provided by this title.

Acts 1981, 67th Leg., p. 1495, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.002. COMPTROLLER'S RULES; COMPLIANCE; FORFEITURE. (a) The comptroller may adopt rules that do not conflict with the laws of this state or the constitution of this state or the United States for the enforcement of the provisions of this title and the collection of taxes and other revenues under this title. In addition to the discretion to adopt, repeal, or amend such rules permitted under the constitution and laws of this state and under the common law, the comptroller may adopt, repeal, or amend such rules to reflect changes in the power of this state to collect taxes and enforce the provisions of this title due to changes in the constitution or laws of the United States and judicial interpretations thereof.

(b) A person who does not comply with a rule made under this section forfeits to the state an amount of not less than $25 nor more than $500. Each day on which a failure to comply occurs or continues is a separate violation.

(c) If a forfeiture is not paid, the attorney general shall file suit to recover the forfeiture in a court of competent jurisdiction in Travis County or in any other county where venue lies.

(d) Any other provision of this code that imposes a different penalty for the violation of a comptroller's rule made for the enforcement or collection of a specific tax imposed by this title prevails over the penalty provided by this section.

Acts 1981, 67th Leg., p. 1495, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1989, 71st Leg., ch. 231, Sec. 2, eff. Aug. 28, 1989.

Sec. 111.0021. APPLICATION TO OTHER TAXES AND FEES. This chapter also applies to a tax or fee that the comptroller is required to collect under a law not included in this title.

Added by Acts 1991, 72nd Leg., ch. 705, Sec. 1, eff. Sept. 1, 1991.

Sec. 111.0022. APPLICATION TO OTHER LAWS ADMINISTERED BY COMPTROLLER. This subtitle and Subtitle A of this title apply to the administration, collection, and enforcement of other taxes, fees, and charges, including penalties, or other financial transactions, that the comptroller is required or authorized to collect or administer under other law, to the extent that the other law does not conflict with this subtitle or Subtitle A of this title.

Added by Acts 1993, 73rd Leg., ch. 486, Sec. 1.02, eff. Sept. 1, 1993.

Sec. 111.0023. Definition of Individual. For purposes of this title, "individual" means a natural person. The term does not include a partnership, limited liability partnership, corporation, banking corporation, savings and loan association, limited liability company, business trust, professional association, business association, joint venture, joint stock company, holding company, or other legal entity.

Added by Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 1, eff. September 1, 2019.

Sec. 111.003. COMPTROLLER'S INVESTIGATIONS. (a) On the governor's request, the comptroller shall:

(1) investigate the books and accounts of assessing and collecting officers of the state and other officers or persons receiving, disbursing, or possessing public funds;

(2) perform other duties and make investigations in relation to public funds as requested by the governor; and

(3) investigate any state institution and its policies, management, and operation, including the fiscal affairs and the conduct and efficiency of any state employee of the institution.

(b) The comptroller shall report to the governor the results of an investigation requested under Subsection (a) of this section. The report must be written and include:

(1) a description of each violation of the revenue laws;

(2) a description of the failure, if any, to enforce revenue laws;

(3) the name of each person reasonably believed to have committed a violation or to have been guilty of nonfeasance; and

(4) if a state institution is investigated, a description of the expenditures of the institution and of all sums of money due the state, the ascertainment and collection of which does not devolve upon other officers of the state under existing law.

(c) A person connected with the public service shall submit all books, records, and accounts to the comptroller without delay on the request of the comptroller when conducting an investigation under Subsection (a) of this section.

(d) On the receipt of a report that indicates a violation of revenue laws or neglect of duty, the governor shall notify the attorney general, who shall institute criminal and civil proceedings in the name of the state against persons accused of a violation or neglect of duty.

(e) The comptroller may at any time examine and investigate the expenditure of appropriated money for a state institution or for any other purpose or for improvements made by the state on state property or money received and disbursed by any board authorized to receive and disburse state money. The comptroller shall investigate any state institution when required by information coming to his own knowledge.

Acts 1981, 67th Leg., p. 1495, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0034. ADVANCED DATABASE SYSTEM FOR AUDITS. (a) The comptroller shall develop an advanced electronic audit database system for use by the comptroller's audit division. The system must:

(1) centralize management of audit transaction data;

(2) enhance the quality control of data; and

(3) be compatible with other data systems of the state.

(b) The comptroller may contract with a vendor to develop or implement the system.

(c) If the comptroller contracts with a vendor to develop or implement the system, the comptroller must protect any confidential information provided to the vendor. A person who receives confidential information under this section and each employee or

agent of that person is subject to the same prohibitions against disclosure of the information, and the same penalties and sanctions for improper disclosure, that apply to the comptroller.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.01, eff. June 15, 2001.

Sec. 111.0035. ADVANCED DATABASE SYSTEM FOR TAX COLLECTIONS. (a) The comptroller may contract with an appropriate vendor to develop and implement an advanced database system to enhance tax collections.

(b) Subject to Subsection (c), the total amount of compensation paid to the vendor that develops, implements, and maintains the advanced database system is equal to the product of:

(1) the percentage stated in the contract; and

(2) the amount of revenue collected from taxpayers by the comptroller, after all available administrative and judicial appeals are exhausted, as a result of audit and enforcement actions taken on cases identified from the system.

(c) The amount of compensation paid to a vendor under Subsection (b) may not exceed the maximum amount, if any, stated in the contract between the comptroller and the vendor.

(d) The comptroller may pay compensation to a vendor under this section periodically at the times specified in the contract between the comptroller and the vendor. The comptroller shall determine the amount of a periodic payment in accordance with Subsections (b) and (c). In computing the amount under Subsection (b)(2), the comptroller may include a case only if the case:

(1) becomes administratively final during the period covered by the payment; and

(2) is not the subject of litigation at the end of that period.

(e) The comptroller may pay a vendor under this section only through warrants issued or electronic funds transfers initiated by the comptroller. The comptroller shall account for the compensation as a subtraction from tax collections and not as a general expense of the comptroller.

(f) Except as provided by Subsection (g), the comptroller shall award a contract made under this section through a competitive

bidding process that complies with Section 2155.132, Government Code. If the comptroller receives not more than three bids through the competitive bidding process, the comptroller shall report the number of bidders to the Legislative Budget Board before awarding the contract.

(g) The comptroller may enter into separate contracts with additional appropriate vendors willing and able to develop and implement an advanced database system to enhance tax collections at the same rate and under the same terms and conditions as the contract awarded through competitive bidding.

(h) Except as specifically provided by this section, the comptroller may include any term or condition in a contract made under this section that the comptroller considers necessary or advisable to maximize enhancement of tax collections while otherwise protecting the state's interests.

(i) The comptroller shall report semiannually to the Legislative Budget Board the:

(1) amount of revenue collected under this section; and

(2) amount of compensation awarded to a vendor under this section.

(j) A person acting on behalf of this state under a contract authorized by this section does not exercise any of the sovereign power of this state, except that the person is an agent of this state for purposes of developing and implementing an advanced database system to enhance tax collections.

(k) The comptroller may provide to a person acting on behalf of this state under a contract authorized by this section any confidential information in the custody of the comptroller that is necessary to develop and implement an advanced database system to enhance tax collections and that the comptroller is not prohibited from sharing under an agreement with another state or the federal government. A person who receives confidential information under this subsection and each employee or agent of that person is subject to each prohibition against disclosure of the information that applies to the comptroller or an employee of the comptroller. A person, employee, or agent who receives confidential information under this subsection and improperly discloses that information is subject to the same penalties and sanctions that would apply to the comptroller or an employee of the comptroller for that disclosure.

Added by Acts 1997, 75th Leg., ch. 927, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1272, Sec. 5.02, eff. June 15, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.108, eff. September 1, 2007.

Sec. 111.0036. OUT-OF-STATE AUDITS. (a) The comptroller may contract with one or more appropriate persons to perform tax audits in any state that is not covered by a comptroller field office. A contract may provide for a person to perform tax audits in more than one state.

(b) Subject to Subsection (c), the amount of compensation paid to a person performing tax audits under this section is equal to the product of:

(1) the percentage stated in the contract between the comptroller and the person; and

(2) the amount of revenue collected from taxpayers by the comptroller, after all available administrative and judicial appeals are exhausted, as a result of those audits.

(c) The maximum percentage rate stated in a contract may not exceed 12 percent. In addition, the amount of compensation paid to a person under Subsection (b) may not exceed the maximum amount, if any, stated in the contract between the comptroller and the person.

(d) The comptroller may pay compensation to a person under this section periodically at the times specified in the contract between the comptroller and the person. The comptroller shall determine the amount of a periodic payment in accordance with Subsections (b) and (c). In computing the amount under Subsection (b)(2), the comptroller may include a case only if the case:

(1) becomes administratively final during the period covered by the payment; and

(2) is not the subject of litigation at the end of that period.

(e) The comptroller may pay a person under this section only through warrants issued or electronic funds transfers initiated by the comptroller. The comptroller shall account for the compensation as a subtraction from tax collections and not as a general expense of the comptroller.

(f) Except as provided by Subsection (g), the comptroller shall award a contract made under this section through a competitive bidding process that complies with Section 2155.132, Government Code. If the comptroller receives not more than three bids through the competitive bidding process, the comptroller shall report the number of bidders to the Legislative Budget Board before awarding the contract.

(g) The comptroller may enter into separate contracts with additional appropriate persons willing and able to perform tax audits in other states that are not covered by comptroller field offices at the same rate and under the same terms and conditions as the contract awarded through competitive bidding.

(h) The comptroller shall report semiannually to the Legislative Budget Board the:

(1) amount of revenue collected under this section; and

(2) amount of compensation awarded to a person with whom the comptroller contracts under this section.

(i) A person acting on behalf of this state under a contract authorized by this section does not exercise any of the sovereign power of this state, except that the person is an agent of this state for purposes of performing tax audits.

(j) The comptroller may provide to a person acting on behalf of this state under a contract authorized by this section any confidential information in the custody of the comptroller relating to a taxpayer that is necessary to the audit of the taxpayer and that the comptroller is not prohibited from sharing under an agreement with another state or the federal government. A person who receives confidential information under this subsection and each employee or agent of that person are subject to each prohibition against disclosure of confidential information obtained from a taxpayer or this state in connection with a tax audit that applies to the comptroller or an employee of the comptroller. A person, employee, or agent who receives confidential information under this subsection and improperly discloses that information is subject to the same penalties and sanctions that would apply to the comptroller or an employee of the comptroller for that disclosure.

Added by Acts 1997, 75th Leg., ch. 927, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.109, eff.

September 1, 2007.

Sec. 111.004. POWER TO EXAMINE RECORDS AND PERSONS. (a) For the purpose of carrying out the terms of this title the comptroller may examine at the principal or any other office in the United States of any person, firm, agent, or corporation permitted to do business in this state, all books, records and papers and also any of their officers or employees under oath.

(b) If any person refuses to permit an examination or answer any question authorized by Subsection (a) of this section, the comptroller may certify the fact of the refusal to the secretary of state, who shall immediately forfeit the charter or the permit to do business of the person until the examination as required is completed.

(c) No charge may be made by the comptroller to examine a book, record, or paper or to question an officer or employee.

(d) The comptroller's authority to examine books, records, and papers under this chapter extends to all books, records, papers, and other objects which the comptroller determines are necessary for conducting a complete examination under this title.

Acts 1981, 67th Leg., p. 1496, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0041. RECORDS; BURDEN TO PRODUCE AND SUBSTANTIATE CLAIMS. (a) Except as provided by Subsection (b), a taxpayer who is required by this title to keep records shall keep those records open to inspection by the comptroller, the attorney general, or the authorized representatives of either of them for at least four years.

(b) A taxpayer is required to keep records, as provided by Subsection (c) with respect to the taxpayer's claim, open for inspection under Subsection (a) for more than four years throughout any period when:

(1) any tax, penalty, or interest may be assessed, collected, or refunded by the comptroller; or

(2) an administrative hearing is pending before the comptroller, or a judicial proceeding is pending, to determine the amount of the tax, penalty, or interest that is to be assessed, collected, or refunded.

(c) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the transactions in question to substantiate and enable verification of the taxpayer's claim related to the amount of tax, penalty, or interest to be assessed, collected, or refunded in an administrative or judicial proceeding. Contemporaneous records and supporting documentation appropriate to the tax or fee may include, for example, invoices, vouchers, checks, shipping records, contracts, or other equivalent records, such as electronically stored images of such documents, reflecting legal relationships and taxes collected or paid.

(d) This section prevails over any other conflicting provision of this title.

Acts 1981, 67th Leg., p. 1496, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.11, eff. Oct. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.02, eff. October 1, 2011.

Sec. 111.0042. SAMPLING IN AUDITING; PROJECTING ASSESSMENTS. (a) Repealed by Acts 1983, 68th Leg., p. 982, ch. 234, Sec. 1, eff. May 25, 1983.

(b) Sampling auditing methods are appropriate if:

(1) the taxpayer's records are so detailed, complex, or voluminous that an audit of all detailed records would be unreasonable or impractical;

(2) the taxpayer's records are inadequate or insufficient, so that a competent audit for the period in question is not otherwise possible; or

(3) the cost of an audit of all detailed records to the taxpayer or to the state will be unreasonable in relation to the benefits derived, and sampling procedures will produce a reasonable result.

(c) Before using a sample technique to establish a tax liability, the comptroller or his designee must notify the taxpayer in writing of the sampling procedure to be used.

(d) The sample must reflect as nearly as possible the normal

conditions under which the business was operated during the period to which the audit applies. If a taxpayer can demonstrate that a transaction in a sample period is not representative of the taxpayer's business operations, the transaction shall be eliminated from the sample and be separately assessed in the audit. If records are inadequate to reflect accurately the business operations of the taxpayer, the comptroller or his designee shall determine the best information available and base his audit report on that information.

(e) If the taxpayer demonstrates that any sampling method used by the comptroller was not in accordance with generally recognized sampling techniques, the audit will be dismissed as to that portion of the audit established by projection based upon the sampling method, and a new audit may be performed.

Acts 1981, 67th Leg., p. 1496, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 982, ch. 234, Sec. 1, eff. May 25, 1983.

Sec. 111.0043. GENERAL AUDIT AND PREHEARING POWERS. (a) In this section:

(1) "Person" includes an individual, corporation, partner, partnership, officer, or director of a corporation, joint venture, trust, trustee, agent, or association.

(2) "Taxpayer" means the person whose tax obligation the comptroller is seeking to determine.

(b)(1) Before a determination of or a hearing on a taxpayer's tax obligation, if any, the comptroller may issue a subpoena addressed to the sheriff or constable of any county in this state to require any person who the comptroller determines may provide assistance in the examination of a taxpayer's tax obligation to appear at the place and time stated in the subpoena for the taking of his oral deposition before an official authorized to take depositions. The subpoena may require the person to produce at the time of the deposition books, documents, records, papers, accounts, and other objects as may be specified by the comptroller. The subpoena must include a statement setting out the reason why the requested material is needed.

(2) The deposition shall be taken in the county of the person's residence or in the county where the person is employed or

regularly transacts business. The subpoena shall specify that the person shall remain in attendance from day to day until the deposition is begun and completed.

(3) The officer taking the oral deposition may not sustain objections to any of the testimony taken or exclude any of it.

(4) When the testimony is fully transcribed, the deposition shall be submitted to the person for examination and read to or by the person, unless the examination and reading are waived in writing by the person and by the comptroller. However, if the person is represented by an attorney of record, the deposition officer shall notify the attorney of record in writing by registered mail or certified mail that the deposition is ready for examination and reading at the office of the deposition officer. If the person does not appear and examine, read, and sign the deposition within 10 days after the mailing of the notice, the deposition shall be returned and may be used as fully as though signed. The officer shall enter on the deposition any changes in form or substance that the person desires to make and a statement of the reasons given by the person for making them. The deposition shall then be signed by the person, unless the person and the comptroller by stipulation waive the signing or the person is ill, cannot be found, or refuses to sign. If the deposition is not signed by the person, the officer shall sign it and state on the record the fact of the waiver, illness, or absence of the person or the fact of the refusal to sign, together with the reason, if any, given for failure to sign. The deposition may then be used as fully as though signed.

(5) The deposition shall be returned to the comptroller by the official taking the deposition either by mail or by delivering it in person.

(c) Before a determination of or a hearing on a taxpayer's tax obligation, if any, the comptroller may:

(1) issue a subpoena addressed to the sheriff or constable of any county in this state to require any person to produce at the place and time stated in the subpoena books, documents, records, papers, accounts, and other objects that the comptroller determines may assist in an examination of a person's tax obligation;

(2) issue an order to a person to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation on the property that

may be material to any matter involved in the examination; the order must specify the time, place, and manner of making the inspection, measurement, or survey and taking the copies and photographs and may prescribe any terms and conditions that are just;

(3) copy or conduct a complete examination of books, documents, records, papers, accounts, and other objects that are produced as a result of the subpoenas or orders specified in this section; and

(4) serve or have served by his designated agent any subpoena or order issued under this section by delivering a copy of the subpoena to the person.

(d) A person, other than the taxpayer, who is subpoenaed to give a deposition or to produce books, records, papers, or other objects under the authority of this section is entitled to receive after presentation of a voucher sworn by the person and approved by the comptroller:

(1) mileage of 20 cents a mile, or a greater amount as prescribed by agency rule, for going to and returning from the place of the hearing or the place where the deposition is taken, if the place is more than 25 miles from the person's place of residence; and

(2) a fee of $20 a day, or a greater amount as prescribed by agency rule, for each day or part of a day the person is necessarily present as a deponent.

(e) If a person fails to comply with a subpoena or order issued under this section, the comptroller may:

(1) acting through the attorney general, bring suit to enforce the subpoena or order in a district court of Travis County; the court, if it determines that good cause exists for the issuance of a subpoena or order, shall order the compliance with the requirements of the subpoena or order; failure to obey the order of the court may be punishable by the court as contempt;

(2) use records, books, papers, and other documents obtained or depositions taken under this section only in an administrative hearing of the comptroller or a judicial proceeding brought by or against the comptroller; the information may be made available to the federal government or to another state under an exchange agreement; and

(3) delegate his authority to issue subpoenas or orders and to participate in the taking of depositions as specified in this

section to any attorney employed by him.

(f) If a foreign corporation doing business in this state has such contact with this state that it becomes subject to the taxes administered and collected by the comptroller and fails to appoint or maintain a registered agent in this state, or if the registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of the corporation and may be served with any subpoena or other order issued under this section in the manner provided for service of process in Article 8.10, Texas Business Corporation Act, as amended.

(g) Any person, including the taxpayer, shall be entitled to obtain upon request a copy of any statement he has previously made concerning the examination or its subject matter and which is in the possession, custody, or control of the comptroller. Copies of statements made to the comptroller by any person which are used as a basis for an assessment against a taxpayer may be obtained by the taxpayer upon request. If the request is refused, the person may move for an agency order under this subsection. For the purpose of this section, a statement previously made is:

(1) a written statement signed or otherwise adopted or approved by the person making it; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

Acts 1981, 67th Leg., p. 1497, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0044. SPECIAL PROCEDURES FOR THIRD-PARTY ORDERS AND SUBPOENAS. (a) (1) If any order or subpoena described in Section 111.0043 of this code is served on any person who is a third-party recordkeeper, and the order or subpoena requires the production of any portion of records made or kept of the business transactions or affairs of any person (other than the person ordered or subpoenaed) who is identified in the description of the record contained in the order or subpoena, then notice of the order or subpoena shall be given to any person so identified within three days of the day on which the service on the third-party recordkeeper is made but no later than the 14th day before the day fixed in the order or subpoena

as the day upon which the records are to be examined. The notice shall be accompanied by a copy of the order or subpoena which has been served and shall contain directions for staying compliance with the order or subpoena under Subsection (b)(2) of this section.

(2) The notice shall be sufficient if, on or before the third day, the notice is delivered in hand to the person entitled to notice or is mailed by certified or registered mail to the last mailing address of the person or, in the absence of a last known address, is left with the person ordered or subpoenaed. If the notice is mailed, it shall be sufficient if mailed to the last known address of the person entitled to notice.

(3) For purposes of this section, the term "third-party recordkeeper" means:

(A) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under federal or state law, a bank as defined in Section 581 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 581), or any credit union within the meaning of Section 501(c)(14)(A), Internal Revenue Code;

(B) any consumer reporting agency as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f));

(C) any person extending credit through the use of credit cards or similar devices; and

(D) any broker as defined in Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)).

(4) Subsection (a)(1) of this section may not apply to an order or subpoena served on the person with respect to whose liability the order or subpoena is issued or an officer or employee of the person; or any order or subpoena to determine whether or not records of the business transactions or affairs of an identified person have been made or kept; or any order or subpoena described in Subsection (e) of this section.

(5) An order or subpoena to which this subsection applies shall identify the taxpayer to whom the order or subpoena relates and to whom the records pertain and shall provide other information to enable the person ordered or subpoenaed to locate the records required under the order or subpoena.

(b)(1) Notwithstanding any other law or rule of law, a person who is entitled to notice of an order or subpoena under Subsection

(a) of this section shall have the right to intervene in any proceeding with respect to the enforcement of the order or subpoena under Subsection (e) of Section 111.0043 of this code.

(2) Notwithstanding any other law or rule of law, a person who is entitled to notice of an order or subpoena under Subsection (a) of this section shall have the right to stay compliance with the order or subpoena if, not later than the 14th day after the day the notice is given in the manner provided in Subsection (a)(2) of this section:

(A) notice in writing is given to the person ordered or subpoenaed not to comply with the order or subpoena;

(B) a copy of the notice not to comply with the order or subpoena is mailed by registered or certified mail to the person and to the office the comptroller directs in the notice referred to in Subsection (a)(1) of this section; and

(C) suit is filed against the comptroller in a district court of Travis County to stay compliance with the order or subpoena.

(c) No examination of any records required to be produced under an order or subpoena as to which notice is required under Subsection (a) of this section may be made:

(1) before the expiration of the 14-day period allowed for the notice not to comply under Subsection (b)(2) of this section; or

(2) when the requirements of Subsection (b)(2) of this section have been met, except in accordance with an order issued by a district court of Travis County authorizing examination of the records or with the consent of the person staying compliance.

(d) If any person takes any action as provided in Subsection (b) of this section and such person is the person with respect to whose liability the order or subpoena is issued under Section 111.0043 of this code (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under Subchapter D of this chapter with respect to the person shall be suspended for the period during which a proceeding and appeals of the proceeding with respect to the enforcement of such order are pending.

(e) Any order or subpoena issued under Section 111.0043 of this code that does not identify the person with respect to whose liability the order is issued may be served only after a court proceeding in which the comptroller establishes that:

(1) the order relates to the investigation of a particular

person or ascertainable group or class of persons;

(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with any provision of state law; and

(3) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the order is issued) is not readily available from other sources.

(f) In the case of an order or subpoena issued under Section 111.0043 of this code, the provisions of Subsections (a)(1) and (b) of this section may not apply if, upon petition by the comptroller, the court determines, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

(g)(1) A district court of Travis County has jurisdiction to hear and determine proceedings brought under Subsection (e) or (f) of this section. The determinations required to be made under Subsections (e) and (f) of this section shall be ex parte and shall be made solely upon the petition and supporting affidavits. An order denying the petition shall be deemed a final order that may be appealed.

(2) Except for cases the court considers of greater importance, a proceeding brought for the enforcement of any order, or a proceeding under this section, and appeals, take precedence on the docket over all cases and shall be assigned for hearing and decided at the earliest practicable date.

(h) The comptroller shall by rule establish the rates and conditions for payments to reimburse reasonably necessary costs directly incurred by third-party recordkeepers in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by order or subpoena upon request of the comptroller. The reimbursement shall be in addition to mileage and fees paid under Subsections (d)(1) and (d)(2) of Section 111.0043 of this code.

Acts 1981, 67th Leg., p. 1499, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0045. USE OF OUTSIDE PERSONNEL; DELEGATION OF POWERS. (a) As necessary to enhance productivity, the comptroller may employ or contract for the services of accountants, assistants, auditors, clerks, information technology specialists, and investigators to:

(1) provide or use the equipment acquired under Subchapter G; and

(2) assist with the administration of this code.

(b) The comptroller may delegate to persons employed or contracted under this section the power to perform duties as required.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.03, eff. June 15, 2001.

Sec. 111.00452. EMPLOYMENT OF INVESTIGATORS. (a) In addition to the authority granted by Section 111.0045, an investigator employed under that section may investigate:

(1) any criminal offense under this code; or

(2) any criminal offense under any other law if the offense relates directly or indirectly to a tax, fee, penalty, or charge administered, collected, or enforced by the comptroller.

(b) An investigator commissioned by the comptroller as a peace officer has the powers of a peace officer coextensive with the boundaries of this state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 10, eff. September 1, 2011.

Sec. 111.00455. CONTESTED CASES CONDUCTED BY STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) The State Office of Administrative Hearings shall conduct any contested case hearing as provided by Section 2003.101, Government Code, in relation to the collection, receipt, administration, and enforcement of:

(1) a tax imposed under this title; and

(2) any other tax, fee, or other amount that the comptroller is required to collect, receive, administer, or enforce under a law not included in this title.

(b) The following are not contested cases under Subsection (a) and Section 2003.101, Government Code:

(1) a show cause hearing or any hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount, except for a hearing under Section 151.157(f), 151.1575(c), 151.712(g), 154.1142, or 155.0592;

(2) a property value study hearing under Subchapter M, Chapter 403, Government Code;

(3) a hearing in which the issue relates to:

(A) Chapters 72-75, Property Code;

(B) forfeiture of a right to do business;

(C) a certificate of authority;

(D) articles of incorporation;

(E) a penalty imposed under Section 151.703(d);

(F) the refusal or failure to settle under Section 111.101; or

(G) a request for or revocation of an exemption from taxation; and

(4) any other hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount.

(c) A reference in law to the comptroller that relates to the performance of a contested case hearing described by Subsection (a) means the State Office of Administrative Hearings.

Added by Acts 2007, 80th Leg., R.S., Ch. 354 (S.B. 242), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.01, eff. October 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 19, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. 2154), Sec. 20, eff. September 1, 2015.

Sec. 111.00457. INFORMATION RELATING TO OTHER PERMIT OR LICENSE REQUIREMENTS. (a) The comptroller shall include the following statement on each application for a permit or license issued by the

comptroller:

WARNING. You may be required to obtain an additional permit or license from the State of Texas or from a local governmental entity to conduct business. A listing of links relating to acquiring licenses, permits, and registrations from the State of Texas is available online at http://www.Texas.gov. You may also want to contact the municipality and county in which you will conduct business to determine any local governmental requirements.

(b) The statement required by Subsection (a) must be placed in the applicant signature box or, if the application does not have an applicant signature box, on the last line above the applicant signature line, and in bold typeface that is at least as large as any other typeface appearing in the general instructions relating to the application.

(c) The comptroller shall revise the statement required by Subsection (a) as necessary to reflect any change in the Internet address that provides the listing of links.

Added by Acts 2009, 81st Leg., R.S., Ch. 302 (H.B. 422), Sec. 1, eff. June 19, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 147 (H.B. 328), Sec. 1, eff. September 1, 2011.

Sec. 111.0046. PERMIT OR LICENSE. (a) The comptroller shall refuse to issue or renew any permit or license to a person who:

(1) is not permitted or licensed as required by law for a different tax or activity administered by the comptroller, except if the issuance or renewal of such license or permit is pending before the comptroller; or

(2) is currently delinquent in the payment of any tax collected by the comptroller.

(b) The comptroller by rule may establish a minimum age for a person to be eligible to apply for a permit or license issued by the comptroller.

Added by Acts 1985, 69th Leg., ch. 59, Sec. 1, eff. April 30, 1985.
Amended by Acts 2003, 78th Leg., ch. 209, Sec. 13, eff. Oct. 1, 2003.

Sec. 111.0047. SUSPENSION AND REVOCATION OF PERMIT OR LICENSE. (a) If a person fails to comply with any provision of this title or with a rule of the comptroller adopted under this title, the comptroller, after a hearing, may revoke or suspend any permit or license issued to the person.

(b) A person whose permit or license the comptroller proposes to revoke or suspend under this section is entitled to 20 days' written notice of the time and place of the hearing on the revocation or suspension. At the hearing the person must show cause why each permit or license should not be suspended or revoked.

(c) The comptroller shall give written notice of the revocation or suspension of a permit or license to the holder of the permit or license.

(d) Notices under this section may be served on the holder of the permit or license personally or may be mailed to the holder's address as shown in the records of the comptroller.

Added by Acts 1985, 69th Leg., ch. 59, Sec. 1, eff. April 30, 1985. Amended by Acts 1989, 71st Leg., ch. 238, Sec. 42, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., 1st C.S., ch. 6, Sec. 7; Acts 1993, 73rd Leg., ch. 107, Sec. 4.08, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 284, Sec. 32, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1040, Sec. 2, eff. Sept. 1, 1997.

Sec. 111.0048. REISSUED OR NEW PERMIT OR LICENSE AFTER REVOCATION OR SUSPENSION. (a) A new permit or license may not be issued to a former holder of a revoked permit or license unless the comptroller is satisfied that the person will comply with the provisions of this title and the rules of the comptroller relating to this title.

(b) The comptroller may prescribe the terms under which a suspended permit or license may be reissued.

Added by Acts 1985, 69th Leg., ch. 59, Sec. 1, eff. April 30, 1985. Amended by Acts 1989, 71st Leg., ch. 238, Sec. 43, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., 1st C.S., ch. 6, Sec. 8; Acts 1993, 73rd Leg., ch. 107, Sec. 4.09, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 284, Sec. 33, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1040, Sec. 3, eff. Sept. 1, 1997.

Sec. 111.0049. APPEALS. A taxpayer may appeal the revocation or suspension of a permit or license under Section 111.0046 and 111.0047 of this code in the same manner that appeals are made from a final deficiency determination.

Added by Acts 1985, 69th Leg., ch. 59, Sec. 1, eff. April 30, 1985.

Sec. 111.005. GOVERNMENTAL ENTITIES TO COOPERATE. Each department, officer, and employee of the state or of a local governmental entity shall cooperate with and give reasonable assistance and information to the comptroller when performing authorized duties.

Acts 1981, 67th Leg., p. 1502, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.006. CONFIDENTIALITY OF INFORMATION. (a) The following matter is confidential and may not be used publicly, opened to public inspection, or disclosed except as permitted by this section:

(1) a federal tax return or federal tax return information required to have been submitted to the comptroller with a state tax return or report; and

(2) all information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income, profits, losses, or expenditures of the taxpayer.

(b) All information made confidential in this title may not be subject to subpoena directed to the comptroller or the attorney general except in a judicial or an administrative proceeding in which this state, another state, or the federal government is a party.

(c) The comptroller or the attorney general may:

(1) use information or records made confidential by this title to enforce:

(A) this title; or

(B) the criminal laws of this state or the United States; or

(2) authorize the use of information or records made

confidential by this title in a judicial or an administrative proceeding in which this state, another state, or the federal government is a party.

(d) The comptroller or the attorney general may disclose to a municipality or county the information described by Subsection (a)(2) if:

(1) the information was derived from an examination performed for the purpose of ascertaining compliance with the hotel occupancy tax imposed under Chapter 156;

(2) the municipality or county makes a written request for the information;

(3) the municipality or county making the request has imposed a local hotel occupancy tax authorized by Chapter 351 or 352, as applicable;

(4) the municipality or county uses the information only for the enforcement or administration of its local hotel occupancy tax; and

(5) to the extent consistent with the use authorized by Subdivision (4), the municipality or county keeps the information confidential as provided by this section.

(e) Information made confidential in this title may be examined by a state officer, a law enforcement officer of this state, a tax official of another state, a tax official of the United Mexican States, an official of the United States, or an authorized representative of any of these officers or officials, if:

(1) the comptroller authorizes the examination; and

(2) for an official or officer of another state, the United States, or the United Mexican States, a reciprocal agreement exists allowing the comptroller to examine tax information under the control of the officer or official in a manner substantially equivalent to the officer's or official's access to information under this subsection.

(f) Subsection (a)(2) does not apply to information obtained by the comptroller or the attorney general during an examination of a governmental body, as that term is defined in Section 552.003, Government Code. However, information obtained by the comptroller or the attorney general during an examination of the governmental body that is confidential under law when in the possession of the governmental body remains confidential while in the possession of the comptroller or the attorney general.

(g) Information made confidential by Subsection (a)(2) that relates to a taxpayer's responsibilities under Chapter 162 may be examined by an official of another state or of the United States if:

(1) the official has information that would assist the comptroller in administering Chapter 162;

(2) the comptroller is conducting or may conduct an examination or a criminal investigation of the taxpayer that is the subject of the information made confidential by Subsection (a)(2); and

(3) a reciprocal agreement exists allowing the comptroller to examine information under the control of the official in a manner substantially equivalent to the official's access to information under this subsection.

(h) The comptroller shall disclose information to a person regarding net sales by quantity, brand, and size that is submitted in a report required under Section 151.462 if:

(1) the person requesting the information holds a permit or license under Chapter 19, 20, 37, 64, or 66, Alcoholic Beverage Code;

(2) the request relates only to information regarding the sale of a product distributed by the person making the request; and

(3) the comptroller determines that the information reported under Section 151.462 or in accordance with rules adopted under Subsection (j) is sufficiently detailed to protect the confidentiality of sales information relating to products not distributed by the person requesting the information.

(i) A disclosure made under Subsection (h) is not considered a disclosure of competitively sensitive, proprietary, or confidential information.

(j) The comptroller may adopt rules to administer this section, including rules requiring a person requesting information under Subsection (h) to file reports on distributions of the person's products made to other persons.

Acts 1981, 67th Leg., p. 1502, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 175, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 351, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 29.10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1218, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 11, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 1, eff. September 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 396, eff. September 1, 2019.

Sec. 111.007. CRIMINAL PENALTIES FOR DISCLOSING FEDERAL TAX INFORMATION. (a) The comptroller, a person who formerly held the office of comptroller, or an employee or former employee of the comptroller commits an offense if he discloses in a manner unauthorized by law a federal tax return or federal tax return information that is required to be submitted to the comptroller by any person.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than $1,000 or by confinement in jail for not more than one year, or by both a fine and confinement.

Acts 1981, 67th Leg., p. 1502, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0075. USE OF INFORMATION RELATING TO TAX AUDITS. (a) This section applies to information that:

(1) relates to a taxpayer that the comptroller is auditing or intends to audit;

(2) is considered public information under Chapter 552, Government Code; and

(3) is made available by the comptroller to a person who requested that information under Chapter 552, Government Code.

(b) A person who obtains information described by Subsection (a) and who is not a taxpayer to whom the information relates may not, before the sixth day after the date the comptroller made the information available to the person, use the information for the direct solicitation of business or employment for pecuniary gain.

(c) If a direct solicitation of business or employment for

pecuniary gain is made by mail or by delivery by common or contract carrier, the postmark or the receipt mark of the common or contract carrier is prima facie evidence of the date the information was used for that solicitation.

(d) A person who violates this section is subject to a civil penalty of not more than:

(1) $500 for the first violation;

(2) $1,000 for the second violation; and

(3) $3,000 for each subsequent violation.

(e) At the request of the comptroller or the person to whom the solicitation was directed, the attorney general or the appropriate district or county attorney may institute and conduct a suit to collect the penalty authorized by this section and to restrain the person from continuing to violate this section.

(f) The penalty prescribed by this section is in addition to any other penalty provided by law.

Added by Acts 2005, 79th Leg., Ch. 689 (S.B. 263), Sec. 1, eff. September 1, 2005.

Sec. 111.008. DEFICIENCY DETERMINATION. (a) If the comptroller is not satisfied with a tax report or the amount of the tax required to be paid to the state by a person, the comptroller may compute and determine the amount of tax to be paid from information contained in the report or from any other information available to the comptroller.

(b) On making a determination under this section, the comptroller shall notify the person against whom a determination is made of the determination. The notice may be given by mail or by personal service.

(c) If the notice is given by mail, it shall be addressed to the taxpayer or other person at the taxpayer's address as it appears in the records of the comptroller. Service by mail is complete when the notice is deposited in a U.S. Post Office.

Acts 1981, 67th Leg., p. 1502, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.0081. WHEN PAYMENT IS REQUIRED. (a) Except as provided in Subsections (b) and (c) of this section, the amount of a

determination made under this code is due and payable 10 days after it becomes final. If the amount of the determination is not paid within 10 days after the day it became final, a penalty of 10 percent of the amount of the determination, exclusive of penalties and interest, shall be added.

(b) This section does not apply to a determination under Section 111.022.

(c) The amount of a determination made under this code is due and payable 20 days after a comptroller's decision in a redetermination hearing becomes final. If the amount of the determination is not paid within 20 days after the day the decision became final, a penalty of 10 percent of the amount of the determination, exclusive of penalties and interest, shall be added.

Added by Acts 1985, 69th Leg., ch. 37, Sec. 9, eff. Aug. 26, 1985. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 8, eff. Sept. 1, 2001.

Sec. 111.009. REDETERMINATION. (a) A person having a direct interest in a determination may petition the comptroller for a redetermination.

(b) A petition for redetermination must be filed before the expiration of 60 days after the date the notice of determination is issued or the redetermination is barred. If a petition for redetermination is not filed before the expiration of the period provided by this subsection, the determination is final on the expiration of the period.

(c) If the petition requests a hearing on the redetermination, the person filing the petition is entitled to a hearing and to receive notice of the hearing at least 20 days before the day of the hearing.

(d) An order or decision of the comptroller on a petition for redetermination becomes final at the time a decision or order in a contested case is final under Chapter 2001, Government Code.

(e) A taxpayer who is dissatisfied with the decision on a motion for redetermination is entitled to file a motion for rehearing in the time provided by Chapter 2001, Government Code, for filing a motion for rehearing in a contested case.

Acts 1981, 67th Leg., p. 1503, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 2, eff. Sept. 1, 1991.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 730 (S.B. 1095), Sec. 1, eff. September 1, 2017.

Sec. 111.010. SUIT TO RECOVER TAXES. (a) The attorney general shall bring suit in the name of the state to recover delinquent state taxes, tax penalties, and interest owed to the state.

(b) This section applies to state taxes imposed by this title or by other laws not included in this title but does not apply to the state ad valorem tax on property.

(c) Venue for and jurisdiction of a suit arising under this section is exclusively conferred upon the district courts of Travis County.

(d) The state is entitled to interest at the rate of 10 percent a year on the amount of a judgment for the state beginning on the day the judgment is signed and ending on the day the judgment is satisfied.

Acts 1981, 67th Leg., p. 1503, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1983, 68th Leg., p. 519, ch. 107, Sec. 2, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 705, Sec. 3, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 1, eff. Oct. 1, 1995.

Sec. 111.0102. SUIT CHALLENGING COLLECTION ACTION. Venue for and jurisdiction of a suit that challenges or is for the purpose of avoiding a comptroller collection action or state tax lien in any manner is exclusively conferred on the district courts of Travis County.

Added by Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 1, eff. June 15, 2007.

Sec. 111.011. TAX COLLECTIONS AND REPORTS BY BUSINESSES; ENFORCEMENT OF DUTIES. (a) If a person engaged in a business the operation of which involves the receipt, collection, or withholding of a tax imposed by this title fails to file a report or pay the tax as required by this title, the attorney general may bring suit for an

injunction prohibiting the person from continuing in that business until the report is filed and the tax is paid.

(b) If a person engaged in business the operation of which involves the receipt, collection, or withholding of a tax imposed by this title receives, collects, or withholds more tax than is authorized by law to be received, collected, or withheld or if the person receives, collects, or withholds money from any other person under a claim or representation that the receipt, collection, or withholding is a tax imposed by this title or other law and the amount received, collected, or withheld is not a tax authorized by law, and the person does not voluntarily comply with the notice set forth in Subsection (c) herein, the attorney general shall bring suit for an injunction prohibiting the person from the wrongful receipt, collection, or withholding of the tax or alleged tax.

(c) Prior to filing suit for an injunction, the attorney general shall send written notice by certified mail requesting that the person shall cease any wrongful collections of taxes allowing 15 days for compliance from the date of notice.

(d) The venue for a suit under this section is in Travis County.

Acts 1981, 67th Leg., p. 1503, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1985, 69th Leg., ch. 177, Sec. 1, eff. Sept. 1, 1985.

Sec. 111.012. SECURITY FOR THE PAYMENT OF TAXES. (a) If the comptroller finds that a tax imposed by this title is insecure, the comptroller may require a taxpayer to:

(1) provide security for the payment of taxes; or

(2) establish a tax escrow account at a bank or other financial institution.

(b) The security may consist of:

(1) a cash deposit filed with the comptroller;

(2) a surety bond; or

(3) other security as permitted by the comptroller.

(c) The amount and form of the security shall be set by the comptroller, except that the amount may not be more than double the amount of taxes that the comptroller estimates will be due from the taxpayer during the succeeding 12 months.

(d) The comptroller shall give notice to a taxpayer from whom

security or the establishment of a tax escrow account is required under this section.

(e) The tax escrow account must be established not later than the 10th day after the date notice is received from the comptroller requiring the establishment of the account.

(f) Before the comptroller requires a taxpayer to establish a tax escrow account, the comptroller must determine that:

(1) the taxpayer remitted or should have remitted a monthly average of $500 or more in tax collected from customers for the six-month period preceding the date that the notice requiring the establishment of a tax escrow account is sent by the comptroller to the taxpayer; and

(2) the taxpayer:

(A) failed to file two or more tax returns during the 12 months preceding the date that the notice requiring the establishment of a tax escrow account is sent by the comptroller to the taxpayer;

(B) has been issued a jeopardy determination under Section 111.022;

(C) has previously been determined to have collected tax but not remitted that tax under an administrative hearings decision issued by the comptroller;

(D) is insolvent because the taxpayer's liabilities exceed the taxpayer's assets or the taxpayer is unable to pay the taxpayer's debts as they become due;

(E) has assets that are subject to a court administered receivership; or

(F) has been notified that security is required under this section but has failed to provide evidence of the security on or before the 30th day after the date the security was requested.

(g) If a taxpayer does not furnish security to the comptroller or establish a tax escrow account as required by the comptroller before the expiration of 10 days following the day on which notice is received, the comptroller may:

(1) bring suit in a district court in Travis County for an order enjoining the taxpayer from engaging in business until the security is furnished or the tax escrow account is established; or

(2) pursue any other remedies or collection actions available to the comptroller under this chapter or Chapter 113 to ensure the security is furnished or the tax escrow account is

established.

Acts 1981, 67th Leg., p. 1503, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 483, Sec. 1, eff. Sept. 1, 1991;
Acts 2003, 78th Leg., ch. 209, Sec. 14, eff. Oct. 1, 2003.

Sec. 111.013. EVIDENCE: TAX CLAIMS. (a) In a suit involving the establishment or collection of a tax imposed under Title 2 or 3 of this code, a certificate of the comptroller that shows a delinquency is prima facie evidence of:

(1) the stated tax or amount of the tax, after all just and lawful offsets, payments, and credits have been allowed;

(2) the stated amount of penalties and interest;

(3) the delinquency of the amounts; and

(4) the compliance of the comptroller with the applicable provisions of this code in computing and determining the amount due.

(b) The defendant may not deny a claim for taxes, penalties, or interest unless the defendant timely files a sworn written denial that specifically identifies the taxes, penalties, and interest the defendant asserts are not due and the amounts of tax, penalties, and interest that are not due.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 4, eff. Sept. 1, 1991.

Sec. 111.014. EVIDENCE: COPIES OF GRAPHIC MATTER. (a) A copy of graphic matter is admissible, without further proof, in a judicial or administrative proceeding concerning the administration or enforcement of a tax imposed by this title if:

(1) the copy or information contained in the copy is relevant;

(2) the copy is a reproduction made by a photographic, photostatic, magnetic, or other process that accurately duplicates or forms a durable medium for accurately reproducing the original matter or information contained in the original matter; and

(3) the graphic matter was kept or recorded by the comptroller in the performance of official functions.

(b) "Graphic matter" means a memorandum, entry, report, or other document, a record of information contained in a memorandum,

entry, report, or other document, or a record of an action taken by the comptroller.

(c) The admissibility of a copy of graphic matter as allowed under this section does not affect the admissibility of the original matter or other competent evidence offered to show the incorrectness of the copy or of information reflected in the copy.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.015. REMEDIES CUMULATIVE. The rights, powers, remedies, liens, and penalties provided by this title are cumulative of other rights, powers, remedies, liens, and penalties for the collection of taxes provided by this title and by other law.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.016. PAYMENT TO THE STATE OF TAX COLLECTIONS. (a) Any person who receives or collects a tax or any money represented to be a tax from another person holds the amount so collected in trust for the benefit of the state and is liable to the state for the full amount collected plus any accrued penalties and interest on the amount collected.

(a-1) A person is presumed to have received or collected a tax or money represented to be a tax for the purpose of this section if the person files, or causes to be filed, a tax return or report with the comptroller showing tax due. A person, including a person who is on the accrual method of accounting, may rebut this presumption by providing satisfactory documentation to the comptroller that the tax on a transaction or series of transactions was not collected. The documentation is subject to verification by the comptroller.

(a-2) A retailer who advertises, holds out, or states that the retailer will pay the tax as provided by Section 151.704(b) and makes a sale of a taxable item:

(1) is presumed to have received or collected the amount of the taxes imposed by Chapter 151 on the sale or storage, use, or consumption in this state of the taxable item;

(2) shall hold the amount described by Subdivision (1) in trust for the benefit of the state; and

(3) is liable to the state for the amount described by

Subdivision (1) plus any accrued penalties and interest on the amount.

(b) With respect to tax or other money subject to the provisions of Subsection (a) or (a-2), an individual who controls or supervises the collection of tax or money from another person, or an individual who controls or supervises the accounting for and paying over of the tax or money, and who wilfully fails to pay or cause to be paid the tax or money is liable as a responsible individual for an amount equal to the tax or money not paid or caused to be paid. The liability imposed by this subsection is in addition to any other penalty provided by law. The dissolution of a corporation, association, limited liability company, or partnership does not affect a responsible individual's liability under this subsection.

(b-1) Notwithstanding any other provision of this title, if the tax liability of a corporation, association, limited liability company, limited partnership, or other legal entity with which the responsible individual was employed or associated has either not become final, is subject to tolling of limitations under Section 111.207, or is the subject of a federal bankruptcy proceeding, the statute of limitations relating to the period during which the individual may be personally assessed by the comptroller is stayed until the first anniversary of the date the liability becomes final or the date the bankruptcy proceeding is closed or dismissed.

(c) The district courts of Travis County have exclusive, original jurisdiction of a suit arising under this section.

(d) In this section:

(1) "Responsible individual" includes an officer, manager, director, or employee of a corporation, association, or limited liability company or a member of a partnership who, as an officer, manager, director, employee, or member, is under a duty to perform an act with respect to the collection, accounting, or payment of a tax or money subject to the provisions of Subsection (a).

(2) "Tax" includes any tax or money subject to the provisions of Subsection (a), including the penalty and interest computed by reference to the amount of the tax or money.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 1, eff. July 21, 1987; Acts 1995, 74th Leg., ch. 87, Sec. 1, eff. Sept. 1, 1995. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 2, eff. June 15, 2007.

Acts 2019, 86th Leg., R.S., Ch. 1119 (H.B. 2358), Sec. 1, eff. October 1, 2019.

Sec. 111.017. SEIZURE AND SALE OF PROPERTY. (a) Before the expiration of three years after a person becomes delinquent in the payment of any amount under this title, the comptroller may seize and sell at public auction real and personal property of the person. A seizure made to collect the tax is limited only to property of the person that is not exempt from execution. Service or delivery of a notice of seizure under this section affecting property held by a financial institution in the name of or on behalf of a delinquent who is a customer of the financial institution is governed by Section 59.008, Finance Code.

(b) A person commits an offense if the person obstructs, hinders, impedes, or interferes with the comptroller's seizure of the property of a delinquent taxpayer in the following ways:

(1) trespassing on the property of a business or a business location that has been seized by the comptroller without the permission of the comptroller or the comptroller's agents;

(2) removing or breaking a lock on a business or business location that has been seized by the comptroller without the permission of the comptroller or the comptroller's agents;

(3) removing or causing to be removed any inventory, equipment, or other property from a business or business location seized by the comptroller without the permission of the comptroller or the comptroller's agents;

(4) damaging, destroying, or defacing any inventory, equipment, or property or the business location of a delinquent taxpayer while it is under seizure by the comptroller; or

(5) knowingly obstructing, hindering, or impeding the comptroller or the comptroller's agents in the seizure or securing of a delinquent taxpayer's property, including the taxpayer's business location, inventory, or equipment, under this section.

(c) An offense under Subsection (b) is a Class A misdemeanor.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 2, eff. July 21, 1987. Amended by Acts 1999, 76th Leg., ch. 344, Sec. 7.008, eff.

Sept. 1, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 3, eff. June 15, 2007.

Sec. 111.018. NOTICE OF SALE OF SEIZED PROPERTY. (a) The delinquent person whose property is seized under Section 111.017 of this code is entitled to written notice of the sale of the property at least 20 days before the date of the sale.

(b) The notice must:

(1) contain a description of the property to be sold, a statement of the amount of the tax, penalties, interest, and costs due, the name of the delinquent person, and a statement that unless the amount due, including costs, is paid before the time of the sale as stated in the notice the described property, or as much of it as necessary, will be sold;

(2) be enclosed in an envelope that is addressed to the delinquent person at the person's last known address or place of business;

(3) be deposited in the United States mail, postage prepaid; and

(4) be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the seized property is to be sold, or, if there is no newspaper of general circulation in that county, the notice must be posted in three public places in that county for 20 days before the date set for the sale.

(c) Publication in a newspaper of a notice of sale of seized property under Subsection (b)(4) is not required if the estimated value of the property to be sold is less than $40,000. The comptroller may notify potential buyers of seized property the value of which is estimated to be less than $40,000 by any means reasonable and cost-effective to the state under the circumstances.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 3, eff. July 21, 1987. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 5, eff. Sept. 1, 1997.

Sec. 111.019. SALE OF SEIZED PROPERTY; DISPOSITION OF PROCEEDS. (a) The comptroller may sell at public auction, as provided in the notice, property seized under Section 111.017 of this code and may deliver to the purchaser a bill of sale for personal property sold and a deed for real property sold. A bill of sale or a deed vests in the purchaser the interest or title in the property held by the person liable for the amount.

(b) The comptroller may leave unsold property at the place of the sale at the risk of the person liable for the amount.

(c) The amount by which the proceeds from the sale exceed the amount of taxes, penalties, interest, and costs shall be disposed of by the comptroller as follows:

(1) if before the sale of the property a person who is not the person liable for the amount and who has an interest in or lien on the property files notice of the interest or lien with the comptroller, the comptroller shall hold the amount of the excess pending a determination of the rights of respective parties in the amount of the excess by a court;

(2) if no notice is given under Subdivision (1) of this subsection and the person liable for the amount gives a receipt for the amount of the excess, the comptroller shall return the amount of the excess to the person; or

(3) if no notice is given under Subdivision (1) of this subsection and the comptroller is unable to obtain a receipt under Subdivision (2) of this subsection, the comptroller shall hold the amount as trustee for the owner subject to the order of the person liable for the amount or a successor of the person.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 4, eff. July 21, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.03, eff. Sept. 1, 1997.

Sec. 111.020. TAX COLLECTION ON TERMINATION OF BUSINESS. (a) If a person who is liable for the payment of an amount under this title sells the business or the stock of goods of the business or quits the business, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the comptroller showing that the amount has been paid or a certificate

stating that no amount is due.

(b) The purchaser of a business or stock of goods who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a business may request that the comptroller issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The comptroller shall issue the certificate or statement within 60 days after receiving the request or within 60 days after the day on which the records of the former owner of the business are made available for audit, whichever period expires later, but in either event the comptroller shall issue the certificate or statement within 90 days after the date of receiving the request.

(d) If the comptroller fails to mail the certificate or statement within the applicable period provided by Subsection (c) of this section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

(e) A period of limitation during which the obligation of a purchaser under this section may be enforced begins when the former owner of the business sells the business or stock of goods or when a determination is made against the former owner, whichever event occurs later.

(f) Compliance with Subsection (a) is not a defense to an assessment of tax liability under Section 111.024 if:

(1) the amount withheld from the purchase price is not sufficient to fully satisfy the liability of the seller of the business or stock of goods; and

(2) the purchase price paid to the seller for the business or stock of goods is not reasonably equivalent to the value of the business or stock of goods.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 5, eff. July 21, 1987. Amended by Acts 2001, 77th Leg., ch. 442, Sec. 3, eff. Sept. 1, 2001.

Sec. 111.021. NOTICE TO HOLDERS OF AND LEVY UPON ASSETS BELONGING TO DELINQUENT. (a) If a person is delinquent in the payment of an amount required to be paid or has not paid an amount

claimed in a determination made against the person, the comptroller may notify personally, by mail, or by means of facsimile or electronic transmission any other person who:

(1) possesses or controls a credit, bank or savings account, deposit, or other intangible or personal property belonging to the delinquent or the person against whom the unpaid determination is made, hereafter referred to as "assets"; or

(2) owes a debt to the delinquent or person against whom the unpaid determination is made.

(b) A notice under this section to a state officer, department, or agency must be given before the officer, department, or agency presents to the comptroller the claim of the delinquent or person to whom the unpaid determination applies.

(c) A notice under this section may be given at any time within three years after the payment becomes delinquent or within three years after the last recording of a lien filed under this title, but not thereafter. The notice must state the amount of taxes, penalties and interest due and owing, and an additional amount of penalties and interest that will accrue by operation of law in a period not to exceed 30 days and, in the case of a credit, bank or savings account or deposit, is effective only up to that amount.

(d) On receipt of a notice given under this section, the person receiving the notice:

(1) within 20 days after receiving the notice shall advise the comptroller of each such asset belonging to the delinquent or person to whom an unpaid determination applies that is possessed or controlled by the person receiving the notice and of each debt owed by the person receiving the notice to the delinquent person or person to whom an unpaid determination applies;

(2) may not transfer or dispose of the asset or debt possessed, controlled, or owed by the person at the time the person received the notice for a period of 60 days after receipt of the notice, unless the comptroller consents to an earlier disposal; and

(3) may not avoid or attempt to avoid compliance with this section by filing an interpleader action in court and depositing the delinquent's or person's funds or other assets into the registry of the court.

(e) A notice under this section that attempts to prohibit the transfer or disposal of an asset possessed or controlled by a bank or other financial institution is governed by Section 59.008, Finance

Code, and also is effective if it is delivered or mailed to the principal or any branch office of the bank or other financial institution including any office of the bank or other financial institution at which the deposit is carried or the credit or property is held.

(f) A person who has received a notice under this section and who violates Subdivision (2) of Subsection (d) of this section is liable to the state for the amount of indebtedness of the person with respect to whose obligation the notice was given to the extent of the value of the asset or debt transferred or disposed of.

(f-1) A person who fails or refuses to comply with this section after receiving a notice of freeze or levy is liable for a penalty in an amount equal to 50 percent of the amount sought to be frozen or levied. This penalty is in addition to the liability imposed under Subsection (f). The penalty may be assessed and collected by the comptroller using any remedy available to collect other amounts under this title.

(g) At any time during the 60-day period as stated in Subdivision (2) of Subsection (d) of this section, the comptroller may levy upon the asset or debt. The levy shall be accomplished by delivery of a notice of levy, upon receipt of which the person possessing the asset or debt shall transfer the asset to the comptroller or pay to the comptroller the amount owed to the delinquent or to the person against whom the unpaid determination is made.

(h) A notice delivered under this section is effective:

(1) at the time of delivery against all property, rights to property, credits, and/or debts involving the delinquent taxpayer which are not at the time of the notice subject to an attachment, garnishment, or execution issued through a judicial process; and

(2) against all property, rights to property, credits and/or debts involving the delinquent taxpayer that come into the possession or control of the person served with the notice within the 60-day period provided by Subdivision (2) of Subsection (d) of this section.

(i) Any person acting in accordance with the terms of the notice of freeze or levy issued by the comptroller is discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property, credits, and/or debts of the taxpayer affected by compliance with the notice of freeze or levy.

(j) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1255 , Sec. 36(3), eff. September 1, 2015.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 6, eff. July 21, 1987. Amended by Acts 1993, 73rd Leg., ch. 362, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 486, Sec. 1.03, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 344, Sec. 7.009, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 442, Sec. 4, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 4, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 36(3), eff. September 1, 2015.

Sec. 111.022. JEOPARDY DETERMINATION. (a) If the comptroller believes that the collection of a tax required to be paid to the state or the amount due for a tax period is jeopardized by delay, the comptroller shall issue a determination stating the amount and that the tax collection is in jeopardy. The amount required to be paid to the state or due for the tax period is due and payable immediately.

(b) A determination made under this section becomes final on the expiration of 20 days after the day on which the notice of the determination was served by personal service or by mail unless a petition for a redetermination is filed before the determination becomes final.

(c) If a determination made under this section becomes final without payment of the amount of the determination being made, the comptroller shall add to the amount a penalty of 10 percent of the amount of the tax and interest.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 7, eff. July 21, 1987. Amended by Acts 2001, 77th Leg., ch. 442, Sec. 5, eff. Sept. 1, 2001.

Sec. 111.023. WRITTEN AUTHORIZATION. (a) The comptroller may require that a report, return, declaration, claim for refund, or other document that is required or permitted to be filed with the comptroller and that is submitted by an attorney, accountant, or other representative of a taxpayer on behalf of the taxpayer be

accompanied by express written authorization of the taxpayer in whose name or on whose behalf it is purportedly submitted.

(b) An officer, director, or employee of the taxpayer whose duties include administering the taxpayer's rights and responsibilities with the comptroller may sign the written authorization. The authorization must include the title and telephone number of the officer, director, or employee who signs the authorization for verification by the comptroller.

(c) The comptroller may impose a requirement of Subsection (b) on a taxpayer's assignment of a claim for refund.

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 4, eff. Sept. 1, 1993. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.12, eff. Oct. 1, 1999.

Sec. 111.024. LIABILITY IN FRAUDULENT TRANSFERS. (a) A person who acquires a business or the assets of a business from a taxpayer through a fraudulent transfer or a sham transaction is liable for any tax, penalty, and interest owed by the taxpayer.

(b) A transfer of a business or the assets of a business is considered to be a fraudulent transfer or a sham transaction if the taxpayer made the transfer or undertook the transaction:

(1) with intent to evade, hinder, delay, or prevent the collection of any tax, penalty, or interest owed under this title; or

(2) without receiving a reasonably equivalent value in exchange for the business or business assets subject to the transfer or transaction.

(c) In determining the intent of the taxpayer under Subsection (b)(1), consideration may be given, among other factors, to whether:

(1) the transfer was to a current or former business insider, associate, or employee of the taxpayer or to a person related to the taxpayer within the third degree of consanguinity by blood or marriage;

(2) the transfer was to a third party who subsequently transferred the business or assets of the business to a current or former business insider, associate, or employee of the taxpayer or to a person related to the taxpayer within the third degree of consanguinity by blood or marriage;

(3) the taxpayer retained possession or control of the business or the assets of the business after the transfer or transaction;

(4) the taxpayer's business and the transferee's business are essentially operated as a single business entity at the same location;

(5) before the transfer or the transaction occurred, the taxpayer had either been subjected to or apprised of impending collection action by the comptroller or by the attorney general;

(6) the transfer or transaction was concealed;

(7) the taxpayer was insolvent at the time of the transfer or became insolvent not later than the 31st day after the date the transfer or transaction occurred; or

(8) the transfer or transaction involved all or substantially all of the taxpayer's assets.

(d) This section does not apply to a transfer of a business or the assets of a business:

(1) through a court order on dissolution of a marriage; or

(2) by descent or distribution or testate succession on the death of a taxpayer.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 6, eff. Sept. 1, 2001.

SUBCHAPTER B. TAX REPORTS AND PAYMENTS

Sec. 111.051. REPORTS AND PAYMENTS; DUE DATES; METHOD OF PAYMENT. (a) The comptroller may set the date for filing a report for and making a payment of a tax imposed by this title.

(b) A date set by the comptroller under this section prevails over a different date prescribed by this title for the filing of a report for or the payment of a tax, except that the comptroller may only set a report or payment date for the state sales and use tax that conflicts with the dates prescribed by Chapter 151 of this code in case of public calamity or natural disaster.

(c) The comptroller may require that all payments from a taxpayer who files tax reports monthly and remits three or more dishonored or insufficient funds checks or drafts within a six-month period be remitted using certified instruments. The comptroller may require that all payments from a taxpayer who files tax reports quarterly and remits three or more dishonored or insufficient funds

checks or drafts within an 18-month period be remitted by using certified instruments. In this subsection, "certified instruments" includes cashier's checks and money orders. The comptroller shall send written notice of a payment restriction under this subsection to the taxpayer at the business address shown on the comptroller's records. A failure to remit a payment by a certified instrument after imposition of the payment restriction by the comptroller is grounds for the suspension and revocation of a permit or license as provided by Section 111.0047 of this code.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 799, Sec. 1, eff. Aug. 26, 1985; Acts 1993, 73rd Leg., ch. 486, Sec. 1.04, eff. Sept. 1, 1993.

Sec. 111.0511. RESTRICTED OR CONDITIONAL PAYMENTS TO COMPTROLLER PROHIBITED. (a) In this section, "taxes" includes the tax and any penalties and interest relating to a tax liability.

(b) Unless the restriction or condition is authorized by this title, a restriction or condition placed on a check or other money instrument in payment of taxes by the maker that purports to limit the amount of taxes owed or place a condition on its acceptance or negotiation is void.

Added by Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 5, eff. June 15, 2007.

Sec. 111.052. FORM OF REPORT. (a) The comptroller may revise the form of a report required under this title to eliminate specific information that may be required by any other provision of this title.

(b) Information that is no longer required because of a revision under Subsection (a) of this section may be required again at any time by the comptroller.

Acts 1981, 67th Leg., p. 1504, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.053. FILING DATES: WEEKENDS AND HOLIDAYS. (a) If the date on which a report or payment of any state tax is due falls

on a Saturday, Sunday, or legal holiday included on the list published for the year under Subsection (b), the next day that is not a Saturday, Sunday, or legal holiday included on that list becomes the due date.

(b) Before January 1 of each year, the comptroller shall publish in the Texas Register and distribute to each state agency that receives reports or payments of any taxes a list of the legal holidays for banking purposes for that year. The comptroller may not include on the list a holiday on which the comptroller determines that most financial institutions will be conducting ordinary business.

(c) An agency that collects a tax for which a due date for a report or payment falls on a legal holiday not included on the list published under Subsection (b) shall ensure that a taxpayer may make a report or payment on that date. The agency may enter into an agreement with the comptroller for the receipt of reports or payments on that date.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 4.03, eff. Dec. 1, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.04, eff. Sept. 1, 1997.

Sec. 111.054. TIMELY FILING: MAIL DELIVERY. (a) If a tax payment or a report is placed in a U.S. Post Office or in the hands of a common or contract carrier properly addressed to the comptroller on or before the date the payment or report is required to be made or filed, the payment or report is made or filed on time.

(b) The receipt mark of a contract or common carrier or the postmark on a tax payment or report is prima facie evidence of the date on which the payment or report was delivered to a carrier or the post office. The comptroller or the person making the payment or filing the report may show by competent evidence that the actual date of delivery to the carrier or post office differs from the receipt mark or postmark.

(c) The comptroller may refund or issue credits for penalties and interest paid solely as a result of returns or tax payments timely mailed but postmarked after the required filing date.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.055. TIMELY FILING: DILIGENCE. A person who files a report or makes a tax payment complies with the filing requirements for timeliness if the person exercises reasonable diligence to comply and through no fault of the person the report is not filed or the payment is not made on time.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.056. FILING WITHIN 10 DAYS: PENALTY AND INTEREST. If a report is filed or a tax payment is made before the expiration of 10 days after the date on which the report or payment is due and if the report as originally filed shows the correct amount of the tax due or the amount of the payment is for the correct amount due, no assessment for penalty or interest may be made solely on the grounds of late filing after the expiration of 90 days after the date the report was required to be filed or the payment required to be made.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.057. EXTENSION FOR FILING REPORT. (a) The comptroller may grant a reasonable extension of time, not to exceed 45 days, for the filing of a report required by this title.

(b) To qualify for an extension of time under this section, the person required to file a report must make a request for the extension to the comptroller and remit not less than 90 percent of the amount of the tax estimated to be due on or before the filing date as required by other provisions of this title. The request must be in writing and include the reason an extension is needed.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.058. FILING EXTENSION BECAUSE OF NATURAL DISASTER. (a) The comptroller may grant to a person whom the comptroller finds to be a victim of a natural disaster an extension of not more than 90 days to make or file a return or pay a tax imposed by this title.

(b) The person owing the tax may file a request for an

extension at any time before the expiration of 90 days after the original due date.

(c) If an extension under this section is granted, interest on the unpaid tax does not begin to accrue until the day after the day on which the extension expires, and tax penalties are assessed and determined as though the last day of the extension were the original due date.

Acts 1981, 67th Leg., p. 1505, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.059. OATH NOT REQUIRED. A report, return, declaration, claim for refund, or other document required or permitted to be filed with the comptroller is not required to be made or submitted under oath, verification, acknowledgment, or affirmation.

Acts 1981, 67th Leg., p. 1506, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.060. INTEREST ON DELINQUENT TAX. (a) The yearly interest rate on all delinquent taxes imposed by this title is at the rate of 12 percent for report periods originally due on or before December 31, 1999, after which the rate of interest is variable and determined as provided in Subsection (b).

(b) The rate of interest to be charged to the taxpayer is the prime rate plus one percent, as published in The Wall Street Journal on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday.

(c) Except as provided by Subsection (d), delinquent taxes draw interest beginning 60 days after the date due.

(d) Subsection (c) does not apply to the taxes imposed by Chapters 152 and 211 or under an agreement made under Section 162.003.

Acts 1981, 67th Leg., p. 1506, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 450, ch. 93, Sec. 1, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 409, Sec. 69, eff. June 7, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 13.01, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 587, Sec. 5, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 1000, Sec. 2, eff. Oct. 1, 1995; Acts

1999, 76th Leg., ch. 459, Sec. 1, eff. Jan. 1, 2000.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 3, eff. September 1, 2009.

Sec. 111.061. PENALTY ON DELINQUENT TAX OR TAX REPORTS. (a) Except as otherwise provided, a penalty of five percent of the tax due shall be imposed on a person who fails to pay a tax imposed or file a report required by Title 2 or 3 of this code when due, and, if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, an additional five percent penalty shall be imposed.

(b) Except where another penalty for fraud or intent to evade the tax is specifically provided, an additional penalty of 50 percent of the tax due shall be imposed if it is determined that:

(1) the failure to pay the tax or file a report when due was a result of fraud or an intent to evade the tax; or

(2) the taxpayer alters, destroys, or conceals any record, document, or thing, or presents to the comptroller any altered or fraudulent record, document, or thing, or otherwise engages in fraudulent conduct, for the apparent purpose of affecting the course or outcome of an audit, investigation, redetermination, or other proceeding before the comptroller.

(c) The penalties provided by Subsection (b) are intended to be remedial in nature and are provided for the protection of state revenue and to reimburse the state for expenses incurred as a result of fraud, including expenses incurred in conducting an investigation.

Added by Acts 1989, 71st Leg., ch. 231, Sec. 4, eff. Aug. 28, 1989.
Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 6, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 12, eff. September 1, 2011.

Sec. 111.0611. PERSONAL LIABILITY FOR FRAUDULENT TAX EVASION. (a) An officer, manager, or director of a corporation, association, or limited liability company, a partner of a general partnership, or

a managing general partner of a limited partnership or limited liability partnership who, as an officer, manager, director, or partner, took an action or participated in a fraudulent scheme or fraudulent plan to evade the payment of taxes due under Title 2 or 3 is personally liable for the taxes and any penalty and interest due. The personal liability of an individual includes liability for the additional 50 percent fraud penalty provided by Section 111.061(b). The comptroller shall assess individuals liable under this section in the same manner as other persons or entities may be assessed under this chapter.

(b) For purposes of this section, actions that may indicate the existence of a fraudulent scheme or a fraudulent plan to evade the payment of taxes include:

(1) filing, or causing to be filed, a fraudulent tax return or report with the comptroller on behalf of the business entity;

(2) intentionally failing to file a tax return, report, or other required document with the comptroller when the business entity is under a legal obligation to file;

(3) filing, or causing to be filed, a tax return or report with the comptroller on behalf of the business entity that contains an intentionally false statement that results in the amount of the tax due exceeding the amount of tax reported by 25 percent or more; and

(4) altering, destroying, or concealing any record, document, or thing, presenting to the comptroller any altered or fraudulent record, document, or thing, or otherwise engaging in fraudulent conduct with the intent to affect the course or outcome of a comptroller audit or investigation, a redetermination hearing, or another proceeding involving the comptroller.

(c) To the extent the comptroller can verify and secure sufficient unencumbered assets of the corporation, association, or partnership to satisfy the liability, an individual's personal liability under Subsection (a) is limited to the amount by which the total tax, penalty, and interest due under this section exceeds those assets.

Added by Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 6, eff. June 15, 2007.

Sec. 111.062. ACCEPTANCE OF CREDIT CARDS FOR PAYMENT OF CERTAIN TAXES AND FEES. (a) The comptroller may accept a credit card in payment of:

(1) a delinquent tax and related penalties and interest imposed by this code;

(2) a fee charged for:

(A) an account status certificate;

(B) a no tax due certificate;

(C) postage;

(D) a certified copy;

(E) a copy of a document;

(F) a microfilm copy;

(G) written evidence of the comptroller's records;

(H) research;

(I) labor;

(J) a minerals tax history; and

(K) a minerals tax extract; and

(3) any other service fee charged by the comptroller.

(b) If the comptroller accepts a payment by credit card, the comptroller may require the payment of a processing fee by the credit card user.

Added by Acts 1993, 73rd Leg., ch. 449, Sec. 38, eff. Sept. 1, 1993.

Sec. 111.0625. ELECTRONIC TRANSFER OF CERTAIN PAYMENTS. (a) Except as provided by Subsections (b) and (c), the comptroller by rule shall require a taxpayer who paid $100,000 or more during the preceding fiscal year in a category of payments required under this title to transfer payments in that category by means of electronic funds transfer in accordance with Section 404.095, Government Code, if the comptroller reasonably anticipates the person will pay at least that amount during the current fiscal year.

(b) The comptroller by rule shall require a taxpayer who paid $10,000 or more during the preceding fiscal year in the category of payments described by this subsection to transfer payments in that category by means of electronic funds transfer in accordance with Section 404.095, Government Code, if the comptroller reasonably anticipates the person will pay at least that amount during the current fiscal year. This subsection applies only to:

(1) state and local sales and use taxes;
(2) direct payment sales taxes;
(3) gas severance taxes;
(4) oil severance taxes;
(5) franchise taxes;
(6) gasoline taxes;
(7) diesel fuel taxes;
(8) hotel occupancy taxes;
(9) insurance premium taxes;
(10) mixed beverage gross receipts taxes;
(11) motor vehicle rental taxes; and
(12) telecommunications infrastructure fund assessments.

(c) Notwithstanding Subsection (b), if the comptroller determines that the action is necessary to protect the state's interest or the interests of taxpayers, the comptroller by rule may:

(1) apply the requirements of Subsection (b) to a category of payments not listed in Subsection (b); or

(2) remove the requirements of Subsection (b) from a category of payments listed in Subsection (b).

(d) A rule adopted under Subsection (b) or (c) must provide for a waiver from the requirements of that subsection for a taxpayer who cannot comply because of hardship, impracticality, or other reason.

(e) The comptroller by rule may specify the types of electronic funds transfers a person must use to comply with this section. The rule may require a taxpayer to use different types of transfers for different payment amounts.

Added by Acts 2001, 77th Leg., ch. 41, Sec. 1, eff. May 3, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 371 (S.B. 377), Sec. 1, eff. June 15, 2007.

Sec. 111.0626. ELECTRONIC FILING OF CERTAIN REPORTS. (a) The comptroller by rule shall require electronic filing of:

(1) a report required under Chapter 151, 201, or 202, or an international fuel tax agreement, for a taxpayer who is also required under Section 111.0625 to transfer payments by electronic funds transfer; and

(2) a report required under Section 171.204.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 957 , Sec. 2, eff. September 1, 2015.

(b-1) Notwithstanding any other law, the comptroller by rule may require a taxpayer who paid $50,000 or more during the preceding fiscal year to file reports electronically during the current fiscal year. A taxpayer filing a report electronically may use software provided by the comptroller or commercially available software that satisfies requirements prescribed by the comptroller.

(c) A rule adopted under this section must provide for a waiver from the electronic filing requirement for a taxpayer who cannot comply.

Added by Acts 2001, 77th Leg., ch. 41, Sec. 1, eff. May 3, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 371 (S.B. 377), Sec. 2, eff. September 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 957 (S.B. 1364), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 957 (S.B. 1364), Sec. 2, eff. September 1, 2015.

Sec. 111.063. PENALTY FOR FAILURE TO USE ELECTRONIC TRANSFERS AND FILINGS. (a) The comptroller may impose a penalty of five percent of the tax due on a person who:

(1) is required by statute or rule to pay the tax to the comptroller by means of electronic funds transfer and does not pay the tax by means of electronic funds transfer; or

(2) is required under Section 111.0626 to file a report electronically and does not file the report electronically.

(b) The penalties provided by this section are in addition to any other penalty provided by law.

Added by Acts 1995, 74th Leg., ch. 87, Sec. 2, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 41, Sec. 2, eff. May 3, 2001.

Sec. 111.064. INTEREST ON REFUND OR CREDIT. (a) Except as otherwise provided by this section, for a refund under this chapter, interest is at the rate that is the lesser of the annual rate of interest earned on deposits in the state treasury during December of

the previous calendar year, as determined by the comptroller, or the rate set in Section 111.060, and accrues on the amount found to be erroneously paid for a period:

(1) beginning on the later of 60 days after the date of payment or the due date of the tax report; and

(2) ending on, as determined by the comptroller, either the date of allowance of credit on account of the comptroller's final decision or audit or a date not more than 10 days before the date of the refund warrant.

(b) A credit taken by a taxpayer on the taxpayer's return does not accrue interest.

(c) For a refund claimed before September 1, 2005, and granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060.

(c-1) A refund, without regard to the date claimed, for a report period due before January 1, 2000, does not accrue interest.

(d) This section does not apply to an amount paid to the comptroller under Title 6, Property Code, or under an agreement made under Section 162.003.

(e) All warrants for interest payments shall be drawn against the fund or account into which the erroneously paid tax was deposited. The interest shall be paid from funds appropriated for that purpose.

(f) A local revenue fund is not subject to Subsections (a)-(c-1). In this subsection, "local revenue fund" includes a court cost, a fee, a fine, or a similar charge collected by a municipality, a county, or a court of this state and remitted to the comptroller.

Added by Acts 1999, 76th Leg., ch. 459, Sec. 2, eff. Jan. 1, 2000.
Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 90, eff. Oct. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 404 (S.B. 1570), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 11.01, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 4, eff. September 1, 2009.

SUBCHAPTER C. SETTLEMENTS, REFUNDS, AND CREDITS

Sec. 111.101. SETTLEMENT. (a) The comptroller may settle a claim for a tax, penalty, or interest imposed by this title if the total costs of collection, as conclusively determined by the comptroller, of the total amount due would exceed the total amount due.

(b) The comptroller may settle a claim for a refund of tax, penalty, or interest imposed by this title if the total costs of defending a denial of the claim, as conclusively determined by the comptroller, would exceed the total amount claimed.

Acts 1981, 67th Leg., p. 1506, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 3, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 459, Sec. 3, eff. Aug. 30, 1999.

Sec. 111.102. SETTLEMENT ON REDETERMINATION. As a part of a redetermination order, the comptroller may settle a claim for a tax, penalty, or interest imposed by this title if:

(1) collection of the total amount due would make the taxpayer insolvent and the taxpayer has submitted to the comptroller all financial records, including income tax reports and an inventory of all property owned wherever located; or

(2) the taxpayer is insolvent, is in liquidation, or has ceased to do business and:

(A) the taxpayer has no property that may be seized by the courts of this or another state; or

(B) the value of the taxpayer's property is less than the total amount due and the amount of debts against the property.

Acts 1981, 67th Leg., p. 1506, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 459, Sec. 4, eff. Aug. 30, 1999.

Sec. 111.103. SETTLEMENT OF PENALTY AND INTEREST ONLY. (a) The comptroller may settle a claim for a tax penalty or interest on a tax imposed by this title if the taxpayer exercised reasonable diligence to comply with the provisions of this title.

(b) Repealed by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(1), eff. Sept. 1, 1991.

Acts 1981, 67th Leg., p. 1507, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(1), eff. Sept. 1, 1991.

Sec. 111.104. REFUNDS. (a) If the comptroller finds that an amount of tax, penalty, or interest has been unlawfully or erroneously collected, the comptroller shall credit the amount against any other amount when due and payable by the taxpayer from whom the amount was collected. The remainder of the amount, if any, may be refunded to the taxpayer from money appropriated for tax refund purposes.

(b) A tax refund claim may be filed with the comptroller only by the person who directly paid the tax to this state or by the person's attorney, assignee, or other successor.

(c) A claim for a refund must:

(1) be written;

(2) state fully and in detail each reason or ground on which the claim is founded; and

(3) be filed before the expiration of the applicable limitation period as provided by this code or before the expiration of six months after a jeopardy or deficiency determination becomes final, whichever period expires later.

(d) A refund claim for an amount of tax that has been found due in a jeopardy or deficiency determination is limited to the amount of tax, penalty, and interest and to the tax payment period for which the determination was issued. The failure to file a timely tax refund claim is a waiver of any demand against the state for an alleged overpayment.

(e) This section applies to all taxes and license fees collected or administered by the comptroller, except the state property tax.

(f) No taxes, penalties, or interest may be refunded to a person who has collected the taxes from another person unless the person has refunded all the taxes and interest to the person from whom the taxes were collected.

Acts 1981, 67th Leg., p. 1507, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 154, Sec. 2, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 1467, Sec. 2.13, eff. Oct. 1, 1999; Acts

2003, 78th Leg., ch. 1310, Sec. 86, eff. June 20, 2003.

Sec. 111.1042. TAX REFUND: INFORMAL REVIEW. (a) The comptroller may informally review a claim for refund filed in accordance with this title and may grant or deny it, in whole or in part.

(b) An informal review under this section is not a hearing or contested case under Chapter 2001, Government Code.

(c) This section does not impair the right to a hearing on a claim for refund provided in Section 111.105.

(d) If the right to a hearing is not exercised on a full or partial denial of a claim for refund, the period during which the comptroller informally reviewed the claim for refund does not toll the limitation period for any subsequent claim for refund on the same period and type of tax for which the claim for refund was fully or partially denied.

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 6, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1310, Sec. 87, eff. June 20, 2003.

Sec. 111.105. TAX REFUND: HEARING. (a) A person claiming a refund under Section 111.104 is entitled to a hearing on the claim if the person requests a hearing on or before the 60th day after the date the comptroller issues a letter denying the claim for refund. The person is entitled to 20 days' notice of the time and place of the hearing.

(b) A decision or order of the comptroller following a hearing on a claim for a refund becomes final at the time a decision or order in a contested case is final under Chapter 2001, Government Code.

(c) A tax refund claimant who is dissatisfied with the decision on the claim is entitled to file a motion for rehearing in the time provided by Chapter 2001, Government Code, for filing a motion for rehearing in a contested case.

(d) A motion for rehearing on a tax refund claim must be written and assert each specific ground of error. The amount of the refund sought must be set out in the motion for rehearing.

(e) During the administrative hearing process, a person

claiming a refund under Section 111.104 must submit documentation to enable the comptroller to verify the claim for refund. The comptroller may issue a notice of demand that all evidence to support the claim for refund must be produced before the expiration of a specified date in the notice. The specified date in the notice may not be earlier than 180 days after the date the refund is claimed. The comptroller may not consider evidence produced after the specified date in the notice in an administrative hearing. The limitation provided by this subsection does not apply to a judicial proceeding filed in accordance with Chapter 112.

Acts 1981, 67th Leg., p. 1507, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 89, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 705, Sec. 5, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 587, Sec. 7, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 1310, Sec. 88, eff. June 20, 2003.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 730 (S.B. 1095), Sec. 2, eff. September 1, 2017.

Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. (a) Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 162, except Section 162.126(f), 162.128(d), 162.228(f), or 162.230(d).

(b) A person may not refile a refund claim for the same transaction or item, tax type, period, and ground or reason that was previously denied by the comptroller.

Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 2, eff. Sept. 1, 1989;

Acts 1993, 73rd Leg., ch. 587, Sec. 8, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1040, Sec. 7, eff. Oct. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.14, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 1310, Sec. 89, eff. June 20, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 5, eff. September 1, 2009.

Sec. 111.108. RECOVERY OF REFUND OR CREDIT. (a) Within four years after the date that a refund is erroneously paid or an amount of credit is erroneously allowed, the comptroller may recover the refund or credit in a jeopardy or deficiency determination.
(b) This section does not extend or toll a period of limitation under this title for filing a timely claim for a refund.

Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 9, eff. Sept. 1, 1993.

Sec. 111.109. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN. The comptroller shall issue a refund for a tax paid by a person to this state in the amount of a tax refund voucher issued by the Texas Workforce Commission under Subchapter H, Chapter 301, Labor Code, subject to the provisions of that subchapter.

Added by Acts 1993, 73rd Leg., ch. 486, Sec. 4.02, eff. Jan. 1, 1994;
Amended by Acts 1997, 75th Leg., ch. 228, Sec. 3, eff. Sept. 1, 1997.

Sec. 111.110. TAX CREDIT FOR REAL PROPERTY CONTRIBUTED TO AN INSTITUTION OF HIGHER EDUCATION. (a) Subject to the provisions of Subchapter D, Chapter 55, Education Code, the comptroller shall issue a credit to be used by a taxpayer who qualifies for the credit under that subchapter against the payment of a tax imposed on the taxpayer:
(1) for the franchise tax under Chapter 171; or
(2) if the taxpayer holds a direct payment permit for the sales and use tax under Chapter 151, for that tax.
(b) The credit applies to a tax originally due on or after the date the credit is issued but not later than the end of the 20th

calendar year following the calendar year in which the credit was issued.

(c) A taxpayer may not claim a credit issued under this section in a calendar year in an amount greater than five percent of the total credit issued to that taxpayer.

(d) A taxpayer shall include with a return or report showing an amount of tax due against which a taxpayer claims a credit under this section, a statement containing the following information:

(1) the original amount of the credit and its date of issue;

(2) the total amount of the credit previously claimed by the taxpayer;

(3) the amount of credit claimed on the attached return;

(4) the remaining unused credit amount; and

(5) the calendar year in which the credit expires.

(e) The comptroller may recover an amount erroneously claimed as a credit in a jeopardy or deficiency determination issued before the fourth anniversary of the date on which the erroneous claim is filed.

Added by Acts 1995, 74th Leg., ch. 1019, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. LIMITATIONS

Sec. 111.201. ASSESSMENT LIMITATION. No tax imposed by this title may be assessed after four years from the date that the tax becomes due and payable.

Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 1.05, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1000, Sec. 4, eff. Oct. 1, 1995.

Sec. 111.202. SUIT LIMITATION. At any time within three years after a deficiency or jeopardy determination has become due and payable or within three years after the last recording of a lien, the comptroller may bring an action in the courts of this state, or any other state, or of the United States in the name of the people of the State of Texas to collect the amount delinquent together with penalties and interest.

Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.203. AGREEMENTS TO EXTEND PERIOD OF LIMITATION. (a) Before the expiration of the periods prescribed in Sections 111.104, 111.201, and 111.202 of this code for the filing of a refund claim or for the assessment and collection of any tax imposed by this title, the comptroller and a taxpayer may agree in writing to the filing of a refund claim or to an assessment and collection after that time. The agreement must contain the reasons the comptroller and the taxpayer wish to extend the period. At any time before the expiration of the period agreed on, the refund may be made, the tax may be assessed and collected, or an action may be commenced in any court to collect the amount delinquent.

(b) The extended period agreed on under Subsection (a) of this section may be extended by subsequent agreements made before the expiration of the extended period. All subsequent agreements must set forth the reasons for extending the period.

(c) No single extension agreement may be for a period of more than 24 months from the expiration date of the period being extended.

(d) The period for filing a refund claim or for assessment and collection of a tax may be extended if:

(1) without an extension, there might occur a revenue loss to the state;

(2) either the taxpayer or the comptroller, despite good faith efforts, requires more time to prepare for or complete the audit;

(3) without an extension, circumstances beyond the control of either the comptroller or the taxpayer would make an audit by the comptroller impractical or burdensome for either party; or

(4) an issue of law involved in the audit is awaiting determination in either litigation or an administrative proceeding.

(e) If, during an extended period agreed on under Subsection (a) of this section, the comptroller finds that an amount of tax, penalty, or interest has been unlawfully or erroneously collected, the comptroller shall credit the amount against any other amount then due and payable by the taxpayer from whom the amount was collected. The remainder of the amount if any may be refunded to the taxpayer.

Acts 1981, 67th Leg., p. 1508, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 458, ch. 94, Sec. 1, 2, eff. May 10, 1983.

Sec. 111.204. BEGINNING OF PERIOD OF LIMITATION. In determining the beginning date for a period of limitation provided in this title, the date that a tax is due and payable is the day after the last day on which a payment is required by the chapter of this title imposing the tax.

Acts 1981, 67th Leg., p. 1509, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.205. EXCEPTION TO ASSESSMENT LIMITATION. (a) The limitation provided by Section 111.201 of this code does not apply and the comptroller may assess a tax imposed by this title at any time if:

(1) with intent to evade the tax, the taxpayer files a false or fraudulent report;

(2) no report for the tax has been filed; or

(3) information contained in the report of the tax contains a gross error.

(b) In this section, "gross" error means that, after correction of the error, the amount of tax due and payable exceeds the amount initially reported by at least 25 percent.

Acts 1981, 67th Leg., p. 1509, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 459, ch. 94, Sec. 4, eff. May 10, 1983; Acts 1993, 73rd Leg., ch. 587, Sec. 10, eff. Sept. 1, 1993.

Sec. 111.2051. ASSESSMENT WHEN REFUND CLAIMED. (a) Notwithstanding the expiration of any period of limitation provided under this title, the comptroller may assess a tax imposed by this title if a taxpayer files a timely claim for refund with the comptroller.

(b) An assessment authorized by this section is limited to the tax payment period and type of tax for which the refund is sought and must be made before the later of:

(1) four years after the date the refund claim is filed with the comptroller; or

(2) the expiration of the applicable limitation period for making assessments as otherwise provided by this title.

(c) This section extends only the time in which the comptroller may assess the tax and does not extend or toll a period of limitation under this title for filing a timely claim for refund.

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 11, eff. Sept. 1, 1993.

Sec. 111.206. EXCEPTION TO LIMITATION: DETERMINATION RESULTING FROM ADMINISTRATIVE PROCEEDING. (a) This section applies only to a final determination resulting from:

(1) an administrative proceeding of a local, state, or federal regulatory agency; or

(2) a judicial proceeding arising from an administrative proceeding of a local, state, or federal regulatory agency.

(b) A final determination that affects the amount of liability of a tax imposed by this title shall be reported to the comptroller before the expiration of 120 days after the day on which the determination becomes final. The report must include a detailed statement of the reasons for the difference in tax liability as required by the comptroller.

(c) Notwithstanding the expiration of a period of limitation provided in this title, the comptroller may assess and collect or bring suit for the collection of any tax deficiency, including penalties and interest, resulting from a final determination at any time before the expiration of one year after:

(1) the later of the day the report is required to be filed as provided by Subsection (b) or the day the report is received; or

(2) the day the final determination is discovered, if a report is not filed.

(d) If a final determination results in the taxpayer having overpaid the amount of tax due the state, the taxpayer may file a claim for refund with the comptroller for the amount of the overpayment before the first anniversary of the date the final determination becomes final. If the comptroller assesses tax by issuing a deficiency determination within the period provided by Subsection (c), the taxpayer may file a claim for refund for an amount of tax that has been found due in a deficiency determination before the 180th day after the deficiency determination becomes

final, but the claim is limited to the items and the tax payment period for which the determination was issued.

(e) This section does not shorten any period of limitation elsewhere provided in this title.

(f) In this section:

(1) "Federal regulatory agency" includes the United States Internal Revenue Service.

(2) "Administrative proceeding" includes an audit by the United States Internal Revenue Service.

Acts 1981, 67th Leg., p. 1509, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 87, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 8, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 90, eff. June 20, 2003.

Sec. 111.207. TOLLING OF LIMITATION PERIOD. (a) In determining the expiration date for a period when a tax imposed by this title may be assessed, collected, or refunded, the following periods are not considered:

(1) the period following the date of a tax payment made under protest, but only if a lawsuit is timely filed in accordance with Chapter 112;

(2) the period during which a judicial proceeding is pending in a court of competent jurisdiction to determine the amount of the tax due;

(3) the period during which an administrative redetermination or refund hearing is pending before the comptroller; and

(4) the period during which an indictment or information is pending for a felony offense related to the administration of the Tax Code against any taxpayer or any person personally liable or potentially personally liable for the payment of the tax under Section 111.0611.

(b) The suspension of a period of limitation under Subsection (a)(1), (2), or (3) is limited to the issues that were contested under those subdivisions.

(c) A bankruptcy case commenced under Title 11 of the United States Code suspends the running of the period prescribed by any section of this title for the assessment or collection of any tax

imposed by this title until the bankruptcy case is dismissed or closed. After the case is dismissed or closed, the running of the period resumes until finally expired.

(d) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(24).

Acts 1981, 67th Leg., p. 1510, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1983, 68th Leg., p. 459, ch. 94, Sec. 3, eff. May 10, 1983; Acts 2003, 78th Leg., ch. 1310, Sec. 91, 121(24), eff. June 20, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 13, eff. September 1, 2011.

SUBCHAPTER E. ASSIGNMENT OF TAX CLAIMS

Sec. 111.251. ASSIGNMENT ON PAYMENT BY THIRD PERSON. (a) A person may voluntarily pay to the comptroller the tax, fine, penalty, and interest due for a period of time under this title by another person after the tax becomes due or may pay a judgment for those taxes, and when the tax or judgment is paid, the comptroller may assign all rights, liens, judgments, and remedies of the state to secure and enforce tax payments to the person paying the tax or the judgment.

(b) A person paying a tax or judgment for another under Subsection (a) of this section is subrogated to and succeeds to all rights, liens, judgments, and remedies of the state relating to the enforcement of the taxes paid.

Acts 1981, 67th Leg., p. 1510, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.252. NOTICE TO TAXPAYER. (a) No assignment under Section 111.251 of this code may be made until after the expiration of 30 days after notice of the assignments is given to the taxpayer from whom the tax is due or against whom the judgment is taken.

(b) Notice of the assignment must be sent by certified mail to the taxpayer at his last known address as shown in the comptroller's records.

Acts 1981, 67th Leg., p. 1510, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.253. VENUE FOR ENFORCEMENT OF ASSIGNED CLAIMS. Venue for the enforcement of an assigned tax claim or judgment under this subchapter by the assignee is governed by the general law establishing venue and not by the special venue provisions of this title.

Acts 1981, 67th Leg., p. 1510, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.254. REASSIGNMENT. (a) The rights, liens, judgments, and remedies assigned under Section 111.251 of this code may be reassigned by any assignee.

(b) If notice is given as required by Section 111.252 of this code, all rights, liens, judgments, and remedies originally held by the state to enforce and secure the tax claim or judgment pass to each person receiving a reassignment unless the reassignment is expressly limited in writing.

Acts 1981, 67th Leg., p. 1511, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 111.255. RECORDING OF ASSIGNMENT. The assignee of a tax claim or judgment under this subchapter may record the assignment in the state tax lien record book in the office of the county clerk. A recorded assignment shall be indexed to show the names of the assignor and assignee and the date of the assignment.

Acts 1981, 67th Leg., p. 1511, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER G. ADVANCED TECHNOLOGY EQUIPMENT

Sec. 111.351. WIRELESS EQUIPMENT FOR AUDITORS. The comptroller shall acquire wireless communication equipment for use by its auditors, including wireless modems for laptop computers for high-speed, wireless access to comptroller systems.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.04, eff. June 15, 2001.

Sec. 111.352. COMPUTER AND WIRELESS EQUIPMENT FOR ENFORCEMENT

STAFF. (a) The comptroller shall acquire portable computers with remote or wireless communications equipment for use by its enforcement staff.

(b) The portable computers acquired under this section must be integrated with an electronic signature capturing system and portable printing capabilities to enhance the security of collections made under this chapter.

(c) The equipment must enable enforcement staff to:

(1) verify taxpayer claims;

(2) update taxpayer information from the field; and

(3) facilitate account updates.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.04, eff. June 15, 2001.

Sec. 111.353. ADVANCED SCANNERS FOR FIELD OFFICES. The comptroller shall acquire advanced scanners for its field offices. The scanners must enable enforcement officers to scan enforcement data directly into comptroller databases without requiring later manual entry.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 5.04, eff. June 15, 2001.

CHAPTER 112. TAXPAYERS' SUITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. TAXPAYERS' SUITS: JURISDICTION. The district courts of Travis County have exclusive, original jurisdiction of a taxpayer suit brought under this chapter. This section prevails over a provision of Chapter 25, Government Code, to the extent of any conflict.

Acts 1981, 67th Leg., p. 1512, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 3, eff. Sept. 1, 1989.

Sec. 112.002. INCLUSION OF PENALTY AND INTEREST. In this chapter, the terms "tax" and "fee" include an assessment, tax, or fee, and the penalty and interest computed by reference to the amount

of the assessment, tax, or fee.

Added by Acts 1991, 72nd Leg., ch. 705, Sec. 7, eff. Sept. 1, 1991.

SUBCHAPTER B. SUIT AFTER PROTEST PAYMENT

Sec. 112.051. PROTEST PAYMENT REQUIRED. (a) If a person who is required to pay a tax or fee imposed by this title or collected by the comptroller under any law, including a local tax collected by the comptroller, contends that the tax or fee is unlawful or that the public official charged with the duty of collecting the tax or fee may not legally demand or collect the tax or fee, the person shall pay the amount claimed by the state, and if the person intends to bring suit under this subchapter, the person must submit with the payment a protest.

(b) The protest must be in writing and must state fully and in detail each reason for recovering the payment.

(c) The protest payment must be made within the period of time set out in Subdivision (3) of Subsection (c) of Section 111.104 of this code for the filing of refund claims.

Acts 1981, 67th Leg., p. 1512, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 460, ch. 94, Sec. 6, eff. May 10, 1983; Acts 1989, 71st Leg., ch. 232, Sec. 4, eff. Sept. 1, 1989.

Sec. 112.052. TAXPAYER SUIT AFTER PAYMENT UNDER PROTEST. (a) A person may bring suit against the state to recover an occupation, excise, gross receipts, franchise, license, or privilege tax or fee required to be paid to the state if the person has first paid the tax under protest as required by Section 112.051 of this code.

(b) A suit under this section must be brought before the 91st day after the date the protest payment was made, or the suit is barred, except that for the tax imposed by Chapter 171 for a regular annual period, if an extension is granted to the taxpayer under Section 171.202(c) for filing the report and the taxpayer files the report on or before the last date of the extension period, the protest required by Section 112.051 may be filed with the report to cover the entire amount of tax paid for the period, and suit for the recovery of the entire amount of tax paid for the period may be filed before the 91st day after the date the report is filed. If the

report is not filed on or before the last date of the extension period, a protest filed with the report applies only to the amount of tax, if any, paid when the report is filed.

(c) The state may bring a counterclaim in a suit brought under this section if the counterclaim relates to taxes or fees imposed under the same statute and during the same period as the taxes or fees that are the subject of the suit and if the counterclaim is filed not later than the 30th day before the date set for trial on the merits of the suit. The state is not required to make an assessment of the taxes or fees subject to the counterclaim under any other statute, and the period of limitation applicable to an assessment of the taxes or fees does not apply to a counterclaim brought under this subsection.

(d) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the transactions in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that has been assessed or collected or will be refunded, as required by Section 111.0041.

Acts 1981, 67th Leg., p. 1512, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1373, ch. 283, Sec. 6, eff. Sept. 1, 1983; Acts 1989, 71st Leg., ch. 232, Sec. 5, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 486, Sec. 7.01, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.03, eff. October 1, 2011.

Sec. 112.053. TAXPAYER SUIT: PARTIES; ISSUES. (a) A suit authorized by this subchapter must be brought against the public official charged with the duty of collecting the tax or fee, the comptroller, and the attorney general.

(b) The issues to be determined in the suit are limited to those arising from the reasons expressed in the written protest as originally filed.

(c) A copy of the written protest as originally filed must be attached to the original petition filed by the person paying the tax or fee with the court and to the copies of the original petition served on the comptroller, the attorney general, and the public

official charged with the duty of collecting the tax or fee.

Acts 1981, 67th Leg., p. 1512, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 89, Sec. 2, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1423, Sec. 19.05, eff. Sept. 1, 1997.

Sec. 112.054. TRIAL DE NOVO. The trial of the issues in a suit under this subchapter is de novo.

Acts 1981, 67th Leg., p. 1512, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 112.055. CLASS ACTIONS. (a) In this section, a class action includes a suit brought under this subchapter by at least two persons who have paid taxes under protest as required by Section 112.051 of this code.

(b) In a class action, all taxpayers who are within the same class as the persons bringing the suit, who are represented in the class action, and who have paid taxes under protest as required by Section 112.051 of this code, are not required to file separate suits, but are entitled to and are governed by the decision rendered in the class action.

Acts 1981, 67th Leg., p. 1512, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 112.056. ADDITIONAL PROTEST PAYMENTS BEFORE HEARING. (a) A petitioner shall pay additional taxes when due under protest after the filing of a suit authorized by this subchapter and before the trial. The petitioner may amend the original petition to include all additional taxes paid under protest before five days before the day the suit is set for a hearing or may elect to file a separate suit. No such election shall prevent the court from exercising its power to consolidate or sever suits and claims under the Texas Rules of Civil Procedure.

(b) Repealed by Acts 1989, 71st Leg., ch. 232, Sec. 25(a), eff. Sept. 1, 1989.

(c) This section applies to additional taxes paid under protest only if a written protest is filed with the additional taxes and the protest states the same reason for contending the payment of taxes

that was stated in the original protest.

Acts 1981, 67th Leg., p. 1513, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1374, ch. 283, Sec. 7, eff. Sept. 1, 1983; Acts 1989, 71st Leg., ch. 232, Sec. 25(a), eff. Sept. 1, 1989.

Sec. 112.057. PROTEST PAYMENTS DURING APPEAL. (a) If the state or the person who brought the suit appeals the judgment of a trial court in a suit authorized by this subchapter, the person who brought the suit shall continue to pay additional taxes under protest as the taxes become due during the appeal.

(b) Additional taxes that are paid under protest during the appeal of the suit shall be governed by the outcome of the suit without the necessity of the person filing an additional suit for the additional taxes.

Acts 1981, 67th Leg., p. 1513, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 6, eff. Sept. 1, 1989.

Sec. 112.058. SUBMISSION OF PROTEST PAYMENTS TO COMPTROLLER. (a) Payments made under protest are to be handled as follows:

(1) An officer who receives payments made under protest as required by Section 112.051 shall each day send to the comptroller the payments, a list of the persons making the payments, and a written statement that the payments were made under protest.

(2) The comptroller shall, immediately on receipt, credit the payments to each fund to which the tax or fee paid under protest is allocated by law.

(3) The comptroller shall maintain detailed records of payments made under protest.

(4) A payment under protest bears pro rata interest. The pro rata interest is the amount of interest earned by the protested funds.

(b) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(25).

(c) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(25).

(d) All protest payments of the following taxes that become due during the fiscal biennium beginning September 1, 1987, may not be placed in a suspense account, but shall immediately be deposited to

the credit of the fund or funds to which those taxes are allocated by law:

(1) taxes imposed under Chapter 151, 152, 154, 155, 156, 157, or 171 of this code;

(2) taxes imposed under Article 4.11A, Insurance Code;

(3) surtaxes imposed under Chapters 221, 222, 223, 225, and 226, Insurance Code; and

(4) taxes and fees paid under the provisions enacted by Article 9, H.B. No. 61, Acts of the 70th Legislature, 2nd Called Session, 1987.

(e) All protest payments of the taxes imposed under Chapters 151, 152, 154, 155, 156, 157, and 171 that become due during the fiscal biennium beginning September 1, 1989, may not be placed in a suspense account, but immediately shall be deposited to the credit of the fund or funds to which those taxes are allocated by law.

(f) All protest payments of taxes or of fees on prizes imposed by and collected for the state under Chapter 2001, Occupations Code, that become due on or after September 1, 1993, are governed by Subchapter J, Chapter 403, Government Code.

Acts 1981, 67th Leg., p. 1513, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 233, Sec. 1, eff. June 3, 1985; Acts 1987, 70th Leg., ch. 421, Sec. 1, eff. Aug. 31, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 10, Sec. 1; Acts 1989, 71st Leg., ch. 232, Sec. 7, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 641, Sec. 26, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 286, Sec. 25, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 486, Sec. 7.02, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.06, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 14.836, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 92, 121(25), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.161, eff. September 1, 2005.

Sec. 112.059. DISPOSITION OF PROTEST PAYMENTS BELONGING TO THE STATE. If a suit authorized by this subchapter is not brought in the manner or within the time required or if the suit is properly filed and results in a final determination that a tax payment or a portion

of a tax payment made under protest, including the pro rata amount of interest earned on the payment, belongs to the state, the comptroller shall ensure that the proper amount has been deposited to the credit of the appropriate state fund.

Acts 1981, 67th Leg., p. 1513, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 641, Sec. 27, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 486, Sec. 7.03, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.07, eff. Sept. 1, 1997.

Sec. 112.060. CREDIT OR REFUND. (a) If a suit under this subchapter results in a final determination that all or part of the money paid under protest was unlawfully demanded by the public official and belongs to the taxpayer, the comptroller shall credit the proper amount, with the pro rata interest earned on that amount, against any other amount finally determined to be due to the state from the taxpayer according to information in the custody of the comptroller and shall refund the remainder by the issuance of a refund warrant.

(b) A refund warrant shall be written and signed by the comptroller.

(c) Each tax refund warrant shall be drawn against each fund to which the taxes paid under protest are allocated by law. If there are not sufficient funds in each fund to which the taxes paid under protest are allocated by law to pay a refund required to be paid under Subsection (a) of this section, then the comptroller shall draw the warrant against the General Revenue Fund or other funds from which refund appropriations may be made, as the comptroller determines appropriate.

(d) The comptroller shall issue each tax refund warrant and shall deliver it to the person entitled to receive it.

(e) The comptroller may not refund an amount of tax to a taxpayer or person who collects taxes from another person unless the taxpayer or person refunds all the taxes to the person from whom the taxes were collected.

Acts 1981, 67th Leg., p. 1514, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 233, Sec. 2, eff. June 3, 1985; Acts 1989, 71st Leg., ch. 232, Sec. 8, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 486, Sec. 7.04, eff. Sept. 1, 1993; Acts 1997,

75th Leg., ch. 1040, Sec. 9, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.08, eff. Sept. 1, 1997.

SUBCHAPTER C. INJUNCTIONS

Sec. 112.101. REQUIREMENTS BEFORE INJUNCTION. (a) An action for a restraining order or injunction that prohibits the assessment or collection of a tax or fee imposed by this title or collected by the comptroller under any law, including a local tax collected by the comptroller, or a statutory penalty assessed for the failure to pay the tax or fee may not be brought against the public official charged with the duty of collecting the tax or fee or a representative of the public official unless the applicant for the order or injunction has first:

(1) filed with the attorney general not later than the fifth day before the date the action is filed a statement of the grounds on which the order or injunction is sought; and

(2) either:

(A) paid to the public official who collects the tax or fee all taxes, fees, and penalties then due by the applicant to the state; or

(B) filed with the public official who collects the tax or fee a good and sufficient bond to guarantee the payment of the taxes, fees, and penalties in an amount equal to twice the amount of the taxes, fees, and penalties then due and that may reasonably be expected to become due during the period the order or injunction is in effect.

(b) The amount and terms of the bond and the sureties on the bond authorized by Subsection (a)(2)(B) must be approved by and acceptable to the judge of the court granting the order or injunction and the attorney general.

(c) The application for the restraining order or injunction must state under the oath of the applicant or the agent or attorney of the applicant that:

(1) the statement required by Subsection (a)(1) has been filed as provided by that subsection; and

(2) the payment of taxes, fees, and penalties has been made as provided by Subsection (a)(2)(A) or a bond has been approved and filed as provided by Subsection (a)(2)(B) and Subsection (b).

(d) The public official shall deliver a payment or bond

required by Subsection (a)(2) to the comptroller. The comptroller shall deposit a payment made under Subsection (a)(2)(A) to the credit of each fund to which the tax, fee, or penalty is allocated by law. A payment made under Subsection (a)(2)(A) bears pro rata interest. The pro rata interest is the amount of interest that would be due if the amount had been placed into the suspense account of the comptroller.

Acts 1981, 67th Leg., p. 1514, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 9, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 486, Sec. 7.05, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.09, eff. Sept. 1, 1997.

Sec. 112.1011. NATURE OF ACTION FOR INJUNCTION. (a) A court may not issue a restraining order or consider the issuance of an injunction that prohibits the assessment or collection of an amount described by Section 112.101(a) unless the applicant for the order or injunction demonstrates that:

(1) irreparable injury will result to the applicant if the order or injunction is not granted;

(2) no other adequate remedy is available to the applicant; and

(3) the applicant has a reasonable possibility of prevailing on the merits of the claim.

(b) If the court issues a temporary or permanent injunction, the court shall determine whether the amount the assessment or collection of which the applicant seeks to prohibit is due and owing to the state by the applicant.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 10, eff. Sept. 1, 1989.

Sec. 112.1012. COUNTERCLAIM. The state may bring a counterclaim in a suit for a temporary or permanent injunction brought under this subchapter if the counterclaim relates to taxes or fees imposed under the same statute and during the same period as the taxes or fees that are the subject of the suit and if the counterclaim is filed not later than the 30th day before the date set for trial on the merits of the application for a temporary or permanent injunction. The state is not required to make an

assessment of the taxes or fees subject to the counterclaim under any other statute, and the period of limitation applicable to an assessment of the taxes or fees does not apply to a counterclaim brought under this section.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 11, eff. Sept. 1, 1989.

Sec. 112.102. RECORDS AFTER INJUNCTION. (a) After the granting of a restraining order or injunction under this subchapter, the applicant shall make and keep records of all taxes accruing during the period that the order or injunction is effective.

(b) The records are open for inspection by the attorney general and the public officer authorized to enforce the collection of the tax to which the order or injunction applies during the period that the order or injunction is effective and for one year after the date that the order or injunction expires.

(c) The records must be adequate to determine the amount of all affected taxes or fees accruing during the period that the order or injunction is effective.

Acts 1981, 67th Leg., p. 1515, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 12, eff. Sept. 1, 1989.

Sec. 112.103. REPORTS AFTER INJUNCTION. (a) On the first Monday of each month during the period that an order or injunction granted under this subchapter is effective, the applicant shall make and file a report with the state officer authorized to enforce the collection of the tax to which the order or injunction applies.

(b) The report must include the following monthly information:

(1) the amount of the tax accruing;

(2) a description of the total purchases, receipts, sales, and dispositions of all commodities, products, materials, articles, items, services, and transactions on which the tax is levied or by which the tax is measured;

(3) the name and address of each person to whom a commodity, product, material, or article is sold or distributed or for whom a service is performed; and

(4) if payment of the tax is evidenced or measured by the

sale or use of stamps or tickets, a complete record of all stamps or tickets used, sold, or handled.

(c) The report shall be made on a form prescribed by the state official with whom the report is required to be filed.

Acts 1981, 67th Leg., p. 1515, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 13, eff. Sept. 1, 1989.

Sec. 112.104. ADDITIONAL PAYMENTS OR BOND. (a) If an applicant for an order or injunction granted under this subchapter has not filed a bond as required by Section 112.101(a)(2)(B) of this code, the applicant shall pay to the comptroller all taxes, fees, and penalties to which the order or injunction applies as those taxes, fees, and penalties accrue and before they become delinquent. The comptroller shall credit the payment to each fund to which the tax, fee, or penalty is allocated by law.

(b) If the attorney general determines that the amount of a bond filed under this subchapter is insufficient to cover double the amount of taxes, fees, and penalties accruing after the restraining order or injunction is granted, the attorney general shall demand that the applicant file an additional bond.

Acts 1981, 67th Leg., p. 1515, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 14, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 486, Sec. 7.06, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.10, eff. Sept. 1, 1997.

Sec. 112.105. DISMISSAL OF INJUNCTION. (a) The attorney general or the state official authorized to enforce the collection of a tax to which an order or injunction under this subchapter applies may file in the court that has granted the order or injunction an affidavit stating that the applicant has failed to comply with or has violated a provision of this subchapter.

(b) On the filing of an affidavit authorized by Subsection (a) of this section, the clerk of the court shall give notice to the applicant to appear before the court to show cause why the order or injunction should not be dismissed. The notice shall be served by the sheriff of the county where the applicant resides or by any other

peace officer in the state.

(c) The date of the show-cause hearing, which shall be within five days of service of the notice or as soon as the court can hear it, shall be named in the notice.

(d) If the court finds that the applicant failed, at any time before the suit is finally disposed of by the court of last resort, to make and keep a record, file a report, file an additional bond on the demand of the attorney general, or pay additional taxes, fees, and penalties as required by this subchapter, the court shall dismiss the application and dissolve the order or injunction.

Acts 1981, 67th Leg., p. 1515, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 112.106. FINAL DISMISSAL OR DISSOLUTION OF INJUNCTION. (a) If a restraining order or injunction is finally dismissed or dissolved, the comptroller shall:

(1) if a bond was filed, make demand on the applicant and the applicant's sureties for the immediate payment of all taxes, fees, and penalties due the state; or

(2) if no bond was filed, ensure that the proper amount of taxes, fees, and penalties has been deposited to the credit of the proper fund to which the taxes, fees, and penalties are allocated.

(b) Taxes, fees, and penalties that are secured by a bond and remain unpaid after a demand for payment shall be recovered in a suit by the attorney general against the applicant and the applicant's sureties in a court of competent jurisdiction of Travis County or in any other court having jurisdiction of the suit.

Acts 1981, 67th Leg., p. 1516, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 7.07, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.11, eff. Sept. 1, 1997.

Sec. 112.107. CREDIT OR REFUND. If the final judgment in a suit under this subchapter maintains the right of the applicant for a temporary or permanent injunction to prevent the assessment or collection of the tax, the comptroller shall credit the money deposited under this subchapter, with the pro rata interest earned on the money, against any other amount finally determined to be due to

the state from the applicant according to information in the custody of the comptroller and shall refund the remainder to the applicant.

Acts 1981, 67th Leg., p. 1516, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 232, Sec. 15, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 486, Sec. 7.08, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.12, eff. Sept. 1, 1997.

Sec. 112.108. OTHER ACTIONS PROHIBITED. Except for a restraining order or injunction issued as provided by this subchapter, a court may not issue a restraining order, injunction, declaratory judgment, writ of mandamus or prohibition, order requiring the payment of taxes or fees into the registry or custody of the court, or other similar legal or equitable relief against the state or a state agency relating to the applicability, assessment, collection, or constitutionality of a tax or fee covered by this subchapter or the amount of the tax or fee due, provided, however, that after filing an oath of inability to pay the tax, penalties, and interest due, a party may be excused from the requirement of prepayment of tax as a prerequisite to appeal if the court, after notice and hearing, finds that such prepayment would constitute an unreasonable restraint on the party's right of access to the courts. The court may grant such relief as may be reasonably required by the circumstances. A grant of declaratory relief against the state or a state agency shall not entitle the winning party to recover attorney fees.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 16, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 579, Sec. 13, eff. Jan. 1, 1996.

SUBCHAPTER D. SUIT FOR TAX REFUND

Sec. 112.151. SUIT FOR REFUND. (a) A person may sue the comptroller to recover an amount of tax, penalty, or interest that has been the subject of a tax refund claim if the person has:

(1) filed a tax refund claim under Section 111.104 of this code;

(2) filed, as provided by Section 111.105 of this code, a motion for rehearing that has been denied by the comptroller; and

(3) paid any additional tax found due in a jeopardy or

deficiency determination that applies to the tax liability period covered in the tax refund claim.

(b) The suit must be brought against both the comptroller and the attorney general and must be filed in a district court.

(c) The suit must be filed before the expiration of 30 days after the issue date of the denial of the motion for rehearing or it is barred.

(d) The amount of the refund sought must be set out in the original petition. A copy of the motion for rehearing filed under Section 111.105 of this code must be attached to the original petition filed with the court and to the copies of the original petition served on the comptroller and the attorney general.

(e) A person may not intervene in the suit.

(f) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the transactions in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that has been assessed or collected or will be refunded, as required by Section 111.0041.

Acts 1981, 67th Leg., p. 1516, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 89, Sec. 3, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 232, Sec. 17, 25(a), eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.128, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.04, eff. October 1, 2011.

Sec. 112.1512. COUNTERCLAIM. The state may bring a counterclaim in a suit brought under this subchapter if the counterclaim relates to taxes or fees imposed under the same statute and during the same period as the taxes or fees that are the subject of the suit and if the counterclaim is filed not later than the 30th day before the date set for trial on the merits of the suit. The state is not required to make an assessment of the taxes or fees subject to the counterclaim under any other statute, and the period of limitation applicable to an assessment of the taxes or fees does not apply to a counterclaim brought under this section.

Added by Acts 1989, 71st Leg., ch. 232, Sec. 18, eff. Sept. 1, 1989.

Sec. 112.152. ISSUES IN SUIT. (a) The grounds of error contained in the motion for rehearing are the only issues that may be raised in a suit under this subchapter.

(b) The suit applies only to a tax liability period considered in the comptroller's decision.

Acts 1981, 67th Leg., p. 1516, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 112.153. ATTORNEY GENERAL TO REPRESENT COMPTROLLER. The attorney general shall represent the comptroller in a suit under this subchapter.

Acts 1981, 67th Leg., p. 1517, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 112.154. TRIAL DE NOVO. In a suit under this subchapter, the issues shall be tried de novo as are other civil cases.

Acts 1981, 67th Leg., p. 1517, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 112.155. JUDGMENT. (a) The amount of a judgment for the plaintiff shall be credited against any tax, penalty, or interest imposed by this title and due from the plaintiff.

(b) The remainder of the amount of a judgment not credited to a tax, penalty, or interest due shall be refunded to the plaintiff.

(c) The plaintiff is entitled to interest on the amount of tax included in a judgment for the plaintiff equal to the amount of interest that would be due if the tax had been deposited in the suspense account of the comptroller. The interest accrues beginning from the date that the tax was paid until:

(1) the date that the amount is credited against the plaintiff's tax liability; or

(2) a date determined by the comptroller that is not sooner than 10 days before the actual date on which a refund warrant is issued.

Acts 1981, 67th Leg., p. 1517, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1989, 71st Leg., ch. 232, Sec. 19, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.13, eff. Sept. 1, 1997.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 470 (S.B. 757), Sec. 6, eff. September 1, 2015.

Sec. 112.156. RES JUDICATA. The rule of res judicata applies in a suit under this subchapter only if the issues and the tax liability periods in controversy are the same as were decided in a previous final judgment entered in a Texas court of record in a suit between the same parties.

Acts 1981, 67th Leg., p. 1517, ch. 389, Sec. 1, eff. Jan. 1, 1982.

CHAPTER 113. TAX LIENS

SUBCHAPTER A. FILING AND RELEASE OF STATE TAX LIENS

Sec. 113.001. TAX LIABILITY SECURED BY LIEN. (a) All taxes, fines, interest, and penalties due by a person to the state under this title are secured by a lien on all of the person's property that is subject to execution.

(b) The lien for taxes attaches to all of the property of a person liable for the taxes.

Acts 1981, 67th Leg., p. 1518, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1985, 69th Leg., ch. 37, Sec. 2, eff. Aug. 26, 1985.

Sec. 113.002. TAX LIEN NOTICE. (a) The comptroller shall issue and file a tax lien notice required by this chapter.

(b) A tax lien notice must include the following information:

(1) the name and address of the taxpayer;

(2) the type of tax that is owing;

(3) each period for which the tax is claimed to be delinquent; and

(4) the amount of tax only due for each period, excluding the amount of any penalty, interest, or other charge.

(c) A tax lien notice may include other relevant information that the comptroller considers proper.

Acts 1981, 67th Leg., p. 1518, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.0021. APPLICATION TO OTHER TAXES AND FEES. This chapter also applies to a tax or fee that the comptroller is required to collect under a law not included in this title.

Added by Acts 1991, 72nd Leg., ch. 705, Sec. 8, eff. Sept. 1, 1991.

Sec. 113.003. EXECUTION OF DOCUMENTS. The comptroller may execute, certify, authenticate, or sign any instrument authorized under this chapter to be issued by the comptroller or under the comptroller's authority with a facsimile signature and seal.

Acts 1981, 67th Leg., p. 1518, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.004. STATE TAX LIEN BOOK. The county clerk of each county shall provide at the expense of the county a well-bound book, entitled "State Tax Liens," in which notices of state tax liens filed by the comptroller are recorded.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.005. DUTIES OF COUNTY CLERK. (a) On receipt of a tax lien notice from the comptroller, the county clerk shall immediately:

(1) record the notice in the state tax lien book;

(2) note on the notice the date and hour of its recording;

(3) enter in an alphabetical index the name of each person to whom the notice applies, along with the volume and page number of the state tax lien book where the notice is recorded;

(4) furnish to the comptroller, on a form prescribed by the comptroller, a notice showing that the tax lien notice is recorded and filed, the date and hour of its recording and filing, and the volume and page number of the state tax lien book where the lien is recorded; and

(5) send the comptroller a statement of the fee due for recording and indexing the lien.

(b) This section prevails over conflicting provisions of other

law.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.006. EFFECT OF FILING TAX LIEN NOTICE. (a) The filing and recording of a tax lien notice constitutes a record of the notice.

(b) One tax lien notice is sufficient to cover all taxes of any nature administered by the comptroller, including penalty and interest computed by reference to the amount of tax, that may have accrued before or after the filing of the notice.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 10, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 209, Sec. 15, eff. Oct. 1, 2003.

Sec. 113.007. EVIDENCE OF TAX PAYMENT. A payment in whole or in part of a tax secured by a state tax lien may be evidenced by a receipt, acknowledgment, or release signed by an authorized representative of the state agency that filed the lien.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.008. RELEASE OF LIEN ON SPECIFIC PROPERTY. (a) With the approval of the attorney general, the comptroller may release a state tax lien on specific real or personal property when payment of the reasonable cash market value of the property is made to the comptroller.

(b) The value of the property to be released shall be determined in the manner prescribed by the comptroller.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.009. FILING OF TAX LIEN RELEASE. (a) A tax lien release shall be filed in the office of the county clerk in the manner that other releases are filed. On the filing of a release, the county clerk shall release the state tax lien filed with the

clerk in accordance with the regulations of the clerk's office.

(b) The county clerk may send the comptroller a statement of the customary fee due for the filing and indexing of the release of the tax lien notice, and the comptroller may pay the fee charged. The comptroller may collect the amount of the fee paid under this subsection by the comptroller from the taxpayer against whom the lien was filed.

(c) A state tax lien filed under this chapter may not be released fully until the taxpayer pays all other taxes, penalties, interest, fees, or sums that the taxpayer owes the state and that are administered or collected by the comptroller.

Acts 1981, 67th Leg., p. 1519, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 460, ch. 94, Sec. 5, eff. May 10, 1983; Acts 2001, 77th Leg., ch. 442, Sec. 7, eff. Sept. 1, 2001.

Sec. 113.010. RELEASE OF LIEN BY ASSIGNEE. A release in whole or in part by an assignee of the state's claim for a tax and of its tax lien or of a judgment for a tax secured by a tax lien may be filed and recorded with the county clerk for the same fee and in the same manner as a release by the comptroller or by another state agency that may file a notice of a lien in the state tax lien records.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.011. LIENS FILED WITH TEXAS DEPARTMENT OF MOTOR VEHICLES. The comptroller shall furnish to the Texas Department of Motor Vehicles each release of a tax lien filed by the comptroller with that department.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(69), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.07, eff. September 1, 2009.

SUBCHAPTER B. APPLICATIONS AND STATUS OF STATE TAX LIENS

Sec. 113.101. APPLICABILITY OF LIEN BEFORE FILING. (a) No lien created by this title is effective against a person listed in Subsection (b) of this section who acquires a lien, title, or other right or interest in property before the filing, recording, and indexing of the lien:

(1) on real property, in the county where the property is located; or

(2) on personal property, in the county where the taxpayer resided at the time the tax became due and payable or in the county where the taxpayer filed the report.

(b) This section applies to a bona fide purchaser, mortgagee, holder of a deed of trust, judgment creditor, or any other person who acquired the lien, title, or right or interest in the property for bona fide consideration.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.102. APPLICABILITY OF LIEN TO MERCHANDISE PURCHASED. No lien created by this title is effective against a bona fide purchaser for value of goods, wares, or merchandise daily exposed for sale in the regular course of business if the purchase and actual or constructive possession of the goods, wares, or merchandise is completed before the goods, wares, or merchandise are seized under a valid legal writ or other lawful process.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.103. APPLICABILITY OF LIEN TO FINANCIAL INSTITUTIONS. (a) A bank or savings and loan institution is not required to recognize the claim of the state to a deposit or to withhold payment of a deposit to a depositor or to the depositor's order unless the bank or institution has been served by the comptroller with a notice of the state's claim.

(b) Notice of a state claim must be in writing and be served by certified mail to the bank or institution or served personally on the president or any vice-president, cashier, or assistant cashier of the bank or institution.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.104. PREFERENTIAL TRANSFERS. (a) The comptroller may recover in a suit brought in Travis County by the attorney general the property or the value of property transferred in a preferential transfer.

(b) The transfer of property or an interest in property by a person who at the time of the transfer is insolvent and has received or withheld money as a tax under this title or who is delinquent in the payment of a tax imposed by this title is a preferential transfer if the transfer occurred during the six-month period before the date of the filing of a tax lien notice against the transferor as permitted by this chapter and if the transfer is made with intent to defraud the state. The transfer of the property or the interest in property without adequate and sufficient consideration creates a rebuttable presumption that the transfer was made with intent to defraud the state. A transfer with sufficient consideration creates a rebuttable presumption that the transfer was not made with intent to defraud the state.

(c) All property subject to execution of a transferee in a preferential transfer is subject to a prior lien in favor of the state to secure the recovery of the value of the property transferred in a preferential transfer.

(d) The remedies provided by this section are cumulative of other remedies of the comptroller as a creditor.

Acts 1981, 67th Leg., p. 1520, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 113.105. TAX LIEN; PERIOD OF VALIDITY. (a) The state tax lien on personal property and real estate continues until the taxes secured by the lien are paid.

(b) The state tax lien on personal property and real estate attaches to personal property and real estate owned by the taxpayer beginning on the first day of the period for which the lien is filed by the state.

Acts 1981, 67th Leg., p. 1521, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 37, Sec. 1, eff. Aug. 26, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 9, eff. July 21, 1987;

Acts 2001, 77th Leg., ch. 442, Sec. 8, eff. Sept. 1, 2001.

Sec. 113.106. LIEN; SUIT TO DETERMINE VALIDITY. (a) In an action to determine the validity of a state tax lien, the lien shall be:

(1) perpetuated and foreclosed; or

(2) nullified.

(b) If a lien is perpetuated and foreclosed, no further action or notice on the judgment is required, and the notice of the state tax lien on record continues in effect.

(c) If all or part of a lien is nullified, a certified copy of the judgment may be filed with the county clerk of the county where the tax lien notice was filed and may be recorded in the same manner as a release by the comptroller.

(d) Execution, order for sale, or other process for the enforcement of the lien may be issued on the judgment at any time.

(e) A person must bring suit to determine the validity of a state tax lien not later than the 10th anniversary of the date the lien was filed. If more than one state tax lien has been filed relating to the same tax liability, the 10-year limitation period provided by this subsection is calculated from the date of the filing of the first lien relating to the liability.

(f) A taxpayer is presumed to have received proper notice of the taxpayer's tax liability if the notice is delivered to the taxpayer's last address of record with the comptroller. The taxpayer may rebut the presumption by presenting substantive evidence that demonstrates that notice of the tax liability was not received. If the taxpayer rebuts the presumption of receipt of proper notice with evidence the comptroller considers satisfactory, the period of limitations for filing suit provided by Subsection (e) does not apply.

Acts 1981, 67th Leg., p. 1521, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 7, eff. June 15, 2007.

Sec. 113.107. ASSIGNMENT OF JUDGMENT ON LIEN. (a) A judgment

perpetuating and foreclosing a tax lien may be transferred and assigned for the amount of the taxes covered in the judgment and may be reassigned by a subsequent holder.

(b) An assignment shall be filed and recorded and shall be released in the same manner as are liens before judgment.

(c) If notice of the assignment is given as provided by Subchapter E of Chapter 111 of this code, the assignee is fully subrogated to and succeeds to all rights, liens, and remedies of the state.

Acts 1981, 67th Leg., p. 1521, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBTITLE D. COMPACTS AND UNIFORM LAWS

CHAPTER 141. MULTISTATE TAX COMPACT

Sec. 141.001. ADOPTION OF MULTISTATE TAX COMPACT. The Multistate Tax Compact is adopted and entered into with all jurisdictions legally adopting it to read as follows:

MULTISTATE TAX COMPACT

ARTICLE I. PURPOSES

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.

2. Promote uniformity or compatibility in significant components of tax systems.

3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.

4. Avoid duplicative taxation.

ARTICLE II. DEFINITIONS

As used in this compact:

1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

2. "Subdivision" means any governmental unit or special district of a state.

3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.

4. "Income tax" means a tax imposed on or measured by net income

including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

ARTICLE III. ELEMENTS OF INCOME TAX LAWS

Taxpayer Option, State and Local Taxes

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such

states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with Article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein Article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

Taxpayer Option, Short Form

2. Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of $100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The Multistate Tax Commission, not more than once in five years, may adjust the $100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the $100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

Coverage

3. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

ARTICLE IV. DIVISION OF INCOME

1. As used in this article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible

property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipe line, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article.

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(i) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater

percentage of his income from activities subject to this article, the taxpayer may elect to allocate and apportion his entire net income as provided in this article.

3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this article.

5. (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state: (1) if and to the extent that the property is utilized in this state, or (2) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

6. (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if (1) the property had a situs in this state at the time of the sale, or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

7. Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

8. (a) Patent and copyright royalties are allocable to this state: (1) if and to the extent that the patent or copyright is utilized by the payer in this state, or (2) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this state if:

(a) the individual's service is performed entirely within the state;

(b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this state if:

(a) the property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f. o. b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government or (2) the taxpayer is not taxable in the state of the purchaser.

17. Sales, other than sales of tangible personal property, are in this state if:

(a) the income-producing activity is performed in this state; or

(b) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing

activity is performed in this state than in any other state, based on costs of performance.

18. If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

ARTICLE V. ELEMENTS OF SALES AND USE TAX LAWS

Tax Credit

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates, Vendors May Rely

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

ARTICLE VI. THE COMMISSION

Organization and Management

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The

attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice-chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and

functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice-chairman, treasurer and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view

toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of

funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VII. UNIFORM REGULATIONS AND FORMS

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The commission may also act with respect to the provisions of Article IV of this compact.

2. Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

ARTICLE VIII. INTERSTATE AUDITS

1. This article shall be in force only in those party states that specifically provide therefor by statute.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on

its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident: provided that such state has adopted this article.

4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

5. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

6. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

8. In no event shall the commission make any charge against a taxpayer for an audit.

9. As used in this article, "tax," in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

ARTICLE IX. ARBITRATION

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of Article VII.

2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ Article IV, or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and

one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless

he is required on account of his service to forego the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

ARTICLE X. ENTRY INTO FORCE AND WITHDRAWAL

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

ARTICLE XI. EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix

rates of taxation, except that a party state shall be obligated to implement Article III 2 of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII 9 may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to Article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

ARTICLE XII. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Acts 1981, 67th Leg., p. 1528, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 141.002. COMMISSION MEMBER FOR THIS STATE. The governor shall appoint the comptroller to represent this state on the Multistate Tax Commission created by Article VI of the compact. The comptroller may designate a principal deputy or assistant as an alternate representative on the commission.

Acts 1981, 67th Leg., p. 1540, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 208, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 24, Sec. 1, eff. Sept. 1, 1989.

Sec. 141.003. NOTICE OF MEETINGS. The comptroller shall file with the secretary of state for publication in the Texas Register a notice of the general meetings of the Multistate Tax Commission.

Acts 1981, 67th Leg., p. 1540, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 24, Sec. 1, eff. Sept. 1, 1989.

Sec. 141.005. INTERSTATE AUDIT ARTICLE ADOPTED. The provisions of Article VIII of the compact, relating to interstate audits, are in force with respect to this state.

Acts 1981, 67th Leg., p. 1540, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 141.006. REPORT. Before October 1 of each year, the comptroller shall prepare and file with the presiding officer of each house of the legislature a complete and detailed report describing the activities of and accounting for all funds received and disbursed by the comptroller's office relating to the compact in the preceding fiscal year. The report must be included as a part of the annual financial report of the comptroller's office.

Added by Acts 1989, 71st Leg., ch. 24, Sec. 1, eff. Sept. 1, 1989.

CHAPTER 142. SIMPLIFIED SALES AND USE TAX ADMINISTRATION ACT

Sec. 142.001. TITLE. This chapter may be cited as the Simplified Sales and Use Tax Administration Act.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001.

Sec. 142.002. DEFINITIONS. In this chapter:

(1) "Agreement" means the Streamlined Sales and Use Tax Agreement as amended and adopted on November 12, 2002.

(2) "Certified automated system" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the

appropriate state, and maintain a record of the transaction.

(3) "Certified service provider" means an agent certified under the agreement to perform all of the seller's sales tax functions, other than the seller's obligation to remit tax on the seller's own purchases.

(3-a) "Model 1 seller" means a seller that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions, other than the seller's obligation to remit tax on the seller's own purchases.

(3-b) "Model 2 seller" means a seller that has selected a certified automated system to perform part of the seller's sales and use tax functions, but retains responsibility for remitting the tax.

(3-c) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least $500 million, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. The term includes an affiliated group of sellers using the same proprietary system.

(4) "Sales tax" means a sales tax administered or computed under Chapter 151.

(5) "Seller" means a person who sells, leases, or rents personal property or services.

(6) "Use tax" means a use tax administered or computed under Chapter 151.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 93, eff. Oct. 1, 2003.

Sec. 142.003. LEGISLATIVE FINDING. The legislature finds that a simplified sales and use tax system will reduce and over time eliminate the burden and costs of all vendors to collect this state's sales and use tax. The legislature also finds that this state should participate in multistate discussions to review or amend the terms of the agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and for all types of commerce.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001.

Sec. 142.004. NEGOTIATIONS. This state shall enter into multistate discussions for the purposes of reviewing or amending the agreement embodying the simplification requirements prescribed by Section 142.007. This state may be represented by not more than four delegates for purposes of those discussions.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001.

Sec. 142.005. AUTHORITY TO ENTER INTO AGREEMENT. (a) The comptroller is authorized and directed to participate in the development of the Streamlined Sales and Use Tax Agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In the development of the agreement, the comptroller may act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

(b) The comptroller or the comptroller's designee may represent this state before the other states that are signatories to the agreement.

(c) The comptroller may enter into the agreement on behalf of this state if the governor, lieutenant governor, speaker of the house of representatives, and comptroller unanimously agree that it would be in this state's best interest to be a signatory to the agreement.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 94, eff. Oct. 1, 2003.

Sec. 142.0055. RULES. The comptroller may adopt rules relating to the administration and collection of the sales and use tax as necessary to comply with the agreement, including rules establishing the requirements for a seller to be a Model 1 seller, Model 2 seller, or Model 3 seller.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 95, eff. Oct. 1, 2003.

Sec. 142.006. RELATIONSHIP TO STATE LAW. The agreement authorized by this chapter does not, in whole or part, invalidate or amend a law of this state. Adoption of the agreement by this state does not amend or modify a law of this state. Implementation of a condition of the agreement in this state, whether adopted before, at, or after membership of this state in the agreement, must be by the action of this state.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001.

Sec. 142.007. AGREEMENT REQUIREMENTS. (a) The comptroller may not enter into the agreement authorized by this chapter unless the agreement requires each state to comply with the requirements prescribed by this section.

(b) The agreement must set restrictions to limit over time the number of state rates.

(c) The agreement must establish uniform standards for:

(1) the sourcing of transactions to taxing jurisdictions;

(2) the administration of exempt sales; and

(3) sales and use tax returns and remittances.

(d) The agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

(e) The agreement must provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.

(f) The agreement must provide for reduction of the burdens of complying with local sales and use taxes through:

(1) restricting variances between the state and local tax bases;

(2) requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

(3) restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and

(4) providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

(g) The agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The agreement must allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes for state and local governments under various levels of complexity to be completed by July 1, 2002.

(h) The agreement must require each state to certify compliance with the terms of the agreement before joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.

(i) The agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

(j) The agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001.

Sec. 142.008. COOPERATING SOVEREIGNS. The agreement authorized by this chapter is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001.

Sec. 142.009. LIMITED BINDING AND BENEFICIAL EFFECT. (a) The agreement authorized by this chapter binds and inures only to the

benefit of this state and the other member states. A person, other than a member state, is not an intended beneficiary of the agreement. A benefit to a person other than a state is established by the law of this state and the other member states and not by the terms of the agreement.

(b) Consistent with Subsection (a), a person does not have a cause of action or defense under the agreement or by virtue of this state's approval of the agreement. A person may not challenge, in any action brought under any law, an action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state, on the ground that the action or inaction is inconsistent with the agreement.

(c) A law of this state, or the application of the law, may not be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001.

Sec. 142.010. SELLER AND THIRD PARTY LIABILITY. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions the provider processes for the seller except as provided by this section.

(b) A seller that contracts with a certified service provider is not liable to this state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(c) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to this state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to this state for reporting and remitting tax.

(d) A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

Added by Acts 2001, 77th Leg., ch. 1053, Sec. 1, eff. June 15, 2001.

Sec. 142.011. SETTLEMENT OF TAX, PENALTY, AND INTEREST. On or after the later of the date on which the agreement takes effect as provided by the terms of the agreement or this state becomes a signatory to the agreement, the comptroller may settle a claim for tax, penalty, or interest on tax imposed by Chapter 151 if necessary for the comptroller to comply with the terms of the agreement.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 96, eff. Oct. 1, 2003.

SUBTITLE E. SALES, EXCISE, AND USE TAXES
CHAPTER 151. LIMITED SALES, EXCISE, AND USE TAX
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 151.001. SHORT TITLE. This chapter may be cited as the Limited Sales, Excise, and Use Tax Act.

Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.002. APPLICABILITY OF DEFINITIONS, ETC. The definitions and other provisions of this chapter relating to the collection, administration, and enforcement of the taxes imposed by this chapter, including the requirements for sales tax permits, apply to the parties to a sale of a taxable item that is exempted from the taxes imposed by this chapter but that is subject to the taxes imposed by a city under Chapter 321 of this code.

Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.27(b)(1), eff. Aug. 28, 1989.

Sec. 151.0028. "AMUSEMENT SERVICES". (a) "Amusement services" means the provision of amusement, entertainment, or recreation, but does not include the provision of educational or health services if prescribed by a licensed practitioner of the healing arts for the primary purpose of education or health maintenance or improvement.

(b) "Amusement services" includes membership in a private club or organization that provides entertainment, recreational, sports, dining, or social facilities to its members.

(c) "Amusement services" does not include services provided through coin-operated machines that are operated by the consumer.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 3, eff. Oct. 2, 1984. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 1.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 638 (S.B. 1525), Sec. 1, eff. June 10, 2019.

Sec. 151.003. "BUSINESS". "Business" means an activity of or caused by a person for the purpose of a direct or indirect gain, benefit, or advantage.

Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.0031. "COMPUTER PROGRAM". "Computer program" means a series of instructions that are coded for acceptance or use by a computer system and that are designed to permit the computer system to process data and provide results and information. The series of instructions may be contained in or on magnetic tapes, punched cards, printed instructions, or other tangible or electronic media.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 6, Sec. 1, eff. Oct. 2, 1984.

Sec. 151.0033. "CABLE TELEVISION SERVICE". "Cable television service" means the distribution of video programming with or without use of wires to subscribing or paying customers.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 4, eff. Oct. 2, 1984.

Sec. 151.0034. "CREDIT REPORTING SERVICE". "Credit reporting service" means assembling or furnishing credit history or credit information relating to any person.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 2.

Sec. 151.0035. "DATA PROCESSING SERVICE". "Data processing service" includes word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, the performance of a totalisator service with the use of computational equipment required by Subtitle A-1, Title 13, Occupations Code (Texas Racing Act), and other computerized data and information storage or manipulation. "Data processing service" also includes the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or computer time or by the purchaser or other beneficiary of the service. "Data processing service" does not include the transcription of medical dictation by a medical transcriptionist. "Data storage," as used in this section, does not include a classified advertisement, banner advertisement, vertical advertisement, or link when the item is displayed on an Internet website owned by another person.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 3. Amended by Acts 1997, 75th Leg., ch. 1275, Sec. 53, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 11, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 209, Sec. 16, eff. Oct. 1, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. 1969), Sec. 2.12, eff. April 1, 2019.

Sec. 151.0036. "DEBT COLLECTION SERVICE". (a) "Debt collection service" means activity to collect or adjust a delinquent debt, to collect or adjust a claim, or to repossess property subject to a claim.

(b) "Debt collection service" does not include:

(1) the collection of:

(A) a judgment by an attorney or by a partnership or professional corporation of attorneys if the attorney, partnership, or corporation represented the person in the suit from which the judgment arose; or

(B) court-ordered child support or medical child support; or

(2) a service provided by a person acting as a trustee in connection with the foreclosure sale of real property under a lien created by a mortgage, deed of trust, or security instrument.

(c) "Debt collection service" includes the service performed for which a fee is collected under Section 3.506, Business & Commerce Code. The person collecting the check shall add the amount of the tax to the fee in accordance with Section 151.052 and shall collect the fee from the drawer or endorser of the check.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 4. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 9, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 341, Sec. 3.06, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 5, eff. Oct. 1, 1995; Acts 2001, 77th Leg., ch. 1151, Sec. 1, 2(b), eff. July 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 2.001(d), eff. Sept. 1, 2001.

Sec. 151.0038. "INFORMATION SERVICE". (a) "Information service" means:

(1) furnishing general or specialized news or other current information, including financial information, unless furnished to:

(A) a newspaper or to a radio or television station licensed by the Federal Communications Commission; or

(B) a member of a homeowners association of a residential subdivision or condominium development, and is furnished by the association or on behalf of the association; or

(2) electronic data retrieval or research.

(b) In this section, "newspaper" has the meaning assigned by

Section 151.319(f).

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 5. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 10, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 6, eff. Oct. 1, 1995.

Sec. 151.0039. "INSURANCE SERVICE". (a) Except as provided in Subsection (b), "insurance service" means insurance loss or damage appraisal, insurance inspection, insurance investigation, insurance actuarial analysis or research, insurance claims adjustment or claims processing, or insurance loss prevention service.

(b) "Insurance service" does not include:

(1) insurance coverage for which a premium is paid or commissions paid to insurance agents for the sale of insurance or annuities;

(2) a service performed on behalf of an insured by a person licensed under Chapter 4102, Insurance Code;

(3) a service performed by a certified public accountancy firm, if less than one percent of the firm's total revenue in the prior calendar year is from services in this state that would otherwise constitute insurance service under Subsection (a); or

(4) a service performed on behalf of a certified public accountancy firm by an owner of the firm or a member of the firm's affiliated group, if less than one percent of the owner's or member's total revenue in the prior calendar year is from services in this state that would otherwise constitute insurance service under Subsection (a).

(c) In this section:

(1) "Affiliated group" has the meaning assigned by Section 171.0001.

(2) "Certified public accountancy firm" has the meaning assigned by Section 901.002, Occupations Code.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 6.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 748 (H.B. 1841), Sec. 1, eff. October 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 68 (S.B. 1083), Sec. 1, eff. January 1, 2018.

Sec. 151.00393. INTERNET. "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, that comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to the protocol, to communicate information of all kinds by wire or radio.

Added by Acts 1999, 76th Leg., ch. 394, Sec. 1, eff. Oct. 1, 1999.

Sec. 151.00394. INTERNET ACCESS SERVICE. (a) "Internet access service" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. The term does not include telecommunications services.

(b) "Internet access service" does not include and the exemption under Section 151.325 does not apply to any other taxable service listed in Section 151.0101(a), unless the taxable service is provided in conjunction with and is merely incidental to the provision of Internet access service.

(c) On and after October 1, 1999, "Internet access service" is not included in the definitions of "data processing service" and "information service."

Added by Acts 1999, 76th Leg., ch. 394, Sec. 1, eff. Oct. 1, 1999.

Sec. 151.004. "IN THIS STATE". "In this state" means within the exterior limits of Texas and includes all territory within these limits ceded to or owned by the United States.

Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.0045. "PERSONAL SERVICES". "Personal services" means those personal services listed as personal services under Group 721,

Major Group 72 of the Standard Industrial Classification Manual, 1972, and includes massage parlors, escort services, and Turkish baths under Group 729 of said manual but does not include any other services listed under Group 729 unless otherwise covered under this chapter, prepared by the statistical policy division of the office on management and budget, office of the president of the United States. The term does not include services provided through coin-operated machines that are operated by the consumer.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 5, eff. Oct. 2, 1984.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 638 (S.B. 1525), Sec. 2, eff. June 10, 2019.

Sec. 151.0047. "REAL PROPERTY REPAIR AND REMODELING". (a) "Real property repair and remodeling" means the repair, restoration, remodeling, or modification of an improvement to real property other than:

(1) a structure or separate part of a structure used as a residence;

(2) an improvement immediately adjacent to a structure described by Subdivision (1) of this section and used in the residential occupancy of the structure or separate part of the structure by the person using the structure or part as a residence; or

(3) an improvement to a manufacturing or processing production unit in a petrochemical refinery or chemical plant that provides increased capacity in the production unit.

(b) In this section:

(1) "Increased capacity" means the capability to produce:

(A) additional products or services as measured by units per hour or units per year; or

(B) a new product or service.

(2) "Production unit" means a group of manufacturing and processing machines and ancillary equipment that together are necessary to create or produce a physical or chemical change beginning with the first processing of the raw material and ending with the finished product.

(3) "New product" means a product that:

(A) has different product properties and a different commercial application than the product previously manufactured or processed by the production unit that produced the previous product; and

(B) is not created by straining or purifying an existing product or by making cosmetic changes, such as adding or removing color or odor, to or from an existing product.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 7. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 11, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 7, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 12, eff. Sept. 1, 1997.

Sec. 151.0048. REAL PROPERTY SERVICE. (a) Except as provided by Subsection (b), "real property service" means:

(1) landscaping;

(2) the care and maintenance of lawns, yards, or ornamental trees or other plants;

(3) the removal or collection of garbage, rubbish, or other solid waste other than:

(A) hazardous waste;

(B) industrial solid waste;

(C) waste material that results from an activity associated with the exploration, development, or production of oil, gas, geothermal resources, or any other substance or material regulated by the Railroad Commission of Texas under Section 91.101, Natural Resources Code;

(D) domestic sewage or an irrigation return flow, to the extent the sewage or return flow does not constitute garbage or rubbish; and

(E) industrial discharges subject to regulation by permit issued pursuant to Chapter 26, Water Code;

(4) building or grounds cleaning, janitorial, or custodial services;

(5) a structural pest control service covered by Section 1951.003, Occupations Code; or

(6) the surveying of real property.

(b) "Real property service" does not include a service listed

under Subsection (a) if the service is purchased by a contractor as part of the improvement of real property with a new structure to be used as a residence or other improvement immediately adjacent to the new structure and used in the residential occupancy of the structure.

(b-1) "Real property service" does not include a service listed under Subsection (a) if the service is performed by a landman and is necessary to negotiate or secure land or mineral rights for acquisition or trade, including:

(1) determining ownership;

(2) negotiating a trade or agreement regarding land or mineral rights;

(3) drafting and administering contractual agreements;

(4) ensuring that all governmental regulations are complied with; and

(5) any other action necessary to complete the transaction related to a service described by this subsection, other than an information service described by Section 151.0038.

(c) In this section, "contractor" means a person who makes an improvement on real estate and who, as a necessary or incidental part of the service, incorporates tangible personal property into the property improved. The term includes a builder, developer, speculative builder, or other person acting as a builder to improve residential real property.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 8. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 12, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 1031, Sec. 19, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1000, Sec. 7, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 13, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1114, Sec. 1.01, eff. Oct. 1, 1999; Acts 1999, 76th Leg., ch. 1114, Sec. 2.01, eff. Oct. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.815, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 1, eff. September 1, 2007.

Sec. 151.005. "SALE" OR "PURCHASE". "Sale" or "purchase" means any of the following when done or performed for consideration:

(1) a transfer of title or possession of tangible personal

property;

(2) the exchange, barter, lease, or rental of tangible personal property;

(3) the performance of a taxable service, the charge for an extended warranty or service contract for the performance of a taxable service, or, in the case of an amusement service, a transfer of title to or possession of a ticket or other admission document, the collection of an admission fee, whether by individual performance, subscription series, or membership privilege, the collection of dues or a fee, charge, or assessment, including an initiation fee, by a club or organization for membership or a special privilege, status, or membership classification in the club or organization, or the use of a coin-operated machine;

(4) the production, fabrication, processing, printing, or imprinting of tangible personal property for consumers who directly or indirectly furnish the materials used in the production, fabrication, processing, printing, or imprinting;

(5) the furnishing and distribution of tangible personal property by a social club or fraternal organization to anyone;

(6) the furnishing, preparation, or service of food, meals, or drinks;

(7) a transfer of the possession of tangible personal property if the title to the property is retained by the seller as security for the payment of the price; or

(8) a transfer of the title or possession of tangible personal property that has been produced, fabricated, or printed to the special order of the customer.

Acts 1981, 67th Leg., p. 1545, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 6, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 15; Acts 2003, 78th Leg., ch. 209, Sec. 17, eff. Oct. 1, 2003.

Sec. 151.006. "SALE FOR RESALE." (a) "Sale for resale" means a sale of:

(1) tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of reselling it as a taxable item as defined by Section 151.010 in the

United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business in the form or condition in which it is acquired or as an attachment to or integral part of other tangible personal property or taxable service;

(2) tangible personal property to a purchaser for the sole purpose of the purchaser's leasing or renting it in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business to another person, but not if incidental to the leasing or renting of real estate;

(3) tangible personal property to a purchaser who acquires the property for the purpose of transferring it in the United States of America or a possession or territory of the United States of America or in the United Mexican States as an integral part of a taxable service;

(4) a taxable service performed on tangible personal property that is held for sale by the purchaser of the taxable service; or

(5) tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of transferring it as an integral part of performing a contract, or a subcontract of a contract, for the sale, other than the lease or rental, of tangible personal property with an entity or organization exempted from the taxes imposed by this chapter under Section 151.309 or 151.310 only if the purchaser:

(A) allocates and bills to the contract the cost of the property or service as a direct or indirect cost; and

(B) transfers title to the property to the exempt entity or organization under the contract and any applicable acquisition regulations.

(b) Subsection (a)(3) applies to a transfer of a wireless voice communication device as an integral part of a taxable service, regardless of whether there is a separate charge for the wireless voice communication device or whether the purchaser is the provider of the taxable service, if payment for the service is a condition for receiving the wireless voice communication device.

(c) A sale for resale does not include the sale of tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of performing a service not

listed as a taxable service under Section 151.0101, regardless of whether title transfers to the service provider's customer, unless the tangible personal property or taxable service is purchased for the purpose of performing a contract, or a subcontract of a contract, for a service, including a taxable service under Section 151.0101, with any branch of the Department of Defense, Department of Homeland Security, Department of Energy, National Aeronautics and Space Administration, Central Intelligence Agency, National Security Agency, National Oceanic and Atmospheric Administration, or National Reconnaissance Office to the extent allocated and billed to the contract with the federal government.

(d) A sale for resale includes the sale of a computer program to a provider of Internet hosting who acquires the computer program from an unrelated vendor for the purpose of selling the right to use the computer program to an unrelated user of the provider's Internet hosting services in the normal course of business and in the form or condition in which the provider acquired the computer program. For purposes of this subsection, the purchase of the computer program by the provider qualifies as a sale for resale only if the provider offers the unrelated user a selection of computer programs that are available to the public for purchase directly from an unrelated vendor and executes a written contract with the unrelated user that specifies the name of the computer program sold to the unrelated user and includes a charge to the unrelated user for computing hardware. This subsection applies, notwithstanding Section 151.302(b), if the unrelated user purchases the right to use the computer program from the provider through the acquisition of a license and the provider does not retain the right to use the computer program under that license. The performance by the provider of routine maintenance of the computer program that is recommended or required by the unrelated vendor of the computer program does not affect the application of this subsection. In this subsection, "Internet hosting" has the meaning assigned by Section 151.108(a).

(e) A sale for resale does not include the sale of tangible personal property to a purchaser who acquires the property for the purpose of using, consuming, or expending it in, or incorporating it into, an oil or gas well in the performance of an oil well service taxable under Chapter 191.

Acts 1981, 67th Leg., p. 1546, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 7, eff. Oct. 2, 1984; Acts 1995, 74th Leg., ch. 351, Sec. 1, eff. Sept. 1, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 2, eff. September 1, 2007.
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 12.01, eff. October 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 426 (S.B. 755), Sec. 1, eff. June 10, 2015.
Acts 2019, 86th Leg., R.S., Ch. 638 (S.B. 1525), Sec. 3, eff. June 10, 2019.

Sec. 151.007. "SALES PRICE" OR "RECEIPTS". (a) Except as provided by Subsections (c) and (d), "sales price" or "receipts" means the total amount for which a taxable item is sold, leased, or rented, valued in money, without a deduction for the cost of:
(1) the taxable item sold, leased, or rented;
(2) the materials used, labor or service employed, interest, losses, or other expenses;
(3) the transportation or installation of tangible personal property; or
(4) transportation incident to the performance of a taxable service.
(b) The total amount for which a taxable item is sold, leased, or rented includes a service that is a part of the sale and the amount of credit given to the purchaser by the seller.
(c) "Sales price" or "receipts" does not include any of the following if separately identified to the customer by such means as an invoice, billing, sales slip or ticket, or contract:
(1) a cash discount allowed on the sale;
(2) the amount charged for tangible personal property returned by a customer if the total amount charged is refunded by cash or credit;
(3) a refund of the charges for the performance of a taxable service;
(4) finance, carrying and service charges, or interest from credit extended on sales of taxable items under a conditional sales contract or other contract providing for the deferred payment of the

purchase price;

(5) the value of tangible personal property that:

(A) is taken by a seller in trade as all or part of the consideration for a sale of a taxable item; and

(B) is of a type of property sold by the seller in the regular course of business;

(6) the face value of United States coin or currency in a sale of that coin or currency in which the total consideration given by the purchaser exceeds the face value of the coin or currency; or

(7) a voluntary gratuity or a reasonable mandatory charge for the service of a meal or food products, including soft drinks and candy, for immediate human consumption when the service charge is separated from the sales price of the meal or food product and identified as a gratuity or tip and when the total amount of the service charge is disbursed by the employer to employees who customarily and regularly provide the service.

(d) "Sales price" or "receipts" of items sold as edible products for human consumption through the use or operation of a money-operated vending machine is 50 percent of the total gross receipts of the vendor from sales of those items, except for sales of soft drinks and candy, for which the "sales price" or "receipts" are the total gross receipts from those sales.

(e) The sales price of membership in a private club or organization consists of the dues, fees, and other charges and assessments, including initiation fees, required for membership or a special privilege, status, or membership classification in the club or organization.

Acts 1981, 67th Leg., p. 1546, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 8, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 9; Acts 1997, 75th Leg., ch. 1040, Sec. 14, eff. Oct. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 12, eff. Oct. 1, 2001.

Sec. 151.0075. "SECURITY SERVICE". "Security service" means service for which a license is required under Section 1702.101 or 1702.102, Occupations Code.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 10. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.837, eff.

Sept. 1, 2001.

Sec. 151.008. "SELLER" OR "RETAILER". (a) "Seller" or "retailer" means a person engaged in the business of making sales of taxable items of a kind the receipts from the sale of which are included in the measure of the sales or use tax imposed by this chapter.

(b) "Seller" and "retailer" include:

(1) a person in the business of making sales at auction of tangible personal property owned by the person or by another;

(2) a person who makes more than two sales of taxable items during a 12-month period, including sales made in the capacity of an assignee for the benefit of creditors or receiver or trustee in bankruptcy;

(3) a person regarded by the comptroller as a seller or retailer under Section 151.024;

(4) a hotel, motel, or owner or lessor of an office or residential building or development that contracts and pays for telecommunications services for resale to guests or tenants;

(5) a person who engages in regular or systematic solicitation of sales of taxable items in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of print, radio, or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales of taxable items;

(6) a person who, under an agreement with another person, is:

(A) entrusted with possession of tangible personal property with respect to which the other person has title or another ownership interest; and

(B) authorized to sell, lease, or rent the property without additional action by the person having title to or another ownership interest in the property; and

(7) a person who is a marketplace provider under Section 151.0242.

Acts 1981, 67th Leg., p. 1547, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 206, Sec. 2, eff. Oct. 1, 1985;

Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.13.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 30.01, eff. January 1, 2012.
Acts 2019, 86th Leg., R.S., Ch. 182 (H.B. 1525), Sec. 1, eff. October 1, 2019.

Sec. 151.009. "TANGIBLE PERSONAL PROPERTY". "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner, and, for the purposes of this chapter, the term includes a computer program and a telephone prepaid calling card.

Acts 1981, 67th Leg., p. 1547, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 6, Sec. 2, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 11; Acts 1997, 75th Leg., ch. 1040, Sec. 16, eff. Sept. 1, 1997.

Sec. 151.010. TAXABLE ITEM. "Taxable item" means tangible personal property and taxable services. Except as otherwise provided by this chapter, the sale or use of a taxable item in electronic form instead of on physical media does not alter the item's tax status.

Acts 1981, 67th Leg., p. 1547, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 1, eff. Oct. 2, 1984; Acts 2001, 77th Leg., ch. 1263, Sec. 13, eff. Oct. 1, 2001.

Sec. 151.0101. "TAXABLE SERVICES". (a) "Taxable services" means:

(1) amusement services;

(2) cable television services;

(3) personal services;

(4) motor vehicle parking and storage services;

(5) the repair, remodeling, maintenance, and restoration of tangible personal property, except:

(A) aircraft;

(B) a ship, boat, or other vessel, other than:

(i) a taxable boat or motor as defined by Section 160.001;

(ii) a sports fishing boat; or

(iii) any other vessel used for pleasure;

(C) the repair, maintenance, and restoration of a motor vehicle; and

(D) the repair, maintenance, creation, and restoration of a computer program, including its development and modification, not sold by the person performing the repair, maintenance, creation, or restoration service;

(6) telecommunications services;

(7) credit reporting services;

(8) debt collection services;

(9) insurance services;

(10) information services;

(11) real property services;

(12) data processing services;

(13) real property repair and remodeling;

(14) security services;

(15) telephone answering services;

(16) Internet access service; and

(17) a sale by a transmission and distribution utility, as defined in Section 31.002, Utilities Code, of transmission or delivery of service directly to an electricity end-use customer whose consumption of electricity is subject to taxation under this chapter.

(b) The comptroller shall have exclusive jurisdiction to interpret Subsection (a) of this section.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 2, eff. Oct. 2, 1984. Amended by Acts 1985, 69th Leg., ch. 206, Sec. 3, eff. Oct. 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 12; Acts 1989, 71st Leg., ch. 1249, Sec. 1, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.021(a); Acts 1999, 76th Leg., ch. 394, Sec. 2, eff. Oct. 1, 1999; Acts 1999, 76th Leg., ch. 405, Sec. 54, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 18.008, eff. Sept. 1, 2001.

Sec. 151.0102. "TELEPHONE ANSWERING SERVICES". "Telephone

answering services" means the receiving and relaying of telephone messages by a human operator. The term does not include the automated receiving and relaying of telephone messages included within the definition of "telecommunications services" under Section 151.0103.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.031.

Sec. 151.0103. TELECOMMUNICATIONS SERVICES. (a) For the purposes of this title only, "telecommunications services" means the electronic or electrical transmission, conveyance, routing, or reception of sounds, signals, data, or information utilizing wires, cable, radio waves, microwaves, satellites, fiber optics, or any other method now in existence or that may be devised, including but not limited to long-distance telephone service. The term does not include:

(1) the storage of data or information for subsequent retrieval or the processing, or reception and processing, of data or information intended to change its form or content;

(2) the sale or use of a telephone prepaid calling card;

(3) Internet access service; or

(4) a pay telephone coin sent-paid telephone call.

(b) The exemption provided by Subsection (a)(4) applies only to the portion of the sales price of the telecommunications service that is paid by coin.

Added by Acts 1985, 69th Leg., ch. 206, Sec. 4, eff. Oct. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 394, Sec. 3, eff. Oct. 1, 1999. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1199 (H.B. 1459), Sec. 1, eff. September 1, 2007.

Sec. 151.01032. "TELEPHONE PREPAID CALLING CARD". "Telephone prepaid calling card" means a card or other item, including an access code, that represents the right to make one or more telephone calls for which payment is made in incremental amounts and before the call is initiated. The term "telephone prepaid calling card" does not include a card sold by mechanical means for consideration of one

dollar or less.

Added by Acts 1997, 75th Leg., ch. 1040, Sec. 15, eff. Sept. 1, 1997.

Sec. 151.0104. TELEPHONE COMPANY. For the purposes of this chapter, "telephone company" means a person that owns or operates a telephone line or telephone in this state and charges for its use.

Added by Acts 1985, 69th Leg., ch. 206, Sec. 4, eff. Oct. 1, 1985. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 13.

Sec. 151.011. "USE" AND "STORAGE". (a) Except as provided by Subsection (c) of this section, "use" means the exercise of a right or power incidental to the ownership of tangible personal property over tangible personal property, including tangible personal property other than printed material that has been processed, fabricated, or manufactured into other property or attached to or incorporated into other property transported into this state, and, except as provided by Section 151.056(b) of this code, includes the incorporation of tangible personal property into real estate or into improvements of real estate whether or not the real estate is subsequently sold.

(b) With respect to a taxable service, "use" means the derivation in this state of direct or indirect benefit from the service.

(c) "Use" does not include the sale of tangible personal property or a taxable service in the regular course of business, the transfer of a taxable service as an integral part of the transfer of tangible personal property in the regular course of business, or the transfer of tangible personal property as an integral part of the transfer of a taxable service in the regular course of business.

(d) Except as provided by Subsection (e) of this section, "storage" means the keeping or retaining for any purpose in this state of tangible personal property sold by a retailer.

(e) "Storage" does not include the keeping or retaining of tangible personal property for sale in the regular course of business.

(f) Neither "use" nor "storage" includes the exercise of a right or power over or the keeping or retaining of tangible personal

property for the purpose of:

(1) transporting the property outside the state for use solely outside the state; or

(2) processing, fabricating, or manufacturing the property into other property or attaching the property to or incorporating the property into other property to be transported outside the state for use solely outside the state.

Acts 1981, 67th Leg., p. 1547, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 14; Acts 1989, 71st Leg., ch. 323, Sec. 1, eff. Oct. 1, 1989; Acts 2003, 78th Leg., ch. 1310, Sec. 97, eff. Oct. 1, 2003.

Sec. 151.012. EFFECTIVE DATE OF TAX RATE CHANGES. (a) A change in the rate of the tax imposed under Sections 151.051 and 151.101 must take effect on the first day of a calendar quarter.

(b) If the performance of a taxable service begins before the effective date of a change in the tax rate and the performance will not be completed until after that effective date, the change in the tax rate applies to the first billing period for the service performed on or after that effective date.

Added by Acts 2003, 78th Leg., ch. 1310, Sec. 98, eff. Oct. 1, 2003.

SUBCHAPTER B. ADMINISTRATION AND RECORDS

Sec. 151.021. EMPLOYEES. The comptroller may employ accountants, auditors, investigators, assistants, and clerks for the administration of this chapter and may delegate to employees the authority to conduct hearings, prescribe rules, and perform other duties required by this chapter.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.022. RETROACTIVE EFFECT OF RULES. The comptroller may prescribe the extent to which a rule or ruling shall be applied without retroactive effect.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.023. INVESTIGATIONS AND AUDITS. (a) The comptroller, or another person authorized by the comptroller in writing, may examine, copy, and photograph the books, records, papers, and equipment of a person who sells taxable items or of a person liable for the use tax and may investigate the character of the business of the person to verify the accuracy of the person's report or to determine the amount of tax that may be required to be paid if no report has been filed.

(b) For the purpose of determining the amount of tax collected and payable to the state, the amount of tax accruing and due, and whether a tax liability has been incurred under this chapter, the comptroller or a person authorized by the comptroller may:

(1) inspect at any time during business hours any business premises where a taxable event has occurred and examine, copy, and photograph the books, returns, records, papers, and equipment relating to the conduct in question; and

(2) require by delivery of written notice to the taxpayer or to an employee, representative, or agent of the taxpayer that, not later than the 10th working day after the date the notice is delivered, the taxpayer produce to an agent or designated representative of the comptroller for inspection the books, records, papers, and returns relating to the taxable activity stated in the notice.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 2001, 77th Leg., ch. 442, Sec. 9, eff. Sept. 1, 2001.

Sec. 151.0231. MANAGED AUDITS. (a) In this section, "managed audit" means a review and analysis of invoices, checks, accounting records, or other documents or information to determine a taxpayer's liability for tax under this chapter.

(b) A managed audit may be limited to certain categories of liability under this chapter, including tax on:

(1) sales of one or more types of taxable items;

(2) purchases of assets;

(3) purchases of expense items;

(4) purchases under a direct payment permit; or

(5) any other category specified in an agreement authorized by this section.

(c) The comptroller may, in a written agreement, authorize a taxpayer to conduct a managed audit under this section. The agreement must:

(1) be signed by an authorized representative of the comptroller and the taxpayer; and

(2) specify the period to be audited and the procedure to be followed.

(d) In determining whether to authorize a managed audit, the comptroller may consider, in addition to other factors the comptroller considers relevant:

(1) the taxpayer's history of tax compliance;

(2) the amount of time and resources the taxpayer has available to dedicate to the audit;

(3) the extent and availability of the taxpayer's records; and

(4) the taxpayer's ability to pay any expected liability.

(e) The decision to authorize or not authorize a managed audit rests solely with the comptroller.

(f) The comptroller may examine records and perform reviews that the comptroller determines are necessary before the audit is finalized to verify the results of the audit.

(g) Unless the audit or information reviewed by the comptroller under Subsection (f) discloses fraud or wilful evasion of the tax, the comptroller may not assess a penalty and may waive all or part of the interest that would otherwise accrue on any amount identified to be due in a managed audit. This subsection does not apply to any amount collected by the taxpayer that was a tax or represented to be a tax but that was not remitted to this state.

(h) Except as provided by Section 111.104(f), the taxpayer is entitled to a refund of any tax overpayment disclosed by a managed audit under this section.

Added by Acts 1999, 76th Leg., ch. 457, Sec. 1, eff. Oct. 1, 1999.

Sec. 151.024. PERSONS WHO MAY BE REGARDED AS RETAILERS. If the comptroller determines that it is necessary for the efficient administration of this chapter to regard a salesman, representative,

peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom he operates or from whom he obtains the tangible personal property that he sells, whether or not the sale is made in his own behalf or for the dealer, distributor, supervisor, or employer, the comptroller may so regard the salesman, representative, peddler, or canvasser, and may regard the dealer, distributor, supervisor, or employer as a retailer or seller for the purpose of this chapter.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.0241. PERSONS PERFORMING DISASTER- OR EMERGENCY-RELATED WORK. (a) In this section, "disaster- or emergency-related work," "disaster response period," and "out-of-state business entity" have the meanings assigned by Section 112.003, Business & Commerce Code.

(b) An out-of-state business entity is not engaged in business in this state for purposes of Sections 151.107 and 151.403 or any other provision of this chapter applicable to a person engaged in business in this state if the entity's physical presence in this state is solely from the entity's performance of disaster- or emergency-related work during a disaster response period.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. 2358), Sec. 2(a), eff. June 16, 2015.

Sec. 151.0242. MARKETPLACE PROVIDERS AND MARKETPLACE SELLERS. (a) In this section:

(1) "Marketplace" means a physical or electronic medium through which persons other than the owner or operator of the medium make sales of taxable items. The term includes a store, Internet website, software application, or catalog.

(2) "Marketplace provider" means a person who owns or operates a marketplace and directly or indirectly processes sales or payments for marketplace sellers.

(3) "Marketplace seller" means a seller, other than the marketplace provider, who makes a sale of a taxable item through a marketplace.

(b) Except as otherwise provided by this section, a marketplace

provider has the rights and duties of a seller or retailer under this chapter with respect to sales made through the marketplace.

(c) A marketplace provider shall:

(1) certify to each marketplace seller that the marketplace provider assumes the rights and duties of a seller or retailer under this chapter with respect to sales made by the marketplace seller through the marketplace;

(2) collect in the manner provided by Subchapters C and D the taxes imposed by this chapter on sales of taxable items made through the marketplace; and

(3) report and remit under Subchapter I the taxes imposed by this chapter on all sales made through the marketplace.

(d) A marketplace seller who in good faith accepts a marketplace provider's certification under Subsection (c)(1) shall exclude sales made through the marketplace from the marketplace seller's report under Subchapter I, notwithstanding Section 151.406.

(e) A marketplace seller shall retain records for all marketplace sales as required by Section 151.025.

(f) A marketplace seller shall furnish to the marketplace provider information that is required to correctly collect and remit taxes imposed by this chapter. The information may include a certification of taxability that an item being sold is a taxable item, is not a taxable item, or is exempt from taxation.

(g) Except as provided by Subsection (h), a marketplace provider is not liable for failure to collect and remit the correct amount of taxes imposed by this chapter if the marketplace provider demonstrates that the failure resulted from the marketplace provider's good faith reliance on incorrect or insufficient information provided by the marketplace seller. The marketplace seller is liable for a deficiency resulting from incorrect or insufficient information provided by the marketplace seller.

(h) A marketplace provider and marketplace seller that are affiliates or associates, as defined by Section 1.002, Business Organizations Code, are jointly and severally liable for a deficiency resulting from a sale made by the marketplace seller through the marketplace.

(i) This section does not affect the tax liability of a purchaser under Section 151.052 or 151.102.

(j) A court may not certify an action brought against a marketplace provider concerning this section as a class action.

(k) The comptroller may adopt rules and forms to implement this section and by rule except certain marketplace providers from some or all of the requirements of this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 182 (H.B. 1525), Sec. 2, eff. October 1, 2019.

Sec. 151.025. RECORDS REQUIRED TO BE KEPT. (a) All sellers and all other persons storing, using, or consuming in this state a taxable item purchased from a retailer shall keep the following records in the form the comptroller requires:

(1) records of all gross receipts, including documentation in the form of receipts, shipping manifests, invoices, and other pertinent papers, from each sale, rental, lease, taxable service, and taxable labor transaction occurring during each reporting period;

(2) records in the form of receipts, shipping manifests, invoices, and other pertinent papers of all purchases of taxable items from every source made during each reporting period;

(3) records in the form of receipts, shipping manifests, invoices, and other pertinent papers that substantiate each claimed deduction or exclusion authorized by law; and

(4) records in the form of sales receipts, invoices, or other equivalent records showing all sales and use tax, and any money represented to be sales and use tax, received or collected on each sale, rental, lease, or service transaction during each reporting period.

(b) A record required by Subsection (a) shall be kept for not less than four years from the date that it is made unless:

(1) the comptroller authorizes in writing its destruction at an earlier date; or

(2) Section 111.0041 requires that the record be kept for a longer period.

(c) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(26) and Acts 2003, 78th Leg., ch. 209, Sec. 86(b).

(d) If any nontaxable charges are combined with and not separately stated from taxable telecommunications service charges on the customer bill or invoice of a provider of telecommunications services, the combined charge is subject to tax unless the provider can identify the portion of the charges that are nontaxable through

the provider's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the charges from the sale of both nontaxable services and taxable telecommunications services are attributable to taxable telecommunications services. The provider of telecommunications services has the burden of proving nontaxable charges.

Acts 1981, 67th Leg., p. 1548, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 206, Sec. 5, eff. Oct. 1, 1985; Acts 2001, 77th Leg., ch. 442, Sec. 10, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 99, 121(26), eff. July 1, 2003; Acts 2003, 78th Leg., ch. 209, Sec. 86(a), (b), eff. Oct. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 14, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.05, eff. October 1, 2011.

Sec. 151.026. OUT-OF-STATE RECORDS. A taxpayer is entitled to keep or store the taxpayer's records outside this state. If the comptroller requests to examine a record kept or stored outside this state, the taxpayer shall bring the record into this state for the examination or permit the comptroller to examine the record at the out-of-state location.

Acts 1981, 67th Leg., p. 1549, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.027. CONFIDENTIALITY OF TAX INFORMATION. (a) Information in or derived from a record, report, or other instrument required to be furnished under this chapter is confidential and not open to public inspection, except for information set forth in a lien filed under this title or a permit issued under this chapter to a seller and except as provided by Subsection (c) of this section.

(b) Information secured, derived, or obtained during the course of an examination of a taxpayer's books, records, papers, officers, or employees, including the business affairs, operations, profits, losses, and expenditures of the taxpayer, is confidential and not open to public inspection except as provided by Subsection (c) of this section.

(c) This section does not prohibit:

(1) the examination of information, if authorized by the comptroller, by another state officer or law enforcement officer, by a tax official of another state, by a tax official of the United Mexican States, or by an official of the United States if a reciprocal agreement exists;

(2) the delivery to a taxpayer, or a taxpayer's authorized representative, of a copy of a report or other paper filed by the taxpayer under this chapter;

(3) the publication of statistics classified to prevent the identification of a particular report or items in a particular report;

(4) the use of records, reports, or information secured, derived, or obtained by the attorney general or the comptroller in an action under this chapter against the same taxpayer who furnished the information;

(5) the delivery to a successor, receiver, executor, administrator, assignee, or guarantor of a taxpayer of information about items included in the measure and amounts of any unpaid tax or amounts of tax, penalties, and interest required to be collected;

(6) the delivery of information to a municipality, county, or other local governmental entity in accordance with Section 321.3022, 322.2022, or 323.3022; or

(7) the release of information in or derived from a record, report, or other instrument required to be furnished under this chapter by a governmental body, as that term is defined in Section 552.003, Government Code.

Acts 1981, 67th Leg., p. 1549, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 351, Sec. 3, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 69, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 1218, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 1, eff. September 1, 2009.

Sec. 151.029. REMEDIES NOT EXCLUSIVE. An action taken by the comptroller or the attorney general under this chapter is not an election to pursue one remedy to the exclusion of any other remedy

authorized by this chapter.

Acts 1981, 67th Leg., p. 1549, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER C. IMPOSITION AND COLLECTION OF SALES TAX

Sec. 151.051. SALES TAX IMPOSED. (a) A tax is imposed on each sale of a taxable item in this state.

(b) The sales tax rate is 6-1/4 percent of the sales price of the taxable item sold.

Added by Acts 1981, 67th Leg., p. 1550, ch. 389, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 13, Sec. 1, eff. Oct. 2, 1984; Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 1, eff. Jan. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 1, Sec. 1; Acts 1990, 71st Leg., 6th C.S., ch. 5, Sec. 1.01, eff. July 1, 1990.

For expiration of this section, see Subsection (d).

Sec. 151.0515. TEXAS EMISSIONS REDUCTION PLAN SURCHARGE. (a) In this section, "equipment" includes all off-road, heavy-duty diesel equipment, other than implements of husbandry used solely for agricultural purposes, including:

(1) pavers;
(2) tampers/rammers;
(3) plate compactors;
(4) concrete pavers;
(5) rollers;
(6) scrapers;
(7) paving equipment;
(8) surface equipment;
(9) signal boards/light plants;
(10) trenchers;
(11) bore/drill rigs;
(12) excavators;
(13) concrete/industrial saws;
(14) cement and mortar mixers;
(15) cranes;
(16) graders;

(17) off-highway trucks;
(18) crushing/processing equipment;
(19) rough terrain forklifts;
(20) rubber tire loaders;
(21) rubber tire tractors/dozers;
(22) tractors/loaders/backhoes;
(23) crawler tractors/dozers;
(24) skid steer loaders;
(25) off-highway tractors;
(26) Dumpsters/tenders; and
(27) mining equipment.

(b) In each county in this state, a surcharge is imposed on the retail sale, lease, or rental of new or used equipment in an amount equal to 1.5 percent of the sale price or the lease or rental amount.

(b-1) In each county in this state, a surcharge is imposed on the storage, use, or other consumption in this state of new or used equipment. The surcharge is at the same percentage rate as is provided by Subsection (b) on the sales price or the lease or rental amount of the equipment.

(c) The surcharge shall be collected at the same time and in the same manner and shall be administered and enforced in the same manner as the tax imposed under this chapter. The comptroller shall adopt any additional procedures needed for the collection, administration, and enforcement of the surcharge authorized by this section and shall deposit all remitted surcharges to the credit of the Texas emissions reduction plan fund.

(d) This section expires on the last day of the state fiscal biennium during which the Texas Commission on Environmental Quality publishes in the Texas Register the notice required by Section 382.037, Health and Safety Code.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 2, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 21, eff. July 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 17, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.13, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. 1796), Sec. 18, eff.

September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 35, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1301 (H.B. 3745), Sec. 2.01, eff. August 30, 2019.

Sec. 151.052. COLLECTION BY RETAILER. (a) Except as provided by Subsection (d), a seller who makes a sale subject to the sales tax imposed by this chapter shall add the amount of the tax to the sales price, and when the amount of the tax is added:

(1) it becomes a part of the sales price;

(2) it is a debt of the purchaser to the seller until paid; and

(3) if unpaid, it is recoverable at law in the same manner as the original sales price.

(b) The owner or former owner of tangible personal property, a factor of the owner or former owner, or an agent of the owner, former owner, or factor shall collect the sales tax and add the amount of the tax to the sales price of the tangible personal property if the person delivers the property to a consumer in this state or to another person for redelivery to a consumer in this state under a sale of the property that is not a sale for resale and that is made by a seller not engaged in business in this state.

(c) When several taxable items are sold together and at the same time, the sales tax is determined on the sum of the sales prices of the items sold exclusive of any item the sale of which is exempted by this chapter.

(d) For purposes of the printer's tax collection duty, it is presumed that printed materials that are distributed by the United States Postal Service singly or in sets addressed to individual recipients, other than the purchaser, and that are either produced at a printer's facility in this state or purchased in this state are for use in Texas and the printer must collect the tax imposed under this chapter. In order to overcome this presumption a purchaser of printed materials that are distributed by the United States Postal Service singly or in sets addressed to individual recipients, other than the purchaser, is required to issue an exemption certificate to the printer if the printed materials are for distribution to both in-state and out-of-state recipients. The certificate must contain the

statement that the printed materials are for multistate use and that the purchaser agrees to pay to this state all taxes that are or may become due to the state on the taxable items purchased under the exemption certificate. In this subsection, "printed materials" is defined to be materials that are produced by web offset or rotogravure printing processes. A printer is relieved of the obligation of collecting the taxes imposed by this chapter on printed materials that are distributed by the United States Postal Service singly or in sets addressed to individual recipients, other than the purchaser, but is required to file a report as provided by Section 151.407.

Acts 1981, 67th Leg., p. 1550, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 397, Sec. 1, eff. Sept. 1, 2001.

Sec. 151.053. SALES TAX BRACKETS. (a) If the sales price involves a fraction of a dollar, the sales tax to be added to the sales price shall be computed by multiplying the percentage rate of the sales tax times the amount of the sale. A fraction of one cent that is less than one-half of one cent is not collected and a fraction of one cent that is equal to one-half of one cent or more is collected as one cent of tax.

(b) The comptroller may publish schedules and brackets of amounts of taxes based on the formula provided by Subsection (a) of this section for use in the collection of the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1550, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 13, Sec. 2, eff. Oct. 2, 1984; Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 2, eff. Jan. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 3, Sec. 1.

Sec. 151.054. GROSS RECEIPTS PRESUMED SUBJECT TO TAX. (a) Except as provided by Subsection (d) of this section, all gross receipts of a seller are presumed to have been subject to the sales tax unless a properly completed resale or exemption certificate is accepted by the seller.

(b) A sale is exempt if the seller receives in good faith from

a purchaser, who is in the business of selling, leasing, or renting taxable items, a resale certificate stating that the tangible personal property or service is acquired for the purpose of selling, leasing, or renting it in the regular course of business or for the purpose of transferring it as an integral part of a taxable service performed in the regular course of business.

(c) A sale is exempt if the seller receives in good faith from a purchaser an exemption certificate stating qualifications for an exemption provided in Subchapter H of this chapter.

Text of subsection effective until September 1, 2021

(d) A sale of liquor, wine, beer, or malt liquor by the holder of a manufacturer's license, wholesaler's permit, general class B wholesaler's permit, local class B wholesaler's permit, local distributor's permit, or a general, local, or branch distributor's license issued under the Alcoholic Beverage Code to the holder of a retail license or permit issued under the Alcoholic Beverage Code is presumed to be a sale for resale. In a sale to which this section applies, the seller is not required to receive a resale certificate from the purchaser.

Text of subsection effective on September 1, 2021

(d) A sale of liquor, wine, or malt beverages by the holder of a brewer's license, wholesaler's permit, general class B wholesaler's permit, local distributor's permit, or a general or branch distributor's license issued under the Alcoholic Beverage Code to the holder of a retail license or permit issued under the Alcoholic Beverage Code is presumed to be a sale for resale. In a sale to which this section applies, the seller is not required to receive a resale certificate from the purchaser.

(e) Properly completed resale or exemption certificates should be in the possession of the seller at the time the nontaxable transaction occurs. If the seller is not in possession of these certificates within 60 days from the date written notice requiring possession of them is given to the seller by the comptroller, deductions claimed by the seller that require delivery of the certificates shall be disallowed. If the seller delivers the certificates to the comptroller within the 60-day period, the comptroller may verify the reason or basis for exemption claimed in the certificates before allowing any deductions. A deduction may not be granted on the basis of certificates delivered to the comptroller

after the 60-day period.

Acts 1981, 67th Leg., p. 1550, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 15, Sec. 2, eff. Oct. 2, 1984; Acts 1985, 69th Leg., ch. 206, Sec. 6, eff. Oct. 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 16.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 397, eff. September 1, 2021.

Sec. 151.055. SALES OF ITEMS ACQUIRED FOR LEASE OR RENTAL. (a) If a person purchases tangible personal property by means of a sale for resale for the purpose of renting or leasing the property for use but subsequently sells the property in an occasional sale before the person has collected and paid to the state an amount of sales tax on rental or lease charges equal to the amount of sales tax that would have been due if the person had not acquired the property at a sale for resale, the person at the time of the occasional sale shall include in his receipts from taxable sales the amount by which the purchase price of the item at the occasional sale exceeds the amount received from renting or leasing the property.

(b) If tangible personal property is rented or leased under an agreement that provides that all or a portion of the rental or lease payments may be credited against the purchase price of the item, the lessor shall collect the sales tax on the sales price, including the sum of all lease or rental payments for the term of the lease or rental, at the time the purchaser takes possession of the property or when the first payment is due, whichever period is the earlier. If the purchaser-lessee returns the taxable item to the seller-lessor before the end of the lease or rental period without having acquired title to the property, the seller-lessor may take a credit against other taxes due under this chapter or claim a refund as provided by this code for an amount equal to the amount of the taxes paid on the unpaid portion of the sales price.

Acts 1981, 67th Leg., p. 1551, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 9, Sec. 2, eff. Oct. 2, 1984.

Sec. 151.056. PROPERTY CONSUMED IN CONTRACTS TO IMPROVE REAL PROPERTY. (a) A contractor is the consumer of tangible personal property furnished by him and incorporated into the property of his customer if the contract between the contractor and his customer contains a lump-sum price covering both the performance of the service and the furnishing of the necessary incidental material.

(b) A contractor is the seller of tangible personal property furnished by him and incorporated into the property of his customer, from whom he shall collect the tax, if the contract between the contractor and his customer contains separate amounts for the performance of the service and for the furnishing of the necessary incidental material. The tax rate is applied to the price of the materials as agreed in the contract or the price of the materials to the contractor, whichever is the greater.

(c) If a contractor has paid the sales tax to his supplier when the tangible personal property is purchased, the contractor may credit the amount of the tax paid to the supplier against the tax imposed as provided in Subsection (b) of this section with respect to a subsequent sale of the property.

(d) In this section, "contractor" means a person who makes an improvement on real estate and who, as a necessary or incidental part of the service, incorporates tangible personal property into the property improved.

(e) This section does not apply to the use or consumption of tangible personal property as a necessary or incidental part of a taxable service.

(f) A contractor is not eligible for the exemption provided by Section 151.318 on items used in the performance of a contract to improve real property.

(g) In this subsection, "ready mix concrete contractor" means a person who manufactures or produces ready mixed concrete for construction purposes and incorporates the ready mixed concrete in the property improved. A ready mix concrete contractor performing a contract must separate and individually invoice the customer for each yard of ready mixed concrete produced and consumed for the improvement of real property and collect and remit the tax imposed under this chapter on the ready mixed concrete produced and consumed. The tax rate is applied to the price of the materials determined by the greater of the invoice price or fair market value of ready mixed concrete incorporated into the project. This subsection does not

apply to an invoice submitted by a ready mix concrete contractor for a public works project.

Acts 1981, 67th Leg., p. 1551, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 17; Acts 2003, 78th Leg., ch. 209, Sec. 18, eff. Oct. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 3, eff. September 1, 2007.

Sec. 151.0565. TAXABLE ITEMS SOLD OR PROVIDED UNDER DESTINATION MANAGEMENT SERVICES CONTRACTS. (a) In this section:

(1) "Destination management services" means the following services:

(A) transportation vehicle management;

(B) booking and managing entertainers;

(C) coordination of tours or recreational activities;

(D) meeting, conference, or event registration;

(E) meeting, conference, transportation, or event staffing;

(F) event management;

(G) meal coordination;

(H) shuttle system services, including vehicle staging, radio communications, signage, and routing services; and

(I) airport meet-and-greet services, including the provision of airport permits, manifest management services, porterage, and passenger greeting services.

(2) "Qualified destination management company" means a business entity that:

(A) is incorporated or is a limited liability company;

(B) receives at least 80 percent of the entity's annual total revenue from providing or arranging for the provision of a combination of at least six destination management services;

(C) maintains a permanent nonresidential office from which the destination management services are provided or arranged;

(D) has at least three full-time employees;

(E) maintains a general liability insurance policy with a limit of at least $1 million;

(F) during the preceding tax year, had at least 80

percent of the entity's client contracts for:

(i) clients from outside this state who were determined by a contracting entity outside this state; or

(ii) clients from outside this state who were program attendees staying in a hotel in this state;

(G) other than office equipment used in the conduct of the entity's business, does not own equipment used to directly provide destination management services, including motor coaches, limousines, sedans, dance floors, decorative props, lighting, podiums, sound or video equipment, or equipment for catered meals;

(H) does not prepare or serve beverages, meals, or other food products, but may procure catering services on behalf of the entity's clients;

(I) does not provide services for weddings;

(J) does not own or operate a venue at which events or activities for which destination management services are provided occur; and

(K) is not a member of an affiliated group, as that term is defined by Section 171.0001, another member of which:

(i) prepares or serves beverages, meals, or other food products; or

(ii) owns or operates a venue described by Paragraph (J).

(3) "Qualified destination management services contract" means a contract under which at least three of the destination management services listed in Subdivision (1) are provided:

(A) in this state to a client that is not an individual and that:

(i) is a corporation, partnership, limited liability company, trade association, or other business entity, other than a social club or fraternal organization;

(ii) has its principal place of business outside the county where the destination management services are to be provided; and

(iii) agrees to pay the qualified destination management company for all destination management services provided to the client under the terms of the contract; and

(B) by a qualified destination management company that pays or accrues liability for the payment of taxes imposed by this chapter on purchases of taxable items that will be consumed or used

by the company in performing the contract.

(b) A qualified destination management company is the consumer of taxable items sold or otherwise provided under a qualified destination management services contract, and the destination management services provided under the contract are not considered taxable services, as that term is defined by Section 151.0101.

Added by Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 2, eff. September 1, 2009.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1061 (H.B. 3169), Sec. 1, eff. September 1, 2013.

Sec. 151.058. PROPERTY USED TO PROVIDE TAXABLE SERVICES AND SALE PRICE OF TAXABLE SERVICES. (a) A person performing services taxable under this chapter is the consumer of machinery and equipment used in performing the services.

(b) The total amount charged for a service taxable under this chapter is subject to tax, including charges for labor, materials, overhead, and profit, regardless of whether such charges are separately identified to the purchaser of the service.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 18. Amended by Acts 1993, 73rd Leg., ch. 1031, Sec. 20, eff. Sept. 1, 1993.

Sec. 151.0595. SINGLE LOCAL TAX RATE FOR REMOTE SELLERS. (a) In this section, "remote seller" means a seller whose only activities in this state are described by Section 151.107(a)(4) or (5).

(b) A remote seller required to collect and remit one or more local use taxes in connection with a sale of a taxable item made by the remote seller shall compute the amount to collect and remit using:

(1) the combined rate of all applicable local use taxes authorized or governed by Title 3; or

(2) at the remote seller's election, the single local use tax rate published in the Texas Register as required by Subsection (d).

(c) A remote seller who elects under Subsection (b)(2) to use

the single local use tax rate shall notify the comptroller of the election before using that rate. The election applies to all sales of taxable items made by the remote seller unless the remote seller revokes the election by notifying the comptroller. Notice to the comptroller under this subsection must be in the form and manner provided by the comptroller.

(d) The single local use tax rate effective in a calendar year is equal to the estimated average rate of local sales and use taxes imposed in this state during the preceding state fiscal year, as determined under Subsection (e). Before the beginning of a calendar year, the comptroller shall publish in the Texas Register notice of the single local use tax rate that will be in effect for that calendar year.

(e) As soon as practicable after the end of a state fiscal year, the comptroller shall determine the estimated average rate of local sales and use taxes imposed in this state during the preceding state fiscal year by:

(1) dividing the total amount of net local sales and use taxes remitted to the comptroller under this section and Title 3 during that state fiscal year by the total amount of net state sales and use taxes remitted to the comptroller under this chapter during that state fiscal year;

(2) multiplying the amount computed under Subdivision (1) by the rate provided by Section 151.051; and

(3) rounding the amount computed under Subdivision (2) to the nearest .0025.

(f) Notwithstanding Section 111.104(b), a purchaser may annually apply for a refund of any amount by which the amount of use tax computed using the rate described by Subsection (b)(2) and paid by the purchaser exceeds the amount the purchaser would have paid if that tax had been computed using the rate described by Subsection (b)(1). The comptroller may adopt rules regarding the procedure and proof required for the refund.

(g) A person storing, using, or consuming in this state a taxable item purchased from a remote seller is not liable for any additional amount of local use tax authorized or governed by Title 3 if the remote seller elects under Subsection (b)(2) to use the single local use tax rate and the person pays to the remote seller the amount of local use tax computed on the purchase using the single local use tax rate.

(h) The comptroller shall administer, collect, and enforce local use taxes computed using the single local use tax rate.

(i) The comptroller shall apportion and distribute revenue from local use taxes computed using the single local use tax rate as provided by Section 403.107, Government Code.

(j) The comptroller may adopt rules to administer this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 51 (H.B. 2153), Sec. 2, eff. October 1, 2019.

Sec. 151.060. PROPERTY CONSUMED IN REPAIR OF MOTOR VEHICLE. (a) Except as provided by Subsection (b), a person who repairs a motor vehicle is the seller of all tangible personal property consumed in providing that service except electricity and gas, and shall collect the tax due under this chapter from the customer.

(b) A person who repairs a motor vehicle is the consumer of all tangible personal property consumed in providing that service if the contract between the person and the customer contains a lump-sum price covering both the performance of the service and the furnishing of the consumed tangible personal property.

(c) In this section, tangible personal property is considered consumed if it can no longer be used for its intended purposes in the normal course of business or is not retained or reusable by the person providing the repair service.

Added by Acts 1991, 72nd Leg., ch. 378, Sec. 1, eff. Oct. 1, 1991.

Sec. 151.061. SOURCING OF CHARGES FOR MOBILE TELECOMMUNICATIONS SERVICES. (a) In this section:

(1) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(2) "Place of primary use" means the street address that is representative of where the customer's use of the mobile telecommunications service primarily occurs. That location must be the residential street address or the primary business street address of the customer that is within the licensed service area of the home service provider.

(3) "Electronic database" means a database provided by the

state or by a designated database provider to home service providers. Such electronic database shall, allowing for de minimis deviations, designate for each street address in the state, including, to the extent practical, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code for each taxing jurisdiction, for each level of taxing jurisdiction, identified by one nationwide numeric code. The nationwide standard numeric codes shall contain the same number of numeric digits, with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission or their successors. Each address shall be provided in standard postal format. Such electronic database shall also provide the appropriate code for each street address with respect to political subdivisions which are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdictions.

(b) This section applies to state and local sales and use taxes administered and computed under this title or Title 3 and to which this title or Title 3 applies, including this chapter.

(c) The federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sections 116-126) governs the sourcing of charges for mobile telecommunications services. In accordance with that Act:

(1) mobile telecommunications services provided in a taxing jurisdiction to a customer, the charges for which are billed by or for the customer's home service provider, shall be deemed to be provided by the customer's home service provider; and

(2) all charges for mobile telecommunications services that are deemed to be provided by the customer's home service provider in accordance with this Act are authorized to be subjected to tax, charge, or fee by the taxing jurisdictions whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunications services originate, terminate, or pass through, and no other taxing jurisdiction may impose taxes, charges, or fees on charges for such mobile telecommunications services.

(d) If a customer believes that an amount of tax or an assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, the customer shall notify the home service provider in writing. The customer shall include in the written notification:

(1) the customer's street address for the customer's place of primary use;

(2) the account name and number for which the customer requests the correction;

(3) a description of the error asserted by the customer; and

(4) any other information that the home service provider reasonably requires to process the request.

(e) Not later than the 60th day after the date the home service provider receives a request under Subsection (d), the home service provider shall review the provider's records and the electronic database or enhanced zip code to determine the correct amount of the tax imposed or the assignment of the customer's place of primary use or taxing jurisdiction, as appropriate. If the home service provider determines that the amount of tax imposed or the assignment of place of primary use or taxing jurisdiction is incorrect, the home service provider shall correct the error and refund or credit any amount of tax erroneously collected from the customer. The home service provider shall correct the error and refund or credit the amount of tax erroneously collected from the customer for a period of up to four years. If the home service provider determines that the amount of tax imposed or the assignment of place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer.

(f) The procedures prescribed by Subsections (d) and (e) are the first course of remedy available to a customer requesting a correction of assignment of place of primary use or of taxing jurisdiction or a refund of or other compensation for taxes erroneously collected by the home service provider.

(g) The state may provide an electronic database, described in Subsection (a)(3), to a home service provider or, if the state does not provide such an electronic database to home service providers, the designated database provider may provide an electronic database to a home service provider.

(h) The state or the designated database provider that provides or maintains an electronic database described in Subsection (a)(3) shall provide notice of the availability of the then current electronic database, and any subsequent revisions thereof, by publication in the manner normally employed by the state.

(i) A home service provider using the data contained in an

electronic database described in Subsection (a)(3) shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in such database provided by the state or designated database provider. The home service provider shall reflect changes made to such database during a calendar quarter not later than 30 days after the end of such calendar quarter.

(j) If neither the state nor the designated database provider provides an electronic database as described in Subsection (a)(3), a home service provider shall be held harmless from any tax, charge, or fee liability in the state that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction if, subject to Subsection (n), the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercises due diligence at each level of taxing jurisdiction to ensure that each such street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code for each level of taxing jurisdiction. Any enhanced zip code assignment changed in accordance with Subsection (n) is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if such home service provider demonstrates that it has:

(1) expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;

(2) implemented and maintained reasonable internal controls to promptly correct misassignments of street addresses to taxing jurisdictions; and

(3) used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.

(k) Subsection (j) applies to a home service provider that is in compliance with the requirements of Subsection (j), if an electronic database as defined in Subsection (a)(3) is not provided until the later of:

(1) 18 months after the nationwide standard numeric code described in Subsection (a)(3) has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or

(2) 6 months after the state or a designated database provider in the state provides such database as prescribed in Subsection (a)(3).

(l) A home service provider shall be responsible for obtaining and maintaining the customer's place of primary use as defined in Subsection (a)(2). Subject to Subsection (n), and if the home service provider's reliance on information provided by its customer is in good faith, a taxing jurisdiction shall:

(1) allow a home service provider to rely on the applicable residential or business street address supplied by the home service provider's customer; and

(2) not hold a home service provider liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate itemized charge.

(m) Except as provided in Subsection (n), a taxing jurisdiction shall allow a home service provider to treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect two years after the date of the enactment of the Mobile Telecommunications Sourcing Act (4 U.S.C. Sections 116-126) as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdictions to which taxes, charges, or fees on charges for mobile telecommunications services are remitted.

(n) The state may:

(1) determine that the address used for purposes of determining the taxing jurisdictions to which taxes, charges, or fees for mobile telecommunications services are remitted does not meet the definition of place of primary use under Subsection (a)(2) and give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination. Before the state gives such notice of determination, the customer shall be given an opportunity to demonstrate in accordance with applicable state administrative procedures that the address is the customer's place of primary use; and

(2) determine that the assignment of a taxing jurisdiction by a home service provider under Subsection (j) does not reflect the correct taxing jurisdiction and give binding notice to the home service provider to change the assignment on a prospective basis from the date of notice of determination. The home service provider shall be given an opportunity to demonstrate in accordance with applicable state administrative procedures that the assignment reflects the correct taxing jurisdiction.

(o)(1) If a taxing jurisdiction does not otherwise subject charges for mobile telecommunications services to taxation and if these charges are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable mobile telecommunications services may be subject to taxation unless the home service provider can reasonably identify charges not subject to such tax, charge, or fee from its books and records that are kept in the regular course of business.

(2) If a taxing jurisdiction does not subject charges for mobile telecommunications services to taxation, a customer may not rely upon the nontaxability of charges for mobile telecommunications services unless the customer's home service provider separately states the charges for nontaxable mobile telecommunications services from taxable charges or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the nontaxable charges.

Added by Acts 2001, 77th Leg., ch. 370, Sec. 1, eff. Aug. 1, 2002.

SUBCHAPTER D. IMPOSITION AND COLLECTION OF USE TAX

Sec. 151.101. USE TAX IMPOSED. (a) A tax is imposed on the storage, use, or other consumption in this state of a taxable item purchased from a retailer for storage, use, or other consumption in this state.

(b) The tax is at the same percentage rate as is provided by Section 151.051 of this code on the sales price of the taxable item.

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.102. USER LIABLE FOR TAX. (a) The person storing, using, or consuming a taxable item in this state is liable for the tax imposed by Section 151.101 of this code, and except as provided by Subsection (b) of this section, the liability continues until the tax is paid to the state.

(b) A person storing, using, or consuming a taxable item in this state is not further liable for the tax imposed by Section 151.101 of this code if the person pays the tax to a retailer engaged in business in this state or other person authorized by the comptroller to collect the tax and receives from the retailer or other person a purchaser's receipt given as provided in Section 151.103 of this code.

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.103. COLLECTION BY RETAILER; PURCHASER'S RECEIPT. (a) Except as provided by Section 151.052(d), a retailer engaged in business in this state who makes a sale of a taxable item for storage, use, or consumption in this state shall collect the use tax that is due from the purchaser and give the purchaser a receipt for the tax payment. When the amount of use tax is added:

(1) it becomes a part of the sales price;

(2) it is a debt of the purchaser to the seller until paid; and

(3) if unpaid, it is recoverable at law in the same manner as the original sales price.

(b) The purchaser's receipt must be issued in the form and manner prescribed by the comptroller.

(c) When several taxable items are sold together and at the same time, the use tax is determined on the sum of the sales prices of the items sold exclusive of any item the storage, use, or other consumption of which is exempted by this chapter.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1266, Sec. 15(2), eff. September 1, 2007.

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 12, eff. Oct. 1, 1993; Acts 2001, 77th Leg., ch. 397, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 100, eff. July 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 15(2), eff. September 1, 2007.

Sec. 151.104. SALE FOR STORAGE, USE, OR CONSUMPTION PRESUMED. (a) A sale of a taxable item by a person for delivery in this state is presumed to be a sale for storage, use, or consumption in this state unless a resale or exemption certificate is accepted by the seller.

(b) A sale is exempt if the seller receives in good faith from a purchaser, who is in the business of selling, leasing, or renting taxable items, a resale certificate stating that the property is acquired for the purpose of selling, leasing, or renting it in the regular course of business or for the purpose of transferring it as an integral part of a taxable service performed in the regular course of business.

(c) A sale is exempt if the seller receives in good faith from a purchaser an exemption certificate stating qualifications for an exemption provided in Subchapter H of this chapter.

(d) Properly executed resale or exemption certificates should be in possession of the seller at the time the nontaxable transaction occurs. If the seller is not in possession of these certificates within 60 days from the date written notice requiring possession of them is given to the seller by the comptroller, deductions claimed by the seller that require delivery of the certificates shall be disallowed. If the seller acquires certificates within the 60-day period, the comptroller may verify the reason or basis for exemption claimed in the certificates before allowing any deductions. A deduction may not be granted on the basis of certificates obtained after the 60-day period.

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 15, Sec. 3, eff. Oct. 2, 1984; Acts 1993, 73rd Leg., ch. 1031, Sec. 21, eff. Sept. 1, 1993.

Sec. 151.105. IMPORTATION FOR STORAGE, USE, OR CONSUMPTION PRESUMED. (a) Tangible personal property that is shipped or brought into this state by a purchaser is presumed, in the absence of

evidence to the contrary, to have been purchased from a retailer for storage, use, or consumption in this state.

(b) A taxable service used in this state is presumed, in the absence of evidence to the contrary, to have been purchased from a retailer for use in this state.

Acts 1981, 67th Leg., p. 1552, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.106. REGISTRATION OF RETAILERS. (a) A retailer who sells a taxable item for storage, use, or consumption in this state shall register with the comptroller.

(b) The registration must include:

(1) the name and address of each agent of the retailer operating in the state;

(2) the location of all distribution or sales houses or offices or other places of business in the state; and

(3) other information that the comptroller requires.

(c) A retailer required to register under this section must comply with Subchapter G of this chapter.

Acts 1981, 67th Leg., p. 1553, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.107. RETAILER ENGAGED IN BUSINESS IN THIS STATE. (a) For the purpose of this subchapter and in relation to the use tax, a retailer is engaged in business in this state if the retailer:

(1) maintains, occupies, or uses in this state permanently, temporarily, directly, or indirectly or through a subsidiary or agent by whatever name, an office, distribution center, sales or sample room or place, warehouse, storage place, or any other physical location where business is conducted;

(2) has a representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling or delivering or the taking of orders for a taxable item;

(3) derives receipts from the sale, lease, or rental of tangible personal property situated in this state;

(4) engages in regular or systematic solicitation of sales of taxable items in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of

print, radio, or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales of taxable items;

(5) solicits orders for taxable items by mail or through other media and under federal law is subject to or permitted to be made subject to the jurisdiction of this state for purposes of collecting the taxes imposed by this chapter;

(6) has a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section;

(7) holds a substantial ownership interest in, or is owned in whole or substantial part by, a person who maintains a location in this state from which business is conducted and if:

(A) the retailer sells the same or a substantially similar line of products as the person with the location in this state and sells those products under a business name that is the same as or substantially similar to the business name of the person with the location in this state; or

(B) the facilities or employees of the person with the location in this state are used to:

(i) advertise, promote, or facilitate sales by the retailer to consumers; or

(ii) perform any other activity on behalf of the retailer that is intended to establish or maintain a marketplace for the retailer in this state, including receiving or exchanging returned merchandise;

(8) holds a substantial ownership interest in, or is owned in whole or substantial part by, a person that:

(A) maintains a distribution center, warehouse, or similar location in this state; and

(B) delivers property sold by the retailer to consumers; or

(9) otherwise does business in this state.

(b) Notwithstanding any other provision of law, a broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher that broadcasts, publishes, displays, or distributes paid commercial advertising in this state that is intended to be disseminated primarily to consumers located in this state and is only secondarily disseminated to bordering jurisdictions, including advertising appearing exclusively in a Texas edition or section of a

national publication, is considered for purposes of this section to be the agent of the person placing the advertisement and that person placing the advertisement is considered a retailer engaged in business in this state. The agency relationship recognized by this subsection is for the sole purpose of providing a presence in this state for the imposition of a tax on out-of-state advertisers or sellers. The agent has no responsibility to report, or liability to pay, a tax for the out-of-state advertiser or seller and is not restricted by this subchapter from accepting ads from out-of-state advertisers or sellers.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 51 (H.B. 2153), Sec. 4, eff. October 1, 2019.

(d) In this section:

(1) "Ownership" includes:

(A) direct ownership;

(B) common ownership; and

(C) indirect ownership through a parent entity, subsidiary, or affiliate.

(2) "Substantial" means, with respect to an ownership interest, an interest in an entity that is:

(A) if the entity is a corporation, at least 50 percent, directly or indirectly, of:

(i) the total combined voting power of all classes of stock of the corporation; or

(ii) the beneficial ownership interest in the voting stock of the corporation;

(B) if the entity is a trust, at least 50 percent, directly or indirectly, of the current beneficial interest in the trust corpus or income;

(C) if the entity is a limited liability company, at least 50 percent, directly or indirectly, of:

(i) the total membership interest of the limited liability company; or

(ii) the beneficial ownership interest in the membership interest of the limited liability company; or

(D) for any entity, including a partnership or association, at least 50 percent, directly or indirectly, of the capital or profits interest in the entity.

Acts 1981, 67th Leg., p. 1553, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 19; Acts 1989, 71st Leg., ch. 291, Sec. 2; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.14.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 30.02, eff. January 1, 2012.
Acts 2019, 86th Leg., R.S., Ch. 51 (H.B. 2153), Sec. 4, eff. October 1, 2019.

Sec. 151.108. INTERNET HOSTING. (a) In this section, "Internet hosting" means providing to an unrelated user access over the Internet to computer services using property that is owned or leased and managed by the provider and on which the user may store or process the user's own data or use software that is owned, licensed, or leased by the user or provider. The term does not include telecommunications services.
(b) A person whose only activity in this state is conducted as a user of Internet hosting is not engaged in business in this state.
(c) A person providing Internet hosting is not required to:
(1) examine a user's data to determine the applicability of this chapter to a user;
(2) report to the comptroller about a user's activities; or
(3) advise a user as to the applicability of this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1144 (H.B. 1841), Sec. 1, eff. June 17, 2011.

SUBCHAPTER E. RESALE AND EXEMPTION CERTIFICATES

Sec. 151.151. RESALE CERTIFICATE. A purchaser may give a resale certificate for the acquisition of a taxable item if the purchaser intends to sell, lease, or rent it in the regular course of business or transfer it as an integral part of a taxable service performed in the regular course of business.

Acts 1981, 67th Leg., p. 1553, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 20.

Sec. 151.152. RESALE CERTIFICATE: FORM. (a) A resale certificate must be substantially in the form prescribed by the comptroller.

(b) A resale certificate must:

(1) be signed by the purchaser or contain an electronic form of the purchaser's signature authorized by the comptroller and contain the purchaser's name and address;

(2) state the purchaser's tax permit number or that the purchaser's application for a tax permit is pending before the comptroller; and

(3) contain a description of the tangible personal property sold, leased, or rented by the purchaser in the regular course of business or transferred as an integral part of a taxable service performed in the regular course of business.

(c) A resale certificate from a person engaged in business in the United Mexican States reselling the taxable item in the United Mexican States, in addition to the information required in Subsection (b), must provide:

(1) the purchaser's United Mexican States federal identification number; and

(2) any other information required by the comptroller.

Acts 1981, 67th Leg., p. 1553, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 351, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1310, Sec. 101, eff. Oct. 1, 2003.

Sec. 151.153. RESALE CERTIFICATE: COMMINGLED FUNGIBLE GOODS. If a purchaser gives a resale certificate with respect to the purchase of fungible goods and then commingles the goods with other similar fungible goods for which a resale certificate was not given, sales from the mass of commingled fungible goods are deemed to be sales of goods covered by the resale certificate until the quantity of goods covered by the certificate equals the quantity of goods sold.

Acts 1981, 67th Leg., p. 1554, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.154. RESALE CERTIFICATE: LIABILITY OF PURCHASER. (a) If a purchaser who gives a resale certificate makes any use of the

taxable item other than retention, demonstration, or display while holding it for sale, lease, or rental in the regular course of business or for transfer as an integral part of a taxable service in the regular course of business, the purchaser shall be liable for payment of the sales tax on the value of the taxable item for any period during which the taxable item is used other than for retention, demonstration, or display.

(b) The value of an item of tangible personal property is the fair market rental value of the tangible personal property, which is the amount that a purchaser would pay on the open market to rent or lease the tangible personal property for his use. The value of a taxable service is the fair market value of the taxable service, which is the amount that a purchaser would pay on the open market to obtain the service for the use of the purchaser.

(c) If an item of tangible personal property has no fair market rental value or if a taxable service has no fair market value, the original purchase price shall be the measure of the tax.

(d) At any time, the person making the divergent use may cease paying tax on the fair market rental value or fair market value and may pay sales tax on the original purchase price without credit for taxes previously paid.

(e) A purchaser of a taxable item who gives a resale certificate is not liable for the tax imposed by this chapter if he donates the item to an organization exempted under Section 151.309 or 151.310(a)(1) or (2) of this code; except that any use by the purchaser of the taxable item other than retention, demonstration, or display shall be subject to taxes imposed by this section.

(f) A purchaser who issues a resale certificate for the purchase of a taxable item is liable for payment of the sales tax on the purchase price of the taxable item if the purchaser uses the item as a part of the excludable consideration on the purchase of another taxable item.

Acts 1981, 67th Leg., p. 1554, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 8, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 19, eff. Sept. 1, 1997.

Sec. 151.155. EXEMPTION CERTIFICATE. (a) Except as provided by Section 151.3181 for property used in manufacturing, if a

purchaser certifies in writing to a seller that a taxable item sold, leased, or rented to the purchaser will be used in a manner or for a purpose that qualifies the sale of the item for an exemption from the taxes imposed by this chapter, and if the purchaser then uses the item in some other manner or for some other purpose, the purchaser is liable for the payment of the sales tax on the value of the taxable item for any period during which the item is used in the divergent manner or for the divergent purpose.

(b) The value of an item of tangible personal property is the fair market rental value of tangible personal property, which is the amount that a purchaser would pay on the open market to rent or lease the property for his use. The value of a taxable service is the fair market value of the taxable service, which is the amount that a purchaser would pay on the open market to obtain the service for the use of the purchaser.

(c) If an item of tangible personal property has no fair market rental value or if a taxable service has no fair market value, the original purchase price shall be the measure of tax.

(d) At any time, the person making the divergent use may cease paying tax on the fair market rental value or fair market value and may pay sales tax on the original purchase price without credit for taxes previously paid.

(e) A purchaser of a taxable item who gives an exemption certificate is not liable for the tax imposed by this chapter if he donates the taxable item to an organization exempted under Section 151.309 or 151.310(a)(1) or (2) of this code; except that any use by the purchaser of the taxable item other than retention, demonstration, or display shall be subject to taxes imposed by this section.

Acts 1981, 67th Leg., p. 1554, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 9, eff. Oct. 1, 1995; Acts 2001, 77th Leg., ch. 1263, Sec. 15, eff. Oct. 1, 2001.

Sec. 151.1551. REGISTRATION NUMBER REQUIRED FOR TIMBER AND CERTAIN AGRICULTURAL ITEMS. (a) This section applies to an exemption provided by:

(1) Section 151.316(a)(6), (7), (8), (10), (11), (12), or (14);

(2) Section 151.316(b) for tangible personal property used in the production of agricultural products for sale;

(3) Section 151.3162(b) for tangible personal property used in the production of timber for sale;

(4) Sections 151.317(a)(5) and (11) for electricity used in agriculture or timber operations; and

(5) Section 151.3111 for services performed on tangible personal property exempted under Section 151.316(a)(6), (7), (8), (10), (11), or (12), 151.316(b), or 151.3162(b).

(b) To claim an exemption to which this section applies, a registration number issued by the comptroller must be stated on the exemption certificate provided by the purchaser of the item.

(c) A person is eligible to apply for a registration number if the person is engaged in the production of agricultural products or timber for sale or in an agricultural aircraft operation as defined by 14 C.F.R. Section 137.3.

(d) A person who is eligible may apply to the comptroller for a registration number. The application must:

(1) be on a form prescribed by the comptroller;

(2) if applicable, state the types of crops, livestock, or other agricultural products that are produced for sale on the farm or ranch on which the applicant will use or employ the item described by Subsection (a) or state that the item will be used in relation to a timber operation or an agricultural aircraft operation as defined by 14 C.F.R. Section 137.3;

(3) as applicable, state the name and address of the farm, ranch, timber operation, or other business owned or operated by the applicant in relation to which the applicant will use the item; and

(4) contain any other information required by the comptroller.

(e) The comptroller shall develop and implement a procedure by which an applicant may submit an application described by Subsection (d) electronically.

(f) The comptroller by rule shall establish a uniform date on which all registration numbers issued under this section must be renewed, regardless of the date on which a registration number is initially issued. The rules must require registration numbers to be renewed every four years.

(g) The comptroller may not issue a registration number that contains an individual's social security number.

(h) The comptroller, after written notice and a hearing, may revoke the registration number issued to a person who fails to comply with this chapter or with a rule adopted under this chapter. A person whose registration number the comptroller proposes to revoke under this section is entitled to 20 days' written notice of the time and place of the hearing on the revocation. The notice must state the reason the comptroller is seeking to revoke the person's registration number. At the hearing the person must show cause why the person's registration number should not be revoked.

(i) The comptroller shall give written notice of the revocation of a registration number under Subsection (h) to the person to whom the number was issued. The notice may be personally served on the person or sent by mail to the person's address as shown in the comptroller's records.

(j) If the comptroller revokes a person's registration number under Subsection (h), the comptroller may not revive the registration number unless the comptroller is satisfied that the person will comply with this chapter and the rules adopted under this chapter. The comptroller may prescribe the terms under which a revoked registration number may be revived.

(k) Following the revocation of a registration number by the comptroller, the person who held the registration number must, on the next transaction with each seller to whom the person previously issued a claim for exemption with a registration number, notify that seller that the person's registration number is no longer valid. The failure of a person to notify a seller as required by this subsection is considered a failure and refusal to pay the taxes imposed by this chapter by the person required to make the notification.

(l) The comptroller shall develop and operate an online system to enable a seller of an item described by Subsection (a) to search and verify the validity of the registration number stated on an exemption certificate. A seller is not required to use the online system.

(m) An exemption certificate that states a registration number issued by the comptroller to claim an exemption to which this section applies is sufficient documentation of the seller's receipt of the certificate in good faith for purposes of Sections 151.054 and 151.104.

(n) The comptroller by rule shall establish procedures by which a seller may accept a blanket exemption certificate with a

registration number issued by the comptroller to claim exemptions to which this section applies.

(o) A use of an item purchased using an exemption certificate with a registration number issued under this section in a manner or for a purpose other than the manner or purpose that qualified the sale, lease, rental, or other consumption of the item for the exemption may result in the revocation of the number.

(p) A person eligible for a registration number who, at the time of purchasing, leasing, renting, or otherwise consuming an item for which the person may otherwise claim an exemption to which this section applies, has not obtained a registration number from the comptroller must pay the tax on the item to the seller at the time of the transaction. The person may then apply for a registration number and, on receipt of the number, may apply to the comptroller for a refund of the tax paid, subject to the statute of limitations. The comptroller by rule shall establish procedures for processing the refund requests. Tax collected by a seller under this subsection is not tax collected in error, and Section 111.104 does not apply to a refund request submitted under this subsection.

Added by Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 1, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 236 (S.B. 140), Sec. 1, eff. September 1, 2015.

Sec. 151.156. TAX-FREE PURCHASES OF CERTAIN EXPORTED ITEMS. (a) The comptroller by rule may establish procedures by which a maquiladora enterprise or its agent may make tax-free purchases in this state of tangible personal property that is exempted from the taxes imposed by this chapter because the property is immediately exported beyond the territorial limits of the United States.

(b) The comptroller may issue a permit to an enterprise that the comptroller authorizes to make tax-free purchases under this section and the comptroller's rules and may allow an authorized maquiladora enterprise to make a tax-free purchase by executing an exemption certificate or in any other manner the comptroller

provides.

(c) To qualify to make tax-free purchases under this section, a maquiladora enterprise must apply to the comptroller and comply with any requirements the comptroller requires to administer this section and to prevent the evasion of state and local sales and use taxes. The comptroller may require a maquiladora enterprise to post a bond or other security in the amount the comptroller considers reasonable to ensure the payment of state and local sales and use taxes. The comptroller shall require a maquiladora enterprise authorized to make tax-free purchases under this section to make available to the comptroller on request its books and records relating to its maquiladora status, operations, and purchases.

(d) The comptroller shall require a maquiladora enterprise authorized to make tax-free purchases under this section to make a report of its tax-free purchases at least quarterly and may require the enterprise to include in a report any other information the comptroller requires.

(e) The comptroller may suspend or revoke the permit or other authorization of an enterprise to make tax-free purchases under this section without notice for good cause. In that event, the comptroller shall notify the enterprise as soon as practicable of the comptroller's action and shall provide the enterprise with an opportunity for a hearing on whether the enterprise qualifies to make tax-free purchases under this section.

(f) In this section, "maquiladora enterprise" means a business entity chartered by the government of the United Mexican States and authorized by that government to make duty-free imports of raw materials, component parts, or other property into Mexico to be used in manufacturing, processing, or assembling items by the business entity in Mexico primarily for export from Mexico.

Added by Acts 1989, 71st Leg., ch. 903, Sec. 2, eff. June 14, 1989.

Sec. 151.157. CUSTOMS BROKERS. (a) A customs broker, or an authorized employee of a customs broker, licensed by the comptroller under this section may issue documentation for the purpose of showing the exemption of tangible personal property under Section 151.307(b)(2) only under procedures established by this section, Section 151.1575, and by the comptroller by rule.

(a-1) The comptroller shall maintain a password-protected website that a customs broker, or an authorized employee of a customs broker, licensed under this section must use to prepare documentation to show the exemption of tangible personal property under Section 151.307(b)(2). The comptroller shall require a customs broker or authorized employee to use the website to actually produce the documentation after providing all necessary information. The comptroller shall use the information provided by a customs broker or authorized employee under this subsection as necessary to enforce this section and Section 151.307. The comptroller may provide an alternate method to prepare documentation to show the exemption of tangible personal property under Section 151.307(b)(2) in those instances when the password-protected website is unavailable due to technical or communication problems. A customs broker or authorized employee may use the alternate method only if the comptroller provides prior authorization for each use.

(b) The comptroller may issue a license to a customs broker for the purpose described by Subsection (a) for each place of business of the broker if the broker:

(1) applies to the comptroller for the license;

(2) pays the license fee to the comptroller in the amount required by Subsection (c);

(3) posts the bond or security in the amount required by Subsection (d); and

(4) complies with any rules of the comptroller to administer this section and to prevent the evasion of the tax under this chapter and local sales and use taxes.

(c) A customs broker must pay to the comptroller an annual license fee of $300 for each place of business from which the customs broker intends to issue a certificate of export. The comptroller shall use the fees only for the administration of this section, including costs of materials, labor, and overhead.

(d) The amount of the bond or security required by Subsection (b)(3) is $5,000, plus an additional $1,000 for each place of business from which the customs broker intends to issue exemption certificates. The security may be in the form of cash, a certificate of deposit, a letter of credit, or another instrument of value.

(e) A customs broker licensed under this section shall make available to the comptroller, on or after the 15th day after the date the broker receives written notice from the comptroller, the customs

broker's books and records relating to the business of issuing documentation certifying the export of tangible personal property beyond the territorial limits of the United States for purposes of exempting the property from the taxes imposed by this chapter. The customs broker shall make available to the comptroller, without notice from the comptroller, the customs broker's books and records if the comptroller determines that the comptroller's ability to administer and enforce effectively the provisions of this chapter relating to documentation for the purpose of showing the exemption of tangible personal property under Section 151.307(b)(2) is jeopardized by providing notice. The customs broker shall keep the books and records described by this subsection for at least two years after the date of the last entry that they contain. The customs broker shall report quarterly to the comptroller:

(1) the total value of the tangible personal property and the total amount of the corresponding tax for which the customs broker issued certificates of export; and

(2) the total amount of tax refunded in accordance with certificates of export.

(f) The comptroller may suspend or revoke a license issued under this section if the customs broker does not comply with Section 151.1575(c) or issues documentation that is false. The comptroller may determine the length of suspension or revocation necessary for the enforcement of this chapter and the comptroller's rules. A proceeding to suspend or revoke a license under this subsection is a contested case under Chapter 2001, Government Code. Judicial review is by trial de novo. The district courts of Travis County have exclusive original jurisdiction of a suit under this section.

(f-1) In addition to any other penalty provided by law, the comptroller may require a customs broker to pay to the comptroller the amount of any tax refunded and the amount of any penalty imposed under Section 151.1575(c) if the customs broker did not comply with this section or the rules adopted by the comptroller under this section.

(g) A customs broker may authorize a person to act as an independent contractor to certify in accordance with Section 151.1575(a)(1) that tangible personal property has been exported outside of the United States only if the authorization is part of the written contract and the comptroller in writing approves the

authorization. A customs broker may not authorize a person under this subsection to prepare documentation for the purpose of showing the exemption for tangible personal property under Section 151.307(b)(2).

Text of subsec. (h) as added by Acts 1993, 73rd Leg., ch. 955, Sec. 1

(h) In this section:

(1) "Customs broker" means a person licensed by the United States Customs Service to act as a customs house broker.

(2) "Authorized employee" means an employee of a customs broker:

(A) who is authorized by the broker to perform customs transactions on behalf of the broker;

(B) who is compensated by the broker with a regular salary or wages;

(C) who is under the direct control and supervision of the broker; and

(D) from whose salary or wages the broker is required to and actually does deduct and withhold a tax under federal law.

Text of subsec. (h) as added by Acts 2003, 78th Leg., ch. 1001, Sec. 1

(h) Notwithstanding any other law, the filing of a petition to initiate judicial review does not vacate the comptroller decision that is the subject of review and does not affect the enforceability of that decision.

(i) The comptroller shall impose a penalty of $500 for each occurrence on a customs broker who fails to file the report required by this section.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 1, eff. June 19, 1993.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 10, eff. Oct. 1, 1995; Acts 2003, 78th Leg., ch. 1001, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 904 (S.B. 776), Sec. 1, eff. September 1, 2011.

Sec. 151.1575. REQUIREMENTS RELATING TO ISSUING DOCUMENTATION SHOWING EXPORTATION OF PROPERTY. (a) A customs broker licensed by the comptroller or an authorized employee of the customs broker may

issue documentation certifying that delivery of tangible personal property was made to a point outside the territorial limits of the United States as required by Section 151.307(b)(2)(B) only if the customs broker or authorized employee:

(1) watches the property cross the border of the United States;

(2) watches the property being placed on a common carrier for delivery outside the territorial limits of the United States; or

(3) verifies that the purchaser is transporting the property to a destination outside of the territorial limits of the United States by:

(A) examining a passport, laser visa identification card, or foreign voter registration picture identification indicating that the purchaser of the property resides in a foreign country;

(B) requiring that the documentation examined under Paragraph (A) have a unique identification number for that purchaser;

(C) requiring the purchaser to produce the property and the original sales receipt for the property;

(D) requiring the purchaser to state the foreign country destination of the property which must be the foreign country in which the purchaser resides;

(E) requiring the purchaser to state the date and time the property is expected to arrive in the foreign country destination;

(F) requiring the purchaser to state the date and time the property was purchased, the name and address of the place at which the property was purchased, the sales price and quantity of the property, and a description of the property;

(G) requiring the purchaser and the broker or an authorized employee to sign in the presence of each other a form prepared or approved by the comptroller:

(i) stating that the purchaser has provided the information and documentation required by this subdivision; and

(ii) that contains a notice to the purchaser that tangible personal property not exported is subject to taxation under this chapter and the purchaser is liable, in addition to other possible civil liabilities and criminal penalties, for payment of an amount equal to the value of the merchandise if the purchaser improperly obtained a refund of taxes relating to the property;

(H) requiring the purchaser to produce the purchaser's:

(i) Form I-94, Arrival/Departure record, or its successor, as issued by the United States Immigration and Naturalization Service, for those purchasers in a county not bordering the United Mexican States; or

(ii) air, land, or water travel documentation if the customs broker is located in a county that does not border the United Mexican States; and

(I) requiring the purchaser and the broker or an authorized employee, when using a power of attorney form, to attest, as a part of the form and in the presence of each other:

(i) that the purchaser has provided the information and documentation required by this subdivision; and

(ii) that the purchaser is on notice that tangible personal property not exported is subject to taxation under this chapter and the purchaser is liable, in addition to other possible civil liabilities and criminal penalties, for payment of an amount equal to the value of the merchandise if the purchaser improperly obtained a refund of taxes relating to the property.

(b) A customs broker licensed by the comptroller or an authorized employee of the customs broker may issue and deliver documentation under Subsection (a) at any time after the tangible personal property is purchased and the broker or employee completes the process required by Subsection (a). The comptroller shall limit to six the number of receipts for which a single proof of export documentation may be issued under this section. The documentation must include:

(1) the name and address of the customs broker;

(2) the license number of the customs broker;

(3) the name and address of the purchaser;

(4) the name and address of the place at which the property was purchased;

(5) the date and time of the sale;

(6) a description and the quantity of the property;

(7) the sales price of the property;

(8) the foreign country destination of the property, which may not be the place of export;

(9) the date and time:

(A) at which the customs broker or authorized employee watched the property cross the border of the United States;

(B) at which the customs broker or authorized employee

watched the property being placed on a common carrier for delivery outside the territorial limits of the United States; or

(C) the property is expected to arrive in the foreign country destination, as stated by the purchaser;

(10) a declaration signed by the customs broker or an authorized employee of the customs broker stating that:

(A) the customs broker is a licensed Texas customs broker; and

(B) the customs broker or authorized employee inspected the property and the original receipt for the property; and

(11) an export certification stamp issued by the comptroller.

(c) The comptroller may require a customs broker to pay the comptroller the amount of any tax refunded if the customs broker does not comply with this section, Section 151.157, or the rules adopted by the comptroller under this section or Section 151.157. In addition to the amount of the refunded tax, the comptroller may require the customs broker to pay a penalty of not less than $500 nor more than $5,000. The comptroller and the state may deduct any penalties to be paid by a customs broker from the broker's posted bond.

(d) A proceeding to require a customs broker to pay an amount under Subsection (c) is a contested case in the same manner as a proceeding to revoke or suspend a customs broker's license under Section 151.157(f).

(e) In this section, "customs broker" and "authorized employee" have the meanings assigned by Section 151.157.

Added by Acts 2003, 78th Leg., ch. 1001, Sec. 2, eff. Jan. 1, 2004.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 904 (S.B. 776), Sec. 2, eff. September 1, 2011.

Sec. 151.158. EXPORT STAMPS. (a) The comptroller shall have printed or manufactured stamps in the design, size, and quantity the comptroller determines is necessary for the purpose of this section.

(b) The comptroller may designate the method of identification for the stamps.

(c) The comptroller shall require that the stamps be

manufactured so that a stamp may be easily and securely attached to export documentation.

(d) The comptroller shall change the design of the stamps at least once each calendar quarter, or more frequently if the comptroller determines it is necessary for the enforcement of this section and the comptroller's rules.

(e) The comptroller may provide stamps only to a customs broker licensed under Section 151.157.

(f) A stamp is invalid if transferred to a person other than the customs broker to whom the comptroller issued the stamp, to an authorized employee of that customs broker, or to an authorized independent contractor.

(g) The comptroller shall charge $2.10 for each stamp. The comptroller shall use:

(1) $1.60 of the money from the sale of the stamps only for costs related to producing the stamps, including costs of materials, labor, and overhead; and

(2) the remaining 50 cents only for enforcement of the laws relating to customs brokers under this title.

(g-1) Any unspent money shall be deposited to the credit of the general revenue fund.

(g-2) Customs brokers who return unused stamps to the comptroller's office on a quarterly basis shall get credit towards the purchase of new stamps.

(h) The comptroller may require stamps to be purchased in minimum quantities if the comptroller considers it necessary for the efficient administration of this section.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 1, eff. June 19, 1993.
Amended by Acts 2003, 78th Leg., ch. 1001, Sec. 3, eff. Jan. 1, 2004.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 904 (S.B. 776), Sec. 3, eff. September 1, 2011.

Sec. 151.159. REFUNDS; IDENTIFICATION CARDS. (a) The comptroller in writing may authorize a customs broker to refund taxes collected under this chapter at export locations specified by the comptroller.

(b) The comptroller may issue an export identification card to

a wholesaler or retailer. The card must contain the picture of the person to whom the card is issued. The comptroller may issue the card only if the wholesaler or retailer shows by clear and convincing evidence that the wholesaler or retailer is a citizen and resident of a foreign country and that any tangible personal property purchased in this state by the wholesaler or retailer is for export purposes only and is to be used or consumed outside the territorial limits of the United States. A wholesaler or retailer issued an export identification card may use the card only to facilitate the preparation of documentation by a customs broker under Section 151.307(b). The comptroller may require a wholesaler or retailer applying for an export identification card to submit any information in any form the comptroller determines is necessary and to pay a fee in an amount the comptroller determines is necessary to pay for the cost of issuing the card.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 1, eff. June 19, 1993.

Sec. 151.160. DEPOSITS. Penalties collected by the comptroller shall be deposited into general revenue. Fees and charges collected by the comptroller under this Act shall be considered reimbursements for expenses of administration and shall be available for use by the comptroller in accordance with provisions in the General Appropriations Act appropriating such revenues for use by agencies.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 1, eff. June 19, 1993.

SUBCHAPTER F. SALES TAX PERMITS

Sec. 151.201. SALES TAX PERMITS. (a) The comptroller shall issue to an applicant who qualifies under Section 151.202 of this code and under Subchapter G of this chapter a separate permit for each place of business in this state.

(b) The holder of a permit shall display it conspicuously in the place of business to which it applies.

(c) A permit is valid only for the person and the place of business to which it applies and is nonassignable.

(d) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.12(1).

Acts 1981, 67th Leg., p. 1555, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 5, Sec. 1; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.04, 14.12(1).

Sec. 151.202. APPLICATION FOR PERMIT. (a) A person desiring to be a seller in this state shall file with the comptroller an application for a permit for each place of business.

(b) An application must:

(1) be on a form prescribed by the comptroller;

(2) state the name under which the applicant transacts or intends to transact business;

(3) give the address of the place of business to which the permit is to apply;

(4) contain any other information required by the comptroller; and

(5) be signed by the owner if the owner is an individual, a member or partner if the owner is an association or partnership, or an executive officer or other person authorized by the corporation to sign the application if the owner is a corporation.

(c) An application that is filed electronically complies with the signature requirement under Subsection (b).

Acts 1981, 67th Leg., p. 1555, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 102, eff. July 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 15(3), eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 307 (S.B. 853), Sec. 1, eff. June 1, 2015.

Sec. 151.2021. CANCELLATION OF INACTIVE PERMIT. (a) The comptroller may cancel a sales tax permit under this section if the permit holder has reported no business activity for 12 consecutive months. No business activity means zero total sales, zero taxable sales, and zero taxable purchases.

(b) To cancel a permit, the comptroller shall send a notice of the comptroller's intention to cancel the permit to the permit holder

at the address shown on the permit. The notice must specify the date on which the comptroller intends to cancel the permit. That date must be at least 30 days after the date the comptroller sends the notice to the permit holder. The comptroller may not cancel the permit before the date specified in the notice.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 5, Sec. 2. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.05.

Sec. 151.203. SUSPENSION AND REVOCATION OF PERMIT. (a) If a person fails to comply with a provision of this chapter or with a rule of the comptroller adopted under this chapter and relating to the sales tax, the comptroller, after a hearing, may revoke or suspend one or more permits issued to the person.

(b) A person whose permit the comptroller proposes to revoke or suspend is entitled to 20 days' written notice of the time and place of the hearing on the revocation or suspension. At the hearing the person must show cause why each permit should not be suspended or revoked.

(c) The comptroller shall give written notice of the revocation or suspension of a permit to the holder of the permit.

(d) Notices under this section may be served on the permit holder personally or may be mailed to the permittee's address as shown in the records of the comptroller.

Acts 1981, 67th Leg., p. 1555, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.204. REISSUED OR NEW PERMIT AFTER REVOCATION OR SUSPENSION. (a) A new permit may not be issued to a former holder of a revoked permit unless the comptroller is satisfied that the person will comply with the provisions of this chapter and the rules of the comptroller relating to the sales tax.

(b) The comptroller may prescribe the terms under which a suspended permit may be reissued.

(c) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.12(2).

Acts 1981, 67th Leg., p. 1555, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 5, Sec.

3; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.12(2).

Sec. 151.205. APPEALS. A taxpayer may appeal the revocation or suspension of a tax permit in the same manner that appeals are made from a final deficiency determination.

Acts 1981, 67th Leg., p. 1556, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER G. SELLER'S AND RETAILER'S SECURITY

Sec. 151.251. SECURITY REQUIRED. (a) An applicant for a sales tax permit or for registration as a retailer under Section 151.106 of this code must file with the comptroller adequate security for the payment of the taxes imposed by this chapter.

(b) If the holder of a sales tax permit or a retailer registered under Section 151.106 of this code who is exempted under Section 151.254 of this code from filing security under this subchapter is determined by the comptroller to be delinquent in the payment of the taxes imposed by this chapter, the comptroller shall require the holder or retailer to file with the comptroller adequate security for the payment of the taxes imposed by this chapter.

(c) For the purposes of Subsection (b) of this section, a holder of a permit or a retailer is delinquent in the payment of the taxes imposed by this chapter if the holder or retailer fails to file all reports due or to pay any determination before the day the determination could be paid without additional penalty.

(d) If the comptroller determines that it is necessary to ensure compliance with this chapter, the comptroller may require security from a person as a condition to retaining a permit under this chapter.

Acts 1981, 67th Leg., p. 1556, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.252. TEMPORARY PERMIT. (a) The comptroller may issue a temporary sales tax permit or retailer's registration to an applicant for a period determined by the comptroller in order to arrange for and provide the security required by this subchapter.

(b) A temporary permit or registration expires without further notice on the expiration date shown on the temporary permit or

registration.

Acts 1981, 67th Leg., p. 1556, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.253. SECURITY: REQUIREMENTS. (a) The security required by this subchapter may be a cash bond, a bond from a surety company chartered or authorized to do business in this state, a certificate of deposit, a certificate of savings or U.S. Treasury bond, an assignment of negotiable stocks or bonds that has been approved by the comptroller, or any other security deemed by the comptroller to be sufficient for the payment of taxes imposed by this chapter.

(b) The comptroller shall fix the amount of security required in each case, taking into consideration the amount of tax that has or is expected to become due from the person under this chapter and all other applicable local sales and use taxes and the necessity to protect the state against the failure to pay these taxes. The maximum amount of security that may be required is the greater of $100,000 or four times the amount of the person's average monthly tax liability.

(c) A bond qualifying under this subchapter must be a continuing instrument and a new and separate obligation for the penal sum named in the bond for each calendar year or portion of a calendar year while the bond is in effect. The bond must remain in effect until the surety or sureties are released and discharged.

Acts 1981, 67th Leg., p. 1556, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1365, ch. 281, Sec. 7, eff. Oct. 1, 1983; Acts 2001, 77th Leg., ch. 442, Sec. 11, eff. Sept. 1, 2001.

Sec. 151.254. EXEMPTION FROM FILING SECURITY. (a) A person who has filed security under this subchapter is exempted from the security requirements of this subchapter and is entitled, on request, to have the comptroller return, refund, or release the security if in the judgment of the comptroller the person has for two consecutive years continuously complied with the conditions of the security filed under this subchapter.

(b) A person who received a sales tax permit or was registered as a retailer before January 1, 1974, and has not been determined to

be delinquent as provided by Section 151.251(b) of this code or been required to file security under this subchapter is exempted from filing security.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.255. NOTICE. (a) If the comptroller determines that the holder of a permit or a registered retailer is required to file security under Section 151.251(b) of this code, the comptroller shall notify the person in writing that security is required to be filed and state the amount of security set by the comptroller.

(b) Notice under this subsection shall be mailed to the permit holder or registered retailer at the address shown in the comptroller's records.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.256. FAILURE TO PROVIDE SECURITY: LOSS OF PERMIT. If a person fails to provide security under this subchapter as provided by Section 151.251(b) of this code, the comptroller shall revoke or suspend the permit or retailer's registration of the person as provided by Section 151.203 of this code.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.257. FORFEITURE OF SECURITY: DETERMINATION. (a) If a person who has filed a security under this subchapter fails to pay the taxes imposed by this chapter or by a city under the Local Sales and Use Tax Act or fails to file a tax return required by this chapter or under the Local Sales and Use Tax Act, the comptroller shall issue a deficiency or jeopardy determination containing a demand for the amount of taxes, penalties, and interest due. The determination shall state that if payment is not made on or before the last day that the deficiency may be paid without incurring further penalty, the security or a part of the security may be forfeited.

(b) If the security filed by the person is a surety bond, the comptroller shall send a copy of the determination to each surety on

the bond and shall demand payment from both the person filing the bond and each surety. A surety's obligation under the bond is not affected by whether the surety has a record of the receipt of a copy of the comptroller's determination notice or payment demand.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 16, eff. Sept. 1, 2001.

Sec. 151.258. SALE OF SECURITY. (a) If necessary to recover an amount of tax, penalty, or interest, the comptroller may sell security deposited under this subchapter. A sale shall be public and notice of the sale may be given personally or by mail to the person who deposited the security.

(b) If the notice is given by mail, the comptroller may send it to the last known address appearing in the records of the comptroller.

(c) Subject to the requirement of additional security required by Section 151.260 of this code, the comptroller shall return to the depositor any security remaining after the sale and after recovering the amount of tax, penalty, and interest due from the depositor.

Acts 1981, 67th Leg., p. 1557, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.259. SECURITY INSUFFICIENT TO PAY TAX. (a) If payment of the tax due is not made and the forfeiture of the security does not satisfy the delinquency, the comptroller shall suspend or revoke the permit or registration of the taxpayer as provided by Section 151.203 of this code.

(b) If the permit or registration is suspended, the comptroller shall certify to the attorney general the amount of taxes, penalties, and interest delinquent under this chapter.

(c) A permit or registration revoked or suspended under this section may not be reinstated until all taxes, penalties, and interest have been paid and another security is filed with the comptroller. The comptroller shall set the amount of the security subject only to the maximum amounts provided by Section 151.253(b) of this code.

Acts 1981, 67th Leg., p. 1558, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.260. SECURITY SUFFICIENT TO PAY TAX. (a) If the security is forfeited in whole or in part and no delinquency remains, the comptroller shall demand from the person new or additional security to be filed before the expiration of 10 days after the date the notice of the demand is given.

(b) The amount of the new or additional security shall be set by the comptroller subject only to the maximum amounts as provided by Section 151.253(b) of this code.

(c) If the person fails to file the amount of the new or additional security before the expiration of the 10-day period, the comptroller shall suspend or revoke the permit or registration of the taxpayer as provided by Section 151.203 of this code and certify the name and address of the person to the attorney general.

Acts 1981, 67th Leg., p. 1558, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.261. NOTICE TO CITIES. If a permit or registration is revoked or suspended under this subchapter, the comptroller shall notify the applicable city of any delinquency under the Local Sales and Use Tax Act.

Acts 1981, 67th Leg., p. 1558, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.262. SUITS BY ATTORNEY GENERAL. (a) The attorney general may file suit for an injunction prohibiting a person from engaging in the business of selling taxable items subject to the taxes imposed by this chapter if the person engages in that business and does not have a valid permit or retailer's registration issued to him by the comptroller for each place of business.

(b) The attorney general shall bring suit against a person whose name is certified to him under Section 151.259(b) of this code, the person's sureties, or both, to collect the amount of delinquent tax due.

(c) The attorney general may bring suit on a surety bond against the sureties without making the person who is the principal obligor a party to the suit.

(d) Venue for a suit under this section is in Travis County.

Acts 1981, 67th Leg., p. 1558, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER H. EXEMPTIONS

Sec. 151.301. "EXEMPTED FROM THE TAXES IMPOSED BY THIS CHAPTER". If a taxable item is exempted from the taxes imposed by this chapter, the sale, storage, use or other consumption of the item is not subject to the sales tax imposed by Section 151.051 of this code or the use tax imposed by Section 151.101 of this code if the item meets the qualifications for exemption as provided in this subchapter; and when an item is exempted from the taxes imposed by this chapter the receipts from its sale are excluded from the computation of the taxes.

Acts 1981, 67th Leg., p. 1559, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.302. SALES FOR RESALE. (a) The sale for resale of a taxable item is exempted from the taxes imposed by this chapter.

(b) Tangible personal property used to perform a taxable service is not considered resold unless the care, custody, and control of the tangible personal property is transferred to the purchaser of the service.

(c) Internal or external wrapping, packing, and packaging supplies used by a person in wrapping, packing, or packaging tangible personal property or in the performance of a service for the purpose of furthering the sale of the tangible personal property or the service may not be purchased by the person for resale.

(d) In this section, "wrapping," "packing," and "packaging supplies" include:

(1) wrapping paper, wrapping twine, bags, cartons, crates, crating material, tape, rope, rubber bands, labels, staples, glue, and mailing tubes; and

(2) excelsior, straw, cardboard fillers, separators, shredded paper, ice, dry ice, cotton batting, shirt boards, hay laths, and property used inside a package to shape, form, stabilize, preserve, or protect the contents.

Acts 1981, 67th Leg., p. 1559, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1985, 69th Leg., ch. 206, Sec. 7, eff. Oct. 1, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.06.

Sec. 151.3021. PACKAGING SUPPLIES AND WRAPPING. (a) In this section:

(1) "Laundry or dry cleaner" does not include coin-operated or other self-service garment cleaning facilities.

(2) "Wrapping, packing, and packaging supplies" means hangers, safety pins, pins, inventory tags, staples, boxes, paper wrappers, and plastic bags.

(b) Internal and external wrapping, packing, and packaging supplies are exempted from the taxes imposed by this chapter if sold to a person who is a laundry or dry cleaner for use in wrapping, packing, or packaging an item that has been pressed and dry cleaned or laundered by the person operating as a laundry or dry cleaner in the regular course of business.

Added by Acts 2001, 77th Leg., ch. 1263, Sec. 17, eff. Oct. 1, 2001.

Sec. 151.303. PREVIOUSLY TAXED ITEMS: USE TAX EXEMPTION OR CREDIT. (a) The storage, use, or other consumption of a taxable item the sale of which is subject to the sales tax is exempted from the use tax imposed by Subchapter D of this chapter.

(b) The storage, use, or other consumption of a taxable item on which the person storing, using, or consuming the item has paid a use tax is exempted from the use tax imposed by Subchapter D of this chapter.

(c) A taxpayer is entitled to a credit against the use tax imposed by Subchapter D of this chapter on a taxable item in an amount equal to the amount of any similar tax paid by the taxpayer in another state on the sale, purchase, or use of the taxable item if the state in which the tax was paid provides a similar credit for a taxpayer of this state.

Acts 1981, 67th Leg., p. 1559, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.304. OCCASIONAL SALES. (a) An occasional sale of a taxable item and the storage, use, or consumption of a taxable item

the sale or transfer of which to a consumer is made by an occasional sale are exempted from the taxes imposed by this chapter.

(b) In this section, "occasional sale" means:

(1) one or two sales of taxable items, other than an amusement service, at retail during a 12-month period by a person who does not habitually engage, or hold himself out as engaging, in the business of selling taxable items at retail;

(2) the sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business;

(3) a transfer of all or substantially all the property used by a person in the course of an activity if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer;

(4) the sale of not more than 10 admissions for amusement services during a 12-month period by a person who does not hold himself out as engaging, or does not habitually engage, in providing amusement services; or

(5) the sale of tangible personal property by an individual if:

(A) the property was originally bought by the individual or a member of the individual's family for the personal use of the individual or the individual's family;

(B) the individual does not hold a permit issued under this chapter and is not required to obtain a permit as a "seller" or "retailer" as those terms are defined by Section 151.008;

(C) the individual does not employ an auctioneer, broker, or factor, other than an online auction, to sell the property; and

(D) the total receipts from sales of the individual's tangible personal property in a calendar year do not exceed $3,000.

(c) Within the meaning of Subsection (b)(2) of this section, a separate division, branch, or identifiable segment of a business exists if before its sale the income and expenses attributable to the separate division, branch, or segment could be separately ascertained from the books of account or record.

(d) Within the meaning of Subsection (b)(3) of this section, the stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity have the real or ultimate ownership of the property of the corporation or other entity.

(e) This section does not apply to a rental or lease of a taxable item.

(f) Subsection (b)(1) of this section does not apply to a sale made by a person who holds a permit issued pursuant to the provisions of this chapter.

(g) A person who holds a permit issued under this chapter and makes a purchase from a person entitled to claim the exemption provided by Subsection (b)(1) of this section shall accrue use tax on the transaction and remit it to the comptroller.

Acts 1981, 67th Leg., p. 1559, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 10, eff. Oct. 2, 1984; Acts 1993, 73rd Leg., ch. 486, Sec. 1.06, eff. Sept. 1, 1993.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 608 (H.B. 373), Sec. 1, eff. July 1, 2007.

Sec. 151.305. COIN-OPERATED MACHINE SALES. (a) The following tangible personal property sold through a coin-operated bulk vending machine for a total consideration of 50 cents or less is exempt from the taxes imposed by this chapter:

(1) food or candy, other than beverages;

(2) chewing gum; or

(3) toys and other items designed primarily to be used or played with by children.

(b) In this section, "bulk vending machine" means a vending machine that contains unsorted items and that dispenses at random an item or approximately equal quantities of items to the customer without selection of a particular item or type of item by the customer.

Added by Acts 1989, 71st Leg., ch. 1158, Sec. 1, eff. Oct. 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 898, Sec. 1, eff. July 1, 1999.

Sec. 151.3051. SALES THROUGH CERTAIN VENDING MACHINES. (a) The sale of tangible personal property through a vending machine is exempt from the taxes imposed by this chapter if:

(1) the sale is made by a nonprofit organization that is

exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code;

(2) the machine is owned by the nonprofit organization; and

(3) the machine is stocked and maintained by individuals with special needs as part of an independent life skills and education program operated by the nonprofit organization.

(b) A nonprofit organization that makes a sale exempt from taxation under this section must maintain records demonstrating that the sale is eligible for the exemption.

Added by Acts 2015, 84th Leg., R.S., Ch. 772 (H.B. 2313), Sec. 1, eff. September 1, 2015.

Sec. 151.306. TRANSFERS OF COMMON INTERESTS IN PROPERTY. If an interest in tangible personal property is sold, under the terms of a good faith, bona fide contractual relationship, to another person who either before or after the sale owned or owns a joint or undivided interest in the property with the seller, and if the taxes imposed by this chapter have previously been paid on the tangible personal property, the tangible personal property is exempted from the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1560, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.307. EXEMPTIONS REQUIRED BY PREVAILING LAW. (a) Tangible personal property or service that this state is prohibited from taxing by the law of the United States, the United States Constitution, or the Constitution of Texas is exempted from the taxes imposed by this chapter.

(b) When an exemption is claimed because tangible personal property is exported beyond the territorial limits of the United States, proof of export may be shown only by:

(1) a bill of lading issued by a licensed and certificated carrier of persons or property showing the seller as consignor, the buyer as consignee, and a delivery point outside the territorial limits of the United States;

(2) documentation:

(A) provided by a United States Customs Broker licensed

by the comptroller under Section 151.157;

(B) certifying that delivery was made to a point outside the territorial limits of the United States;

(C) that includes, in addition to any other information required by the comptroller, a statement signed by the person claiming the exemption that states that "Providing false information to a customs broker is a Class B misdemeanor."; and

(D) to which a stamp issued under Section 151.158 is affixed in the manner required by that section or Section 151.157;

(3) import documents from the country of destination showing that the property was imported into a country other than the United States;

(4) an original airway, ocean, or railroad bill of lading and a forwarder's receipt if an air, ocean, or rail freight forwarder takes possession of the property; or

(5) any other manner provided by the comptroller for an enterprise authorized to make tax-free purchases under Section 151.156.

(c) Documentation, including the stamp affixed to the documentation, that is provided by a customs broker licensed by the comptroller under Section 151.157 is presumed valid in the absence of clear and convincing evidence that the tangible personal property covered by the documentation was not exported outside the territorial limits of the United States.

(d) A retailer who receives documentation under Subsection (b)(2) relating to the purchase of tangible personal property exported beyond the limits of the United States may not refund the tax paid under this chapter on that purchase before:

(1) the 24th hour after the hour stated as the time of export on the documentation, if the retailer is located in a county that borders the United Mexican States; or

(2) the seventh day after the day stated as the date of export on the documentation, if the retailer is located in a county that does not border the United Mexican States.

(e) A retailer who makes a refund before the time prescribed by Subsection (d) or makes a refund that is undocumented or improperly documented is liable for the amount of the tax refunded with interest.

(f) In this section:

(1) "Air forwarder" means a licensed International Air

Transportation Association freight forwarder.

(2) "Ocean forwarder" means a licensed Federal Maritime Commission freight forwarder.

Acts 1981, 67th Leg., p. 1560, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 235, Sec. 1, eff. Aug. 26, 1985; Acts 1989, 71st Leg., ch. 903, Sec. 1, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 955, Sec. 2, eff. June 19, 1993; Acts 1999, 76th Leg., ch. 941, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1001, Sec. 4, eff. Jan. 1, 2004.

Sec. 151.3071. INSTALLATION OF CERTAIN EQUIPMENT FOR EXPORT. Electronic audio equipment that is exempted from the taxes imposed by this chapter because it is purchased for use beyond the territorial limits of the United States does not become subject to the taxes imposed by this chapter solely because the equipment is installed in this state.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 3, eff. June 19, 1993.

Sec. 151.308. ITEMS TAXED BY OTHER LAW. (a) The following are exempted from the taxes imposed by this chapter:

(1) oil as taxed by Chapter 202;

(2) motor fuels and special fuels as defined, taxed, or exempted by Chapter 162;

(3) cement as taxed by Chapter 181;

(4) motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152, other than a mobile office or an oilfield portable unit, as those terms are defined by Section 152.001;

(5) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Subchapter B, Chapter 183, or the items are taxable by Subchapter B-1, Chapter 183;

(6) alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent or employee is acting as the agent of the members of the club and if the beverages are to be served on the premises of the club;

(7) oil well service as taxed by Subchapter E, Chapter 191; and

(8) insurance premiums subject to gross premiums taxes.

(b) Natural gas is exempted under Subsection (a)(2) only to the extent that the gas is taxed as a motor fuel under Chapter 162.

Acts 1981, 67th Leg., p. 1560, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 23, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 21; Acts 1991, 72nd Leg., ch. 524, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 705, Sec. 13, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 587, Sec. 13, eff. Oct. 1, 1993; Acts 2001, 77th Leg., ch. 1263, Sec. 18, eff. Oct. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 566 (H.B. 3182), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 1, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 470 (S.B. 757), Sec. 7, eff. September 1, 2015.

Sec. 151.309. GOVERNMENTAL ENTITIES. A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following governmental entities is exempted from the taxes imposed by this chapter:

(1) the United States;

(2) an unincorporated instrumentality of the United States;

(3) a corporation that is an agency or instrumentality of the United States and is wholly owned by the United States or by another corporation wholly owned by the United States;

(4) this state;

(5) a county, city, special district, or other political subdivision of this state; or

(6) a state, or a governmental unit of a state that borders this state, but only to the extent that the other state or governmental unit exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state.

Acts 1981, 67th Leg., p. 1560, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1993, 73rd Leg., ch. 719, Sec. 1, eff. July 1, 1993.

Sec. 151.310. RELIGIOUS, EDUCATIONAL, AND PUBLIC SERVICE ORGANIZATIONS. (a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following organizations is exempted from the taxes imposed by this chapter:

(1) an organization created for religious, educational, or charitable purposes if no part of the net earnings of the organization benefits a private shareholder or individual and the items purchased, leased, or rented are related to the purpose of the organization;

(2) an organization qualifying for an exemption from federal income taxes under Section 501(c)(3), (4), (8), (10), or (19), Internal Revenue Code, if the item sold, leased, rented, stored, used, or consumed relates to the purpose of the exempted organization and the item is not used for the personal benefit of a private stockholder or individual;

(3) a nonprofit organization engaged exclusively in providing athletic competition among persons under 19 years old if no financial benefit goes to an individual or shareholder;

(4) a company, department, or association organized for the purpose of answering fire alarms and extinguishing fires or for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services, the members of which receive no compensation or only nominal compensation for their services rendered, if the taxable item is used exclusively by the company, department, or association; or

(5) a chamber of commerce or a convention and tourist promotional agency representing at least one Texas city or county if the chamber of commerce or the agency is not organized for profit and no part of its net earnings inures to a private shareholder or other individual.

(b) The sale of, or contracting for the sale of, concessions at an event conducted by an organization exempted under Subsection (a)(3) of this section does not prevent the application of the exemption to that organization.

(c) An organization that qualifies for an exemption under Subsection (a)(1) or (a)(2) of this section, and each bona fide

chapter of the organization, may hold two tax-free sales or auctions under this subsection during a calendar year and each tax-free sale or auction may continue for one day only. The sale of a taxable item the sales price of which is $5,000 or less by a qualified organization or chapter of the organization at a tax-free sale or auction is exempted from the sales tax imposed by Subchapter C of this chapter, except that a taxable item manufactured by or donated to the qualified organization or chapter of the organization may be sold tax free regardless of the sales price to any purchaser other than the donor. The storage, use, or consumption of a taxable item that is acquired from a qualified organization or chapter of the organization at a tax-free sale or auction and that is exempted under this subsection from the taxes imposed by Subchapter C of this chapter is exempted from the use tax imposed by Subchapter D of this chapter until the item is resold or subsequently transferred.

(c-1) Notwithstanding Subsection (c), an organization that qualifies for an exemption under Subsection (a)(4) may hold 10 tax-free sales or auctions during a calendar year. Each tax-free sale or auction may continue for not more than 72 hours. The storage, use, or consumption of a taxable item that is acquired from a qualified organization at a tax-free sale or auction and that is exempted under this subsection from the taxes imposed by Subchapter C is exempted from the use tax imposed by Subchapter D until the item is resold or subsequently transferred. If an organization that qualifies for an exemption under Subsection (a)(4) jointly holds a tax-free sale or auction with one or more other exempt organizations, the tax-free sale or auction is considered to be one of the organization's 10 tax-free sales or auctions authorized by this subsection during that calendar year.

(d) If two or more organizations jointly hold a tax-free sale or auction, each organization may hold one additional tax-free sale or auction during the calendar year in which the joint sale or auction is held. The employment of and payment of a reasonable fee to an auctioneer to conduct a tax-free auction does not disqualify an otherwise qualified organization from receiving the exemption provided by Subsection (c).

(e) A nonprofit hospital or hospital system that qualifies for an exemption under Subsection (a)(2) shall provide community benefits that include charity care and government-sponsored indigent health care as set forth in Subchapter D, Chapter 311, Health and Safety

Code.

(f) For purposes of obtaining a refund of or claiming a credit for taxes paid under this chapter on the basis of an exemption under this section, an organization is not considered exempted from the taxes imposed by this chapter before the earlier of:

(1) the date the organization applied for the exemption with the comptroller; or

(2) the date of assessment of the organization's tax liability by the comptroller as a result of an audit, as applicable.

Acts 1981, 67th Leg., p. 1561, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2771, ch. 752, Sec. 7(a), eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 2747, ch. 470, Sec. 2, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 360, Sec. 6, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 734, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 781, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 20, eff. Oct. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.15, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 19, eff. Oct. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1378 (S.B. 1199), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 463 (S.B. 1927), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 179 (S.B. 31), Sec. 1, eff. May 28, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 17.001, eff. September 1, 2017.

Sec. 151.3101. AMUSEMENT SERVICES EXEMPTIONS. (a) Amusement services are exempted from the taxes imposed by this chapter only if exclusively provided:

(1) by this state, a municipality, county, school district, special district, or other political subdivision of this state or the United States;

(2) in a place that:

(A) is designated as a Recorded Texas Historic Landmark by the Texas Historical Commission; or

(B) is included in the National Register of Historic

Places;

(3) by a nonprofit corporation or association, other than an entity described by Section 501(c)(7), Internal Revenue Code of 1986, if the proceeds do not go to the benefit of an individual except as a part of the services of a purely public charity;

(4) by a nonprofit corporation organized under the laws of this state for the purpose of encouraging agriculture by the maintenance of public fairs and exhibitions of livestock and no individual received a private benefit; or

(5) by an educational, religious, law enforcement association, or charitable organization.

(b) A musical concert performance or other amusement that is not solely for educational purposes is not exclusively provided under Subsection (a)(1) if an entity listed in that subsection contracts with an entity not listed in that subsection for the provision of the amusement.

(b-1) An amusement service remains exclusively provided under Subsection (a)(3) or (5) if an entity described by Subsection (a)(3) or (5) contracts with another entity not listed in or described by Subsection (a) to provide touring theatrical productions:

(1) subject to a contract with the other entity for:

(A) a term of at least five years; and

(B) at least five presentations each year; and

(2) held at a location either owned by, or leased or licensed for a term of at least one year to, the contracting entity described by Subsection (a)(3) or (5).

(c) In this section:

(1) "Educational organization" includes an entity described by Section 61.003(8) or (15), Education Code.

(2) "Theatrical production" means a live staged play, musical play, opera, or ballet.

(d) An amusement service is exclusively provided under Subsection (a)(4) if the amusement service is provided at a "designated facility" defined in Section 334.401, Local Government Code, which is also a qualified project as defined in Section 351.1015(a)(5)(B) of this code.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 11, eff. Oct. 2, 1984. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 22; Acts 1989, 71st Leg., ch. 744, Sec. 1, eff.

Oct. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.061; Acts 1999, 76th Leg., ch. 1467, Sec. 2.16, eff. Oct. 1, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 229 (H.B. 1965), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 543 (H.B. 3386), Sec. 1, eff. October 1, 2019.

Sec. 151.3102. SALE BY NONPROFIT ORGANIZATION AT COUNTY FAIR. The sale of a taxable item is exempt from the taxes imposed by this chapter if:

(1) the seller or retailer is a nonprofit organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code;

(2) the sale takes place at a county fair; and

(3) the purchaser is a person attending or participating in the fair.

Added by Acts 2019, 86th Leg., R.S., Ch. 318 (H.B. 2684), Sec. 1, eff. September 1, 2019.

Sec. 151.3105. BINGO EQUIPMENT PURCHASED BY CERTAIN ORGANIZATIONS. Bingo equipment, as defined by Section 2001.002, Occupations Code, is exempted from the taxes imposed by this chapter if the bingo equipment is:

(1) purchased by an organization licensed to conduct bingo under Chapter 2001, Occupations Code, that is exempt from the payment of federal income taxes under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt organization under Section 501(c)(3), (4), (8), (10), or (19), Internal Revenue Code of 1986, as amended; and

(2) used exclusively to conduct bingo authorized under Chapter 2001, Occupations Code.

Added by Acts 2003, 78th Leg., ch. 1114, Sec. 32, eff. Jan. 1, 2004.

Sec. 151.311. TAXABLE ITEMS INCORPORATED INTO OR USED FOR

IMPROVEMENT OF REALTY OF AN EXEMPT ENTITY. (a) The purchase of tangible personal property for use in the performance of a contract for an improvement to realty for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the tangible personal property is incorporated into realty in the performance of the contract.

(b) The purchase of tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, for use in the performance of a contract for an improvement to realty for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the tangible personal property is:

(1) necessary and essential for the performance of the contract; and

(2) completely consumed at the job site.

(c) The purchase of a taxable service for use in the performance of a contract for an improvement to realty that is performed for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the service is performed at the job site and if:

(1) the contract expressly requires the specific service to be provided or purchased by the person performing the contract; or

(2) the service is integral to the performance of the contract.

(d) For purposes of this section, tangible personal property is completely consumed if after being used once for its intended purpose it is used up or destroyed. Tangible personal property that is rented or leased for use in the performance of the contract cannot be completely consumed for purposes of this section.

Acts 1981, 67th Leg., p. 1561, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 12, Sec. 1, eff. Oct. 2, 1984; Acts 1985, 69th Leg., ch. 69, art. 2, Sec. 1, eff. July 30, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.07; Acts 1993, 73rd Leg., ch. 831, Sec. 1, eff. Oct. 1, 1993.

Sec. 151.3111. SERVICES ON CERTAIN EXEMPTED PERSONAL PROPERTY. (a) Subject to Section 151.1551, a service that is performed on tangible personal property that, if sold, leased, or rented, at the time of the performance of the service, would be exempted under this

chapter because of the nature of the property, its use, or a combination of its nature and use, is exempted from this chapter.

(b) Subsection (a) does not apply to the performance of a service on:

(1) tangible personal property that would be exempted solely because of the exempt status of the seller of the property;

(2) tangible personal property that is exempted solely because of the application of Section 151.303, 151.304, or 151.306;

(3) motor vehicles, trailers, or semitrailers as defined, taxed, or exempted by Chapter 152; or

(4) a taxable boat or motor as defined by Section 160.001.

(5) Deleted by Acts 1999, 76th Leg., ch. 631, Sec. 13, eff. Oct. 1, 2001.

(6) Tangible personal property exempt under Section 151.326.

(c) A taxable service performed on a motor vehicle, trailer, or semitrailer exempted under Section 152.086, 152.087, or 152.088 of this code is exempted from the taxes imposed by this chapter. A taxable service performed on a motor vehicle held for rental in the regular course of business, but not rented, or held for sale in the regular course of business is exempted from the taxes imposed by this chapter.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 12, eff. Oct. 2, 1984. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.03, eff. Oct. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 11, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 394, Sec. 4, eff. June 3, 1999; Acts 1999, 76th Leg., ch. 631, Sec. 13, eff. Oct. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 2, eff. September 1, 2011.

Sec. 151.312. PERIODICALS AND WRITINGS OF RELIGIOUS, PHILANTHROPIC, CHARITABLE, HISTORICAL, SCIENTIFIC, AND SIMILAR ORGANIZATIONS. Periodicals and writings, including those presented on audio tape, videotape, and computer disk, that are published and distributed by a religious, philanthropic, charitable, historical, scientific, or other similar organization that is not operated for

profit, but excluding an educational organization, are exempted from the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1561, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 231, Sec. 5, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 1467, Sec. 2.17, eff. Oct. 1, 1999.

Sec. 151.313. HEALTH CARE SUPPLIES. (a) The following items are exempted from the taxes imposed by this chapter:

(1) a drug or medicine, other than insulin, if prescribed or dispensed for a human or animal by a licensed practitioner of the healing arts;

(2) insulin;

(3) a drug or medicine that is required to be labeled with a "Drug Facts" panel in accordance with regulations of the federal Food and Drug Administration, without regard to whether it is prescribed or dispensed by a licensed practitioner of the healing arts;

(4) a hypodermic syringe or needle;

(5) a brace; hearing aid or audio loop; orthopedic, dental, or prosthetic device; ileostomy, colostomy, or ileal bladder appliance; or supplies or replacement parts for the listed items;

(6) a therapeutic appliance, device, and any related supplies specifically designed for those products, if dispensed or prescribed by a licensed practitioner of the healing arts, when those items are purchased and used by an individual for whom the items listed in this subdivision were dispensed or prescribed;

(7) corrective lens and necessary and related supplies, if dispensed or prescribed by an ophthalmologist or optometrist;

(8) specialized printing or signalling equipment used by the deaf for the purpose of enabling the deaf to communicate through the use of an ordinary telephone and all materials, paper, and printing ribbons used in that equipment;

(9) a braille wristwatch, braille writer, braille paper and braille electronic equipment that connects to computer equipment, and the necessary adaptive devices and adaptive computer software;

(10) each of the following items if purchased for use by the blind to enable them to function more independently: a slate and stylus, print enlarger, light probe, magnifier, white cane, talking

clock, large print terminal, talking terminal, or harness for guide dog;

(11) hospital beds;

(12) blood glucose monitoring test strips;

(13) an adjustable eating utensil used to facilitate independent eating if purchased for use by a person, including a person who is elderly or physically disabled, has had a stroke, or is a burn victim, who does not have full use or control of the person's hands or arms;

(14) subject to Subsection (d), a dietary supplement; and

(15) intravenous systems, supplies, and replacement parts designed or intended to be used in the diagnosis or treatment of humans.

(b) Each of the following items is exempted from the tax imposed by this chapter if the item is used by a person who is deaf to enable the person to function more independently:

(1) a light signal and device to adapt items such as telecommunication devices for the deaf (TDDs), telephones, doorbells, and smoke alarms; and

(2) adaptive devices or adaptive software for computers used by persons who are deaf.

(c) A product is a drug or medicine for purposes of this section if the product:

(1) is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, illness, injury, or pain;

(2) is applied to the human body or is a product that a human ingests or inhales;

(3) is not an appliance or device; and

(4) is not food.

(d) A product is a dietary supplement for purposes of this section if:

(1) the product:

(A) contains one or more vitamins, minerals, herbs or botanicals, amino acids, or substances that supplement the daily dietary intake;

(B) is not represented as food or the sole item of a meal or the diet; and

(C) is labeled "dietary supplement" or "supplement"; or

(2) the product is labeled or required to be labeled with a

"Supplement Facts" panel in accordance with regulations of the federal Food and Drug Administration.

(e) A product is an intravenous system for purposes of this section if, regardless of whether the product is designed or intended to be inserted subcutaneously into any part of the body, the product is designed or intended to be used to administer fluids, electrolytes, blood and blood products, or drugs to patients or to withdraw blood or fluids from patients. The term includes access ports, adapters, bags and bottles, cannulae, cassettes, catheters, clamps, connectors, drip chambers, extension sets, filters, in-line ports, luer locks, needles, poles, pumps and batteries, spikes, tubing, valves, volumetric chambers, and items designed or intended to connect qualifying products to one another or secure qualifying products to a patient. The term does not include a wound drain.

(f) A product is a hospital bed for purposes of this section if it is a bed purchased, sold, leased, or rented, regardless of the terms of the contract, that is specially designed for the comfort and well-being of patients and the convenience of health care workers, with special features that may include wheels, adjustable height, adjustable side rails, and electronic buttons to operate both the bed and other nearby devices. The term does not include bed linens, stretchers, gurneys, delivery tables, or detached accessories such as over-bed tables, trapeze devices, or scales. The term includes:

(1) a mattress for the bed;

(2) any devices built into the bed or designed for use with the bed;

(3) infant warmers;

(4) incubators;

(5) other beds for neonatal and pediatric patients; and

(6) beds specifically designed and marketed for use in the rest, recuperation, and treatment of obese patients, obstetric patients, and burn patients.

Acts 1981, 67th Leg., p. 1562, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2758, ch. 752, Sec. 5(a), eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 2746, ch. 470, Sec. 1, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 705, Sec. 14, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 12, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 394, Sec. 5, eff. April 1, 2000; Acts 1999, 76th Leg., ch. 683, Sec. 1, eff. July 1, 1999; Acts 2001, 77th

Leg., ch. 1263, Sec. 20, eff. Oct. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 18.009, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 19, eff. Oct. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 4, eff. September 1, 2007.
Acts 2013, 83rd Leg., R.S., Ch. 1061 (H.B. 3169), Sec. 2, eff. September 1, 2013.

Sec. 151.314. FOOD AND FOOD PRODUCTS. (a) Food products for human consumption are exempted from the taxes imposed by this chapter.

(b) "Food products" shall include, except as otherwise provided herein, but shall not be limited to cereals and cereal products; milk and milk products, including ice cream; oleomargarine; meat and meat products; poultry and poultry products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit and fruit products; spices, condiments, and salt; sugar and sugar products; coffee and coffee substitutes; tea; cocoa products; snack items; or any combination of the above.

(b-1) For purposes of this section, "snack items" means:

(1) breakfast bars, granola bars, nutrition bars, sports bars, protein bars, or yogurt bars, unless labeled and marketed as candy;

(2) snack mix or trail mix;

(3) nuts, but not including pine nuts or candy-coated nuts;

(4) popcorn;

(5) chips, crackers, hard pretzels, pork rinds, or corn nuts;

(6) sunflower seeds or pumpkin seeds;

(7) ice cream, sherbet, or frozen yogurt; and

(8) ice pops, juice pops, sorbet, or other frozen fruit items containing not more than 50 percent fruit juice by volume.

(b-2) For purposes of this section:

(1) "Bakery" means a retail location that primarily sells bakery items from a display case or counter, predominantly for consumption off the premises.

(2) "Bakery items" means bread, rolls, buns, biscuits, bagels, croissants, pastries, doughnuts, Danish, cakes, tortes, pies,

tarts, muffins, bars, cookies, tortillas, and similar items.

(c) "Food products" shall not include:

(1) drugs, medicines, tonics, vitamins, dietary supplements, and medicinal preparations in any form;

(2) carbonated and noncarbonated packaged soft drinks, which are nonalcoholic beverages that contain natural or artificial sweeteners;

(3) ice; or

(4) candy.

(c-1) For purposes of this section, diluted juice that is more than 50 percent vegetable or fruit juice by volume is not considered to be a soft drink.

(c-2) The exemption provided by Subsection (a) does not include the following prepared food:

(1) except as provided by Subsection (c-3)(1), food, food products, and drinks, including meals, milk and milk products, fruit and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juice, and ice cream in cones or small cups, served, prepared, or sold ready for immediate consumption by restaurants, lunch counters, cafeterias, delis, vending machines, hotels, or like places of business or sold ready for immediate consumption from pushcarts, motor vehicles, or any other form of vehicle;

(2) except as provided by Subsection (c-3)(1), food sold in a heated state or heated by the seller; or

(3) two or more food ingredients mixed or combined by the seller for sale as a single item, including items that are sold in an unheated state by weight or volume as a single item, but not including food that is only cut, repackaged, or pasteurized by the seller.

(c-3) The exemption provided by Subsection (a) includes:

(1) bakery items sold by a bakery, regardless of whether the items are:

(A) heated by the consumer or seller; or

(B) served with plates or other eating utensils;

(2) bakery items sold at a retail location other than a bakery without plates or other eating utensils; and

(3) eggs, fish, meat, and poultry, and foods containing these raw animal foods, that require cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Section 401.11 of its Food Code to prevent food-borne illness and any other

food that requires cooking by the consumer before the food is edible.

(c-4) For purposes of Subdivision (c-2)(1), if a grocery store or convenience store contains a type of location listed in that subdivision, the store is considered a like place of business for purposes of that subdivision, but only in relation to items sold at that location.

(d) Food products, meals, soft drinks, and candy for human consumption are exempted from the taxes imposed by this chapter if:

(1) served by a public or private school, school district, student organization, booster club or other school support organization, or parent-teacher association under an agreement with the proper school authorities in an elementary or secondary school during the regular school day or by a parent-teacher association during a fund-raising sale the proceeds of which do not benefit an individual;

(2) sold by a church or at a function of a church;

(3) served to a patient or inmate of a hospital or other institution licensed by the state for the care of humans;

(4) served to a permanent resident of a retirement facility which provides permanent housing and residence to individuals, a majority of whom are 60 years or older; or

(5) sold during an event sponsored or sanctioned by an elementary or secondary school or school district at a concession stand operated by a booster club or other school support organization formed to support the school or school district, but only if the proceeds from the sales benefit the school or school district.

(e) Food products, candy, and soft drinks are exempted from the taxes imposed by this chapter if sold at an exempt sale qualifying under this subsection or if stored or used by the purchaser of the item at the exempt sale. A sale is exempted under this subsection if:

Text of subsec. (e)(1) as amended by Acts 2003, 78th Leg., ch. 1310, Sec. 103

(1) the sale is made by a person under 19 years old who is a member of a nonprofit organization devoted to the exclusive purpose of education or religious or physical training or by a group associated with a public or private elementary or secondary school;

Text of subsec. (e)(1) as amended by Acts 2003, 78th Leg., ch. 209, Sec. 20

(1) the sale is made by a member of or volunteer for a nonprofit organization devoted to the exclusive purpose of education or religious or physical training or by a group associated with a public or private elementary or secondary school;

(2) the sale is made as a part of a fund-raising drive sponsored by the organization or group; and

(3) all net proceeds from the sale go to the organization or group for its exclusive use.

(f) The exemption provided by this section does not apply to the sale of food products through the use or operation of a vending machine for which the receipts or sales prices are determined by Section 151.007(d).

(g) The exemption provided by Subsection (d)(3) does not apply to food products, meals, soft drinks, and candy sold to a person confined in a correctional facility operated under the authority or jurisdiction of or under contract with this state or a political subdivision of the state.

(h) The exemption provided by Subsection (a) does not apply to a snack item if the item is sold through a vending machine or is sold in individual-sized portions. For purposes of this subsection, an individual-sized portion is a portion that:

(1) is labeled as having not more than one serving; or

(2) contains less than 2.5 ounces.

Acts 1981, 67th Leg., p. 1562, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1040, ch. 235, art. 7, Sec. 4(a), eff. Sept. 1, 1983; Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 20, eff. Oct. 2, 1984; Acts 1987, 70th Leg., ch. 704, Sec. 1, eff. June 19, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 23; Acts 1989, 71st Leg., ch. 299, Sec. 1, eff. Oct. 1, 1989; Acts 1995, 74th Leg., ch. 79, Sec. 1, eff. Oct. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 13, eff. Oct. 1, 1995; Acts 2003, 78th Leg., ch. 209, Sec. 20, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 103, eff. Oct. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 774 (S.B. 1151), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 873 (H.B. 697), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 21, eff.

September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 379 (H.B. 4054), Sec. 1, eff. September 1, 2017.

Sec. 151.3141. FOOD STAMP PURCHASES. (a) Items purchased in whole or in part with food coupons issued under the food stamp program from a business approved for participation in the food stamp program are exempted from the taxes imposed by this chapter. The exemption applies only to items permitted by law to be purchased with food coupons under the food stamp program. If two or more items are purchased together and paid for with a combination of food stamps and other means of payment, for purposes of this section the food stamps are applied first to the purchase of items that would be taxable under this chapter in the absence of the exemption provided by this section.

(b) For purposes of this section, "food stamp program" means the program operated under 7 U.S.C. Chapter 51.

(c) This section and Subsection (e) of Section 151.412 of this code expire on the first day of the next calendar quarter after the comptroller certifies and publishes in the Texas Register notice of the certification that federal law no longer prohibits a state from participating in the food stamp program if the secretary of the United States Department of Agriculture determines that state or local sales taxes are collected on items purchased with food coupons issued under the food stamp program or that for any other reason the exemption provided by this section is no longer required for this state to participate in the food stamp program. The comptroller shall make a certification under this subsection if information sufficient to make the determination becomes known to the comptroller.

Added by Acts 1987, 70th Leg., ch. 1116, Sec. 1, eff. Oct. 1, 1987.

Sec. 151.315. WATER. Water is exempted from the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1563, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.316. AGRICULTURAL ITEMS. (a) Subject to Section 151.1551, the following items are exempted from the taxes imposed by this chapter:

(1) horses, mules, and work animals;

(2) animal life the products of which ordinarily constitute food for human consumption;

(3) feed for farm and ranch animals;

(4) feed for animals that are held for sale in the regular course of business;

(5) seeds and annual plants the products of which:

(A) ordinarily constitute food for human consumption;

(B) are to be sold in the regular course of business; or

(C) are used to produce feed for animals exempted by this section;

(6) fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:

(A) food for human consumption;

(B) feed for animal life; or

(C) other agricultural products to be sold in the regular course of business;

(7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business;

(8) machinery and equipment exclusively used in, and pollution control equipment required as a result of, the processing, packing, or marketing of agricultural products by an original producer at a location operated by the original producer for processing, packing, or marketing the producer's own products if:

(A) 50 percent or more of the products processed, packed, or marketed at or from the location are produced by the original producer and not purchased or acquired from others; and

(B) the producer does not process, pack, or market for consideration any agricultural products that belong to other persons

in an amount greater than five percent of the total agricultural products processed, packed, or marketed by the producer;

(9) ice exclusively used by commercial fishing boats in the storing of aquatic species including but not limited to shrimp, other crustaceans, finfish, mollusks, and other similar creatures;

(10) tangible personal property, including a tire, sold or used to be installed as a component part of a motor vehicle, machinery, or other equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business;

(11) machinery and equipment exclusively used in an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3;

(12) tangible personal property incorporated into a structure that is used for the disposal of poultry carcasses in accordance with Section 26.303, Water Code;

(13) tangible personal property incorporated into or attached to a structure that is located on a commercial dairy farm, is used or employed exclusively for the production of milk, and is:

(A) a free-stall dairy barn; or

(B) a dairy structure used solely for maternity purposes; and

(14) telecommunications services exclusively provided or used for the navigation of machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business.

(b) Subject to Section 151.1551, tangible personal property sold or used to be installed as a component of an underground irrigation system is exempt from the taxes imposed by this chapter if the system is exclusively used or employed on a farm or ranch in the

production of:

(1) food for human consumption;

(2) grass;

(3) feed or forage for:

(A) animal life the products of which ordinarily constitute food for human consumption; or

(B) horses, mules, and work animals; or

(4) other agricultural products to be sold in the regular course of business.

(c) In this section:

(1) "Farm or ranch" includes one or more tracts of land used, in whole or in part, in the production of crops, livestock, or other agricultural products held for sale in the regular course of business. The term includes feedlots, dairy farms, poultry farms, commercial orchards, commercial nurseries, and similar commercial agricultural operations. The term does not include a home garden or a timber operation.

(2) "Original producer" means a person who:

(A) brings an agricultural product into being and is the owner of the agricultural product from the time it is brought into being until it is processed, packed, or marketed; or

(B) is the grower of an agricultural product, exercises predominant operational control over the raising of the agricultural product, and bears a risk of loss of investment in the agricultural product.

(d) Two or more corporations that operate agricultural activities on the same tract or adjacent tracts of land and that are entirely owned by an individual or a combination of the individual, the individual's spouse, and the individual's children may qualify as an original producer for the purposes of Subsection (a)(8).

Acts 1981, 67th Leg., p. 1563, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 9, Sec. 1, eff. Oct. 1, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 24; Acts 1993, 73rd Leg., ch. 486, Sec. 1.07, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1000, Sec. 14, eff. Oct. 1, 1995. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1162 (H.B. 3144), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1373 (S.B. 958), Sec. 1, eff.

September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 23.003, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1030 (H.B. 2810), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 236 (S.B. 140), Sec. 2, eff. September 1, 2015.

Sec. 151.3162. TIMBER ITEMS. (a) In this section, "original producer" means a person who:

(1) harvests timber that the person owns and continues to own until the timber is processed, packed, or marketed; or

(2) grows timber, exercises predominant operational control over the growth of the timber, and bears the risk of loss of investment in the timber.

(b) Subject to Section 151.1551, the following items are exempted from the tax imposed by this chapter:

(1) seedlings of trees grown for commercial timber;

(2) defoliants, desiccants, equipment, fertilizers, fungicides, herbicides, insecticides, and machinery exclusively used in the production of timber to be sold in the regular course of business;

(3) machinery and equipment used in, and pollution control equipment required as a result of, the processing, packing, or marketing of timber products by an original producer if:

(A) the processing, packing, or marketing occurs at or from a location operated by the original producer;

(B) at least 50 percent of the value of the timber products processed, packed, or marketed at or from the location is attributable to products produced by the original producer and not purchased or acquired from others; and

(C) the original producer does not process, pack, or market for consideration timber products that belong to another person with a value greater than five percent of the total value of the timber products processed, packed, or marketed by the producer;

and

(4) tangible personal property sold or used to be installed as a component of an underground irrigation system exclusively used in the production of timber to be sold in the regular course of business.

(c) Two or more corporations that operate timber activities on the same or adjacent tracts of land and that are entirely owned by the same individual or a combination of the individual and the individual's spouse or children are considered to be a single original producer for the purposes of Subsection (b)(3).

(d) The exemption provided by Subsection (b) takes effect January 1, 2008. Until that date, a person is entitled to a credit or refund of a portion of the taxes paid under this chapter on an item that after January 1, 2008, will be exempted from the taxes imposed by this chapter under Subsection (b). The amount of the credit or refund is determined as follows:

(1) for an item for which the taxable event occurs on or after October 1, 2001, and before January 1, 2004, the taxpayer is entitled to a refund or credit in an amount equal to 33 percent of the tax paid on the item;

(2) for an item for which the taxable event occurs on or after January 1, 2004, and before January 1, 2006, the taxpayer is entitled to a refund or credit in an amount equal to 50 percent of the tax paid on the item; and

(3) for an item for which the taxable event occurs on or after January 1, 2006, and before January 1, 2008, the taxpayer is entitled to a refund or credit in an amount equal to 75 percent of the tax paid on the item.

(e) A taxpayer entitled to a credit or refund under Subsection (d) may elect to receive either a credit or a refund. A taxpayer who elects to receive a credit must claim the credit on the return for a period that ends not later than the first anniversary of the date on which the taxable event occurred. A taxpayer who elects to receive a refund must apply to the comptroller for the refund before or during the calendar year following the year in which the tax on the item was paid.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 14, eff. Oct. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 5, eff.

September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 5, eff. September 1, 2011.

Sec. 151.317. GAS AND ELECTRICITY. (a) Subject to Sections 151.1551, 151.359, and 151.3595 and Subsection (d) of this section, gas and electricity are exempted from the taxes imposed by this chapter when sold for:

(1) residential use;

(2) use in powering equipment exempt under Section 151.318 or 151.3185 by a person processing tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2);

(3) use in lighting, cooling, and heating in the manufacturing area during the actual manufacturing or processing of tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2);

(4) use directly in exploring for, producing, or transporting, a material extracted from the earth;

(5) use in agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation;

(6) use directly in electrical processes, such as electroplating, electrolysis, and cathodic protection;

(7) use directly in the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property;

(8) use directly in providing, under contracts with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or defense-related platform modifications or upgrades;

(9) use directly by a data center or large data center project that is certified by the comptroller as a qualifying data center under Section 151.359 or a qualifying large data center project under Section 151.3595 in the processing, storage, and distribution of data;

(10) a direct or indirect use, consumption, or loss of electricity by an electric utility engaged in the purchase of

electricity for resale; or

(11) use in timber operations, including pumping for irrigation of timberland.

(b) The sale, production, distribution, lease, or rental of, and the use, storage, or other consumption in this state of, gas and electricity sold for the uses listed in Subsection (a), are exempted from the taxes imposed by a municipality under Chapter 321 except as provided by Sections 151.359(j) and 321.105.

(c) In this section, "residential use" means use:

(1) in a family dwelling or in a multifamily apartment or housing complex or building or in a part of a building occupied as a home or residence when the use is by the owner of the dwelling, apartment, complex, or building or part of the building occupied; or

(2) in a dwelling, apartment, house, or building or part of a building occupied as a home or residence when the use is by a tenant who occupies the dwelling, apartment, house, or building or part of a building under a contract for an express initial term for longer than 29 consecutive days.

(d) To qualify for the exemptions in Subsections (a)(2)-(9), the gas or electricity must be sold to the person using the gas or electricity in the exempt manner. For purposes of this subsection, the use of gas or electricity in an exempt manner by an independent contractor engaged by the purchaser of the gas or electricity to perform one or more of the exempt activities identified in Subsections (a)(2)-(9) is considered use by the purchaser of the gas or electricity.

(e) Natural gas or electricity used during a regular monthly billing period for both exempt and taxable purposes under a single meter is totally exempt or taxable based on the predominant use of the natural gas or electricity measured by that meter. The comptroller may prescribe by rule the procedures by which a purchaser must establish the predominant use of the natural gas or electricity.

Acts 1981, 67th Leg., p. 1563, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 411, Sec. 1, eff. Oct. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 25; Acts 1995, 74th Leg., ch. 1000, Sec. 16, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 21, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 631, Sec. 15, eff. Oct. 1, 2001; Acts 1999, 76th Leg., ch. 1467, Sec. 2.18, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1263,

Sec. 21, eff. Oct. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 104, 105, eff. Oct. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 6, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 2, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 412 (H.B. 2712), Sec. 2, eff. June 10, 2015.

Sec. 151.3171. SULPHUR. Sulphur is exempted from the taxes imposed by this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 470 (S.B. 757), Sec. 8, eff. September 1, 2015.

Sec. 151.318. PROPERTY USED IN MANUFACTURING. (a) The following items are exempted from the taxes imposed by this chapter if sold, leased, or rented to, or stored, used, or consumed by a manufacturer:

(1) tangible personal property that will become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale;

(2) tangible personal property directly used or consumed in or during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication operation and directly makes or causes a chemical or physical change to:

(A) the product being manufactured, processed, or fabricated for ultimate sale; or

(B) any intermediate or preliminary product that will become an ingredient or component part of the product being manufactured, processed, or fabricated for ultimate sale;

(3) services performed directly on the product being manufactured prior to its distribution for sale and for the purpose of making the product more marketable;

(4) actuators, steam production equipment and its fuel, in-

process flow through tanks, cooling towers, generators, heat exchangers, transformers and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the transformers, electronic control room equipment, computerized control units, pumps, compressors, and hydraulic units, that are used to power, supply, support, or control equipment that qualifies for exemption under Subdivision (2) or (5) or to generate electricity, chilled water, or steam for ultimate sale; transformers located at an electric generating facility that increase the voltage of electricity generated for ultimate sale, the electrical cable that carries the electricity from the electric generating equipment to the step-up transformers, and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the step-up transformers; and transformers that decrease the voltage of electricity generated for ultimate sale and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the step-down transformers;

(5) tangible personal property used or consumed in the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to a pollution control process;

(6) lubricants, chemicals, chemical compounds, gases, or liquids that are used or consumed during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if their use or consumption is necessary and essential to prevent the decline, failure, lapse, or deterioration of equipment exempted by this section;

(7) gases used on the premises of a manufacturing plant to prevent contamination of raw material or product, or to prevent a fire, explosion, or other hazardous or environmentally damaging situation at any stage in the manufacturing process or in loading or storage of the product or raw material on premises;

(8) tangible personal property used or consumed during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property

is necessary and essential to a quality control process that tests tangible personal property that is being manufactured, processed, or fabricated for ultimate sale;

(9) safety apparel or work clothing that is used during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if:

(A) the manufacturing process would not be possible without the use of the apparel or clothing; and

(B) the apparel or clothing is not resold to the employee;

(10) tangible personal property used or consumed in the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to comply with federal, state, or local laws or rules that establish requirements related to public health; and

(11) tangible personal property specifically installed to:

(A) reduce water use and wastewater flow volumes from the manufacturing, processing, fabrication, or repair operation;

(B) reuse and recycle wastewater streams generated within the manufacturing, processing, fabrication, or repair operation; or

(C) treat wastewater from another industrial or municipal source for the purpose of replacing existing freshwater sources in the manufacturing, processing, fabrication, or repair operation.

(b) The exemption includes:

(1) chemicals, catalysts, and other materials that are used during a manufacturing, processing, or fabrication operation to produce or induce a chemical or physical change, to remove impurities, or to make the product more marketable;

(2) semiconductor fabrication cleanrooms and equipment; and

(3) pharmaceutical biotechnology cleanrooms and equipment that are installed as part of the construction of a new facility on which construction began after July 1, 2003.

(c) The exemption does not include:

(1) intraplant transportation equipment, including intraplant transportation equipment used to move a product or raw material in connection with the manufacturing process and specifically including all piping and conveyor systems, provided that

the following remain eligible for the exemption:

(A) piping or conveyor systems that are a component part of a single item of manufacturing equipment or pollution control equipment eligible for the exemption under Subsection (a)(2), (a)(4), or (a)(5);

(B) piping through which the product or an intermediate or preliminary product that will become an ingredient or component part of the product is recycled or circulated in a loop between the single item of manufacturing equipment and the ancillary equipment that supports only that single item of manufacturing equipment if the single item of manufacturing equipment and the ancillary equipment operate together to perform a specific step in the manufacturing process; and

(C) piping through which the product or an intermediate or preliminary product that will become an ingredient or component part of the product is recycled back to another single item of manufacturing equipment and its ancillary equipment in the same manufacturing process;

(2) hand tools;

(3) maintenance supplies not otherwise exempted under this section, maintenance equipment, janitorial supplies or equipment, office equipment or supplies, equipment or supplies used in sales or distribution activities, research or development of new products, or transportation activities;

(4) machinery and equipment or supplies to the extent not otherwise exempted under this section used to maintain or store tangible personal property; or

(5) tangible personal property used in the transmission or distribution of electricity, including transformers, cable, switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units not otherwise exempted under this section, and lines, conduit, towers, and poles.

(d) In this section, "manufacturing" includes each operation beginning with the first stage in the production of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) that it has when transferred by the manufacturer to another.

(e) This section does not apply to any taxable item rented or leased for less than one year to a person engaged in manufacturing.

(f) For purposes of Subsection (c)(1), piping through which material is transported forward from one single item of manufacturing equipment and its ancillary support equipment to another single item of manufacturing equipment and its ancillary support equipment is not considered a component part of a single item of manufacturing equipment and is not exempt. An integrated group of manufacturing and processing machines and ancillary equipment that operate together to create or produce the product or an intermediate or preliminary product that will become an ingredient or component part of the product is not a single item of manufacturing equipment.

(g) Repealed by Acts 1999, 76th Leg., ch. 1467, Sec. 4.01(3), eff. June 19, 1999.

(h) to (m) Repealed by Acts 1997, 75th Leg., ch. 1390, Sec. 3, eff. Oct. 1, 1997.

(n) A person engaged in overhauling, retrofitting, or repairing jet turbine aircraft engines and their component parts is entitled to an exemption from the tax imposed by this chapter for the purchase of machinery, equipment, or replacement parts or accessories with a useful life in excess of six months, or supplies, including aluminum oxide, nitric acid, and sodium cyanide, used in electrochemical plating or a similar process that are used or consumed in the overhauling, retrofitting, or repairing.

(o) The production of a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval is considered "manufacturing" for purposes of this section.

(p) For the purposes of this section, the manufacturing of computer software begins with the design and writing of the code or program for the software and includes the testing or demonstration of the software.

(q) For purposes of Subsection (b), "semiconductor fabrication cleanrooms and equipment" means all tangible personal property, without regard to whether the property is affixed to or incorporated into realty, used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually contained in the cleanroom environment. The term includes integrated systems, fixtures, and piping, all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical

purity, or other environmental conditions or manufacturing tolerances, and production equipment and machinery. The term does not include the building or a permanent, nonremovable component of the building, that houses the cleanroom environment. The term includes moveable cleanroom partitions and cleanroom lighting. "Semiconductor fabrication cleanrooms and equipment" are not "intraplant transportation equipment" as that term is used in Subsection (c)(1).

(q-1) For purposes of Subsection (b), "pharmaceutical biotechnology cleanrooms and equipment" means all tangible personal property, without regard to whether the property is affixed to or incorporated into realty, used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a pharmaceutical biotechnology product, without regard to whether the property is actually contained in the cleanroom environment. The term includes integrated systems, fixtures, and piping, all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances, and production equipment and machinery. The term does not include the building or a permanent, nonremovable component of the building that houses the cleanroom environment. The term includes moveable cleanroom partitions and cleanroom lighting. "Pharmaceutical biotechnology cleanrooms and equipment" are not "intraplant transportation equipment" as that term is used in Subsection (c)(1).

(r) A taxpayer claiming an exemption under this section has the burden of proof that the exemption is applicable and that no exclusion under Subsection (c) applies.

(s) The following do not apply to the semiconductor fabrication cleanrooms and equipment in Subsection (q) or the pharmaceutical biotechnology cleanrooms and equipment in Subsection (q-1):

(1) limitations in Subsection (a)(2) that refer to tangible personal property directly causing chemical and physical changes to the product being manufactured, processed, or fabricated for ultimate sale;

(2) Subsection (c)(1); and

(3) Subsection (c)(4).

(t) In addition to the other items exempted under this section, pre-press machinery, equipment, and supplies, including computers, cameras, photographic props, film, film developing chemicals,

veloxes, plate-making machinery, plate metal, litho negatives, color separation negatives, proofs of color negatives, production art work, and typesetting or composition proofs, that are necessary and essential to and used in connection with the printing process are exempted from the tax imposed by this chapter if they are purchased by a person engaged in:

(1) printing or imprinting tangible personal property for sale; or

(2) producing a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval.

Acts 1981, 67th Leg., p. 1564, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 13, 19, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 26; Acts 1989, 71st Leg., ch. 154, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 705, Sec. 15, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.081(a); Acts 1993, 73rd Leg., ch. 404, Sec. 1, eff. Oct. 1, 1993; Acts 1993, 73rd Leg., ch. 587, Sec. 14, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 1000, Sec. 17, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1010, Sec. 4.40, eff. July 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 22, eff. Oct. 1, 1997; Acts 1997, 75th Leg., ch. 1390, Sec. 1 to 3, eff. Oct. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(91), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.19, eff. Oct. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 4.01, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 22, eff. Oct. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(100), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1310, Sec. 106, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 6(a), eff. July 1, 2007.

Sec. 151.3181. DIVERGENT USE OF PROPERTY USED IN MANUFACTURING. (a) In this section:

(1) "Divergent use" means the use of property in a manner or for a purpose other than the manner or purpose that qualified the

sale, lease, rental, use, or other consumption of the property for exemption under Section 151.318.

(2) "Property" means tangible personal property regardless of whether the tangible personal property is permanently affixed to or incorporated into realty after its purchase.

(b) Divergent use of property exempted under Section 151.318 will not result in sales and use tax being due on the property if the divergent use occurs after the fourth anniversary of the date the property is purchased.

(c) Except as provided by Subsection (d), divergent use of property exempted under Section 151.318 that occurs during any month before the fourth anniversary of the date the property is purchased results in sales and use tax being due for that month. The amount of the sales and use tax due for a month is equal to 1/48 of the purchase price of the property multiplied by the percentage of divergent use during that month multiplied by the sales and use tax rate applicable at the time of purchase.

(d) Divergent use of property exempted under Section 151.318 that occurs during a month before the fourth anniversary of the date the property is purchased does not result in sales and use tax being due for that month if the percentage of divergent use during that month does not exceed five percent of the total use of the property that month.

(e) The amount of divergent use during a month is:

(1) the total time the property operates for a divergent use during a month, measured in hours; or

(2) the total output of the property during divergent use during a month, measured in a manner applicable to that property.

(f) The total use of property is:

(1) the total time the property operates during a month, measured in hours; or

(2) the total output of the property during a month, measured in a manner applicable to that property.

(g) The percentage of divergent use for a month is determined by:

(1) dividing the amount of divergent use determined under Subsection (e)(1) by the amount of total use of the property determined under Subsection (f)(1); or

(2) dividing the amount of divergent use determined under Subsection (e)(2) by the amount of total use of the property

determined under Subsection (f)(2).

(h) The use of "pharmaceutical biotechnology cleanrooms and equipment," as that term is defined by Section 151.318(q-1), to manufacture, process, or fabricate a pharmaceutical biotechnology product that is not sold is not a divergent use if the use occurs during the certification process by the United States Food and Drug Administration.

Added by Acts 2001, 77th Leg., ch. 1263, Sec. 23, eff. Oct. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 107, eff. June 20, 2003.

For expiration of this section, see Subsection (f).

Sec. 151.3182. CERTAIN PROPERTY USED IN RESEARCH AND DEVELOPMENT ACTIVITIES; REPORTING OF ESTIMATES AND EVALUATION. (a) In this section:

(1) "Depreciable tangible personal property" means tangible personal property that:

(A) has a useful life that exceeds one year; and

(B) is subject to depreciation under:

(i) generally accepted accounting principles; or

(ii) Section 167 or 168, Internal Revenue Code.

(2) "Internal Revenue Code" has the meaning assigned by Section 171.651.

(3) "Qualified research" has the meaning assigned by Section 41, Internal Revenue Code.

(b) The sale, storage, or use of depreciable tangible personal property directly used in qualified research is exempted from the taxes imposed by this chapter if the property is sold, leased, or rented to, or stored or used by, a person who:

(1) is engaged in qualified research; and

(2) will not, as a taxable entity as defined by Section 171.0002 or as a member of a combined group that is a taxable entity, claim a credit under Subchapter M, Chapter 171, on a franchise tax report for the period during which the sale, storage, or use occurs.

(c) Before the beginning of each regular session of the legislature, the comptroller shall submit to the legislature and the governor:

(1) an estimate of the total number of persons who received

exemptions under this section and an estimate of the total amount of those exemptions; and

(2) an evaluation of the effect of the exemption under this section, in combination with the credit authorized by Subchapter M, Chapter 171, that is conducted by an independent researcher at a center for research authorized by Section 1.005, Education Code, on:

(A) the amount of qualified research performed in this state;

(B) employment in research and development in this state;

(C) economic activity in this state; and

(D) state tax revenues.

(d) The comptroller shall require a person who receives an exemption under this section to complete a form to provide the information necessary for the comptroller to make the evaluation required by Subsection (c)(2). The information provided on the form is confidential and not subject to disclosure under Chapter 552, Government Code.

(e) The comptroller shall provide the estimates and evaluation required by Subsection (c) as part of the report required by Section 403.014, Government Code.

(f) This section expires December 31, 2026.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 2, eff. January 1, 2014.

Sec. 151.3185. PROPERTY USED IN THE PRODUCTION OF MOTION PICTURE, VIDEO, OR AUDIO RECORDINGS AND BROADCASTS. (a) The sale, lease, or rental or storage, use, or other consumption of the following items are exempted from the taxes imposed by this chapter:

(1) tangible personal property that will become an ingredient or component part of:

(A) a motion picture, video, or audio master recording, a copy of which is sold or offered for ultimate sale, licensed, distributed, broadcast, or otherwise exhibited for consideration; or

(B) a broadcast by a producer of cable programs or by a radio or television station licensed by the Federal Communications Commission;

(2) tangible personal property that is necessary or

essential to and used or consumed in or during:

(A) the production of a motion picture, video, or audio master recording, a copy of which is sold or offered for ultimate sale, licensed, distributed, broadcast, or otherwise exhibited for consideration; or

(B) the production of a broadcast by or for a cable program producer or by or for a radio or television station licensed by the Federal Communications Commission; and

(3) except as provided by Subsection (c), services that are necessary and essential to and used directly in a production described by Subdivision (2)(A) or (B).

(b) The exemption includes:

(1) cameras, film, and film developing chemicals that are necessary and essential to and used or consumed in a production described by Subsection (a)(2)(A) or (B);

(2) lights, props, sets, teleprompters, microphones, digital equipment, special effects equipment and supplies, and other equipment that is necessary and essential to and used or consumed directly in a production described by Subsection (a)(2)(A) or (B); and

(3) audio or video routing switchers located in a studio that are necessary and essential to and used or consumed directly in a production described by Subsection (a)(2)(A) or (B).

(c) The exemption does not include:

(1) office equipment or supplies;

(2) maintenance or janitorial equipment or supplies;

(3) machinery, equipment, or supplies used in sales, transmission, or transportation activities;

(4) machinery, equipment, or supplies used in distribution activities, unless otherwise exempted by this section;

(5) taxable items that are used incidentally in a production described by Subsection (a)(2)(A) or (B); or

(6) the following taxable items, regardless of whether they are used incidentally in a production described by Subsection (a)(2)(A) or (B):

(A) telecommunications equipment and services;

(B) transmission equipment;

(C) security services;

(D) motor vehicle parking services; and

(E) food ready for immediate consumption.

(d) A production described by Subsection (a)(2)(A) or (B) does not include a production for broadcast that is not intended to be broadcast to either the general public or to cable television service subscribers or paying customers.

(e) The sale of a motion picture, video, or audio master recording by the producer of the master recording is exempt from the taxes imposed by this chapter.

(f) Tangible personal property that is sold to an entity to which 47 C.F.R. Section 73.624(b) applies is exempt from the taxes imposed by this chapter if the property is necessary for the entity to comply with 47 C.F.R. Section 73.682(d).

(g) Tangible personal property that is sold to an entity to which 47 C.F.R. Section 73.404(a) applies is exempt from the taxes imposed by this chapter if the property is necessary to provide the broadcast service described by 47 C.F.R. Section 73.403 or 73.404.

(h) In this section, "master recording" means the principal media on which images, sound, or a combination of images and sound are first fixed and from which copies are commercially made available for sale, license, distribution, broadcast, or exhibition for consideration.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 2.20, eff. Oct. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 24, eff. Oct. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 410 (H.B. 2507), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 323 (H.B. 3086), Sec. 1, eff. May 31, 2019.

Acts 2019, 86th Leg., R.S., Ch. 323 (H.B. 3086), Sec. 2, eff. May 31, 2019.

Sec. 151.3186. PROPERTY USED IN CABLE TELEVISION, INTERNET ACCESS, OR TELECOMMUNICATIONS SERVICES. (a) In this section, "provider" means a provider of cable television service, Internet access service, or telecommunications services.

(b) A provider is entitled to a refund of the tax imposed by this chapter on the sale, lease, or rental or storage, use, or other consumption of tangible personal property if:

(1) the property is sold, leased, or rented to or stored, used, or consumed by a provider or a subsidiary of a provider; and

(2) the property is directly used or consumed by the provider or subsidiary described by Subdivision (1) in or during:

(A) the distribution of cable television service;

(B) the provision of Internet access service; or

(C) the transmission, conveyance, routing, or reception of telecommunications services.

(c) Notwithstanding Subsection (b), property directly used or consumed in or during the provision, creation, or production of a data processing service or information service is not eligible for a refund under this section.

(d) The amount of the refund to which a provider or subsidiary, as described by Subsection (b)(1), is entitled under this section for a calendar year is equal to:

(1) the amount of the tax paid by the provider or subsidiary during the calendar year on property eligible for a refund under this section, if the total amount of tax paid by all providers and subsidiaries described by Subsection (b)(1) that are eligible for a refund under this section is not more than $50 million for the calendar year; or

(2) a pro rata share of $50 million, if the total amount of tax paid by all providers and subsidiaries described by Subsection (b)(1) that are eligible for a refund under this section is more than $50 million for the calendar year.

(e) The refund provided by this section does not apply to the taxes imposed under Subtitle C, Title 3.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1272 (H.B. 1133), Sec. 1, eff. September 1, 2013.

Sec. 151.319. NEWSPAPERS AND PROPERTY USED IN NEWSPAPER PUBLICATION. (a) A newspaper sold or distributed by individual copy or by subscription is exempted from the taxes imposed by this chapter.

(b) A transaction involving a sale of a newspaper that has been produced, fabricated, or printed to the special order of a customer is exempted from the taxes imposed by this chapter if:

(1) the customer is responsible for gathering substantially

all of the information contained in the newspaper and for formulating the design, layout, and format of the newspaper; and

(2) the customer would be entitled to the exemption provided by Section 151.318(t) if the customer had a printing facility capable of processing and printing the newspaper and printed and processed the newspaper.

(c) The sale of a handbill, circular, flyer, advertising supplement, or similar item that is printed to the special order of a customer and tangible personal property that will become an ingredient or component part of such item are exempted from the taxes imposed by this chapter if the item is printed for the exclusive purpose of being distributed as a part of a newspaper, is actually distributed as a part of the newspaper, and is delivered to the person who is responsible for the distribution of the newspaper in which the item is distributed and not to the customer.

(d), (e) Repealed by Acts 2001, 77th Leg., ch. 1263, Sec. 84(1), eff. October 1, 2001.

(f) In this section, "newspaper" means a publication that is printed on newsprint, the average sales price of which for each copy over a 30-day period does not exceed $3, and that is printed and distributed at a daily, weekly, or other short interval for the dissemination of news of a general character and of a general interest. "Newspaper" does not include a magazine, handbill, circular, flyer, sales catalog, or similar printed item unless the printed item is printed for distribution as a part of a newspaper and is actually distributed as a part of a newspaper. For the purposes of this section, an advertisement is news of a general character and of a general interest. Notwithstanding any other provision of this subsection, "newspaper" includes:

(1) a publication containing articles and essays of general interest by various writers and advertisements that is produced for the operator of a licensed and certified carrier of persons and distributed by the operator to its customers during their travel on the carrier; and

(2) a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval.

Acts 1981, 67th Leg., p. 1565, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 4770, ch. 840, Sec. 4, eff. Aug. 29, 1983; Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 12, Sec. 3, eff. Oct. 2, 1984; Acts 1987, 70th Leg., ch. 378, Sec. 1, eff. Oct. 1, 1987; Acts 1991, 72nd Leg., ch. 705, Sec. 16, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.09; Acts 1995, 74th Leg., ch. 1000, Sec. 18, eff. Oct. 1, 1995; Acts 2001, 77th Leg., ch. 1263, Sec. 25, 84(1), eff. Oct. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 21, 94, eff. Oct. 1, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1061 (H.B. 3169), Sec. 3, eff. September 1, 2013.

Sec. 151.320. MAGAZINES. (a) Subscriptions to magazines that are sold for a semiannual or longer period and are entered as second class mail are exempted from the taxes imposed by this chapter.

(b) "Magazine" means a publication that is usually paperbacked and sometimes illustrated, that appears at a regular interval, and that contains stories, articles, and essays by various writers and advertisements. "Magazine" does not mean the publication of current information which is taxable pursuant to Section 151.0038 of this code as an "information service."

Added by Acts 1987, 70th Leg., ch. 378, Sec. 2, eff. Oct. 1, 1987.
Amended by Acts 1993, 73rd Leg., ch. 1031, Sec. 22, eff. Sept. 1, 1993.

Sec. 151.321. UNIVERSITY AND COLLEGE STUDENT ORGANIZATIONS. (a) A taxable item sold by a qualified student organization and for which the sales price is $5,000 or less, is exempted from the taxes imposed by Subchapter C, except that a taxable item manufactured by or donated to the organization is exempt from the taxes imposed by Subchapter C regardless of sales price unless sold to the donor, if the student organization:

(1) sells the item at a sale that may last for one day only and the primary purpose of which is to raise funds for the organization; and

(2) holds not more than one sale described by Subdivision (1) each month for which an exemption is claimed for an item sold.

(b) In each calendar year, the first $5,000 of a qualified student organization's total receipts from sales of taxable items not otherwise exempt under Subsection (a) is exempt from the taxes imposed by Subchapter C.

(c) A student organization qualifies for the exemptions under Subsections (a) and (b) if the student organization:

(1) is affiliated with an institution of higher education as defined by Section 61.003, Education Code, or a private or independent college or university that is located in this state and that is accredited by a recognized accrediting agency under Section 61.003, Education Code;

(2) has as its primary purpose a purpose other than engaging in business or performing an activity designed to make a profit; and

(3) files a certification with the comptroller as required by Subsection (d).

(d) A student organization must file with the comptroller a certification issued by the institution, college, or university described in Subsection (c)(1) showing that the organization is affiliated with the institution, college, or university.

(e) The storage, use, or consumption of a taxable item acquired tax-free under this section is exempted from the use tax imposed by Subchapter D until the item is resold or subsequently transferred.

Added by Acts 1995, 74th Leg., ch. 155, Sec. 1, eff. Oct. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 23, eff. Oct. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.21, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 58, Sec. 1, eff. Oct. 1, 2001.

Sec. 151.322. CONTAINERS. (a) The following are exempted from the taxes imposed by this chapter:

(1) a container sold with its contents if the sales price of the contents is not taxed under this chapter;

(2) a nonreturnable container sold without contents to a person who fills the container and sells the contents and the container together; and

(3) a returnable container sold with its contents or resold for refilling.

(b) In this section:

(1) "Returnable container" means a container of a kind customarily returned for reuse by the buyer of the contents.

(2) "Nonreturnable container" means a container other than a returnable container.

(3) "Container" means glass, plastic, or metal bottles, cans, barrels, and cylinders, but does not include any item of a type described in Section 151.302(d).

Acts 1981, 67th Leg., p. 1566, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 14.10.

Sec. 151.323. CERTAIN TELECOMMUNICATIONS SERVICES. (a) There are exempted from the taxes imposed by this chapter the receipts from the sale, use, or other consumption in this state of:

(1) long-distance telecommunications services that are not both originated from and billed to a telephone number or billing or service address within Texas;

(2) access to a local exchange telephone company's network by a regulated provider of telecommunications services; and

(3) broadcasts, other than cable television service, by commercial radio or television stations licensed or regulated by the Federal Communications Commission.

(b) The exemption provided by this section does not apply to mobile telecommunications services.

Acts 1981, 67th Leg., p. 1566, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 206, Sec. 9, eff. Oct. 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 27; Acts 2003, 78th Leg., ch. 209, Sec. 22, eff. Oct. 1, 2003.

Sec. 151.324. EQUIPMENT USED ELSEWHERE FOR MINERAL EXPLORATION OR PRODUCTION. (a) The following items are exempted from the sales tax imposed by Subchapter C of this chapter:

(1) drill pipe, casing, tubing, and other pipe used for the exploration for or production of oil, gas, sulphur, or other minerals offshore not in this state; and

(2) tangible personal property exclusively used for the exploration for or production of oil, gas, sulphur, or other minerals offshore not in this state.

(b) Drilling equipment that is used for the exploration for or production of oil, gas, sulphur, or other minerals, that is built for exclusive use outside this state, and that is, on completion, removed forthwith from this state is exempted from the taxes imposed by this chapter.

(c) The delivery of items exempted by this section to the purchaser or lessee in this state does not disqualify the purchaser or lessee from the exemption if the property is removed from the state by any means, including by the use of the purchaser's or lessee's own facilities.

(d) The shipment to a place in this state of equipment exempted by this section for further assembly or fabrication does not disqualify the purchaser or lessee from the exemption if on completion of the further assembly or fabrication the equipment is removed forthwith from this state. This section applies to a sale that may occur when the equipment exempted is further assembled or fabricated if on completion the equipment is removed forthwith from the state.

Acts 1981, 67th Leg., p. 1567, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.325. BASIC FEE FOR INTERNET ACCESS SERVICE. (a) The sale, use, or other consumption in this state of Internet access service is exempted from the taxes imposed by this chapter in an amount not to exceed the first $25 of a monthly charge.

(b) The exemption provided by this section applies without regard to:

(1) whether the Internet access service is bundled with another service, including any other taxable service listed in Section 151.0101(a); or

(2) the billing period used by the service provider.

(c) The exemption in this section applies to the total sales price the service provider charges for Internet access to a purchaser, without regard to whether the service provider charges one lump-sum amount or separately bills the purchaser for each user.

Added by Acts 1999, 76th Leg., ch. 394, Sec. 6, eff. Oct. 1, 1999.

Sec. 151.326. CLOTHING AND FOOTWEAR FOR LIMITED PERIOD. (a)

The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than $100; and

(2) the sale takes place during a period beginning at 12:01 a.m. on the Friday before the 15th day preceding the uniform date prescribed by Section 25.0811(a), Education Code, without regard to any exception authorized by that section, before which a school district may not begin instruction for the school year, and ending at 12 midnight on the following Sunday.

(b) This section does not apply to:

(1) any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally worn except when used for the athletic activity or protective use for which it is designed;

(2) accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing; and

(3) the rental of clothing or footwear.

Added by Acts 1999, 76th Leg., ch. 394, Sec. 7, eff. June 3, 1999.
Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 121(27), eff. Oct. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 10(a), eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 7, eff. June 15, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 33.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 525 (S.B. 485), Sec. 1, eff. June 14, 2013.

Sec. 151.327. SCHOOL SUPPLIES AND SCHOOL BACKPACKS BEFORE START OF SCHOOL. (a) In this section:

(1) "Backpack" means a messenger bag, book bag, or a pack with straps that a person wears on the person's back, including a backpack with wheels if the backpack can also be worn on the back.

The term does not include an item that is commonly considered luggage, a briefcase, an athletic bag, a duffle bag, a gym bag, a computer bag, a purse, or a framed backpack.

(2) "School supply" has the meaning assigned by the Streamlined Sales and Use Tax Agreement adopted November 12, 2002, including all amendments made to the agreement on or before December 14, 2006.

(a-1) The sale or storage, use, or other consumption of a school supply or a school backpack is exempted from the taxes imposed by this chapter if the school supply or backpack is purchased:

(1) for use by a student in a public or private elementary or secondary school;

(2) during the period described by Section 151.326(a)(2); and

(3) for a sales price of less than $100.

(b) A retailer is not required to obtain an exemption certificate stating that school supplies or school backpacks are purchased for use by students in a public or private elementary or secondary school unless the school supplies or backpacks are purchased in a quantity that indicates that the school supplies or backpacks are not purchased for use by students in a public or private elementary or secondary school.

Added by Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 10(b), eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 8, eff. June 15, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1126 (H.B. 1801), Sec. 1, eff. July 1, 2009.

Sec. 151.328. AIRCRAFT. (a) Aircraft are exempted from the taxes imposed by this chapter if:

(1) sold to a person using the aircraft as a certificated or licensed carrier of persons or property;

(2) sold to a person who:

(A) has a sales tax permit issued under this chapter; and

(B) uses the aircraft for the purpose of providing

flight instruction that is:

(i) recognized by the Federal Aviation Administration;

(ii) under the direct or general supervision of a flight instructor certified by the Federal Aviation Administration; and

(iii) designed to lead to a pilot certificate or rating issued by the Federal Aviation Administration or otherwise required by a rule or regulation of the Federal Aviation Administration;

(3) sold to a foreign government;

(4) sold in this state to a person for use and registration in another state or nation before any use in this state other than flight training in the aircraft and the transportation of the aircraft out of this state; or

(5) sold in this state to a person for use exclusively in connection with an agricultural use, as defined by Section 23.51, and used for:

(A) predator control;

(B) wildlife or livestock capture;

(C) wildlife or livestock surveys;

(D) census counts of wildlife or livestock;

(E) animal or plant health inspection services; or

(F) crop dusting, pollination, or seeding.

(b) Repair, remodeling, and maintenance services to aircraft, including an engine or other component part of aircraft, operated by a person described by Subsection (a)(1), (a)(2), or (a)(5) are exempted from the taxes imposed by this chapter.

(c) In this section, "aircraft" does not include a rocket or missile, but does include:

(1) a fixed wing, heavier-than-air craft that is driven by propeller or jet and supported by the dynamic reaction of the air against its wings;

(2) a helicopter; and

(3) an airplane flight simulation training device approved by the Federal Aviation Administration under Appendices A and B, 14 C.F.R. Part 60.

(d) Machinery, tools, supplies, and equipment used or consumed exclusively in the repair, remodeling, or maintenance of aircraft, aircraft engines, or aircraft component parts by or on behalf of a

person described by Subsection (a)(1) or (a)(2) are exempted from the taxes imposed by this chapter.

(e) Tangible personal property that is permanently affixed or attached as a component part of an aircraft owned or operated by a person described by Subsection (a)(1) or (a)(2), or that is necessary for the normal operations of the aircraft and is pumped, poured, or otherwise placed in the aircraft, is exempted from the taxes imposed by this chapter.

(f) To qualify for the exemption provided under Subsection (a)(4), the person purchasing the aircraft in this state must sign at the time of purchase an exemption certificate that:

(1) is designated as an exemption certificate for the purchase of an aircraft for out-of-state registration and use;

(2) is on a form designated by the comptroller;

(3) contains all information the comptroller considers reasonable;

(4) is signed by the purchaser at the time of the purchase; and

(5) provides that purchaser, by signing the certificate, authorizes the comptroller to provide a copy of the certificate to the state or nation of intended use and registration.

(g) A person commits an offense if the person gives an exemption certificate required under Subsection (f) to a seller for an aircraft that the person knows, at the time of purchase, will be used in a manner other than that expressed in the exemption certificate or the person gives an exemption certificate with fraudulent intent or intent to evade wrongfully the payment of the tax imposed under this chapter. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $500.

(h) For purposes of the exemption under Subsection (a)(5), an aircraft is considered to be for use exclusively in connection with an agricultural use if 95 percent of the use of the aircraft is for a purpose described by Subsections (a)(5)(A)-(F). Travel to a location to perform a service described by Subsections (a)(5)(A)-(F) does not disqualify an aircraft from the exemption under Subsection (a)(5). A person who claims an exemption under Subsection (a)(5) must maintain and make available to the comptroller flight records for all uses of the aircraft.

Acts 1981, 67th Leg., p. 1567, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 14, Sec. 1, eff. Oct. 2, 1984; Acts 1989, 71st Leg., ch. 231, Sec. 6, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 587, Sec. 15, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 147, Sec. 1, eff. July 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 9, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1373 (S.B. 958), Sec. 2, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 983 (S.B. 1214), Sec. 1, eff. September 1, 2019.

Sec. 151.329. CERTAIN SHIPS AND SHIP EQUIPMENT. The following items are exempted from the taxes imposed by this chapter:

(1) materials, equipment, and machinery that enter into and become component parts of a ship or vessel that is of eight or more tons displacement and is:

(A) used exclusively and directly in a commercial enterprise, including commercial fishing; or

(B) used commercially as a vessel for pleasure fishing by individuals as paying passengers on the vessel;

(2) a ship or vessel of eight or more tons displacement, that is used exclusively and directly in a commercial enterprise and is sold by the vessel's builder;

(3) materials and labor used in repairing, renovating, or converting a ship or vessel that is of eight or more tons displacement and that is used exclusively and directly in a commercial enterprise;

(4) materials and supplies purchased by the owner or operator of a ship or vessel operating exclusively in foreign or interstate coastal commerce if the materials and supplies:

(A) are loaded on the ship or vessel and used in the maintenance and operation of the ship or vessel; or

(B) enter into and become component parts of the ship or vessel; and

(5) materials and supplies purchased by a person providing stevedoring services for a ship or vessel operating exclusively in foreign or interstate coastal commerce if the materials and supplies are loaded aboard the ship or vessel and are not removed before the

departure of the ship or vessel.

Acts 1981, 67th Leg., p. 1568, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1995, 74th Leg., ch. 230, Sec. 1, eff. July 1, 1995.

Sec. 151.3291. BOATS AND BOAT MOTORS. (a) The sale, other than the lease or rental, and the storage, use, or other consumption of a taxable boat or motor is exempt from the taxes imposed by this chapter.

(b) In this section, "taxable boat or motor" has the meaning assigned by Section 160.001.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.02, eff. Oct. 1, 1991.

Sec. 151.330. INTERSTATE SHIPMENTS, COMMON CARRIERS, AND SERVICES ACROSS STATE LINES. (a) The sale of tangible personal property that under the sales contract is shipped to a point outside this state is exempted from the sales tax imposed by Subchapter C of this chapter if the shipment is made by the seller by means of:

(1) the facilities of the seller;

(2) delivery by the seller to a carrier for shipment to a consignee at a point outside this state; or

(3) delivery by the seller to a forwarding agent for shipment to a location in another state of the United States or its territories or possessions.

(b) The temporary storage of tangible personal property acquired outside this state and then moved into this state is exempted from the use tax imposed by Subchapter D of this chapter if after being moved into this state the property is stored here temporarily and:

(1) is used solely outside this state; or

(2) is physically attached to or incorporated into other tangible personal property that is used solely outside this state.

(c) The storage, use, or other consumption of tangible personal property that is acquired outside this state is exempted from the use tax imposed by Subchapter D of this chapter if the sale, use, or storage of the property would be exempted from the taxes imposed by this chapter had it been sold, leased, or rented in this state.

(d) If, pursuant to Subdivision (2) of Subsection (a) of this section a delivery is made to a carrier for shipment to a location outside the United States, then the seller must maintain the same documents required by Subsection (b) of Section 151.307 of this chapter.

(e) Services performed for use outside this state are exempt from the tax imposed by Subchapter C of this chapter.

(f) Services performed for use both within and outside this state are exempt to the extent the services are for use outside this state and made taxable on or after September 1, 1987.

(g) The exemption provided by Subsections (e) and (f) of this section do not apply to services performed outside this state for use within this state.

(h) The sale of tangible personal property to a common carrier is exempted from the sales tax imposed by Subchapter C if the tangible personal property:

(1) is shipped to a point outside this state using the purchasing carrier's facilities under a bill of lading; and

(2) is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier outside this state.

(i) The storage or use of tangible personal property acquired outside this state for use as a repair or replacement part for and actually affixed in this state to a self-propelled vehicle that is used as a licensed and certificated common carrier of persons or property is exempted from the use tax imposed by Subchapter D.

Acts 1981, 67th Leg., p. 1568, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 74, Sec. 1, eff. Oct. 1, 1985; Acts 1985, 69th Leg., ch. 235, Sec. 2, 3, eff. Aug. 26, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 28; Acts 1993, 73rd Leg., ch. 587, Sec. 16, eff. Oct. 1, 1993; Acts 1997, 75th Leg., ch. 1040, Sec. 24, eff. Oct. 1, 1997.

Sec. 151.331. ROLLING STOCK; TRAIN FUEL AND SUPPLIES. (a) Rolling stock, locomotives, and fuel and supplies essential to the operation of locomotives and trains are exempted from the taxes imposed by this chapter.

(b) Electricity, natural gas, and other fuels used or consumed

predominately in the repair, maintenance, or restoration of rolling stock are exempt from the taxes imposed by this chapter.

Acts 1981, 67th Leg., p. 1569, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1025, Sec. 1, eff. Oct. 1, 1995.

Sec. 151.332. CERTAIN SALES BY SENIOR CITIZEN ORGANIZATIONS. (a) There are exempted from the sales tax imposed by Subchapter C of this chapter the receipts from the sale of tangible personal property that has been manufactured, produced, made, or assembled exclusively by a person 65 years old or older and that is sold at a qualified sale. A sale under this section qualifies for the exemption only if it is made as a part of a fund-raising drive held or sponsored by a nonprofit organization created for the sole purpose of providing assistance to elderly persons. All of the net proceeds derived from sales made during the fund-raising drive must go to the organization, to the persons who manufactured, produced, made, or assembled the items sold, or to both. An organization created for the purpose of providing assistance to the elderly is entitled to conduct not more than four separate tax exempt fund-raising drives during each calendar year, and the aggregate number of days during a calendar year during which one or more tax exempt fund-raising drives may be held by the organization is 20. Any sale occurring after the end of the fourth separate fund-raising drive in a calendar year or after the 20th day on which a fund-raising drive is held in a calendar year is not exempted by this section.

(b) There are exempted from the taxes imposed by this chapter the use, storage, or other consumption in this state of tangible personal property by a purchaser at a sale exempted by this section.

Added by Acts 1981, 67th Leg., p. 2771, ch. 752, Sec. 7(b), eff. Jan. 1, 1982.

Sec. 151.333. ENERGY-EFFICIENT PRODUCTS. (a) In this section, "energy-efficient product" means a product that has been designated as an Energy Star qualified product under the Energy Star program jointly operated by the United States Environmental Protection Agency and the United States Department of Energy.

(b) This section applies only to the following energy-efficient

products:

(1) an air conditioner the sales price of which does not exceed $6,000;

(2) a clothes washer;

(3) a ceiling fan;

(4) a dehumidifier;

(5) a dishwasher;

(6) an incandescent or fluorescent lightbulb;

(7) a programmable thermostat; and

(8) a refrigerator the sales price of which does not exceed $2,000.

(c) The sale of an energy-efficient product to which this section applies is exempted from the taxes imposed by this chapter if the sale takes place during a period beginning at 12:01 a.m. on the Saturday preceding the last Monday in May (Memorial Day) and ending at 11:59 p.m. on the last Monday in May.

Added by Acts 2007, 80th Leg., R.S., Ch. 939 (H.B. 3693), Sec. 16, eff. September 1, 2007.

Sec. 151.3335. WATER-EFFICIENT PRODUCTS. (a) In this section:

(1) "Water-conserving product":

(A) means tangible personal property that:

(i) is used on private residential property and is not used for business or trade; and

(ii) when used or planted in an outdoor residential property, may result in:

(a) water conservation or groundwater retention;

(b) water table recharge; or

(c) a decrease in ambient air temperature that limits water evaporation; and

(B) includes:

(i) a soaker or drip-irrigation hose;

(ii) a moisture control for a sprinkler or irrigation system;

(iii) mulch;

(iv) a rain barrel or an alternative rain and moisture collection system; and

(v) a permeable ground cover surface that allows water to reach underground basins, aquifers, or water collection points. "WaterSense product" means a product that has been designated as a WaterSense certified product under the WaterSense program operated by the United States Environmental Protection Agency, or a similar successor program.

(b) The sale of a water-conserving product or WaterSense product is exempted from the taxes imposed by this chapter if the sale takes place during the period described by Section 151.333(c).

Added by Acts 2015, 84th Leg., R.S., Ch. 1197 (S.B. 1356), Sec. 1, eff. October 1, 2015.

Sec. 151.334. COMPONENTS OF TANGIBLE PERSONAL PROPERTY USED IN CONNECTION WITH SEQUESTRATION OF CARBON DIOXIDE. Components of tangible personal property used in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, or a clean energy project, as defined by Section 120.001, Natural Resources Code, are exempted from the taxes imposed by this chapter if:

(1) the components are installed to capture carbon dioxide from an anthropogenic emission source, transport or inject carbon dioxide from such a source, or prepare carbon dioxide from such a source for transportation or injection; and

(2) the carbon dioxide is sequestered in this state:

(A) as part of an enhanced oil recovery project that qualifies for a tax rate reduction under Section 202.0545, as provided by Subsection (c) of that section; or

(B) in a manner and under conditions that create a reasonable expectation that at least 99 percent of the carbon dioxide will remain sequestered from the atmosphere for at least 1,000 years.

Added by Acts 2009, 81st Leg., R.S., Ch. 1109 (H.B. 469), Sec. 4, eff. September 1, 2009.

Sec. 151.336. CERTAIN COINS AND PRECIOUS METALS. The sale of gold, silver, or numismatic coins or of platinum, gold, or silver bullion is exempted from the taxes imposed by this chapter.

Added by Acts 1989, 71st Leg., ch. 231, Sec. 7, eff. Aug. 28, 1989. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 844 (H.B. 78), Sec. 1, eff. October 1, 2013.

Sec. 151.337. SALES BY OR TO INDIAN TRIBES. (a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, a tribal council or a business owned by a tribal council of the Alabama-Coushatta Indian Tribe, the Tigua Indian Tribe, or the Texas Band of Kickapoo Indians is exempted from the taxes imposed by this chapter.

(b) A taxable item sold, leased, or rented by a tribal council or a business owned by a tribal council of the Alabama-Coushatta Indian Tribe, the Tigua Indian Tribe, or the Texas Band of Kickapoo Indians is exempted from the taxes imposed by this chapter if the item is:

(1) made by a member of the Indian tribe;

(2) a cultural artifact of the Indian tribe; and

(3) sold at a location within the boundaries of a reservation or of trust land held by such an Indian tribe.

(c) The storage, use, or consumption of a taxable item acquired in a transaction exempted by Subsection (b) of this section is exempted from the use tax imposed by Subchapter D of this chapter until the item is resold or subsequently transferred.

Added by Acts 1983, 68th Leg., p. 4870, ch. 859, Sec. 2, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 717, Sec. 11, eff. Sept. 1, 1985.

Sec. 151.338. ENVIRONMENT AND CONSERVATION SERVICES. (a) Subject to Subsections (b) and (c), labor to repair, remodel, maintain, or restore tangible personal property is exempted from the taxes imposed by this chapter if:

(1) the repair, remodeling, maintenance, or restoration is required by statute, ordinance, order, rule, or regulation of any commission, agency, court, or political, governmental, or quasi-governmental entity in order to protect the environment or to conserve energy; and

(2) the charge for the labor is itemized separately from the charge for materials furnished.

(b) The exemption provided by Subsection (a) does not apply to the charge for materials furnished by the service provider to the purchaser as part of the service.

(c) Sixty-five percent of a lump-sum charge for labor and materials to repair, remodel, maintain, or restore tangible personal property is exempted from the taxes imposed by this chapter if:

(1) the repair, remodeling, maintenance, or restoration is required under the circumstances described by Subsection (a)(1); and

(2) the labor and materials are purchased for a health care facility, as defined by Section 108.002, Health and Safety Code, or for an oncology center.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 16, eff. Oct. 2, 1984.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 638 (S.B. 1525), Sec. 4, eff. June 10, 2019.

Sec. 151.339. PREEXISTING CONTRACTS AND BIDS. The receipts from the sale, use, or rental of and the storage, use, or consumption in this state of taxable services are exempt from the tax imposed by this chapter, if:

(1) the services are used for the performance of a written contract entered into prior to the date this chapter takes effect if the contract is not subject to change or modification by reason of the tax; or

(2) the services are used pursuant to an obligation of a bid or bids submitted prior to the date this chapter takes effect if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this chapter; and

(3) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the comptroller within 60 days from the date this chapter takes effect.

The exemption provided by this section shall have no effect after September 30, 1987.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 18, eff. Oct. 2, 1984.

Sec. 151.340. OFFICIAL STATE COIN. Official state coins produced under Section 11.05, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), are exempted from the taxes imposed by this chapter.

Added by Acts 1987, 70th Leg., ch. 910, Sec. 2, eff. Aug. 31, 1987.

Sec. 151.341. ITEMS SOLD TO OR USED BY DEVELOPMENT CORPORATIONS. (a) A taxable item sold, leased, or rented to or stored, used, or consumed by a nonprofit corporation formed under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code), is exempted from the taxes imposed by this chapter if the item is for the exclusive use and benefit of the nonprofit corporation.

(b) The exemption provided by this section does not apply to an item that is a project or a part of a project that is to be leased, sold, or lent by the nonprofit corporation.

Added by Acts 1983, 68th Leg., p. 1038, ch. 235, art. 7, Sec. 1(a), eff. Sept. 1, 1983. Renumbered from Sec. 151.333 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(52), eff. Sept. 1, 1987.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.71, eff. April 1, 2009.

Sec. 151.3415. ITEMS SOLD TO OR USED TO CONSTRUCT, MAINTAIN, EXPAND, IMPROVE, EQUIP, OR RENOVATE MEDIA PRODUCTION FACILITIES AT MEDIA PRODUCTION LOCATIONS; REPORT. (a) In this section, "qualified person" and "qualified media production location" have the meanings assigned by Section 485A.002, Government Code.

(b) The sale, lease, or rental of a taxable item to a qualified person is exempted from the taxes imposed by this chapter for a maximum of two years if the item is used:

(1) for the construction, maintenance, expansion, improvement, or renovation of a media production facility at a qualified media production location;

(2) to equip a media production facility at a qualified media production location; or

(3) for the renovation of a building or facility at a qualified media production location that is to be used exclusively as a media production facility.

(c) A qualified person shall submit an annual report to the comptroller regarding the sale, lease, or rental of taxable items for which a tax exemption is granted to the qualified person under this section. The report must be in the form and manner prescribed by the comptroller.

(d) The comptroller shall share information from reports submitted under Subsection (c), on request, with the Music, Film, Television, and Multimedia Office within the office of the governor.

Added by Acts 2009, 81st Leg., R.S., Ch. 1390 (S.B. 1929), Sec. 2, eff. September 1, 2009.

Sec. 151.342. AGRIBUSINESS ITEMS. (a) There are exempted from the tax imposed by this chapter bins used exclusively as containers in transporting fruit or vegetables from the field or place of harvest to a location where the items are processed, packaged, or marketed.

(b) There are exempted from the tax imposed by this chapter poultry cages used exclusively as containers in transporting poultry from a poultry farm to a location where the poultry is processed, packaged, or marketed.

Added by Acts 1983, 68th Leg., p. 5052, ch. 913, Sec. 1, eff. Aug. 29, 1983. Renumbered from Sec. 151.333 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(52), eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 19, eff. Oct. 1, 1995.

Sec. 151.343. ANIMALS SOLD BY NONPROFIT ANIMAL SHELTERS. The sale, including the acceptance of a fee for adoption, of an animal by a nonprofit animal shelter, as that term is defined by Section 823.001, Health and Safety Code, is exempted from the taxes imposed by this chapter.

Added by Acts 1999, 76th Leg., ch. 247, Sec. 1, eff. July 1, 1999.

Sec. 151.344. POST EXCHANGES ON STATE MILITARY PROPERTY. (a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, a post exchange under Section 437.110, Government Code, is exempt from the taxes imposed by this chapter.

(b) A taxable item sold, leased, or rented by a post exchange under Section 437.110, Government Code, is exempt from the taxes imposed by this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1110 (S.B. 1732), Sec. 2, eff. June 17, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.21, eff. September 1, 2013.

Sec. 151.346. INTERCORPORATE SERVICES. (a) There are exempt from the taxes imposed by this chapter service transactions among affiliated entities, at least one of which is a corporation, that report their income to the Internal Revenue Service on a single consolidated return for the tax year in which the transaction occurs.

(b) For purposes of this section, "affiliated entity" includes an entity that would be classified as a member of an affiliated group under 26 U.S.C. Section 1504 but for the exclusions provided by that section.

(c) An exemption authorized by this section does not apply to a service that would have been taxable under this chapter as it existed on September 1, 1987.

(d) Services that are exempt under this section may not be purchased for resale by the providing company.

(e) Tangible personal property that is transferred as an integral part of a service exempted under this section may not be purchased for resale by the providing company.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 29. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 17, eff. Sept. 1, 1991.

Sec. 151.347. CERTAIN LAWN AND YARD SERVICE. There are exempted from the taxes imposed by this chapter lawn mowing and other yard maintenance:

(1) performed by an individual younger than 18 years of age whose total receipts from taxable services described by Section 151.0048(1) or (2) of this code in the most recent four calendar quarters do not exceed $5,000;

(2) performed by an individual 65 years of age or older whose total receipts from taxable services described by Section 151.0048(1) or (2) of this code in the most recent four calendar quarters do not exceed $5,000; or

(3) performed by an individual:

(A) who is self-employed; and

(B) whose total receipts from taxable services described by Section 151.0048(1) or (2) of this code in the most recent four calendar quarters do not exceed $5,000.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 30. Amended by Acts 1989, 71st Leg., ch. 365, Sec. 1, eff. Oct. 1, 1989; Acts 1995, 74th Leg., ch. 308, Sec. 1, eff. July 1, 1995.

Sec. 151.348. COOPERATIVE RESEARCH AND DEVELOPMENT VENTURES. (a) There are exempted from the taxes imposed by this chapter items sold in connection with a joint research and development venture as defined by 15 U.S.C. Section 4301 that are sold by the joint research and development venture to a participating entity, if the items are created, developed, or substantially modified by or for the joint research and development venture, including items developed as a result of research and/or development agreements entered into by the joint research and development venture with third parties.

(b) There are exempted from the taxes imposed by this chapter items purchased by, and to carry out the purpose of, a joint research and development venture, as defined by 15 U.S.C. Section 4301, notice of whose establishment and participants was first published in the Federal Register on January 17, 1985, or May 19, 1988, if the items have a useful life in excess of six months when placed in service by the joint research and development venture.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 31. Amended by Acts 1989, 71st Leg., ch. 334, Sec. 1, eff. Aug. 28, 1989.

Sec. 151.350. LABOR TO RESTORE CERTAIN PROPERTY. (a) Labor to restore real or tangible personal property is exempted from the taxes imposed by this chapter if:

(1) the amount of the charge for labor is separately itemized; and

(2) the restoration is performed on property damaged within a disaster area by the condition that caused the area to be declared a disaster area.

(b) The exemption under this section does not apply to tangible personal property transferred by the service provider to the purchaser as part of the service.

(c) In this section, "disaster area" means:

(1) an area declared a disaster area by the governor under Chapter 418, Government Code; or

(2) an area declared a disaster area by the president of the United States under 42 U.S.C. Section 5141.

(d) In this section, "restore" means:

(1) launder, clean, repair, treat, or apply protective chemicals to an item, to the extent the service is a personal service as defined in Section 151.0045; and

(2) repair, restore, or remodel, to the extent the service is:

(A) a real property repair or remodeling service as defined in Section 151.0047; or

(B) defined as a taxable service in Section 151.0101(a)(5).

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 17, eff. Oct. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 20, eff. Oct. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.22, eff. Oct. 1, 1999.

Sec. 151.3501. LABOR TO RESTORE, REPAIR, OR REMODEL HISTORIC SITES. (a) Labor to restore, repair, or remodel an improvement to real property is exempted from the taxes imposed by this chapter if:

(1) the amount of the charge for labor is separately itemized; and

(2) the restoration, repair, or remodeling is performed on an improvement to real property listed in the National Register of Historic Places.

(b) The exemption provided by this section does not apply to tangible personal property transferred by the service provider to the purchaser as part of the service.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 23, eff. Oct. 1, 2003.

Sec. 151.3503. SERVICES BY EMPLOYEES. (a) The following are exempted from the taxes imposed by this chapter:

(1) a service performed by an employee for the employee's employer in the regular course of business, within the scope of the employee's duties, and for which the employee is paid regular wages or salary;

(2) a service performed by an employee of a temporary employment service for a host employer to supplement the host employer's existing work force on a temporary basis, if:

(A) the service is normally performed by the host employer's own employees;

(B) the host employer provides all supplies and equipment necessary to perform the service, other than personal protective equipment provided by the temporary employment service pursuant to a federal law or regulation;

(C) the host employer does not rent, lease, purchase, or otherwise acquire for use the supplies and equipment described by Paragraph (B), other than the personal protective equipment described by that paragraph, from the temporary employment service or an entity that is a member of an affiliated group of which the temporary employment service is also a member; and

(D) the host employer has the sole right to supervise, direct, and control the work performed by the employee of the temporary employment service as necessary to conduct the host employer's business or to comply with any licensing, statutory, or regulatory requirement applicable to the host employer; or

(3) a service performed by covered employees of a professional employer organization, either licensed under Chapter 91, Labor Code, or exempt from the licensing requirements of that chapter, for a client under a written contract that provides for shared employment responsibilities between the professional employer organization and the client for the covered employees, most of whom must have been previously employed by the client.

(b) The comptroller shall prescribe by rule the minimum percentage of covered employees that must have been previously employed by the client, the minimum time period the covered employees must have been employed by the client prior to the commencement of its contract, and such other criteria as the comptroller may deem necessary to properly implement Subsection (a)(3).

(c) In this section:

(1) "Affiliated group" has the meaning assigned by Section 171.0001.

(2) "Host employer" means the employer who owns, manages, or controls the property or worksite where an employee of a temporary employment service performs a service.

(3) "Temporary employment service" has the meaning assigned by Section 93.001, Labor Code.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 6, Sec. 9, eff. Oct. 2, 1984. Amended by Acts 1989, 71st Leg., ch. 254, Sec. 1, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1040, Sec. 18, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 14, eff. Oct. 1, 2001.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 117 (S.B. 1286), Sec. 22, eff. September 1, 2013.
Transferred, redesignated and amended from Tax Code, Section 151.057 by Acts 2017, 85th Leg., R.S., Ch. 573 (S.B. 745), Sec. 1, eff. September 1, 2017.

Sec. 151.351. INFORMATION SERVICES AND DATA PROCESSING SERVICES. There is exempted from the taxes imposed by this chapter 20 percent of the value of information services and data processing services.

Added by Acts 1999, 76th Leg., ch. 394, Sec. 8, eff. Oct. 1, 1999.

Sec. 151.353. COURT REPORTING SERVICES. (a) Court reporting services relating to the preparation of a document or other record in a civil or criminal suit by a notary public or a court reporter licensed by the Judicial Branch Certification Commission are exempted from the taxes imposed by this chapter if the document is:

(1) prepared for the use of a person participating in a

suit or the court in which a suit or administrative proceeding is brought; and

(2) sold to a person participating in the suit.

(b) Court reporting services covered by this section include services in the preparation of a:

(1) deposition or discovery document;

(2) transcript of testimony; and

(3) statement of facts.

(c) The exemption provided by this section applies to a document or record on audio or video tape or a computer readable format and courtroom presentation of same.

(d) Court reporting services by a video photographer who is not a court reporter and who videotapes or films a deposition, testimony, discovery document, or statement of fact pertaining to a civil or criminal suit are exempted from the taxes imposed by this chapter if the services are provided and sold as described by Subsections (a)(1) and (2).

Added by Acts 1995, 74th Leg., ch. 973, Sec. 1, eff. Oct. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 25, eff. Oct. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 42 (S.B. 966), Sec. 2.28, eff. September 1, 2014.

Sec. 151.354. SERVICES BY EMPLOYEES OF PROPERTY MANAGEMENT COMPANIES. (a) There are exempted from the taxes imposed by this chapter services performed by an employee of a property management company if:

(1) the employee is permanently assigned to one rental property by the property management company;

(2) the property management company is reimbursed on a dollar-for-dollar basis for the services provided; and

(3) the employee remains assigned to that property while employed by successive owners or management companies.

(b) This exemption does not apply to services performed by an employee for properties other than the one to which the employee is permanently assigned.

(c) For purposes of this section, a person is an employee of a

property management company if either the property management company or an affiliate of the property management company employs the person.

(d) The property management company must:

(1) be contractually obligated to the property owner to exercise control over the activities of the employee providing the service; and

(2) manage and direct the employee's day-to-day activities.

(e) The property management company or the affiliate must pay tax on the taxable items purchased and provided to employees providing services on managed property.

(f) In this section, "property management company" means a person:

(1) who, for consideration, operates and manages all the activities at a property held by the owner for purposes of rental, including an office building, mall, or other retail or office complex, an apartment complex, a duplex, or a home; and

(2) whose responsibilities include securing tenants, hiring, and supervising employees for operation or upkeep of the property, receiving and applying revenues, and incurring and paying expenses derived from the operation of the property as directed by the owner.

(g) In this section, a corporation, limited liability company, partnership, trust, or estate is an affiliate of the property management company if an 80 percent ownership interest in the property management company or the corporation, limited liability company, partnership, trust, or estate is held by the other, or if a third person has an 80 percent ownership interest either directly or indirectly in both the property management company and the corporation, limited liability company, partnership, trust, or estate.

Added by Acts 1999, 76th Leg., ch. 1467, Sec. 2.23, eff. Oct. 1, 1999.

Sec. 151.355. WATER-RELATED EXEMPTIONS. The following are exempted from taxes imposed by this chapter:

(1) rainwater harvesting equipment or supplies, water recycling and reuse equipment or supplies, or other equipment,

services, or supplies used solely to reduce or eliminate water use;

(2) equipment, services, or supplies used solely for desalination of surface water or groundwater;

(3) equipment, services, or supplies used solely for brush control designed to enhance the availability of water;

(4) equipment, services, or supplies used solely for precipitation enhancement;

(5) equipment, services, or supplies used solely to construct or operate a water or wastewater system certified by the Texas Commission on Environmental Quality as a regional system;

(6) equipment, services, or supplies used solely to construct or operate a water supply or wastewater system by a private entity as a public-private partnership as certified by the political subdivision that is a party to the project; and

(7) tangible personal property specifically used to process, reuse, or recycle wastewater that will be used in fracturing work performed at an oil or gas well.

Added by Acts 2001, 77th Leg., ch. 966, Sec. 4.25, eff. Sept. 1, 2001, and Acts 2001, 77th Leg., ch. 1234, Sec. 39. Amended by Acts 2003, 78th Leg., ch. 209, Sec. 24, eff. Oct. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1352 (H.B. 4), Sec. 14, eff. June 15, 2007.

Sec. 151.356. OFFSHORE SPILL RESPONSE CONTAINMENT PROPERTY. (a) In this section, "offshore spill response containment property" means tangible personal property:

(1) described by Section 11.271(c);

(2) owned or leased by an entity described by Section 11.271(f); and

(3) used or intended to be used solely in an offshore spill response containment system as defined by Section 11.271(a).

(b) This section does not apply to an item used, wholly or partly, for the exploration for or production of oil, gas, sulfur, or other minerals, including the equipment, piping, casing, and other components of an oil or gas well. For purposes of this subsection, the offshore capture of fugitive oil, gas, sulfur, or other minerals that is entirely incidental to the item's temporary use as an

offshore spill response containment system is not considered to be production of those substances.

(c) The sale, lease, rental, storage, use, or other consumption by an entity described by Section 11.271(f) of offshore spill response containment property used solely for the purposes described by Section 11.271(c) and this section is exempted from the taxes imposed by this chapter.

(d) A service performed exclusively on offshore spill response containment property is exempted from the taxes imposed by this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 942 (H.B. 1712), Sec. 3, eff. June 14, 2013.

Sec. 151.3565. EMERGENCY PREPARATION SUPPLIES FOR LIMITED PERIOD. (a) The sale of an emergency preparation item is exempted from the taxes imposed by this chapter if the sale takes place during a period beginning at 12:01 a.m. on the Saturday before the last Monday in April and ending at 12 midnight on the last Monday in April.

(b) For purposes of this section, "emergency preparation item" means:

(1) a portable generator used to provide light or communications or to preserve perishable food in the event of a power outage, the sales price of which is less than $3,000;

(2) an item listed in this subdivision, the sales price of which is less than $300:

(A) a storm protection device manufactured, rated, and marketed specifically to prevent damage to a glazed or non-glazed opening during a storm; or

(B) an emergency or rescue ladder; or

(3) an item listed in this subdivision, the sales price of which is less than $75:

(A) a reusable or artificial ice product;

(B) a portable, self-powered light source;

(C) a gasoline or diesel fuel container;

(D) a AAA cell, AA cell, C cell, D cell, 6 volt, or 9 volt battery, or a package containing more than one battery, other than an automobile or boat battery;

(E) a nonelectric cooler or ice chest for food storage;

(F) a tarpaulin or other flexible waterproof sheeting;

(G) a ground anchor system or tie-down kit;

(H) a mobile telephone battery or battery charger;

(I) a portable self-powered radio, including a two-way radio or weatherband radio;

(J) a fire extinguisher, smoke detector, or carbon monoxide detector;

(K) a hatchet or axe;

(L) a self-contained first aid kit; or

(M) a nonelectric can opener.

Added by Acts 2015, 84th Leg., R.S., Ch. 475 (S.B. 904), Sec. 1, eff. September 1, 2015.

Sec. 151.359. PROPERTY USED IN CERTAIN DATA CENTERS; TEMPORARY EXEMPTION. (a) In this section:

(1) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent four quarterly periods for which data is available, as computed by the Texas Workforce Commission, at the time a data center creates a job used to qualify under this section.

(2) "Data center" means at least 100,000 square feet of space in a single building or portion of a single building, which space:

(A) is located in this state;

(B) is specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data;

(C) is used by a single qualifying occupant for the processing, storage, and distribution of data;

(D) is not used primarily by a telecommunications provider to place tangible personal property that is used to deliver telecommunications services; and

(E) has an uninterruptible power source, generator backup power, a sophisticated fire suppression and prevention system, and enhanced physical security that includes restricted access, video surveillance, and electronic systems.

(3) "Permanent job" means an employment position that will

exist for at least five years after the date the job is created.

(4) "Qualifying data center" means a data center that meets the qualifications prescribed by Subsection (d).

(5) "Qualifying job" means a full-time, permanent job that pays at least 120 percent of the county average weekly wage in the county in which the job is based. The term includes a new employment position staffed by a third-party employer if a written contract exists between the third-party employer and a qualifying owner, qualifying operator, or qualifying occupant that provides that the employment position is permanently assigned to an associated qualifying data center.

(6) "Qualifying operator" means a person who controls access to a qualifying data center, regardless of whether that person owns each item of tangible personal property located at the qualifying data center. A qualifying operator may also be the qualifying owner.

(7) "Qualifying owner" means a person who owns the building in which a qualifying data center is located. A qualifying owner may also be the qualifying operator.

(8) "Qualifying occupant" means a person who:

(A) contracts with a qualifying owner or qualifying operator to place, or cause to be placed, and to use tangible personal property at the qualifying data center; or

(B) in the case of a qualifying occupant who is also the qualifying owner and the qualifying operator, places or causes to be placed, and uses tangible personal property at the qualifying data center.

(b) Except as otherwise provided by this section, tangible personal property that is necessary and essential to the operation of a qualified data center is exempted from the taxes imposed by this chapter if the tangible personal property is purchased for installation at, incorporation into, or in the case of Subdivision (1), use in a qualifying data center by a qualifying owner, qualifying operator, or qualifying occupant, and the tangible personal property is:

(1) electricity;

(2) an electrical system;

(3) a cooling system;

(4) an emergency generator;

(5) hardware or a distributed mainframe computer or server;

(6) a data storage device;

(7) network connectivity equipment;

(8) a rack, cabinet, and raised floor system;

(9) a peripheral component or system;

(10) software;

(11) a mechanical, electrical, or plumbing system that is necessary to operate any tangible personal property described by Subdivisions (2)-(10);

(12) any other item of equipment or system necessary to operate any tangible personal property described by Subdivisions (2)-(11), including a fixture; and

(13) a component part of any tangible personal property described by Subdivisions (2)-(10).

(c) The exemption provided by this section does not apply to:

(1) office equipment or supplies;

(2) maintenance or janitorial supplies or equipment;

(3) equipment or supplies used primarily in sales activities or transportation activities;

(4) tangible personal property on which the purchaser has received or has a pending application for a refund under Section 151.429;

(5) tangible personal property not otherwise exempted under Subsection (b) that is incorporated into real estate or into an improvement of real estate;

(6) tangible personal property that is rented or leased for a term of one year or less; or

(7) notwithstanding Section 151.3111, a taxable service that is performed on tangible personal property exempted under this section.

(d) Subject to Subsection (k), a data center may be certified by the comptroller as a qualifying data center for purposes of this section if, on or after September 1, 2013:

(1) a single qualifying occupant:

(A) contracts with a qualifying owner or qualifying operator to lease space in which the qualifying occupant will locate a data center; or

(B) occupies a space that was not previously used as a data center in which the qualifying occupant will locate a data center, in the case of a qualifying occupant who is also the qualifying operator and the qualifying owner; and

(2) the qualifying owner, qualifying operator, or qualifying occupant, jointly or independently:

(A) creates at least 20 qualifying jobs in the county in which the data center is located, not including jobs moved from one county in this state to another county in this state; and

(B) makes or agrees to make a capital investment, on or after September 1, 2013, of at least $200 million in that particular data center over a five-year period beginning on the date the data center is certified by the comptroller as a qualifying data center.

(e) A data center that is eligible under Subsection (d) to be certified by the comptroller as a qualified data center shall apply to the comptroller for certification as a qualifying data center and for issuance of a registration number or numbers by the comptroller. The application must be made on a form prescribed by the comptroller and include the information required by the comptroller. The application must include the name and contact information for the qualifying occupant and, if applicable, the name and contact information for the qualifying owner and the qualifying operator who will claim the exemption authorized under this section. The application form must include a section for the applicant to certify that the capital investment required by Subsection (d)(2)(B) will be met independently or jointly by the qualifying occupant, qualifying owner, or qualifying operator within the time period prescribed by Subsection (d)(2)(B).

(f) The exemption provided by this section begins on the date the data center is certified by the comptroller as a qualifying data center and expires:

(1) on the 10th anniversary of that date, if the qualifying occupant, qualifying owner, or qualifying operator independently or jointly makes a capital investment of at least $200 million but less than $250 million as provided by Subsection (d)(2)(B); or

(2) on the 15th anniversary of that date, if the qualifying occupant, qualifying owner, or qualifying operator independently or jointly makes a capital investment of $250 million or more as provided by Subsection (d)(2)(B).

(g) Each person who is eligible to claim an exemption authorized by this section must hold a registration number issued by the comptroller. The registration number must be stated on the exemption certificate provided by the purchaser to the seller of tangible personal property eligible for the exemption.

(h) The comptroller shall revoke all registration numbers issued in connection with a qualifying data center that the comptroller determines does not meet the requirements prescribed by Subsection (d). Each person who has the person's registration number revoked by the comptroller is liable for taxes, including penalty and interest from the date of purchase, imposed under this chapter on purchases for which the person claimed an exemption under this section, regardless of whether the purchase occurred before the date the registration number was revoked.

(i) The comptroller shall adopt rules consistent with and necessary to implement this section, including rules relating to:

(1) a qualifying data center, qualifying owner, qualifying operator, and qualifying occupant;

(2) issuance and revocation of a registration number required under this section; and

(3) reporting and other procedures necessary to ensure that a qualifying data center, qualifying owner, qualifying operator, and qualifying occupant comply with this section and remain entitled to the exemption authorized by this section.

(j) The exemption in this section does not apply to the taxes imposed under Chapter 321, 322, or 323.

(k) A data center is not eligible to receive an exemption under this section if the data center is subject to an agreement limiting the appraised value of the data center's property under Subchapter B or C, Chapter 313.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 1, eff. September 1, 2013.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 378 (H.B. 4038), Sec. 1, eff. June 1, 2017.

Sec. 151.3595. PROPERTY USED IN CERTAIN LARGE DATA CENTER PROJECTS; TEMPORARY EXEMPTION. (a) In this section:

(1) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent four quarterly periods for which data is available, as computed by the Texas Workforce Commission, at the time a large data center project creates a job used to qualify under this section.

(2) "Large data center project" means a project that:

(A) is located in this state;

(B) is composed of one or more buildings comprising at least 250,000 square feet of space located or to be located on a single parcel of land or on contiguous parcels of land that are commonly owned or owned by affiliation with the qualifying operator;

(C) is specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff for the processing, storage, and distribution of data;

(D) is used by a single qualifying occupant for the processing, storage, and distribution of data;

(E) is not used primarily by a telecommunications provider to place tangible personal property used to deliver telecommunications services; and

(F) has an uninterruptible power source, a backup generator, a fire suppression and prevention system, and physical security that includes restricted access, video surveillance, and electronic systems.

(3) "Permanent job" means an employment position that will exist for at least five years after the date the job is created.

(4) "Qualifying job" means a full-time, permanent job that pays at least 120 percent of the county average weekly wage in the county in which the job is based. The term includes a new employment position staffed by a third-party employer if a written contract exists between the third-party employer and a qualifying owner, qualifying operator, or qualifying occupant that provides that the employment position is permanently assigned to an associated qualifying large data center project.

(5) "Qualifying large data center project" means a large data center project that meets the qualifications prescribed by Subsection (d).

(6) "Qualifying operator" means a person who controls access to a qualifying large data center project, regardless of whether that person owns each item of tangible personal property located at the qualifying large data center project. A qualifying operator may also be the qualifying owner.

(7) "Qualifying owner" means a person who owns a building in which a qualifying large data center project is located. A qualifying owner may also be the qualifying operator.

(8) "Qualifying occupant" means a person who:

(A) contracts with a qualifying owner or qualifying operator to place, or cause to be placed, and to use tangible personal property at the qualifying large data center project; or

(B) in the case of a qualifying occupant who is also the qualifying owner and the qualifying operator, places or causes to be placed and uses tangible personal property at the qualifying large data center project.

(b) Except as otherwise provided by this section, tangible personal property that is necessary and essential to the operation of a qualifying large data center project is exempted from the taxes imposed by this chapter if the tangible personal property is purchased for installation at, incorporation into, or in the case of electricity, use in a qualifying large data center project by a qualifying owner, qualifying operator, or qualifying occupant, and the tangible personal property is:

(1) electricity;

(2) an electrical system;

(3) a cooling system;

(4) an emergency generator;

(5) hardware or a distributed mainframe computer or server;

(6) a data storage device;

(7) network connectivity equipment;

(8) a rack, cabinet, and raised floor system;

(9) a peripheral component or system;

(10) software;

(11) a mechanical, electrical, or plumbing system that is necessary to operate any tangible personal property described by Subdivisions (2)-(10);

(12) any other item of equipment or system necessary to operate any tangible personal property described by Subdivisions (2)-(11), including a fixture; and

(13) a component part of any tangible personal property described by Subdivisions (2)-(10).

(c) The exemption provided by this section does not apply to:

(1) office equipment or supplies;

(2) maintenance or janitorial supplies or equipment;

(3) equipment or supplies used primarily in sales activities or transportation activities;

(4) tangible personal property on which the purchaser has received or has a pending application for a refund under Section

151.429;

(5) tangible personal property not otherwise exempted under Subsection (b) that is incorporated into real estate or into an improvement of real estate;

(6) tangible personal property that is rented or leased for a term of one year or less; or

(7) notwithstanding Section 151.3111, a taxable service that is performed on tangible personal property exempted under this section.

(d) Subject to Subsection (j), a large data center project may be certified by the comptroller as a qualifying large data center project for purposes of this section if, on or after June 1, 2015:

(1) a single qualifying occupant:

(A) contracts with a qualifying owner or qualifying operator to lease space in which the qualifying occupant will locate a large data center project; or

(B) occupies a space that was not previously used as a data center in which the qualifying occupant will locate a large data center project, in the case of a qualifying occupant who is also the qualifying operator and the qualifying owner; and

(2) the qualifying owner, qualifying operator, or qualifying occupant, independently or jointly:

(A) creates at least 40 qualifying jobs in the county in which the large data center project is located, not including jobs moved from one county in this state to another county in this state;

(B) on or after May 1, 2015, makes or agrees to make a capital investment of at least $500 million in that particular large data center project, the amount of which may not include a capital investment to replace personal property previously placed in service in that large data center project, over a five-year period beginning on the earlier of:

(i) the date the large data center project submits the application described by Subsection (e); or

(ii) the date the large data center project is certified by the comptroller as a qualifying large data center project; and

(C) agrees to contract for at least 20 megawatts of transmission capacity for operation of the large data center project.

(e) A large data center project that is eligible under Subsection (d) to be certified by the comptroller as a qualifying

large data center project shall apply to the comptroller for certification and for the issuance of a registration number or numbers by the comptroller. The application must be made on a form prescribed by the comptroller and must include the information required by the comptroller. The application must include the name and contact information for the qualifying occupant, and, if applicable, the name and contact information for the qualifying owner and the qualifying operator who will claim the exemption authorized under this section. The application form must include a section for the applicant to certify that the capital investment required by Subsection (d)(2)(B) will be met independently or jointly by the qualifying occupant, qualifying owner, or qualifying operator within the time period prescribed by Subsection (d)(2)(B).

(f) The exemption provided by this section begins on the date the large data center project is certified by the comptroller as a qualifying large data center project and expires on the 20th anniversary of that date, if the qualifying occupant, qualifying owner, or qualifying operator, independently or jointly makes the capital investment of at least $500 million as provided by Subsection (d)(2)(B).

(g) Each person who is eligible to claim an exemption authorized by this section must hold a registration number issued by the comptroller. The registration number must be stated on the exemption certificate provided by the purchaser to the seller of tangible personal property eligible for the exemption.

(h) The comptroller shall revoke all registration numbers issued in connection with a qualifying large data center project that the comptroller determines does not meet the requirements prescribed by Subsection (d). Each person who has the person's registration number revoked by the comptroller is liable for taxes, including penalty and interest from the date of purchase, imposed under this chapter on purchases for which the person claimed an exemption under this section, regardless of whether the purchase occurred before the date the registration number was revoked.

(i) The comptroller shall adopt rules consistent with and necessary to implement this section, including rules relating to:

(1) a qualifying large data center project, qualifying owner, qualifying operator, and qualifying occupant;

(2) issuance and revocation of a registration number required under this section; and

(3) reporting and other procedures necessary to ensure that a qualifying large data center project, qualifying owner, qualifying operator, and qualifying occupant comply with this section and remain entitled to the exemption authorized by this section.

(j) A data center is not eligible to receive an exemption under this section if the data center is subject to an agreement limiting the appraised value of the data center's property under Subchapter B or C, Chapter 313.

Added by Acts 2015, 84th Leg., R.S., Ch. 412 (H.B. 2712), Sec. 1, eff. June 10, 2015.

SUBCHAPTER I. REPORTS, PAYMENTS, AND METHODS OF REPORTING

Sec. 151.401. TAX DUE DATES. (a) The taxes imposed by this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month unless a taxpayer qualifies as a quarterly filer under Subsection (b) of this section or unless the taxpayer prepays the tax on a quarterly basis as permitted by Section 151.424 of this code.

(b) If a taxpayer owes less than $500 for a calendar month or $1,500 for a calendar quarter, the taxes are due and payable on the 20th day of the month following the end of the calendar quarter.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(1), eff. June 14, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(1), eff. June 14, 2013.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(1), eff. June 14, 2013.

Acts 1981, 67th Leg., p. 1569, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2779, ch. 752, Sec. 10, eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 1362, ch. 281, Sec. 1, eff. Oct. 1, 1983; Acts 1993, 73rd Leg., ch. 486, Sec. 2.01, eff. Sept. 1, 1994.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 13.01, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(1), eff. June 14, 2013.

Sec. 151.402. TAX REPORT DATES. (a) A tax report required by this chapter for a reporting period is due on the same date that the tax payment for the period is due as provided by Section 151.401.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(2), eff. June 14, 2013.

Acts 1981, 67th Leg., p. 1569, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 2.02, eff. Sept. 1, 1994.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 13.02, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(2), eff. June 14, 2013.

Sec. 151.403. WHO MUST FILE A REPORT. (a) A person subject to the sales tax shall file a tax report.

(b) A retailer engaged in business in this state as provided by Section 151.107 of this code shall file a tax report with respect to the use tax.

(c) A person who acquires a taxable item, the storage, use, or consumption of which is subject to the use tax, shall file a tax report if the person did not pay the use tax to a retailer.

Acts 1981, 67th Leg., p. 1569, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.405. OTHER DUE DATES SET BY COMPTROLLER. (a) The comptroller may require a seller, retailer, or purchaser to file a return or pay the taxes imposed by this chapter for a period other than a monthly period if necessary to ensure the payment or to facilitate the collection of the taxes due.

(b) A requirement under Subsection (a) of this section may by rule be made generally applicable to retailers providing amusement services at locations other than the regular business establishment of the retailer or to retailers who provide amusement services and who have no regular business establishment in this state.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1983, 68th Leg., p. 1363, ch. 281, Sec. 2, eff. Oct.

1, 1983; Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 7, Sec. 17, eff. Oct. 2, 1984.

Sec. 151.406. CONTENTS AND FORM OF REPORT. (a) Except as provided by Section 151.407, a tax report required by this chapter must:

(1) for sales tax purposes, show the amount of the total receipts of a seller for the reporting period;

(2) for use tax purposes, show the amount of the total receipts from sales by a retailer of taxable items during the reporting period for storage, use, or consumption in this state;

(3) show the amount of the total sales prices of taxable items that are subject to the use tax during the reporting period and that were acquired for storage, use, or consumption in this state by a purchaser who did not pay the tax to a retailer;

(4) show the amount of the taxes due for the reporting period;

(5) show the amount of sales tax refunded for items exported beyond the territorial limits of the United States after receiving documentation under Section 151.307(b)(2); and

(6) include other information that the comptroller determines to be necessary for the proper administration of this chapter.

(b) The comptroller by rule may determine the manner of reporting gross proceeds from taxable rentals and leases of tangible personal property.

(c) The report must be in the form as prescribed by the comptroller.

(d) A tax report must be signed by the person required to file it or by the person's authorized agent.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2003, 78th Leg., ch. 1001, Sec. 5, eff. Jan. 1, 2004.

Sec. 151.407. SPECIAL USE TAX REPORTS. (a) The comptroller may require any person or class of persons who have in their possession or custody information relating to the sale of a taxable item, the storage, use, or consumption of which is subject to the use

tax, to file a report.

(b) A report required under this section must:

(1) be filed at the time required by the comptroller; and

(2) contain the name and address of the purchaser of the tangible personal property, the sales price of the property, the date of the sale, and other information required by the comptroller.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.408. ACCOUNTING BASIS FOR REPORTS. A taxpayer whose regular books are kept on a cash basis, accrual basis, or some other generally recognized accounting basis that accurately reflects the operation of the business may file the tax reports required by this chapter on the same basis that is used for the taxpayer's regular books.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.409. REPORTS AND PAYMENTS: WHERE MADE. A tax report or tax payment shall be delivered to the office of the comptroller.

Acts 1981, 67th Leg., p. 1570, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.410. METHOD OF REPORTING SALES TAX: GENERAL RULE. A seller shall compute the sales tax imposed by Subchapter C of this chapter to be paid to the comptroller by multiplying the percentage rate of the sales tax times the total receipts of the seller from all sales of taxable tangible personal property and of taxable services.

Acts 1981, 67th Leg., p. 1571, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.411. METHOD OF REPORTING: SELLERS HAVING SALES BELOW TAXABLE AMOUNT. (a) If not less than 50 percent of the total receipts of a seller from the sale of taxable items come from separate transactions in which the sales price is an amount on which no tax is produced, the seller may exclude the receipts from those transactions when reporting and paying the sales tax.

(b) A seller may not exclude any receipts from sales as permitted under Subsection (a) of this section unless the seller has received from the comptroller before the filing of the tax report written approval allowing the exclusion, and all receipts from sales of taxable tangible personal property and taxable services are subject to the tax until the approval is granted.

(c) The comptroller shall approve the reporting and computation of the sales tax as permitted under Subsection (a) of this section by a seller if the seller qualifies for the exclusion and if the seller submits to the comptroller satisfactory evidence that the seller can and will maintain records adequate to substantiate the authorized exclusion.

Acts 1981, 67th Leg., p. 1571, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 13, Sec. 3, eff. Oct. 2, 1984; Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 4, eff. Jan. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 3, Sec. 2.

Sec. 151.412. OPTIONAL METHOD OF REPORTING: PERCENTAGE OF SALES. (a) A seller who is a retail grocer, a seller who operates a separate grocery department having separate records that are separately auditable, or any other seller whose taxable receipts from the sale of taxable items are less than 10 percent of the total receipts of the seller may determine the total taxable receipts of the grocer, separate grocery department, or other seller by:

(1) adding the amount of all invoices for merchandise sold to the seller during the preceding calendar or fiscal year to obtain the total sum of merchandise purchased;

(2) adding the amount of all invoices for exempt merchandise sold to the seller during the preceding calendar or fiscal year to obtain the total sum of exempt merchandise purchased;

(3) dividing the sum obtained under Subdivision (2) of this subsection by the sum obtained under Subdivision (1) of this subsection to obtain a percentage relationship;

(4) multiplying the percentage obtained under Subdivision (3) of this subsection times the total sales by the seller for the reporting period to obtain the total nontaxable sales of the seller; and

(5) subtracting the total nontaxable sales of the seller obtained under Subdivision (4) of this subsection from the total sales by the seller during the reporting period to obtain the total taxable receipts of the seller from sales of tangible personal property.

(b) A seller determining taxable receipts as provided by Subsection (a) of this section shall add to the total taxable receipts the sales prices of all purchases made by the seller that are subject to the use tax and on which the use tax has not been paid.

(c) If the comptroller audits a seller who qualifies for and uses the method of reporting allowed by this section and determines that the actual tax liability of the seller computed on the actual taxable receipts of the seller differs from the amount reported and paid under this section, the comptroller shall collect the difference due to the state, if any, or refund or credit the seller with the difference that is an overpayment to the state, if any.

(d) The comptroller may not assess a penalty or interest against a seller because of an underpayment of the actual tax due disclosed by an audit under Subsection (c) of this section unless the audit discloses wilful evasion of the tax or fraud. The state may not pay interest on an overpayment disclosed by an audit under Subsection (c) of this section.

(e) Under procedures adopted by and with the consent of the comptroller, a seller eligible to determine its total taxable receipts under this section may add to the amount provided by Subdivision (2) of Subsection (a) of this section an additional amount that represents that portion of the amount of all invoices for merchandise sold to the seller during the preceding calendar or fiscal year that was not considered exempt merchandise for purposes of Subdivision (1) of Subsection (a) of this section but that became exempt under Section 151.3141 of this code when sold.

Acts 1981, 67th Leg., p. 1571, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1987, 70th Leg., c. 1116, Sec. 2, eff. Oct. 1, 1987.

Sec. 151.413. OPTIONAL METHOD OF REPORTING: SMALL GROCERS. (a) A seller who is a retail grocer and whose annual total receipts do not exceed $100,000 may pay the taxes imposed by this chapter by

multiplying 15 percent times the total receipts of the seller to obtain the amount of taxable receipts.

(b) A state audit of a retailer electing to report his taxable receipts as provided by this section is limited to determining whether or not the grocer is eligible to use this method. No additional tax may be assessed or a refund or credit granted because of a showing that the tax liability of the retail grocer electing this method of reporting differs or would differ under any other method of reporting.

(c) A retail grocer who elects to report under this section shall continue to report as provided by this section for three years unless the grocer's total receipts for a year exceed $100,000.

(d) If a retail grocer electing to report under this section has gross receipts in excess of $100,000 for a year, the grocer is ineligible to continue reporting under this section beginning on the first day of the calendar month after the month in which the limitation was exceeded, shall report the ineligibility to the comptroller, and shall immediately cease to use the method of reporting permitted by this section.

(e) Subsection (b) of this section does not apply to audits or the tax liability of a retail grocer who fails to report his ineligibility to the comptroller as required by Subsection (d) of this section.

Acts 1981, 67th Leg., p. 1572, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.414. "RETAIL GROCER" DEFINED. In this subchapter, "retail grocer" means a retail vendor who sells food for human consumption off the premises, together with household supplies and nondurable household goods.

Acts 1981, 67th Leg., p. 1572, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.415. ASSESSMENT OF PENALTIES AND INTEREST AGAINST SELLER USING OPTIONAL METHOD OF REPORTING. The comptroller may assess a penalty and interest against a seller using an optional method of reporting under Section 151.412 or Section 151.413 of this code if the seller fails to file a tax report on or before its due date or fails to remit the correct amount of tax due with the report.

This section prevails over Section 151.412(d) and Section 151.413(b) of this code.

Acts 1981, 67th Leg., p. 1572, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.416. COMMINGLED RECEIPTS AND TAX. A seller who has an accounting system under which the taxes collected under this chapter are commingled with the receipts from the sales of taxable items may compute his taxable receipts by:

(1) subtracting from the total receipts of the seller the receipts from the sales of items that are exempted or are specifically excluded from the taxes imposed by this chapter to obtain a remainder consisting of the commingled receipts from taxable sales and the taxes collected; and

(2) dividing this remainder by one plus the sales tax rate expressed as a decimal fraction to obtain a quotient that is the taxable receipts that may be reported under Section 151.410 of this code.

Acts 1981, 67th Leg., p. 1573, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 13, Sec. 4, eff. Oct. 2, 1984; Acts 1986, 69th Leg., 3rd C.S., ch. 10, art. 1, Sec. 3, eff. Jan. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 3, Sec. 3.

Sec. 151.417. DIRECT PAYMENT OF TAX BY PURCHASER. (a) The holder of a direct payment permit issued by the comptroller may give a blanket exemption certificate to sellers who sell, lease, or rent taxable items to the holder of the direct payment permit. The blanket exemption certificate covers all future sales of taxable items to the permit holder and relieves the seller of the obligation of collecting the taxes imposed by this chapter from the permit holder.

(b) A blanket exemption certificate given under this section must contain the direct payment permit number and the statement that the direct payment permit holder agrees to accrue and pay to this state all taxes that are or may become due on the taxable items sold under the exemption certificate to the permit holder.

Acts 1981, 67th Leg., p. 1573, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.4171. OPTIONAL REPORTING METHOD: PERCENTAGE-BASED. (a) In this section, "percentage-based reporting method" means a method by which a taxpayer categorizes purchase transactions according to standards specified in the letter of authorization, reviews an agreed-on sample of invoices in that category to determine the percentage of taxable transactions, and uses that percentage to calculate the amount of tax to be reported.

(b) The comptroller may authorize the holder of a direct payment permit to use a percentage-based reporting method. The authorized percentage must be used for a three-year period specified by the comptroller, unless the authorization is revoked by the comptroller.

(c) The comptroller may revoke the authorization to report under this section if the comptroller determines that the percentage being used is no longer representative because of a change:

(1) in law, including a change in the interpretation of a law or rule; or

(2) in the taxpayer's business operations.

(d) The decision of the comptroller to deny or revoke authorization under this section is not appealable.

(e) In deciding whether to authorize reporting under this section, the comptroller may categorize transactions by dollar amount, by type of taxable item purchased, by the purpose for which the taxable item will be used, or by other standards appropriate to the taxpayer's operations.

(f) The comptroller by rule may specify additional procedures that must be followed and conditions that must be met before the comptroller authorizes a taxpayer to report under this section.

Added by Acts 1999, 76th Leg., ch. 457, Sec. 2, eff. Oct. 1, 1999.

Sec. 151.418. ISSUANCE OF DIRECT PAYMENT PERMIT. (a) The comptroller shall issue a direct payment permit to an applicant for the permit who qualifies as provided by Section 151.419 of this code.

(b) The comptroller is the sole judge of an applicant's qualifications, and the comptroller's refusal to issue a permit to an

applicant is not appealable.

(c) An applicant for a direct payment permit who has been denied the issuance of a permit may:

(1) request permission from the comptroller to submit an amended application; or

(2) submit a new application for a direct payment permit after a reasonable period after the denial of the original application.

Acts 1981, 67th Leg., p. 1573, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.419. APPLICATION FOR DIRECT PAYMENT PERMITS: QUALIFICATIONS. (a) A person desiring a direct payment permit must file with the comptroller a written application for the permit.

(b) The application must be accompanied with:

(1) an agreement that is signed by the applicant or a responsible officer of an applicant corporation, that is in a form prescribed by the comptroller, and that provides that the applicant agrees to:

(A) accrue and pay all taxes imposed by Subchapter D of this chapter on the storage and use of all taxable items sold to or leased or rented by the permit holder unless the items are exempted from the taxes imposed by this chapter;

(B) pay the imposed taxes monthly on or before the 20th day of the month following the end of each calendar month; and

(C) waive the discount permitted by Section 151.423 of this code on the payment of all taxes under the direct payment permit only;

(2) a description, in the amount of detail that the comptroller requires, of the accounting method by which the applicant proposes to differentiate between taxable and exempt transactions; and

(3) records establishing that the applicant is a responsible person who annually purchases taxable items that have a value when purchased of $800,000 or more excluding the value of taxable items for which resale certificates were or could have been given.

Acts 1981, 67th Leg., p. 1573, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 849, ch. 197, Sec. 1, eff. May

24, 1983; Acts 1983, 68th Leg. p. 1363, ch. 281, Sec. 3, eff. Oct. 1, 1983.

Sec. 151.420. REVOCATION OF DIRECT PAYMENT PERMIT. (a) A person to whom a direct payment permit has been issued holds the permit as a matter of revocable privilege and not as a matter of right. The comptroller on his own initiative may cancel a direct payment permit, and the cancellation is not appealable.

(b) A person whose direct payment permit is canceled by the comptroller is entitled to written notice of the cancellation, which shall be sent by the comptroller by registered mail.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.421. VOLUNTARY RELINQUISHMENT OF DIRECT PAYMENT PERMIT. (a) The holder of a direct payment permit may notify the comptroller that the direct payment permit is to be voluntarily relinquished.

(b) A direct payment permit and the direct payment agreement remain valid and enforceable until the comptroller issues a termination notice.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.422. CANCELLATION OR TERMINATION OF DIRECT PAYMENT PERMIT: DUTY OF PERMIT HOLDER. (a) On the receipt of a notice issued under Section 151.420 of this code canceling a direct payment permit or of a notice issued under Section 151.421 of this code terminating a direct payment permit, the person who held the permit shall immediately notify each seller to whom a blanket exemption certificate has been given that the exemption certificate is no longer valid.

(b) The failure of a person to notify a seller as required by Subsection (a) of this section is a failure and refusal to pay the taxes imposed by this chapter by the person required to make the notification.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.423. REIMBURSEMENT TO TAXPAYER FOR TAX COLLECTIONS. A taxpayer may deduct and withhold one-half of one percent of the amount of taxes due from the taxpayer on a timely return as reimbursement for the cost of collecting the taxes imposed by this chapter. The comptroller shall provide a card with each form distributed for the collection of taxes under this chapter. The card may be inserted by the taxpayer with the tax payment to provide for contribution of all or part of the reimbursement provided by this section for use as grants under Subchapter M, Chapter 56, Education Code. If the taxpayer chooses to contribute the reimbursement for the grants, the taxpayer shall include the amount of the reimbursement contribution with the tax payment. The comptroller shall transfer money contributed under this section for grants under Subchapter M, Chapter 56, Education Code, to the appropriate fund.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1364, ch. 281, Sec. 4, eff. Oct. 1, 1983; Acts 1985, 69th Leg., ch. 708, Sec. 18, eff. Aug. 26, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 32; Acts 1999, 76th Leg., ch. 1590, Sec. 4, eff. June 19, 1999.

Sec. 151.424. DISCOUNT FOR PREPAYMENTS. (a) A taxpayer who prepays the taxpayer's tax liability on the basis of a reasonable estimate of the tax liability for a quarter in which a prepayment is made or for a month in which a prepayment is made may deduct and withhold 1.25 percent of the amount of the prepayment in addition to the amount permitted to be deducted and withheld under Section 151.423 of this code. A reasonable estimate of the tax liability must be at least 90 percent of the tax ultimately due or the amount of tax paid in the same quarter, or month, if a monthly prepayer, in the last preceding year. Failure to prepay a reasonable estimate of the tax will result in the loss of the entire prepayment discount.

(b) In order to qualify for the deduction permitted by Subsection (a) of this section, the taxpayer must make the tax prepayment:

(1) on or before the 15th day of the second month of the calendar quarter for which the prepayment is made if the taxpayer

pays the tax quarterly; or

(2) on or before the 15th day of the month for which the prepayment is made if the taxpayer pays the tax monthly.

(c) A taxpayer who prepays the tax liability as permitted by this section must file a report when due as provided by this chapter. The amount of a prepayment made by a taxpayer under this section shall be credited against the amount of actual tax liability of the taxpayer as shown on the tax report of the taxpayer. If there is a tax liability owed by the taxpayer in excess of the prepayment credit, the taxpayer shall send to the comptroller the remaining tax liability at the time of filing the quarterly or monthly report. The taxpayer is entitled to the deduction permitted under Section 151.423 of this code on the amount of the remaining tax liability.

(d) If the amount of a prepayment exceeds the actual tax liability, the excess of the prepayment shall be credited against future tax liability of the taxpayer or refunded to the taxpayer as provided by Subchapter C of Chapter 111 of this code.

Acts 1981, 67th Leg., p. 1574, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1364, ch. 281, Sec. 5, eff. Oct. 1, 1983.

Sec. 151.425. FORFEITURE OF DISCOUNT OR REIMBURSEMENT. If a taxpayer fails to file a report required by this chapter when due or to pay the tax when due, the taxpayer forfeits any claim to a deduction or discount allowed under Section 151.423 or Section 151.424 of this code.

Acts 1981, 67th Leg., p. 1575, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.426. CREDITS AND REFUNDS FOR BAD DEBTS, RETURNED MERCHANDISE, AND REPOSSESSIONS. (a) A seller may withhold the payment of the tax on a portion of the sales price of a taxable item that remains unpaid by the purchaser if:

(1) during the reporting period in which the item was sold, leased, or rented the seller determines that the unpaid portion will remain unpaid;

(2) the seller enters the unpaid portion of the sales price in the seller's books as a bad debt; and

(3) the bad debt is claimed as a deduction for federal tax purposes during the same or a subsequent reporting period.

(b) If the portion of a debt determined to be bad under Subsection (a) of this section is paid, the seller shall report and pay the tax on the portion during the reporting period in which the payment is made.

(c) Subject to Subsection (e), a retailer or any person who extends credit to a purchaser under a retailer's private label credit agreement, or an assignee or affiliate of either, is entitled to credit or reimbursement for taxes paid on the portion of:

(1) an account determined to be worthless and actually charged off for federal income tax purposes; or

(2) the remaining unpaid sales price of a taxable item when the item is repossessed under a conditional sales contract.

(d) A seller is entitled to credit for the amount of taxes paid on the amount of a refund or credit made to a purchaser under a bona fide agreement in which the sales price of a taxable item is renegotiated. This credit applies to a refund or credit made under an agreement in settlement of a claim for an alleged breach of warranty on a taxable item sold by the seller to the person with whom the agreement is made.

(e) A person is entitled to a credit or reimbursement provided by Subsection (c) only if:

(1) the retailer:

(A) has a valid sales or use tax permit; and

(B) remits the tax for which the credit or reimbursement is sought;

(2) all payments on an account are prorated between taxable and nontaxable charges; and

(3) the retailer or person claiming the credit or reimbursement provides detailed records outlining:

(A) the amount the purchaser contracted to pay;

(B) taxable and nontaxable charges;

(C) the tax collected and remitted;

(D) the unpaid portion of the sales price assigned; and

(E) the taxpayer number of the seller who collected and remitted the tax.

(f) A person whose volume and character of uncollectible accounts warrants an alternative method of substantiating the

reimbursement or credit may:

(1) maintain records other than the records specified in Subsection (e) if:

(A) the records fairly and equitably apportion taxable and nontaxable elements of a bad debt and compute the amount of sales tax imposed and remitted with respect to the taxable charges remaining unpaid on the debt; and

(B) the comptroller approves the procedures used; or

(2) implement a system to report its future tax responsibilities based on a historical percentage calculated from a sample of transactions if:

(A) the system utilizes records provided by the person claiming the credit or reimbursement; and

(B) the comptroller approves the procedures used.

(g) The comptroller may revoke the authorization to report under Subsection (f)(2) if the comptroller determines that the percentage being used is no longer representative because of:

(1) a change in law, including a change in the interpretation of an existing law or rule; or

(2) a change in the taxpayer's business operations.

(h) A person claiming a credit or reimbursement under this section shall remit tax on any payments received on an account that has been written off and claimed as a bad debt.

(i) A person who is not a retailer may claim a credit or reimbursement authorized by Subsection (c) only for taxes imposed by Section 151.051 or 151.101.

(j) For purposes of this section, "affiliate" means any entity or entities that would be classified as a member of an affiliated group under 26 U.S.C. Section 1504.

Acts 1981, 67th Leg., p. 1575, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1043, ch. 235, art. 7, Sec. 6, eff. Sept. 1, 1983; Acts 1999, 76th Leg., ch. 1467, Sec. 2.24, eff. Oct. 1, 1999.

Sec. 151.4261. CREDIT OR REIMBURSEMENT IN RETURN TRANSACTIONS. A seller is entitled to a credit or reimbursement equal to the amount of sales tax refunded to a purchaser when the purchaser receives a full or partial refund of the sales price of a returned taxable item.

Added by Acts 2009, 81st Leg., R.S., Ch. 1378 (S.B. 1199), Sec. 2, eff. September 1, 2009.

Sec. 151.427. DEDUCTION FOR PROPERTY ON WHICH THE TAX IS PAID AND HELD FOR RESALE. (a) A seller who has paid the tax imposed by this chapter on the sales price of tangible personal property acquired for storage or use may deduct the amount of the tax paid if the seller resells, leases, or rents the item to another in the regular course of business before the seller has made any use of the property other than retaining, displaying, or demonstrating it while holding it for sale in the regular course of business.

(b) If a deduction is taken under Subsection (a) of this section, the person who sold the property to the seller may not receive a credit or refund with respect to the sale of the property to the seller.

(c) The deduction allowed by Subsection (a) of this section must be taken in accordance with any rule on the deduction made by the comptroller.

Acts 1981, 67th Leg., p. 1576, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.428. INTEREST CHARGED BY RETAILER ON AMOUNTS OF TAXES FINANCED. (a) A retailer who sells taxable items on credit or under any other deferred payment agreement and charges interest or time price differential on the amount of the credit extended for the payment of the sales price of the item and the amount of all sales taxes, and who remits the tax and files tax reports to the comptroller on the basis of the cash system of accounting, shall pay to the comptroller at the time of making each tax report under this chapter an amount calculated according to whichever of the following yields the greater amount:

(1) one-half of the amount of interest or time price differential received by the retailer on credit extended to the purchaser for the payment of the amount of all sales taxes imposed; or

(2)(A) the amount of interest or time price differential received by the retailer on credit extended to the purchaser for the payment of the amount of all sales taxes imposed, less

(B) an amount of interest or time price differential at a rate of nine percent per year received on credit extended by the retailer to the purchaser for the payment of the sales tax.

(b) The deduction provided by Paragraph (B) of Subdivision (2) of Subsection (a) of this section is allowed only if the rate of interest or time price differential charged by the retailer on the credit extended for payment of the sales tax and the method of computing the interest or the time price differential are uniform with the rate charged by the retailer on the credit extended on the sales price and the method of computing the interest or time price differential.

(c) The reporting, collection, refund, and penalty provisions of this chapter and Subtitle B of this title apply to the payments required by this section, except that Sections 151.423 and 151.424 of this code do not apply to this section.

(d) The payments required by this section are in addition to other taxes imposed by this chapter, Chapter 321 of this code, Subchapter I, Chapter 451, Transportation Code, and Subchapter I, Chapter 452, Transportation Code.

(e) The revenue received under this section is allocated as provided by Section 151.801 of this code.

Added by Acts 1983, 68th Leg., p. 1039, ch. 235, art. 7, Sec. 3(a), eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.27(b)(2), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 30.250, eff. Sept. 1, 1997.

Sec. 151.429. TAX REFUNDS FOR ENTERPRISE PROJECTS. (a) An enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of all taxable items purchased for use at the qualified business site related to the project or activity.

(b) Subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section based on the amount of capital investment made at the qualified business site, the project's designation level, and the refund per job with a maximum refund to be included in a computation of a tax refund for the project. A capital investment at the qualified business site of:

(1) $40,000 to $399,999 will result in a refund of up to $2,500 per job with a maximum refund of $25,000 for the creation or retention of 10 jobs;

(2) $400,000 to $999,999 will result in a refund of up to $2,500 per job with a maximum refund of $62,500 for the creation or retention of 25 jobs;

(3) $1,000,000 to $4,999,999 will result in a refund of up to $2,500 per job with a maximum refund of $312,500 for the creation or retention of 125 jobs;

(4) $5,000,000 or more will result in a refund of up to $2,500 per job with a maximum refund of $1,250,000 for the creation or retention of 500 jobs, except as provided by Subdivision (5) or (6);

(5) $150,000,000 to $249,999,999 will result in a refund of up to $5,000 per new permanent job with a maximum refund of $2,500,000 for the creation of 500 new permanent jobs if the Texas Economic Development Bank designates the project as a double jumbo enterprise project; or

(6) $250,000,000 or more will result in a refund of up to $7,500 per new permanent job with a maximum refund of $3,750,000 for the creation of at least 500 new permanent jobs if the Texas Economic Development Bank designates the project as a triple jumbo enterprise project.

(c) The total amount of tax refund that an enterprise project may apply for in a state fiscal year may not exceed $250,000, at not more than $2,500 per job. The total amount of tax refund that a double jumbo enterprise project may apply for in a state fiscal year may not exceed $500,000, at not more than $5,000 per new permanent job. The total amount of tax refund that a triple jumbo enterprise project may apply for in a state fiscal year may not exceed $750,000, at not more than $7,500 per new permanent job. If an enterprise project, double jumbo enterprise project, or triple jumbo enterprise project qualifies in a state fiscal year for a refund of taxes in an amount in excess of the applicable limitation provided by this subsection, it may apply for a refund of those taxes in a subsequent year, subject to the applicable limitation for each year. The total amount that may be refunded to:

(1) an enterprise project under this section may not exceed the amount determined by multiplying $250,000 by the number of state fiscal years during which the enterprise project created or retained

one or more jobs for qualified employees;

(2) a double jumbo enterprise project under this section may not exceed the amount determined by multiplying $500,000 by the number of state fiscal years during which the double jumbo enterprise project created one or more new permanent jobs for qualified employees; or

(3) a triple jumbo enterprise project under this section may not exceed the amount determined by multiplying $750,000 by the number of state fiscal years during which the triple jumbo enterprise project created one or more new permanent jobs for qualified employees.

(d) To receive a refund under this section, an enterprise project must apply to the comptroller for the refund. The Texas Economic Development Bank established under Chapter 489, Government Code, shall provide the comptroller with the assistance that the comptroller requires in administering this section.

(e) In this section:

(1) "Enterprise project" means a project or activity designated by the Texas Economic Development Bank as an enterprise project under Chapter 2303, Government Code.

(2) "Qualified employee" and "qualified hotel project" have the meanings assigned to those terms by Section 2303.003, Government Code.

(3) "New permanent job" has the meaning assigned by Section 2303.401, Government Code.

(4) "Retained job" has the meaning assigned by Section 2303.401, Government Code.

(5) "Double jumbo enterprise project" and "triple jumbo enterprise project" have the meanings assigned by Section 2303.407, Government Code.

(6) "Half enterprise project" means an enterprise project split into two half designations as provided by Section 2303.406(d-1), Government Code.

(f) For the purposes of Subsection (a), items bought by a project after the date it is designated as a project, or within 90 days before the date of designation, may be considered eligible for refund.

(g) The refund provided by this section is conditioned on the enterprise project maintaining at least the same level of employment of qualified employees as existed at the time it qualified for a

refund for a period of three years from that date. The comptroller shall annually certify whether that level of employment of qualified employees has been maintained. On certifying that such a level has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in employment, including penalty and interest from the date of the refund.

(h) Notwithstanding the other provisions of this section, the owner of a qualified hotel project shall receive a rebate, refund, or payment of 100 percent of the sales and use taxes paid or collected by the qualified hotel project or businesses located in the qualified hotel project pursuant to this chapter and 100 percent of the hotel occupancy taxes paid by persons for the use or possession of or for the right to the use or possession of a room or space at the qualified hotel project pursuant to the provisions of Chapter 156 during the first 10 years after such qualified hotel project is open for initial occupancy. The comptroller shall deposit the taxes in trust in a separate suspense account of the qualified hotel project. A suspense account is outside the state treasury, and the comptroller may make a rebate, refund, or payment authorized by this section without the necessity of an appropriation. The comptroller shall rebate, refund, or pay to each qualified hotel project eligible taxable proceeds to which the project is entitled under this section at least monthly.

(i) As provided by Subsection (c), a double jumbo enterprise project is eligible for a maximum refund of $500,000 and a triple jumbo enterprise project is eligible for a maximum refund of $750,000 in each state fiscal year.

(j) An enterprise project approved by the Texas Economic Development Bank after September 1, 2003, may not receive a refund before September 1, 2005.

(k) A half enterprise project is eligible for a maximum refund not to exceed $125,000 in each state fiscal year and is subject to the capital investment and job allocation requirements under Subsection (b)(1), (2), or (3).

Added by Acts 1987, 70th Leg., ch. 765, Sec. 2, eff. Aug. 31, 1987. Amended by Acts 1989, 71st Leg., ch. 471, Sec. 5, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 21, 22, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 56, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 231, Sec. 9, 10, eff. Aug. 30, 1993; Acts

1993, 73rd Leg., ch. 268, Sec. 41, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 986, Sec. 28, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.57, 5.95(21), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 977, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 985, Sec. 11, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1121, Sec. 6, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.25, 2.26, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1134, Sec. 1.06, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1134, Sec. 2.04, eff. Sept. 1, 2005; Acts 2001, 77th Leg., ch. 1420, Sec. 18.010, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 814, Sec. 3.51, 3.52, 3.53, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1114 (H.B. 3694), Sec. 20, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 179 (S.B. 977), Sec. 2, eff. May 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 490 (S.B. 1719), Sec. 3, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 227 (H.B. 1964), Sec. 3, eff. May 29, 2015.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 11, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 591 (S.B. 100), Sec. 12, eff. September 1, 2015.

Sec. 151.4291. TAX REFUNDS FOR DEFENSE READJUSTMENT PROJECTS. (a) A defense readjustment project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of:

(1) equipment or machinery sold to a defense readjustment project for use in a readjustment zone;

(2) building materials sold to a defense readjustment project for use in remodeling, rehabilitating, or constructing a structure in a readjustment zone;

(3) labor for remodeling, rehabilitating, or constructing a structure by a defense readjustment project in a readjustment zone; and

(4) electricity and natural gas purchased and consumed in the normal course of business in the readjustment zone.

(b) Subject to the limitations provided by Subsection (c) of this section, a defense readjustment project qualifies for a refund of taxes under this section of $2,500 for each new permanent job or job that has been retained by the defense readjustment project for a qualified employee.

(c) The total amount of tax refund that a defense readjustment project may apply for in a state fiscal year may not exceed $250,000. If a defense readjustment project qualifies in a state fiscal year for a refund of taxes in an amount in excess of the limitation provided by this subsection, it may apply for a refund of those taxes in a subsequent year, subject to the $250,000 limitation for each year. However, a defense readjustment project may not apply for a refund under this section after the end of the state fiscal year immediately following the state fiscal year in which the defense readjustment project's designation as a defense readjustment project expires or is removed. The total amount that may be refunded to a defense readjustment project under this section may not exceed the amount determined by multiplying $250,000 by the number of state fiscal years during which the defense readjustment project created one or more jobs for qualified employees.

(d) To receive a refund under this section, a defense readjustment project must apply to the comptroller for the refund. The Texas Economic Development Bank shall provide the comptroller with the assistance that the comptroller requires in administering this section.

(e) In this section:

(1) "Defense readjustment project" means a person designated by the Texas Economic Development Bank as a defense readjustment project under Chapter 2310, Government Code.

(2) "Readjustment zone" and "qualified employee" have the meanings assigned to those terms by Section 2310.001, Government Code.

(3) "New permanent job" means a new employment position created by a qualified business as described by Section 2310.302, Government Code, that:

(A) has provided at least 1,820 hours of employment a year to a qualified employee; and

(B) is intended to exist during the period that the qualified business is designated as a defense readjustment project under Chapter 2310, Government Code.

(f) For the purposes of Subsection (a), items bought by a project after the date it is designated as a project, or within 90 days before the date of designation, may be considered eligible for a refund.

(g) The refund provided by this section is conditioned on the defense readjustment project maintaining at least the same level of employment of qualified employees as existed at the time it qualified for a refund for a period of three years from that date. The comptroller shall annually certify to the Legislative Budget Board whether that level of employment of qualified employees has been maintained. On certifying that such a level has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in employment, including penalty and interest from the date of the refund.

(h) Notwithstanding Section 171.103 or 171.1032, a receipt from a service performed by a defense readjustment project in a readjustment zone is not a receipt from business done in this state.

Added by Acts 1997, 75th Leg., ch. 114, Sec. 2, eff. May 19, 1997. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.27, 2.28, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1134, Sec. 1.07, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1134, Sec. 2.05, eff. Sept. 1, 2005; Acts 2003, 78th Leg., ch. 814, Sec. 3.54, 3.55, eff. Sept. 1, 2003.

Sec. 151.430. DETERMINATION OF OVERPAID AMOUNTS. (a) This section applies to the tax on purchases paid by a person holding a permit under this chapter who has purchased taxable items for use in this state and has remitted tax on those items in error to this state or has paid tax on those items in error to a retailer holding a permit under this chapter.

(b) A person to whom this section applies may compute the amount of overpayment by use of a projection based on a sampling of transactions. The sampling method used must comply with generally accepted sampling methods as approved by the comptroller.

(c) The person may obtain reimbursement for amounts determined to have been overpaid by taking a credit on one or more sales tax returns or by filing a claim for refund with the comptroller within the limitation period specified by Subchapter D, Chapter 111.

(d) The person must record the method by which the projection

and computation were performed and must make available on request by the comptroller the records on which the projection and computation were based.

(e) The comptroller may adopt rules specifying additional procedures that must be followed in connection with claiming a credit under this section.

Added by Acts 1999, 76th Leg., ch. 457, Sec. 3, eff. Oct. 1, 1999.

Sec. 151.431. SALES AND USE TAX REFUND FOR JOB RETENTION. (a) A qualified business operating in the jurisdiction of the nominating governmental entity for at least three consecutive years may apply for and be granted a onetime refund of sales and use tax paid by the qualified business after certification of the qualified business as provided by Subsection (b) of this section to a vendor or directly to the state for the purchase of equipment or machinery sold to the business for use in an enterprise project if the governing body or bodies certify to the comptroller that the business is retaining 10 or more jobs held by qualified employees during the year. For the purposes of this subsection "job" means an existing employment position of a qualified business that has provided employment to a qualified employee of at least 1,820 hours annually.

(b) Only qualified businesses that have been certified as eligible for a refund under this section by the governing body or bodies to the comptroller, including certification of the number of jobs retained, are entitled to the refund.

(c) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(10).

(d) The total amount of the onetime refund that a qualified business may apply for may not exceed $500 for each qualified employee retained, up to a limit of $5,000 for each qualified business.

(e) In this section:

(1) "Enterprise zone" and "qualified employee" have the meanings assigned to those terms by Section 2303.003, Government Code.

(2) "Governing body" means the governing body of a municipality or county that applied to have the project or activity of a qualified business designated as an enterprise project under Section 2303.405, Government Code.

(3) "Qualified business" means a person that is certified as a qualified business under Section 2303.402, Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 23, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 42, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.58, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.29, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 814, Sec. 3.56, 3.57, 6.01(10), eff. Sept. 1, 2003.

Sec. 151.432. DEDUCTIONS OF TAX ON TICKET OR ADMISSION DOCUMENT TO AMUSEMENT SERVICE. (a) A reseller of a ticket or admission document to an amusement service may deduct from taxable sales reported the adjusted value of the ticket or admission document purchased for resale from a non-permitted purchaser of the ticket or admission document if:

(1) the taxes imposed by this chapter were paid by the purchaser and the purchaser does not hold a permit issued under this chapter;

(2) language on the ticket or admission document purchased for resale states that all taxes have been included in the price of the ticket or admission document;

(3) the ticket or admission document for which a deduction is claimed was not purchased tax-free by use of a resale or exemption certificate; and

(4) the ticket or admission document is actually resold.

(b) The reseller's books and records must be kept in accordance with the requirements of Section 151.025 and must:

(1) identify the non-permitted purchaser;

(2) document the face value of any ticket or admission document purchased by a non-permitted purchaser;

(3) document that sales tax was included in a ticket or admission document purchased by a non-permitted purchaser;

(4) document the sale of the ticket or admission document; and

(5) account for any remaining inventory of unsold tickets or admission documents.

(c) The reseller may satisfy Subsection (b)(3) by retaining a reproduction of a ticket or admission document to the amusement

service.

(d) In this section, "adjusted value of a ticket or admission document" means the face value of the ticket or admission document, less the included state or local sales or use taxes.

Added by Acts 1997, 75th Leg., ch. 1099, Sec. 1, eff. Oct. 1, 1997.

SUBCHAPTER I-1. REPORTS BY PERSONS INVOLVED IN THE MANUFACTURE AND DISTRIBUTION OF ALCOHOLIC BEVERAGES

Sec. 151.461. DEFINITIONS. In this subchapter:

Text of subdivision effective until September 1, 2021

(1) "Brewer" means a person required to hold a brewer's permit under Chapter 12, Alcoholic Beverage Code.

Text of subdivision effective on September 1, 2021

(1) "Brewer" means a person required to hold a brewer's license under Chapter 62, Alcoholic Beverage Code.

(1-a) "Brewpub" means a brewpub for which a person holds a brewpub license under Chapter 74, Alcoholic Beverage Code.

Text of subdivision effective until September 1, 2021

(2) "Distributor" means a person required to hold:

(A) a general distributor's license under Chapter 64, Alcoholic Beverage Code;

(B) a local distributor's license under Chapter 65, Alcoholic Beverage Code; or

(C) a branch distributor's license under Chapter 66, Alcoholic Beverage Code.

Text of subdivision effective on September 1, 2021

(2) "Distributor" means a person required to hold:

(A) a general distributor's license under Chapter 64, Alcoholic Beverage Code; or

(B) a branch distributor's license under Chapter 66, Alcoholic Beverage Code.

Text of subdivision effective until September 1, 2021

(3) "Manufacturer" means a person required to hold a manufacturer's license under Chapter 62, Alcoholic Beverage Code.

Text of subdivision effective on September 1, 2021

(3) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B.

1545), Sec. 410(b), eff. September 1, 2021.

(4) "Package store local distributor" means a person required to hold:

(A) a package store permit under Chapter 22, Alcoholic Beverage Code; and

(B) a local distributor's permit under Chapter 23, Alcoholic Beverage Code.

Text of subdivision as amended by Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 3

(5) "Retailer" means a person required to hold:

(A) a wine and beer retailer's permit under Chapter 25, Alcoholic Beverage Code;

(B) a wine and beer retailer's off-premise permit under Chapter 26, Alcoholic Beverage Code;

(C) a temporary wine and beer retailer's permit or special three-day wine and beer permit under Chapter 27, Alcoholic Beverage Code;

(D) a mixed beverage permit under Chapter 28, Alcoholic Beverage Code;

(E) a daily temporary mixed beverage permit under Chapter 30, Alcoholic Beverage Code;

(F) a private club registration permit under Chapter 32, Alcoholic Beverage Code;

(G) a certificate issued to a fraternal or veterans organization under Section 32.11, Alcoholic Beverage Code;

(H) a daily temporary private club permit under Subchapter B, Chapter 33, Alcoholic Beverage Code;

(I) a temporary auction permit under Chapter 53, Alcoholic Beverage Code;

(J) a retail dealer's on-premise license under Chapter 69, Alcoholic Beverage Code;

(K) a temporary license under Chapter 72, Alcoholic Beverage Code;

(L) a retail dealer's off-premise license under Chapter 71, Alcoholic Beverage Code, except for a dealer who also holds a package store permit under Chapter 22, Alcoholic Beverage Code; or

(M) a brewpub license under Chapter 74, Alcoholic Beverage Code.

Text of subdivision as amended by Acts 2019, 86th Leg., R.S., Ch.

1359 (H.B. 1545), Sec. 398

Text of subdivision effective on September 1, 2021

(5) "Retailer" means a person required to hold:

(A) a wine and malt beverage retailer's permit under Chapter 25, Alcoholic Beverage Code;

(B) a wine and malt beverage retailer's off-premise permit under Chapter 26, Alcoholic Beverage Code;

(C) a nonprofit entity temporary event permit under Chapter 30, Alcoholic Beverage Code;

(D) a mixed beverage permit under Chapter 28, Alcoholic Beverage Code;

(E) a private club registration permit under Chapter 32, Alcoholic Beverage Code;

(F) a certificate issued to a fraternal or veterans organization under Section 32.11, Alcoholic Beverage Code;

(G) a retail dealer's on-premise license under Chapter 69, Alcoholic Beverage Code; or

(H) a retail dealer's off-premise license under Chapter 71, Alcoholic Beverage Code, except for a dealer who also holds a package store permit under Chapter 22, Alcoholic Beverage Code.

Text of subdivision effective until September 1, 2021

(6) "Wholesaler" means a person required to hold:

(A) a winery permit under Chapter 16, Alcoholic Beverage Code;

(B) a wholesaler's permit under Chapter 19, Alcoholic Beverage Code;

(C) a general Class B wholesaler's permit under Chapter 20, Alcoholic Beverage Code; or

(D) a local Class B wholesaler's permit under Chapter 21, Alcoholic Beverage Code.

Text of subdivision effective on September 1, 2021

(6) "Wholesaler" means a person required to hold:

(A) a winery permit under Chapter 16, Alcoholic Beverage Code;

(B) a wholesaler's permit under Chapter 19, Alcoholic Beverage Code; or

(C) a general Class B wholesaler's permit under Chapter 20, Alcoholic Beverage Code.

Transferred, redesignated and amended from Tax Code, Section 151.433 by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 1107 (H.B. 4042), Sec. 2, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 3, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 398, eff. September 1, 2021.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 410(b), eff. September 1, 2021.

Text of section effective until September 1, 2021

Sec. 151.462. REPORTS BY BREWERS, MANUFACTURERS, BREWPUBS, WHOLESALERS, AND DISTRIBUTORS. (a) The comptroller shall require each brewer, manufacturer, brewpub, wholesaler, distributor, or package store local distributor to file with the comptroller a report each month of alcoholic beverage sales to retailers in this state.

(b) Each brewer, manufacturer, brewpub, wholesaler, distributor, or package store local distributor shall file a separate report for each permit or license held on or before the 25th day of each month. The report must contain the following information for the preceding calendar month's sales in relation to each retailer:

(1) the brewer's, manufacturer's, brewpub's, wholesaler's, distributor's, or package store local distributor's name, address, taxpayer number and outlet number assigned by the comptroller, and alphanumeric permit or license number issued by the Texas Alcoholic Beverage Commission;

(2) the retailer's:

(A) name and address, including street name and number, city, and zip code;

(B) taxpayer number assigned by the comptroller; and

(C) alphanumeric permit or license number issued by the Texas Alcoholic Beverage Commission for each separate retail location or outlet to which the brewer, manufacturer, brewpub, wholesaler, distributor, or package store local distributor sold the alcoholic beverages that are listed on the report; and

(3) the monthly net sales made by the brewer, manufacturer,

brewpub, wholesaler, distributor, or package store local distributor to the retailer for each outlet or location covered by a separate retail permit or license issued by the Texas Alcoholic Beverage Commission, including separate line items for:

(A) the number of units of alcoholic beverages;

(B) the individual container size and pack of each unit;

(C) the brand name;

(D) the type of beverage, such as distilled spirits, wine, or malt beverage;

(E) the universal product code of the alcoholic beverage; and

(F) the net selling price of the alcoholic beverage.

(c) Except as provided by this subsection, the brewer, manufacturer, brewpub, wholesaler, distributor, or package store local distributor shall file the report with the comptroller electronically. The comptroller may establish procedures to temporarily postpone the electronic reporting requirement for a brewer, manufacturer, brewpub, wholesaler, distributor, or package store local distributor who demonstrates to the comptroller an inability to comply because undue hardship would result if it were required to file the return electronically. If the comptroller determines that another technological method of filing the report is more efficient than electronic filing, the comptroller may establish procedures requiring its use by brewers, manufacturers, brewpubs, wholesalers, distributors, and package store local distributors.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 4, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 399, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 151.462. REPORTS BY BREWERS, BREWPUBS, WHOLESALERS, AND DISTRIBUTORS. (a) The comptroller shall require each brewer, brewpub, wholesaler, distributor, or package store local distributor

to file with the comptroller a report each month of alcoholic beverage sales to retailers in this state.

(b) Each brewer, brewpub, wholesaler, distributor, or package store local distributor shall file a separate report for each permit or license held on or before the 25th day of each month. The report must contain the following information for the preceding calendar month's sales in relation to each retailer:

(1) the brewer's, brewpub's, wholesaler's, distributor's, or package store local distributor's name, address, taxpayer number and outlet number assigned by the comptroller, and alphanumeric permit or license number issued by the Texas Alcoholic Beverage Commission;

(2) the retailer's:

(A) name and address, including street name and number, city, and zip code;

(B) taxpayer number assigned by the comptroller; and

(C) alphanumeric permit or license number issued by the Texas Alcoholic Beverage Commission for each separate retail location or outlet to which the brewer, brewpub, wholesaler, distributor, or package store local distributor sold the alcoholic beverages that are listed on the report; and

(3) the monthly net sales made by the brewer, brewpub, wholesaler, distributor, or package store local distributor to the retailer for each outlet or location covered by a separate retail permit or license issued by the Texas Alcoholic Beverage Commission, including separate line items for:

(A) the number of units of alcoholic beverages;

(B) the individual container size and pack of each unit;

(C) the brand name;

(D) the type of beverage, such as distilled spirits, wine, or malt beverage;

(E) the universal product code of the alcoholic beverage; and

(F) the net selling price of the alcoholic beverage.

(c) Except as provided by this subsection, the brewer, brewpub, wholesaler, distributor, or package store local distributor shall file the report with the comptroller electronically. The comptroller may establish procedures to temporarily postpone the electronic reporting requirement for a brewer, brewpub, wholesaler, distributor,

or package store local distributor who demonstrates to the comptroller an inability to comply because undue hardship would result if it were required to file the return electronically. If the comptroller determines that another technological method of filing the report is more efficient than electronic filing, the comptroller may establish procedures requiring its use by brewers, brewpubs, wholesalers, distributors, and package store local distributors.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 4, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 399, eff. September 1, 2021.

Sec. 151.463. RULES. The comptroller may adopt rules to implement this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Sec. 151.464. CONFIDENTIALITY. Except as provided by Section 111.006, information contained in a report required to be filed by this subchapter is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Sec. 151.465. APPLICABILITY TO CERTAIN BREWERS. This subchapter applies only to a brewer permitted under Chapter 12A, Alcoholic Beverage Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 533 (S.B. 516), Sec. 3, eff. June

14, 2013.

Text of section effective until September 1, 2021

Sec. 151.466. APPLICABILITY TO CERTAIN MANUFACTURERS. This subchapter applies only to a manufacturer licensed under Chapter 62A, Alcoholic Beverage Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 3, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 400, eff. September 1, 2021.

Text of section effective on September 1, 2021

Sec. 151.466. APPLICABILITY TO CERTAIN BREWERS. This subchapter applies only to a brewer licensed under Chapter 62A, Alcoholic Beverage Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 534 (S.B. 517), Sec. 3, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 400, eff. September 1, 2021.

Sec. 151.4661. APPLICABILITY TO CERTAIN BREWPUBS. This subchapter applies only to a brewpub that engages in activities authorized by Section 74.08, Alcoholic Beverage Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 5, eff. September 1, 2019.

Sec. 151.467. SUSPENSION OR CANCELLATION OF PERMIT. If a person

fails to file a report required by this subchapter or fails to file a complete report, the comptroller may suspend or cancel one or more permits issued to the person under Section 151.203.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Sec. 151.468. CIVIL PENALTY; CRIMINAL PENALTY. (a) If a person fails to file a report required by this subchapter or fails to file a complete report, the comptroller may impose a civil or criminal penalty, or both, under Section 151.703(d) or 151.709.

Text of subsection effective until September 1, 2021

(b) In addition to the penalties imposed under Subsection (a), a brewer, manufacturer, brewpub, wholesaler, distributor, or package store local distributor shall pay the state a civil penalty of not less than $25 or more than $2,000 for each day a violation continues if the brewer, manufacturer, brewpub, wholesaler, distributor, or package store local distributor:

(1) violates this subchapter; or

(2) violates a rule adopted to administer or enforce this subchapter.

Text of subsection effective on September 1, 2021

(b) In addition to the penalties imposed under Subsection (a), a brewer, brewpub, wholesaler, distributor, or package store local distributor shall pay the state a civil penalty of not less than $25 or more than $2,000 for each day a violation continues if the brewer, brewpub, wholesaler, distributor, or package store local distributor:

(1) violates this subchapter; or

(2) violates a rule adopted to administer or enforce this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.02, eff. October 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 6, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 401, eff.

September 1, 2021.

Sec. 151.469. ACTION BY TEXAS ALCOHOLIC BEVERAGE COMMISSION. If a person fails to file a report required by this subchapter or fails to file a complete report, the comptroller may notify the Texas Alcoholic Beverage Commission of the failure and the commission may take administrative action against the person for the failure under the Alcoholic Beverage Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

Text of section effective until September 1, 2021

Sec. 151.470. AUDIT; INSPECTION. The comptroller may audit, inspect, or otherwise verify a brewer's, manufacturer's, brewpub's, wholesaler's, distributor's, or package store local distributor's compliance with this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 7, eff. September 1, 2019.

Text of section effective on September 1, 2021

Sec. 151.470. AUDIT; INSPECTION. The comptroller may audit, inspect, or otherwise verify a brewer's, brewpub's, wholesaler's, distributor's, or package store local distributor's compliance with this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1332 (H.B. 4542), Sec. 7, eff. September 1, 2019.
Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 402, eff. September 1, 2021.

Sec. 151.471. ACTION BY ATTORNEY GENERAL; VENUE; ATTORNEY'S FEES. (a) The comptroller may bring an action to enforce this subchapter and obtain any civil remedy authorized by this subchapter or any other law for the violation of this subchapter. The attorney general shall prosecute the action on the comptroller's behalf.

(b) Venue for and jurisdiction of an action under this section is exclusively conferred on the district courts in Travis County.

(c) If the comptroller prevails in an action under this section, the comptroller and attorney general are entitled to recover court costs and reasonable attorney's fees incurred in bringing the action.

Added by Acts 2011, 82nd Leg., R.S., Ch. 145 (H.B. 11), Sec. 3, eff. September 1, 2011.

SUBCHAPTER I-2. REPORTS BY MANUFACTURERS OF CERTAIN OFF-HIGHWAY VEHICLES PURCHASED OUTSIDE THIS STATE

Sec. 151.481. DEFINITIONS. In this subchapter:

(1) "Manufacturer" means a person that manufactures off-highway vehicles and is required to hold a manufacturer's license under Chapter 2301, Occupations Code.

(2) "New off-highway vehicle" means an off-highway vehicle that has not been the subject of a retail sale.

(3) "Off-highway vehicle" has the meaning assigned by Section 501.0301, Transportation Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Sec. 151.482. REPORTS BY MANUFACTURERS. (a) The comptroller shall require each manufacturer to file with the comptroller a report not later than March 1 of each year listing each warranty issued by the manufacturer for a new off-highway vehicle that was, during the preceding calendar year, sold to a resident of this state by a retailer located outside this state. The report must:

(1) be in a form prescribed by the comptroller; and

(2) contain, at a minimum, the following information for

each warranty:

(A) the vehicle identification number of the vehicle;

(B) the make, model, and model year of the vehicle; and

(C) the name and address, including street name and number, city, and zip code, of the purchaser of the vehicle.

(b) As soon as practicable after receiving a report submitted under this section, the comptroller shall use the information in the report to investigate and collect any unpaid use taxes imposed under Subchapter D on an off-highway vehicle described in the report.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Sec. 151.483. RULES. The comptroller may adopt rules as necessary to implement this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Sec. 151.484. CONFIDENTIALITY. Except as provided by Section 111.006, information contained in a report required to be filed by this subchapter is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Sec. 151.485. CIVIL PENALTY. (a) If a manufacturer fails to file a report required by this subchapter or fails to file a complete report, the comptroller may impose a civil penalty under Section 151.703(d).

(b) In addition to the penalty imposed under Subsection (a), a manufacturer shall pay the state a civil penalty of not less than $25 or more than $2,000 for each day a violation continues if the manufacturer:

(1) violates this subchapter; or

(2) violates a rule adopted to administer or enforce this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Sec. 151.486. ACTION BY TEXAS DEPARTMENT OF MOTOR VEHICLES. If a manufacturer fails to file a report required by this subchapter or fails to file a complete report, the comptroller may notify the Texas Department of Motor Vehicles of the failure and the department may take administrative action against the manufacturer for the failure under Chapter 2301, Occupations Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Sec. 151.487. AUDIT; INSPECTION. The comptroller may audit, inspect, or otherwise verify a manufacturer's compliance with this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

Sec. 151.488. ACTION BY ATTORNEY GENERAL; VENUE; ATTORNEY'S FEES. (a) The comptroller may bring an action to enforce this subchapter and obtain any civil remedy authorized by this subchapter or any other law for the violation of this subchapter. The attorney general shall prosecute the action on the comptroller's behalf.

(b) Venue for and jurisdiction of an action under this section is exclusively conferred on the district courts in Travis County.

(c) If the comptroller prevails in an action under this section, the comptroller and attorney general are entitled to recover court costs and reasonable attorney's fees incurred in bringing the action.

Added by Acts 2019, 86th Leg., R.S., Ch. 371 (H.B. 1543), Sec. 1, eff. September 1, 2019.

SUBCHAPTER J. TAX DETERMINATIONS

Sec. 151.501. DETERMINATION AFTER THE FILING OF A REPORT. If a

person has filed a tax report, the comptroller may issue a deficiency determination under Section 111.008 of this code.

Acts 1981, 67th Leg., p. 1576, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.503. DETERMINATION IF NO REPORT FILED. (a) If a person fails to file a report, the comptroller shall estimate the amount of receipts of the person subject to the sales tax, the amount of total sales prices of taxable items sold, leased, or rented by the person to another for storage, use, or consumption in this state, and the total sales prices of taxable items acquired by the person for storage, use, or consumption without the payment of the use tax to a retailer for each period or the total period for which the person failed to report as required by this chapter.

(b) The estimate required by Subsection (a) of this section may be made on any information available to the comptroller.

(c) On the basis of the estimate, the comptroller shall compute and determine the amount required to be paid to the state for each period.

(d) The comptroller shall add to the determination an amount equal to 10 percent of the amount computed under Subsection (c) of this section as a penalty.

(e) A determination under this section may be issued for one or more periods, and more than one determination may be issued for a single period.

Acts 1981, 67th Leg., p. 1576, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.504. DETERMINATION WHEN A BUSINESS IS DISCONTINUED. If a business is discontinued, the comptroller may make a determination of tax liability under this subchapter before the date a report or tax payment is due with respect to the discontinued business.

Acts 1981, 67th Leg., p. 1576, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.505. WHEN DETERMINATION BECOMES FINAL. A determination made under Section 151.501, 151.503, or 151.504 of this

code becomes final on the expiration of 30 days after the day on which the determination was served by personal service or by mail, unless a petition for a redetermination is filed before the determination becomes final.

Acts 1981, 67th Leg., p. 1577, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.507. LIMITATIONS ON DETERMINATION. (a) A notice of a deficiency determination must be personally served or mailed within the period provided by Subchapter D, Chapter 111 of this code after the last day of the calendar month following the close of the regular reporting period of the taxpayer for which the amount is proposed to be determined or within the period provided by Subchapter D, Chapter 111 of this code after the report is filed, whichever period expires the later.

(b) The limitations provided by Subsection (a) of this section do not apply to a determination proposed to be made:

(1) for the collection of an amount of sales tax on the sale of a taxable item if a deficiency notice has been given or is given for the collection of the use tax on the same taxable item; or

(2) for the collection of the use tax on the storage, use, or consumption of a taxable item if a deficiency notice has been or is given for the collection of the sales tax on the same taxable item.

(c) Relettered as (b) by Acts 1985, 69th Leg., ch. 37, Sec. 4, eff. Aug. 26, 1985.

Acts 1981, 67th Leg., p. 1577, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1985, 69th Leg., ch. 37, Sec. 4, eff. Aug. 26, 1985.

Sec. 151.508. OFFSETS. In making a determination, the comptroller may offset an overpayment for one or more periods against an underpayment, penalty, and interest accrued on the underpayment for the same period or one or more other periods. Any interest accrued on the overpayment shall be included in the offset.

Acts 1981, 67th Leg., p. 1577, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.509. PETITION FOR REDETERMINATION. A person petitioning for a redetermination of a determination made under Section 111.022 must file, before the determination becomes final, security as the comptroller requires to ensure compliance with this chapter. The security may be sold by the comptroller in the manner provided by Subchapter A, Chapter 111.

Acts 1981, 67th Leg., p. 1577, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(2), eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 21, eff. Oct. 1, 1995.

Sec. 151.510. HEARING ON REDETERMINATION. (a) If a petition for a redetermination is filed before the determination becomes final, the petitioner is entitled on a request stated in the petition to an oral hearing on the redetermination and to at least 20 days' notice of the time and place of the hearing.

(b) The comptroller may continue the hearing from time to time as is necessary.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.511. REDETERMINATION. (a) The comptroller may decrease the amount of a determination at any time before the determination becomes final.

(b) The comptroller may increase the amount of a determination that is not final if the additional claim is asserted by the comptroller at or before a hearing on a redetermination.

(c) If an additional claim is asserted, the petitioner is entitled to a 30-day continuance of the hearing to permit the petitioner to obtain and present evidence applicable to the items on which the additional claim is based.

(d) Repealed by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(3), eff. Sept. 1, 1991.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 42(a)(3), eff. Sept. 1, 1991.

Sec. 151.512. INTEREST. Unpaid taxes imposed by this chapter draw interest beginning 60 days after the date on which the tax or the amount of the tax required to be collected became due and payable to the state.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.514. NOTICES. The comptroller shall give notice of a determination made under this subchapter promptly as provided by Sections 111.008(b) and (c) of this code. Any other notice required by this subchapter shall be given in the same manner. Notices under this subchapter are effective as provided by Section 111.008(c) of this code.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.515. PROCEEDINGS AGAINST CONSUMER. This chapter does not prohibit the comptroller from proceeding against a consumer for an amount of tax that the consumer should have paid but failed to pay.

Acts 1981, 67th Leg., p. 1578, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER K. PROCEDURES FOR COLLECTION OF DELINQUENT TAXES

Sec. 151.601. SUIT. The comptroller may bring an action in a court of this state, another state, or the United States to collect an amount of the taxes imposed by this chapter that is due and unpaid, including penalties and interest. The action shall be prosecuted by the attorney general.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.602. VENUE. A suit brought under this subchapter against a taxpayer in a court of this state may be filed and heard in the county where the person owing the tax resides or has a place of business or in Travis County.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.603. EVIDENCE: COMPTROLLER'S CERTIFICATE. In an action brought under this subchapter a certificate of the comptroller showing the delinquency is prima facie evidence of the determination of the tax or the amount of the tax, of the amount of penalties and interest stated, of the delinquency of the amounts stated, and of the compliance of the comptroller with this chapter in computing and determining the amounts due.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.604. FORM OF ACTION. A suit under this subchapter against any person for recovery of the tax is in the form of an action for debt.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.605. WRITS OF ATTACHMENT. In a suit under this subchapter, no bond or affidavit is required before the issuance of a writ of attachment.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.606. SERVICE OF PROCESS. In a suit under this subchapter, a seller or retailer may be served with process as provided by the rules of civil procedure or by service on an agent or clerk in this state employed by the retailer or seller in a place of business in this state maintained by the seller or retailer. If process is served on the agent or clerk of the retailer or seller, a copy of the process shall forthwith be sent by registered mail to the retailer or seller at his principal or home office.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.607. LIMITATION PERIOD. The limitation period

provided by Section 111.202 of this code applies to a suit brought under this subchapter, except that the suit may be brought at any time within 3 years after a determination made under Subchapter J of this code becomes final or within 3 years after the last recording of a lien under this title.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1044, ch. 235, art. 7, Sec. 7, eff. Sept. 1, 1983.

Sec. 151.608. JUDGMENTS. (a) A judgment in favor of the state obtained in an action under this chapter may be filed for record with the county clerk of any county in the state and when filed constitutes a lien on all of the real property located in the county and belonging to the person named in the judgment as the defendant. The lien applies to all real property in the county owned by the defendant at the time of the filing or acquired by him after the filing of the judgment.

(b) The lien has the force and effect of a judgment lien for 10 years after the date of the judgment unless the lien is released or discharged before the expiration of the 10-year period.

(c) On the payment in full of the amount of a judgment obtained under this chapter, the comptroller may release the lien.

(d) A prior judgment is not a bar to a subsequent suit under this chapter for additional taxes, penalties, and interest accruing after the prior judgment if the suit is brought before the expiration of the limitation period.

(e) Execution on a judgment obtained under this chapter may issue in the same manner as an execution under other judgments, and the sale under an execution is held as provided by the rules of civil procedure and the statutes of this state.

Acts 1981, 67th Leg., p. 1579, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.614. RES JUDICATA. In the determination of a suit arising under this chapter, the rule of res judicata applies only if the liability at issue is for the same quarterly period as was at issue in a previously determined suit.

Acts 1981, 67th Leg., p. 1582, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.615. TAX SUIT COMITY. A court of this state shall recognize and enforce a liability for a sales or use tax lawfully imposed by another state if the other state extends a like comity to this state.

Acts 1981, 67th Leg., p. 1582, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER L. PROHIBITED ACTS AND CIVIL AND CRIMINAL PENALTIES

Sec. 151.701. USE OF STAMPS OR TOKENS PROHIBITED. No person may use stamps or tokens for the purpose of collecting or enforcing the collection of the taxes imposed by this chapter or for any other purpose connected with the taxes.

Acts 1981, 67th Leg., p. 1582, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.703. FAILURE TO REPORT OR PAY TAX. (a) A person who fails to file a report as required by this chapter or who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional five percent.

(b) The minimum penalty provided by Subsection (a) of this section is $1.

(c) A delinquent tax draws interest beginning 60 days from the due date.

(d) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.03, eff. October 1, 2011.

Sec. 151.7032. FAILURE TO PAY TAXES COLLECTED; CRIMINAL PENALTY AND AGGREGATION OF AMOUNTS INVOLVED. (a) A person commits an offense if the person intentionally or knowingly fails to pay to the comptroller, as required by this chapter, the tax collected by that person.

(b) An offense under this section is:

(1) a Class C misdemeanor if the amount of the tax collected and not paid is less than $50;

(2) a Class B misdemeanor if the amount of the tax collected and not paid is $50 or more but less than $500;

(3) a Class A misdemeanor if the amount of the tax collected and not paid is $500 or more but less than $1,500;

(4) a state jail felony if the amount of the tax collected and not paid is $1,500 or more but less than $20,000;

(5) a felony of the third degree if the amount of the tax collected and not paid is $20,000 or more but less than $100,000;

(6) a felony of the second degree if the amount of the tax collected and not paid is $100,000 or more but less than $200,000; and

(7) a felony of the first degree if the amount of the tax collected and not paid is $200,000 or more.

(c) When tax is collected and not paid in violation of Subsection (a) pursuant to one scheme or continuous course of conduct, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 12, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 15, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 16, eff. September 1, 2011.

Sec. 151.704. SALES TAX ABSORPTION; CRIMINAL PENALTY. (a) Except as provided by Subsections (b) and (c), a retailer commits an offense if the retailer directly or indirectly advertises, holds out, or states to a customer or to the public that the tax is not part of

the sales price payable by the customer.

(b) A retailer may directly or indirectly advertise, hold out, or state to a customer or to the public that the retailer will pay the tax for the customer if:

(1) the retailer indicates in the advertisement, holding out, or statement that the retailer is paying the tax for the customer;

(2) the retailer does not indicate or imply in the advertisement, holding out, or statement that the sale is exempt or excluded from taxation; and

(3) any purchaser's receipt or other statement given to the customer listing the sales price paid or to be paid by the customer separately states the amount of the tax and indicates that the tax will be paid by the retailer.

(c) This section does not prohibit a utility from billing a customer in one lump-sum price including the utility sales price and the amount of the tax imposed by this chapter.

(d) An offense under this section is a misdemeanor punishable by a fine of not more than $500.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1119 (H.B. 2358), Sec. 2, eff. October 1, 2019.

Sec. 151.705. COLLECTION OF USE TAX; CRIMINAL PENALTY. A retailer engaged in business in this state who violates Section 151.103 of this code commits a misdemeanor punishable by a fine of not more than $500.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.707. RESALE OR EXEMPTION CERTIFICATE; CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) intentionally or knowingly makes a false entry in, or a fraudulent alteration of, an exemption or resale certificate;

(2) makes, presents, or uses an exemption certificate or resale certificate with knowledge that it is false and with the intent that it be accepted as a valid resale or exemption

certificate; or

(3) intentionally conceals, removes, or impairs the verity or legibility of an exemption or resale certificate or unreasonably impedes the availability of an exemption or resale certificate.

(b) An offense under Subsection (a) is:

(1) a Class C misdemeanor if the tax avoided by the use of the exemption or resale certificate is less than $20;

(2) a Class B misdemeanor if the tax avoided by the use of the exemption or resale certificate is $20 or more, but less than $200;

(3) a Class A misdemeanor if the tax avoided by the use of the exemption or resale certificate is $200 or more, but less than $750;

(4) a felony of the third degree if the tax avoided by the use of the exemption or resale certificate is $750 or more, but less than $20,000; or

(5) a felony of the second degree if the tax avoided by the use of the exemption or resale certificate is $20,000 or more.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 1.09, eff. Sept. 1, 1993.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 17, eff. September 1, 2011.

Sec. 151.7075. FAILURE TO PRODUCE CERTAIN RECORDS AFTER USING RESALE CERTIFICATE; CRIMINAL PENALTY. (a) A person commits an offense if the person intentionally fails to produce to the comptroller records that document a taxpayer's taxable sale of items that the taxpayer obtained using a resale certificate.

(b) The records to which Subsection (a) applies are records:

(1) required to be kept under Section 151.025; and

(2) requested by the comptroller under Section 151.023 that are not produced in the period required by that section.

(c) The items to which Subsection (a) applies are items the sales of which are required to be reported to the comptroller under Section 151.433, 154.212, or 155.105.

(d) An offense under this section is:

(1) a Class C misdemeanor if the tax avoided by the use of the resale certificate is less than $20;

(2) a Class B misdemeanor if the tax avoided by the use of the resale certificate is $20 or more but less than $200;

(3) a Class A misdemeanor if the tax avoided by the use of the resale certificate is $200 or more but less than $750;

(4) a felony of the third degree if the tax avoided by the use of the resale certificate is $750 or more but less than $20,000; or

(5) a felony of the second degree if the tax avoided by the use of the resale certificate is $20,000 or more.

(e) It is an affirmative defense to prosecution under this section that the items listed for purchase on the resale certificate had not been resold at the time of the comptroller's request for records under Section 151.023.

(f) If conduct described by Subsection (a) is related to one scheme or continuous course of conduct, the conduct may be considered as one offense and the amounts of tax avoided may be aggregated in determining the grade of the offense.

Added by Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 18, eff. September 1, 2011.

Sec. 151.708. SELLING WITHOUT PERMIT; CRIMINAL PENALTY. (a) A person or officer of a corporation commits an offense if the person or corporation engages in business as a retailer in this state without a permit required by this chapter or after the permit is suspended.

(b) A first offense under this section is a Class C misdemeanor.

(c) If it is shown on the trial of an offense under this section that the person or officer has previously been finally convicted of one offense under this section, on conviction the person or officer shall be punished for a Class B misdemeanor punishable by a fine only, not to exceed $2,000.

(d) If it is shown on the trial of an offense under this section that the person or officer has previously been finally convicted of two offenses under this section, on conviction the person or officer shall be punished for a Class A misdemeanor

punishable by a fine only, not to exceed $4,000.

(e) If it is shown on the trial of an offense under this section that the person or officer has previously been finally convicted of three or more offenses under this section, on conviction the person or officer shall be punished for a Class A misdemeanor punishable by a fine not to exceed $4,000, confinement in jail for a term not to exceed one year, or both the fine and confinement.

(f) Each day a person or an officer of a corporation operates a business without a permit or with a suspended permit is a separate offense under this section.

Acts 1981, 67th Leg., p. 1583, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 442, Sec. 13, eff. Sept. 1, 2001.

Sec. 151.709. FAILURE TO FURNISH REPORT; CRIMINAL PENALTY. (a) A person commits an offense if the person refuses to furnish a report as required by this chapter or by the comptroller as authorized by this chapter.

(b) A first offense under this section is a Class C misdemeanor.

(c) If it is shown on the trial of an offense under this section that the person has previously been finally convicted of one offense under this section, on conviction the person shall be punished for a Class B misdemeanor punishable by a fine only, not to exceed $2,000.

(d) If it is shown on the trial of an offense under this section that the person has previously been finally convicted of two or more offenses under this section, on conviction the person shall be punished for a Class A misdemeanor punishable by a fine only, not to exceed $4,000.

Acts 1981, 67th Leg., p. 1584, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 442, Sec. 14, eff. Sept. 1, 2001.

Sec. 151.7101. ELECTION OF OFFENSES. If a violation of a criminal provision of this chapter by a taxpayer constitutes another offense under the laws of this state, the state may elect the offense

for which it will prosecute the taxpayer.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 15, eff. Sept. 1, 2001.

Sec. 151.7102. FALSE ENTRY OR FAILURE TO ENTER IN RECORDS. (a) A person commits an offense if the person intentionally or knowingly conceals, destroys, makes a false entry in, or fails to make an entry in records that are required to be made or kept under this chapter.

(b) An offense under this section is a felony of the third degree.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 15, eff. Sept. 1, 2001.

Sec. 151.7103. FAILURE TO PRODUCE FOR INSPECTION OR ALLOW INSPECTION OF RECORDS. (a) A person commits an offense if the person is asked, by a person authorized by the comptroller, to produce or allow inspection of a record required to be kept under this chapter and the person fails to produce the record or allow the inspection after the allowed time.

(b) An offense under this section is a Class C misdemeanor. Each day the person fails to allow inspection of records or produce records for inspection after receiving a request is a separate offense.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 15, eff. Sept. 1, 2001.

Sec. 151.711. LIMITATIONS ON PROSECUTIONS. An indictment or information for a criminal offense brought under this chapter must be presented within four years after the commission of the offense or it is barred.

Acts 1981, 67th Leg., p. 1584, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 151.712. CIVIL PENALTY FOR PERSONS CERTIFYING EXPORTS. (a) A person may not sign or certify proof of export documentation for the purpose of showing an exemption under Section 151.307(b)(2) unless:

(1) the person is:

(A) a customs broker licensed by the comptroller under Section 151.157; or

(B) an authorized employee of a customs broker licensed by the comptroller under Section 151.157; and

(2) the tangible personal property the export of which the person certifies is exported on the date and to the place shown on the export documentation signed by the person.

(b) A person who provides proof of documentation that tangible personal property has been exported outside of the United States or a person who may benefit from the provision of the proof of documentation, including a customs broker, authorized employee, authorized independent contractor, seller of the property or agent or employee of the seller, or a consumer of the property or agent or employee of the consumer, may not sell or buy the proof of documentation, including stamps required for the documentation. This subsection does not apply to a customs broker who accepts a fee for providing documentation under Section 151.307(b) if the customs broker provides the documentation in accordance with Section 151.157 and rules adopted by the comptroller.

(c) Except as provided by Subsection (e), a person who violates this section is subject to a monetary penalty that may not exceed:

(1) $500 for the first violation;

(2) $1,000 for the second violation; and

(3) $3,000 for each subsequent violation.

(d) Except as provided by Subsection (e), each violation of this section is subject to a separate monetary penalty.

(e) The aggregate of monetary penalties imposed under this section against any person for all violations that occur in a calendar year may not exceed $30,000.

(f) In addition to any monetary penalty under this section, the comptroller shall revoke under Section 151.157 the license of a customs broker who violates this section. A person whose license is revoked under this subsection may not apply for a new license under Section 151.157 before the first anniversary of the date on which the previous license was revoked.

(g) A proceeding to impose a civil penalty or suspend or revoke a license because of a violation of this section is a contested case under Chapter 2001, Government Code. Judicial review is by trial de novo. The district courts of Travis County have exclusive original

jurisdiction of a suit under this section.

(h) The comptroller must give notice of the comptroller's intent to impose a monetary or other penalty under this section not later than two years after the date of the alleged commission of a violation of this section or the comptroller may not impose a monetary or other penalty.

(i) In this section, "customs broker" and "authorized employee" have the meanings assigned by Section 151.157.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 4, eff. June 19, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 22, eff. Oct. 1, 1995; Acts 2003, 78th Leg., ch. 1001, Sec. 6, eff. Jan. 1, 2004.

Sec. 151.713. FURNISHING FALSE INFORMATION TO CUSTOMS BROKER; CIVIL PENALTY. (a) A person may not obtain or attempt to obtain export documentation for the purpose of showing an exemption under Section 151.307(b)(2) from a customs broker or an authorized employee of a customs broker if the person knows, at the time the documentation is sought, that the information provided to the broker or employee is materially false, in whole or in part, and the documentation is sought for the purpose of evading the tax imposed by this chapter.

(b) After notice as provided by this section, a person who violates this section is subject to a monetary penalty that may not exceed:

(1) $500 for the first violation;

(2) $1,000 for the second violation; and

(3) $3,000 for each subsequent violation.

(c) Each violation of this section is subject to a separate monetary penalty.

(d) If the comptroller believes that a person has violated this section, the comptroller shall give written notice to the person to show cause why the person should not be subject to a monetary penalty for the violation. The notice must advise the person of the allegations and explain that the person has a right to respond to the allegations in writing and request an oral hearing before the 31st day after the date that the notice is issued.

(e) The comptroller may not impose a monetary penalty under

this section until the comptroller or a person designated by the comptroller:

(1) considers the allegations against the person;

(2) considers any timely written response made by the person;

(3) considers any evidence properly admitted at any oral hearing held on the allegations; and

(4) issues a written decision.

(f) The comptroller must give notice of the comptroller's intent to impose a monetary penalty under this section not later than four years after the date of the alleged commission of a violation of this section or the comptroller may not impose a monetary penalty.

(g) The penalty imposed by this section is in addition to any tax, penalty, and interest that may be assessed against a person who violates this section.

(h) In this section, "customs broker" and "authorized employee" have the meanings assigned by Section 151.157.

Added by Acts 1993, 73rd Leg., ch. 955, Sec. 4, eff. June 19, 1993.

Sec. 151.714. VENUE FOR CRIMINAL PROSECUTION. Venue for prosecution for an offense under this chapter is in:

(1) the county in which any element of the offense occurs; or

(2) Travis County.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 16, eff. Sept. 1, 2001.

SUBCHAPTER M. DISPOSITION OF PROCEEDS

Sec. 151.801. DISPOSITION OF PROCEEDS. (a) Except for the amounts allocated under Subsections (b), (c), (c-2), and (c-3), all proceeds from the collection of the taxes imposed by this chapter shall be deposited to the credit of the general revenue fund.

(b) The amount of the proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of lubricating and motor oils used to propel motor vehicles over the public roadways shall be deposited to the credit of the state highway fund.

(c) The proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of sporting goods shall be

deposited as follows:

(1) an amount equal to 93 percent of the proceeds shall be credited to the Parks and Wildlife Department for the purposes described by Subsection (c-1) and deposited to department accounts as provided by that subsection; and

(2) an amount equal to seven percent of the proceeds shall be credited to the Texas Historical Commission and deposited to the credit of the historic site account under Section 442.073, Government Code.

Text of subsection effective until September 1, 2021

(c-1) Money credited to Parks and Wildlife Department accounts under Subsection (c) may be appropriated only:

(1) to acquire, operate, maintain, and make capital improvements to parks;

(2) for a purpose authorized under Chapter 24, Parks and Wildlife Code; and

(3) to fund the state contributions for employee benefits of Parks and Wildlife Department employees whose salaries or wages are paid from those department accounts.

Text of subsection effective on September 1, 2021

(c-1) The legislature shall allocate the money credited to the Parks and Wildlife Department under Subsection (c) to department accounts specified in the Parks and Wildlife Code in specific amounts provided in the General Appropriations Act, and those amounts may be used only for the following purposes:

(1) to acquire, operate, maintain, and make capital improvements to parks;

(2) for a purpose authorized under Chapter 24, Parks and Wildlife Code;

(3) to pay debt service on park-related bonds;

(4) to fund the state contributions for benefits and benefit-related costs attributable to the salaries and wages of department employees paid from sporting goods sales tax receipts; and

(5) to fund the portion of the state contributions for annuitant group coverages under the group benefits program operated by the Employees Retirement System of Texas under Chapter 1551, Insurance Code, attributable to sporting goods sales tax receipts.

(c-2) An amount equal to the revenue derived from the collection of taxes at the rate of two percent on each sale at retail

of fireworks shall be deposited to the credit of the rural volunteer fire department insurance fund established under Section 614.075, Government Code.

(c-3) Subject to the limitation imposed under Section 2028.2041, Occupations Code, an amount equal to the proceeds from the collection of the taxes imposed by this chapter on the sale, storage, or use of horse feed, horse supplements, horse tack, horse bedding and grooming supplies, and other taxable expenditures directly related to horse ownership, riding, or boarding shall be deposited to the credit of the escrow account administered by the Texas Racing Commission and established under Section 2028.204, Occupations Code.

Text of subsection effective until September 1, 2021

(d) The comptroller shall determine the amount to be deposited to the highway fund under Subsection (b) according to available statistical data indicating the estimated average or actual consumption or sales of lubricants used to propel motor vehicles over the public roadways. The comptroller shall determine the amounts to be deposited to the funds or accounts under Subsection (c) according to available statistical data indicating the estimated or actual total receipts in this state from taxable sales of sporting goods. The comptroller shall determine the amount to be deposited to the fund under Subsection (c-2) according to available statistical data indicating the estimated or actual total receipts in this state from taxes imposed on sales at retail of fireworks. The comptroller shall determine the amount to be deposited to the account under Subsection (c-3) according to available statistical data indicating the estimated or actual total receipts in this state from taxable sales of horse feed, horse supplements, horse tack, horse bedding and grooming supplies, and other taxable expenditures directly related to horse ownership, riding, or boarding. If satisfactory data are not available, the comptroller may require taxpayers who make taxable sales or uses of those lubricants, of sporting goods, of fireworks, or of horse feed, horse supplements, horse tack, horse bedding and grooming supplies, or other taxable expenditures directly related to horse ownership, riding, or boarding to report to the comptroller as necessary to make the allocation required by Subsection (b), (c), (c-2), or (c-3).

Text of subsection effective on September 1, 2021

(d) The comptroller shall determine the amount to be deposited

to the highway fund under Subsection (b) according to available statistical data indicating the estimated average or actual consumption or sales of lubricants used to propel motor vehicles over the public roadways. The comptroller shall determine the amounts to be deposited to the accounts under Subsection (c) according to available statistical data indicating the estimated or actual total receipts in this state from taxable sales of sporting goods, and according to the specific amounts provided in the General Appropriations Act in accordance with Subsection (c-1). The comptroller shall determine the amount to be deposited to the fund under Subsection (c-2) according to available statistical data indicating the estimated or actual total receipts in this state from taxes imposed on sales at retail of fireworks. The comptroller shall determine the amount to be deposited to the account under Subsection (c-3) according to available statistical data indicating the estimated or actual total receipts in this state from taxable sales of horse feed, horse supplements, horse tack, horse bedding and grooming supplies, and other taxable expenditures directly related to horse ownership, riding, or boarding. If satisfactory data are not available, the comptroller may require taxpayers who make taxable sales or uses of those lubricants, of sporting goods, of fireworks, or of horse feed, horse supplements, horse tack, horse bedding and grooming supplies, or other taxable expenditures directly related to horse ownership, riding, or boarding to report to the comptroller as necessary to make the allocation required by Subsection (b), (c), (c-2), or (c-3).

(e) In this section:

(1) "Motor vehicle" means a trailer, a semitrailer, or a self-propelled vehicle in or by which a person or property can be transported upon a public highway. "Motor vehicle" does not include a device moved only by human power or used exclusively on stationary rails or tracks, a farm machine, a farm trailer, a road-building machine, or a self-propelled vehicle used exclusively to move farm machinery, farm trailers, or road-building machinery.

(2) "Sporting goods" means an item of tangible personal property designed and sold for use in a sport or sporting activity, excluding apparel and footwear except that which is suitable only for use in a sport or sporting activity, and excluding board games, electronic games and similar devices, aircraft and powered vehicles, and replacement parts and accessories for any excluded item.

(3) "Fireworks" means any composition or device that is designed to produce a visible or audible effect by combustion, explosion, deflagration, or detonation that is classified as Division 1.4G explosives by the United States Department of Transportation in 49 C.F.R. Part 173 as of September 1, 1999. The term does not include:

(A) a toy pistol, toy cane, toy gun, or other device that uses a paper or plastic cap;

(B) a model rocket or model rocket motor designed, sold, and used for the purpose of propelling a recoverable aero model;

(C) a propelling or expelling charge consisting of a mixture of sulfur, charcoal, and potassium nitrate;

(D) a novelty or trick noisemaker;

(E) a pyrotechnic signaling device or distress signal for marine, aviation, or highway use in an emergency situation;

(F) a fusee or railway torpedo for use by a railroad;

(G) a blank cartridge for use in a radio, television, film, or theater production, for signal or ceremonial purposes in athletic events, or for industrial purposes; or

(H) a pyrotechnic device for use by a military organization.

(4) "Horse feed" means a product clearly packaged and labeled as feed for a horse.

(5) "Horse supplement" means a product clearly packaged and labeled as a supplement for a horse, including a vitamin, mineral, or other nutrient intended to supplement horse feed.

Acts 1981, 67th Leg., p. 1584, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 65, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.14, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1159 (H.B. 12), Sec. 45, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 835 (H.B. 7), Sec. 14, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 82 (S.B. 1366), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 82 (S.B. 1366), Sec. 6, eff.

September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 145 (H.B. 158), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 471 (S.B. 761), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 471 (S.B. 761), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 178 (H.B. 1422), Sec. 11, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 503 (S.B. 26), Sec. 7, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 503 (S.B. 26), Sec. 8, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 503 (S.B. 26), Sec. 9, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1365 (H.B. 2463), Sec. 7, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1365 (H.B. 2463), Sec. 8, eff. September 1, 2019.

CHAPTER 152. TAXES ON SALE, RENTAL, AND USE OF MOTOR VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 152.001. DEFINITIONS. In this chapter:

(1) "Sale" includes:

(A) an installment and credit sale;

(B) an exchange of property for property or money;

(C) an exchange in which property is transferred but the seller retains title as security for payment of the purchase price;

(D) a transaction in which a motor vehicle is transferred to another person without payment of consideration and that does not qualify as a gift under Section 152.025; and

(E) any other closed transaction that constitutes a sale.

(2) "Retail sale" means a sale of a motor vehicle except:

(A) the sale of a new motor vehicle in which the purchaser is a franchised dealer who is authorized by law and by franchise agreement to offer the vehicle for sale as a new motor vehicle and who acquires the vehicle either for the exclusive purpose

of sale in the manner provided by law or for purposes allowed under Chapter 503, Transportation Code;

(B) the sale of a vehicle other than a new motor vehicle in which the purchaser is a dealer who holds a dealer's general distinguishing number issued under Chapter 503, Transportation Code, and who acquires the vehicle either for the exclusive purpose of resale in the manner provided by law or for purposes allowed under Chapter 503, Transportation Code;

(C) the sale to a franchised dealer of a new motor vehicle removed from the franchised dealer's inventory for the purpose of entering into a contract to lease the vehicle to another person if, immediately after executing the lease contract, the franchised dealer transfers title of the vehicle and assigns the lease contract to the lessor of the vehicle; or

(D) the sale of a new motor vehicle in which the purchaser is a manufacturer or distributor as those terms are defined by Section 2301.002, Occupations Code, who acquires the motor vehicle either for the exclusive purpose of sale in the manner provided by law or for purposes allowed under Section 503.064, Transportation Code.

(3) "Motor Vehicle" includes:

(A) a self-propelled vehicle designed to transport persons or property on a public highway;

(B) a trailer and semitrailer, including a van, flatbed, tank, dumpster, dolly, jeep, stinger, auxiliary axle, or converter gear; and

(C) a house trailer as defined by Chapter 501, Transportation Code.

(4) "Motor Vehicle" does not include:

(A) a device moved only by human power;

(B) a device used exclusively on stationary rails or tracks;

(C) road-building machinery;

(D) a mobile office;

(E) a vehicle with respect to which the certificate of title has been surrendered in exchange for:

(i) a salvage vehicle title issued pursuant to Chapter 501, Transportation Code;

(ii) a certificate of authority issued pursuant to Chapter 683, Transportation Code;

(iii) a nonrepairable vehicle title issued pursuant to Chapter 501, Transportation Code;

(iv) an ownership document issued by another state if the document is comparable to a document issued pursuant to Subparagraph (i), (ii), or (iii);

(F) a vehicle that has been declared a total loss by an insurance company pursuant to the settlement or adjustment of a claim; or

(G) an oilfield portable unit.

(5) "Rental" means:

(A) an agreement by the owner of a motor vehicle to give for not longer than 180 days the exclusive use of that vehicle to another for consideration;

(B) an agreement by the original manufacturer of a motor vehicle to give exclusive use of the motor vehicle to another for consideration; or

(C) an agreement to give exclusive use of a motor vehicle to another for re-rental purposes.

(6) "Lease" means an agreement, other than a rental, by an owner of a motor vehicle to give for longer than 180 days exclusive use of the vehicle to another for consideration.

(7) "Public agency" means:

(A) a department, commission, board, office, institution, or other agency of this state or of a county, city, town, school district, hospital district, water district, or other special district or authority or political subdivision created by or under the constitution or the statutes of this state;

(B) an unincorporated agency or instrumentality of the United States; or

(C) an open-enrollment charter school.

(8) "Gross rental receipts" means value received or promised as consideration to the owner of a motor vehicle for rental of the vehicle, but does not include:

(A) separately stated charges for insurance;

(B) charges for damages to the motor vehicle occurring during the rental agreement period;

(C) separately stated charges for motor fuel sold by the owner of the motor vehicle; or

(D) discounts.

(9) "Owner of a motor vehicle" means:

(A) a person named in the certificate of title as the owner of the vehicle; or

(B) a person who has the exclusive use of a motor vehicle by reason of a rental and holds the vehicle for re-rental.

(10) "Orthopedically handicapped person" means a person who because of a physical impairment is unable to operate or reasonably be transported in a motor vehicle that has not been specially modified.

(11) "Volunteer fire department" means a company, department, or association whose members receive no or nominal compensation and which is organized for the purpose of answering fire alarms and extinguishing fires or answering fire alarms, extinguishing fires, and providing emergency medical services.

(12) "Motor vehicle used for religious purposes" means a motor vehicle that is:

(A) used primarily by a church or religious society; and

(B) not used primarily for the personal or official needs or duties of a minister.

(13) "Farm machine" means a self-propelled motor vehicle specially adapted for use in the production of crops or rearing of livestock, including poultry, and use in feedlots and includes a self-propelled motor vehicle specially adapted for applying plant food materials, agricultural chemicals, or feed for livestock. "Farm machine" does not include any self-propelled motor vehicle specifically designed or specially adapted for the sole purpose of transporting agricultural products, plant food materials, agricultural chemicals, or feed for livestock.

(14) "Nonprofit" means:

(A) organized as a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); or

(B) organized and operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation other than reasonable compensation for services rendered by persons who are not members of the organization, or realization of any other form of private gain.

(15) "Seller-financed sale" means a retail sale of a motor vehicle by a dealer licensed under Chapter 503, Transportation Code, in which the seller collects all or part of the total consideration

in periodic payments and retains a lien on the motor vehicle until all payments have been received. The term does not include a:

(A) retail sale of a motor vehicle in which a person other than the seller provides the consideration for the sale and retains a lien on the motor vehicle as collateral;

(B) lease; or

(C) rental.

(16) "Mobile office" means a trailer designed to be used as an office, sales outlet, or other workplace.

(17) "Lessor" means a person who acquires title to a new motor vehicle for the purpose of leasing the vehicle to another person.

(18) "New motor vehicle" means a motor vehicle that, without regard to mileage, has not been the subject of a retail tax.

(19) "Franchised dealer" has the meaning assigned the term by Chapter 503, Transportation Code.

(20) "Oilfield portable unit" means a bunkhouse, manufactured home, trailer, or semitrailer that:

(A) is not a travel trailer, as defined by Section 502.166(e), Transportation Code;

(B) is designed to be used for temporary lodging or as temporary office space;

(C) is used exclusively at any oil, gas, water disposal, or injection well site to provide to well site employees, contractors, or other workers sleeping accommodations or temporary work space, including office space; and

(D) does not require attachment to a foundation or to real property to be functional.

Acts 1981, 67th Leg., p. 1586, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2759, ch. 752, Sec. 5(c), eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 3211, ch. 553, Sec. 1, 2, eff. Sept. 1, 1983; Acts 1989, 71st Leg., ch. 606, Sec. 4, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., ch. 524, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 29, Sec. 1, eff. Oct. 1, 1993; Acts 1993, 73rd Leg., ch. 169, Sec. 3, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 587, Sec. 18, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 17.01(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1015, Sec. 1, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 165, Sec. 30.251, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 26,

eff. Oct. 1, 1997; Acts 2003, 78th Leg., ch. 1325, Sec. 17.08, eff. Sept. 1, 2003.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 686 (H.B. 2654), Sec. 1, eff. September 1, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 566 (H.B. 3182), Sec. 2, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 172 (H.B. 2400), Sec. 1, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 989 (H.B. 897), Sec. 1, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 196 (H.B. 2338), Sec. 1, eff. September 1, 2019.

Sec. 152.002. TOTAL CONSIDERATION. (a) "Total consideration" means the amount paid or to be paid for a motor vehicle and its accessories attached on or before the sale, without deducting:

(1) the cost of the motor vehicle;

(2) the cost of material, labor or service, interest paid, loss, or any other expense;

(3) the cost of transportation of the motor vehicle before its sale; or

(4) the amount of manufacturers' or importers' excise tax imposed on the motor vehicle by the United States.

(b) "Total consideration" does not include:

(1) a cash discount;

(2) a full cash or credit refund to a customer of the sales price of a motor vehicle returned to the seller;

(3) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the motor vehicle sold;

(4) a financing, carrying, or service charge or interest on credit extended on a motor vehicle sold under a conditional sale or other deferred payment contract;

(5) the value of a motor vehicle taken by a seller as all or a part of the consideration for sale of another motor vehicle, including any cash payment to the buyer under Section 348.404 or 353.402, Finance Code;

(6) a charge for transportation of the motor vehicle after

a sale;

(7) motor vehicle inventory tax; or

(8) an amount made available to the customer under Subchapter G, Chapter 382, Health and Safety Code.

(c) A person who is in the business of selling, renting, or leasing motor vehicles, who obtains the certificate of title to a motor vehicle, and who uses that motor vehicle for business or personal purposes may deduct its fair market value from the total consideration paid for a replacement vehicle if:

(1) the person obtains the certificate of title to the replacement motor vehicle;

(2) the person uses the replacement motor vehicle for business or personal purposes; and

(3) the replaced motor vehicle is offered for sale.

(d) A person who holds a vehicle lessor license under Chapter 2301, Occupations Code, or is specifically not required to obtain a lessor license under Section 2301.254(a) of that code may deduct the fair market value of a replaced motor vehicle that has been leased for longer than 180 days and is titled to another person if:

(1) either person:

(A) holds a beneficial ownership interest in the other person of at least 80 percent; or

(B) acquires all of its vehicles exclusively from franchised dealers whose franchisor shares common ownership with the other person; and

(2) the replaced motor vehicle is offered for sale.

(e) A person who is a motor vehicle owner, is in the business of renting motor vehicles, and holds a permit may deduct the fair market value of a replaced motor vehicle that is titled to another person if:

(1) either person:

(A) holds a beneficial ownership interest in the other person of at least 80 percent; or

(B) acquires all of its vehicles exclusively from franchised dealers whose franchisor shares common ownership with the other person; and

(2) the replaced motor vehicle is offered for sale.

(f) Notwithstanding Subsection (a), the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412.

Acts 1981, 67th Leg., p. 1587, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 945, Sec. 5, eff. Jan. 1, 1996; Acts 1999, 76th Leg., ch. 1042, Sec. 2, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.30, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 26, eff. Oct. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.816, eff. Sept. 1, 2003.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 6 (H.B. 4), Sec. 1, eff. September 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 1.08, eff. June 8, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 117 (H.B. 2559), Sec. 23, eff. September 1, 2011.

Sec. 152.003. DUTIES OF COMPTROLLER. (a) The comptroller may:

(1) supervise the collection of taxes imposed by this chapter; and

(2) establish rules for the determination of taxable value of motor vehicles and the administration of this chapter.

(b) The comptroller shall furnish a copy of the rules to each county tax assessor-collector.

(c) All county tax assessors-collectors shall consistently apply the rules authorized by this section to the determination of taxable value of each motor vehicle purchased in the state or taxable under the use tax levied by this chapter.

Acts 1981, 67th Leg., p. 1588, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 152.021. RETAIL SALES TAX. (a) A tax is imposed on every retail sale of every motor vehicle sold in this state. Except as provided by this chapter, the tax is an obligation of and shall be paid by the purchaser of the motor vehicle.

(b) The tax rate is 6-1/4 percent of the total consideration.

Acts 1981, 67th Leg., p. 1588, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 1, Sec. 6, eff. Aug. 1, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 6, Sec. 1; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 16.02, eff.

Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 29, Sec. 2, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 1015, Sec. 2, eff. Jan. 1, 1996.

For expiration of this section, see Subsection (c).

Sec. 152.0215. TEXAS EMISSIONS REDUCTION PLAN SURCHARGE. (a) Except as provided by Subsection (a-1), a surcharge is imposed on every retail sale, lease, or use of every on-road diesel motor vehicle that is over 14,000 pounds and that is sold, leased, or used in this state. The amount of the surcharge for a vehicle of a model year 1996 or earlier is 2.5 percent of the total consideration and for a vehicle of a model year 1997 or later, one percent of the total consideration.

(a-1) The surcharge does not apply to a recreational vehicle, as that term is defined by Section 522.004(b), Transportation Code, that is not held or used for the production of income.

(b) The surcharge shall be collected at the same time and in the same manner and shall be administered and enforced in the same manner as the tax imposed under this chapter. The comptroller by rule shall adopt any additional procedures needed for the collection, administration, and enforcement of the surcharge authorized by this section and shall deposit all remitted surcharges to the credit of the Texas emissions reduction plan fund.

(c) This section expires on the last day of the state fiscal biennium during which the Texas Commission on Environmental Quality publishes in the Texas Register the notice required by Section 382.037, Health and Safety Code.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 3, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 22, eff. July 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 835 (S.B. 867), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 18, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.14, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. 1796), Sec. 19, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1301 (H.B. 3745), Sec. 2.02, eff. August 30, 2019.

Sec. 152.022. TAX ON MOTOR VEHICLE PURCHASED OUTSIDE THIS STATE. (a) A use tax is imposed on a motor vehicle purchased at retail sale outside this state and used on the public highways of this state by a Texas resident or other person who is domiciled or doing business in this state.

(b) The tax rate is 6-1/4 percent of the total consideration.

Acts 1981, 67th Leg., p. 1588, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 1, Sec. 7, eff. Aug. 1, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 6, Sec. 2; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 16.03, eff. Sept. 1, 1991.

Sec. 152.023. TAX ON MOTOR VEHICLE BROUGHT INTO STATE BY NEW TEXAS RESIDENT. (a) A use tax is imposed on a new resident of this state who brings into this state a motor vehicle:

(1) that has been registered previously in the new resident's name in any other state or foreign country; or

(2) that the person leased in another state or foreign country.

(b) Except as provided by Subsection (b-1), the tax is $90 for each vehicle.

(b-1) The tax on a motor vehicle eligible to be issued exhibition vehicle specialty license plates under Section 504.502, Transportation Code, is equal to the lesser of $90 or 6.25 percent of the total consideration.

(c) The tax imposed by this section is in lieu of the tax imposed by Section 152.022.

Acts 1981, 67th Leg., p. 1589, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 1414, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 700 (S.B. 338), Sec. 1, eff. September 1, 2005.

Sec. 152.024. TAX ON AN EVEN EXCHANGE OF MOTOR VEHICLES. (a) A tax is imposed on each party to a transaction involving the even exchange of two motor vehicles.

(b) The tax on each party is $5.

(c) No transfer of title in an even exchange shall be accomplished until the taxes have been paid.

Acts 1981, 67th Leg., p. 1589, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 152.025. TAX ON GIFT OF MOTOR VEHICLE. (a) A tax is imposed on the recipient of a gift of a motor vehicle. This section applies only if the person receiving the motor vehicle:

(1) receives the vehicle from:

(A) the person's:

(i) spouse;

(ii) parent or stepparent;

(iii) grandparent or grandchild;

(iv) child or stepchild;

(v) sibling; or

(vi) guardian;

(B) a decedent's estate;

(C) a trust subject to the Texas Trust Code (Subtitle B, Title 9, Property Code) that was revocable by a decedent or that was jointly revocable by a decedent and the decedent's spouse; or

(D) a trust subject to the Texas Trust Code that is revocable by the person receiving the motor vehicle or that is jointly revocable by the recipient and the recipient's spouse;

(2) is a trust subject to the Texas Trust Code that is revocable by the transferor of the motor vehicle or that is jointly revocable by the transferor and the transferor's spouse; or

(3) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code, and the vehicle will be used for the purposes of the organization.

(b) The tax is $10.

Acts 1981, 67th Leg., p. 1589, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 686 (H.B. 2654), Sec. 2, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 699 (H.B. 2913), Sec. 7, eff. September 1, 2013.

Sec. 152.026. TAX ON GROSS RENTAL RECEIPTS. (a) A tax is imposed on the gross rental receipts from the rental of a rented motor vehicle.

(b) The tax rate is 10 percent of the gross rental receipts from the rental of a rented motor vehicle for 30 days or less and 6-1/4 percent of the gross rental receipts from the rental of a rented motor vehicle for longer than 30 days.

(c) Except for a destroyed motor vehicle or an unrecovered stolen motor vehicle, the total amount of gross rental receipts tax paid by the owner, as defined by Section 152.001(9)(A) of this code, on a motor vehicle registered under Section 152.061 of this code may not be less than an amount equal to the tax that would be imposed by Section 152.021 or 152.022 of this code but for Subsection (d) of this section.

(d) The taxes imposed by Sections 152.021 and 152.022 of this code are not due on a motor vehicle as long as it is registered as a rental vehicle under Section 152.061 of this code.

Acts 1981, 67th Leg., p. 1589, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 1, Sec. 8, eff. Aug. 1, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 6, Sec. 3; Acts 1991, 72nd Leg., ch. 16, Sec. 17.04, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 16.04, eff. Sept. 1, 1991.

Sec. 152.027. TAX ON METAL DEALER PLATES. (a) A use tax is imposed on each person to whom is issued a metal dealer's plate authorized by Chapter 503, Transportation Code.

(b) The tax is $25 for each plate issued.

(c) The tax imposed by this section is in lieu of any other tax imposed by this chapter.

Acts 1981, 67th Leg., p. 1589, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 1, Sec. 9, eff. Aug. 1, 1984; Acts 1997, 75th Leg., ch. 165, Sec. 30.252, eff. Sept. 1, 1997.

Sec. 152.028. USE TAX ON MOTOR VEHICLE BROUGHT BACK INTO STATE. (a) A use tax is imposed on the operator of a motor vehicle that was purchased tax-free under Section 152.092 of this code and that is brought back into this state for use on the public highways of this state. The tax is imposed at the time the motor vehicle is brought back into this state.

(b) The tax rate is 6-1/4 percent of the total consideration.

Added by Acts 1983, 68th Leg., p. 722, ch. 167, Sec. 2, eff. May 20, 1983. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 1, Sec. 10, eff. Aug. 1, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 6, Sec. 4; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 16.05, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1040, Sec. 27, eff. Oct. 1, 1997.

SUBCHAPTER C. COLLECTION OF TAXES

Sec. 152.041. GENERAL COLLECTION PROCEDURE. (a) The tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made shall collect taxes imposed by this chapter, subject to Section 152.0412, unless another person is required by this chapter to collect the taxes.

(b) Except as provided by Section 152.069, the tax assessor-collector may not accept an application unless the tax and any penalty is paid.

(c) Except as provided by Subsection (f) and Section 152.047, the tax imposed by Section 152.021 is due on the 20th working day after the date the motor vehicle is delivered to the purchaser.

(d) Except as provided by Subsection (f), the tax imposed by Section 152.022 is due on the 20th working day after the date the motor vehicle is brought into this state.

(e) If a motor vehicle title applicant has paid the tax to the seller who is required by this chapter to collect the tax and the seller has failed to remit the tax to the county tax assessor-collector, the tax assessor-collector may accept application for title to the motor vehicle without the payment of additional tax by the applicant. Before title to the motor vehicle may be issued under

these circumstances, the motor vehicle title applicant must present satisfactory documentation to the tax assessor-collector that the tax was paid. The county tax assessor-collector shall notify the comptroller in writing of the seller's failure to remit the tax. The notice must:

(1) be made before the 31st day after the date the application for title is accepted;

(2) contain the name and address of the seller; and

(3) include any documentation of the payment of the tax provided to the county tax assessor-collector by the motor vehicle title applicant.

(f) The tax imposed by Section 152.021 or 152.022 on a motor vehicle designed for commercial use is due on the 20th working day after the date the motor vehicle is equipped with a body or other equipment that enables the motor vehicle to be eligible to be registered under the Transportation Code.

Acts 1981, 67th Leg., p. 1589, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 455, ch. 93, Sec. 11, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 29, Sec. 3, eff. Oct. 1, 1993; Acts 1999, 76th Leg., ch. 1467, Sec. 2.31, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 27, eff. Sept. 1, 2001.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 6 (H.B. 4), Sec. 2, eff. September 1, 2006.

Sec. 152.0411. COLLECTION BY SELLERS. (a) Except as provided by this section, a seller who makes a sale subject to the sales tax imposed by Section 152.021 shall add the amount of the tax to the sales price, and when the amount of the tax is added:

(1) it is a debt of the purchaser to the seller until paid; and

(2) if unpaid, it is recoverable at law in the same manner as the original sales price.

(b) The seller shall collect the tax from the purchaser and remit it to the tax assessor-collector in the time and manner provided by law.

(c) This section applies only to the sale of a vehicle that is to be titled and registered in Texas. If a purchaser intends to

register a vehicle outside Texas, the purchaser shall comply with the terms of Section 152.092.

(d) This section does not apply to a seller-financed sale.

(e) This section applies only to a sale in which the seller is a motor vehicle dealer who holds a dealer license issued under Chapter 503, Transportation Code, or Chapter 2301, Occupations Code.

(f) This section does not apply to the sale of a motor vehicle with a gross weight in excess of 11,000 pounds. The seller of a motor vehicle with a gross weight in excess of 11,000 pounds shall maintain records of the sale in the manner and form, and containing the information, required by the comptroller.

Added by Acts 1995, 74th Leg., ch. 1015, Sec. 3, eff. Jan. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.253, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 28, eff. Oct. 1, 1997; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.817, eff. Sept. 1, 2003.

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive value" means the private-party transaction value of a motor vehicle, as determined by the Texas Department of Motor Vehicles based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service, or based on another motor vehicle guide publication that the department determines is appropriate if a private-party transaction value for the motor vehicle is not available from a regional guidebook described by this subsection.

(b) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is equal to or greater than 80 percent of the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the amount paid.

(c) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is less than 80 percent of the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the amount that is equal to 80 percent of the standard presumptive value of the vehicle, unless the purchaser establishes the valuation of the vehicle as provided by Subsection (d).

(d) A county tax assessor-collector shall compute the tax imposed by this chapter on the valuation of a motor vehicle if the

valuation is shown on:

(1) documentation, including a receipt or invoice, provided by the seller to the purchaser of the vehicle, but only if the seller is a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or under similar regulatory requirements of another state; or

(2) an appraisal certified by an adjuster licensed under Chapter 4101, Insurance Code, by a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or by an adjuster or motor vehicle dealer licensed or operating under similar regulatory requirements of another state.

(d-1) An appraisal described by Subsection (d)(2):

(1) must be on a form prescribed by the comptroller for that purpose; and

(2) must be obtained by the purchaser of the vehicle not later than the 20th working day after the date the motor vehicle is delivered to the purchaser or is brought into this state, as applicable.

(e) On request, a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or under similar regulatory requirements of another state shall provide a certified appraisal of the valuation of a motor vehicle. The comptroller by rule shall establish a fee that a dealer may charge for providing the certified appraisal. The county tax assessor-collector shall retain a copy of a certified appraisal received under this section for a period prescribed by the comptroller.

(f) The Texas Department of Motor Vehicles shall maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system. The department shall update the information at least quarterly each calendar year and publish, electronically or otherwise, the updated information.

(g) This section does not apply to a transaction described by Section 152.024 or 152.025.

(h) This section does not apply to a motor vehicle disposed of in accordance with Chapter 2303, Occupations Code, or Chapter 70, Property Code, or sold by a federal, state, or local governmental entity at public auction, including an auction authorized by Chapter 683, Transportation Code.

(i) This section does not apply to a motor vehicle that is

eligible for a specialty license plate under Section 504.501, Transportation Code.

(j) The requirements of Section 501.145, Transportation Code, continue to apply to a transferee of a used motor vehicle who obtains an appraisal under Subsection (d)(2), and obtaining an appraisal does not modify those requirements.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 6 (H.B. 4), Sec. 3, eff. October 1, 2006.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 825 (H.B. 261), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.08, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.007, eff. September 1, 2013.

Sec. 152.042. COLLECTION OF TAX ON METAL DEALER PLATES. A person required to pay the tax imposed by Section 152.027 shall pay the tax to the Texas Department of Motor Vehicles, and the department may not issue the metal dealer's plates until the tax is paid.

Acts 1981, 67th Leg., p. 1589, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1995, 74th Leg., ch. 165, Sec. 22(70), eff. Sept. 1, 1995.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.09, eff. September 1, 2009.

Sec. 152.043. COLLECTION OF TAX ON MOTOR VEHICLES OPERATED BY NONRESIDENTS. A person doing business in this state who registers a motor vehicle under Section 502.091, Transportation Code, shall pay the tax imposed by Section 152.022 of this code to the comptroller on or before the day the motor vehicle is brought into Texas.

Acts 1981, 67th Leg., p. 1590, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.254, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.008, eff. September 1, 2013.

Sec. 152.044. PAYMENT BY SELLER. (a) If the comptroller on an audit of the records of a seller finds that the amount of tax due was incorrectly reported on a joint statement and that the amount of tax paid was less than the amount due, the seller and purchaser are jointly and severally liable for the amount of the tax determined to be due.

(b) The comptroller shall ascertain compliance with the terms of this section. If the comptroller on an audit of the records of a motor vehicle dealer finds that the documents necessary to title and register a motor vehicle in the name of the purchaser of the motor vehicle have not been executed and delivered to the tax assessor-collector, together with tax due, if any, the motor vehicle dealer is liable for the amount of the tax due, plus penalty and interest, if any.

Acts 1981, 67th Leg., p. 1590, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 19, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 1015, Sec. 4, eff. Jan. 1, 1996.

Sec. 152.045. COLLECTION OF TAX ON GROSS RENTAL RECEIPTS. (a) Except as inconsistent with this chapter and rules adopted under this chapter, an owner of a motor vehicle subject to the tax on gross rental receipts shall report and pay the tax to the comptroller in the same manner as the Limited Sales, Excise and Use Tax is reported and paid by retailers under Chapter 151 of this code.

(b) The owner shall add the tax to the rental charge, and when added, the tax is:

(1) a part of the rental charge;

(2) a debt owed to the motor vehicle owner by the person renting the vehicle; and

(3) recoverable at law in the same manner as the rental charge.

(c) The comptroller may proceed against a person renting a motor vehicle for any unpaid gross rental receipts tax.

(d) In addition to any other penalty provided by law, the owner

of a motor vehicle subject to the tax on gross rental receipts who is required to file a report as provided by this chapter and who fails to timely file the report shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

Acts 1981, 67th Leg., p. 1590, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 16.06, eff. Sept. 1, 1991.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.04, eff. October 1, 2011.

Sec. 152.046. CHANGE IN TAX STATUS OF MOTOR VEHICLE. (a) If the owner, as defined by Section 152.001(9)(A) of this code, of a motor vehicle registered as a rental vehicle ceases to use the vehicle for rental, the owner shall report and remit on the next report required to be filed with the comptroller by Section 152.045(a) of this code any unpaid portion of gross rental receipts tax imposed by Section 152.026 of this code.

(b) An owner of a motor vehicle on which the motor vehicle sales or use tax has been paid who subsequently uses the vehicle for rental shall collect the gross rental receipts tax imposed by this chapter from the person renting the vehicle. The owner may credit an amount equal to the motor vehicle sales or use tax paid by the owner to the comptroller against the amount of gross rental receipts due. This credit is not transferable and cannot be applied against tax due and payable from the rental of another vehicle belonging to the same owner.

(c) For the purpose of determining the amount of minimum tax due under Section 152.026(c) of this code only, an owner of a motor vehicle on which the tax on gross rental receipts is imposed may credit against the amount of gross rental receipts due an amount equal to the tax on gross rental receipts the owner has paid to any other state. This credit is not transferable and cannot be applied against tax due and payable from the rental of another vehicle belonging to the same owner.

Acts 1981, 67th Leg., p. 1590, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 152.047. COLLECTION OF TAX ON SELLER-FINANCED SALE. (a) Except as inconsistent with this chapter and rules adopted under this chapter, the seller of a motor vehicle shall report and pay the tax imposed on a seller-financed sale to the comptroller on the seller's receipts from seller-financed sales in the same manner as the sales tax is reported and paid by a retailer under Sections 151.401, 151.402, 151.405, 151.406, 151.409, 151.423, 151.424, and 151.425.

(b) If a note, mortgage, account receivable, or other document evidencing the purchaser's indebtedness to the seller of a vehicle sold subject to a seller-financed sale does not bear interest, it will be conclusively presumed that the total consideration for the sale is principal.

(c) If a note, mortgage, account receivable, or other document evidencing the purchaser's indebtedness to the seller of a vehicle sold subject to a seller-financed sale bears interest, it is conclusively presumed that interest accrues and is paid by the purchaser on a straight line basis.

(d) The seller shall add the tax imposed on a seller-financed sale to the sales price of the vehicle sold, and when added, the tax is:

(1) a part of the sales price;

(2) a debt owed to the seller by the purchaser; and

(3) recoverable at law in the same manner as the sales price.

(e) Regardless of the accounting method used by the seller, the seller shall collect and pay the tax imposed on a seller-financed sale to the comptroller as the seller receives the proceeds of the sale.

(f) If the seller fails to apply, not later than the 60th day after the date the motor vehicle is delivered to the purchaser, for registration and a Texas certificate of title for a motor vehicle sold in a seller-financed sale in accordance with Section 152.069, the seller is liable for all unpaid tax on the total consideration, and the tax is due and must be sent to the comptroller with the first report after the expiration of the prescribed period.

(g) If a seller factors, assigns, or otherwise transfers the right to receive payments, all unpaid tax is due on the total consideration not reported at the time the agreement is factored,

assigned, or otherwise transferred. The seller shall report and submit the tax in the report period in which the right to receive the payment is factored, assigned, or otherwise transferred. The seller may not take a deduction in the amount of tax due if a transfer at a discount is made.

(g-1) Subsection (g) does not apply to a transaction by a dealer, as defined by Section 503.001, Transportation Code, in which the dealer:

(1) sells a purchaser's account to a person registered under Section 152.0475 as a related finance company; or

(2) grants a security interest in a purchaser's account but retains custody and control of the account and the right to receive payments in the absence of a default under the security agreement.

(h) The comptroller may proceed against the purchaser in a seller-financed sale for the amount of any tax not paid by the purchaser.

(i) The comptroller shall adopt rules and promulgate forms necessary to implement this section.

(j) In addition to any other penalty provided by law, the seller of a motor vehicle sold in a seller-financed sale who is required to file a report as provided by this chapter and who fails to timely file the report shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

Added by Acts 1993, 73rd Leg., ch. 29, Sec. 4, eff. Oct. 1, 1993.
Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 28, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 191 (S.B. 1617), Sec. 1, eff. July 1, 2007.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.05, eff. October 1, 2011.

Sec. 152.0472. DETERMINATION OF WHETHER LOAN IS FACTORED, ASSIGNED, OR TRANSFERRED. (a) A seller is not considered to have factored, assigned, or transferred a loan under Section 152.047(g) if:

(1) a loan through a seller is pledged as security for the sale of bonds:

(A) to a qualified institutional buyer, as that term is defined by 17 C.F.R. Section 230.144A, that is not affiliated to the seller;

(B) to an institutional accredited investor, as that term is defined by 17 C.F.R. Section 230.501(a)(1), (2), (3), or (7), that is not affiliated to the seller; or

(C) in a public offering;

(2) the right to receive payments and the risk of loss on nonpayment remains with the seller or an affiliated collection entity acting as agent of the seller; and

(3) bondholders receive only interest and principal.

(b) Notwithstanding Subsection (a), the seller may elect to pay all unpaid tax imposed under this chapter on the total consideration. A seller that makes this election is entitled to a credit or reimbursement for the taxes paid under this chapter on the remaining unpaid balance of the contract for which the seller has not received payment or has not otherwise collected the tax due. The seller shall take the tax credit or reimbursement on the seller's seller-finance return. The tax credit or reimbursement does not accrue interest.

Added by Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 8, eff. June 15, 2007.

Sec. 152.0475. REGISTRATION OF RELATED FINANCE COMPANY. (a) "Related finance company" means a person in which at least 80 percent of the ownership is identical to the ownership of a dealer, as defined by Section 503.001, Transportation Code.

(b) The comptroller shall establish a registration system for related finance companies under this section.

(c) A related finance company may register with the comptroller on a form prescribed by the comptroller. The comptroller shall make the forms available to the public. A registration remains in effect until canceled by the registration holder or the comptroller.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 272 (H.B. 2067), Sec. 2, eff. May 29, 2017.

(e) The comptroller may adopt rules to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 191 (S.B. 1617), Sec. 2, eff.

July 1, 2007.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 272 (H.B. 2067), Sec. 1, eff. May 29, 2017.
Acts 2017, 85th Leg., R.S., Ch. 272 (H.B. 2067), Sec. 2, eff. May 29, 2017.

Sec. 152.048. GROSS RECEIPTS PRESUMED SUBJECT TO TAX. (a) All gross receipts of a seller required to obtain a permit under Section 152.065 are presumed to be subject to the provisions of this code.

(b) The presumption provided by Subsection (a) does not apply to receipts:

(1) on which a tax imposed under other law is computed and paid to the comptroller; or

(2) for which a properly completed resale or exemption certificate is accepted by the seller.

(c) The seller may overcome the presumption under Subsection (a) by credible evidence that the receipts are not from a seller-financed sale or that the tax on those receipts has been sent to the comptroller.

Added by Acts 1993, 73rd Leg., ch. 29, Sec. 4, eff. Oct. 1, 1993.

SUBCHAPTER D. TAX ENFORCEMENT PROCEDURES

Sec. 152.061. REGISTRATION OF MOTOR VEHICLE PURCHASED FOR RENTAL. (a) An owner of a motor vehicle purchased for rental may furnish the county tax assessor-collector a rental certificate in lieu of the motor vehicle sales or use tax imposed by Sections 152.021 and 152.022 of this code. The county tax assessor-collector shall accept the motor vehicle for registration and issue a receipt for the license and title application.

(b) A rental certificate may be furnished by:

(1) a dealer licensed under Chapter 503, Transportation Code; or

(2) the owner if the vehicle is for use in a rental business that rents at least five different motor vehicles within any 12-month period.

(c) The rental certificate shall be in a form designated by the

comptroller and must contain:

(1) the name, address, and signature of the owner;

(2) the owner's or dealer's license number or a statement by the owner that the rental business of the owner meets the activity requirements of Subsection (b) of this section;

(3) the motor vehicle identification number; and

(4) the amount of total consideration for the motor vehicle and the amount of tax that would be due if the rental certificate had not been furnished.

Acts 1981, 67th Leg., p. 1591, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.255, eff. Sept. 1, 1997.

Sec. 152.062. REQUIRED STATEMENTS. (a) The persons obligated by this chapter to pay taxes on the transaction shall file a joint statement with the tax assessor-collector of the county in which the application for registration and for a Texas certificate of title is made.

(b) The statement must be in the following form:

(1) if a motor vehicle is sold, the seller and purchaser shall make a joint statement of the then value in dollars of the total consideration for the vehicle;

(2) if the ownership of a motor vehicle is transferred as the result of an even exchange, the principal parties shall make a joint statement describing the nature of the transaction; or

(3) if the ownership of a motor vehicle is transferred as the result of a gift, the principal parties shall make a joint statement describing the nature of the transaction and the relationship between the principal parties.

(b-1) A joint statement required by Subsection (b)(3) must be notarized.

(b-2) A joint statement required by Subsection (b)(3) that relates to a gift from a person or estate described by Section 152.025(a)(1) must be filed in person by the recipient of the gift or, as applicable, the person from whom the gift is received or a person authorized to act on behalf of the estate from which the gift is received. A motor vehicle title service required to be licensed under Chapter 520, Transportation Code, may not be used to file the

statement. The person who files the statement must present to the tax assessor-collector an unexpired identification document issued to the person that bears the person's photograph and is:

(1) a driver's license or personal identification card issued by this state or another state of the United States;

(2) an original United States passport or an original passport issued by a foreign country;

(3) an identification card or similar form of identification issued by the Texas Department of Criminal Justice;

(4) a United States military identification card; or

(5) an identification card or document issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services.

(c) If a party to a sale, even exchange, or gift is a corporation, the president, vice-president, secretary, manager, or other authorized officer of the corporation shall make the statement for the corporation.

(d) A seller of a motor vehicle is not required to complete a joint statement described by this section if:

(1) the seller does not hold a general distinguishing number issued under Chapter 503, Transportation Code; and

(2) the seller has complied with Section 501.028 or 501.072, Transportation Code, as applicable.

(e) The tax assessor-collector shall examine each joint statement for the purpose of determining the truth and accuracy of the information it contains. If the tax assessor-collector or the comptroller has reason to question the truth of the information in a statement, or if any material fact fails to meet the guidelines promulgated by the comptroller, the tax assessor-collector or the comptroller shall require any party to the statement to furnish substantiation of information contained in the statement.

(f) The tax assessor-collector shall immediately report to the nearest peace officer and to the comptroller, the name and address of each party whose name is signed on a joint statement found to be false in any material fact.

(g) The tax assessor-collector shall keep a copy of each statement and any substantiating materials required to be furnished in connection therewith until it is called for by the comptroller for auditing or by any court of competent jurisdiction.

Acts 1981, 67th Leg., p. 1591, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 1, Sec. 45, eff. Aug. 1, 1984; Acts 1993, 73rd Leg., ch. 587, Sec. 20, eff. Oct. 1, 1993; Acts 1999, 76th Leg., ch. 1467, Sec. 4.01, eff. June 19, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 686 (H.B. 2654), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 884 (S.B. 267), Sec. 1, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 969 (S.B. 2076), Sec. 1, eff. September 1, 2017.

Sec. 152.063. RECORDS. (a) The seller of a motor vehicle shall keep at his principal office for at least four years from the date of the sale a complete record of each retail sale of a motor vehicle. The record must include a copy of the invoice of each vehicle sold. The invoice copy must show the full price of the motor vehicle and the itemized price of all its accessories. All sales and supporting records of a seller are open to inspection and audit by the comptroller.

(b) The owner of a motor vehicle used for rental purposes shall keep for four years after purchase of a motor vehicle records and supporting documents containing the following information on the amount of:

(1) total consideration for the motor vehicle;

(2) motor vehicle sales or use tax paid on the motor vehicle;

(3) gross rental receipts received from the rental of the motor vehicle; and

(4) gross rental receipts tax paid to the comptroller on each motor vehicle used for rental purposes by the owner.

(c) No mileage records are required.

(d) A seller's business records must show the total receipts from all sources of income and expense, including transactions involving motor vehicles.

(e) For a retail sale for which the seller receives full payment at the time of sale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale,

documentation of complete payment in the form of:

(1) a copy of the payment instrument or a receipt for cash received; and

(2) a copy of the receipt for title application, registration, and motor vehicle tax issued by the county tax assessor-collector.

(f) For a sale for resale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale, the purchaser's written statement of resale on a form prescribed by the comptroller.

(g) Any person, other than the seller's employee, acting for the seller of a motor vehicle has the same record-keeping responsibilities as the seller.

(h) Section 111.0041 applies to a person required to keep records under this chapter.

Acts 1981, 67th Leg., p. 1591, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 21, eff. Oct. 1, 1993; Acts 1997, 75th Leg., ch. 1040, Sec. 29, eff. Oct. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.06, eff. October 1, 2011.

Sec. 152.0635. RECORDS OF CERTAIN SELLERS. (a) In addition to the requirements prescribed by Section 152.063, a seller engaged in seller-financed sales who has a permit under Section 152.065 shall keep the records required by this section.

(b) For seller-financed sales, the seller shall keep at the seller's principal office for at least four years from the date on which the seller receives the final payment for the motor vehicle:

(1) the lienholder's copy of the receipt for title application, registration, and motor vehicle tax issued by a county tax assessor-collector; and

(2) a ledger or other document containing a complete record of the payment history for that motor vehicle, including:

(A) the name and address of the purchaser;

(B) the total consideration;

(C) the amount of the down payment received at the time the motor vehicle is sold;

(D) the date and amount of each subsequent payment;
(E) the date of sale; and
(F) the date of any repossession.

(c) For retail sales paid in full at the time of sale, the seller shall keep at the seller's principal office for at least four years from the date of the sale documentation of complete payment in the form of:

(1) a copy of the payment instrument or a receipt for cash received; and

(2) a copy of the receipt for title application, registration, and motor vehicle tax issued by the county tax assessor-collector.

(d) For sales for resale, the seller shall keep at the seller's principal office for at least four years from the date of the sale the purchaser's written statement of resale on a form prescribed by the comptroller.

(e) Section 111.0041 applies to a person required to keep records under this chapter.

Added by Acts 1993, 73rd Leg., ch. 29, Sec. 5, eff. Oct. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 30, eff. Oct. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.07, eff. October 1, 2011.

Sec. 152.064. TAX RECEIPTS. (a) The comptroller shall prescribe the form of a tax receipt to be issued to a person paying a tax imposed by this chapter.

(b) The tax assessor-collector of each county shall:

(1) issue a receipt to the person paying a tax imposed by this chapter; and

(2) send a copy of the receipt to the comptroller according to the instructions of the comptroller.

Acts 1981, 67th Leg., p. 1592, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1983, 68th Leg., p. 1361, ch. 280, Sec. 2, eff. Sept. 1, 1983; Acts 1997, 75th Leg., ch. 357, Sec. 1, eff. Jan. 1, 1998.

Sec. 152.065. REQUIRED PERMITS. A motor vehicle owner required to collect, report, and pay a tax on gross rental receipts imposed by this chapter and a seller required to collect, report, and pay a tax on a seller-financed sale shall register as a retailer with the comptroller in the same manner as is required of a retailer under Subchapter F, Chapter 151.

Acts 1981, 67th Leg., p. 1592, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 29, Sec. 6, eff. Oct. 1, 1993.

Sec. 152.066. DEFICIENCY DETERMINATION; PENALTY AND INTEREST. (a) The comptroller shall give written notice to the seller of a motor vehicle of a deficiency determination made under Section 152.044 of this code.

(b) A person who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to pay the tax within 30 days after the day on which the tax is due, the person forfeits an additional five percent.

(c) The minimum penalty imposed by this section is $1.

(d) Except in the case of the gross receipts tax, interest begins to accrue on delinquent taxes 60 days after the day on which the joint statement was executed. Delinquent taxes on gross rental receipts draw interest beginning 60 days from the due date.

Acts 1981, 67th Leg., p. 1592, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 455, ch. 93, Sec. 12, eff. Sept. 1, 1983; Acts 1997, 75th Leg., ch. 1040, Sec. 31, eff. Oct. 1, 1997.

Sec. 152.067. PETITION FOR REDETERMINATION OF A DEFICIENCY. (a) The comptroller shall:

(1) promulgate rules under which the seller may petition for a redetermination of deficiency; and

(2) grant an oral hearing to any seller who requests a hearing.

(b) The comptroller may increase or decrease the determination of deficiency before it becomes final, but the amount may be increased only if the comptroller asserts a claim for the increase at or before the oral hearing.

(c) If the comptroller asserts a claim for an increase in the

determination, the seller is entitled to a 30-day continuance of the hearing in order to obtain other evidence relating to the items on which the increase is based.

Acts 1981, 67th Leg., p. 1592, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 152.068. REVOCATION OF MOTOR VEHICLE RETAIL SELLER'S PERMIT. (a) The comptroller may revoke or suspend any one or more of the permits held by a person if that person fails to comply with a provision of this chapter or with a rule of the comptroller relating to a tax imposed by this chapter.

(b) Before revoking or suspending the permit, the comptroller must provide the permit holder with a hearing. The permit holder must be given at least 20 days' notice specifying the time and place of hearing and requiring that the permit holder show cause why the permit or permits should not be revoked or suspended.

(c) The comptroller shall give the person notice of the suspension or revocation of any permit.

(d) Notice required by this section must be written and may be served either personally or by mail.

(e) The comptroller may not issue a new permit after the revocation of a permit unless satisfied that the former permit holder will comply with the provisions of this chapter and the rules of the comptroller. The comptroller may prescribe the terms under which a suspended permit may be reissued.

(f) The permit holder or person whose permit is revoked may appeal the comptroller's action in the same manner as a final deficiency determination may be appealed.

Acts 1981, 67th Leg., p. 1593, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 29, Sec. 7, eff. Oct. 1, 1993.

Sec. 152.069. REGISTRATION OF MOTOR VEHICLE USING SELLER-FINANCING. (a) The seller of a motor vehicle sold in a seller-financed sale shall apply for the registration of, and a Texas certificate of title for, the motor vehicle in the name of the purchaser to the appropriate county tax assessor-collector not later than the 45th day after the date the motor vehicle is delivered to the purchaser.

(b) The seller shall provide to the county tax assessor-collector a joint statement as prescribed by Section 152.062 in lieu of the motor vehicle sales tax imposed by Section 152.021. The statement shall include the seller's permit identification number issued by the comptroller.

Added by Acts 1993, 73rd Leg., ch. 29, Sec. 8, eff. Oct. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 32, eff. Oct. 1, 1997.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 16, eff. September 1, 2009.

SUBCHAPTER E. EXEMPTIONS

Sec. 152.081. DRIVER TRAINING MOTOR VEHICLES. The taxes imposed by this chapter do not apply to the sale or use of a motor vehicle that is:

(1) owned by a motor vehicle dealer as defined by Section 503.001, Transportation Code;

(2) purchased in this state; and

(3) loaned free of charge by the dealer to a public school for use in an approved standard driver training course.

Acts 1981, 67th Leg., p. 1593, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.256, eff. Sept. 1, 1997.

Sec. 152.082. SALE OF MOTOR VEHICLE TO OR USE OF MOTOR VEHICLE BY PUBLIC AGENCY. The taxes imposed by this chapter do not apply to the sale or use of a motor vehicle if the motor vehicle is operated with an exempt license plate issued under Section 502.451, Transportation Code, and is for use by:

(1) a public agency; or

(2) a commercial transportation company to provide transportation services under a contract with:

(A) a board of county school trustees or school district board of trustees under Section 34.008, Education Code; or

(B) the governing body of an open-enrollment charter school.

Acts 1981, 67th Leg., p. 1593, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.257, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.009, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 844 (S.B. 724), Sec. 1, eff. June 17, 2015.

Sec. 152.083. LEASE OF MOTOR VEHICLE TO PUBLIC AGENCY. (a) The taxes imposed by this chapter do not apply to the purchase of a motor vehicle that is to be leased to a public agency.

(b) This exemption applies only if the person purchasing the motor vehicle to be leased presents the tax assessor-collector a form prescribed and provided by the comptroller and showing:

(1) the identification of the motor vehicle;

(2) the name and address of the lessor and the lessee; and

(3) verification by an officer of the public agency to which the motor vehicle will be leased that the agency will operate the vehicle with an exempt license plate issued under Section 502.451, Transportation Code.

(c) If a motor vehicle for which the tax has not been paid ceases to be leased to a public agency, the owner shall notify the comptroller on a form provided by the comptroller and shall pay the sales or use tax on the motor vehicle based on the owner's book value of the motor vehicle. The tax is imposed at the same rate that is provided by Section 152.021(b) of this code.

Acts 1981, 67th Leg., p. 1593, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.258, eff. Sept. 1, 1997.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.010, eff. September 1, 2013.

Sec. 152.084. RENTAL OF MOTOR VEHICLE TO PUBLIC AGENCY. The taxes imposed by this chapter do not apply to the rental of a motor vehicle to a public agency. The tax which would have been remitted

on gross rental receipts without this exemption shall be deemed to have been remitted for the purpose of calculating the minimum gross rental receipts tax imposed by Section 152.026 of this code.

Acts 1981, 67th Leg., p. 1594, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 152.085. RENTAL OF MOTOR VEHICLE FOR PURPOSES OF RE-RENTAL. (a) The taxes imposed by this chapter on the gross rental receipts from the rental of a motor vehicle do not apply to the rental of a motor vehicle for the purpose of re-rental.

(b) The minimum gross rental receipts tax imposed by Section 152.026 of this code remains the obligation of the owner as defined by Section 152.001(9)(A) of this code. The owner may credit all gross rental receipts taxes paid to the comptroller on the re-rental of a motor vehicle registered under Section 152.061 of this code for the purpose of calculating the amount of minimum gross rental receipts tax due.

(c) A person authorized by Section 152.061 of this code to register motor vehicles for rental may issue an exemption certificate to the owner of the motor vehicle. An owner who takes the certificate in good faith is relieved of the burden of proving that the motor vehicle was rented for purposes of re-rental.

Acts 1981, 67th Leg., p. 1594, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 152.086. MOTOR VEHICLES DRIVEN BY HANDICAPPED PERSONS. (a) The taxes imposed by this chapter do not apply to the sale or use of a motor vehicle that:

(1) has been or will be modified before the second anniversary of the date of purchase for operation by, or for the transportation of, an orthopedically handicapped person; and

(2) is driven by or used for the transportation of an orthopedically handicapped person.

(b) The comptroller shall promulgate rules to ensure that motor vehicles exempted from taxation by this section are used primarily by orthopedically handicapped persons. The comptroller may require any individual seeking exemption under this section to present information establishing qualification for the exemption.

(b-1) The seller of a motor vehicle may not collect the tax

from the purchaser of the motor vehicle if the purchaser:

(1) signs at the time of the purchase an exemption certificate that:

(A) is on a form designated by the comptroller; and

(B) contains all information the comptroller considers reasonable to establish qualification for the exemption at the time of sale; and

(2) presents any other documentation or information the comptroller requires by rule.

(b-2) Notwithstanding any other provision of this section or other law, the seller of a motor vehicle may rely on a properly executed and signed exemption certificate under Subsection (b-1) and does not have a duty to investigate the propriety of an exemption certificate that is valid on the certificate's face. A seller who relies on an exemption certificate as provided by this subsection is not liable for the payment of motor vehicle sales taxes that would otherwise be due as a result of a motor vehicle sale.

(c) If the comptroller finds that the motor vehicle is not used primarily for the purposes specified in this Act or that the exemption should not have been granted, the comptroller shall assess the tax in an amount that would have been due had the exemption not been given under this section.

Acts 1981, 67th Leg., p. 1594, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2758, ch. 752, Sec. 5(b), eff. Jan. 1, 1982; Acts 2003, 78th Leg., ch. 209, Sec. 25, eff. Oct. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 294 (H.B. 236), Sec. 1, eff. September 1, 2009.

Sec. 152.087. FIRE TRUCKS AND EMERGENCY MEDICAL SERVICES VEHICLES. The taxes imposed by this chapter do not apply to the purchase, rental, or use of a fire truck, emergency medical services vehicle as defined by Section 773.003, Health and Safety Code, or other motor vehicle used exclusively for fire-fighting purposes or for emergency medical services when purchased by:

(1) a volunteer fire department;

(2) a nonprofit emergency medical service provider that

receives a federal income tax exemption under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3), Internal Revenue Code of 1986; or

(3) an emergency medical service provider to which Section 502.456, Transportation Code, applies.

Acts 1981, 67th Leg., p. 1594, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 606, Sec. 3, eff. Jan. 1, 1990; Acts 1993, 73rd Leg., ch. 169, Sec. 2, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.259, eff. Sept. 1, 1997.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.011, eff. September 1, 2013.

Sec. 152.088. MOTOR VEHICLES USED FOR RELIGIOUS PURPOSES. The taxes imposed by this chapter do not apply to the sale or use of or the receipts from the rental of a motor vehicle that is used for religious purposes.

Acts 1981, 67th Leg., p. 1595, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 152.089. EXEMPT VEHICLES. (a) The taxes imposed by this chapter do not apply to interstate motor vehicles, trailers, and semitrailers; provided that if a motor vehicle, trailer, or semitrailer ceases to be used as an interstate motor vehicle, trailer, or semitrailer within one year of either the date the vehicle was purchased in Texas or the date the vehicle was first brought into Texas, the taxes imposed by this chapter will apply at that time.

(b) If a motor vehicle is no longer leased for interstate use, the owner shall notify the comptroller on a form provided by the comptroller. The owner shall pay a tax at the rate prescribed by Section 152.021(b) on the motor vehicle based on the owner's book value of the motor vehicle.

(c) In this section, "interstate motor vehicle" means a motor vehicle that is operated in this state and another state or country and for which registration fees could be apportioned if the motor vehicle were registered in a state or province of a country that is a member of the International Registration Plan. The term includes a

bus used in transportation of chartered parties if the bus meets all the standards required of other motor vehicles for apportioned registration fees. The term does not include a vehicle leased for less than 181 days or a vehicle that has Texas license plates and does not operate under the International Registration Plan.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 1(b), eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 22, eff. Oct. 1, 1993; Acts 1995, 74th Leg., ch. 705, Sec. 9, eff. Sept. 1, 1997.

Sec. 152.090. CERTAIN HYDROGEN-POWERED MOTOR VEHICLES. (a) In this section, "hydrogen-powered motor vehicle" means a vehicle that meets the Phase II standards established by the California Air Resources Board as of September 1, 2007, for an ultra low-emission vehicle II or stricter Phase II emission standards established by that board and:

(1) is hydrogen power capable and has a fuel economy rating of at least 45 miles per gallon; or

(2) is fully hydrogen-powered.

(b) The taxes imposed by this chapter do not apply to the sale or use of a hydrogen-powered motor vehicle.

Added by Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 10, eff. September 1, 2007.

Sec. 152.091. FARM OR TIMBER USE. (a) The taxes imposed by this chapter do not apply to the sale or use of a:

(1) farm machine, trailer, or semitrailer for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots; or

(2) machine, trailer, or semitrailer for use primarily for timber operations.

(b)(1) The taxes imposed by this chapter do not apply to the purchase of a:

(A) farm machine, trailer, or semitrailer that is to be leased for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots; or

(B) machine, trailer, or semitrailer that is to be

leased for use primarily for timber operations.

(2) The exemption provided by this subsection applies only if the person purchasing the machine, trailer, or semitrailer to be leased presents the tax assessor-collector a form prescribed and provided by the comptroller showing:

(A) the identification of the motor vehicle;

(B) the name and address of the lessor and the lessee; and

(C) verification by the lessee that the machine, trailer, or semitrailer will be used primarily for:

(i) farming and ranching, including the rearing of poultry, and use in feedlots; or

(ii) timber operations.

(3) If a motor vehicle for which the tax has not been paid ceases to be leased for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots or timber operations, the owner shall notify the comptroller on a form provided by the comptroller and shall pay the sales or use tax on the motor vehicle based on the owner's book value of the motor vehicle. The tax is imposed at the same percentage rate that is provided by Section 152.021(b).

(b-1) In addition to the other requirements prescribed by this section, to claim an exemption provided by Subsection (a) or (b) the person purchasing, using, or leasing the machine, trailer, or semitrailer must provide an exemption certificate with a registration number issued by the comptroller under Section 151.1551.

(c) The taxes imposed by this chapter do not apply to the rental of a farm machine, a trailer, or a semitrailer for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots, or a machine, a trailer, or a semitrailer for use primarily for timber operations. The tax that would have been remitted on gross rental receipts without this exemption shall be deemed to have been remitted for the purpose of calculating the minimum gross rental receipts imposed by Section 152.026. The exemption provided by this subsection applies only if the owner of the motor vehicle obtains in good faith an exemption certificate from the person to whom the vehicle is being rented. To claim the exemption, the person renting the vehicle must also provide on the certificate a registration number issued by the comptroller under Section 151.1551.

(d) For purposes of this section, a machine is used "primarily for timber operations" if the machine is a self-propelled motor vehicle that is specially adapted to perform a specialized function in the production of timber, including land preparation, planting, maintenance, and gathering of trees commonly grown for commercial timber. The term does not include a self- propelled motor vehicle used to transport timber or timber products.

Added by Acts 1983, 68th Leg., p. 3211, ch. 553, Sec. 3, eff. Sept. 1, 1983. Amended by Acts 1999, 76th Leg., ch. 631, Sec. 16, eff. Oct. 1, 2001; Acts 2001, 77th Leg., ch. 1263, Sec. 29, eff. Oct. 1, 2001.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 225 (H.B. 268), Sec. 7, eff. September 1, 2011.

Sec. 152.092. MOTOR VEHICLES TRANSPORTED OUT OF STATE. (a) The taxes imposed by this chapter do not apply to the retail sale of a motor vehicle that is transported out of state, prior to any use in this state other than the transportation of the vehicle out of state, for use exclusively outside this state.

(b) To qualify for the exemption provided by this section the purchaser of a motor vehicle must sign at the time of the purchase an exemption certificate that:

(1) is on a form designated by the comptroller;

(2) contains all information the comptroller considers reasonable;

(3) is signed by the purchaser; and

(4) provides that the purchaser, by signing the certificate, authorizes the comptroller to provide a copy of the certificate to the state of intended use and registration.

Added by Acts 1983, 68th Leg., p. 722, ch. 167, Sec. 1, eff. May 20, 1983. Renumbered from Sec. 152.090 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(53). Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 23, eff. Oct. 1, 1993.

Sec. 152.093. MOTOR VEHICLES SOLD TO CERTAIN LICENSED CHILD-CARE FACILITIES. (a) The taxes imposed by this chapter do not apply

to a motor vehicle:

(1) purchased, used, or rented by a qualified residential child-care facility; and

(2) intended for use primarily in transporting the children residing in the facility under a state license.

(b) In this section, "qualified residential child-care facility" means a child-care facility:

(1) licensed under Chapter 42, Human Resources Code, to provide residential care 24 hours a day to both:

(A) children who do not require specialized services or treatment; and

(B) children who are emotionally disturbed; and

(2) in which children of both classifications listed in Subdivision (1) are permitted by the license to live together in a single residential group.

Added by Acts 1989, 71st Leg., ch. 1055, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER F. PENALTIES

Sec. 152.101. PENALTY FOR SIGNING FALSE STATEMENT OR CERTIFICATE. (a) A person commits an offense if the person signs a joint statement required by Section 152.062 or a certificate required by Section 152.092(b) and knows that it is false in any material fact.

(b) An offense under this section is a felony of the third degree.

Acts 1981, 67th Leg., p. 1595, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 24, eff. Oct. 1, 1993; Acts 2001, 77th Leg., ch. 442, Sec. 17, eff. Sept. 1, 2001.

Sec. 152.102. OPERATION WITHOUT PAYMENT OF TAX. (a) A person commits an offense if the person knowingly operates a motor vehicle on a highway of this state without paying the tax imposed by this chapter on the vehicle.

(b) An offense under this section is a Class C misdemeanor.

Acts 1981, 67th Leg., p. 1595, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 442, Sec. 18, eff. Sept. 1,

2001.

Sec. 152.103. FAILURE TO KEEP RECORDS.

Text of subsec. (a) as amended by Acts 1993, 73rd Leg., ch. 29, Sec. 10

(a) A seller commits an offense if he fails to make and retain complete records for the period of four years as provided by this chapter.

Text of subsec. (a) as amended by Acts 1993, 73rd Leg., ch. 587, Sec. 25

(a) A seller commits an offense if the seller fails to make and retain complete records for the period of four years as provided by Subchapter D.

(b) An offense under this section is a Class C misdemeanor.

Acts 1981, 67th Leg., p. 1595, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 29, Sec. 10, eff. Oct. 1, 1993; Acts 1993, 73rd Leg., ch. 587, Sec. 25, eff. Oct. 1, 1993; Acts 2001, 77th Leg., ch. 442, Sec. 19, eff. Sept. 1, 2001.

Sec. 152.104. FAILURE TO REMIT TAX COLLECTED. (a) A person who is a dealer, as defined by Section 503.001, Transportation Code, or who is acting in the capacity of a dealer, commits an offense if the person intentionally or knowingly fails to pay to the tax assessor-collector the motor vehicle sales tax collected as required by this chapter.

(b) An offense under this section is:

(1) a Class C misdemeanor if the value of the tax collected and not paid is less than $1,500;

(2) a state jail felony if the value of the tax collected and not paid is $1,500 or more but less than $20,000;

(3) a felony of the third degree if the value of the tax collected and not paid is $20,000 or more but less than $100,000;

(4) a felony of the second degree if the value of the tax collected and not paid is $100,000 or more but less than $200,000; and

(5) a felony of the first degree if the value of the tax

collected and not paid is $200,000 or more.

(c) When amounts are obtained in violation of this section pursuant to one scheme or continuing course of conduct, whether from the same or several resources, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 20, eff. Sept. 1, 2001.

Sec. 152.105. VENUE FOR CRIMINAL PROSECUTIONS. Venue for prosecution of any offense under this chapter is in:

(1) the county in which any element of the offense occurs; or

(2) Travis County.

Added by Acts 2001, 77th Leg., ch. 442, Sec. 20, eff. Sept. 1, 2001.

Sec. 152.106. PROHIBITED ADVERTISING; CRIMINAL PENALTY. (a) A person who is required by Chapter 503, Transportation Code, to hold a dealer's general distinguishing number commits an offense if the person directly or indirectly advertises, holds out, or states to a customer or to the public that the person:

(1) will assume, absorb, or refund a part of the tax imposed by this chapter; or

(2) will not add the tax imposed by this chapter to the sales price of the motor vehicle sold, leased, or rented.

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 26, eff. Oct. 1, 2003.

SUBCHAPTER G. DISPOSITION OF TAXES

Sec. 152.121. TAX SENT TO COMPTROLLER. (a) After crediting the amounts as provided by Section 152.123, a county tax assessor-collector shall send money collected from taxes and penalties imposed by this chapter to the comptroller as follows:

(1) on the 10th day of each month if during the last preceding state fiscal year less than $2 million of the taxes and penalties imposed by this chapter was collected by the office of the

county tax assessor-collector;

(2) once each week if during the last preceding state fiscal year $2 million or more, but less than $10 million, of the taxes and penalties imposed by this chapter was collected by the office of the county tax assessor-collector; or

(3) daily (as collected) if during the last preceding state fiscal year $10 million or more of the taxes and penalties imposed by this chapter was collected by the office of the county tax assessor-collector.

(b) Taxes on metal dealer plates collected by the Texas Department of Motor Vehicles shall be deposited by the department in the state treasury in the same manner as are other taxes collected under this chapter.

(c) If the amount of net collections under Chapter 502, Transportation Code, and this chapter is insufficient to cover the amount of those net collections authorized to be retained by a county as a percentage of the tax and penalties collected under this chapter, the comptroller shall on request of the county tax assessor-collector authorize the county to retain a portion of the tax and penalties collected under this chapter to cover the deficiency.

Acts 1981, 67th Leg., p. 1595, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 456, ch. 93, Sec. 13, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 1360, ch. 280, Sec. 1, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 23.01, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 165, Sec. 22(71), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.260, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1325, Sec. 9.01, eff. Sept. 1, 2005. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.10, eff. September 1, 2009.

Sec. 152.122. ALLOCATION OF TAX. The comptroller shall deposit the funds received under Section 152.121 of this code as follows:

(1) 1/4 to the credit of the foundation school fund; and

(2) the remaining funds to the credit of the general revenue fund.

Acts 1981, 67th Leg., p. 1595, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff.

Jan. 1, 1982. Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 2, eff. Sept. 1, 1984; Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 1, Sec. 42, eff. Sept. 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 7, Sec. 1, eff. Sept. 1, 1987.

Sec. 152.1222. ALLOCATION OF CERTAIN TAX REVENUE TO PROPERTY TAX RELIEF FUND. (a) Notwithstanding Section 152.122, the comptroller shall deposit to the credit of the property tax relief fund under Section 403.109, Government Code, the amount of money received under Section 152.121 that is estimated to have been derived from the computation of the tax imposed by this chapter on the standard presumptive values of motor vehicles or on percentages of those values as provided by Section 152.0412.

(b) The comptroller shall determine the amount described by Subsection (a) using available statistical data. If satisfactory data are not available, the comptroller may require county tax assessor-collectors to report additional information to the comptroller as necessary to make the allocation required by Subsection (a).

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 3 (H.B. 2), Sec. 3(a), eff. October 1, 2006.

Sec. 152.123. TAX RETAINED BY COUNTY. (a) The county tax assessor-collector each calendar year shall calculate five percent of the tax and penalties collected by the county tax assessor-collector under this chapter in the preceding calendar year. In addition, the county tax assessor-collector shall calculate each calendar year an amount equal to five percent of the tax and penalties that the comptroller:

(1) collected under Section 152.047 in the preceding calendar year; and

(2) determines are attributable to sales in the county.

(b) The county shall retain the following percentage of the amounts calculated under Subsection (a) during each of the following fiscal years:

(1) in fiscal year 2006, 10 percent;

(2) in fiscal year 2007, 20 percent;

(3) in fiscal year 2008, 30 percent;
(4) in fiscal year 2009, 40 percent;
(5) in fiscal year 2010, 50 percent;
(6) in fiscal year 2011, 60 percent;
(7) in fiscal year 2012, 70 percent;
(8) in fiscal year 2013, 80 percent;
(9) in fiscal year 2014, 90 percent;
(10) in fiscal year 2015 and succeeding years, 100 percent.

(c) The county shall credit the amounts retained under Subsection (b) to the county's general fund.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 9.01, eff. Sept. 1, 2005.

CHAPTER 154. CIGARETTE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 154.001. DEFINITIONS. In this chapter:

(1) "Bonded agent" means a person in this state who is a third-party agent of a manufacturer outside this state and who receives cigarettes in interstate commerce and stores the cigarettes for distribution or delivery to distributors under orders from the manufacturer.

(2) "Cigarette" means a roll for smoking:

(A) that is made of tobacco or tobacco mixed with another ingredient and wrapped or covered with a material other than tobacco; and

(B) that is not a cigar.

(3) "Commercial business location" means the entire premises occupied by a permit applicant or a person required to hold a permit under this chapter.

(4) "Common carrier" means a motor carrier registered under Chapter 643, Transportation Code, or a motor carrier operating under a certificate issued by the Interstate Commerce Commission or a successor agency to the Interstate Commerce Commission.

(5) "Consumer" means a person who possesses cigarettes for personal consumption.

(6) "Counterfeit stamp" means a sticker, label, print, tag, or token that is used or is intended to be used to simulate a stamp and that is not authorized or issued by the comptroller.

(7) "Distributor" means a person who:

(A) is authorized to purchase for the purpose of making a first sale in this state cigarettes in unstamped packages from manufacturers who distribute cigarettes in this state and to stamp cigarette packages;

(B) ships, transports, imports into this state, acquires, or possesses cigarettes and makes a first sale of the cigarettes in this state;

(C) manufactures or produces cigarettes; or

(D) is an importer.

(7-a) "Engage in business" means, in relation to cigarettes, engaging by a person, either directly or through a representative, in any of the following activities:

(A) selling cigarettes in or into this state;

(B) using a warehouse or another location to store cigarettes; or

(C) otherwise conducting through a physical presence cigarette-related business in this state.

(8) "Export warehouse" means a person in this state who receives cigarettes in unstamped packages from manufacturers and stores the cigarettes for the purpose of making sales to authorized persons for resale, use, or consumption outside the United States.

(9) "First sale" means, except as otherwise provided by this chapter:

(A) the first transfer of possession in connection with a purchase, sale, or any exchange for value of cigarettes in or into this state, which:

(i) includes the sale of cigarettes by:

(a) a distributor in or outside this state to a distributor, wholesaler, or retailer in this state; and

(b) a manufacturer in this state who transfers the cigarettes in this state; and

(ii) does not include:

(a) the sale of cigarettes by a manufacturer outside this state to a distributor in this state; or

(b) the transfer of cigarettes from a manufacturer outside this state to a bonded agent in this state;

(B) the first use or consumption of cigarettes in this state; or

(C) the loss of cigarettes in this state whether

through negligence, theft, or other unaccountable loss.

(10) "Importer" means a person who ships, transports, or imports into this state cigarettes manufactured or produced outside the United States for the purpose of making a first sale in this state.

(11) "Individual package of cigarettes" means a package that contains at least 20 cigarettes.

(12) "Manufacturer" means a person who manufactures, fabricates, or assembles cigarettes, or causes or arranges for the manufacture, fabrication, or assembly of cigarettes, for sale or distribution.

(13) "Manufacturer's representative" means a person employed by a manufacturer to sell or distribute the manufacturer's stamped cigarette packages.

(14) "Permit holder" means a bonded agent, distributor, wholesaler, manufacturer, importer, export warehouse, or retailer who obtains a permit under Section 154.101.

(15) "Place of business" means:

(A) a commercial business location where cigarettes are sold;

(B) a commercial business location where cigarettes are kept for sale or consumption or otherwise stored;

(C) a vehicle from which cigarettes are sold; or

(D) a vending machine from which cigarettes are sold.

(16) "Previously used stamp" means a stamp that has been used to show payment of a tax imposed by this chapter and is again used, sold, or possessed for sale or use to show payment of a tax imposed by this chapter.

(17) "Retailer" means a person who engages in the business of selling cigarettes to consumers and includes the owner of a cigarette vending machine.

(17-a) "Roll-your-own machine" means a machine for commercial use at a retail premise that is capable of producing cigarettes only in quantities for personal use.

(18) "Stamp" includes only a stamp that:

(A) is printed, manufactured, or made by authority of the comptroller;

(B) shows payment of the tax imposed by this chapter;

(C) is consecutively numbered and uniquely identifiable as a Texas tax stamp; and

(D) is not damaged beyond recognition as a valid Texas tax stamp.

(19) "Wholesaler" means a person, including a manufacturer's representative, who sells or distributes cigarettes in this state for resale but who is not a distributor.

Acts 1981, 67th Leg., p. 1638, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 1, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 1, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 1, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 705, Sec. 10, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.262, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 40, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.15, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 540, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1263, Sec. 46, eff. Oct. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 1, eff. September 1, 2019.

Sec. 154.002. STORAGE. (a) The commercial business location where cigarettes are stored or kept cannot be a residence or a unit in a public storage facility.

(b) For the purpose of Subsection (a), the vehicle of a manufacturer's representative is not a residence or public storage facility.

Added by Acts 2001, 77th Leg., ch. 540, Sec. 2, eff. Sept. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 2, eff. September 1, 2019.

SUBCHAPTER B. IMPOSITION AND RATE OF TAX

Sec. 154.021. IMPOSITION AND RATE OF TAX. (a) A tax is imposed on a person who uses or disposes of cigarettes in this state.

(b) The tax rates are:

(1) $70.50 per thousand on cigarettes weighing three pounds or less per thousand; and

(2) the rate provided by Subdivision (1) plus $2.10 per

thousand on cigarettes weighing more than three pounds per thousand.

Acts 1981, 67th Leg., p. 1640, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 1, eff. Aug. 1, 1984, Sec. 2, eff. Sept. 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 4, Sec. 1; Acts 1990, 71st Leg., 6th C.S., ch. 5, Sec. 2.01, eff. July 1, 1990.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 7 (H.B. 5), Sec. 1, eff. January 1, 2007.

Sec. 154.022. TAX IMPOSED ON FIRST SALE OF CIGARETTES. The cigarette tax is imposed and becomes due and payable when a person receives cigarettes to make a first sale.

Acts 1981, 67th Leg., p. 1640, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 2, eff. June 7, 1991.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 3, eff. September 1, 2019.

Sec. 154.0225. LIABILITY OF PERMITTED DISTRIBUTOR. A permitted distributor who makes a first sale to a permitted distributor in this state is liable for and shall pay the tax imposed by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 4, eff. September 1, 2019.

Sec. 154.023. IMPACT OF TAX. The ultimate consumer or user in this state bears the impact of the tax imposed by this chapter. If another person pays the tax, the amount of the tax is added to the price to the ultimate consumer or user.

Acts 1981, 67th Leg., p. 1640, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 154.024. IMPORTATION OF SMALL QUANTITIES. (a) A person who imports and personally transports 200 or fewer cigarettes into

this state from another state or from an Indian reservation under the jurisdiction of the United States government is not required to pay the tax imposed by this chapter if the person uses the cigarettes and does not sell them or offer them for sale. A person who imports and personally transports 200 or fewer cigarettes into this state from a foreign country shall pay the tax imposed by this chapter and have affixed on each individual package of cigarettes a stamp to show payment of the tax.

(b) Employees of the Texas Alcoholic Beverage Commission who collect taxes on alcoholic beverages at ports of entry shall collect at the ports of entry the tax imposed by this chapter on cigarettes imported into this state. In computing the amount of taxes to be collected, the commission may round the total amount up to the nearest quarter of a dollar.

(c) The comptroller and the Texas Alcoholic Beverage Commission shall make rules for the administration of this section.

Acts 1981, 67th Leg., p. 1640, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 2, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.16, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1110, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 792 (S.B. 269), Sec. 2, eff. September 1, 2005.

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 5, eff. September 1, 2019.

Sec. 154.025. LIEN TO SECURE PAYMENT OF TAX. (a) In this section, "collecting agent" means a person who pays or who is liable for payment of the tax imposed under Section 154.022 and who is not the consumer of the cigarettes on which the tax is imposed.

(b) A collecting agent is an agent of the state for the purpose of collecting the cigarette tax for the state.

(c) A collecting agent has a lien on:

(1) cigarettes on which the collecting agent has paid or is liable for the payment of the tax imposed under Section 154.022; and

(2) the proceeds from the sale of the cigarettes.

(d) The lien under this section attaches to all cigarettes purchased from a collecting agent and all proceeds from the sale of

the cigarettes on the date that the cigarettes are sold by the collecting agent. An action by the collecting agent or any other person is not required to perfect the lien.

(e) The lien under this section takes priority over any other lien on the cigarettes purchased from a collecting agent and the proceeds from the sale of the cigarettes, except the preferred state tax lien under Section 154.413.

(f) A collecting agent may enforce a lien under this section through any legal proceeding, including a proceeding under Title 11, U.S.C., and assertion of an administrative priority claim to the extent that the lien does not adequately protect the collecting agent.

(g) A prior demand is not required to commence an action to enforce a lien under this section.

(h) In an action to enforce a lien under this section, a court may prevent the resale of any cigarettes on which a collecting agent has the lien by any appropriate order, including the seizure of the cigarettes by an appropriate legal officer through attachment, sequestration, or other procedure. It is not a defense to the granting of injunctive relief by the court that remedies at law, including a suit for damages, are available.

(i) A court shall distribute money received from the foreclosure of a lien under this section in the following order:

(1) payment of all costs and expenses, including attorney fees, incurred by a collecting agent to enforce the lien;

(2) payment of taxes on the cigarettes purchased from the collecting agent and subject to the lien, including not only the taxes on the cigarettes and proceeds subject to the foreclosure but also the taxes on all cigarettes for which the collecting agent has not received payment in accordance with the terms of the agreement between the collecting agent and the person to whom the collecting agent sold the cigarettes; and

(3) any remaining money to the person against whom the lien operates.

(j) A lien under this section may not be waived if the tax payment that is secured by the lien has not been paid to the collecting agent. A purported waiver of the tax payment is void.

(k) To the extent allowed by law, the priority claim of the comptroller under 11 U.S.C. Section 507(d) for taxes imposed by Section 154.022 is assigned to the collecting agent.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 3, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.17, eff. Sept. 1, 1997.

Sec. 154.026. CIGARETTES USED EXCLUSIVELY FOR RESEARCH PURPOSES. (a) Cigarettes are exempt from the tax imposed by Section 154.021 if the cigarettes are:

(1) contained in a package labeled with "Experimental Use Only," "Reference Cigarettes," or other similar wording indicating that the manufacturer intends for the product to be used exclusively for experimental purposes in compliance with 27 C.F.R. Section 40.232;

(2) sold directly by a manufacturer to a research facility in this state, including:

(A) a laboratory, hospital, medical center, college, or university; or

(B) a facility designated as a Tobacco Center of Regulatory Science by the National Institutes of Health;

(3) used by the research facility exclusively for experimental purposes; and

(4) not resold by the research facility.

(b) Sections 154.041, 154.302, 154.502, 154.503, and 154.515 do not apply to cigarettes exempted by Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 33 (S.B. 1390), Sec. 3, eff. September 1, 2017.

SUBCHAPTER C. TAX STAMPS

Sec. 154.041. STAMP REQUIRED. (a) A person who pays a tax imposed by this chapter shall securely affix a stamp to each individual package of cigarettes to show payment of the tax.

(b) Except as provided by Section 154.152, each distributor shall obtain the necessary stamps before receiving or accepting delivery of unstamped packages of cigarettes. The possession of unstamped packages of cigarettes without the possession of the requisite amount or number of stamps is prima facie evidence that the cigarettes are possessed for the purpose of making a first sale without stamps and without payment of the tax imposed by this

chapter.

(c) The absence of a stamp on an individual package of cigarettes is notice that the tax has not been paid.

(d) A manufacturer of cigarettes outside this state may purchase a stamp and affix it to the individual package and no further payment of the tax is required.

(e) The transfer of possession of cigarettes by a bonded agent to a distributor in this state, under instructions received from outside this state, is not a first sale.

Acts 1981, 67th Leg., p. 1640, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 788, ch. 188, Sec. 1, eff. May 21, 1983; Acts 1991, 72nd Leg., ch. 409, Sec. 4, eff. June 7, 1991.

Sec. 154.0415. CIGARETTES TO WHICH STAMPS MAY NOT BE AFFIXED. A person may not affix a stamp to a package of cigarettes if the package:

(1) does not comply with the Cigarette Labeling and Advertising Act (15 U.S.C. Section 1331 et seq.) for the placement of labels, warnings, or any other information for a package of cigarettes to be sold within the United States;

(2) is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S.," or other wording indicating that the manufacturer did not intend that the product be sold in the United States;

(3) has been altered by adding or deleting wording, labels, or warnings described in Subdivision (1) or (2);

(4) has been imported into the United States in violation of 26 U.S.C. Section 5754;

(5) in any way violates federal trademark or copyright laws; or

(6) contains cigarettes with respect to which any person is not in compliance with 15 U.S.C. Section 1335a, as amended, relating to submission of ingredient information to federal authorities, 19 U.S.C. Sections 1681-1681b, as amended, relating to imports of certain cigarettes, 26 U.S.C. Section 5754, as amended, or relating to previously exported tobacco products.

Added by Acts 1999, 76th Leg., ch. 1539, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1104, Sec. 1, eff. Sept. 1, 2001.

Sec. 154.042. DISTRIBUTOR. (a) A distributor shall affix the required tax stamps to each individual package that is to be sold, offered for sale, consumed, distributed, handled, or transported.

(b) Except as provided by Subsection (c), each distributor in this state shall affix the required stamps within 96 hours after receiving the cigarettes, excluding Saturdays, Sundays, and legal holidays.

(c) If a distributor reasonably foresees that the distributor will receive cigarettes in quantities that will make compliance with Subsection (b) commercially impracticable in the normal course of business, the distributor shall provide the comptroller, before receipt of the cigarettes, with advance written notice of the anticipated noncompliance and a plan for achieving compliance. On receipt of the written notice, the comptroller shall review the plan and determine whether to provide an extension of time in which the tax stamps must be affixed after the distributor receives the cigarettes. The comptroller may not unreasonably withhold an extension of time.

(d) A plan for achieving compliance that is submitted to the comptroller under Subsection (c) is confidential and not subject to Chapter 552, Government Code.

Acts 1981, 67th Leg., p. 1641, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 5, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 37, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.18, eff. Sept. 1, 1997.

Sec. 154.043. SALE OF STAMPS. Except as provided in Section 154.044 of this code, only the comptroller may sell cigarette stamps. The stamps may be sold only in quantities made available by the comptroller. The purchaser shall place the order for stamps directly with the comptroller.

Acts 1981, 67th Leg., p. 1641, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 89, Sec. 1, eff. Aug. 26, 1985; Acts 1997, 75th Leg., ch. 1423, Sec. 19.19, eff. Sept. 1, 1997.

Sec. 154.044. PURCHASE FROM A DISTRIBUTOR. (a) If a distributor does not possess sufficient unused stamps to cover the distributor's inventory of unstamped cigarettes, the comptroller may allow the distributor to purchase the required stamps from any distributor through a requisition from the comptroller so that the unstamped cigarettes may be stamped immediately under the direction of the comptroller.

(b) The comptroller may issue the requisition. The requisition shall be in triplicate on a form prescribed by the comptroller. The copies shall be designated "original," "duplicate," and "triplicate." The comptroller shall keep the original and send the duplicate to the purchaser and the triplicate to the seller. The purchaser and seller shall keep their respective copies available at all times for four years for inspection by the comptroller and the attorney general.

Acts 1981, 67th Leg., p. 1641, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 3, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 6, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.20, eff. Sept. 1, 1997.

Sec. 154.045. RECALL BY COMPTROLLER. (a) The comptroller may recall unused stamps.

(b) If the comptroller recalls stamps, the purchaser, on the comptroller's demand, shall surrender the stamps to the comptroller for exchange.

(c) If the comptroller recalls stamps and receives them from the purchaser, the comptroller shall issue stamps with different serial numbers for the recalled stamps.

Acts 1981, 67th Leg., p. 1641, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 4, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.21, eff. Sept. 1, 1997.

Sec. 154.046. INVOICE FOR STAMPS. (a) The comptroller shall send an original invoice along with any stamps shipped to a distributor.

(b) The invoice shall be issued in duplicate and numbered consecutively. The invoice must show:

(1) the date of sale;

(2) the name and address of the distributor;
(3) the number of stamps;
(4) the serial numbers of the stamps; and
(5) the denomination and value of the stamps.

(c) The distributor shall have the original invoice available at all times for four years for inspection by the comptroller and the attorney general.

Acts 1981, 67th Leg., p. 1641, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 5, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 7, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.22, eff. Sept. 1, 1997.

Sec. 154.047. STAMPS SHIPPED WITH DRAFT ATTACHED. (a) A distributor may order stamps to be shipped to a bank with which the distributor regularly transacts business if the bank is a designated state depository under Section 404.022, Government Code. The comptroller may ship the stamps to the bank with the invoice required by Section 154.046 and a form draft.

(b) The comptroller shall prescribe the form of the draft. The draft must show:
(1) the amount of the draft;
(2) the name of the distributor;
(3) the name and address of the bank; and
(4) the date of shipment.

(c) If the draft is not paid within 20 days after the date of the draft, the bank shall return the draft and stamps to the comptroller. The comptroller shall notify the distributor to appear before the comptroller to show cause why the distributor should not be denied the privilege of ordering stamps shipped with draft attached. If the distributor fails to show good cause, the comptroller may stop shipping stamps with draft attached.

Acts 1981, 67th Leg., p. 1642, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 89, Sec. 2, eff. Aug. 26, 1985; Acts 1991, 72nd Leg., ch. 409, Sec. 8, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.23, eff. Sept. 1, 1997.

Sec. 154.050. PAYMENT. (a) The comptroller shall require that

payment in full for stamps be made within 30 days after the date stamps and an accompanying invoice from the comptroller are received by the distributor, except that at the close of each biennium, payment for stamps purchased or received on or before August 31 of that fiscal year shall be made in full on or before August 31 of that fiscal year, providing that such payment be received in the office of the comptroller no later than August 31 of that fiscal year notwithstanding any other statute regarding tax due dates to the contrary.

(b) The comptroller may not ship stamps without advance payment under this section unless the distributor has satisfied all requirements imposed under Section 154.051.

(c) Payment for stamps must be made by cashier's check payable to the comptroller, electronic funds transfer to the comptroller, or any other method of payment authorized by the comptroller.

(d) The dishonor of a check delivered to the comptroller for payment of stamps constitutes a failure to pay the tax when due.

Acts 1981, 67th Leg., p. 1642, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2779, ch. 752, Sec. 12, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 580, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 240, Sec. 7, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 10, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1040, Sec. 42, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.26, eff. Sept. 1, 1997.

Sec. 154.051. CIGARETTE TAX RECOVERY TRUST FUND. (a) The cigarette tax recovery trust fund is a private trust fund established outside the state treasury and as provided by this section secures the payment of cigarette taxes by distributors who contribute to the fund. The fund is composed of the total amount in the separate accounts maintained in trust for all contributing distributors as provided by this section. The assets of the fund, including interest earned by those assets, are to be held in trust for the benefit and protection of the state treasury, and may not be diverted, distributed, or appropriated for any purpose other than as provided by this section. Interest earned by a distributor's account but not yet refunded to the distributor pursuant to Subsection (d) shall, on a monthly basis, be paid to the comptroller as provided by Subsection

(b) or credited to the distributor's account.

(b) The comptroller is the trustee of the fund as provided by Section 404.073, Government Code, and shall manage the fund as provided by this section. In investing the assets of the fund, the comptroller has the obligations, duties, and powers provided for the investment of state funds by Sections 404.021 through 404.0245, Government Code. The comptroller shall receive five percent of the interest earned on all assets of the fund as compensation for serving as trustee of the fund.

(c) A distributor who orders stamps from the comptroller under this chapter without advance payment shall contribute to an account maintained in the distributor's name in the fund money in the amount of each allowance to which the distributor is entitled under Section 154.052. When the money in the distributor's account equals 20 percent of the designated amount of stamps requested by the distributor and approved by the comptroller to be purchased in any one month, the distributor's interest in the fund becomes vested.

(d) Except as provided by Subsection (g) of this section, on the last day of each quarter after the quarter in which a distributor's interest in the fund becomes vested, the comptroller shall refund to the distributor all money contributed to the fund by the distributor under Subsection (c) of this section in the earliest preceding quarter for which a refund has not been paid, plus interest earned on that amount, as long as the distributor's interest in the fund remains vested.

(e) Until a distributor who orders stamps without advance payment acquires a vested interest in the fund, the comptroller may require the distributor to post with the comptroller an irrevocable letter of credit drawn in the form and amount specified by the comptroller to secure the payment of cigarette taxes by that distributor. The comptroller may not ship stamps to a distributor not having a vested interest in the fund without advance payment until the distributor posts the required letter of credit.

(f) In addition to any other requirement under this section, the comptroller as a condition for shipping stamps without advance payment may:

(1) require a fiscal-year-end financial statement, including a balance sheet and income statement verifiable as to its accuracy or other financial information acceptable to the comptroller and verifiable as to its accuracy;

(2) require indemnification from each officer, director, and stockholder owning 10 percent or more of outstanding stock, if the distributor is a corporation, from each partner, if the distributor is a partnership, from each member or owner of a joint venture or syndication, and from the owner of a sole proprietorship;

(3) require the distributor to obtain and provide the comptroller with a credit report from a credit reporting agency acceptable to the comptroller;

(4) require a distributor to increase the balance in its account in the fund;

(5) require a distributor to post a letter of credit;

(6) reduce a distributor's credit time or amount; or

(7) take any other reasonable and necessary action to protect the state treasury from loss due to the nonpayment of cigarette taxes.

(g) If a distributor who has an account in the fund fails to pay in full a tax imposed by this chapter by the due date, the comptroller, without prior notice to the distributor or any other preliminary procedure, may seize any unaffixed stamps and any stamped cigarette packages, up to and including the full amount of unpaid tax. If the proceeds from the seizure do not satisfy the total tax deficiency or the comptroller does not seize any unaffixed stamps or stamped cigarette packages, the comptroller may withdraw immediately from the fund an amount equal to the amount of unpaid taxes due. The comptroller shall first withdraw the amount from the account of the defaulting distributor. The comptroller shall use the comptroller's best efforts to collect the tax due from the defaulting distributor before withdrawing money from the other accounts in the fund to satisfy the tax liability. If that distributor's account does not contain sufficient money to satisfy the tax liability in full, the comptroller shall withdraw the additional amount necessary to satisfy that liability from the other accounts in the fund in proportion to the balance of each account, except that the withdrawal from any other distributor's account in the fund is limited to an amount not greater than 50 percent of the designated amount of stamps requested by the distributor under Subsection (c) or of the amount required by the comptroller under Subsection (f)(4). Not later than the fifth day after the date of a withdrawal, the comptroller shall notify each distributor of the withdrawal from its account and the amount withdrawn. If as a result of a withdrawal made under this subsection

a distributor's balance in its account is reduced to an amount less than the minimum required under this section, the distributor's interest in the fund is no longer vested, and the comptroller may discontinue refunds to the distributor under Subsection (d) until the distributor again acquires a vested interest in the fund. The comptroller may require a distributor whose interest in the fund is no longer vested to post an irrevocable letter of credit with the comptroller to secure the payment of cigarette taxes by the distributor. To protect the fund, each distributor having an account in the fund must indemnify the fund against any amount withdrawn from the fund under this subsection because of the failure of the distributor to pay in full a tax imposed by this chapter by the due date.

(h) If distributor accounts, other than a defaulting distributor account, are drawn pursuant to Subsection (g), each affected, nondefaulting distributor shall have a claim against the defaulting distributor for the amount so drawn. The comptroller is hereby appointed trustee, agent, and assignee of each affected, nondefaulting distributor for purposes of seeking recovery of the amount so drawn. The comptroller shall have the sole judgment and discretion in deciding whether or not to pursue such a claim and shall have discretion to handle any such claim on any basis that in the opinion of the comptroller is in the best interest of the fund. The comptroller is released from any liability related to the handling of the claims described in this section except for intentional or wilful misconduct.

(i) A distributor or person authorized to act on behalf of a distributor may notify the comptroller in writing that the distributor no longer desires to have stamps shipped or a meter set without advance payment, and may request that the money in the distributor's account in the fund be paid to the distributor or the distributor's heirs or assigns. The comptroller shall pay the money in the distributor's account as requested at the end of the next quarter after all outstanding taxes owed to the state by the distributor have been paid.

(j) Under no circumstances shall the comptroller return to any distributor an amount greater than the balance in the distributor's account within the cigarette tax recovery trust fund less any sums drawn pursuant to Subsection (g). The State of Texas' liability to any distributor pursuant to this section is expressly limited to the

sums on deposit in the distributor's account at the time the request for return of funds is made.

(k) The comptroller may adopt and enforce rules necessary to carry out this section.

(l) For purposes of this section, "quarter" refers to a quarter of the state's fiscal year.

(m) Information provided under Subsection (f) is confidential and not subject to Chapter 552, Government Code.

(n) The comptroller shall regularly distribute financial information regarding the performance of the fund to participating distributors on a regular basis. On the written request of a participating distributor, the comptroller shall provide the distributor with the name and address of each distributor participating in the fund, the percentage of the total fund represented by each distributor's account, and the total amount of money in the fund.

(o) In lieu of participation in the cigarette tax recovery trust fund to secure payment for stamps and in lieu of advance payment for stamps, a distributor may pledge to the comptroller sufficient collateral to secure payment for stamps. Such pledge shall be evidenced by a pledge agreement in a form promulgated by the comptroller, and such collateral shall consist of certificates of deposit, treasury notes, treasury bills, or other similar types of collateral acceptable to the comptroller and held in a separate trust fund established in the Texas Treasury Safekeeping Trust Company. All interest earned on such collateral shall belong to the distributor. The comptroller may require the pledge of additional collateral in the event the comptroller determines that the fair market value of the pledged collateral is less than the amount due the comptroller for stamps. On the written request of the distributor, the comptroller shall release collateral from the pledge agreement or allow the substitution of collateral subject to the pledge agreement if after such release or substitution the fair market value of the collateral subject to the pledge will be equal to or greater than the amount due the comptroller for stamps. If a distributor fails to pay tax in full when due, the comptroller may, if the distributor does not pay such past due tax and any penalty related thereto within three days after receipt of written notice of such failure from the comptroller, sell or dispose of the collateral and apply the proceeds to the payment of taxes, interest, penalties,

and costs due to the comptroller by the distributor, with any remaining proceeds being refunded to the distributor.

Acts 1981, 67th Leg., p. 1643, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 89, Sec. 3, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 580, Sec. 2, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 409, Sec. 11, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 38, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 891, Sec. 3.20, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 43, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.27, eff. Sept. 1, 1997.

Sec. 154.052. DISTRIBUTOR'S STAMPING ALLOWANCE. (a) A distributor is, subject to the provisions of Section 154.051, entitled to 2.5 percent of the face value of stamps purchased as a stamping allowance for providing the service of affixing stamps to cigarette packages, except that an out-of-state distributor is entitled to receive only the same percentage of stamping allowance as that given to Texas distributors doing business in the state of the distributor.

(b) If a distributor violates a provision of this chapter, the distributor is not entitled to receive a stamping allowance for the period of the violation. On a determination by the comptroller that the distributor is no longer in violation of a provision of this chapter, the distributor is entitled to receive a stamping allowance.

Acts 1981, 67th Leg., p. 1643, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 580, Sec. 3, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 240, Sec. 8, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 12, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.28, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 11.01, eff. October 1, 2011.

Sec. 154.053. MANUFACTURE OF STAMPS. (a) The comptroller shall design and have printed or manufactured cigarette tax stamps. If the comptroller determines that it is necessary for the best

enforcement of this chapter, the comptroller may change the design, color, or denomination of the stamps. The comptroller shall determine the size, design, color, or denomination, and quantity of stamps manufactured. The stamps shall be manufactured so that they may be easily and securely attached to an individual package of cigarettes. The comptroller may designate the method of identification for the stamps and shall award the contract for the printing or manufacturing to the person submitting the bid that will give the best protection to the state in enforcing this chapter.

(b) The comptroller shall designate the date of issue of new stamps by issuing a proclamation. The date of the proclamation is the date of issue.

(c) The comptroller shall design and furnish stamps in a manner that permits identification of the person that affixed the stamp to the particular package of cigarettes by means of a number or other mark on the stamp. The comptroller shall maintain for at least four years the information identifying the person that affixed the stamp to each package of cigarettes.

Acts 1981, 67th Leg., p. 1643, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 9, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 13, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.29, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1104, Sec. 2, eff. Sept. 1, 2001.

Sec. 154.054. REDEMPTION AND DESTRUCTION OF STAMPS. (a) The comptroller may redeem unused cigarette tax stamps that were lawfully issued before a design, color, or denomination change.

(b) The comptroller may destroy stamps in the manner the comptroller considers best.

Acts 1981, 67th Leg., p. 1643, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 10, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 14, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.3, eff. Sept. 1, 1997.

Sec. 154.058. INVENTORY ON TAX INCREASE. (a) On the effective date of a tax increase, each distributor, wholesaler, and retailer who has 2,000 or more cigarettes in packages stamped with stamps of

an old design, color, or denomination shall immediately inventory the packages and any unused stamps of an old design, color, or denomination and file a report of the inventory with the comptroller.

(b) Not later than the 30th day after the date of the increase, each distributor, wholesaler, and retailer shall pay the amount of the additional tax due because of the tax increase by attaching to the inventory a cashier's check payable to the comptroller, by electronic funds transfer to the comptroller or by any other method of payment authorized by the comptroller.

(c) Each distributor, wholesaler, and retailer shall keep a copy of the inventory and must be able to document the method of payment used.

(d) This section does not affect the date payment is due for stamps of an old design, color, or denomination if payment has not been made for the stamps on or before the effective date of the tax increase.

Acts 1981, 67th Leg., p. 1644, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 2, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 12, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 15, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.31, eff. Sept. 1, 1997.

Sec. 154.060. CANCELLATION. No person may cancel, mark, alter, or mutilate a stamp on a package of cigarettes so that the comptroller is prevented from or hindered in examining the genuineness of the stamp.

Acts 1981, 67th Leg., p. 1644, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 13, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.32, eff. Sept. 1, 1997. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 6, eff. September 1, 2019.

Sec. 154.061. PENALTY FOR FAILURE TO PAY TAX. (a) A distributor who fails to timely pay the tax when due shall pay five percent of the amount of tax then due as a penalty, and if the distributor fails to pay the tax within 30 days after the day on

which the tax is due, the distributor shall pay an additional five percent.

(b) The minimum penalty imposed by this section is $50.

(c) The dishonor of a check delivered to the treasury for payment of taxes constitutes a failure to pay the tax when due.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 16, eff. June 7, 1991.

SUBCHAPTER D. PERMITS

Sec. 154.101. PERMITS. (a) A person may not engage in business as a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer unless the person has applied for and received the applicable permit from the comptroller.

(b) Each distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer shall obtain a permit for each place of business owned or operated by the distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer. The comptroller may not issue a permit for a place of business that is a residence or a unit in a public storage facility.

(c) The comptroller shall prescribe the form and content of an application for a permit and shall furnish the form on request of an applicant.

(d) The applicant shall accurately complete all information required by the application and provide the comptroller with such additional information as the comptroller deems necessary.

(e) The comptroller may require each corporation, association, joint venture, syndicate, partnership, or proprietorship to furnish financial information regarding the applicant and to provide the identity of each officer, director, stockholder owning 10 percent or more of the outstanding stock, partner, member, owner, or managing employee.

(f) Each distributor, wholesaler, and retailer that applies for a permit to sell cigarettes from a vehicle must provide the make, model, vehicle identification number, registration number, and any other information required by the comptroller.

(g) All financial information provided under this section is confidential and not subject to Chapter 552, Government Code.

(h) Permits for engaging in business as a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer,

or retailer shall be governed exclusively by the provisions of this code.

(i) This section does not apply to a research facility that possesses and uses cigarettes only for experimental purposes.

(j) A person engaged in the business of selling cigarettes for commercial purposes who provides a roll-your-own machine available for use by consumers must obtain manufacturer's, distributor's, and retailer's permits.

Acts 1981, 67th Leg., p. 1645, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 3, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 14, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 17, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 39, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.33, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 47, eff. Oct. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 7, eff. September 1, 2019.

Sec. 154.1015. SALES; PERMIT HOLDERS AND NONPERMIT HOLDERS. (a) Except for retail sales to consumers, cigarettes may only be sold or distributed by and between permit holders as provided by this section.

(b) A person who is not a permit holder may not sell or distribute more than 200 individual cigarettes to any person.

(c) A manufacturer outside this state who is not a permitted distributor may sell cigarettes only to a permitted distributor.

(d) A permitted distributor may sell cigarettes only to a permitted distributor, wholesaler, or retailer.

(e) A permitted importer may sell cigarettes only to a permitted distributor, wholesaler, or retailer.

(f) A permitted wholesaler may sell cigarettes only to a permitted distributor, wholesaler, or retailer.

(g) A permitted retailer may sell cigarettes only to the consumer and may purchase cigarettes only from a permitted distributor or wholesaler in this state.

(h) A permitted export warehouse may sell cigarettes only to

persons authorized to sell or consume unstamped cigarettes outside the United States.

(i) A manufacturer's representative may sell cigarettes only to a permitted distributor, wholesaler, or retailer.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 18, eff. June 7, 1991.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 8, eff. September 1, 2019.

Sec. 154.102. COMBINATION PERMIT. (a) The comptroller may issue a combination permit for cigarettes and tobacco products to a person who is a distributor, wholesaler, bonded agent, manufacturer, importer, or retailer as defined by this chapter and Chapter 155 for both cigarettes and tobacco products.

(b) A person who receives a combination permit pays only the higher of the two permit fees.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 19, eff. June 7, 1991.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.34, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 48, eff. Oct. 1, 2001.

Sec. 154.107. DENIAL OF PERMIT. The comptroller may reject an application and deny a permit if the comptroller finds, after notice and opportunity for hearing, any of the following:

(1) the premises where business will be conducted are not adequate to protect the cigarettes or cigarette stamps; or

(2) the applicant or managing employee, or if the applicant is a corporation, an officer, director, manager, or any stockholder who holds directly or through family or partner relationship 10 percent or more of the corporation's stock, or, if the applicant is a partnership, a partner or manager:

(A) has failed to disclose any information required by Sections 154.101(d), (e), and (f), including prior business experience, financial condition of the permit holder, present or previous business affiliations, prior employment, and any conviction of a felony, or has made a false statement in the application; or

(B) has previously violated provisions of this chapter.

Acts 1981, 67th Leg., p. 1646, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 19, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 20, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.35, eff. Sept. 1, 1997.

Sec. 154.110. ISSUANCE OF PERMIT. (a) The comptroller shall issue a permit to a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer if the comptroller:

(1) has received an application and fee, if required;

(2) believes that the applicant has complied with Section 154.101; and

(3) determines that issuing the permit will not jeopardize the administration and enforcement of this chapter.

(b) The permit shall be issued for a designated place of business, except as provided by Section 154.117.

(c) The permits are nonassignable.

(d) The permit must indicate the type of permit that it is and authorize the sale of cigarettes in this state. The permit must show that it is revocable and shall be forfeited or suspended if the conditions of issuance, provisions of this chapter, or rules of the comptroller are violated.

Acts 1981, 67th Leg., p. 1646, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 7, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 21, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 21, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.36, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 49, eff. Oct. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 9, eff. September 1, 2019.

Sec. 154.111. PERMIT YEAR; FEES. (a) A permit required by this chapter expires on the last day of February of each year, except that the retailer's permit required by Section 154.101 expires on the last day of May of each even-numbered year.

(b) An application for a permit required by this chapter must

be accompanied by a fee of:

(1) $300 for a bonded agent's permit;

(2) $300 for a distributor's permit;

(3) $200 for a wholesaler's permit;

(4) $15 for each permit for a vehicle if the applicant is also applying for a permit as a bonded agent, distributor, or wholesaler or has received a current permit from the comptroller under Sections 154.101 and 154.110; and

(5) $180 for a retailer's permit.

(c) A fee is not required for an export warehouse permit.

(d) For a new or renewal permit required by Section 154.101, the comptroller shall prorate the fee according to the number of months remaining during the calendar year that the permit is to be in effect.

(e) A person who does not obtain a permit each year in a timely manner must pay a fee of $50 in addition to the application fee for the permit.

(f) If at the date of issuance a permit will expire within three months, the comptroller may collect the prorated permit fee or the fee for the current year and, with the consent of the permit holder, may collect the fee for the next permit year and issue a permit or permits for both periods, as applicable.

(g) A person issued a permit for a place of business that permanently closes before the permit expiration date is not entitled to a refund of the permit fee.

Acts 1981, 67th Leg., p. 1647, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 8, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 22, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 21, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 671, Sec. 4.01, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.37, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 10, eff. September 1, 2019.

Sec. 154.1135. PAYMENT FOR PERMITS. (a) An applicant for a permit required by Section 154.101 shall send the required fee with the application.

(b) The payment must be in cash or by money order or check.

(c) A permit may not be issued in exchange for a check until after the comptroller has received full payment on the check.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 22, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.38, eff. Sept. 1, 1997.

Sec. 154.114. FINAL SUSPENSION OR REVOCATION OF A PERMIT. (a) The comptroller may suspend or revoke a person's permit if the comptroller finds, after notice and hearing as provided by this section, that the permit holder violated this chapter or an administrative rule made under this chapter.

(b) If the comptroller intends to suspend or revoke a permit, the comptroller shall provide the permit holder with written notice that includes a statement:

(1) of the reason for the intended revocation or suspension;

(2) that the permit holder is entitled to a hearing by the comptroller on the proposed suspension or revocation of the permit; and

(3) of the date, time, and place of the hearing.

(c) The comptroller shall deliver the written notice by personal service or by mail to the permit holder's mailing address as it appears on the comptroller's records. Service by mail is complete when the notice is deposited with the U.S. Postal Service.

(d) The comptroller shall give the permit holder not less than 10 days' notice of a final hearing.

(e) A permit holder may appeal the decision of the comptroller to a district court in Travis County not later than the 30th day after the date the comptroller's decision becomes final.

(f) A person whose permit is suspended or revoked may not sell, offer for sale, or distribute cigarettes from the place of business to which the permit applied until a new permit is granted or the suspension is removed.

(g) If the comptroller suspends or revokes a permit, the comptroller shall provide written notice of the suspension or revocation, within a reasonable time, to each distributor and wholesaler permit holder in the state. A distributor or wholesaler

permit holder violates Section 154.1015(a) by selling or distributing cigarettes to a person whose permit has been suspended or revoked only after the distributor or wholesaler permit holder receives written notice of the suspension or revocation from the comptroller.

Acts 1981, 67th Leg., p. 1647, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 9, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 25, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 23, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 40, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.39, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.39, eff. Oct. 1, 1999.

Sec. 154.1141. SUMMARY SUSPENSION OF A PERMIT. (a) The comptroller may suspend a person's permit without notice or a hearing for the person's failure to comply with this chapter or a rule adopted under this chapter if the person's continued operation constitutes an immediate and substantial threat to the collection of taxes imposed by this chapter and attributable to the person's operation.

(b) If the comptroller summarily suspends a person's permit, proceedings for a preliminary hearing before the comptroller or the comptroller's representative must be initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than 10 days after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the permit holder must show cause why the permit should not remain suspended pending a final hearing on suspension or revocation.

(d) Chapter 2001, Government Code, does not apply to a summary suspension under this section.

(e) To initiate a proceeding to suspend summarily a person's permit, the comptroller shall serve notice on the permit holder informing the permit holder of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. The notice must be personally served on the permit holder or an officer, employee, or agent of the permit holder or sent by certified or registered mail, return receipt requested, to the permit holder's mailing address as

it appears in the comptroller's records. The notice must state the alleged violations that constitute the grounds for summary suspension. The suspension is effective at the time the notice is served. If the notice is served in person, the permit holder shall immediately surrender the permit to the comptroller or the comptroller's representative. If notice is served by mail, the permit holder shall immediately return the permit to the comptroller.

(f) Section 154.114, governing hearings for final suspension or revocation of a permit under this chapter, governs a final administrative hearing under this section.

Added by Acts 1995, 74th Leg., ch. 1000, Sec. 41, eff. Oct. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.40, eff. Sept. 1, 1997.

Sec. 154.1142. DISCIPLINARY ACTION FOR CERTAIN VIOLATIONS. (a) A retailer is subject to disciplinary action as provided by this section if:

(1) an agent or employee of the retailer commits an offense under Subchapter H, Chapter 161, Health and Safety Code; and

(2) the retailer, with criminal negligence, failed to prevent the offense through adequate supervision and training of the agent or employee.

(b) If the comptroller finds, after notice and an opportunity for a hearing as provided by this subchapter, that a permit holder has violated Subchapter H or K, Chapter 161, Health and Safety Code, at a place of business for which a permit is issued, the comptroller may suspend the permit for that place of business or administratively assess a fine as follows:

(1) if the permit holder has not been found to have violated Subchapter H or K, Chapter 161, Health and Safety Code, at that place of business during the preceding 12 months, the comptroller may require the permit holder to pay a fine in an amount not to exceed $500;

(2) if the permit holder has been found to have violated Subchapter H or K, Chapter 161, Health and Safety Code, at that place of business once during the preceding 12 months, the comptroller may require the permit holder to pay a fine in an amount not to exceed $750; and

(3) if the permit holder has been found to have violated Subchapter H or K, Chapter 161, Health and Safety Code, at that place of business at least twice during the preceding 12 months, the comptroller may require the permit holder to pay a fine in an amount not to exceed $1,000 or suspend the permit for that place of business for not more than three days.

(c) Except as provided by Section 154.1143, if the permit holder has been found to have violated Section 161.082(b), Health and Safety Code, on four or more previous and separate occasions at the same place of business during the preceding 12 months, the comptroller shall revoke the permit.

(d) A retailer whose permit has been revoked under this section may not apply for a retailer's permit for the same place of business before the expiration of six months after the effective date of the revocation.

Added by Acts 1997, 75th Leg., ch. 671, Sec. 4.03, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1157, Sec. 1, eff. Sept. 1, 1999.

Sec. 154.1143. ACTIONS OF EMPLOYEE. (a) For purposes of Subchapter H, Chapter 161, Health and Safety Code, and the provisions of this code relating to the sale or delivery of cigarettes or tobacco products to a minor, the comptroller may suspend a permit but may not revoke the permit under Section 154.1142(c) if the comptroller finds that:

(1) the employer has not violated Section 161.082(b), Health and Safety Code, more than seven times at the place of business for which the permit is issued in the 24-month period preceding the violation in question;

(2) the employer requires its employees to attend a comptroller-approved seller training program;

(3) the employee has actually attended a comptroller-approved seller training program; and

(4) the employer has not directly or indirectly encouraged the employee to violate the law.

(b) The comptroller shall adopt rules or policies establishing the minimum requirements for approved seller training programs. On application, the comptroller shall approve seller training programs

meeting the requirements that are sponsored privately or by public community colleges. The comptroller may charge an application fee in an amount necessary to defray the expense of processing the application.

(c) The comptroller may approve under this section a seller training program sponsored by a permit holder for the purpose of training its employees without regard to whether the employees are located at the same place of business. This subsection applies only to a permit holder who employs at least 100 persons at any one time during the permit year who sell cigarettes or tobacco products.

Added by Acts 1997, 75th Leg., ch. 671, Sec. 4.04, eff. Sept. 1, 1997.

Sec. 154.1145. HEARINGS. Unless otherwise provided by this chapter, the comptroller shall conduct all hearings required by this chapter in accordance with Chapter 2001, Government Code. The comptroller may designate one or more representatives to conduct the hearings and may prescribe the rules of procedure governing the hearings.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 24, eff. June 7, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 42, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.41, eff. Sept. 1, 1997.

Sec. 154.116. COMPTROLLER MAY REFUSE TO SELL STAMPS. The comptroller may refuse to sell stamps to a person who has not obtained a distributor's permit or to a distributor who does not have a valid permit.

Acts 1981, 67th Leg., p. 1648, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.42, eff. Sept. 1, 1997.

Sec. 154.117. DISPLAY OF PERMIT. (a) Each permit holder shall keep the permit on public display at the place of business for which the permit was issued.

(b) Each permit holder who has a permit assigned to a vehicle shall post the permit in a conspicuous place on the vehicle.

(c) Each retailer who operates a cigarette vending machine shall place a retailer's permit on the machine.

Acts 1981, 67th Leg., p. 1648, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 25, eff. June 7, 1991.

Sec. 154.121. REVENUE. (a) Except as provided by Subsection (b), revenue from the sale of permits to distributors, wholesalers, and bonded agents is allocated in the same manner as other revenue allocated by Subchapter J.

(b) Revenue from the sale of retailer's permits shall be deposited to the general revenue fund and may be appropriated only as provided by this section. The money may be appropriated first to the comptroller for administration of licensing of retailers under this chapter or Chapter 155.

(c) If, after any appropriation is made under Subsection (b), revenue remains from the sale of retailer's permits, the remaining money may be appropriated to the comptroller for administration and enforcement of Subchapters H, K, and N, Chapter 161, Health and Safety Code, and to the Texas Department of Health, for the administration and enforcement of Section 161.253, Health and Safety Code.

(d) If, after any appropriation is made under Subsections (b) and (c), revenue remains from the sale of retailer's permits, the remaining money may be appropriated to the Texas Department of Health to administer the commissioner of public health's responsibilities under Section 161.301, Health and Safety Code.

(e) If, after any appropriation is made under Subsections (b), (c), and (d), revenue remains from the sale of retailer's permits, the remaining money may be appropriated to the appropriate entity to administer that entity's responsibilities under Section 161.302, Health and Safety Code.

Acts 1981, 67th Leg., p. 1648, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 12, eff. March 1, 1986; Acts 1991, 72nd Leg., ch. 409, Sec. 25, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 671, Sec. 4.02, eff. Sept. 1, 1997.

SUBCHAPTER E. INTERSTATE BUSINESS

Sec. 154.152. INTERSTATE STOCK. (a) A distributor shall set aside unstamped cigarette packages for interstate sale and for which no tax is due under federal law in a separate part of the building from the stamped packages. If the unstamped packages for interstate sale or for which no tax is due under federal law are not stored separately, the cigarettes are subject to the same requirements as cigarettes possessed for the purpose of a first sale in this state.

(b) A distributor who possesses unstamped cigarette packages for interstate sale must possess a number of unused stamps from the appropriate state sufficient to stamp the distributor's inventory of unstamped interstate cigarettes, except for cigarette packages for which no tax is due under federal law. Any unstamped packages of cigarettes that exceed the number of out-of-state stamps on hand shall be presumed to be held for sale in this state, except for cigarette packages for which no tax is due under federal law.

(c) A person may not transport or cause to be transported from this state cigarettes for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold.

(d) A person may not affix to cigarettes the stamp required by another state or pay any other excise tax on the cigarettes imposed by another state if the other state prohibits stamps from being affixed to the cigarettes, prohibits the payment of any other excise tax on the cigarettes, or prohibits the sale of the cigarettes.

(e) Not later than the 15th day after the end of each calendar quarter, a person who transports or causes to be transported from this state cigarettes for sale in another state shall submit to the attorney general a report identifying:

(1) the quantity of cigarettes, by brand style, transported or caused to be transported in the preceding calendar quarter; and

(2) the name and address of each recipient of the cigarettes.

Acts 1981, 67th Leg., p. 1649, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 29, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 26, eff. June 7, 1991; Acts 2003, 78th Leg., ch. 1141, Sec. 1, eff. June 20, 2003.

SUBCHAPTER F. RECORDS AND REPORTS

Sec. 154.201. RECORD OF PURCHASE OR RECEIPT. Each distributor, wholesaler, bonded agent, and export warehouse shall keep records at each place of business of all cigarettes purchased or received, including records of those cigarettes for which no tax is due under federal law. Each retailer shall keep records at a single commercial business location, which the retailer shall designate as its principal place of business in this state, of all cigarettes purchased and received. These records must include:

(1) the name and address of the shipper or carrier and the mode of transportation;

(2) all shipping records or copies of records, including invoices, bills of lading, waybills, freight bills, and express receipts;

(3) the date and the name of the place of origin of the cigarette shipment;

(4) the date and the name of the place of arrival of the cigarette shipment;

(5) a statement of the number, kind, and price paid for cigarettes, including cigarettes in stamped and unstamped packages;

(6) the name, address, permit number, and tax identification number of the seller;

(7) in the case of a distributor, copies of the customs certificates required by 19 U.S.C. Section 1681a(c), as amended, for all cigarettes imported into the United States to which the distributor has affixed a tax stamp; and

(8) any other information required by rules of the comptroller.

Acts 1981, 67th Leg., p. 1649, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 13, eff. March 1, 1986; Acts 1991, 72nd Leg., ch. 409, Sec. 27, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 43, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.43, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1104, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 11, eff. September 1, 2019.

Sec. 154.202. RECORD OF STAMPS. (a) A distributor shall keep at each place of business in this state the invoices for all stamps purchased or received from the comptroller and records providing complete information on stamps purchased and the disposition of the stamps.

(b) The records must show:

(1) the date of receipt of stamps purchased;

(2) the beginning and ending serial numbers and the quantity of stamps purchased;

(3) the design, color, or denomination of stamps purchased;

(4) the amount paid for the stamps;

(5) if stamps were sold under Section 154.044, the name of the purchaser, the beginning and ending numbers and quantity of stamps purchased, and the design, color, or denomination and amount paid for the stamps;

(6) the beginning and ending serial numbers and quantity, design, color, or denomination of and amount paid for stamps sent to or received from the comptroller as an exchange; and

(7) the inventory of stamps on hand on the first day of each month, showing the beginning and ending serial numbers and quantity, design, color, or denomination of, and amount paid for, the stamps.

Acts 1981, 67th Leg., p. 1650, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 27, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.44, eff. Sept. 1, 1997.

Sec. 154.203. REPORT OF SALE OR USE. (a) Each distributor and wholesaler shall keep at each place of business in this state records of each sale, distribution, exchange, or use of cigarettes whether taxed under this chapter or not. Each distributor and wholesaler shall prepare and retain an original invoice for each transaction involving cigarettes. Each distributor or wholesaler shall keep any supporting documentation, including bills of lading, showing shipment and receipt used in preparing the invoices at the place of business of the distributor or wholesaler. The distributor or wholesaler shall prepare and deliver a duplicate invoice to the purchaser.

(b) The records for each sale, distribution, exchange, or use of cigarettes must show:

(1) the purchaser's name and address, permit number, or tax identification number;

(2) the method of delivery and the name of the common carrier or other person delivering the cigarettes;

(3) the date, number, and kind of cigarettes in stamped packages sold, distributed, exchanged, or used; and

(4) the date, number, and kind of cigarettes in unstamped packages sold, distributed, exchanged, or used.

Acts 1981, 67th Leg., p. 1650, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 27, eff. June 7, 1991.

Sec. 154.204. MANUFACTURER'S RECORDS AND REPORTS. (a) A manufacturer who sells cigarettes to a permit holder in this state shall keep records showing:

(1) the number and kind of cigarettes in unstamped packages sold;

(2) the number and kind of cigarettes in stamped packages sold, if any;

(3) the date the cigarettes were sold;

(4) the manufacturer's list price for the cigarettes;

(5) the account number and the location where the cigarettes were shipped, if any; and

(6) the name of the common carrier.

(b) A manufacturer who sells cigarettes to a permit holder in this state shall file with the comptroller, on or before the 25th of each month, a report showing the information listed in Subsections (a)(1), (2), (3), and (5) for the previous month. Information related to the manufacturer's list prices must be submitted by the manufacturer 15 days prior to any scheduled changes.

Acts 1981, 67th Leg., p. 1651, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 27, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.45, eff. Sept. 1, 1997. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 12, eff. September 1, 2019.

Sec. 154.205. MANUFACTURER'S REPRESENTATIVE'S RECORDS. A manufacturer's representative shall retain copies of the invoices prepared for each purchase or sale of cigarettes from or to a permittee of the state. The manufacturer's representative shall deliver a copy of the invoice prepared for each sale of cigarettes to the purchaser or recipient of the cigarettes. Such records shall be available for inspection and copying by the comptroller and attorney general for four years.

Acts 1981, 67th Leg., p. 1651, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 27, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.46, eff. Sept. 1, 1997.

Sec. 154.207. COMMON CARRIER RECORDS. (a) Each common carrier shall keep records of cigarettes transported in this state.

(b) The comptroller and the attorney general are entitled to access during regular business hours all records pertaining to cigarettes that are transported.

(c) The records must show for each transaction:

(1) the name and address of the consignor and consignee;

(2) the date of delivery; and

(3) the amount and type of cigarettes transported or handled.

Acts 1981, 67th Leg., p. 1651, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1989, 71st Leg., ch. 240, Sec. 31, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 28, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.47, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 13, eff. September 1, 2019.

Sec. 154.208. BONDED AGENT'S RECORDS. (a) Each bonded agent shall keep, at each of the agent's places of business in this state, records of all cigarettes received, distributed, and delivered.

(b) The records must include:

(1) invoices for receipts and deliveries;

(2) orders for receipts and deliveries;

(3) shipping records for receipts and deliveries; and

(4) shipping records for distribution or delivery.

Acts 1981, 67th Leg., p. 1651, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 28, eff. June 7, 1991. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 14, eff. September 1, 2019.

Sec. 154.2085. EXPORT WAREHOUSE'S RECORDS. (a) Each export warehouse shall keep, at each of the warehouse's places of business in this state, records of all cigarettes received, distributed, and delivered.

(b) The records must include:

(1) invoices for receipts and deliveries;

(2) orders for receipts and deliveries;

(3) shipping records for receipts and deliveries; and

(4) shipping records for distribution and delivery.

Added by Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 15, eff. September 1, 2019.

Sec. 154.209. AVAILABILITY OF RECORDS. (a) Except as provided by Section 111.0041, each permit holder shall keep records available for inspection and copying by the comptroller and the attorney general for at least four years.

(b) If a permit holder's place of business is a vehicle or a vending machine, the permit holder shall designate in the application for a permit a permanent place of business to keep the records. The permit holder shall keep the records in the designated place.

(c) Each permit holder who is required to keep records under this chapter shall provide the comptroller with copies of the records on demand.

Acts 1981, 67th Leg., p. 1652, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 15, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 32, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 28, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.48, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 540, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.08, eff. October 1, 2011.

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 16, eff. September 1, 2019.

Sec. 154.210. DISTRIBUTOR'S REPORT. (a) A distributor shall deliver to the comptroller, on or before the 25th day of each month, a report for the preceding month.

(b) The report must show:

(1) the date the report was made;

(2) the distributor's name and address;

(3) the month the report covers;

(4) the number of cigarettes in stamped packages and the number of cigarettes in unstamped packages on hand at the beginning of the month;

(5) the number of cigarettes in stamped packages and the number of cigarettes in unstamped packages purchased and received during the month;

(6) the number of cigarettes in stamped packages and the number of cigarettes in unstamped packages returned by customers or received from any other source;

(7) the number of cigarettes in stamped packages and the number of cigarettes in unstamped packages sold, used, lost, stolen, returned to the factory, or disposed of in any other manner;

(8) the number of cigarettes in stamped packages and the number of cigarettes in unstamped packages on hand at the end of the month;

(9) the number of cigarettes sold or distributed in interstate commerce;

(10) the number of cigarettes sold or distributed in intrastate commerce;

(11) the beginning and ending serial numbers, design, color, or denomination of, and amount paid for, unused stamps on hand at the beginning of the month;

(12) the beginning and ending serial numbers, design, color, or denomination of, and amount paid for, stamps purchased and received;

(13) the beginning and ending serial numbers, design,

color, or denomination of, and amount paid for, stamps sold, used, lost, stolen, exchanged, returned, or disposed of in any other manner;

(14) the beginning and ending serial numbers, design, color, or denomination of, and amount paid for, stamps on hand at the end of the month;

(15) a summary schedule, on a form prescribed by the comptroller, identifying each receipt of cigarettes, the date of receipt, the shipper, the invoice number, and the quantity of cigarettes received; and

(16) any other information the comptroller requires relating to cigarettes and to the payment of taxes due on them.

(c) The comptroller shall prescribe the form and content of the report.

Acts 1981, 67th Leg., p. 1652, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 33, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 28, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.49, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.40, eff. Oct. 1, 1999.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 33 (S.B. 1390), Sec. 4, eff. September 1, 2017.

Sec. 154.211. FAILURE TO PRODUCE RECORDS. (a) A person's failure to produce the records required by this subchapter or a person's inability to provide other proof of tax payment, on demand by the comptroller, is prima facie evidence that cigarettes possessed by the person were received for the purpose of making a first sale without payment of the tax imposed by this chapter.

(b) This section does not apply to a person who possesses 200 or fewer cigarettes if the person uses the cigarettes and does not sell them or offer them for sale.

(c) This section does not apply to a failure to produce records or provide other proof of tax payment under Subsection (a) if the failure results from an occurrence beyond the person's control.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 29, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.50, eff. Sept. 1, 1997.

Sec. 154.212. REPORTS BY WHOLESALERS AND DISTRIBUTORS OF CIGARETTES. (a) The comptroller may, when considered necessary by the comptroller for the administration of a tax under this chapter, require each wholesaler or distributor of cigarettes to file with the comptroller a report each month of sales to retailers in this state.

(b) The wholesaler or distributor shall file the report on or before the 25th day of each month. The report must contain the following information for the preceding calendar month's sales in relation to each retailer:

(1) the name of the retailer and the address of the retailer's outlet location to which the wholesaler or distributor delivered cigarettes, including city and zip code;

(2) the taxpayer number assigned by the comptroller to the retailer, if the wholesaler or distributor is in possession of the number;

(3) the cigarette permit number of the outlet location to which the wholesaler or distributor delivered cigarettes; and

(4) the monthly net sales made to the retailer by the wholesaler or distributor, including the quantity and units of cigarettes in stamped packages sold to the retailer.

(c) Except as provided by this subsection, the wholesaler or distributor shall file the report with the comptroller electronically. The comptroller may establish procedures for allowing an alternative method of filing for a wholesaler or distributor who demonstrates to the comptroller an inability to comply with the electronic reporting requirement. If the comptroller determines that another technological method of filing the report is more efficient than electronic filing, the comptroller may establish procedures requiring its use by wholesalers and distributors.

(d) Except as provided by Section 111.006, information contained in a report required to be filed by this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 129 (H.B. 11), Sec. 2, eff. September 1, 2007.

SUBCHAPTER G. ADMINISTRATION BY COMPTROLLER

Sec. 154.301. COMPLIANCE INVESTIGATION AND RECOVERY OF COSTS. (a) If the comptroller has reason to believe that a person has failed to pay a tax or penalty in the proper manner when due, as required by this chapter, or otherwise failed to comply with this chapter, the comptroller may employ auditors and investigators to determine compliance and any amount due. If the comptroller determines that the person has not paid the tax or penalty or has failed to comply with this chapter, the comptroller may require the person to pay the reasonable expenses incurred for the compliance investigation and audit as an additional penalty.

(b) The comptroller shall deposit funds paid under this section to the credit of the general revenue fund in the treasury to be used for making audits, conducting investigations, or as otherwise appropriated. The comptroller may use other funds available for audits as appropriated by the legislature.

Acts 1981, 67th Leg., p. 1654, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 35, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 30, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 44, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.52, eff. Sept. 1, 1997.

Sec. 154.302. PAYMENT OF DOUBLE AMOUNT. (a) If the comptroller finds that a person has sold unstamped cigarettes, the comptroller may require the person to pay the state through the comptroller a sum equal to twice the amount of stamp tax due.

(b) If the person does not furnish the comptroller evidence that enough stamps were purchased to cover unstamped cigarettes purchased, it is presumed that the cigarettes were sold without the proper stamps.

Acts 1981, 67th Leg., p. 1654, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 36, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.53, eff. Sept. 1, 1997.

Sec. 154.304. INSPECTION. (a) To determine the tax liability of a person dealing in cigarettes or compliance by the person with this chapter, the comptroller may:

(1) inspect any premises, including a vending machine and its contents, where cigarettes are manufactured, produced, stored, transported, sold, or offered for sale or exchange;

(2) remain on the premises as long as necessary to determine the tax liability or compliance with this chapter;

(3) examine the records required by this chapter or other records, books, documents, papers, accounts, and objects that the comptroller determines are necessary for conducting a complete examination; and

(4) examine stocks of cigarettes and cigarette stamps.

(b) A person dealing in cigarettes may not:

(1) fail to produce, on the comptroller's demand, records required by this chapter; or

(2) hinder or prevent the inspection of records or the examination of the premises.

Acts 1981, 67th Leg., p. 1654, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 38, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 31, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 45, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.54, eff. Sept. 1, 1997.

Sec. 154.305. REFUND FOR STAMPS. (a) The comptroller may provide credit or a refund on stamps that are unfit for sale or use because of damage and on unused stamps in broken or unbroken sheets or rolls if the stamps were properly purchased and paid for by the person requesting the refund.

(b) The comptroller shall make a refund under this section from revenue collected under this chapter before the revenue is allocated under Subchapter J.

Acts 1981, 67th Leg., p. 1655, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 31, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.55, eff. Sept. 1, 1997.

Sec. 154.306. EXCHANGE OF STAMPS. The comptroller may exchange or replace, without cost, stamps affixed to a package of cigarettes if the cigarettes have become unfit for sale, use, or consumption and have been returned to the comptroller or to the manufacturer.

Acts 1981, 67th Leg., p. 1655, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 31, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.56, eff. Sept. 1, 1997.

Sec. 154.307. RECORDS. The comptroller shall keep a record of:

(1) stamps sold by the comptroller or under the comptroller's direction;

(2) stamps exchanged by the comptroller; and

(3) refunds made on stamps purchased.

Acts 1981, 67th Leg., p. 1655, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.57, eff. Sept. 1, 1997.

Sec. 154.308. DEFICIENCY DETERMINATION, PENALTIES, AND INTEREST. (a) If the comptroller has reasonable cause to believe that a tax report or the amount of tax paid is inaccurate, the comptroller may compute and determine the amount of tax, penalty, and interest to be paid from information contained in the report or from any other information available to the comptroller.

(b) On making a deficiency determination, the comptroller shall notify the person by mail or personal service. Service by mail is complete when the notice is deposited with the U.S. Postal Service.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 32, eff. June 7, 1991. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 46, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.58, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.41, eff. Oct. 1, 1999.

Sec. 154.309. REDETERMINATION. (a) A person who receives notice of a deficiency determination may submit a written request to the comptroller for redetermination. If the person desires a hearing, the request for a hearing must be included in the written request for redetermination.

(b) A written request for redetermination must be filed at the office of the comptroller not later than the 30th day after the date notice of deficiency is issued. If a written request for redetermination is not filed as required by this subsection, the

determination is final.

(c) On receipt of a written request for redetermination, the comptroller shall:

(1) review the request for redetermination if a hearing was not requested; or

(2) provide the person against whom the deficiency determination was made with written notice of the time, place, and date of a redetermination hearing.

(d) The comptroller shall give notice of a redetermination hearing by personal service or by mail. Service by mail is complete when the notice is deposited with the U.S. Postal Service.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 32, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.59, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.42, eff. Oct. 1, 1999.

SUBCHAPTER H. ENFORCEMENT OF TAX

Sec. 154.403. SEIZURE. (a) The comptroller with or without process may seize:

(1) cigarettes taxed under this chapter that are possessed or controlled by a person for the purpose of selling or removing the cigarettes in violation of this chapter;

(2) cigarettes that are removed, deposited, or concealed by a person intending to avoid payment of taxes imposed by this chapter;

(3) an automobile, boat, conveyance, or other type of vehicle used to remove or transport cigarettes by a person intending to avoid payment of taxes imposed by this chapter; and

(4) equipment, paraphernalia, or other tangible personal property used by a person intending to avoid payment of taxes imposed by this chapter found in the place where the cigarettes are found.

(b) An item seized under this section is forfeited to the state and remains in the custody of the comptroller for disposition as provided by this chapter. The seized item is not subject to replevin.

Acts 1981, 67th Leg., p. 1656, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 39, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 33, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.60, eff. Sept. 1, 1997.

Sec. 154.404. COMPTROLLER'S REPORT. (a) If the comptroller seizes property under Section 154.403, the comptroller shall immediately make a written report showing:

(1) the name of the person making the seizure;

(2) the place where the property was seized;

(3) the person from whom the property was seized; and

(4) an inventory of the property seized.

(b) The comptroller shall prepare the report in duplicate. The person who seized the property shall sign the report. The comptroller shall give the original to the person from whom the property was seized and shall file a duplicate copy open for public inspection in the comptroller's office.

Acts 1981, 67th Leg., p. 1656, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 40, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 34, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.61, eff. Sept. 1, 1997.

Sec. 154.4045. SALE OF SEIZED CIGARETTES. (a) Cigarettes are perishable items.

(b) If the seized cigarettes are in a salable condition, the comptroller may:

(1) sell the cigarettes, return the cigarettes to the manufacturer for credit, or destroy or dispose of the cigarettes; or

(2) if the seized cigarettes are in packages described by Section 154.0415 or stamped in violation of that section, the comptroller may not sell the cigarettes but may destroy or dispose of the cigarettes or return the cigarettes, solely for the purpose of export, to the manufacturer for credit.

(c) The price obtained at the sale is the market value for the cigarettes sold.

(d) The comptroller shall place the proceeds from the sale of seized cigarettes in escrow in a treasury suspense account pending the outcome of the forfeiture proceeding provided for in this chapter.

(e) If a determination is made that the comptroller wrongfully seized the cigarettes, the person entitled to the cigarettes at the time of seizure may recover the money held in escrow in the treasury suspense account.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 35, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.62, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1539, Sec. 2, eff. Sept. 1, 1999.

Sec. 154.405. FORFEITURE PROCEEDING. (a) The owner of property seized under this chapter is entitled to written notice of the seizure.

(b) The comptroller shall give the notice by certified mail, return receipt requested, not later than the 15th day after the date of seizure and include with the notice an inventory of the property seized and a statement that the owner of property seized is entitled to a hearing on the seizure. Service by mail is complete when the notice is received, as evidenced by return receipt from the U.S. Postal Service.

(c) After providing the notice and a hearing, if a hearing is requested under Subsection (b), the comptroller may order the forfeiture to the state of any property seized under this chapter or the proceeds of the sale of any cigarettes seized under this chapter if the property was used, controlled, possessed, or concealed for the purpose of violating any provision of this chapter.

(d) The comptroller shall hold property or proceeds forfeited under this section in escrow until the comptroller's determination is final and the period for filing a petition for judicial review has expired.

(e) A forfeiture proceeding under this section is an in rem proceeding.

Acts 1981, 67th Leg., p. 1657, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 41, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 36, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1040, Sec. 44, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.63, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 19, eff. September 1, 2011.

Sec. 154.406. DISPOSITION OF FORFEITED PROPERTY. (a) The comptroller may sell property forfeited to the state at public or

private sale in any commercially reasonable manner or retain the property for official use by the comptroller's criminal investigation division. Property retained for use under this subsection may later be sold by the comptroller under this section.

(b) Subject to the provisions of Section 154.413, the comptroller shall deposit the sale proceeds, less expenses of seizure, court costs, and any investigation and audit costs, in the state treasury.

(c) The comptroller shall use the sale proceeds to operate and administer the cigarette tax program up to the amount appropriated by the legislature for this purpose. The comptroller shall allocate any sale proceeds that exceed the legislative appropriation as provided by Subchapter J. Any unused appropriations remain in the general revenue fund.

(d) If an automobile or other vehicle seized under Section 154.403 is forfeited and retained by the comptroller under Subsection (a), the comptroller is considered the owner under Subtitle A, Title 7, Transportation Code. The Texas Department of Motor Vehicles shall issue a certificate of title for the vehicle to the comptroller. The comptroller may maintain, repair, use, and operate the vehicle with money appropriated for current operations.

Acts 1981, 67th Leg., p. 1657, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 36, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.64, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 20, eff. September 1, 2011.

Sec. 154.407. PHOTOGRAPHIC EVIDENCE IN CASES INVOLVING SEIZED CIGARETTES. (a) The comptroller may photograph cigarettes seized under Section 154.403 before their sale under this subchapter.

(b) In a proceeding arising out of this chapter, including a criminal proceeding, the state is not required to produce the actual cigarettes.

(c) The photographs are admissible in evidence under rules of law governing the admissibility of photographs. The photographs are as admissible in evidence as are the cigarettes themselves.

(d) A person's rights of discovery and inspection of tangible

physical evidence are satisfied if the photographs taken under this section are made available to the person by the state on order of any court or other entity having jurisdiction over the proceeding.

Added by Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 21, eff. September 1, 2011.

Sec. 154.409. UNSTAMPED CIGARETTES. If cigarettes seized under Section 154.403 of this code are unstamped, an officer selling the cigarettes shall affix the required stamps to the cigarettes and deduct the cost of the stamps from the sale proceeds.

Acts 1981, 67th Leg., p. 1658, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 154.4095. DECEPTIVE TRADE PRACTICE. Selling a package of cigarettes described by Section 154.0415, with or without a stamp, is a deceptive trade practice for the purpose of Subchapter E, Chapter 17, Business & Commerce Code.

Added by Acts 1999, 76th Leg., ch. 1539, Sec. 3, eff. Sept. 1, 1999.

Sec. 154.410. SEIZURE OR SALE NO DEFENSE. The seizure, forfeiture, and sale of cigarettes or property under this chapter, with or without court action, is not a defense to criminal prosecution for an offense or from liability for a penalty under this chapter.

Acts 1981, 67th Leg., p. 1658, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 154.411. WAIVER PERMITTED. (a) The comptroller may waive a forfeiture proceeding for property seized under Section 154.403 of this code if the owner or possessor of the property:

(1) affixes the required stamp to the individual packages of cigarettes; and

(2) in addition to the value of the stamps required to be affixed, pays to the state through the comptroller a sum equal to the value of the required stamps.

(b) The comptroller may make a compromise with a person before or after a claim is filed in court. The comptroller shall keep a record open for public inspection of compromises and waivers of forfeiture made under this section.

Acts 1981, 67th Leg., p. 1658, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 44, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.65, eff. Sept. 1, 1997.

Sec. 154.412. PAYMENT TO TREASURY. The comptroller shall deposit all taxes collected under Section 154.411, after payment of costs, in the treasury to be allocated as provided by Subchapter J.

Acts 1981, 67th Leg., p. 1658, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 45, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 37, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.66, eff. Sept. 1, 1997.

Sec. 154.413. PREFERRED STATE TAX LIEN. (a) All taxes, fines, interest, penalties, and costs due under this chapter are secured by a preferred lien in favor of the state, first and prior to all other existing or future liens, contractual or statutory, legal or equitable, regardless of the time the lien originated, on any property seized and forfeited under this chapter.

(b) A lienholder who establishes an interest in the property is entitled to recover any proceeds remaining after payment of all taxes, fines, interest, penalties, and costs due to the state.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 38, eff. June 7, 1991.

Sec. 154.414. RECIPROCAL AGREEMENTS. (a) The comptroller may enter into a reciprocal agreement with a tax official of another state or an official of the United States allowing the exchange of information received by, recorded by, prepared by, furnished to, or collected by the comptroller with respect to the investigation and enforcement of this chapter for any tax, penalty, interest, fine, forfeiture, or offense.

(b) This section does not permit the exchange of information

made confidential by this chapter.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 38, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.67, eff. Sept. 1, 1997.

Sec. 154.415. DONATIONS. The comptroller may accept gifts, grants, and donations for the administration and enforcement of this chapter.

Added by Acts 1989, 71st Leg., ch. 240, Sec. 46, eff. Oct. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 45, Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.68, eff. Sept. 1, 1997.

SUBCHAPTER I. PENALTIES

Sec. 154.501. PENALTIES. (a) A person violates this chapter if the person:

(1) is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, manufacturer's representative, or retailer and fails to keep records required by this chapter;

(2) engages in the business of a bonded agent, distributor, wholesaler, manufacturer, export warehouse, importer, or retailer without a valid permit;

(3) is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, or retailer and fails to make a report or makes a false or incomplete report or application required by this chapter to the comptroller; or

(4) is a person affected by this chapter and fails or refuses to abide by or violates a provision of this chapter or a rule adopted by the comptroller under this chapter.

(b) A person who violates this section shall pay to the state a penalty of not more than $2,000 for each violation.

(c) Each day on which a violation occurs is a separate offense.

(d) The attorney general shall bring a suit to recover penalties under this section.

(e) A suit under this section may be brought in a court of competent jurisdiction in Travis County or in any court having jurisdiction.

Acts 1981, 67th Leg., p. 1659, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 18, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 47, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 39, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.69, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 50, eff. Oct. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 17, eff. September 1, 2019.

Sec. 154.502. UNSTAMPED CIGARETTES. Except as provided by Section 154.026(b), a person commits an offense if the person:

(1) makes a first sale of unstamped cigarettes;

(2) sells, offers for sale, or presents as a prize or gift unstamped cigarettes; or

(3) knowingly consumes, uses, or smokes cigarettes subject to the tax under this chapter without a stamp affixed to each individual package.

Acts 1981, 67th Leg., p. 1659, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 33 (S.B. 1390), Sec. 5, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 18, eff. September 1, 2019.

Sec. 154.5025. AFFIXING STAMPS TO CERTAIN CIGARETTES. A person commits an offense if the person knowingly affixes stamps to cigarettes in violation of Section 154.0415.

Added by Acts 1999, 76th Leg., ch. 1539, Sec. 4, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1104, Sec. 4, eff. Sept. 1, 2001.

Sec. 154.503. POSSESSION IN QUANTITIES LESS THAN 10,000. (a) Except as provided by Sections 154.026(b) and 154.042, a person commits an offense if the person possesses unstamped cigarettes in quantities less than 10,000.

(b) This section does not prohibit transportation of cigarettes by a common carrier.

Acts 1981, 67th Leg., p. 1660, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 33 (S.B. 1390), Sec. 6, eff. September 1, 2017.

Sec. 154.504. POSSESSION OF QUANTITIES LESS THAN INDIVIDUAL PACKAGE. A person commits an offense and is subject to a $100 fine if the person sells cigarettes in quantities less than an individual package containing at least 20 cigarettes.

Acts 1981, 67th Leg., p. 1660, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1997, 75th Leg., ch. 671, Sec. 4.05, eff. Sept. 1, 1997.

Sec. 154.505. CANCELLATION OF STAMP. A person commits an offense if the person knowingly cancels or mutilates, with fraudulent intent or to conceal a violation of this chapter, a stamp affixed to an individual package of cigarettes.

Acts 1981, 67th Leg., p. 1660, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 154.506. CONCEALMENT OF A VIOLATION. A person commits an offense if the person uses any artful device or deceptive practice to conceal a violation of this chapter.

Acts 1981, 67th Leg., p. 1660, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 154.507. MISLEADING THE COMPTROLLER. A person commits an offense if the person misleads the comptroller in the enforcement of this chapter.

Acts 1981, 67th Leg., p. 1660, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1989, 71st Leg., ch. 240, Sec. 48, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.70, eff. Sept. 1, 1997.

Sec. 154.508. REFUSING TO SURRENDER CIGARETTES. A person commits an offense if the person refuses to surrender to the comptroller on demand cigarettes possessed in violation of this chapter.

Acts 1981, 67th Leg., p. 1660, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1989, 71st Leg., ch. 240, Sec. 49, eff. Oct. 1, 1989;
Acts 1997, 75th Leg., ch. 1423, Sec. 19.71, eff. Sept. 1, 1997.

Sec. 154.509. PERMITS. A person commits an offense if the person acting:

(1) as a distributor, wholesaler, or retailer, receives or possesses cigarettes without having a valid permit;

(2) as a distributor, wholesaler, or retailer, receives or possesses cigarettes without having a permit posted where it can be easily seen by the public;

(3) as a distributor or wholesaler, does not deliver an invoice to the purchaser as required by Section 154.203;

(4) as a distributor, wholesaler, or retailer, sells cigarettes without having a valid permit; or

(5) as a bonded agent or export warehouse, stores, distributes, or delivers cigarettes in unstamped packages without having a valid permit.

Acts 1981, 67th Leg., p. 1660, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1985, 69th Leg., ch. 58, Sec. 19, eff. March 1, 1986;
Acts 1991, 72nd Leg., ch. 409, Sec. 40, eff. June 7, 1991.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 19, eff. September 1, 2019.

Sec. 154.5095. FINGERPRINTS. The comptroller may refuse to grant a permit or may revoke or suspend a permit if the applicant or permit holder fails, on request, to provide a complete set of fingerprints required for searching the Federal Bureau of Investigation identification division files.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 41, eff. June 7, 1991. Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 46(20), eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.72, eff. Sept. 1, 1997.

Sec. 154.510. MISDEMEANOR. An offense under Sections 154.502, 154.503, or 154.505 through 154.509 is a Class A misdemeanor.

Acts 1981, 67th Leg., p. 1660, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 42, eff. June 7, 1991; Acts 1999, 76th Leg., ch. 1155, Sec. 1, eff. Sept. 1, 1999.

Sec. 154.511. TRANSPORTATION OF CIGARETTES. A person, other than a common carrier, commits an offense if the person:

(1) knowingly transports cigarettes without a stamp affixed to each individual package, except as provided by Section 154.024(a);

(2) wilfully refuses to stop a motor vehicle operated to transport cigarettes after a request to stop from an authorized person; or

(3) while transporting cigarettes refuses to permit a complete inspection of the cargo by an authorized person.

Acts 1981, 67th Leg., p. 1661, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 1110, Sec. 2, eff. Sept. 1, 1999.

Sec. 154.512. INSPECTION OF PREMISES. A person commits an offense if the person refuses to permit a complete inspection by an authorized representative of the comptroller of any premises where cigarettes are manufactured, produced, stored, transported, sold, or offered for sale or exchange, or fails to produce, on the comptroller's demand, records required by this chapter.

Acts 1981, 67th Leg., p. 1661, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 43, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.73, eff. Sept. 1, 1997.

Sec. 154.513. PREVIOUSLY USED OR OLD DESIGN STAMPS. A person commits an offense if the person:

(1) uses, sells, offers for sale, or possesses for use or sale previously used stamps;

(2) attaches or causes to be attached a previously used stamp to an individual package of cigarettes;

(3) uses or consents to the use of previously used stamps in connection with the sale or offering for sale of cigarettes; or

(4) sells, offers for sale, or possesses stamps of an old design more than 60 days after the date of issue of a new design of stamps.

Acts 1981, 67th Leg., p. 1661, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 154.514. SALE OF STAMPS. A person commits an offense if the person, without having the requisition from the comptroller as provided by Section 154.044 of this code:

(1) purchases stamps from a person other than the comptroller; or

(2) sells lawfully issued stamps to a person other than the comptroller.

Acts 1981, 67th Leg., p. 1661, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 50, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.74, eff. Sept. 1, 1997.

Sec. 154.515. POSSESSION IN QUANTITIES OF 10,000 OR MORE. (a) Except as provided by Sections 154.026(b) and 154.042, a person commits an offense if the person possesses unstamped cigarettes in quantities of 10,000 or more.

(b) This section does not prohibit transportation of cigarettes by a common carrier.

Acts 1981, 67th Leg., p. 1661, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 33 (S.B. 1390), Sec. 7, eff. September 1, 2017.

Sec. 154.516. BOOKS AND RECORDS. A person commits an offense if the person:

(1) knowingly makes, delivers to, and files with the comptroller a false return or report or an incomplete return or report;

(2) knowingly fails to make and deliver to the comptroller a return or report as required by this chapter;

(3) destroys, mutilates, or conceals a book or record required by this chapter;

(4) refuses to permit the attorney general or the comptroller to inspect and audit books and records that are required by this chapter or that are incidental to the conduct of the cigarette business;

(5) knowingly makes a false entry or fails to make entries in the books and records as required by this chapter; or

(6) fails to keep books and records for four years as required by this chapter.

Acts 1981, 67th Leg., p. 1661, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 20, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 51, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 44, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.75, eff. Sept. 1, 1997.

Sec. 154.517. FELONY. An offense under Sections 154.511 through 154.516 is a felony of the third degree.

Acts 1981, 67th Leg., p. 1662, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 44, eff. June 7, 1991.

Sec. 154.518. OVERLAP OF PENALTIES. If an offense is punishable under Section 154.510 of this code and also under Section 154.517 of this code, the punishment prescribed by Section 154.517 of this code controls.

Acts 1981, 67th Leg., p. 1662, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 154.519. VENUE. Venue of a prosecution for an offense

punishable under Section 154.510 or 154.517 of this code is in Travis County or in the county where the offense occurred.

Acts 1981, 67th Leg., p. 1662, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 154.520. COUNTERFEIT STAMPS. (a) A person commits an offense if the person:

(1) prints, engraves, makes, duplicates, issues, sells, or circulates counterfeit stamps;

(2) possesses, with intent to use, sell, circulate, or pass, a counterfeit stamp;

(3) uses or consents to the use of a counterfeit stamp in the sale or offering for sale of cigarettes; or

(4) places or causes to be placed a counterfeit stamp on an individual package of cigarettes.

(b) An offense under this section is a felony punishable by confinement in the Texas Department of Criminal Justice for not less than 2 years nor more than 20 years.

(c) Venue of a prosecution under this section is in Travis County.

Acts 1981, 67th Leg., p. 1662, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.154, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1334 (H.B. 4614), Sec. 20, eff. September 1, 2019.

SUBCHAPTER J. NATURE OF TAX AND DISPOSITION OF FUNDS

Sec. 154.601. NATURE OF TAX. (a) The tax imposed by this chapter is not an occupation tax.

(b) If a court of competent jurisdiction declares the tax imposed by this chapter to be an occupation tax:

(1) the legislature intends that the holding not affect the validity of the remaining provisions of this chapter; and

(2) the net revenue is allocated to the general revenue fund, except that one-fourth of the net revenue shall be transferred from the general revenue fund to the available school fund.

(c) A tax imposed by this chapter is in lieu of any other

occupation or excise tax imposed by the state or a political subdivision of the state on cigarettes.

Acts 1981, 67th Leg., p. 1663, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2777, ch. 752, Sec. 9(d), eff. Jan. 1, 1982.

Sec. 154.602. FUNDS FOR ENFORCEMENT. The legislature may appropriate money from the cigarette tax to the comptroller for manufacturing and printing of cigarette tax stamps and for the administration of the duties of the comptroller under this chapter. Amounts appropriated under this subsection shall be taken from revenue received from the cigarette tax before the revenue is allocated under Section 154.603 of this code to the funds specified by that section and shall be deposited to the credit of the treasury fiscal agency fund.

Acts 1981, 67th Leg., p. 1663, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2776, ch. 752, Sec. 9(c), eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 418, Sec. 1, eff. June 17, 1987; Acts 1989, 71st Leg., ch. 290, Sec. 52, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.76, eff. Sept. 1, 1997.

Sec. 154.603. DISPOSITION OF REVENUE. (a) After the deductions for the purposes provided by Section 154.602 of this code, the revenue remaining of the first $2 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the first $4.10 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand is allocated:

(1) 18.75 percent to the foundation school fund; and

(2) 81.25 percent to the general revenue fund.

(b) The revenue remaining after the deductions for the purposes provided by Section 154.602 of this code and allocation under Subsection (a) of this section is allocated to the general revenue fund.

(c), (d) Repealed by Acts 1993, 73rd Leg., ch. 679, Sec. 68, eff. Sept. 1, 1993.

Acts 1981, 67th Leg., p. 1663, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1981, 67th Leg., p. 2776, ch. 752, Sec. 9(b), eff. Jan. 1, 1982; Acts 1983, 68th Leg., p. 2025, ch. 367, Sec. 6, eff. Sept. 1, 1985; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 3, eff. Sept. 1, 1984; Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 3, eff. Oct. 2, 1984; Sec. 4, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 69, art. 9, Sec. 3, eff. Sept. 1, 1986; Sec. 4, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 418, Sec. 2, eff. June 17, 1987; Acts 1989, 71st Leg., ch. 240, Sec. 53, eff. Oct. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 66, 68, eff. Sept. 1, 1993.

Sec. 154.6035. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND. Notwithstanding Section 154.603, all proceeds from the collection of taxes imposed by this chapter attributable to the portion of the tax rate in excess of $20.50 per thousand on cigarettes, regardless of weight, shall be deposited to the credit of the property tax relief fund under Section 403.109, Government Code.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 3 (H.B. 2), Sec. 4(a), eff. September 1, 2006.

CHAPTER 155. CIGARS AND TOBACCO PRODUCTS TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 155.001. DEFINITIONS. In this chapter:

(1) "Bonded agent" means a person in this state who is a third-party agent of a manufacturer outside this state and who receives tobacco products in interstate commerce and stores the tobacco products for distribution or delivery to distributors under orders from the manufacturer.

(2) "Cigar" means a roll of fermented tobacco that is wrapped in tobacco and the main stream of smoke from which produces an alkaline reaction to litmus paper.

(3) "Commercial business location" means the entire premises occupied by a permit applicant or a person required to hold a permit under this chapter.

(4) "Common carrier" means a motor carrier registered under Chapter 643, Transportation Code, or a motor carrier operating under a certificate issued by the Interstate Commerce Commission or a

successor agency to the Interstate Commerce Commission.

(5) "Consumer" means a person who possesses tobacco products for personal consumption.

(6) "Distributor" means a person who:

(A) receives untaxed tobacco products for the purpose of making a first sale in this state from a manufacturer outside the state or within the state or otherwise brings or causes to be brought into this state untaxed tobacco products for sale, use, or consumption;

(B) manufactures or produces tobacco products; or

(C) is an importer.

(6-a) "Engage in business" means, in relation to tobacco products, engaging by a person, either directly or through a representative, in any of the following activities:

(A) selling tobacco products in or into this state;

(B) using a warehouse or another location to store tobacco products; or

(C) otherwise conducting through a physical presence tobacco product-related business in this state.

(7) "Export warehouse" means a person in this state who receives untaxed tobacco products from manufacturers and stores the tobacco products for the purpose of making sales to authorized persons for resale, use, or consumption outside the United States.

(8) "First sale" means, except as otherwise provided by this chapter:

(A) the first transfer of possession in connection with a purchase, sale, or any exchange for value of tobacco products in or into this state, which:

(i) includes the sale of tobacco products by:

(a) a distributor in or outside this state to a distributor, wholesaler, or retailer in this state; and

(b) a manufacturer in this state who transfers the tobacco products in this state; and

(ii) does not include:

(a) the sale of tobacco products by a manufacturer outside this state to a distributor in this state; or

(b) the transfer of tobacco products from a manufacturer outside this state to a bonded agent in this state;

(B) the first use or consumption of tobacco products in this state; or

(C) the loss of tobacco products in this state whether through negligence, theft, or other unaccountable loss.

(9) "Importer" means a person who ships, transports, or imports into this state tobacco products manufactured or produced outside the United States for the purpose of making a first sale in this state.

(10) "Manufacturer" means a person who manufactures, fabricates, or assembles tobacco products, or causes or arranges for the manufacture, fabrication, or assembly of tobacco products, for sale or distribution.

(11) "Manufacturer's representative" means a person employed by a manufacturer to sell or distribute the manufacturer's tobacco products for which the tax imposed under this chapter has been paid.

(12) "Permit holder" means a bonded agent, distributor, wholesaler, manufacturer, importer, export warehouse, or retailer who obtains a permit under Section 155.041.

(13) "Place of business" means:

(A) a commercial business location where tobacco products are sold;

(B) a commercial business location where tobacco products are kept for sale or consumption or otherwise stored;

(C) a vehicle from which tobacco products are sold; or

(D) a vending machine from which tobacco products are sold.

(13-a) "Raw tobacco" means any part of the tobacco plant, including the tobacco leaf or stem, that is harvested from the ground and is not a tobacco product as the term is defined in this chapter.

(14) "Retailer" means a person who engages in the business of selling tobacco products to consumers and includes the owner of a vending machine.

(15) "Tobacco product" means:

(A) a cigar;

(B) smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or as a cigarette;

(C) chewing tobacco, including Cavendish, Twist, plug, scrap, and any kind of tobacco suitable for chewing;

(D) snuff or other preparations of pulverized tobacco; or

(E) an article or product that is made of tobacco or a tobacco substitute and that is not a cigarette or an e-cigarette as defined by Section 161.081, Health and Safety Code.

(16) "Wholesaler" means a person, including a manufacturer's representative, who sells or distributes tobacco products in this state for resale but who is not a distributor.

Acts 1981, 67th Leg., p. 1666, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 7, eff. Oct. 2, 1984; Acts 1985, 69th Leg., ch. 58, Sec. 21, eff. March 1, 1986; Acts 1991, 72nd Leg., ch. 409, Sec. 45, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 705, Sec. 11, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.263, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1040, Sec. 46, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 540, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1263, Sec. 51, eff. Oct. 1, 2001.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 1, eff. September 1, 2019.

Sec. 155.002. STORAGE. (a) The commercial business location where tobacco products are stored or kept cannot be a residence or a unit in a public storage facility.

(b) This section does not apply to a manufacturer's representative.

Added by Acts 2001, 77th Leg., ch. 540, Sec. 5, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 209, Sec. 27, eff. Oct. 1, 2003.

SUBCHAPTER B. IMPOSITION AND RATE OF TAX

Sec. 155.021. TAX IMPOSED ON CIGARS. (a) A tax is imposed and becomes due and payable when a permit holder receives cigars for the purpose of making a first sale in this state.

(b) The tax rates are:

(1) one cent per 10 or fraction of 10 on cigars weighing three pounds or less per thousand;

(2) $7.50 per thousand on cigars that:

(A) weigh more than three pounds per thousand; and

(B) sell at factory list price, exclusive of any trade

discount, special discount, or deal, for 3.3 cents or less each;

(3) $11 per thousand on cigars that:

(A) weigh more than three pounds per thousand;

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain no substantial amount of nontobacco ingredients; and

(4) $15 per thousand on cigars that:

(A) weigh more than three pounds per thousand;

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain a substantial amount of nontobacco ingredients.

(c) Cigars taxed under Subsections (b)(3) and (b)(4) of this section are presumed to contain a substantial amount of nontobacco ingredients unless the report on the cigars required by Section 155.111 of this code is accompanied by an affidavit stating that specific cigars described in the report do not contain sheet wrapper, sheet binder, or sheet filler. If the manufacturer prepares the report, the manufacturer shall make the affidavit. If the distributor prepares the report, the manufacturer and the distributor shall make the affidavit.

Acts 1981, 67th Leg., p. 1667, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 5, eff. Oct. 2, 1984; Acts 1991, 72nd Leg., ch. 409, Sec. 46, eff. June 7, 1991.

Sec. 155.0211. TAX IMPOSED ON TOBACCO PRODUCTS OTHER THAN CIGARS. (a) A tax is imposed and becomes due and payable when a permit holder receives tobacco products other than cigars, for the purpose of making a first sale in this state.

(b) Except as provided by Subsection (c), the tax rate for each can or package of a tobacco product other than cigars is $1.22 per ounce and a proportionate rate on all fractional parts of an ounce.

(c) The tax imposed on a can or package of a tobacco product other than cigars that weighs less than 1.2 ounces is equal to the

amount of the tax imposed on a can or package of a tobacco product that weighs 1.2 ounces.

(d) The computation of the tax under this section and the applicability of Subsection (c) shall be based on the net weight as listed by the manufacturer. The total tax to be imposed on a unit that contains multiple individual cans or packages is the sum of the taxes imposed by this section on each individual can or package intended for sale or distribution at retail.

(e) A change in the tax rate in effect for a state fiscal year that occurs in accordance with this section does not affect taxes imposed before that fiscal year, and the rate in effect when those taxes were imposed continues in effect for purposes of the liability for and collection of those taxes.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 6, eff. Oct. 2, 1984. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 4, Sec. 2; Acts 1990, 71st Leg., 6th C.S., ch. 5, Sec. 2.02, eff. July 1, 1990; Acts 1991, 72nd Leg., ch. 409, Sec. 47, eff. June 7, 1991.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 7 (H.B. 5), Sec. 2, eff. January 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 285 (H.B. 2154), Sec. 10, eff. September 1, 2009.

Sec. 155.0212. LIABILITY OF PERMITTED DISTRIBUTOR. A permitted distributor who makes a first sale to a permitted distributor in this state is liable for and shall pay the tax imposed by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 2, eff. September 1, 2019.

Sec. 155.023. PAYMENT OF TAX. (a) A distributor shall pay the tax on tobacco products received for the purpose of making a first sale at the time the distributor files the report required by Section 155.111. A distributor shall pay the tax by cashier's check payable to the comptroller, by electronic funds transfer to the comptroller or by any other method of payment authorized by the comptroller.

(b) The person in possession of tobacco products has the burden

to prove payment of the tax on the products.

Acts 1981, 67th Leg., p. 1668, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 47, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.77, eff. Sept. 1, 1997.

Sec. 155.024. EXCEPTION FOR PERSONAL USE. A person who personally transports cigars or tobacco products in quantities or amounts that would ordinarily retail at 25 cents or less is not required to pay the tax imposed by this chapter if the person uses the cigars or tobacco products and does not sell them or offer them for sale.

Acts 1981, 67th Leg., p. 1662, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 155.025. MANUFACTURING EXEMPTION. Raw tobacco sold to a permitted manufacturer in this state for the purpose of using the tobacco in manufacturing is not subject to the taxes imposed by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 2, eff. September 1, 2019.

Sec. 155.026. PENALTY FOR FAILURE TO PAY TAX. (a) A distributor who fails to timely pay the tax when due shall pay five percent of the amount of tax then due as a penalty, and if the distributor fails to pay the tax on or before the 30th day after the day on which the tax is due, the distributor shall pay an additional five percent.

(b) The minimum penalty imposed by this section is $50.

(c) The dishonor of a check delivered to the treasury for payment of taxes constitutes a failure to pay the tax when due.

Acts 1981, 67th Leg., p. 1669, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 451, ch. 93, Sec. 3, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 409, Sec. 47, eff. June 7, 1991.

Sec. 155.027. VENUE. Venue of a suit for collection of a penalty for late payment of taxes is in Travis County.

Acts 1981, 67th Leg., p. 1669, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 155.028. IMPACT OF TAX. The ultimate consumer or user in this state bears the impact of the tax imposed by this chapter. If another person pays the tax, the amount of the tax is added to the price charged to the ultimate consumer or user.

Added by Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 2, eff. September 1, 2019.

SUBCHAPTER C. PERMITS

Sec. 155.041. PERMITS. (a) A person may not engage in business as a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer unless the person has applied for and received the applicable permit from the comptroller.

(b) Each distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer shall obtain a permit for each place of business owned or operated by the distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer.

(c) The comptroller shall prescribe the form and content of an application for a permit and shall furnish the form on request of an applicant.

(d) The applicant shall accurately complete all information required by the application and provide the comptroller with additional information the comptroller considers necessary.

(e) The comptroller may require each corporation, association, joint venture, syndicate, partnership, or proprietorship to furnish financial information regarding the applicant and to provide the identity of each officer, director, stockholder owning 10 percent or more of the outstanding stock, partner, member, owner, or managing employee.

(f) Each distributor, wholesaler, and retailer that applies for a permit to sell tobacco products from a vehicle must provide the make, model, vehicle identification number, registration number, and any other information required by the comptroller.

(g) All financial information provided under this section is confidential and not subject to Chapter 552, Government Code.

(h) Permits for engaging in business as a distributor, wholesaler, bonded agent, manufacturer, export warehouse, importer, or retailer shall be governed exclusively by the provisions of this code.

Acts 1981, 67th Leg., p. 1669, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 23, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 54, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 48, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(88), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 47, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.78, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 52, eff. Oct. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 3, eff. September 1, 2019.

Sec. 155.0415. SALES: PERMIT HOLDERS AND NONPERMIT HOLDERS. (a) Except for retail sales to consumers, tobacco products may only be sold or distributed by and between permit holders as provided by this section.

(b) A person who is not a permit holder may not sell or distribute tobacco products on which a tax of more than $50 has been paid or is due.

(c) A manufacturer outside this state who is not a permitted distributor may sell tobacco products only to a permitted distributor.

(d) A permitted distributor may sell tobacco products only to a permitted distributor, wholesaler, or retailer.

(e) A permitted importer may sell tobacco products only to a permitted distributor, wholesaler, or retailer.

(f) A permitted wholesaler may sell tobacco products only to a permitted distributor, wholesaler, or retailer.

(g) A permitted retailer may sell tobacco products only to the consumer and may purchase tobacco products only from a permitted distributor or wholesaler in this state.

(h) A permitted export warehouse may sell tobacco products only

to persons authorized to sell or consume untaxed tobacco products outside the United States.

(i) A manufacturer's representative may sell tobacco products only to a permitted distributor, wholesaler, or retailer.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 49, eff. June 7, 1991.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 4, eff. September 1, 2019.

Sec. 155.045. COMBINATION PERMIT. The comptroller may issue a combination permit for cigarettes and tobacco products under Section 154.102. A person who receives a combination permit is subject to the provisions of this chapter in the same manner as a person holding a single permit under this chapter.

Acts 1981, 67th Leg., p. 1670, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 24, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 58, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 50, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.79, eff. Sept. 1, 1997.

Sec. 155.048. ISSUANCE OF PERMITS. (a) The comptroller shall issue a permit to a distributor, wholesaler, bonded agent, manufacturer, importer, or retailer if the comptroller:

(1) has received an application and fee, if required;

(2) does not reject the application and deny the permit under Section 155.0481; and

(3) determines that issuing the permit will not jeopardize the administration and enforcement of this chapter.

(b) The permit shall be issued for a designated place of business, except as provided by Section 155.053.

(c) The permits are nonassignable.

(d) The permit must indicate the type of permit that it is and authorize the sale of tobacco products in this state. The permit must show that it is revocable and shall be forfeited or suspended if the conditions of issuance, provisions of this chapter, or rules of the comptroller are violated.

Acts 1981, 67th Leg., p. 1670, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 26, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 61, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 50, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.80, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 53, eff. Oct. 1, 2001.

Sec. 155.0481. DENIAL OF PERMIT. The comptroller may reject an application and deny a permit if the comptroller finds, after notice and opportunity for hearing, any of the following:

(1) the premises where business will be conducted are not adequate to protect the tobacco products; or

(2) the applicant or managing employee, or, if the applicant is a corporation, an officer, director, manager, or any stockholder who holds directly or through family or partner relationship 10 percent or more of the corporation's stock, or, if the applicant is a partnership, a partner or manager:

(A) has failed to disclose any information required by Sections 155.041(d), (e), and (f), including prior business experience, financial condition of the permit holder, present or previous business affiliations, prior employment, and any conviction of a felony, or has made a false statement in the application; or

(B) has previously violated provisions of this chapter.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 50, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.81, eff. Sept. 1, 1997.

Sec. 155.049. PERMIT YEAR; FEES. (a) A permit required by this chapter expires on the last day of February of each year, except the retailer's permit required by Section 155.041 expires on the last day of May of each even-numbered year.

(b) An application for a permit required by this chapter must be accompanied by a fee of:

(1) $300 for a bonded agent's permit;

(2) $300 for a distributor's permit;

(3) $200 for a wholesaler's permit;

(4) $15 for each permit for a vehicle if the applicant is

also applying for a permit as a bonded agent, distributor, or wholesaler or has received a current permit from the comptroller under Sections 155.041 and 155.048; and

(5) $180 for a retailer's permit.

(c) A fee is not required for an export warehouse permit.

(d) For a new or renewal permit required by Section 155.041, the comptroller shall prorate the fee according to the number of months remaining during the calendar year that the permit is to be in effect.

(e) A person who does not obtain a permit each year in a timely manner must pay a late fee of $50 in addition to the application fee for the permit.

(f) If at the date of issuance a permit will expire within three months, the comptroller may collect the prorated permit fee or the fee for a current year and, with the consent of the permit holder, may collect the fee for the next permit year and issue a permit or permits for both periods, as applicable.

(g) A person issued a permit for a place of business that permanently closes before the permit expiration date is not entitled to a refund of the permit fee.

Acts 1981, 67th Leg., p. 1670, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 27, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 62, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 50, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 671, Sec. 4.06, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.82, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 5, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 6, eff. September 1, 2019.

Sec. 155.050. PAYMENT FOR PERMITS. (a) An applicant for a permit required by Section 155.041 shall send the required fee with the application.

(b) The payment must be in cash or by money order or check.

(c) A permit may not be issued in exchange for a check until after the comptroller has received full payment on the check.

Acts 1981, 67th Leg., p. 1671, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 63, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 50, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.83, eff. Sept. 1, 1997.

Sec. 155.053. DISPLAY OF PERMIT. (a) Each permit holder shall keep the permit on public display at the place of business for which the permit was issued.

(b) Each permit holder who has a permit assigned to a vehicle shall post the permit in a conspicuous place on the vehicle.

(c) Each retailer who operates a vending machine that includes tobacco products shall place a retailer's permit on the machine.

Acts 1981, 67th Leg., p. 1671, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 29, eff. March 1, 1986; Acts 1991, 72nd Leg., ch. 409, Sec. 50, eff. June 7, 1991.

Sec. 155.058. REVENUE. (a) Except as provided by Subsection (b), revenue from the sale of permits to distributors, wholesalers, and bonded agents is allocated in the same manner that other revenue is allocated by Subchapter H.

(b) Revenue from the sale of retailer's permits shall be deposited to the general revenue fund and may be appropriated only as provided by this section. The money may be appropriated first to the comptroller for administration of licensing of retailers under this chapter or Chapter 154.

(c) If, after any appropriation is made under Subsection (b), revenue remains from the sale of retailer's permits, the remaining money may be appropriated to the comptroller for administration and enforcement of Subchapters H, K, and N, Chapter 161, Health and Safety Code, and to the Texas Department of Health, for the administration and enforcement of Section 161.253, Health and Safety Code.

(d) If, after any appropriation is made under Subsections (b) and (c), revenue remains from the sale of retailer's permits, the remaining money may be appropriated to the Texas Department of Health to administer the commissioner of public health's responsibilities under Section 161.301, Health and Safety Code.

(e) If, after any appropriation is made under Subsections (b), (c), and (d), revenue remains from the sale of retailer's permits, the remaining money may be appropriated to the appropriate entity to administer that entity's responsibilities under Section 161.302, Health and Safety Code.

Acts 1981, 67th Leg., p. 1672, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 33, eff. March 1, 1986; Acts 1991, 72nd Leg., ch. 409, Sec. 50, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 671, Sec. 4.07, eff. Sept. 1, 1997.

Sec. 155.059. FINAL SUSPENSION OR REVOCATION OF PERMIT. (a) The comptroller may revoke or suspend a person's permit if the comptroller finds, after notice and hearing as provided by this section, that the permit holder violated this chapter or an administrative rule made under this chapter.

(b) If the comptroller intends to suspend or revoke a permit, the comptroller shall provide the permit holder with written notice that includes a statement:

(1) of the reason for the intended revocation or suspension;

(2) that the permit holder is entitled to a hearing by the comptroller on the proposed suspension or revocation; and

(3) of the date, time, and place of the hearing.

(c) The comptroller shall deliver the written notice by personal service or by mail to the permit holder's mailing address as it appears in the comptroller's records. Service by mail is complete when the notice is deposited with the United States Postal Service.

(d) The comptroller shall give the permit holder not less than 10 days' notice of a final hearing.

(e) A permit holder may appeal the decision of the comptroller to a district court in Travis County not later than the 30th day after the date the comptroller's decision becomes final.

(f) A person whose permit is suspended or revoked may not sell, offer for sale, or distribute tobacco products from the place of business to which the permit applied until a new permit is granted or the suspension is removed.

(g) If the comptroller suspends or revokes a permit, the comptroller shall provide written notice of the suspension or

revocation, within a reasonable time, to each permit holder in the state. A permit holder violates Section 155.0415(a) by selling or distributing tobacco products to a person whose permit has been suspended or revoked only after the permit holder receives written notice of the suspension or revocation from the comptroller.

Acts 1981, 67th Leg., p. 1672, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 34, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 67, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 50, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 48, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.84, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.43, eff. Oct. 1, 1999.

Sec. 155.0591. SUMMARY SUSPENSION OF A PERMIT. (a) The comptroller may suspend a person's permit without notice or a hearing for the person's failure to comply with this chapter or a rule adopted under this chapter if the person's continued operation constitutes an immediate and substantial threat to the collection of taxes imposed by this chapter and attributable to the person's operation.

(b) If the comptroller summarily suspends a person's permit, proceedings for a preliminary hearing before the comptroller or the comptroller's representative must be initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than 10 days after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the permit holder must show cause why the permit should not remain suspended pending a final hearing on suspension or revocation.

(d) Chapter 2001, Government Code, does not apply to a summary suspension under this section.

(e) To initiate a proceeding to suspend summarily a person's permit, the comptroller shall serve notice on the permit holder informing the permit holder of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. The notice must be personally served on the permit holder or an officer, employee, or agent of the permit holder or sent by certified or registered mail,

return receipt requested, to the permit holder's mailing address as it appears in the comptroller's records. The notice must state the alleged violations that constitute the grounds for summary suspension. The suspension is effective at the time the notice is served. If notice is served in person, the permit holder shall immediately surrender the permit to the comptroller. If notice is served by mail, the permit holder shall immediately return the permit to the comptroller.

(f) Section 155.059, governing hearings for final suspension or revocation of a permit under this chapter, governs a final administrative hearing.

Added by Acts 1995, 74th Leg., ch. 1000, Sec. 49, eff. Oct. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.85, eff. Sept. 1, 1997.

Sec. 155.0592. DISCIPLINARY ACTION FOR CERTAIN VIOLATIONS. (a) A retailer is subject to disciplinary action as provided by this section if:

(1) an agent or employee of the retailer commits an offense under Subchapter H, Chapter 161, Health and Safety Code; and

(2) the retailer, with criminal negligence, failed to prevent the offense through adequate supervision and training of the agent or employee.

(b) If the comptroller finds, after notice and an opportunity for a hearing as provided by this subchapter, that a permit holder has violated Subchapter H or K, Chapter 161, Health and Safety Code, at a place of business for which a permit is issued, the comptroller may suspend the permit for that place of business or administratively assess a fine as follows:

(1) if the permit holder has not been found to have violated Subchapter H or K, Chapter 161, Health and Safety Code, at that place of business during the preceding 12 months, the comptroller may require the permit holder to pay a fine in an amount not to exceed $500;

(2) if the permit holder has been found to have violated Subchapter H or K, Chapter 161, Health and Safety Code, at that place of business once during the preceding 12 months, the comptroller may require the permit holder to pay a fine in an amount not to exceed

$750; and

(3) if the permit holder has been found to have violated Subchapter H or K, Chapter 161, Health and Safety Code, at that place of business at least twice during the preceding 12 months, the comptroller may require the permit holder to pay a fine in an amount not to exceed $1,000 or suspend the permit for that place of business for not more than three days.

(c) Except as provided by Section 155.0593, if the permit holder has been found to have violated Section 161.082(b), Health and Safety Code, on four or more previous and separate occasions at the same place of business during the preceding 12 months, the comptroller shall revoke the permit.

(d) A retailer whose permit has been revoked under this section may not apply for a retailer's permit for the same place of business before the expiration of six months after the effective date of the revocation.

Added by Acts 1997, 75th Leg., ch. 671, Sec. 4.08, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1157, Sec. 2, eff. Sept. 1, 1999.

Sec. 155.0593. ACTIONS OF EMPLOYEE. (a) For purposes of Subchapter H, Chapter 161, Health and Safety Code, and the provisions of this code relating to the sale or delivery of cigarettes or tobacco products to a minor, the comptroller may suspend a permit but may not revoke the permit under Section 155.0592 if the comptroller finds that:

(1) the employer has not violated Section 161.082(b), Health and Safety Code, more than seven times at the place of business for which the permit is issued in the 24-month period preceding the violation in question;

(2) the employer requires its employees to attend a comptroller-approved seller training program;

(3) the employee has actually attended a comptroller-approved seller training program; and

(4) the employer has not directly or indirectly encouraged the employee to violate the law.

(b) The comptroller shall adopt rules or policies establishing the minimum requirements for approved seller training programs. On

application, the comptroller shall approve seller training programs meeting the requirements that are sponsored privately or by public community colleges. The comptroller may charge an application fee in an amount necessary to defray the expense of processing the application.

(c) The comptroller may approve under this section a seller training program sponsored by a permit holder for the purpose of training its employees without regard to whether the employees are located at the same place of business. This subsection applies only to a permit holder who employs at least 100 persons at any one time during the permit year who sell cigarettes or tobacco products.

Added by Acts 1997, 75th Leg., ch. 671, Sec. 4.09, eff. Sept. 1, 1997.

Sec. 155.0595. HEARINGS. Unless otherwise provided by this chapter, the comptroller shall conduct all hearings required by this chapter in accordance with Chapter 2001, Government Code. The comptroller may designate one or more representatives to conduct the hearings and may prescribe the rules of procedure governing the hearings.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 50, eff. June 7, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 50, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.86, eff. Sept. 1, 1997.

SUBCHAPTER D. RECORDS AND REPORTS

Sec. 155.101. RECORD OF PURCHASE OR RECEIPT. Each distributor, wholesaler, bonded agent, and export warehouse shall keep records at each place of business of all tobacco products purchased or received. Each retailer shall keep records at a single commercial business location, which the retailer shall designate as its principal place of business in the state, of all tobacco products purchased and received. These records must include the following, except that Subdivision (7) applies to distributors only and Subdivision (8) applies only to the purchase or receipt of tobacco products other than cigars:

(1) the name and address of the shipper or carrier and the

mode of transportation;

(2) all shipping records or copies of records, including invoices, bills of lading, waybills, freight bills, and express receipts;

(3) the date and the name of the place of origin of the tobacco product shipment;

(4) the date and the name of the place of arrival of the tobacco product shipment;

(5) a statement of the number, kind, and price paid for the tobacco products;

(6) the name, address, permit number, and tax identification number of the seller;

(7) the manufacturer's list price for the tobacco products;

(8) the net weight as listed by the manufacturer for each unit; and

(9) any other information required by rules of the comptroller.

Acts 1981, 67th Leg., p. 1674, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 35, eff. March 1, 1986; Acts 1991, 72nd Leg., ch. 409, Sec. 51, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 51, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 47, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.87, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 285 (H.B. 2154), Sec. 11, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 7, eff. September 1, 2019.

Sec. 155.102. REPORT OF SALE OR USE. (a) Each distributor and wholesaler shall keep at each place of business in this state records of each sale, distribution, exchange, or use of tobacco products whether taxed under this chapter or not. Each distributor and wholesaler shall prepare and retain an original invoice for each transaction involving tobacco products. Each distributor or wholesaler shall keep any supporting documentation, including bills of lading, showing shipment and receipt used in preparing the invoices at the place of business of the distributor or wholesaler.

The distributor or wholesaler shall prepare and deliver a duplicate invoice to the purchaser.

(b) The records for each sale, distribution, exchange, or use of tobacco products must show:

(1) the purchaser's name and address, permit number, or tax identification number;

(2) the method of delivery and the name of the common carrier or other person delivering the tobacco products;

(3) the date, amount, and type of tobacco products sold, distributed, exchanged, or used;

(4) the price received for the tobacco products;

(5) the number and kind of tobacco products on which the tax has been paid; and

(6) for sales from a manufacturer to a distributor, the manufacturer's list price for the tobacco products.

(c) In addition to the information required under Subsection (b), the records for each sale, distribution, exchange, or use of tobacco products other than cigars must show the net weight as listed by the manufacturer for each unit.

Acts 1981, 67th Leg., p. 1674, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 51, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1040, Sec. 48, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 285 (H.B. 2154), Sec. 12, eff. September 1, 2009.

Sec. 155.103. MANUFACTURER'S RECORDS AND REPORTS. (a) A manufacturer who sells tobacco products to a permit holder in this state shall keep records showing:

(1) the number and kind of tobacco products sold;

(2) the date the tobacco products were sold;

(3) the name and permit number of the permit holder;

(4) the manufacturer's list price for the tobacco products;

(5) the place where the tobacco products were shipped; and

(6) the name of the common carrier.

(a-1) In addition to the information required under Subsection (a), the records for each sale of tobacco products other than cigars must show the net weight as listed by the manufacturer for each unit.

(b) A manufacturer who sells tobacco products to a permit holder in this state shall file with the comptroller, on or before the last day of each month, a report showing the information required to be listed by Subsections (a) and (a-1), if applicable, for the previous month.

Acts 1981, 67th Leg., p. 1675, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 51, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.88, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.44, eff. Oct. 1, 1999.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 285 (H.B. 2154), Sec. 13, eff. September 1, 2009.

Sec. 155.104. MANUFACTURER'S REPRESENTATIVE'S RECORDS. A manufacturer's representative shall keep the same records that are required of a wholesaler. The manufacturer's representative shall deliver a duplicate of the invoice required by Section 155.102 to the purchaser or recipient of the tobacco products.

Acts 1981, 67th Leg., p. 1675, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 51, eff. June 7, 1991.

Sec. 155.105. REPORTS BY WHOLESALERS AND DISTRIBUTORS OF CIGARS AND TOBACCO PRODUCTS. (a) The comptroller may, when considered necessary by the comptroller for the administration of a tax under this chapter, require each wholesaler or distributor of cigars and tobacco products to file with the comptroller a report each month of sales to retailers in this state.

(b) The wholesaler or distributor shall file the report on or before the 25th day of each month. The report must contain the following information for the preceding calendar month's sales in relation to each retailer:

(1) the name of the retailer and the address of the retailer's outlet location to which the wholesaler or distributor delivered cigars or tobacco products, including the city and zip code;

(2) the taxpayer number assigned by the comptroller to the retailer, if the wholesaler or distributor is in possession of the

number;

(3) the tobacco permit number of the outlet location to which the wholesaler or distributor delivered cigars or tobacco products; and

(4) the monthly net sales made to the retailer by the wholesaler or distributor, including:

(A) the quantity and units of cigars and tobacco products sold to the retailer; and

(B) for each unit of tobacco products other than cigars, the net weight as listed by the manufacturer.

(c) Except as provided by this subsection, the wholesaler or distributor shall file the report with the comptroller electronically. The comptroller may establish procedures for allowing an alternative method of filing for a wholesaler or distributor who demonstrates to the comptroller an inability to comply with the electronic reporting requirement. If the comptroller determines that another technological method of filing the report is more efficient than electronic filing, the comptroller may establish procedures requiring its use by wholesalers and distributors.

(d) Except as provided by Section 111.006, information contained in a report required to be filed by this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 129 (H.B. 11), Sec. 3, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 285 (H.B. 2154), Sec. 14, eff. September 1, 2009.

Sec. 155.107. COMMON CARRIER RECORDS. (a) Each common carrier shall keep records of tobacco products transported in this state.

(b) The comptroller and the attorney general are entitled to access during regular business hours to all records pertaining to tobacco products that are transported.

(c) The records must show for each transaction:

(1) the names and addresses of the consignor and consignee;

(2) the date of delivery; and

(3) the amount and type of tobacco products transported or

handled.

Acts 1981, 67th Leg., p. 1670, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 72, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 51, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.89, eff. Sept. 1, 1997.

Sec. 155.108. BONDED AGENT'S RECORDS. (a) Each bonded agent shall keep, at each place of business in this state, records of all tobacco products received, distributed, and delivered.

(b) The records must include:

(1) invoices for receipts and deliveries;

(2) orders for receipts and deliveries;

(3) shipping records for receipts and deliveries; and

(4) shipping records for distribution or delivery.

Acts 1981, 67th Leg., p. 1676, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 51, eff. June 7, 1991.

Sec. 155.109. EXPORT WAREHOUSE'S RECORDS. (a) Each export warehouse shall keep, at each of the warehouse's places of business in this state, records of all tobacco products received, distributed, and delivered.

(b) The records must include:

(1) invoices for receipts and deliveries;

(2) orders for receipts and deliveries;

(3) shipping records for receipts and deliveries; and

(4) shipping records for distribution and delivery.

Added by Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 8, eff. September 1, 2019.

Sec. 155.110. AVAILABILITY OF RECORDS. (a) Except as provided by Section 111.0041, each permit holder shall keep records available for inspection and copying by the comptroller and the attorney general for at least four years.

(b) If a permit holder's place of business is a vehicle or vending machine, the permit holder shall designate in the application

for a permit a permanent place of business to keep the records. The permit holder shall keep the records in the designated place.

(c) Each permit holder who is required to keep records under this chapter shall provide the comptroller with copies of the records on demand.

Acts 1981, 67th Leg., p. 1676, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 38, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 73, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 51, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.90, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 540, Sec. 6, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.09, eff. October 1, 2011.

Sec. 155.111. DISTRIBUTOR'S REPORT. (a) A distributor shall file with the comptroller on or before the 25th day of each month a report for the preceding month.

(b) The report must show:

(1) the date the report was made;

(2) the distributor's name and address;

(3) the month the report covers;

(4) the amount of tobacco products purchased, received, and acquired;

(5) the manufacturer's list price of tobacco products purchased, received, and acquired;

(6) the amount of tobacco products sold, distributed, used, lost, or otherwise disposed of;

(7) the amount of tobacco products on hand at the beginning and the end of the month; and

(8) any other information the comptroller requires relating to tobacco products and to the payment of taxes due on them.

(b-1) In addition to the information required under Subsection (b), the report must show the net weight as listed by the manufacturer for each unit of tobacco products other than cigars that is purchased, received, or acquired.

(c) The comptroller shall prescribe the form and content of the report.

(d) If more than 50 percent of all untaxed tobacco products received by the distributor in this state are actually sold outside of this state, the distributor shall include in the report only tobacco products that are sold in this state.

Acts 1981, 67th Leg., p. 1677, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1989, 71st Leg., ch. 240, Sec. 74, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 51, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1040, Sec. 49, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.91, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.45, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 54, eff. Oct. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 285 (H.B. 2154), Sec. 15, eff. September 1, 2009.
Acts 2017, 85th Leg., R.S., Ch. 33 (S.B. 1390), Sec. 8, eff. September 1, 2017.

Sec. 155.112. FAILURE TO PRODUCE RECORDS. (a) A person's failure to produce the records required by this subchapter or a person's inability to provide other proof of tax payment, on demand by the comptroller, is prima facie evidence that tobacco products possessed by the person were received for the purpose of making a first sale without payment of the tax imposed by this chapter.
(b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 15, eff. September 1, 2019.
(c) This section does not apply to a failure to produce records or provide other proof of tax payment under Subsection (a) if the failure results from an occurrence beyond the person's control.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 52, eff. June 7, 1991.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.92, eff. Sept. 1, 1997.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 15, eff. September 1, 2019.

SUBCHAPTER E. ENFORCEMENT OF TAX

Sec. 155.141. DONATIONS. The comptroller may accept gifts,

grants, and donations for the administration and enforcement of this chapter.

Added by Acts 1989, 71st Leg., ch. 240, Sec. 75, eff. Oct. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1040, Sec. 50, Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.93, eff. Sept. 1, 1997.

Sec. 155.143. SEIZURE. (a) The comptroller with or without process may seize:

(1) tobacco products taxed under this chapter that are possessed or controlled by a person for the purpose of selling or removing the tobacco products in violation of this chapter;

(2) tobacco products that are removed, deposited, or concealed by a person intending to avoid payment of taxes imposed by this chapter;

(3) an automobile, truck, boat, conveyance, or other type of vehicle used to remove or transport tobacco products by a person intending to avoid payment of taxes imposed by this chapter; and

(4) equipment, paraphernalia, or other tangible personal property used by a person intending to avoid payment of taxes imposed by this chapter found in the place where the tobacco products are found.

(b) An item seized under this section is forfeited to the state and remains in the custody of the comptroller for disposition as provided by this chapter. The seized item is not subject to replevin.

Acts 1981, 67th Leg., p. 1678, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 76, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 53, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.94, eff. Sept. 1, 1997.

Sec. 155.144. COMPTROLLER'S REPORT. (a) If the comptroller seizes property under Section 155.143, the comptroller shall immediately make a written report showing:

(1) the name of the person making the seizure;

(2) the place where the property was seized;

(3) the person from whom the property was seized; and

(4) an inventory of the property seized.

(b) The comptroller shall prepare the report in duplicate. The person who seized the property shall sign the report. The comptroller shall give the original to the person from whom the property was seized and shall file a duplicate copy open for public inspection in the comptroller's office.

Acts 1981, 67th Leg., p. 1678, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 77, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 54, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.95, eff. Sept. 1, 1997.

Sec. 155.1445. SALE OF SEIZED TOBACCO PRODUCTS. (a) Tobacco products are perishable items.

(b) If the seized tobacco products are in a salable condition, the comptroller may sell the tobacco products, return the tobacco products to the manufacturer for credit, or destroy or dispose of the tobacco products.

(c) The price obtained at the sale is the market value for the tobacco products sold.

(d) The comptroller shall place the proceeds from the sale of seized tobacco products in escrow in a treasury suspense account, pending the outcome of the forfeiture proceeding provided for in this chapter.

(e) If a determination is made that the comptroller wrongfully seized the tobacco products, the person entitled to the tobacco products at the time of seizure may recover the money held in escrow in the treasury suspense account.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 55, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.96, eff. Sept. 1, 1997.

Sec. 155.145. FORFEITURE PROCEEDING. (a) The owner of property seized under this chapter is entitled to written notice of the seizure.

(b) The comptroller shall give the notice by certified mail, return receipt requested, not later than the 15th day after the date of seizure and shall include with the notice an inventory of the property seized and a statement that the owner of property seized is

entitled to a hearing on the seizure. Service by mail is complete when the notice is received, as evidenced by return receipt from the U.S. Postal Service.

(c) After providing the notice and a hearing, if a hearing is requested under Subsection (b), the comptroller may order the forfeiture to the state of any property seized under this chapter or the proceeds of the sale of any tobacco products seized under this chapter if the comptroller finds that the property was used, controlled, possessed, or concealed for the purpose of violating any provision of this chapter.

(d) The comptroller shall hold property or proceeds forfeited under this section in escrow until the comptroller's determination is final and the period for filing a petition for judicial review has expired.

(e) A forfeiture proceeding under this section is an in rem proceeding.

Acts 1981, 67th Leg., p. 1679, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 78, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 56, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1040, Sec. 51, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 19.97, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 22, eff. September 1, 2011.

Sec. 155.1451. DISPOSITION OF FORFEITED PROPERTY. (a) The comptroller may sell property forfeited to the state at public or private sale in any commercially reasonable manner or retain the property for official use by the comptroller's criminal investigation division. Property retained for use under this subsection may later be sold by the comptroller under this section.

(b) Subject to the provisions of Section 155.153, the comptroller shall deposit the sale proceeds, less expenses of seizure, court costs, and any investigation and audit costs, in the state treasury.

(c) The comptroller shall use the sale proceeds to operate and administer the tobacco products tax program up to the amount appropriated by the legislature for this purpose. The comptroller

shall allocate any sale proceeds that exceed the legislative appropriation as provided by Subchapter H. Any unused appropriations remain in the general revenue fund.

(d) If an automobile or other vehicle seized under Section 155.143 is forfeited and retained by the comptroller under Subsection (a), the comptroller is considered the owner under Subtitle A, Title 7, Transportation Code. The Texas Department of Motor Vehicles shall issue a certificate of title for the vehicle to the comptroller. The comptroller may maintain, repair, use, and operate the vehicle with money appropriated for current operations.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 57, eff. June 7, 1991.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.98, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 23, eff. September 1, 2011.

Sec. 155.146. PHOTOGRAPHIC EVIDENCE IN CASES INVOLVING SEIZED TOBACCO PRODUCTS. (a) The comptroller may photograph tobacco products seized under Section 155.143 before their sale under this subchapter.

(b) In a proceeding arising out of this chapter, including a criminal proceeding, the state is not required to produce the actual tobacco products.

(c) The photographs are admissible in evidence under rules of law governing the admissibility of photographs. The photographs are as admissible in evidence as are the tobacco products themselves.

(d) A person's rights of discovery and inspection of tangible physical evidence are satisfied if the photographs taken under this section are made available to the person by the state on order of any court or other entity having jurisdiction over the proceeding.

Added by Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 24, eff. September 1, 2011.

Sec. 155.150. SEIZURE OR SALE NO DEFENSE. The seizure, forfeiture, and sale of tobacco products or property under this chapter, with or without court action, is not a defense to criminal

prosecution for an offense or from liability for a penalty under this chapter.

Acts 1981, 67th Leg., p. 1680, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 155.151. WAIVER PERMITTED. (a) The comptroller may waive a forfeiture proceeding for property seized under Section 155.143 of this code if the owner or possessor of the property:

(1) pays the tax due; and

(2) pays to the state through the comptroller an additional sum equal to the tax due.

(b) The comptroller may make a compromise with a person before or after a claim is filed in court. The comptroller shall keep a record open for public inspection of compromises and waivers of forfeiture made under this section.

Acts 1981, 67th Leg., p. 1680, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 81, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.99, eff. Sept. 1, 1997.

Sec. 155.152. PAYMENT TO TREASURY. The comptroller shall deposit all taxes collected under this chapter, after payment of costs, in the treasury to be allocated as provided by Subchapter H.

Acts 1981, 67th Leg., p. 1680, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 82, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 58, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.100, eff. Sept. 1, 1997.

Sec. 155.153. PREFERRED STATE TAX LIEN. (a) All taxes, fines, interest, penalties, and costs due under this chapter are secured by a preferred lien in favor of the state, first and prior to all other existing or future liens, contractual or statutory, legal or equitable, regardless of the time the lien originated, on any property seized and forfeited under this chapter.

(b) A lienholder who establishes an interest in the property is entitled to recover any proceeds remaining after payment of all taxes, interest, penalties, and costs due to the state.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 59, eff. June 7, 1991.

Sec. 155.154. DONATIONS. The comptroller may accept gifts, grants, and donations for the administration and enforcement of this chapter.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 59, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.101, eff. Sept. 1, 1997.

Sec. 155.155. RECIPROCAL AGREEMENTS. (a) The comptroller may enter into a reciprocal agreement with a tax official of another state or an official of the United States allowing the exchange of information received by, recorded by, prepared by, furnished to, or collected by the comptroller with respect to the investigation and enforcement of this chapter for any tax, penalty, interest, fine, forfeiture, or offense.

(b) This section does not permit the exchange of information made confidential by this chapter.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 59, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.102, eff. Sept. 1, 1997.

SUBCHAPTER F. ADMINISTRATION BY COMPTROLLER

Sec. 155.181. COMPLIANCE INVESTIGATION AND RECOVERY OF COSTS. (a) If the comptroller has reason to believe that a person has failed to pay a tax or penalty in the proper manner when due or otherwise failed to comply with this chapter, the comptroller may employ auditors and investigators to determine compliance and any amount due. If the comptroller determines that the person has not paid the tax or penalty or has failed to comply with this chapter, the comptroller may require the person to pay the reasonable expenses incurred in the compliance investigation and audit as an additional penalty.

(b) The comptroller shall deposit funds paid under this section to the credit of the general revenue fund in the treasury to be used for making audits, conducting investigations, or as otherwise

appropriated. The comptroller may use other funds available for audits as appropriated by the legislature.

Acts 1981, 67th Leg., p. 1681, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 83, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 61, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 52, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.104, eff. Sept. 1, 1997.

Sec. 155.182. PAYMENT OF DOUBLE AMOUNT. (a) If the comptroller finds that a person has sold tobacco products without the tax having been paid, the comptroller may require the person to pay the state through the comptroller a sum equal to twice the amount of tax due.

(b) If a person does not furnish the comptroller with any evidence showing payment of the tax on tobacco products purchased by the person, it is presumed that the tobacco products were sold without reporting and paying the tax.

Acts 1981, 67th Leg., p. 1681, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 84, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 62, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.105, eff. Sept. 1, 1997.

Sec. 155.183. INSPECTION. (a) To determine the tax liability of a person dealing in tobacco products or compliance by the person with this chapter, the comptroller may:

(1) inspect any premises, including a vending machine and its contents, where tobacco products are manufactured, produced, stored, transported, sold, or offered for sale or exchange;

(2) remain on the premises as long as necessary to determine the tax liability or compliance with this chapter;

(3) examine the records required by this chapter or other records, books, documents, papers, accounts, and objects that the comptroller determines are necessary for conducting a complete examination; and

(4) examine stocks of tobacco products.

(b) A person dealing in tobacco products may not:

(1) fail to produce, on the comptroller's demand, records

required by this chapter; or

(2) hinder or prevent the inspection of records or the examination of the premises.

Acts 1981, 67th Leg., p. 1681, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 85, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 63, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 53, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.106, eff. Sept. 1, 1997.

Sec. 155.184. CREDIT FOR TAX PAID. (a) The comptroller may adopt rules providing for a credit or refund for tax paid on tobacco products if the tobacco products have become unfit for use or consumption or unsalable.

(b) The comptroller may not allow a credit or refund under this section unless the comptroller is satisfied that the tobacco products are unfit for use or consumption or unsalable or have been returned to the manufacturer.

Acts 1981, 67th Leg., p. 1682, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 86, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 63, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.107, eff. Sept. 1, 1997.

Sec. 155.185. DEFICIENCY DETERMINATION, PENALTIES, AND INTEREST. (a) If the comptroller has reasonable cause to believe that a tax report or the amount of tax is inaccurate, the comptroller may compute and determine the amount of tax, penalty, and interest to be paid from information contained in the report or from any other information available to the comptroller.

(b) On making a deficiency determination, the comptroller shall notify the person by personal service or by mail. Service by mail is complete when the notice is deposited with the U.S. Postal Service.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 64, eff. June 7, 1991. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 54, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.108, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.46, eff. Oct. 1, 1999.

Sec. 155.186. REDETERMINATION. (a) A person who receives notice of a deficiency determination may submit a written request to the comptroller for redetermination. If the person desires a hearing, the request for a hearing must be included in the written request for redetermination.

(b) A written request for redetermination must be filed at the office of the comptroller not later than the 30th day after the date notice of deficiency is issued. If a written request for redetermination is not filed as required by this subsection, the determination is final.

(c) On receipt of a written request for redetermination, the comptroller shall:

(1) review the request for redetermination if a hearing was not requested; or

(2) provide the person against whom the deficiency determination was made with written notice of the time, place, and date of a redetermination hearing.

(d) The comptroller shall give notice of a redetermination hearing by personal service or by mail. Service by mail is complete when the notice is deposited with the U.S. Postal Service.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 64, eff. June 7, 1991. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.109, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.47, eff. Oct. 1, 1999.

SUBCHAPTER G. PENALTIES

Sec. 155.201. PENALTIES. (a) A person violates this chapter if the person:

(1) is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, manufacturer's representative, or retailer and fails to keep records required by this chapter;

(2) engages in the business of a bonded agent, distributor, wholesaler, manufacturer, export warehouse, importer, or retailer without a valid permit;

(3) is a distributor, wholesaler, manufacturer, export warehouse, importer, bonded agent, or retailer and fails to make a report required by this chapter to the comptroller or makes a false or incomplete report or application required by this chapter to the comptroller; or

(4) is a person affected by this chapter and fails or refuses to abide by or violates a provision of this chapter or a rule adopted by the comptroller under this chapter.

(b) A person who violates this chapter shall pay to the state a penalty of not more than $2,000 for each violation.

(c) A separate offense is committed each day on which a violation occurs.

(d) The attorney general shall bring suits to recover penalties under this section.

(e) A suit under this section may be brought in a court of competent jurisdiction in Travis County or in any court having jurisdiction.

Acts 1981, 67th Leg., p. 1682, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 41, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 87, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 65, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.110, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1263, Sec. 55, eff. Oct. 1, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 9, eff. September 1, 2019.

Sec. 155.202. NONPAYMENT OF TAX. A person commits an offense if the person, without the tax being paid:

(1) receives or possesses in this state tobacco products for the purpose of making a first sale;

(2) sells, offers for sale, or presents tobacco products as a prize or gift; or

(3) knowingly consumes, uses, or smokes tobacco products subject to the tax imposed by this chapter.

Acts 1981, 67th Leg., p. 1683, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 66, eff. June 7, 1991.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 10, eff. September 1, 2019.

Sec. 155.204. CONCEALMENT OF VIOLATION. A person commits an

offense if the person uses any artful device or deceptive practice to conceal a violation of this chapter.

Acts 1981, 67th Leg., p. 1683, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 155.205. MISLEADING THE COMPTROLLER. A person commits an offense if the person misleads the comptroller in the enforcement of this chapter.

Acts 1981, 67th Leg., p. 1683, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 88, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.111, eff. Sept. 1, 1997.

Sec. 155.206. REFUSING TO SURRENDER TOBACCO PRODUCTS. A person commits an offense if the person refuses to surrender to the comptroller on demand tobacco products possessed in violation of this chapter.

Acts 1981, 67th Leg., p. 1683, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 240, Sec. 89, eff. Oct. 1, 1989; Acts 1997, 75th Leg., ch. 1423, Sec. 19.112, eff. Sept. 1, 1997.

Sec. 155.207. PERMITS. A person commits an offense if the person acting:

(1) as a distributor, wholesaler, or retailer, receives or possesses tobacco products without having a valid permit;

(2) as a distributor, wholesaler, or retailer, receives or possesses tobacco products without having a permit posted where it can be easily seen by the public;

(3) as a distributor or wholesaler, does not deliver an invoice to the purchaser as required by Section 155.102;

(4) as a distributor, wholesaler, or retailer, sells tobacco products without having a valid permit; or

(5) as a bonded agent or export warehouse, stores, distributes, or delivers tobacco products on which the tax has not been paid without having a valid permit.

Acts 1981, 67th Leg., p. 1683, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1985, 69th Leg., ch. 58, Sec. 42, eff. March 1, 1986; Acts 1991, 72nd Leg., ch. 409, Sec. 67, eff. June 7, 1991.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 11, eff. September 1, 2019.

Sec. 155.2075. FINGERPRINTS. The comptroller may refuse to grant a permit or may revoke or suspend a permit if the applicant or permit holder fails, on request, to provide a complete set of fingerprints required for searching the Federal Bureau of Investigation Identification Division files.

Added by Acts 1991, 72nd Leg., ch. 409, Sec. 67, eff. June 7, 1991.
Amended by Acts 1993, 73rd Leg., ch. 790, Sec. 46(21), eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1423, Sec. 19.113, eff. Sept. 1, 1997.

Sec. 155.208. MISDEMEANOR. An offense under Sections 155.202-155.207 is a Class A misdemeanor.

Acts 1981, 67th Leg., p. 1684, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 67, eff. June 7, 1991.

Sec. 155.209. TRANSPORTATION OF TOBACCO PRODUCTS. A person commits an offense if the person:

(1) knowingly transports tobacco products subject to the tax under this chapter without the tax being paid;

(2) wilfully refuses to stop a motor vehicle operated to transport tobacco products after a request to stop from an authorized representative of the comptroller; or

(3) while transporting tobacco products, refuses to permit a complete inspection of the cargo by an authorized representative of the comptroller.

Acts 1981, 67th Leg., p. 1684, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 67, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.114, eff. Sept. 1, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 12, eff. September 1, 2019.

Sec. 155.210. INSPECTION OF PREMISES. A person commits an offense if the person refuses to permit a complete inspection by an authorized representative of the comptroller of any premises where tobacco products are manufactured, produced, stored, transported, sold, or offered for sale or exchange or fails to produce, on the comptroller's demand, records required by this chapter.

Acts 1981, 67th Leg., p. 1684, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 67, eff. June 7, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 19.115, eff. Sept. 1, 1997.

Sec. 155.211. POSSESSION: TAX DUE. (a) A person commits an offense if the person possesses, in violation of this chapter, tobacco products on which a tax is required to be paid that has not been paid. The absence of evidence of a tax payment is prima facie evidence of nonpayment.

(b) This section does not prohibit transportation of tobacco products by a common carrier.

Acts 1981, 67th Leg., p. 1684, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 13, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 894 (H.B. 3475), Sec. 14, eff. September 1, 2019.

Sec. 155.212. BOOKS AND RECORDS. A person commits an offense if the person:

(1) knowingly makes, delivers to, and files with the comptroller a false return or an incomplete return or report;

(2) knowingly fails to make and deliver to the comptroller a return or report as required by this chapter;

(3) destroys, mutilates, or conceals a book or record required by this chapter;

(4) refuses to permit the attorney general or the

comptroller to inspect and audit books and records that are required by this chapter or that are incidental to the conduct of the tobacco products business;

(5) knowingly makes a false entry or fails to make entries in the books and records required by this chapter; or

(6) fails to keep books and records for four years as required by this chapter.

Acts 1981, 67th Leg., p. 1684, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 58, Sec. 43, eff. March 1, 1986; Acts 1989, 71st Leg., ch. 240, Sec. 90, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 409, Sec. 68, eff. June 7, 1991; Acts 1995, 74th Leg., ch. 1000, Sec. 55, eff. Oct. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 19.116, eff. Sept. 1, 1997.

Sec. 155.213. FELONY. An offense under Sections 155.209-155.212 is a felony of the third degree.

Acts 1981, 67th Leg., p. 1684, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 409, Sec. 68, eff. June 7, 1991.

Sec. 155.214. OVERLAP OF PENALTIES. If an offense is punishable under Section 155.208 of this code and also under Section 155.213 of this code, the punishment prescribed by Section 155.213 of this code controls.

Acts 1981, 67th Leg., p. 1685, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 155.215. VENUE FOR FELONY. Venue of a prosecution for an offense punishable under Section 155.213 of this code is in Travis County or in the county where the offense occurred.

Acts 1981, 67th Leg., p. 1685, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER H. ALLOCATION OF TAX

Sec. 155.241. ALLOCATION OF TAX. Revenue collected under this chapter shall be deposited to the credit of the general revenue fund.

Acts 1981, 67th Leg., p. 1685, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 155.2415. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND AND CERTAIN OTHER FUNDS. (a) Notwithstanding Section 155.241, the proceeds from the collection of taxes imposed by Section 155.0211 shall be allocated as follows:

(1) the amount of the proceeds that is equal to the amount that, if the taxes imposed by Section 155.0211 were imposed at a rate of 40 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal, would be attributable to the portion of that tax rate in excess of 35.213 percent, shall be deposited to the credit of the property tax relief fund under Section 403.109, Government Code;

(2) the amount of the proceeds that is equal to the amount that would be attributable to a tax rate of 35.213 percent of the manufacturer's list price, exclusive of any trade discount, special discount, or deal, if the taxes were imposed by Section 155.0211 at that rate, shall be deposited to the credit of the general revenue fund; and

(3) 100 percent of the remaining proceeds shall be deposited to the credit of:

(A) the physician education loan repayment program account established under Subchapter J, Chapter 61, Education Code; or

(B) the general revenue fund, if the comptroller determines that the unencumbered beginning balance of the physician education loan repayment account established under Subchapter J, Chapter 61, Education Code, is sufficient to fund appropriations and other direct and indirect costs from that account for the fulfillment of existing and expected physician loan repayment commitments during the current state fiscal biennium.

(b) Proceeds deposited in accordance with Subsection (a)(3)(B) may be appropriated only for health care purposes.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 3 (H.B. 2), Sec. 4(b), eff. September 1, 2006.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 285 (H.B. 2154), Sec. 16, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 36, eff. September 1, 2015.

CHAPTER 156. HOTEL OCCUPANCY TAX

SUBCHAPTER A. DEFINITIONS

Sec. 156.001. DEFINITIONS. (a) In this chapter, "hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include:

(1) a hospital, sanitarium, or nursing home;

(2) a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or

(3) an oilfield portable unit, as defined by Section 152.001.

(b) For purposes of the imposition of a hotel occupancy tax under this chapter, Chapter 351 or 352, or other law, "hotel" includes a short-term rental. In this subsection, "short-term rental" means the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101.

Acts 1981, 67th Leg., p. 1686, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 5.01, eff. Oct. 1, 1994; Acts 1995, 74th Leg., ch. 454, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1000, Sec. 56, eff. Oct. 1, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 566 (H.B. 3182), Sec. 3, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 22(a), eff. September 1, 2015.

SUBCHAPTER B. TAX

Sec. 156.051. TAX IMPOSED. (a) A tax is imposed on a person who, under a lease, concession, permit, right of access, license,

contract, or agreement, pays for the use or possession or for the right to the use or possession of a room or space in a hotel costing $15 or more each day.

(b) The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

Acts 1981, 67th Leg., p. 1686, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2003, 78th Leg., ch. 209, Sec. 28, eff. Oct. 1, 2003.

Sec. 156.052. RATE OF TAX. The rate of the tax imposed by this chapter is six percent of the price paid for a room in a hotel.

Acts 1981, 67th Leg., p. 1686, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 5, Sec. 1, eff. Oct. 2, 1984; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 5, Sec. 1.

Sec. 156.053. COLLECTION OF TAX. A person owning, operating, managing, or controlling a hotel shall collect for the state the tax that is imposed by this chapter and that is calculated on the amount paid for a room in the hotel.

Acts 1981, 67th Leg., p. 1686, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER C. EXCEPTIONS TO TAX

Sec. 156.101. EXCEPTION--PERMANENT RESIDENT. This chapter does not impose a tax on a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for the period.

Acts 1981, 67th Leg., p. 1686, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 328, Sec. 4, eff. Aug. 26, 1991.

Sec. 156.102. EXCEPTION--RELIGIOUS, CHARITABLE, OR EDUCATIONAL ORGANIZATION. (a) This chapter does not impose a tax on a

corporation or association that is organized and operated exclusively for a religious, charitable, or educational purpose if no part of the net earnings of the corporation or association inure to the benefit of a private shareholder or individual.

(b) For purposes of this section:

(1) a corporation or association that is organized and operated exclusively for the cleaning of beaches and that has no part of its net earnings inure to the benefit of a private shareholder or individual is organized and operated exclusively for a charitable purpose; and

(2) a public or private institution of higher education is organized and operated exclusively for an educational purpose only if the institution is defined as a Texas institution of higher education or as a Texas private or independent institution of higher education under any subdivision of Section 61.003, Education Code.

Acts 1981, 67th Leg., p. 1686, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 1359, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.48, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 18.011, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 29, eff. Oct. 1, 2003.

Sec. 156.103. EXCEPTION--STATE AND FEDERAL GOVERNMENT. (a) This chapter does not impose a tax on:

(1) the United States;

(2) a governmental entity of the United States; or

(3) an officer or employee of a governmental entity of the United States when traveling on or otherwise engaged in the course of official duties for the governmental entity.

(b) This state, or an agency, institution, board, or commission of this state other than an institution of higher education shall pay the tax imposed by this chapter and is entitled to a refund of the amount of tax paid in accordance with Section 156.154.

(c) A state officer or employee of a state governmental entity described by Subsection (b) who is entitled to reimbursement for the cost of lodging and for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act is not applicable shall pay the tax imposed by this chapter. The state governmental entity with whom the person is associated is entitled

under Section 156.154 to a refund of the tax paid.

(d) A state officer or employee of a state governmental entity described by Subsection (b) for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act applies and who is provided with photo identification verifying the identity and exempt status of the person is not required to pay the tax and is not entitled to a refund. The photo identification of a state officer or employee described by this section may be modified for the purposes of this section.

(e) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 1989, 71st Leg., ch. 504, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 454, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.49, eff. Oct. 1, 1999.

Sec. 156.104. EXEMPTION CERTIFICATE. (a) The right to use or possess a room or space in a hotel is exempt from taxation under this chapter if the person required to collect the tax receives, in good faith from a guest, a properly completed exemption certificate stating that the guest is qualified for an exemption under Section 156.102 or 156.103. An exemption certificate must be supported by the documentation required under rules adopted by the comptroller.

(b) The comptroller shall produce and maintain a list of entities that have been provided a letter of exemption from the state hotel occupancy tax under Section 156.102. The comptroller shall make the list available on the comptroller's Internet website.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 30, eff. Oct. 1, 2003.

SUBCHAPTER D. REPORTS AND PAYMENTS

Sec. 156.151. REPORT AND PAYMENT. (a) A person required to collect the tax imposed by this chapter shall pay the comptroller the tax collected during the preceding reporting period and at the same time shall file with the comptroller a report stating:

(1) the total amount of the payments made for rooms at the person's hotel during the preceding reporting period;

(2) the amount of the tax collected by the person during the preceding reporting period; and

(3) other information that the comptroller requires to be in the report.

(b) Except as provided by Subsection (c), each calendar month is a reporting period and the taxes imposed by and collected under this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month.

(c) If a taxpayer owes less than $500 for a calendar month or $1,500 for a calendar quarter, the taxpayer qualifies as a quarterly filer having a reporting period of a calendar quarter and the taxes are due and payable on the 20th day after the end of the calendar quarter.

Acts 1981, 67th Leg., p. 1687, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 5.02, eff. Oct. 1, 1994.

Sec. 156.152. ACCESS TO BOOKS AND RECORDS. After the comptroller gives reasonable notice to a person that the comptroller intends to inspect the books or records of the person, the comptroller has access to the person's books or records necessary for the comptroller to determine the correctness of a report filed under this chapter or the amount of taxes due under this chapter.

Acts 1981, 67th Leg., p. 1687, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 156.153. REIMBURSEMENT FOR TAX COLLECTION. The person required to file a report under this chapter may deduct and withhold from the taxes otherwise due to the state on the monthly or quarterly return, as reimbursement for the cost of collecting the tax, one percent of the amount of the tax due as shown on the report. If taxes due under this chapter are not paid to the state within the time required or if the person required to file a report fails to file the report when due, the person forfeits the claim to reimbursement that could have been taken if the tax had been paid or the report filed when due.

Added by Acts 1981, 67th Leg., p. 2779, ch. 752, Sec. 11, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 486, Sec. 5.03, eff. Oct. 1, 1994.

Sec. 156.154. REFUND. (a) A governmental entity that is entitled under Section 156.103 to a refund of taxes paid under this chapter must file a refund claim with the comptroller.

(b) The claim must be filed on a form provided by the comptroller and contain the information required by the comptroller.

(c) A claim for a refund may be filed only for each fiscal year quarter for all reimbursements accrued during that quarter.

Added by Acts 1995, 74th Leg., ch. 454, Sec. 3, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 91, eff. Sept. 1, 2001.

Sec. 156.155. AVAILABILITY OF CERTAIN TAXPAYER INFORMATION. (a) A state agency may not post on a public Internet website information that identifies the taxable receipts of an individual business that is contained in or derived from a record, report, or other document required to be provided under this chapter.

(b) Information described by Subsection (a) that is collected or maintained by a state agency is public information under Section 552.002, Government Code. A state agency shall provide access to the information in the manner provided by Chapter 552, Government Code, and the exceptions under Subchapter C of that chapter do not apply to the information.

Added by Acts 2017, 85th Leg., R.S., Ch. 30 (S.B. 1086), Sec. 1, eff. May 18, 2017.

SUBCHAPTER E. ENFORCEMENT

Sec. 156.201. INTEREST ON DELINQUENT TAXES. A tax imposed by this chapter that is not paid to the comptroller when it is due draws interest as provided by Section 111.060 of this code.

Acts 1981, 67th Leg., p. 1687, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 156.202. PENALTY. (a) If the person who is required to pay to the comptroller the tax imposed by this chapter fails to file

a report or does not pay the tax when it is due, the person shall forfeit to the state a penalty of five percent of the amount of tax due.

(b) If the person who is required to pay the tax to the comptroller does not pay the tax within 30 days after it is due, the person shall forfeit to the state a penalty of an additional five percent of the amount of tax due.

(c) The minimum penalty under Subsections (a) and (b) is $1.

(d) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

Acts 1981, 67th Leg., p. 1687, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.06, eff. October 1, 2011.

Sec. 156.203. CRIMINAL PENALTY. (a) A person commits an offense if the person fails to file a report with the comptroller, collect a tax for the state, or pay a tax to the comptroller as the person is required to do by this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $100 or more than $1,000.

Acts 1981, 67th Leg., p. 1687, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 156.204. TAX COLLECTION ON TERMINATION OF BUSINESS. (a) If a person who is liable for the payment of an amount under Section 156.151 of this code is the owner of the hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the state comptroller showing that the amount has been paid or a certificate stating that no amount is due.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the

amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the comptroller issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The comptroller shall issue the certificate or statement within 60 days after receiving the request or within 60 days after the day on which the records of the former owner of the hotel are made available for audit, whichever period expires later, but in either event the comptroller shall issue the certificate or statement within 90 days after the date of receiving the request.

(d) If the comptroller fails to mail the certificate or statement within the applicable period provided by Subsection (c) of this section, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

(e) The period of limitation during which the comptroller may assess tax against the purchaser under this section is four years from the date when the former owner of the hotel sells the hotel or when a determination is made against the former owner, whichever event occurs later. At any time within three years after a deficiency determination against the purchaser has become due and payable the comptroller may bring an action in a district court of Travis County or a court of any other state of the United States in the name of the people of Texas to collect the delinquent amounts together with penalties and interest.

Added by Acts 1983, 68th Leg., p. 302, ch. 65, Sec. 1, eff. May 3, 1983.

SUBCHAPTER F. DISPOSITION OF REVENUE

Sec. 156.251. REVENUE DEPOSITED IN GENERAL REVENUE FUND. (a) The revenue from the tax imposed by this chapter shall be deposited in the state treasury to the credit of the general revenue fund.

(b), (c) Expired.

(d) An amount equal to the amount of revenue derived from the collection of taxes imposed by this chapter at a rate of one-half of one percent shall be allocated in the general revenue fund to be used for media advertising and other marketing activities of the Tourism Division of the Texas Department of Commerce. Section 403.094(h),

Government Code, does not apply to funds described in this section. This subsection takes effect October 1, 1994.

Acts 1981, 67th Leg., p. 1688, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 651, Sec. 8, eff. Aug. 26, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 5, Sec. 2; Acts 1993, 73rd Leg., ch. 986, Sec. 34, eff. Sept. 1, 1993.

Sec. 156.2511. ALLOCATION OF CERTAIN REVENUE. (a) Not later than the last day of the month following a calendar quarter, the comptroller shall:

(1) compute the amount of revenue derived from the collection of taxes imposed under this chapter at a rate of two percent and received from hotels located in an eligible coastal municipality that has created a park board of trustees to administer public beaches under Chapter 306, Local Government Code; and

(2) issue to the eligible coastal municipality a warrant drawn on the general revenue fund in the amount computed under Subdivision (1).

(b) An eligible coastal municipality may use money received under this section only to clean and maintain public beaches in that municipality.

(c) Section 403.094(h), Government Code, does not apply to funds described by Subsection (a).

(d) In this section:

(1) "Eligible coastal municipality" has the meaning assigned by Section 351.001.

(2) "Clean and maintain" has the meaning assigned by Section 61.063, Natural Resources Code.

Added by Acts 1995, 74th Leg., ch. 454, Sec. 4, eff. Sept. 1, 1995.

Sec. 156.2512. ALLOCATION OF REVENUE TO CERTAIN MUNICIPALITIES. (a) Not later than the last day of the month following a calendar quarter and subject to Subsection (d), the comptroller shall:

(1) compute the amount of revenue, excluding revenue described by Subsection (e), derived from the collection of taxes imposed under this chapter at a rate of two percent and received from hotels located in an eligible barrier island coastal municipality;

and

(2) issue to the municipality a warrant drawn on the general revenue fund for that amount.

(b) An eligible barrier island coastal municipality may use money received under this section only:

(1) to clean and maintain public beaches in that municipality;

(2) for an erosion response project in that municipality; and

(3) to clean and maintain bay shores owned by that municipality or leased by that municipality from this state.

(c) In this section:

(1) "Eligible barrier island coastal municipality" means a municipality:

(A) that borders on the Gulf of Mexico;

(B) that is located wholly or partly on a barrier island; and

(C) that:

(i) includes an institution of higher education that is part of the Texas Coastal Ocean Observation Network under Section 33.065, Natural Resources Code;

(ii) includes a national estuarine research reserve;

(iii) is located within 30 miles of the United Mexican States; or

(iv) has a population of less than 10,000 and is located in a county with a population of at least 300,000 that is adjacent to a county with a population of at least 3,000,000.

(2) "Clean and maintain" has the meaning assigned by Section 61.063, Natural Resources Code.

(3) "Erosion response project" has the meaning assigned by Section 33.601, Natural Resources Code.

(d) The comptroller may not issue a warrant to any municipality under this section for an amount that exceeds the amount of revenue derived from the collection of taxes imposed under this chapter at a rate of two percent and received from hotels located within the municipality.

(e) This section does not apply to revenue derived from the collection of taxes paid by persons for the use or possession of or for the right to the use or possession of a room or space at a

qualified hotel project, the owner of which is entitled to a rebate, refund, or payment of hotel occupancy tax revenue under:

(1) Section 2303.5055, Government Code; or

(2) Section 151.429(h).

Added by Acts 1999, 76th Leg., ch. 1359, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1192 (H.B. 1009), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 667 (H.B. 2276), Sec. 1, eff. July 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 702 (H.B. 3042), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 702 (H.B. 3042), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 702 (H.B. 3042), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 971 (H.B. 1915), Sec. 1, eff. October 1, 2015.

Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN MUNICIPALITIES AND COUNTIES. Not later than the last day of the month following a calendar quarter, the comptroller shall:

(1) compute the amount of revenue, excluding penalties and interest and amounts paid under protest, derived from the collection of taxes imposed by this chapter that resulted from documentation or other information described by Section 351.008 or 352.008; and

(2) issue a warrant drawn on the general revenue fund in the amount of 20 percent of the revenue computed under Subdivision (1) to the municipality or county that provided the documentation or other information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1152 (H.B. 2048), Sec. 1, eff. September 1, 2011.

For expiration of this section, see Subsection (e).

Sec. 156.252. TEMPORARY ALLOCATION OF CERTAIN REVENUE TO BENEFIT COASTAL COUNTIES. (a) In this section, "coastal county"

means any county adjacent to:

(1) the Gulf of Mexico; or

(2) Corpus Christi Bay.

(b) Beginning with the state fiscal year beginning September 1, 2021, and except as provided by Subsection (d), the comptroller shall, not later than September 30 of each state fiscal year:

(1) compute the amount of revenue derived from the collection of taxes imposed under this chapter at a rate of two percent and received from hotels located in coastal counties during the preceding state fiscal year; and

(2) transfer that amount to the coastal erosion response account created under Section 33.604, Natural Resources Code.

(c) Revenue transferred under this section may be appropriated only to the General Land Office for a purpose consistent with Subchapter H, Chapter 33, Natural Resources Code, that benefits a coastal county.

(d) Revenue derived from the collection of taxes under this chapter that is placed in a suspense account under Section 151.429(h) or under Section 2303.5055(f), Government Code, is excluded from the computation required by Subsection (b)(1).

(e) This section expires September 1, 2031.

Added by Acts 2019, 86th Leg., R.S., Ch. 1018 (H.B. 6), Sec. 5, eff. September 1, 2019.

CHAPTER 158. MANUFACTURED HOUSING SALES AND USE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 158.001. SHORT TITLE. This chapter is known and may be cited as the "Manufactured Housing Sales and Use Tax Act."

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982.

Sec. 158.002. DEFINITIONS. In this chapter, "manufactured home," "manufacturer," "retailer," and "person" have the same meanings as they are given by Chapter 1201, Occupations Code. In addition, the term "manufactured home" also includes and means "industrialized housing" as defined by Chapter 1202, Occupations Code.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982. Amended by Acts 1985, 69th Leg., ch. 527, Sec. 2, eff. Aug. 26, 1985; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.818, eff. Sept. 1, 2003.

SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

Sec. 158.051. TAX IMPOSED. A tax is imposed on the initial sale in this state of every new manufactured home at the rate of five percent of the amount of the sales price determined as provided by Section 158.052 of this code.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982. Amended by Acts 1981, 67th Leg., p. 2757, ch. 752, Sec. 2(b), eff. Sept. 1, 1983.

Sec. 158.052. COMPUTATION OF TAX. The initial sale of a manufactured home occurs on the sale, shipment, or consignment by a manufacturer to a retailer or other person in this state. The tax rate is applied to 65 percent only of the sales price to be paid by the retailer or other person, as set forth in the actual invoice or bill of sale. The sales price does not include any shipping, freight, or delivery charges for the manufactured home from the manufacturer to the retailer or other person if those charges are separately stated on the invoice or bill of sale.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982.

Sec. 158.053. COLLECTION OF TAX FROM RETAILER. Every manufacturer engaged in business in this state shall set forth the amount of the tax imposed on each manufactured home on the actual invoice or bill of sale and shall collect the amount of the tax from the retailer or other person to or for whom the manufactured home is sold, shipped, or consigned in this state. As used in this chapter, "manufacturer engaged in business in this state" includes the following:

(1) any manufacturer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a

subsidiary, affiliate, or agent, by whatever name called, an office, manufacturing facility, place of distribution, warehouse, storage place, or other place of business; and

(2) any manufacturer having a representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the manufacturer, or of its subsidiary, affiliate, or agent, for the purpose of selling, delivering, or the taking of orders for any manufactured home.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982.

Sec. 158.054. PERMITS. Every manufacturer engaged in business in this state shall file with the comptroller an application for a permit authorizing the manufacturer to sell, ship, or consign manufactured homes to persons in this state. The application must be on a form prescribed by the comptroller and contain the information that the comptroller requires. The application must be executed by the owner of a sole proprietorship, by an officer or partner of an association or partnership, or by an executive officer, or other person who is expressly authorized, of a corporation. A manufacturer may not be issued a permit unless the manufacturer is duly licensed and bonded under Chapter 1201, Occupations Code.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.818, eff. Sept. 1, 2003.

Sec. 158.055. RECORDS. Every manufacturer selling, shipping, or consigning manufactured homes to or for any person in this state shall keep on file for audit purposes for the limitation period records showing:

(1) the identification number of each module or section of each manufactured home sold, shipped, or consigned;

(2) the name of the retailer or other person to whom or for whom the manufactured home was sold, shipped, or consigned and the address to which the home was delivered in this state; and

(3) the sales price of each manufactured home sold, shipped, or consigned.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982.

Sec. 158.056. REPORT AND TAX PAYMENT. (a) Each manufacturer shall send to the comptroller on or before the last day of each month a report showing the total sales prices of manufactured homes sold, shipped, or consigned to or for, any person in this state during the preceding month together with the taxes imposed by this chapter. The report shall be made in the form and manner required by the comptroller.

(b) Along with each monthly report, the manufacturer shall remit to the comptroller monthly the tax imposed by this chapter and due on manufactured homes during the reporting period.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982.

Sec. 158.057. USE TAX. (a) A use tax is imposed on the use or occupancy of a manufactured home in this state at the same rate as provided by this chapter on the initial sale of a new manufactured home.

(b) "Use" includes the exercise of any right or power over a manufactured home incident to its ownership and includes the incorporation of any manufactured home into real estate or into improvements on real estate.

(c) If a sales or use tax has previously been paid on the manufactured home in any state, credit in the amount of the tax may be taken against any use tax due on the manufactured home under this chapter. If the sales tax imposed by this chapter has previously been paid to the manufacturer, no use tax is due or payable.

(d) The person to whom or for whom the manufactured home is sold, shipped, or consigned in this state is liable for, and shall pay the use tax on 65 percent of the sales price of the manufactured home as set forth in the actual invoice, bill of sale, or other document transferring title. It is presumed that the manufactured home was sold, shipped, or consigned for use or occupancy in this state. If a manufactured home has been registered or titled in another state for a period of at least one year, as shown by a

certificate or document of title, it is presumed that the manufactured home was not purchased for use in this state and no use tax is due.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982.

Sec. 158.058. CREDIT OR REFUND FOR SALES TO NONRESIDENTS. If the sales tax imposed by this chapter has previously been paid to the manufacturer by a retailer whose first sale at retail is to a resident of another state and if the manufactured home is transported to and installed on a homesite outside of this state and not titled or registered in this state, the retailer is entitled to a credit or refund of the tax previously paid under this chapter. No credit or refund is due or may be paid if any use or occupancy of the manufactured home occurred prior to the first sale at retail by the retailer.

Added by Acts 1983, 68th Leg., p. 464, ch. 96, Sec. 2, eff. May 10, 1983. Amended by Acts 1985, 69th Leg., ch. 117, Sec. 2, eff. Sept. 1, 1985.

SUBCHAPTER C. EXEMPTIONS

Sec. 158.101. EXEMPTIONS. (a) There are exempted from the taxes imposed by this chapter the sales price of a manufactured home sold, shipped, or consigned to, or the use or occupancy of any manufactured home by:

(1) the United States or its unincorporated agencies or instrumentalities;

(2) any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;

(3) this state or its unincorporated agencies or instrumentalities;

(4) any county, city or town, special district, or other political subdivision of this state; or

(5) any organization created for religious, educational, charitable, or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any

private shareholder or individual, and provided that the use of the manufactured home is related to the purpose of the organization.

(b) If a person certifies in writing by using an exemption certificate that the person is exempt under this section and that the manufactured home will be used in a manner or for a purpose exempted from the tax, and the person then uses the manufactured home in another manner or for another purpose, the person is liable for the tax. The cost of the manufactured home to the person is the sales price for purposes of determining the amount of tax for which the person is liable.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982.

SUBCHAPTER D. ENFORCEMENT

Sec. 158.151. PENALTIES. (a) If any person fails to file a report required by this chapter or fails to pay the tax imposed, when the report or payment is due, an amount equal to five percent of the tax due shall be forfeited as a penalty. After the first 30 days following the due date of any report or payment, an additional five percent of the amount of the tax shall be forfeited. A penalty may never be less than $1. Delinquent taxes shall draw interest at the rate provided by Section 111.060, beginning 60 days from the due date.

(b) A person commits an offense if the person gives an exemption certificate to the seller for a manufactured home, and the person knows that the home will be used in a manner or for a purpose other than exempt purpose as defined by Section 158.101 of this code. An offense under this section is a Class A misdemeanor.

(c) A person commits an offense if the person claims a credit or refund by submitting false information as a basis for the claim. An offense under this section is a Class A misdemeanor.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982. Amended by Acts 1983, 68th Leg., p. 464, ch. 96, Sec. 3, eff. May 10, 1983; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 13.03, eff. Sept. 1, 1991.

Sec. 158.152. LIEN. The state has a lien on each new

manufactured home installed for use and occupancy in this state for the collection and payment of the tax imposed by this chapter if the tax has not been set forth on the invoice or bill of sale on the initial sale and paid to the manufacturer by the retailer or other person to whom or for whom the manufactured home is sold, shipped, or consigned. The lien shall be filed with the county clerk of the county of this state in which such new manufactured home is installed for use and occupancy. In addition, the lien shall be filed and recorded with the Texas Department of Licensing and Regulation.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982. Amended by Acts 1989, 71st Leg., ch. 1039, Sec. 4.06, eff. Sept. 1, 1989.

Sec. 158.153. RULES. The comptroller shall adopt rules necessary for the implementation of the provisions of this chapter and for the collection of the taxes imposed by this chapter.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982.

Sec. 158.154. OTHER TAXES. (a) All manufactured homes shall be taxed in accordance with the provisions of Title 1 of this code. A political subdivision of this state may not levy or collect any other tax on a manufactured home.

(b) Manufactured homes are not to be taxed as motor vehicles under Chapter 152 of this code and are not taxable items under Chapter 151 of this code.

(c) A part or an accessory added to a manufactured home by a retailer on which the sales tax is not paid to the manufacturer under this Chapter is subject to the tax imposed by Chapter 151 of this code, and the retailer shall pay the tax to the vendor of the part or accessory. If a retailer is a permitted taxpayer under Chapter 151 of this code and makes separate retail sales of the parts or accessories, a resale certificate may be issued in lieu of paying the tax at the time of purchase, and the tax shall be collected from the purchaser at retail; if the tax is not paid at the time of purchase, the retailer must accrue and remit the tax on each part and accessory which is later removed from inventory and added to a manufactured

home.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982. Amended by Acts 1983, 68th Leg., p. 463, ch. 96, Sec. 1, eff. May 10, 1983.

Sec. 158.155. LIMITATION FOR COLLECTION AND REFUND. Subchapter D of Chapter 111 and Section 111.107 of this code apply to this chapter.

Added by Acts 1981, 67th Leg., p. 2754, ch. 752, Sec. 2(a), eff. March 1, 1982.

CHAPTER 160. TAXES ON SALES AND USE OF BOATS AND BOAT MOTORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 160.001. DEFINITIONS. In this section:

(1) "Agent of the department" means an agent authorized under Section 31.006, Parks and Wildlife Code.

(2) "Boat" means a vessel not more than 115 feet in length, measured from the tip of the bow in a straight line to the stern.

(3) "Dealer or manufacturer" means a dealer or manufacturer as defined under Section 31.003, Parks and Wildlife Code, who has applied for and holds a current number under Section 31.041, Parks and Wildlife Code.

(4) "Department" means the Parks and Wildlife Department.

(5) "Outboard motor" has the meaning assigned by Section 31.003, Parks and Wildlife Code.

(6) "Retail sale" means a sale of an item other than a sale in which the dealer or manufacturer acquires the item for the exclusive purpose of resale.

(7) "Sale" includes:

(A) an installment and credit sale;

(B) an exchange of property for property or money;

(C) an exchange in which property is transferred but the seller retains title as security for payment of the purchase price; and

(D) any other closed transaction that constitutes a sale.

(8) "Tax assessor-collector" means a county tax assessor-

collector.

(9) "Taxable boat or motor" means:

(A) a boat other than a canoe, kayak, rowboat, raft, punt, or other vessel designed to be propelled by paddle, oar, or pole; or

(B) an outboard motor.

(10) "Seller-financed sale" means a retail sale of a taxable boat or boat motor in which the seller collects all or part of the total consideration in periodic payments and retains a lien on the boat or boat motor until all payments have been received. The term does not include a retail sale of a taxable boat or boat motor in which a person other than the seller provides the consideration for the sale and retains a lien on the boat or boat motor as collateral.

(11) "Title" means the certificate of title document as provided for under Chapter 31, Parks and Wildlife Code.

(12) "Use" does not include the storage, display, or holding of an item exclusively for sale.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 30, eff. Oct. 1, 1993; Acts 1993, 73rd Leg., ch. 718, Sec. 5, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 17.01(50), eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1249 (H.B. 4032), Sec. 8, eff. September 1, 2019.

Sec. 160.002. TOTAL CONSIDERATION. (a) "Total consideration" means the amount paid or to be paid for a taxable boat or motor, including accessories attached on or before the sale, without deducting:

(1) the cost of the item;

(2) the cost of material, labor or service, interest paid, loss, or any other expense;

(3) the cost of transportation of the item before its sale; or

(4) the amount of any manufacturer's or importer's excise tax imposed on the item by the United States.

(b) "Total consideration" does not include amounts separately stated on the bill or contract for the following:

(1) a cash discount;

(2) a full cash or credit refund to a customer of the sales price of the item returned to the seller;

(3) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the item sold;

(4) a financing, carrying, or service charge or interest on credit extended on the item sold under a conditional sale or other deferred payment contract;

(5) the value of a taxable boat or motor taken by a seller as all or a part of the consideration for sale of the item; or

(6) a charge for transportation of the item after a sale.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.003. SUPERVISION. (a) The comptroller shall supervise the collection of the taxes imposed by this chapter and adopt rules for the determination of the taxable value of taxable boats and motors and the administration of this chapter.

(b) The comptroller shall furnish a copy of the rules to each tax assessor-collector, each agent of the department, and the department. Each tax assessor-collector and each agent of the department shall consistently apply the rules authorized by this section.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 718, Sec. 6, eff. Sept. 1, 1993.

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 160.021. RETAIL SALES TAX. (a) A tax is imposed on every retail sale of a taxable boat or motor sold in this state. The tax is an obligation of and shall be paid by the purchaser of the taxable boat or motor. If the purchaser pays the tax to the seller, the tax is an obligation of and shall be paid by the seller.

(b) The tax rate is 6-1/4 percent of the total consideration.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 243, Sec. 1, eff. Sept. 1, 1999.

Sec. 160.022. USE TAX. (a) A use tax is imposed on a taxable boat or motor purchased at retail outside this state and used in this state or brought into this state for use by a Texas resident or other person who is domiciled or doing business in this state. The tax is an obligation of and shall be paid by the person who uses the boat or motor in this state or brings the boat or motor into this state.

(b) The tax rate is 6-1/4 percent of the total consideration.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.023. NEW RESIDENT. (a) A use tax is imposed on a new resident of this state who brings into this state for use in this state a taxable boat or motor that has been purchased and owned by the new resident in any other state or foreign country.

(b) The tax is $15 for each taxable boat or motor.

(c) The tax imposed by this section is in lieu of the tax imposed by Section 160.022.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.024. EXEMPTION. The taxes imposed by this chapter do not apply to the sale of a taxable boat or motor or to the use of a taxable boat or motor by this state or its political subdivisions or the federal government.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.0245. EXEMPTION FOR EMERGENCY SERVICE ORGANIZATIONS. The taxes imposed by this chapter do not apply to the sale of a taxable boat or motor to or to the use of a taxable boat or motor by

a volunteer fire department or other department, company, or association organized for the purpose of answering fire alarms and extinguishing fires or for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services, the members of which receive no compensation or only nominal compensation for their services rendered, if the boat or motor is used exclusively by the department, company, or association.

Added by Acts 2001, 77th Leg., ch. 190, Sec. 1, eff. May 21, 2001.

Sec. 160.0246. EXEMPTION FOR CERTAIN BOATS AND MOTORS TEMPORARILY USED IN THIS STATE. (a) The taxes imposed by this chapter do not apply to the sale of a taxable boat or motor if:

(1) the boat or motor is sold in this state for use in another state or nation and is removed from this state not more than 10 days after the date of purchase;

(2) the boat or motor:

(A) is sold in this state for use in another state or nation;

(B) not later than the 10th day after the date the boat or motor is purchased, is docked at or placed in a boat repair facility registered with the comptroller for repairs or modifications;

(C) is not used by a person while it is being repaired or modified, except as necessary to test the repairs or modifications; and

(D) is removed from this state not more than 20 days after the date the repairs or modifications are finished; or

(3) the boat or motor:

(A) is sold in this state for use in another state or nation;

(B) displays a permit described by Section 160.0247 at all times after the boat or motor is purchased until the boat or motor is removed from this state; and

(C) is removed from this state not more than 90 days after the date of purchase.

(b) The tax imposed by Section 160.022 does not apply to a taxable boat or motor used in this state or brought into this state for use if the boat or motor:

(1) has a current certificate of number issued under any federal law or a federally approved numbering system of another state;

(2) displays a permit described by Section 160.0247 at all times while the boat or motor is located in this state; and

(3) is removed from this state not more than 90 days after the date the boat or motor is brought into this state.

(c) The comptroller shall adopt rules and procedures to implement this section and Section 160.0247.

Added by Acts 2019, 86th Leg., R.S., Ch. 1249 (H.B. 4032), Sec. 9, eff. September 1, 2019.

Sec. 160.0247. TEMPORARY USE PERMIT. (a) The comptroller or an agent of the department may issue a temporary use permit to the owner of a taxable boat or motor that qualifies for an exemption from tax under Section 160.0246(a)(3) or (b).

(b) The fee for a permit is $150.

(c) A permit is valid for 90 days and may not be renewed.

(d) The owner of a taxable boat or motor may obtain not more than two permits in a calendar year for the boat or motor. The second permit in a calendar year may not be issued before the 30th day after the date the first permit expires.

Added by Acts 2019, 86th Leg., R.S., Ch. 1249 (H.B. 4032), Sec. 9, eff. September 1, 2019.

Sec. 160.025. CREDIT FOR OTHER TAXES. A person is entitled to a credit against the tax imposed by Section 160.022 on a taxable boat or motor in an amount equal to the amount of any similar tax paid by the person in another state on the sale, purchase, or use of the taxable boat or motor if the state in which the tax was paid provides a similar credit for a taxpayer of this state.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.026. LIMITATION ON AMOUNT OF TAX. Notwithstanding any

other law, the tax imposed under Section 160.021 on the sale of a taxable boat or motor may not exceed $18,750.

Added by Acts 2019, 86th Leg., R.S., Ch. 1249 (H.B. 4032), Sec. 9, eff. September 1, 2019.

SUBCHAPTER C. COLLECTION AND ENFORCEMENT OF TAXES

Sec. 160.041. COLLECTION PROCEDURE. (a) The department, each agent of the department, and each tax assessor-collector shall collect the taxes imposed by this chapter. The department, agent of the department, or tax assessor-collector of the county in which an application for a Texas certificate of number or certificate of title for a taxable boat or motor is made shall collect the taxes imposed by this chapter on that boat or motor.

(b) Except as provided by Subsection (d), the department, agent of the department, or the tax assessor-collector may not accept an application for a Texas certificate of number or certificate of title for a taxable boat or motor from a person unless the tax, if any, is paid.

(c) The tax imposed by Section 160.021 is due on the 45th working day after the date that the taxable boat or motor is delivered to the purchaser. The purchaser or the seller, if the purchaser paid the tax to the seller, shall pay the tax to the department, to an agent of the department, or to a tax assessor-collector on or before the due date.

(d) If a purchaser pays the tax imposed by Section 160.021 to the seller, and the seller fails to remit the tax in the time and manner required by Subsection (c), the department, agent of the department, or county tax assessor-collector shall accept an application for a Texas certificate of number or certificate of title for a taxable boat or motor from the purchaser if the purchaser provides proof that the tax was paid to the seller. The comptroller shall adopt rules establishing the method of proof required.

(e) The tax imposed by Section 160.022 or 160.023 is due on the 45th working day after the date that the taxable boat or motor is brought into this state. The person liable for the tax shall pay the tax to the department or to a tax assessor-collector on or before the due date.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct.

1, 1991. Amended by Acts 1993, 73rd Leg., ch. 718, Sec. 7, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 243, Sec. 2, eff. Sept. 1, 1999.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1249 (H.B. 4032), Sec. 10, eff. September 1, 2019.

Sec. 160.042. REQUIRED AFFIDAVITS. (a) A person obligated to pay a tax imposed by this chapter on a transaction shall file the affidavit as provided by this section with the department, agent of the department, or tax assessor-collector on payment of a tax imposed by this chapter.

(b) If a taxable boat or motor is sold by a person at a retail sale, the seller and purchaser shall make a joint affidavit stating the value in dollars of the total consideration for the boat or motor at the time of sale.

(c) If the ownership of a taxable boat or motor is transferred as a result of a gift, the donor shall make an affidavit stating the nature of the transaction.

(d) If the ownership of a taxable boat or motor is transferred as a result of an even exchange, the parties shall make a joint affidavit stating the nature of the transaction.

(e) The department, agent of the department, or the tax assessor-collector shall examine each affidavit for the purpose of determining the truth and accuracy of the information it contains. If the department, agent of the department, the tax assessor-collector, or the comptroller has reason to question the truth of the information in an affidavit, or if any material fact fails to meet the rules adopted by the comptroller, the department, agent of the department, the tax assessor-collector, or the comptroller may require any party to the affidavit to furnish substantiation of information in the affidavit before accepting an application for a Texas certificate of number or certificate of title.

(f) The department, agent of the department, and the tax assessor-collector shall keep a copy of each affidavit and any substantiating materials until it is called for by the comptroller for auditing.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct.

1, 1991. Amended by Acts 1993, 73rd Leg., ch. 718, Sec. 8, eff. Sept. 1, 1993.

Sec. 160.043. PAYMENT BY SELLER. If the comptroller on an audit of the records of a seller finds that the amount of tax due was incorrectly reported on a joint affidavit and that the amount of tax paid was less than the amount due or that the seller failed to execute and deliver to the purchaser a joint affidavit and any other documents necessary to register the taxable boat or motor, the seller and purchaser are jointly and severally liable for the amount of the tax determined to be due.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.044. TAX RECEIPTS. (a) The comptroller shall prescribe the form of a tax receipt to be issued to a person paying a tax imposed by this chapter.

(b) The department, agent of the department, or tax assessor-collector collecting a tax imposed by this chapter shall:

(1) issue the original receipt to the person paying the tax; and

(2) retain one duplicate copy of the receipt as a permanent record of the transaction according to the rules of the comptroller.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 718, Sec. 9, eff. Sept. 1, 1993.

Sec. 160.045. PENALTY. (a) A person who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to pay the tax before the 31st day after the date on which the tax is due, the person forfeits an additional five percent.

(b) The minimum penalty imposed by this section is $1.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.046. RECORDS. (a) The seller of a taxable boat or motor shall keep at the seller's principal office for at least four years from the date of the sale a complete record of each sale of a taxable boat or motor. The record must include a copy of the invoice of each item sold. The invoice copy must show the full price of the taxable boat or motor and the itemized price of all its accessories. All sales and supporting records of a seller are open to inspection and audit by the comptroller.

(b) A seller's business records must show the total receipts from all sources of income and expense, including transactions involving taxable boats and motors.

(c) For a retail sale for which the seller receives full payment at the time of sale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale, documentation of complete payment in the form of:

(1) a copy of the payment instrument or a receipt for cash received; and

(2) a copy of the receipt for title application, registration, and boat or boat motor tax issued by the county tax assessor-collector or the department or a written statement by the purchaser that:

(A) is signed and dated;

(B) indicates the date on which the seller provided to the purchaser each of the documents necessary to apply for the title, register the taxable boat or boat motor, and pay the boat or boat motor tax; and

(C) includes a statement that the seller advised the purchaser that the purchaser must pay a tax to the county tax assessor-collector or the department.

(d) For a seller-financed sale, the seller shall keep at the seller's principal office for at least four years from the date on which the seller receives the final payment for the taxable boat or motor:

(1) the lienholder's copy of the receipt for title application, registration, and boat or boat motor tax issued by a county tax assessor-collector or the department; and

(2) a ledger or other document containing a complete record of the payment history for that boat or boat motor, including:

(A) the name and address of the purchaser;
(B) the total consideration;
(C) the amount of the down payment received at the time the boat or boat motor is sold;
(D) the date and amount of each subsequent payment;
(E) the date of sale; and
(F) the date of any repossession.

(e) For a sale for resale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale, the purchaser's written statement of resale on a form prescribed by the comptroller.

(f) Any person, other than the seller's employee, acting for the seller of a taxable boat or boat motor has the same record-keeping responsibilities as the seller.

(g) A person required to keep records under this section shall also keep the records as required by Section 111.0041.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 587, Sec. 31, eff. Oct. 1, 1993.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.10, eff. October 1, 2011.

SUBCHAPTER D. PENALTIES

Sec. 160.061. OPERATION; PENALTY. (a) A person commits an offense if the person knowingly operates a taxable boat or motor in this state and the person knows that a tax imposed by this chapter on the boat or motor has not been paid and is delinquent.

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

Sec. 160.062. PENALTY FOR SIGNING FALSE AFFIDAVITS. (a) A person commits an offense if the person signs a joint affidavit required by Section 160.042 and knows that it is false in any material fact.

(b) An offense under this section is a misdemeanor punishable

by a fine not to exceed $500.

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 32, eff. Oct. 1, 1993.

SUBCHAPTER E. DISPOSITION OF TAXES

Sec. 160.121. AMOUNT OF TAX SENT TO COMPTROLLER. (a) Except as provided by Subsections (b) and (c), on the 10th day of each month, each tax assessor-collector and the department shall send the money collected from taxes imposed by this chapter to the comptroller.

(b) A tax assessor-collector shall retain five percent of the taxes collected by the tax assessor-collector under this chapter as fees of office to be retained or paid into the appropriate county fund from which salaries are paid as provided by law and used to defray the costs of collection required under this chapter. As a minimum amount for the fees of office collectible, a tax assessor-collector is entitled to retain $5 for each of the first 100 transactions processed in each fiscal year.

(c) Five percent of the taxes collected by the department under this chapter shall be deposited to the credit of the game, fish, and water safety account and used by the department for the administration of this chapter.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 67, eff. Sept. 1, 1993.

Sec. 160.122. ALLOCATION OF REVENUE. The revenue from the taxes imposed by this chapter from a sale of a taxable boat or motor shall be allocated to the general revenue fund.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 7.01, eff. Oct. 1, 1991.

CHAPTER 162. MOTOR FUEL TAXES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 162.001. DEFINITIONS. In this chapter:

(1) "Agricultural purpose" means a purpose associated with

the following activities:

(A) cultivating the soil;

(B) producing crops for human food, animal feed, or planting seed or for the production of fibers;

(C) floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or nonsoil media;

(D) raising, feeding, or keeping livestock or other animals for the production of food or fiber, leather, pelts, or other tangible products having a commercial value;

(E) wildlife management; and

(F) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(2) "Alcohol" means motor fuel grade ethanol or a mixture of motor fuel grade ethanol and methanol, excluding denaturant and water, that is a minimum of 98 percent ethanol or methanol by volume.

(3) "Aviation fuel" means aviation gasoline or aviation jet fuel.

(4) "Aviation fuel dealer" means a person who:

(A) is the operator of an aircraft servicing facility;

(B) delivers gasoline, diesel fuel, compressed natural gas, or liquefied natural gas exclusively into the fuel supply tanks of aircraft or into equipment used solely for servicing aircraft and used exclusively off-highway; and

(C) does not use, sell, or distribute gasoline, diesel fuel, compressed natural gas, or liquefied natural gas on which a fuel tax is required to be collected or paid to this state.

(5) "Aviation gasoline" means motor fuel designed for use in the operation of aircraft other than jet aircraft and sold or used for that purpose.

(6) "Aviation jet fuel" means motor fuel designed for use in the operation of jet or turboprop aircraft and sold or used for that purpose.

Text of subdivision as amended by Acts 2009, 81st Leg., R.S., Ch. 1312 (H.B. 2582), Sec. 1

(7) "Biodiesel fuel" has the meaning assigned to "biodiesel" by Section 16.001, Agriculture Code.

Text of subdivision as amended by Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 7

(7) "Biodiesel fuel" means any motor fuel or mixture of motor fuels, other than gasoline blended fuel, that is:

(A) derived wholly or partly from agricultural products, vegetable oils, recycled greases, or animal fats, or the wastes of those products or fats; and

(B) advertised, offered for sale, sold, used, or capable of use as fuel for a diesel-powered engine.

(8) "Blender" means a person who produces blended motor fuel outside the bulk transfer/terminal system.

(9) "Blending" means the mixing together of liquids that produces a product that is offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or diesel-powered engine. The term does not include mixing that occurs in the process of refining by the original refiner of crude petroleum or the commingling of products during transportation in a pipeline.

(10) "Bulk plant" means a motor fuel storage and distribution facility that:

(A) is not an IRS-approved terminal; and

(B) from which motor fuel may be removed at a rack.

(10-a) "Bulk storage" means a container of more than 10 gallons.

(11) "Bulk transfer" means a transfer of motor fuel from one location to another within the United States by pipeline or marine movement within a bulk transfer/terminal system, including:

(A) a marine vessel movement of motor fuel owned by a licensed supplier or permissive supplier;

(B) a pipeline movement of motor fuel from a refinery, motor fuel storage facility, or terminal to a terminal or motor fuel storage facility;

(C) a book transfer or in-tank transfer of motor fuel within a terminal or motor fuel storage facility between licensed suppliers before completion of removal across the rack; and

(D) a two-party exchange between licensed suppliers or between licensed suppliers and permissive suppliers.

(12) "Bulk transfer/terminal system" means the motor fuel distribution system consisting of refineries, pipelines, marine vessels, motor fuel storage facilities, and IRS-approved terminals. Motor fuel is in the bulk transfer/terminal system if the motor fuel

is in a refinery, a pipeline, a motor fuel storage facility, a terminal, or a marine vessel transporting motor fuel owned by a licensed supplier or permissive supplier. Motor fuel is not in the bulk transfer/terminal system if the motor fuel is in:

(A) a bulk plant that is not part of a refinery or terminal;

(B) the motor fuel supply tank of an engine or a motor vehicle; or

(C) a tank car, railcar, trailer, truck, or other equipment suitable for ground transportation.

(13) "Bulk user" means a person who maintains storage facilities for motor fuel and uses all or part of the stored motor fuel to operate a motor vehicle, vessel, or aircraft and for other uses.

(14) "Cargo tank" means an assembly that is used to transport, haul, or deliver liquids and that consists of a tank having one or more compartments mounted on a wagon, automobile, truck, trailer, or wheels. The term includes accessory piping, valves, and meters, but does not include a fuel supply tank connected to the carburetor or fuel injector of a motor vehicle.

(15) "Carrier" means an operator of a pipeline or marine vessel engaged in the business of transporting motor fuel above the terminal rack.

(16) "Compressed natural gas" means natural gas that has been compressed and is advertised, offered for sale, sold, suitable for use, or used as an engine motor fuel.

(17) "Dealer" means a person who sells motor fuel at retail or dispenses motor fuel at a retail location.

(18) "Destination state" means the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for resale or use.

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, offered for sale, sold, used, or capable of use as fuel for the propulsion of a diesel-powered engine. The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, renewable diesel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include compressed natural gas, liquefied natural gas, gasoline, aviation

gasoline, or liquefied gas.

(19-a) "Diesel gallon equivalent" means:

(A) 6.380 pounds of compressed natural gas; or

(B) 6.060 pounds of liquefied natural gas.

(20) "Distributor" means a person who makes sales of motor fuel at wholesale. A distributor's activities may also include sales of motor fuel at retail.

(21) "Diversion number" means the number assigned by the comptroller, or by a person to whom the comptroller delegates or appoints the authority to assign the number, that relates to a single cargo tank delivery of motor fuel that is diverted from the original destination state printed on the shipping document.

(22) "Dyed diesel fuel" means diesel fuel that:

(A) meets the dyeing and marking requirements of 26 U.S.C. Section 4082, regardless of how the diesel fuel was dyed; and

(B) is intended for off-highway use only.

(23) "Export" means to obtain motor fuel in this state for sale or use in another state, territory, or foreign country.

(24) "Exporter" means a person that exports motor fuel from this state. The seller is the exporter of motor fuel delivered out of this state by or for the seller, and the purchaser is the exporter of motor fuel delivered out of this state by or for the purchaser.

(24-a) "Fleet user" means a person who produces compressed natural gas or liquefied natural gas or maintains storage facilities for compressed natural gas or liquefied natural gas and who delivers all or part of the fuel produced or stored into the fuel supply tank of a motor vehicle.

(25) "Fuel grade ethanol" means the ASTM standard in effect on the effective date of this chapter as the D-4806 specification for denatured motor fuel grade ethanol for blending with motor fuel.

(26) "Fuel supply tank" means a receptacle on a motor vehicle, nonhighway equipment, or a stationary engine from which motor fuel is supplied for the operation of its engine.

(27) "Gallon" means a unit of liquid measurement as customarily used in the United States and that contains 231 cubic inches by volume.

(28) "Gasohol" means a blended motor fuel composed of gasoline and motor fuel alcohol.

(29) "Gasoline" means any liquid or combination of liquids blended together, offered for sale, sold, used, or capable of use as

fuel for a gasoline-powered engine. The term includes gasohol, aviation gasoline, and blending agents, but does not include compressed natural gas, liquefied natural gas, racing gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

(29-a) "Gasoline gallon equivalent" means:

(A) 5.660 pounds of compressed natural gas; or

(B) 5.370 pounds of liquefied natural gas.

(30) "Gasoline blend stocks" includes any petroleum product component of gasoline, such as naphtha, reformate, or toluene, listed in Treasury Regulation Section 48.4081-1(c)(3), that can be blended for use in a motor fuel. The term does not include a substance that will be ultimately used for consumer nonmotor fuel use and is sold or removed in drum quantities of 55 gallons or less at the time of the removal or sale.

(31) "Gasoline blended fuel" means a mixture composed of gasoline and other liquids, including gasoline blend stocks, gasohol, ethanol, methanol, fuel grade alcohol, and resulting blends, other than a de minimus amount of a product such as carburetor detergent or oxidation inhibitor, that is offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine.

(32) "Gross gallons" means the total measured product, exclusive of any temperature or pressure adjustments, considerations, or deductions, in U.S. gallons.

(33) "Import" means to bring motor fuel into this state by motor vehicle, marine vessel, pipeline, or any other means. The term does not include bringing motor fuel into this state in the motor fuel supply tank of a motor vehicle if the motor fuel is used to power that motor vehicle.

(34) "Import verification number" means the number assigned by the comptroller, or by a person to whom the comptroller delegates or appoints the authority to assign the number, that relates to a single cargo tank delivery into this state from another state after a request for an assigned number by an importer or by the motor fuel transporter carrying taxable motor fuel into this state for the account of an importer.

(35) "Importer" means a person that imports motor fuel into this state. The seller is the importer for motor fuel delivered into this state from outside of this state by or for the seller, and the purchaser is the importer for motor fuel delivered into this state from outside of this state by or for the purchaser.

(36) "Interstate trucker" means a person who for commercial purposes operates in this state, other states, or other countries a motor vehicle that:

(A) has two axles and a registered gross weight in excess of 26,000 pounds;

(B) has three or more axles; or

(C) is used in combination and the registered gross weight of the combination exceeds 26,000 pounds.

(37) "Lessor" means a person:

(A) whose principal business is the leasing or renting of motor vehicles for compensation to the general public;

(B) who maintains established places of business; and

(C) whose lease or rental contracts require the motor vehicles to be returned to the established places of business at the termination of the lease.

(38) "License holder" means a person licensed by the comptroller under Section 162.105, 162.205, 162.357, or 162.358.

(39) "Liquefied gas" means all combustible gases that exist in the gaseous state at 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, but does not include compressed natural gas, liquefied natural gas, gasoline, or diesel fuel. Liquefied gas is considered a special fuel for purposes of Section 151.308.

(40) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1255 , Sec. 36(5), eff. September 1, 2015.

(40-a) "Liquefied natural gas" mean natural gas that has been cooled to a liquid state and is advertised, offered for sale, sold, suitable for use, or used as an engine motor fuel.

(40-b) "Marine vessel" includes a marine barge.

(41) "Motor carrier" means a person who operates a commercial vehicle used, designated, or maintained to transport persons or property.

(42) "Motor fuel" means gasoline, diesel fuel, gasoline blended fuel, compressed natural gas, liquefied natural gas, and other products that are offered for sale, sold, used, or capable of use as fuel for a gasoline-powered engine or a diesel-powered engine.

(42-a) "Motor fuel storage facility" means a storage facility supplied by pipeline or marine vessel that does not have a rack for removal of motor fuel by truck, railcar, or any other means of conveyance that is outside the bulk transfer/terminal system.

(43) "Motor fuel transporter" means a person who transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel, except liquefied gas, compressed natural gas, or liquefied natural gas, outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who:

(A) is licensed under this chapter as a supplier, permissive supplier, or distributor; and

(B) exclusively transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel to which the person retains ownership while the fuel is being transported by the person.

(44) "Motor vehicle" means a self-propelled vehicle, trailer, or semitrailer that is designed or used to transport persons or property over a public highway.

(45) "Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.

(46) "Permissive supplier" means a person who elects, but is not required, to have a supplier's license and who:

(A) is registered under Section 4101, Internal Revenue Code, for transactions in motor fuel in the bulk transfer/terminal system; and

(B) is a position holder in motor fuel located only in another state or a person who receives motor fuel only in another state under a two-party exchange.

(47) "Position holder" means the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminaling services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal.

(48) "Public highway" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this state, including the streets and alleys in towns and cities.

(49) "Racing gasoline" means gasoline that contains lead, has an octane rating of 110 or higher, does not have detergent additives, and is not suitable for use as a motor fuel in a motor vehicle used on a public highway.

(50) "Rack" means a mechanism for delivering motor fuel from a refinery, terminal, marine vessel, or bulk plant into a transport vehicle, railroad tank car, or other means of transfer that is outside the bulk transfer/terminal system.

(51) "Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel or at a rack.

(52) "Registered gross weight" means the total weight of the vehicle and carrying capacity shown on the registration certificate issued by the Texas Department of Motor Vehicles.

(53) "Removal" means a physical transfer other than by evaporation, loss, or destruction. A physical transfer to a transport vehicle or other means of conveyance outside the bulk transfer/terminal system is complete on delivery into the means of conveyance.

(53-a) "Renewable diesel" has the meaning assigned by Section 16.001, Agriculture Code.

(54) "Sale" means a transfer of title, exchange, or barter of motor fuel, but does not include transfer of possession of motor fuel on consignment.

(55) "Shipping document" means a delivery document issued in conjunction with the sale, transfer, or transport of motor fuel. A shipping document issued by a terminal operator shall be machine printed. All other shipping documents shall be typed or handwritten on a preprinted form or machine printed.

(56) "Solid waste refuse vehicle" means a motor vehicle equipped with a power takeoff or auxiliary power unit that provides power to compact the refuse, open the back of the container before ejection, and eject the compacted refuse.

(57) "Supplier" means a person that:

(A) is subject to the general taxing jurisdiction of this state;

(B) is registered under Section 4101, Internal Revenue Code, for transactions in motor fuel in the bulk transfer/terminal distribution system, and is:

(i) a position holder in motor fuel in a terminal or refinery in this state and may concurrently also be a position holder in motor fuel in another state;

(ii) a person who receives motor fuel in this state

under a two-party exchange; or

(iii) a person who owns motor fuel in a marine vessel in this state; and

(C) may also be a terminal operator, provided that a terminal operator is not considered to also be a "supplier" based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal.

(58) "Terminal" means a motor fuel storage and distribution facility to which a terminal control number has been assigned by the Internal Revenue Service, to which motor fuel is supplied by pipeline or marine vessel, and from which motor fuel may be removed at a rack.

(59) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

(60) "Transit company" means a business that:

(A) transports in a political subdivision persons in carriers designed for 12 or more passengers;

(B) holds a franchise from a political subdivision; and

(C) has its rates regulated by the political subdivision or is owned or operated by the political subdivision.

(61) "Transport vehicle" means a vehicle designed or used to carry motor fuel over a public highway and includes a straight truck, straight truck/trailer combination, and semitrailer combination rig.

(62) "Two-party exchange" means a transaction in which motor fuel is transferred from one licensed supplier or permissive supplier to another licensed supplier or permissive supplier under an exchange agreement, including a transfer from the person who holds the inventory position in taxable motor fuel in the terminal as reflected on the records of the terminal operator, and that is:

(A) completed before removal of the product from the terminal by the receiving exchange partner; and

(B) recorded on the terminal operator's books and records with the receiving exchange partner as the supplier that removes the motor fuel across the terminal rack for purposes of reporting the transaction to this state.

(63) "Volunteer fire department" means a fire department operated by its members, including a part-paid fire department composed of at least 50 percent volunteer firefighters, that is operated on a not-for-profit basis, including a department that is

exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) or (4) of that code.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3K.11, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 7, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1312 (H.B. 2582), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 23, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 36(5), eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 165 (H.B. 791), Sec. 1, eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 388 (H.B. 3954), Sec. 1, eff. September 1, 2019.

Sec. 162.002. TAX LIABILITY ON LEASED VEHICLES. (a) A user or interstate trucker is liable for the tax on motor fuel imported into this state in fuel supply tanks of leased motor vehicles and used on the public highways of this state to the same extent and in the same manner as motor fuel imported in the user's or interstate trucker's own motor vehicles and used on the public highways of this state, unless the person who owns the leased motor vehicles is liable under Subsection (b). If the owner of the leased motor vehicles is liable, the user or interstate trucker may exclude the leased motor vehicles from the person's return.

(b) A person who, in the regular course of business and for consideration, leases motor vehicles and equipment to motor carriers or others for interstate operation may be considered to be the user or interstate trucker under this chapter if the person supplies or pays for the motor fuel consumed in those leased motor vehicles or equipment, and the person may be issued a license as an interstate

trucker by the comptroller. An application for an interstate trucker license may be accompanied by one copy of the form-lease or service contract entered into with various lessees. On receipt of the interstate trucker license, the person may assign to each motor vehicle leased for interstate operation a photocopy of the license to be carried in the cab compartment of the motor vehicle. The photocopy of the license must have typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned and the name of the lessee. The lessor is responsible for the proper use of the photocopy of the license issued to the lessor and for its return with the motor vehicle to which it is assigned.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.003. COOPERATIVE AGREEMENTS WITH OTHER STATES. (a) The comptroller may enter into a cooperative agreement with another state for the collection of motor fuel taxes, the exchange of information, the auditing of users of motor fuel used in fleets of motor vehicles operated or intended for interstate operation, and the auditing of importers and exporters. An agreement or amendment of an agreement takes effect according to its terms, except that an agreement or amendment may not take effect until the proposed agreement or amendment is published in the Texas Register.

(b) An agreement may provide for:

(1) determining the base state for motor fuel users;

(2) user, importer, and exporter records requirements;

(3) audit procedures;

(4) exchange of information;

(5) persons eligible for tax licensing;

(6) licensing and license revocation procedures, permits, penalties, and fees;

(7) defining qualified motor vehicles;

(8) determining bonding procedures, types, and amounts;

(9) specifying reporting requirements and periods;

(10) defining refund procedures and limitations, including the payment of interest;

(11) defining uniform penalties, fees, and interest rates;

(12) determining methods for collecting motor fuel taxes and for collecting and forwarding motor fuel taxes, other than

penalties, due to another jurisdiction;

(13) the temporary remittal of funds equal to the amount of the taxes and interest due to another jurisdiction but not otherwise collected, subject to appropriation of funds for that purpose; and

(14) other provisions to facilitate the administration of the agreement.

(c) The comptroller may, as required by the terms of an agreement, forward to an officer of another state any information in the comptroller's possession relating to the manufacture, receipts, sale, use, transportation, or shipment of motor fuel by any person. The comptroller may disclose to an officer of another state the location of officers, motor vehicles, and other real and personal property of users, importers, and exporters of motor fuel.

(d) An agreement may provide for each state to audit the records of a person based in this state to determine if the motor fuel taxes due each state that is a party to the agreement are properly reported and paid. An agreement may provide for each state to forward the findings of an audit performed on a person based in this state to each other state in which the person has taxable use of motor fuel, from which the person imports motor fuel into this state, or to which the person exports motor fuel from this state. For a person who is not based in this state and who has taxable use of motor fuel in this state or an import into or export out of this state, the comptroller may use an audit performed by another state that is a party to an agreement with this state to make an assessment of motor fuel taxes against the person.

(e) An agreement entered into under this section does not affect the authority of the comptroller to audit any person under any other law.

(f) An agreement entered into under this section prevails over an inconsistent rule of the comptroller. Except as otherwise provided by this section, a statute of this state prevails over an inconsistent provision of an agreement entered into under this section.

(g) The comptroller may segregate in a separate fund or account the amount of motor fuel taxes, other than penalties, estimated to be due to other jurisdictions, motor fuel taxes subject to refund during the fiscal year, licensing fees, and other costs collected under the agreement. On a determination of an amount held that is due to be remitted to another jurisdiction, the comptroller may issue a warrant

or make an electronic transfer of the amount as necessary to carry out the purposes of the agreement. An auditing cost, membership fee, and other cost associated with the agreement may be paid from interest earned on funds segregated under this subsection. Any interest earnings in excess of the costs associated with the agreement shall be credited to general revenue.

(h) The legislature finds that it is in the public interest to enter into motor fuel tax agreements with other jurisdictions that may provide for the temporary remittal of amounts due other jurisdictions that exceed the amounts collected and for cooperation with other jurisdictions for the collection of taxes imposed by this state and other jurisdictions on motor fuel that is imported into or exported out of this state. The comptroller shall ensure that reasonable measures are developed to recover motor fuel taxes and other amounts due this state during each biennium.

(i) The comptroller shall attempt to enter into a cooperative agreement with each state that borders this state to provide for the collection of taxes imposed by this state and the bordering state on motor fuel that is imported into this state from or exported from this state to the bordering state. The comptroller is encouraged to attempt to enter into similar cooperative agreements with states that do not border this state.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.004. MOTOR FUEL TRANSPORTATION: REQUIRED DOCUMENTS. (a) A person may not transport in this state any motor fuel by barge, vessel, railroad tank car, or transport vehicle unless the person has a shipping document for the motor fuel that complies with this section.

(a-1) A terminal operator or operator of a bulk plant shall give a shipping document to the person who operates the barge, vessel, railroad tank car, or transport vehicle into which motor fuel is loaded at the terminal rack or bulk plant rack.

(b) A shipping document shall contain the following information and any other information required by the comptroller:

(1) the terminal control number of the terminal or physical address of the terminal or bulk plant from which the motor fuel was received;

(2) the name of the purchaser;

(3) the date the motor fuel was loaded;

(4) the net gallons loaded, or the gross gallons loaded if the fuel was purchased from a bulk plant;

(5) the destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent; and

(6) a description of the product being transported.

(c) In the event of an extraordinary circumstance, including an act of God, that temporarily interferes with the ability to issue an automated machine-generated shipping document, a manually prepared shipping document that contains all of the information required by Subsection (b) shall be substituted for the machine-generated shipping document.

(d) A terminal operator or bulk plant operator may rely on the representation made by the purchaser of motor fuel or the purchaser's agent concerning the destination state of the motor fuel. A purchaser is liable for any tax due as a result of the purchaser's diversion of motor fuel from the represented destination state.

(e) A person to whom a shipping document was issued shall:

(1) carry the shipping document in the barge, vessel, railroad tank car, or other transport vehicle for which the document was issued when transporting the motor fuel described in the document;

(2) show the shipping document on request to any law enforcement officer, representative of the comptroller, or other authorized individual, when transporting the motor fuel described;

(3) deliver the motor fuel to the destination state printed on the shipping document unless the person:

(A) notifies the comptroller and the destination state, if a diversion program is in place, before transporting the motor fuel into a state other than the printed destination state, that the person has received instructions after the shipping document was issued to deliver the motor fuel to a different destination state;

(B) receives from the comptroller and destination state, if a diversion program is in place, a diversion number authorizing the diversion; and

(C) writes on the shipping document the change in destination state and the diversion number; and

(4) give a copy of the shipping document to the person to whom the motor fuel is delivered.

(f) The purchaser is responsible for paying the applicable destination state taxes along with filing a refund with the origin state. The supplier may not refund any taxes due to the diversion of a product.

(g) The person to whom motor fuel is delivered by barge, vessel, railroad tank car, or transport vehicle may not accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is a state other than this state, except that the person may accept that delivery if the document contains a diversion number authorized by the comptroller and destination state, if applicable. The person to whom the motor fuel is delivered shall examine the shipping document to determine that the destination state is this state, and shall retain a copy of the shipping document at the delivery location or another place until the fourth anniversary of the date of delivery.

(h) This section does not apply to motor fuel that is delivered into the fuel supply tank of a motor vehicle.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 8, eff. September 1, 2009.

Sec. 162.005. CANCELLATION OR REFUSAL OF LICENSE. (a) The comptroller may cancel or refuse to issue or reissue a motor fuel license to any person who has violated or has failed to comply with a provision of this chapter or a rule of the comptroller.

(b) Before a license may be canceled, or the issuance or reissuance refused, the comptroller shall give the license holder or license applicant not less than 10 days' notice of a hearing at the office of the comptroller in Austin or at a specified comptroller's field office, granting the license holder or applicant an opportunity to show cause before the comptroller why the proposed action should not be taken. If a license is in effect, the license remains in force pending the determination of the show-cause hearing. Notice must be in writing and may be mailed by United States registered mail or certified mail to the license holder or applicant at the person's last known address, or may be delivered by the comptroller to the license holder or applicant, and no other notice is necessary. In

case of service by mail of a notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.

(c) The comptroller may prescribe rules of procedure and evidence for the hearings in accordance with Chapter 2001, Government Code.

(d) If, after the hearing or the opportunity to be heard, the license is canceled or the issuance or reissuance refused by the comptroller, all taxes that have been collected or that have accrued, although the taxes are not then due and payable to the state, except by the provisions of this chapter, shall become due and payable concurrently with the notice of cancellation of the license. The license holder shall within five days make a report covering the period not covered by preceding reports filed by the license holder and ending with the date of cancellation, and shall remit and pay to the comptroller all taxes that have been collected and that have accrued from the sale, use, or distribution of motor fuel in this state.

(e) The comptroller may revoke a license if the license holder purchases for export motor fuel on which the tax was not paid under this chapter and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or to any destination other than the originally designated state or country without first obtaining a diversion number.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.006. SUMMARY SUSPENSION OF LICENSE. (a) The comptroller may suspend a person's license without notice or a hearing for the person's failure to comply with this chapter or a rule adopted under this chapter if the person's continued operation constitutes an immediate and substantial threat to the collection of taxes imposed by this chapter and attributable to the person's operation.

(b) If the comptroller summarily suspends a person's license, proceedings for a preliminary hearing before the comptroller or the comptroller's representative must be initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date that is not later than the 10th day after the date of the

summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the license holder must show cause why the license should not remain suspended pending a final hearing on suspension or revocation.

(d) Chapter 2001, Government Code, does not apply to a summary suspension under this section.

(e) To initiate a proceeding to suspend summarily a person's license, the comptroller shall serve notice on the license holder informing the license holder of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. The notice must be personally served on the license holder or an officer, employee, or agent of the license holder, or sent by certified or registered mail, return receipt requested, to the license holder's mailing address as it appears on the comptroller's records. The notice must state the alleged violations that constitute the grounds for summary suspension. The suspension is effective at the time the notice is served. If the notice is served in person, the license holder shall immediately surrender the license to the comptroller or to the comptroller's representative. If notice is served by mail, the license holder shall immediately return the license to the comptroller.

(f) Section 162.005, governing hearings for license cancellation or refusal to issue a license under this chapter, governs a final administrative hearing under this section.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.007. ENFORCEMENT OF LICENSE CANCELLATION, SUSPENSION, OR REFUSAL. (a) The comptroller may examine any books and records incident to the conduct of the business of a person whose license has been canceled or suspended on the person's failure to file the reports required by this chapter or to remit all taxes due. If necessary, the comptroller shall issue an audit deficiency determination for any tax amount due. If the amount is not paid on or before the 15th day after the deficiency determination becomes final, the bond or other security required under this chapter shall be forfeited. The demand for payment shall be addressed to both the surety or sureties and the person who owes the delinquency.

(b) If the forfeiture of the bond or other security does not satisfy the delinquency, the comptroller shall certify the taxes, penalty, and interest delinquent to the attorney general, who may file suit against the person or the person's surety, or both, to collect the amount due. After being given notice of an order of cancellation or summary suspension, it shall be unlawful for any person to continue to operate the person's business under a canceled or suspended license. The attorney general may file suit to enjoin the person from operating under the canceled or suspended license until the comptroller reissues a license.

(c) An appeal from an order of the comptroller canceling or suspending or refusing the issuance or reissuance of a license may be taken to a district court of Travis County by the aggrieved license holder or applicant. The trial shall be de novo under the same rules as ordinary civil suits, except that:

(1) an appeal must be perfected and filed within 30 days after the effective date of the order, decision, or ruling of the comptroller;

(2) the trial of the case shall begin within 10 days after its filing; and

(3) the order, decision, or ruling of the comptroller may be suspended or modified by the court pending a trial on the merits.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.008. INSPECTION OF PREMISES AND RECORDS. For the purpose of determining the amount of tax collected and payable to this state, the amount of tax accruing and due, and whether a tax liability has been incurred under this chapter, the comptroller may:

(1) inspect any premises where motor fuel, crude petroleum, natural gas, derivatives or condensates of crude petroleum, natural gas, or their products, methyl alcohol, ethyl alcohol, or other blending agents are produced, made, prepared, stored, transported, sold, or offered for sale or exchange;

(2) examine the books and records required to be kept and records incident to the business of any license holder or person required to be licensed, or any person receiving, possessing, delivering, or selling motor fuel, crude oil, derivatives or condensates of crude petroleum, natural gas, or their products, or

any blending agents;

(3) examine and either gauge or measure the contents of all storage tanks, containers, and other property or equipment; and

(4) take samples of any and all of these products stored on the premises.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.009. AUTHORITY TO STOP AND EXAMINE. To enforce this chapter, the comptroller or a peace officer may stop a motor vehicle that appears to be operating with or transporting motor fuel to examine the shipping document, cargo manifest, or invoices required to be carried, examine a license or copy of a license that may be required to be carried, take samples from the fuel supply or cargo tanks, and make any other investigation that could reasonably be made to determine whether the taxes have been paid or accounted for by a license holder or a person required to be licensed. The comptroller, a peace officer, an employee of the attorney general's office, an employee of the Texas Commission on Environmental Quality, or an employee of the Texas Department of Licensing and Regulation may take samples of motor fuel from a storage tank or container to:

(1) determine if the fuel contains hazardous waste or is adulterated; or

(2) allow the comptroller to determine whether taxes on the fuel have been paid or accounted for to this state.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. 2119), Sec. 8, eff. September 1, 2020.

Sec. 162.010. IMPOUNDMENT AND SEIZURE. (a) If after examination or other investigation, the comptroller believes that the owner or operator of a motor vehicle or cargo tank, or a person receiving, possessing, delivering, or selling gasoline or diesel fuel, has not paid all motor fuel taxes due, or does not have a valid license entitling that person to possess or transport tax-free motor fuel, the comptroller or peace officer may impound the fuel, the motor vehicle, cargo tank, storage tank, equipment, paraphernalia, or

other tangible personal property used for or incident to the storage, sale, or transportation of that motor fuel. Unless proof is produced within three working days after the beginning of impoundment that the owner, operator, or other person has paid the taxes established by the comptroller to be due on the gasoline or diesel fuel stored, sold, used, or transported and any other taxes due to this state, or that the owner, operator, or other person holds a valid license to possess or transport tax-free motor fuel, the comptroller may demand payment of all taxes, penalties, and interest due to this state, and all costs of impoundment.

(b) If the owner or operator does not produce the required documentation or required license or pay the taxes, penalties, interest, and costs due within three working days after the beginning of the impoundment, the comptroller may seize the impounded property to satisfy the tax liability.

(c) The comptroller may seize:

(1) all motor fuel on which taxes are imposed by this chapter that is found in the possession, custody, or control of any person for the purpose of being sold, transported, removed, or used by the person in violation of this chapter;

(2) all motor fuel that is removed or is deposited, stored, or concealed in any place with intent to avoid payment of taxes;

(3) any automobile, truck, tank truck, boat, trailer conveyance, or other vehicle used in the removal or transportation of the motor fuel to avoid payment of taxes; and

(4) all equipment, paraphernalia, storage tanks, or tangible personal property incident to and used for avoiding the payment of taxes and found in the place, building, or vehicle where the motor fuel is found.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.011. SALE OF SEIZED PROPERTY. (a) The comptroller may sell property seized under Section 162.010.

(b) Notice of the time and place of a sale shall be given to the delinquent person in writing by certified mail at least 20 days before the date set for the sale. The notice shall be enclosed in an envelope addressed to the person at the person's last known address or place of business. It shall be deposited in the United States

mail, postage prepaid. The notice shall also be published once a week for two consecutive weeks before the date of the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county 14 days before the date set for the sale. The notice must contain a description of the property to be sold, a statement of the amount due, including interest, penalties, and costs, the name of the delinquent, and the further statement that unless the amount due, interest, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or as much of it as may be necessary, will be sold at public auction in accordance with the law and the notice.

(c) At the sale, the comptroller shall sell the property and shall deliver to the purchaser a bill of sale for personal property and a deed for real property sold. The bill of sale or deed vests the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

(d) The proceeds of a sale shall be allocated according to the following priorities:

(1) the payment of expenses of seizure, appraisal, custody, advertising, auction, and any other expenses incident to the seizure and sale;

(2) the payment of the tax, penalty, and interest; and

(3) the repayment of the remaining balance to the person liable for the amount unless a claim is presented before the sale by any other person who has an ownership interest evidenced by a financing statement or lien, in which case the comptroller shall withhold the remaining balance pending a determination of the rights of the respective parties.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.012. PRESUMPTIONS. (a) A person licensed under this chapter or required to be licensed under this chapter, or other user, who fails to keep a record, issue an invoice, or file a return or report required by this chapter is presumed to have sold or used for taxable purposes all motor fuel shown by an audit by the comptroller

to have been sold to the license holder or other user. Motor fuel unaccounted for is presumed to have been sold or used for taxable purposes. If an exporter claims an exemption under Section 162.104(a)(4) or 162.204(a)(4) and fails to report subsequent tax-free sales in this state of the motor fuel for which the exemption was claimed as required by Section 162.1155 or 162.2165, or to produce proof of payment of tax to the destination state or proof that the transaction was exempt in the destination state, the exporter is presumed to have not paid the destination state's tax or this state's tax on the motor fuel and the comptroller shall assess the tax imposed by this chapter on the motor fuel against the exporter. The comptroller may fix or establish the amount of taxes, penalties, and interest due this state from the records of deliveries or from any records or information available. If a tax claim, as developed from this procedure, is not paid, after the opportunity to request a redetermination, the claim and any audit made by the comptroller or any report filed by the license holder or other user is evidence in any suit or judicial proceedings filed by the attorney general and is prima facie evidence of the correctness of the claim or audit. A prima facie presumption of the correctness of the claim may be overcome at the trial by evidence adduced by the license holder or other user.

(b) In the absence of records showing the number of miles actually operated per gallon of motor fuel consumed, it is presumed that not less than one gallon of motor fuel was consumed for every four miles traveled. An interstate trucker may produce evidence of motor fuel consumption to establish another mileage factor. If an examination or audit made by the comptroller from the records of an interstate trucker shows that a greater amount of motor fuel was consumed than was reported by the interstate trucker for tax purposes, the interstate trucker is liable for the tax, penalties, and interest on the additional amount shown or the trucker is entitled to a credit or refund on overpayments of tax established by the audit.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 1, eff. January 1, 2018.

Sec. 162.0125. DUTY TO KEEP RECORDS. A person required to keep a record under this chapter shall also keep the record as required by Section 111.0041.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 4.11, eff. October 1, 2011.

Sec. 162.013. VENUE OF TAX COLLECTION SUITS. The venue of a suit, injunction, or other proceeding at law available for the establishment or collection of a claim for delinquent taxes, penalties, or interest accruing under this chapter and the enforcement of the terms and provisions of this chapter is in Travis County or in any other county having venue under existing venue statutes.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.014. OTHER MOTOR FUEL TAXES PROHIBITED. The taxes imposed by this chapter are in lieu of any other excise or occupation tax imposed by a political subdivision of this state on the sale, use, or distribution of gasoline, diesel fuel, compressed natural gas, liquefied natural gas, or liquefied gas.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 6 (S.B. 1120), Sec. 1, eff. May 10, 2017.

Sec. 162.015. ADDITIONAL TAX APPLIES TO INVENTORIES. (a) On the effective date of an increase in the rates of the taxes imposed by this chapter, a distributor or dealer that possesses for the purpose of sale 2,000 or more gallons of gasoline or diesel fuel at each business location on which the taxes imposed by this chapter at a previous rate have been paid shall report to the comptroller the volume of that gasoline and diesel fuel, and at the time of the report shall pay a tax on that gasoline and diesel fuel at a rate equal to the rate of the tax increase.

(b) On the effective date of a reduction of the rates of taxes

imposed by this chapter, a distributor or dealer that possesses for the purpose of sale 2,000 or more gallons of gasoline or diesel fuel at each business location on which the taxes imposed by this chapter at the previous rate have been paid becomes entitled to a refund in an amount equal to the difference in the amount of taxes paid on that gasoline or diesel fuel at the previous rate and at the rate in effect on the effective date of the reduction in the tax rates. The rules of the comptroller shall provide for the method of claiming a refund under this chapter and may require that the refund for the dealer be paid through the distributor or supplier from whom the dealer received the fuel.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.016. IMPORTATION AND EXPORTATION OF MOTOR FUEL. (a) A person may not import motor fuel to a destination in this state or export motor fuel to a destination outside this state by any means unless the person possesses a shipping document for that fuel. The shipping document must include:

(1) the name and physical address of the terminal or bulk plant from which the motor fuel was received for import or export;

(2) the name of the carrier transporting the motor fuel;

(3) the date the motor fuel was loaded;

(4) the type of motor fuel;

(5) the number of gallons:

(A) in temperature-adjusted gallons if purchased from a terminal for export or import; or

(B) in temperature-adjusted gallons or in gross gallons if purchased from a bulk plant;

(6) the destination of the motor fuel as represented by the purchaser of the motor fuel and the number of gallons of the fuel to be delivered, if delivery is to only one state;

(7) the name and physical address of the purchaser of the motor fuel;

(8) the name of the person responsible for paying the tax imposed by this chapter, as given to the terminal by the purchaser if different from the licensed supplier or distributor;

(9) the destination state of each portion of a split load of motor fuel if the motor fuel is to be delivered to more than one

state; and

(10) any other information that, in the opinion of the comptroller, is necessary for the proper administration of this chapter.

(b) The shipping documents shall be provided to the importer or exporter.

(c) If motor fuel is to be delivered to more than one state, the terminal shall document the split loads by issuing shipping documents that list the destination state of each portion of the motor fuel.

(d) A seller, transporter, or receiver of motor fuel shall:

(1) retain a copy of the shipping document until at least the fourth anniversary of the date the fuel is received; and

(2) provide a copy of the document to the comptroller or any law enforcement officer not later than the 10th working day after the date a request for the copy is received.

(e) An importer or exporter shall keep in the person's possession the shipping document when transporting motor fuel imported into this state or for export from this state. The importer or exporter shall show the document to the comptroller or a peace officer on request. The comptroller may delegate authority to inspect the document to other governmental agencies. The importer or exporter shall provide a copy of the shipping document to the person that receives the fuel when it is delivered.

(f) The importer or exporter may deliver motor fuel only to the destination state or states indicated on the shipping document.

(g) An importer or exporter who wants to divert the delivery of a single cargo tank of motor fuel from the destination state printed on the shipping document must obtain a diversion number from the comptroller before diverting the delivery. The importer, exporter, or motor fuel transporter must write the diversion number on the shipping document issued for the fuel. A diversion number is required for each diverted delivery. The comptroller may appoint a person to assign diversion numbers or may delegate that authority to another person.

(h) An importer that acquires motor fuel for import by cargo tank must obtain an import verification number from the comptroller before importing the motor fuel. The importer must write the import verification number on the shipping document issued for the fuel. The importer must obtain a separate import confirmation number for

each cargo tank delivery of motor fuel into this state. The comptroller may appoint a person to assign import verification numbers or may delegate that authority to another person.

(i) Each terminal or bulk plant shall post a notice in a conspicuous location proximate to the point of receipt of shipping papers that describes the duties of importers and exporters under this section. The comptroller may prescribe the language, type, style, and format of the notice.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 9, eff. September 1, 2009.

SUBCHAPTER B. GASOLINE TAX

Sec. 162.101. POINT OF IMPOSITION OF GASOLINE TAX. (a) A tax is imposed on the removal of gasoline from the terminal using the terminal rack, other than by bulk transfer. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the withdrawal at the terminal rack.

(b) A tax is imposed at the time gasoline is imported into this state, other than by a bulk transfer, for delivery to a destination in this state. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who imports the gasoline into this state. If the seller is not a supplier or permissive supplier, then the person who imports the gasoline into this state is liable for and shall pay the tax.

(c) A tax is imposed on the removal of gasoline from the bulk transfer/terminal system in this state. The supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the removal from the bulk transfer terminal system.

(d) A tax is imposed on gasoline brought into this state in a motor fuel supply tank or tanks of a motor vehicle operated by a person required to be licensed as an interstate trucker. The interstate trucker is liable for and shall pay the tax.

(e) A tax is imposed on the blending of gasoline at the point gasoline blended fuel is made in this state outside the bulk transfer/terminal system. The blender is liable for and shall pay

the tax. The number of gallons of gasoline blended fuel on which the tax is imposed is equal to the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed gasoline used to make the blended fuel.

(e-1) A tax is imposed on gasoline that is otherwise exempt from taxation under Section 162.104(a)(4) or (7) if the gasoline is sold into a truck or railcar in this state to a person who does not hold a license under Section 162.105(1), (2), (3), (4), or (6). The person who sold the gasoline is liable for and shall collect and remit the tax.

(e-2) A tax is imposed on gasoline that is otherwise exempt from taxation under Section 162.104(a)(4) or (7) if before export the gasoline is sold in this state to a person who holds a license under Section 162.105(1), (2), (3), (4), or (6) and the gasoline is delivered to a destination in this state. The person that redirected the delivery of the gasoline to a destination in this state is liable for and shall pay the tax.

(e-3) A tax is imposed on gasoline that is otherwise exempt from taxation under Section 162.104(a)(7) if the gasoline is sold into a marine vessel in this state to a person who does not hold a license under Section 162.105(1), (2), (3), (4), or (6) unless the exporter of record is licensed under Section 162.105(1), (2), (3), (4), or (6). The person who sold the gasoline is liable for and shall collect and remit the tax.

(f) A terminal operator in this state is considered a supplier for the purpose of the tax imposed under this subchapter unless at the time of removal:

(1) the terminal operator has a terminal operator's license issued for the facility from which the gasoline is withdrawn;

(2) the terminal operator verifies that the person who removes the gasoline has a supplier's license; and

(3) the terminal operator does not have a reason to believe that the supplier's license is not valid.

(g) In each subsequent sale of gasoline on which the tax has been paid, the amount of the tax shall be added to the selling price so that the tax is paid ultimately by the person using or consuming the gasoline. Gasoline is considered to be used when it is delivered into a fuel supply tank.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 10, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 2, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 388 (H.B. 3954), Sec. 2, eff. September 1, 2019.

Sec. 162.102. TAX RATE. The gasoline tax rate is 20 cents for each net gallon or fractional part on which the tax is imposed under Section 162.101.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.1025. SEPARATE STATEMENT OF TAX COLLECTED FROM PURCHASER. (a) In each subsequent sale of gasoline on which the tax has been paid, the tax imposed by this subchapter shall be collected from the purchaser so that the tax is paid ultimately by the person who uses the gasoline. Gasoline is considered to be used when it is delivered into a fuel supply tank.

(b) The tax imposed by this subchapter must be stated separately from the sales price of gasoline and identified as gasoline tax on the invoice or receipt issued to a purchaser. Backup gasoline tax may be identified as gasoline tax. The tax must be separately stated and identified in the same manner on a shipping document, if the shipping document includes the sales price of the gasoline.

(c) Except as provided by Subsection (d), the sales price of gasoline stated on an invoice, receipt, or shipping document is presumed to be exclusive of the tax imposed by this subchapter. The seller or purchaser may overcome the presumption by using the seller's records to show that the tax imposed by this subchapter was included in the sales price.

(d) Subsection (b) does not apply to a sale of gasoline by a licensed dealer to a person who delivers the gasoline at the dealer's place of business into a fuel supply tank or into a container having a capacity of not more than 10 gallons.

Added by Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 11,

eff. September 1, 2009.

Sec. 162.103. BACKUP TAX; LIABILITY. (a) A backup tax is imposed at the rate prescribed by Section 162.102 on:

(1) a person who obtains a refund of tax on gasoline by claiming the gasoline was used for an off-highway purpose, but actually uses the gasoline to operate a motor vehicle on a public highway;

(2) a person who operates a motor vehicle on a public highway using gasoline on which tax has not been paid;

(3) a person who sells to the ultimate consumer gasoline on which tax has not been paid and who knew or had reason to know that the gasoline would be used for a taxable purpose; and

(4) a person, other than a person exempted under Section 162.104, who acquires gasoline on which tax has not been paid from any source in this state.

(b) If the motor vehicle described by Subsection (a)(2) is owned or leased by a person other than the operator, the tax shall be paid by either the operator or the motor vehicle's owner or lessee.

(c) The tax imposed under Subsection (a)(3) is also imposed on the ultimate consumer.

(d) A person who sells gasoline in this state, other than by a bulk transfer, on which tax has not been paid for any purpose other than a purpose exempt under Section 162.104 shall at the time of sale collect the tax from the purchaser or recipient of gasoline in addition to the selling price and is liable to this state for the taxes imposed in the manner provided by this chapter.

(e) The tax liability imposed by this section is in addition to any penalty imposed under this chapter.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 12, eff. September 1, 2009.

Sec. 162.104. EXEMPTIONS. (a) The tax imposed by this subchapter does not apply to gasoline:

(1) sold to the United States for its exclusive use,

provided that the exemption does not apply with respect to fuel sold or delivered to a person operating under a contract with the United States;

(2) sold to a public school district in this state for the district's exclusive use;

(3) sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline only to provide those services;

(4) exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that the bill of lading indicates the destination state and the supplier collects the destination state tax;

(5) moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the gasoline removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) delivered or sold into a storage facility of a licensed aviation fuel dealer from which gasoline will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the aviation fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) exported to a foreign country if the bill of lading or shipping documents indicate the foreign destination and the fuel is actually exported to the foreign country;

(8) sold to a volunteer fire department in this state for the department's exclusive use; or

(9) sold to a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and that uses the gasoline exclusively to provide emergency medical services, including rescue and ambulance services.

(b) The exemption provided by Subsection (a)(4) does not apply to gasoline that is transported and delivered outside this state in the motor fuel supply tank of a motor vehicle other than an interstate trucker.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557

), Sec. 13(1), eff. January 1, 2018.

(d) Subsection (a)(4) applies only if the destination state recognizes, by agreement with this state or by statute or rule, a supplier in this state as a valid taxpayer for the motor fuel being exported to that state from this state. The comptroller shall publish a list that specifies for each state, other than this state, whether that state does or does not qualify under this subsection.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 13(1), eff. January 1, 2018.

(f) The exemption provided by Subsection (a)(4) does not apply to a sale by a distributor.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 11, eff. July 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 161 (S.B. 254), Sec. 1, eff. July 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 24, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 3, eff. January 1, 2018.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 13(1), eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 388 (H.B. 3954), Sec. 3, eff. September 1, 2019.

Sec. 162.105. PERSONS REQUIRED TO BE LICENSED. A person shall obtain the appropriate license or licenses issued by the comptroller before conducting the activities of:

(1) a supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, or aviation fuel dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(2) a permissive supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, or aviation fuel dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities

imposed on those license holders;

(3) a distributor, who may also act as an importer, exporter, blender, or motor fuel transporter without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(4) an importer, who may also act as an exporter, blender, or motor fuel transporter without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(5) a terminal operator;

(6) an exporter;

(7) a blender;

(8) a motor fuel transporter;

(9) an aviation fuel dealer; or

(10) an interstate trucker.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.106. TRIP PERMITS. (a) Instead of an annual interstate trucker's license, a person bringing a motor vehicle described by Section 162.001(36) into this state for commercial purposes may obtain a trip permit. The trip permit must be obtained before or at the time of entry into this state.

(b) Not more than five trip permits for each person may be issued during a calendar year.

(c) A fee for each trip permit shall be collected from the applicant and shall be in the amount of $50 for each vehicle for each trip.

(d) A report is not required with respect to the vehicle.

(e) Operating a motor vehicle without a valid interstate trucker's license or trip permit may subject the operator to a penalty under Section 162.402.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.107. PERMISSIVE SUPPLIER REQUIREMENTS ON OUT-OF-STATE REMOVALS. (a) A person may elect to obtain a permissive supplier license to collect the tax imposed under this subchapter for gasoline that is removed at a terminal in another state and has this state as

the destination state.

(b) With respect to gasoline that is removed by the licensed permissive supplier at a terminal located in another state and that has this state as the destination state, a licensed permissive supplier shall:

(1) collect the tax due to this state on the gasoline;

(2) waive any defense that this state lacks jurisdiction to require the supplier to collect the tax due to this state on the gasoline under this subchapter;

(3) report and pay the tax due on the gasoline in the same manner as if the removal had occurred at a terminal located in this state;

(4) keep records of the removal of the gasoline and submit to audits concerning the gasoline as if the removal had occurred at a terminal located in this state; and

(5) report sales by the permissive supplier to a person who is not licensed in this state.

(c) A permissive supplier must acknowledge in the person's license application that this state imposes the requirements listed in Subsection (b) under this state's general police power and that the permissive supplier submits to the jurisdiction of this state only for purposes related to the administration of this chapter.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.108. LICENSE APPLICATION PROCEDURE. (a) To obtain a license under this subchapter, an applicant shall file an application using a form adopted by the comptroller. The application must contain:

(1) the name under which the applicant transacts or intends to transact business;

(2) the applicant's principal office, residence, or place of business in this state, or other location of the applicant;

(3) if the applicant is not an individual, the names of the principal officers of an applicant corporation, or the names of the members of an applicant partnership, and the office, street, or post office addresses of each; and

(4) other information required by the comptroller.

(b) An applicant for a license as a supplier, permissive

supplier, or terminal operator must have a federal certificate of registry issued under 26 U.S.C. Section 4101 that authorizes the applicant to enter into federal tax-free transactions of gasoline in the bulk terminal/transfer system. An applicant that is required to have a federal certificate of registry must include the registration number of the certificate on the application for a license. An applicant for a license as an importer, an exporter, or a distributor who has a federal certificate of registry issued under 26 U.S.C. Section 4101 must include the registration number of the certificate on the application for a license.

(c) An applicant for a license as an importer or distributor must list on the application each state from which the applicant intends to import gasoline and, if required by a listed state, must be licensed or registered for gasoline tax purposes in that state. If a listed state requires the applicant to be licensed or registered, the applicant must provide the applicant's license or registration number from that state.

(d) An applicant for a license as an exporter must designate an agent located in this state for service of process and provide the agent's name and address. An applicant for a license as an exporter or distributor must list on the application each state to which the applicant intends to export gasoline received in this state by means of a transfer that is outside the bulk transfer/terminal system and must be licensed or registered for gasoline tax purposes in that state. The applicant must provide the applicant's license or registration number from that state.

(e) An applicant for a license as a motor fuel transporter must list on the application each state from which and to which the applicant intends to transport motor fuel and, if required by a listed state, must be licensed or registered for gasoline tax purposes in that state. If a listed state requires the applicant to be licensed or registered, the applicant must provide the applicant's license or registration number from that state.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.109. ISSUANCE AND DISPLAY OF LICENSE. (a) If the comptroller approves a license application, the comptroller shall issue a license to the applicant. A license must be posted in a

conspicuous place or kept available for inspection at the principal place of business of the license holder. A copy of the license must be kept at each place of business or other place of storage from which gasoline is sold, distributed, or used and in each motor vehicle used by the license holder to transport gasoline purchased by the license holder for resale, distribution, or use.

(b) A person holding an interstate trucker's license shall reproduce the license and carry a photocopy with each motor vehicle being operated into or from this state.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.110. LICENSES AND TRIP PERMITS; PERIODS OF VALIDITY. (a) The license issued to a supplier, permissive supplier, distributor, importer, exporter, terminal operator, blender, or motor fuel transporter is permanent and is valid during the period the license holder has in force and effect the required bond or security and furnishes timely reports and supplements as required, or until the license is surrendered by the holder or canceled by the comptroller. The comptroller shall cancel a license under this subsection if a purchase, sale, or use of gasoline has not been reported by the license holder during the previous nine months.

(b) The license issued to an aviation fuel dealer is permanent and is valid until the license is surrendered by the holder or canceled by the comptroller.

(c) The license issued to an interstate trucker is valid from the date of its issuance through December 31 of each calendar year or until the license is surrendered by the holder or canceled by the comptroller. The comptroller may renew the license for each ensuing calendar year if the license holder furnishes timely reports as required.

(d) A trip permit is valid for the period stated on the permit as determined by the comptroller.

(e) A license issued under this subchapter is not transferable.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.111. BOND AND OTHER SECURITY FOR TAXES. (a) The comptroller shall determine the amount of security required of a

supplier, permissive supplier, distributor, exporter, importer, or blender, taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a license holder under this chapter or its predecessor, and the necessity to protect this state against the failure to pay the tax as the tax becomes due.

(b) If it is determined that the posting of security is necessary to protect this state, the comptroller may require a license holder to post a bond. A license holder shall post a bond equal to two times the maximum amount of tax that could accrue on tax-free gasoline purchased or acquired during a reporting period. The minimum bond is $30,000. The maximum bond is $600,000 unless the comptroller believes there is undue risk of loss of tax revenues, in which event the comptroller may require one or more bonds or securities in a total amount exceeding $600,000.

(c) A license holder who has filed a bond or other security under this subchapter is entitled, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously complied with the conditions of the bond or other security filed under this subchapter. However, if the comptroller determines that the revenues of this state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may elect not to return, refund, or release the bond or security and may reimpose a requirement of a bond or other security as the comptroller determines necessary to protect the revenues of this state.

(d) A bond must be a continuing instrument, must constitute a new and separate obligation in the penal sum named in the bond for each calendar year or portion of a year while the bond is in force, and must remain in effect until the surety on the bond is released and discharged.

(e) Instead of filing a surety bond, an applicant for a license may substitute the following security:

(1) cash in the form of United States currency in an amount equal to the required bond to be deposited in the suspense account of the state treasury;

(2) an assignment to the comptroller of a certificate of deposit in any bank or savings and loan association in this state that is a member of the Federal Deposit Insurance Corporation in an

amount at least equal to the bond amount required; or

(3) an irrevocable letter of credit to the comptroller from any bank or savings and loan association in this state that is a member of the Federal Deposit Insurance Corporation in an amount of credit at least equal to the bond amount required.

(f) If the amount of an existing bond becomes insufficient or a security becomes unsatisfactory or unacceptable, the comptroller may require the filing of a new or of an additional bond or security.

(g) A surety bond or other form of security may not be released until it is determined by examination or audit that a tax, penalty, or interest liability does not exist. The cash or securities shall be released within 60 days after the comptroller determines that liability does not exist.

(h) The comptroller may use the cash or certificate of deposit security to satisfy a final determination of delinquent liability or a judgment secured in any action by this state to recover gasoline taxes, costs, penalties, and interest found to be due to this state by a person in whose behalf the cash or certificate security was deposited.

(i) A surety on a bond furnished by a license holder shall be released and discharged from liability to this state accruing on the bond on the 31st day after the date on which the surety files with the comptroller a written request to be released and discharged. The request does not relieve, release, or discharge the surety from a liability that already accrued or that accrues before the expiration of the 30-day period. The comptroller, promptly on receipt of the request, shall notify the license holder who furnished the bond, and unless the license holder, before the expiration date of the existing security, files with the comptroller a new bond with a surety company duly authorized to do business under the laws of this state, or other authorized security, in the amount required by this section, the comptroller shall cancel the license in the manner provided by this chapter.

(j) The comptroller shall notify immediately the issuer of a letter of credit of a final determination of the license holder's delinquent liability or a judgment secured in any action by this state to recover gasoline taxes, costs, penalties, and interest found to be due this state by a license holder in whose behalf the letter of credit was issued. The letter of credit allowed as security for the remittance of taxes under this subchapter shall contain a

statement that the issuer agrees to respond to the comptroller's notice of liability with amounts to satisfy the comptroller's delinquency claim against the license holder.

(k) A license holder may request an examination or audit to obtain release of the security when the license holder relinquishes the license or when the license holder wants to substitute one form of security for an existing one.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.112. LICENSE HOLDER STATUS LIST. (a) The comptroller, on or before December 20 of each year, shall make available to all license holders an alphabetical list of licensed suppliers, permissive suppliers, distributors, aviation fuel dealers, importers, exporters, blenders, and terminal operators. A supplemental list of additions and deletions shall be made available to the license holders each month. A current and effective license or the list furnished by the comptroller is evidence of the validity of the license until the comptroller notifies license holders of a change in the status of a license holder.

(b) A licensed supplier, permissive supplier, or distributor who sells gasoline tax-free to a person whose supplier's, permissive supplier's, or aviation fuel dealer's license has been canceled or revoked under this chapter is liable for any tax due on gasoline sold after receiving notice of the cancellation or revocation.

(c) The comptroller shall notify all license holders under this chapter when a canceled or revoked license is subsequently reinstated and include in the notice the effective date of the reinstatement. Sales to the supplier, permissive supplier, or aviation fuel dealer after the effective date of the reinstatement may be made tax-free.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 13, eff. September 1, 2009.

Sec. 162.113. REMITTANCE OF TAX TO SUPPLIER OR PERMISSIVE SUPPLIER; ALLOWANCES. (a) Each licensed distributor and licensed importer shall remit to the supplier or permissive supplier, as

applicable, the tax imposed by Section 162.101 for gasoline removed at a terminal rack. A licensed distributor or licensed importer may elect to defer payment of the tax to the supplier or permissive supplier until two days before the date the supplier or permissive supplier is required to remit the tax to this state. The distributor or importer shall pay the taxes by electronic funds transfer.

(a-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(3), eff. June 14, 2013.

(a-2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(3), eff. June 14, 2013.

(a-3) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(3), eff. June 14, 2013.

(a-4) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(3), eff. June 14, 2013.

(b) A supplier, a permissive supplier, or its representative that conducts electronic transactions to draft an account of a licensed distributor or licensed importer for the payment of taxes due under this section shall provide at least two days' notice using an electronic means of the amount to be drafted from the account of the licensed distributor or licensed importer and the number of the account to be drafted from.

(c) If the supplier or permissive supplier cannot secure from the licensed distributor or licensed importer payment of taxes due for gasoline removed from the terminal during the previous reporting period and the supplier elects to take a credit against a subsequent payment of gasoline tax to this state for the taxes not remitted to the supplier or permissive supplier by the licensed distributor or licensed importer, the supplier or permissive supplier shall notify the comptroller of the licensed distributor's or licensed importer's failure to remit tax in conjunction with the report requesting a credit.

(d) The supplier or permissive supplier, after requesting a credit under this section, shall terminate the ability of the licensed distributor or licensed importer to defer the payment of gasoline tax. The supplier or permissive supplier may not reinstate the right of the licensed distributor or licensed importer to defer the payment of gasoline tax until the first anniversary of the date the supplier or permissive supplier requested the credit, subject to Subsection (d-1).

(d-1) A supplier or permissive supplier may reinstate the right

of a licensed distributor or licensed importer to defer the payment of gasoline tax before the date prescribed by Subsection (d) if the comptroller determines that:

(1) the supplier or permissive supplier erroneously requested the credit that resulted in the termination of the licensed distributor's or licensed importer's right to defer payment; or

(2) the licensed distributor or licensed importer failed to pay gasoline taxes due because of circumstances that may have been outside the distributor's or importer's control.

(e) A licensed distributor or licensed importer who makes timely payments of the gasoline tax imposed under this subchapter is entitled to retain an amount equal to 1.75 percent of the total taxes to be paid to the supplier or permissive supplier to cover administrative expenses.

(f) The license of a distributor, exporter, or importer who fails to pay the full amount of tax required by this subchapter is subject to cancellation as provided by Section 162.005.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 552 (S.B. 1782), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 9.01, eff. October 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(3), eff. June 14, 2013.

Sec. 162.114. RETURNS AND PAYMENTS. (a) Except as provided by Subsection (b), each person who is liable for the tax imposed by this subchapter, a terminal operator, and a licensed distributor shall file a return on or before the 25th day of the month following the end of each calendar month.

(b) A motor fuel transporter and an interstate trucker shall file a return on or before the 25th day of the month following the end of the calendar quarter.

(c) The return required by this section shall be accompanied by a payment for the amount of tax reported due.

(d) An aviation fuel dealer is not required to file a return.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.115. RECORDS. (a) A supplier and permissive supplier shall keep:

(1) a record showing the number of gallons of:

(A) all gasoline inventories on hand at the first of each month;

(B) all gasoline refined, compounded, or blended;

(C) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale, distribution, or use; and

(E) all gasoline lost by fire, theft, or accident; and

(2) an itemized statement showing by load the number of gallons of all gasoline:

(A) received during the preceding calendar month for export and the location of the loading;

(B) exported from this state by destination state or country; and

(C) imported during the preceding calendar month by state or country of origin.

(b) A distributor shall keep:

(1) a record showing the number of gallons of:

(A) all gasoline inventories on hand at the first of each month;

(B) all gasoline blended;

(C) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale, distribution, or use; and

(E) all gasoline lost by fire, theft, or accident;

(2) an itemized statement showing by load the number of gallons of all gasoline:

(A) received during the preceding calendar month for export and the location of the loading;

(B) exported from this state by destination state or country; and

(C) imported during the preceding calendar month by

state or country of origin; and

(3) for gasoline exported from this state, proof of payment of tax to the destination state in a form acceptable to the comptroller.

(c) An importer shall keep:

(1) a record showing the number of gallons of:

(A) all gasoline inventories on hand at the first of each month;

(B) all gasoline compounded or blended;

(C) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale, distribution, or use; and

(E) all gasoline lost by fire, theft, or accident; and

(2) an itemized statement showing by load the number of gallons of all gasoline:

(A) received during the preceding calendar month for export and the location of the loading;

(B) exported from this state by destination state or country; and

(C) imported during the preceding calendar month by state or country of origin.

(d) An exporter shall keep:

(1) a record showing the number of gallons of:

(A) all gasoline inventories on hand at the first of each month;

(B) all gasoline compounded or blended;

(C) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(E) all gasoline lost by fire, theft, or accident;

(2) an itemized statement showing by load the number of gallons of all gasoline:

(A) received during the preceding calendar month for export and the location of the loading; and

(B) exported from this state by destination state or country;

(3) proof of payment of tax to the destination state in a

form acceptable to the comptroller; and

(4) if an exemption under Section 162.104(a)(4) is claimed, proof of payment of tax to the destination state or proof that the transaction was exempt in the destination state, in a form acceptable to the comptroller.

(e) A blender shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline compounded or blended;

(3) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(4) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(5) all gasoline lost by fire, theft, or accident.

(f) A terminal operator shall keep:

(1) a record showing the number of gallons of:

(A) all gasoline inventories on hand at the first of each month, including the name and license number of each owner and the amount of gasoline held for each owner;

(B) all gasoline received, showing the name of the seller and the date of each purchase or receipt;

(C) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale, distribution, or use; and

(D) all gasoline lost by fire, theft, or accident; and

(2) an itemized statement showing by load the number of gallons of all gasoline:

(A) received during the preceding calendar month for export and the location of the loading;

(B) exported from this state by destination state or country; and

(C) imported during the preceding calendar month by state or country of origin.

(g) A motor fuel transporter shall keep a complete and separate record of each intrastate and interstate transportation of gasoline, showing:

(1) the date of transportation;

(2) the name of the consignor and consignee;

(3) the means of transportation;

(4) the quantity and kind of gasoline transported;

(5) full data concerning the diversion of shipments, including the number of gallons diverted from interstate to intrastate and intrastate to interstate commerce; and

(6) the points of origin and destination, the number of gallons shipped or transported, the date, the consignee and the consignor, and the kind of gasoline that has been diverted.

(h) A dealer shall keep a record showing the number of gallons of:

(1) gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all gasoline sold or used, showing the date of the sale or use; and

(4) all gasoline lost by fire, theft, or accident.

(i) An interstate trucker shall keep a record of:

(1) the total miles traveled in all states by all vehicles traveling to or from this state and the total quantity of gasoline consumed in those vehicles; and

(2) the total miles traveled in this state and the total quantity of gasoline purchased and delivered into the fuel supply tanks of motor vehicles in this state.

(j) An aviation fuel dealer shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all gasoline sold or used in aircraft or aircraft servicing equipment; and

(4) all gasoline lost by fire, theft, or accident.

(k) The records of an aviation fuel dealer made under Subsection (j)(3) must show:

(1) the name of the purchaser or user of gasoline;

(2) the date of the sale or use of gasoline; and

(3) the registration or "N" number of the airplane or a description or number of the aircraft or a description or number of the aircraft servicing equipment in which gasoline is used.

(l) The comptroller may require selective schedules from a

supplier, permissive supplier, distributor, importer, exporter, blender, terminal operator, motor fuel transporter, dealer, aviation fuel dealer, and interstate trucker for any purchase, sale, or delivery of gasoline if the schedules are not inconsistent with the requirements of this chapter.

(m) The records required by this section must be kept until the fourth anniversary of the date they are created and are open to inspection at all times by the comptroller and the attorney general.

(n) In addition to the records specifically required by this chapter, a license holder, a dealer, or a person required to hold a license shall keep any other record required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 14, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 4, eff. January 1, 2018.

Sec. 162.1155. DUTY TO REPORT SUBSEQUENT SALES OF TAX-FREE GASOLINE PURCHASED FOR EXPORT. (a) A person who purchases or removes gasoline tax-free under Section 162.104(a)(4) or (7) and before export sells the gasoline in this state tax-free to a person who holds a license under Section 162.105(1), (2), (3), (4), or (6) shall report that transaction to the comptroller as required by this section. If the gasoline is subsequently sold one or more times in this state before export and tax-free to a person who holds a license under Section 162.105(1), (2), (3), (4), or (6), each seller shall report the transaction to the comptroller as required by this section.

(b) Each person who sells tax-free gasoline in this state in a transaction described by Subsection (a) must provide to the comptroller:

(1) the bill of lading number issued at the terminal;

(2) the terminal control number;

(3) the date the gasoline was removed from the terminal;

(4) the number of gallons invoiced; and

(5) any other information required by the comptroller.

(c) The sales invoice for each transaction described by

Subsection (a) must include:

(1) the name of the seller and purchaser; and

(2) the original bill of lading number.

(d) A person required to report a transaction under Subsection (a) shall report the transaction on a form prescribed by the comptroller and with the return required by Section 162.114.

Added by Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 5, eff. January 1, 2018.

Sec. 162.116. INFORMATION REQUIRED ON SUPPLIER'S AND PERMISSIVE SUPPLIER'S RETURN; CREDITS AND ALLOWANCES. (a) The monthly return and supplements of each supplier and permissive supplier shall contain for the period covered by the return:

(1) the number of net gallons of gasoline received by the supplier or permissive supplier during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;

(2) the number of net gallons of gasoline removed at a terminal rack during the month from the account of the supplier, sorted by product code, person receiving the gasoline, terminal code, and carrier;

(3) the number of net gallons of gasoline removed during the month for export, sorted by product code, person receiving the gasoline, terminal code, destination state, and carrier;

(4) the number of net gallons of gasoline removed during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the gasoline, sorted by product code, person receiving the gasoline, terminal code, and carrier;

(5) the number of net gallons of gasoline the supplier or permissive supplier sold during the month in transactions exempt under Section 162.104, sorted by product code, carrier, purchaser, and terminal code;

(6) the number of net gallons of gasoline sold in the bulk transfer/terminal system in this state to any person not holding a supplier's or permissive supplier's license; and

(7) any other information required by the comptroller.

(b) A supplier or permissive supplier that timely pays the tax

to this state may deduct from the amount of tax due a collection allowance equal to two percent of the amount of tax payable to this state.

(c) A supplier or permissive supplier may take a credit for any taxes that were not remitted in a previous period to the supplier or permissive supplier by a licensed distributor or licensed importer as required by Section 162.113. The supplier or permissive supplier is eligible to take the credit if the comptroller is notified of the default within 15 days after the default occurs. If a license holder pays to a supplier or permissive supplier the tax owed, but the payment occurs after the supplier or permissive supplier has taken a credit on its return, the supplier or permissive supplier shall remit the payment to the comptroller with the next monthly return after receipt of the tax, plus a penalty of 10 percent of the amount of unpaid taxes and interest at the rate provided by Section 111.060 beginning on the date the credit was taken.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 552, Sec. 5, eff. June 19, 2009.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 552 (S.B. 1782), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 552 (S.B. 1782), Sec. 5, eff. June 19, 2009.

Sec. 162.117. DUTIES OF SELLER OF GASOLINE. (a) A seller who receives or collects tax holds the amount received or collected in trust for the benefit of this state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected.

(b) A seller shall furnish the purchaser with an invoice, bill of lading, or other documentation as evidence of the number of gallons received by the purchaser.

(c) A seller who receives a payment of tax may not apply the payment of tax to a debt that the person making the payment owes for gasoline purchased from the seller.

(d) A person required to receive or collect a tax under this chapter is liable for and shall pay the tax in the manner provided by this chapter.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 15, eff. September 1, 2009.

Sec. 162.118. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN. The monthly return and supplements of each distributor shall contain for the period covered by the return:

(1) the number of net gallons of gasoline received by the distributor during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;

(2) the number of net gallons of gasoline removed at a terminal rack by the distributor during the month, sorted by product code, seller, terminal code, and carrier;

(3) the number of net gallons of gasoline removed by the distributor during the month for export, sorted by product code, terminal code, bulk plant address, destination state, and carrier;

(4) the number of net gallons of gasoline removed by the distributor during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the gasoline, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of gasoline the distributor sold during the month in transactions exempt under Section 162.104, sorted by product code and purchaser; and

(6) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.119. INFORMATION REQUIRED ON IMPORTER'S RETURN; ALLOWANCES. (a) The monthly return and supplements of an importer shall contain for the period covered by the return:

(1) the number of net gallons of imported gasoline acquired from a supplier or permissive supplier who collected the tax due to this state on the gasoline;

(2) the number of net gallons of imported gasoline acquired from a person who did not collect the tax due to this state on the gasoline, listed by source state, person, and terminal;

(3) the number of net gallons of imported gasoline acquired from a bulk plant outside this state, listed by bulk plant name, address, and product code; and

(4) any other information required by the comptroller.

(b) An importer of gasoline that timely files a return and payment may deduct from the amount of tax payable with the return a collection allowance equal to two percent of the amount of tax payable to this state.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.120. INFORMATION REQUIRED ON TERMINAL OPERATOR'S RETURN. (a) A terminal operator shall file with the comptroller a monthly information return and supplement showing the amount of gasoline received and removed from the terminal during the month. The return shall also contain the following summary information:

(1) the beginning and ending inventory that relates to the applicable reporting month;

(2) the number of net gallons of gasoline received in inventory at the terminal during the month;

(3) the number of net gallons of gasoline removed from inventory at the terminal during the month; and

(4) any other summary information required by the comptroller.

(b) The comptroller may accept the Federal ExSTARS terminal operator report provided to the Internal Revenue Service instead of the required state terminal operator report.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.121. INFORMATION REQUIRED ON MOTOR FUEL TRANSPORTER'S RETURN. The quarterly return and supplements of a motor fuel transporter shall contain for the period covered by the return:

(1) the name, license number, and terminal control number of each person or terminal from whom the transporter received gasoline outside this state for delivery in this state, the gross gallons of gasoline received, the date the gasoline was received, the product code, and the name and license number of the purchaser of the gasoline;

(2) the name, license number, and terminal control number of each person or terminal from whom the transporter received gasoline in this state for delivery outside this state, the gross gallons of gasoline delivered, the date the gasoline was delivered, the product code, and the destination state of the gasoline; and

(3) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.122. INFORMATION REQUIRED ON EXPORTER'S RETURN AND PAYMENT OF TAX ON EXPORTS. The monthly return and supplements of an exporter shall contain for the period covered by the return:

(1) the number of net gallons of gasoline acquired from a supplier and exported during the month, including supplier name, terminal control number, and product code;

(2) the number of net gallons of gasoline acquired from a bulk plant and exported during the month, including bulk plant name and product code;

(3) the number of net gallons of gasoline acquired from a source other than a supplier or bulk plant and exported during the month, including the name of the source from which the gasoline was acquired and the name and address of the person receiving the gasoline;

(4) the destination state of the gasoline exported during the month; and

(5) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 16, eff. September 1, 2009.

Sec. 162.123. INFORMATION REQUIRED ON BLENDER'S RETURN. The monthly return and supplements of each blender shall contain for the period covered by the return:

(1) the number of net gallons of gasoline received by the blender during the month, sorted by product code, seller, point of origin, carrier, and receipt date;

(2) the number of net gallons of product blended with

gasoline during the month, sorted by product code, type of blending agent if no product code exists, seller, and carrier;

(3) the number of net gallons of blended gasoline sold during the month and the license number or name and address of the entity receiving the blended gasoline; and

(4) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.124. INFORMATION REQUIRED ON INTERSTATE TRUCKER'S RETURN. The quarterly return and supplements of each interstate trucker shall contain for the period covered by the return:

(1) the total miles traveled in all states by all vehicles traveling to or from this state and the total quantity of gasoline consumed in those vehicles;

(2) the total miles traveled in this state and the total quantity of gasoline purchased and delivered into the fuel supply tanks of motor vehicles in this state; and

(3) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.125. REFUND OR CREDIT FOR CERTAIN TAXES PAID. (a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid tax on the purchase of gasoline and subsequently resells the gasoline without collecting the tax to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the gasoline to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation

Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the gasoline exclusively to provide those services.

(b) For truck or railcar movements between licensed suppliers or licensed permissive suppliers in which the gasoline removed from the first terminal comes to rest in the second terminal and tax was paid on the first removal, the license holder who receives the gasoline in the second terminal may take the credit.

(c) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter, other than a license as an aviation fuel dealer, may file a refund claim with the comptroller if the license holder or person paid tax on gasoline and the license holder or person:

(1) is the United States government and the gasoline is for its exclusive use, provided that a credit or refund is not allowed for gasoline used by a license holder or person operating under a contract with the United States;

(2) is a public school district in this state and the gasoline is for the district's exclusive use;

(3) is a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and the gasoline is used exclusively to provide those services;

(4) uses the gasoline in off-highway equipment, in stationary engines, or for other nonhighway purposes and not in a motor vehicle operated or intended to be operated on the public highways;

(5) uses the gasoline in a motor vehicle that is operated exclusively off the public highways, except for incidental travel on the public highways as determined by the comptroller, provided that a credit or refund may not be allowed for the portion used in the incidental highway travel; or

(6) is a licensed aviation fuel dealer who delivers the gasoline into the fuel supply tanks of aircraft or aircraft servicing equipment.

(d) A license holder may take a credit on a return for the period in which the purchase occurred if the license holder paid tax on gasoline and the license holder is a licensed interstate trucker who uses the gasoline outside this state in commercial vehicles

operated under an interstate trucker license, provided that a credit or refund claimed under this subsection must be taken or filed within the limitation period provided by Section 162.128.

(e) A license holder may take credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if the license holder or person paid tax on gasoline and the gasoline is used in this state by auxiliary power units or power take-off equipment on any motor vehicle, if that use can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel or idle the motor vehicle. The comptroller may approve and adopt the use of any device as a basis for determining the quantity of gasoline consumed in those operations for tax credit or tax refund. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a credit or refund may not be allowed for the gasoline tax paid on any portion of the gasoline that is used for that purpose. A credit or refund may not be allowed for the gasoline tax paid on that portion of the gasoline used for idling.

(f) A person who paid tax on the purchase of gasoline may claim a credit or seek a refund with the comptroller if 100 or more gallons of gasoline is subsequently exported or lost by fire, theft, or accident. A credit or refund claimed under this subsection must be taken or filed within the limitation period provided by Section 162.128.

(g) A transit company that paid tax on the purchase of gasoline may seek a refund with the comptroller in an amount equal to one cent per gallon for gasoline used in transit vehicles.

(g-1) A volunteer fire department exempt from the tax imposed under this subchapter that paid tax on the purchase of gasoline is entitled to a refund of the tax paid, and the volunteer fire department may file a refund claim with the comptroller for that amount.

(g-2) A nonprofit entity exempted under Section 162.104(a)(9) from the tax imposed under this subchapter that paid tax on the purchase of gasoline is entitled to a refund of the tax paid, and the entity may file a refund claim with the comptroller for that amount.

(h) The right to receive a refund or take a credit under this

section is not assignable.

(i) The comptroller may adopt rules specifying procedures and requirements that must be followed to claim a credit or refund under this section.

(j) A license holder may take a credit on a return for the tax included in the retail purchase price of gasoline for the period in which the purchase occurred when made by one of the following purchasers, if the purchase was made by acceptance of a credit card not issued by the license holder, the credit card issuer did not collect the tax from the purchaser, and the license holder reimbursed the credit card issuer for the amount of tax included in the retail purchase price:

(1) the United States government for its exclusive use;

(2) a public school district in this state for the district's exclusive use;

(3) a commercial transportation company that provides public school transportation services to a public school district under Section 34.008, Education Code, for its exclusive use to provide those services;

(4) a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code; and

(5) a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 12, eff. July 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 161 (S.B. 254), Sec. 2, eff. July 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 17, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 25, eff. September 1, 2015.

Sec. 162.126. REFUND FOR BAD DEBTS; CREDIT FOR NONPAYMENT. (a) A licensed distributor may file a refund claim with the comptroller if:

(1) the distributor has paid the taxes imposed by this

subchapter on gasoline sold on account;

(2) the distributor determines that the account is uncollectible and worthless; and

(3) the account is written off as a bad debt on the accounting books of the distributor.

(b) A licensed supplier or permissive supplier may take a credit on the monthly report to be filed with the comptroller if:

(1) on a previous report, the supplier or permissive supplier paid the taxes imposed by this subchapter on gasoline sold on account;

(2) the person to whom the supplier or permissive supplier sold the gasoline has not remitted the tax to the supplier or permissive supplier; and

(3) at the time of the transaction, the person to whom the supplier or permissive supplier sold the gasoline held a license issued by the comptroller.

(c) The return on which the refund is claimed or the credit is taken must state, if applicable, the license number of the person whose account has been written off as a bad debt, or who failed to remit the tax, and any other information required by the comptroller. The amount of the refund or credit that may be claimed under Subsection (a) or (b) may equal but may not exceed the amount of taxes paid on the gasoline to which the written-off account or unpaid taxes apply.

(d) If, after a refund is received under Subsection (a) or a credit is taken under Subsection (b), the account on which the refund or credit was based is paid, or if the comptroller otherwise determines that the refund or credit was not authorized by Subsection (a) or (b), the unpaid taxes shall be paid by the distributor receiving the refund or the supplier or permissive supplier taking the credit, plus a penalty of 10 percent of the amount of the unpaid taxes and interest at the rate provided by Section 111.060 beginning on the day the refund was issued.

(e) This section does not apply to a sale of gasoline that is delivered into the fuel supply tank of a motor vehicle or motorboat and for which payment is made through the use and acceptance of a credit card.

(f) A refund under this section must be claimed at the time the account is written off as a bad debt, but may only be claimed before the expiration of the applicable limitation period as provided by

Chapter 111.

(g) The comptroller may take action against a person in relation to whom a distributor, supplier, or permissive supplier has made a refund claim or taken a credit for collection of the tax owed and for penalty and interest as provided by Chapter 111.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.127. CLAIMS FOR REFUNDS. (a) A refund claim must be filed on a form provided by the comptroller, be supported by the original invoice issued by the seller, and contain:

(1) the stamped or preprinted name and address of the seller;

(2) the name of the purchaser;

(3) the date of delivery of the gasoline;

(4) the date of the issuance of the invoice, if different from the date of fuel delivery;

(5) the number of gallons of gasoline delivered;

(6) the amount of tax, either separately stated from the selling price or stated with a notation that the selling price includes the tax; and

(7) the type of vehicle or equipment, such as a motorboat, railway engine, motor vehicle, off-highway vehicle, or refrigeration unit or stationary engine, into which the fuel is delivered.

(b) The purchaser must obtain the original invoice from the seller of the gasoline not later than the 30th day after the date the gasoline is delivered to the purchaser. If the delivery of gasoline is made through an automated method in which the purchase is automatically applied to the purchaser's account, one invoice may be issued at the time of billing that covers multiple purchases made during a 30-day billing cycle.

(c) A distribution log filed with the comptroller to support the number of gallons of gasoline removed from a bulk user's own bulk storage must contain the name and address of the bulk user making the delivery stamped or preprinted on it and for each individual delivery from the bulk storage:

(1) the date of delivery;

(2) the number of gallons of gasoline delivered;

(3) the signature of the bulk user; and

(4) the type or description of off-highway equipment into which the gasoline was delivered, or the type of licensed motor vehicle into which the gasoline was delivered, including the state highway license plate number or vehicle identification number and odometer or hubmeter reading.

(d) A distributor or person who does not hold a license who files a valid refund claim with the comptroller shall be paid by a warrant issued by the comptroller. For purposes of this section, a distributor meets the requirement of filing a valid refund claim if the distributor designates the gallons of gasoline sold or used that are the subject of the refund claim on the monthly report submitted by the distributor to the comptroller.

(e) A person who files a claim for a tax refund on gasoline used for a purpose for which a tax refund is not authorized or who files an invoice supporting a refund claim on which the date, figures, or any material information has been falsified or altered forfeits the person's right to the entire amount of the refund claim filed unless the claimant provides proof satisfactory to the comptroller that the incorrect refund claim filed was due to a clerical or mathematical calculation error.

(f) After examination of the refund claim, the comptroller, before issuing a refund warrant, shall deduct from the amount of the refund the two percent deducted originally by the license holder on the first sale or distribution of the gasoline.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.1275. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for gasoline used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

(1) vehicle mileage;

(2) hours of service provided;

(3) fuel consumed;

(4) the total number of student passengers per route; and

(5) the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

Added by Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 13, eff. July 1, 2007.

Sec. 162.128. WHEN GASOLINE TAX REFUND OR CREDIT MAY BE FILED. (a) Except as otherwise provided by this section, a claim for a refund must be filed with the comptroller before the first anniversary of the first day of the calendar month following the purchase, use, delivery, or export, or loss by fire, theft, or accident of gasoline, whichever period expires latest.

(b) If the amount of credit that an interstate trucker is entitled to take under Section 162.125 exceeds the amount of tax due on that reporting period, the excess credit amount may be claimed on any of three successive quarterly returns following the period in which the credit was established, or the interstate trucker may seek a refund from the comptroller on or before the due date of the third successive quarterly return following the period in which the credit was established. A credit that is not claimed within the period prescribed by this subsection expires.

(c) If the comptroller assesses a supplier or permissive supplier for a tax-free sale that is taxable, and the supplier or permissive supplier subsequently collects the tax from the purchaser, the purchaser may file a refund claim before the first anniversary of the date the supplier's or permissive supplier's deficiency assessment becomes final if the purchaser used the gasoline in an exempt manner.

(d) A supplier, permissive supplier, distributor, importer, exporter, or blender that determines taxes were erroneously reported and remitted or that paid more taxes than were due this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 18, eff. September 1, 2009.

SUBCHAPTER C. DIESEL FUEL TAX

Sec. 162.201. POINT OF IMPOSITION OF DIESEL FUEL TAX. (a) A tax is imposed on the removal of diesel fuel from the terminal using the terminal rack other than by bulk transfer. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the withdrawal at the terminal rack.

(b) A tax is imposed at the time diesel fuel is imported into this state, other than by a bulk transfer, for delivery to a destination in this state. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who imports the diesel fuel into this state. If the seller is not a supplier or permissive supplier, the person who imports the diesel fuel into this state is liable for and shall pay the tax.

(c) A tax is imposed on the removal of diesel fuel from the bulk transfer/terminal system in this state. The supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the removal from the bulk transfer/terminal system.

(d) A tax is imposed on diesel fuel brought into this state in the motor fuel supply tank or tanks of a motor vehicle operated by a person required to be licensed as an interstate trucker. The interstate trucker is liable for and shall pay the tax.

(e) A tax is imposed on the blending of diesel fuel at the point blended diesel fuel is made in this state outside the bulk transfer/terminal system. The blender is liable for and shall pay

the tax. The number of gallons of blended diesel fuel on which the tax is imposed is equal to the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed diesel fuel used to make the blended fuel.

(e-1) A tax is imposed on diesel fuel that is otherwise exempt from taxation under Section 162.204(a)(4) or (7) if the diesel fuel is sold into a truck or railcar in this state to a person who does not hold a license under Section 162.205(a)(1), (2), (3), (4), or (6). The person who sold the diesel fuel is liable for and shall collect and remit the tax.

(e-2) A tax is imposed on diesel fuel that is otherwise exempt from taxation under Section 162.204(a)(4) or (7) if before export the diesel fuel is sold in this state to a person who holds a license under Section 162.205(a)(1), (2), (3), (4), or (6) and the diesel fuel is delivered to a destination in this state. The person that redirected the delivery of the diesel fuel to a destination in this state is liable for and shall pay the tax.

(e-3) A tax is imposed on diesel fuel that is otherwise exempt from taxation under Section 162.204(a)(7) if the diesel fuel is sold into a marine vessel in this state to a person who does not hold a license under Section 162.205(a)(1), (2), (3), (4), or (6), unless the exporter of record is licensed under Section 162.205(a)(1), (2), (3), (4), or (6). The person who sold the diesel fuel is liable for and shall collect and remit the tax.

(f) The terminal operator in this state is considered a supplier for the purpose of the tax imposed under this subchapter unless at the time of removal:

(1) the terminal operator has a terminal operator's license issued for the facility from which the diesel fuel is withdrawn;

(2) the terminal operator verifies that the person who removes the diesel fuel has a supplier's license; and

(3) the terminal operator does not have a reason to believe that the supplier's license is not valid.

(g) In each subsequent sale of diesel fuel on which the tax has been paid, the amount of the tax shall be added to the selling price so that the tax is paid ultimately by the person using or consuming the diesel fuel. Diesel fuel is considered to be used when it is delivered into a fuel supply tank.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 19, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 6, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 388 (H.B. 3954), Sec. 4, eff. September 1, 2019.

Sec. 162.202. TAX RATE. The diesel fuel tax rate is 20 cents for each net gallon or fractional part on which the tax is imposed under Section 162.201.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.2025. SEPARATE STATEMENT OF TAX COLLECTED FROM PURCHASER. (a) In each subsequent sale of diesel fuel on which the tax has been paid, the tax imposed by this subchapter shall be collected from the purchaser so that the tax is paid ultimately by the person who uses the diesel fuel. Diesel fuel is considered to be used when it is delivered into a fuel supply tank.

(b) The tax imposed by this subchapter must be stated separately from the sales price of diesel fuel and identified as diesel fuel tax on the invoice or receipt issued to a purchaser. Backup diesel fuel tax may be identified as diesel fuel tax. The tax must be separately stated and identified in the same manner on a shipping document, if the shipping document includes the sales price of the diesel fuel.

(c) Except as provided by Subsection (d), the sales price of diesel fuel stated on an invoice, receipt, or shipping document is presumed to be exclusive of the tax imposed by this subchapter. The seller or purchaser may overcome the presumption by using the seller's records to show that the tax imposed by this subchapter was included in the sales price.

(d) Subsection (b) does not apply to a sale of diesel fuel by a licensed dealer to a person who delivers the diesel fuel at the dealer's place of business into a fuel supply tank or into a container having a capacity of not more than 10 gallons.

Added by Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 20,

eff. September 1, 2009.

Sec. 162.203. BACKUP TAX; LIABILITY. (a) A backup tax is imposed at the rate prescribed by Section 162.202 on:

(1) a person who obtains a refund of tax on diesel fuel by claiming the diesel fuel was used for an off-highway purpose, but actually uses the diesel fuel to operate a motor vehicle on a public highway;

(2) a person who operates a motor vehicle on a public highway using diesel fuel on which tax has not been paid;

(3) a person who sells to the ultimate consumer diesel fuel on which a tax has not been paid and who knew or had reason to know that the diesel fuel would be used for a taxable purpose; and

(4) a person, other than a person exempted under Section 162.204, who acquires diesel fuel on which tax has not been paid from any source in this state.

(b) If the motor vehicle described by Subsection (a)(2) is owned or leased by a person other than the operator, the tax shall be paid by either the operator or the motor vehicle's owner or lessee.

(c) The tax imposed under Subsection (a)(3) is also imposed on the ultimate consumer.

(d) A person who sells diesel fuel in this state, other than by a bulk transfer, on which tax has not been paid for any purpose other than a purpose exempt under Section 162.204 shall at the time of sale collect the tax from the purchaser or recipient of diesel fuel in addition to the selling price and is liable to this state for the taxes imposed in the manner provided by this chapter.

(e) The tax liability imposed by this section is in addition to any penalty imposed under this chapter.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 21, eff. September 1, 2009.

Sec. 162.204. EXEMPTIONS. (a) The tax imposed by this subchapter does not apply to:

(1) diesel fuel sold to the United States for its exclusive

use, provided that the exemption does not apply to diesel fuel sold or delivered to a person operating under a contract with the United States;

(2) diesel fuel sold to a public school district in this state for the district's exclusive use;

(3) diesel fuel sold to a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel only to provide those services;

(4) diesel fuel exported by either a licensed supplier or a licensed exporter from this state to any other state, provided that the bill of lading indicates the destination state and the supplier collects the destination state tax;

(5) diesel fuel moved by truck or railcar between licensed suppliers or licensed permissive suppliers and in which the diesel fuel removed from the first terminal comes to rest in the second terminal, provided that the removal from the second terminal rack is subject to the tax imposed by this subchapter;

(6) diesel fuel delivered or sold into a storage facility of a licensed aviation fuel dealer from which the diesel fuel will be delivered solely into the fuel supply tanks of aircraft or aircraft servicing equipment, or sold from one licensed aviation fuel dealer to another licensed aviation fuel dealer who will deliver the diesel fuel exclusively into the fuel supply tanks of aircraft or aircraft servicing equipment;

(7) diesel fuel exported to a foreign country if the bill of lading or shipping documents indicate the foreign destination and the fuel is actually exported to the foreign country;

(8) dyed diesel fuel sold or delivered by a supplier to another supplier and dyed diesel fuel sold or delivered by a supplier or distributor into the bulk storage facility of a dyed diesel fuel bonded user or to a purchaser who provides a signed statement as provided by Section 162.206;

(9) the volume of water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof that are blended together with taxable diesel fuel when the finished product sold or used is clearly identified on the retail pump, storage tank, and sales invoice as a combination of diesel fuel and water, fuel ethanol, renewable diesel, biodiesel, or mixtures thereof;

(10) dyed diesel fuel sold by a supplier or permissive supplier to a distributor, or by a distributor to another distributor;

(11) dyed diesel fuel delivered by a license holder into the fuel supply tanks of railway engines, motorboats, or refrigeration units or other stationary equipment powered by a separate motor from a separate fuel supply tank;

(12) dyed kerosene when delivered by a supplier, distributor, or importer into a storage facility at a retail business from which all deliveries are exclusively for heating, cooking, lighting, or similar nonhighway use;

(13) diesel fuel used by a person, other than a political subdivision, who owns, controls, operates, or manages a commercial motor vehicle as defined by Section 548.001, Transportation Code, if the fuel:

(A) is delivered exclusively into the fuel supply tank of the commercial motor vehicle; and

(B) is used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule;

(14) diesel fuel sold to a volunteer fire department in this state for the department's exclusive use; or

(15) diesel fuel sold to a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and that uses the diesel fuel exclusively to provide emergency medical services, including rescue and ambulance services.

(b) The exemption provided by Subsection (a)(4) does not apply to diesel fuel that is transported and delivered outside this state in the motor fuel supply tank of a motor vehicle other than an interstate trucker.

(c) Repealed by Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 13(2), eff. January 1, 2018.

(d) Subsection (a)(4) applies only if the destination state recognizes, by agreement with this state or by statute or rule, a supplier in this state as a valid taxpayer for the motor fuel being exported to that state from this state. The comptroller shall publish a list that specifies for each state, other than this state, whether that state does or does not qualify under this subsection.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557

), Sec. 13(2), eff. January 1, 2018.

(f) The exemption provided by Subsection (a)(4) does not apply to a sale by a distributor.

(g) In lieu of claiming the exemption and complying with the labeling requirements provided by Subsection (a)(9), a person to whom Section 162.201 applies may elect to collect and remit the tax otherwise imposed under this subchapter on the materials described by Subsection (a)(9) as if the materials were taxable diesel fuel. The labeling requirements provided by Subsection (a)(9) do not apply to a dealer who sells taxable diesel fuel blended with materials described by Subsection (a)(9) on which tax has been paid as provided by this subsection. Materials described by Subsection (a)(9) on which tax has been paid as provided by this subsection are not exempt from tax under Subsection (a)(9) on a subsequent sale, and a license holder or other purchaser is not entitled to a refund or credit under Subsection (a)(9) for a purchase of taxable diesel fuel blended with those materials.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 14, eff. July 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 161 (S.B. 254), Sec. 3, eff. July 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1312 (H.B. 2582), Sec. 2, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1050 (H.B. 3086), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 26, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 7, eff. January 1, 2018.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 13(2), eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 388 (H.B. 3954), Sec. 5, eff. September 1, 2019.

Sec. 162.205. PERSONS REQUIRED TO BE LICENSED. (a) A person shall obtain the appropriate license or licenses issued by the

comptroller before conducting the activities of:

(1) a supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, or aviation fuel dealer without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(2) a permissive supplier, who may also act as a distributor, importer, exporter, blender, motor fuel transporter, or aviation fuel dealer without securing a separate license but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(3) a distributor, who may also act as an importer, exporter, blender, or motor fuel transporter without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(4) an importer, who may also act as an exporter, blender, or motor fuel transporter without securing a separate license, but who is subject to all other conditions, requirements, and liabilities imposed on those license holders;

(5) a terminal operator;

(6) an exporter;

(7) a blender;

(8) a motor fuel transporter;

(9) an aviation fuel dealer;

(10) an interstate trucker; or

(11) a dyed diesel fuel bonded user.

(b) A person must obtain a license as a dyed diesel fuel bonded user to purchase dyed diesel fuel in amounts that exceed the limitations prescribed by Section 162.206(c). This subsection does not affect the right of a purchaser to purchase not more than the number of gallons of dyed diesel fuel prescribed by Section 162.206(c) each month for the purchaser's own use using a signed statement.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 22, eff. September 1, 2009.

Sec. 162.206. STATEMENT FOR PURCHASE OF DYED DIESEL FUEL. (a) The first removal of diesel fuel from a terminal in this state is taxable, except the sale of dyed diesel fuel may be made without collecting the tax if the purchaser furnishes to a licensed supplier or distributor a signed statement that includes an end user number issued by the comptroller. A person who wants to use a signed statement to purchase dyed diesel fuel must apply to the comptroller for an end user number to be used in conjunction with a signed statement. A licensed supplier or distributor may not make a tax-free sale of any diesel fuel to a purchaser using a signed statement unless the purchaser has an end user number issued by the comptroller under this section. A taxable sale or removal of dyed diesel fuel may not be made under this chapter, except as prescribed by Subsection (d).

(b) A sale of dyed diesel fuel may be made without collecting the tax if the purchaser furnishes to a licensed supplier or distributor a signed statement, including an end user number issued by the comptroller, that stipulates that:

(1) all of the dyed diesel fuel purchased on the signed statement will be consumed by the purchaser and will not be resold; and

(2) none of the dyed diesel fuel purchased on the signed statement will be delivered or permitted to be delivered into the fuel supply tank of a motor vehicle operated on the public highways of this state.

(c) A person may not make a tax-free purchase and a licensed supplier or distributor may not make a tax-free sale to a purchaser of any dyed diesel fuel under this section using a signed statement for the first sale or purchase and for any subsequent sale or purchase in a calendar month for more than:

(1) 10,000 gallons of dyed diesel fuel;

(2) 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in the original production of, or to increase the production of, oil or gas and furnishes the licensed supplier or distributor with a letter of exception issued by the comptroller; or

(3) 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in agricultural off-highway equipment.

(c-1) The monthly limitations prescribed by Subsection (c) apply regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month.

(d) Any gallons purchased or sold in excess of the limitations prescribed by Subsection (c) constitute a taxable purchase or sale. A purchaser that exceeds the limitations prescribed by Subsection (c) shall be required to obtain a dyed diesel fuel bonded user license.

(e) The signed statement and end user number from the purchaser relieves the licensed supplier or distributor from the burden of proof that the sale of dyed diesel fuel for a nonhighway purpose was not taxable to the purchaser and remains in effect unless:

(1) the statement is revoked in writing by the purchaser or licensed supplier or distributor;

(2) the comptroller notifies the licensed supplier or distributor in writing that the purchaser may no longer make tax-free purchases; or

(3) the licensed supplier or distributor is put on notice by making taxable sales of dyed diesel fuel to a purchaser who has previously furnished a signed statement to the licensed supplier or distributor.

(f) For purposes of Subsection (e)(3), a licensed supplier or distributor is not put on notice when taxable sales of dyed diesel fuel are made in accordance with Subsection (d).

(g) The statement must be signed by the purchaser or the purchaser's representative.

(g-1) For purposes of this section, the purchaser is considered to have temporarily furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end user number issued by the comptroller. The licensed supplier or distributor shall use the comptroller's Internet website or other materials provided or produced by the comptroller to verify this information until the purchaser provides to the supplier or distributor a completed signed statement.

(h) The comptroller by rule may allow separate operating divisions of a corporation to give separate signed statements as if the divisions were different legal entities.

(i) The comptroller may adopt necessary forms and rules to administer and enforce this section.

(j) A taxable use of any part of the dyed diesel fuel purchased

under a signed statement shall, in addition to application of any criminal penalty, forfeit the right of the person to purchase dyed diesel fuel tax-free for a period of one year from the date of the offense. Any tax, interest, and penalty found to be due through false or erroneous execution or continuance of a promissory statement by the purchaser, if assessed to the licensed supplier or distributor, is a debt of the purchaser to the licensed supplier or distributor until paid and is recoverable at law in the same manner as the purchase price of the fuel.

(k) Properly completed signed statements should be in the possession of the licensed supplier or distributor at the time the sale of dyed diesel fuel occurs. If the licensed supplier or distributor is not in possession of the signed statements within 60 days after the date written notice requiring possession of them is given to the licensed supplier or distributor by the comptroller, exempt sales claimed by the licensed supplier or distributor that require delivery of the signed statements shall be disallowed. If the licensed supplier or distributor delivers the signed statements to the comptroller within the 60-day period, the comptroller may verify the reason or basis for the signed statements before allowing the exempt sales. An exempt sale may not be granted on the basis of signed statements delivered to the comptroller after the 60-day period.

(l) On receipt of notice transmitted by an electronic means of a final judgment entered by a court against a purchaser of dyed diesel fuel for failure to pay an amount owed to a licensed supplier or distributor for the purchase of dyed diesel fuel, the comptroller shall revoke the end user number issued to the purchaser. The comptroller shall provide the notice described by Subsection (e)(2) to the licensed supplier or distributor if the purchaser's end user number is revoked.

(m) The comptroller may reinstate an end user number that is revoked under Subsection (l) on receipt of proof transmitted by an electronic means and satisfactory to the comptroller that the purchaser whose end user number was revoked has satisfied the judgment described by Subsection (l), including all costs and other amounts awarded in the judgment.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 23, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 435 (S.B. 603), Sec. 1, eff. September 1, 2013.

Sec. 162.207. TRIP PERMITS. (a) Instead of an annual interstate trucker's license, a person bringing a motor vehicle described by Section 162.001(36) into this state for commercial purposes may obtain a trip permit. The trip permit must be obtained before or at the time of entry into this state.

(b) Not more than five trip permits for each person may be issued during a calendar year.

(c) A fee for each trip permit shall be collected from the applicant and shall be in the amount of $50 for each vehicle for each trip.

(d) A report is not required with respect to the vehicle.

(e) Operating a motor vehicle without a valid interstate trucker's license or trip permit may subject the operator to a penalty under Section 162.402.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.208. PERMISSIVE SUPPLIER REQUIREMENTS ON OUT-OF-STATE REMOVALS. (a) A person may elect to obtain a permissive supplier license to collect the tax imposed under this subchapter for diesel fuel that is removed at a terminal in another state and has this state as the destination state.

(b) With respect to diesel fuel that is removed by the licensed permissive supplier at a terminal located in another state and that has this state as the destination state, a licensed permissive supplier shall:

(1) collect the tax due to this state on the diesel fuel;

(2) waive any defense that this state lacks jurisdiction to require the supplier to collect the tax due to this state on the diesel fuel under this subchapter;

(3) report and pay the tax due on the diesel fuel in the same manner as if the removal had occurred at a terminal located in this state;

(4) keep records of the removal of the diesel fuel and submit to audits concerning the diesel fuel as if the removal had occurred at a terminal located in this state; and

(5) report sales by the permissive supplier to a person who is not licensed in this state.

(c) A permissive supplier must acknowledge in the supplier's license application that this state imposes the requirements listed in Subsection (b) under this state's general police power and that the permissive supplier submits to the jurisdiction of this state only for purposes related to the administration of this chapter.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.209. LICENSE APPLICATION PROCEDURE. (a) To obtain a license under this subchapter, an applicant shall file an application using a form adopted by the comptroller. The application must contain:

(1) the name under which the applicant transacts or intends to transact business;

(2) the applicant's principal office, residence, place of business in this state, or other location of the applicant;

(3) if the applicant is not an individual, the names of the principal officers of an applicant corporation, or the names of the members of an applicant partnership, and the office, street, or post office addresses of each; and

(4) other information required by the comptroller.

(b) An applicant for a license as a supplier, permissive supplier, or terminal operator must have a federal certificate of registry issued under 26 U.S.C. Section 4101 that authorizes the applicant to enter into federal tax-free transactions of diesel fuel in the bulk terminal/transfer system. An applicant that is required to have a federal certificate of registry must include the registration number of the certificate on the application for a license. An applicant for a license as an importer, exporter, or distributor who has a federal certificate of registry issued under 26 U.S.C. Section 4101 must include the registration number of the certificate on the application for a license.

(c) An applicant for a license as an importer or distributor must list on the application each state from which the applicant

intends to import diesel fuel and, if required by a listed state, must be licensed or registered for diesel fuel tax purposes in that state. If a listed state requires the applicant to be licensed or registered, the applicant must provide the applicant's license or registration number from that state.

(d) An applicant for a license as an exporter must designate an agent located in this state for service of process and provide the agent's name and address. An applicant for a license as an exporter or distributor must list on the application each state to which the applicant intends to export diesel fuel received in this state by means of a transfer that is outside the bulk terminal/transfer system and must be licensed or registered for diesel fuel tax purposes in that state. The applicant must provide the applicant's license or registration number from that state.

(e) An applicant for a license as a motor fuel transporter must list on the application each state from which and to which the applicant intends to transport motor fuel and, if required by a listed state, must be licensed or registered for diesel fuel tax purposes in that state. If a listed state requires the applicant to be licensed or registered, the applicant must provide the applicant's license or registration number from that state.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.210. ISSUANCE AND DISPLAY OF LICENSE. (a) If the comptroller approves a license application, the comptroller shall issue a license to the applicant. A license must be posted in a conspicuous place or kept available for inspection at the principal place of business of the license holder. A copy of the license must be kept at each place of business or other place of storage from which diesel fuel is sold, distributed, or used, and in each motor vehicle used by the license holder to transport diesel fuel purchased by the license holder for resale, distribution, or use.

(b) A person holding an interstate trucker's license shall reproduce the license and carry a photocopy with each motor vehicle being operated into or from this state.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.211. LICENSES AND TRIP PERMITS; PERIODS OF VALIDITY. (a) The license issued to a supplier, permissive supplier, distributor, importer, terminal supplier, exporter, blender, motor fuel transporter, or dyed diesel fuel bonded user is permanent and is valid during the period the license holder has in force and effect the required bond or security and furnishes timely reports and supplements as required, or until the license is surrendered by the holder or canceled by the comptroller. The comptroller shall cancel a license under this subsection if a purchase, sale, or use of diesel fuel has not been reported by the license holder during the previous nine months.

(b) The license issued to an aviation fuel dealer is permanent and is valid until the license is surrendered by the holder or canceled by the comptroller.

(c) The license issued to an interstate trucker is valid from the date of its issuance through December 31 of each calendar year or until the license is surrendered by the holder or canceled by the comptroller. The comptroller may renew the license for each ensuing calendar year if the license holder furnishes timely reports as required.

(d) A trip permit is valid for the period stated on the permit as determined by the comptroller.

(e) A license issued under this subchapter is not transferable.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.212. BOND AND OTHER SECURITY FOR TAXES. (a) The comptroller shall determine the amount of security required of a supplier, permissive supplier, distributor, exporter, importer, blender, or dyed diesel fuel bonded user, taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a license holder under this chapter and its predecessor, and the necessity to protect this state against the failure to pay the tax as the tax becomes due.

(b) If it is determined that the posting of security is necessary to protect this state, the comptroller may require a license holder to post a bond. A license holder shall post a bond equal to two times the maximum amount of tax that could accrue on tax-free diesel fuel purchased or acquired during a reporting period.

The minimum bond is $30,000, except that for a dyed diesel fuel bonded user the minimum bond is $10,000. The maximum bond is $600,000 unless the comptroller believes there is undue risk of loss of tax revenues, in which event the comptroller may require one or more bonds or securities in a total amount exceeding $600,000.

(c) A license holder who has filed a bond or other security under this subchapter is entitled, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously complied with the conditions of the bond or other security filed under this subchapter. However, if the comptroller determines that the revenues of this state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may elect not to return, refund, or release the bond or security and may reimpose a requirement of a bond or other security as the comptroller determines necessary to protect the revenues of this state.

(d) A bond must be a continuing instrument, must constitute a new and separate obligation in the penal sum named in the bond for each calendar year or portion of a year while the bond is in force, and must remain in effect until the surety on the bond is released and discharged.

(e) Instead of filing a surety bond, an applicant for a license may substitute the following security:

(1) cash in the form of United States currency in an amount equal to the required bond to be deposited in the suspense account of the state treasury;

(2) an assignment to the comptroller of a certificate of deposit in any bank or savings and loan association in this state that is a member of the Federal Deposit Insurance Corporation in an amount at least equal to the bond amount required; or

(3) an irrevocable letter of credit to the comptroller from any bank or savings and loan association in this state that is a member of the Federal Deposit Insurance Corporation in an amount of credit at least equal to the bond amount required.

(f) If the amount of an existing bond becomes insufficient or a security becomes unsatisfactory or unacceptable, the comptroller may require the filing of a new or additional bond or security.

(g) A surety bond or other form of security may not be released until it is determined by examination or audit that a tax, penalty,

or interest liability does not exist. The cash or securities shall be released within 60 days after the comptroller determines that liability does not exist.

(h) The comptroller may use the cash or certificate of deposit security to satisfy a final determination of delinquent liability or a judgment secured in any action by this state to recover diesel fuel taxes, costs, penalties, and interest found to be due to this state by a person in whose behalf the cash or certificate security was deposited.

(i) A surety on a bond furnished by a license holder shall be released and discharged from liability to this state accruing on the bond on the 31st day after the date the surety files with the comptroller a written request to be released and discharged. The request does not relieve, release, or discharge the surety from a liability already accrued, or that accrues before the expiration of the 30-day period. The comptroller, promptly on receipt of the request, shall notify the license holder who furnished the bond, and unless the license holder, before the expiration date of the existing security, files with the comptroller a new bond with a surety company duly authorized to do business under the laws of this state, or other authorized security, in the amount required in this section, the comptroller shall cancel the license in the manner provided by this chapter.

(j) The comptroller shall notify immediately the issuer of a letter of credit of a final determination of the license holder's delinquent liability or a judgment secured in any action by this state to recover diesel fuel taxes, costs, penalties, and interest found to be due this state by a license holder in whose behalf the letter of credit was issued. The letter of credit allowed as security for the remittance of taxes under this subchapter shall contain a statement that the issuer agrees to respond to the comptroller's notice of liability with amounts to satisfy the comptroller's delinquency claim against the license holder.

(k) A license holder may request an examination or audit to obtain release of the security when the license holder relinquishes the license or when the license holder wants to substitute one form of security for an existing one.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.213. LICENSE HOLDER STATUS LIST. (a) The comptroller, on or before December 20 of each year, shall make available to all license holders an alphabetical list of licensed suppliers, permissive suppliers, distributors, aviation fuel dealers, importers, exporters, blenders, terminal operators, and dyed diesel fuel bonded users. A supplemental list of additions and deletions shall be made available to the license holders each month. A current and effective license or the list furnished by the comptroller is evidence of the validity of the license until the comptroller notifies license holders of a change in the status of a license holder.

(b) A licensed supplier or permissive supplier who sells diesel fuel tax-free to a supplier, permissive supplier, or aviation fuel dealer whose license has been canceled or revoked under this chapter, or who sells dyed diesel fuel to a distributor or dyed diesel fuel bonded user whose license has been canceled or revoked under this chapter, is liable for any tax due on diesel fuel sold after receiving notice of the cancellation or revocation.

(c) The comptroller shall notify all license holders under this chapter when a canceled or revoked license is subsequently reinstated and include in the notice the effective date of the reinstatement. Sales to a supplier, permissive supplier, distributor, aviation fuel dealer, or dyed diesel fuel bonded user after the effective date of the reinstatement may be made tax-free.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 24, eff. September 1, 2009.

Sec. 162.214. REMITTANCE OF TAX TO SUPPLIER OR PERMISSIVE SUPPLIER; ALLOWANCES. (a) Each licensed distributor and licensed importer shall remit to the supplier or permissive supplier, as applicable, the tax imposed by Section 162.201 for diesel fuel removed at a terminal rack. A licensed distributor or licensed importer may elect to defer payment of the tax to the supplier or permissive supplier until two days before the date the supplier or permissive supplier is required to remit the tax to this state. The distributor or importer shall pay the taxes by electronic funds

transfer.

(a-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(4), eff. June 14, 2013.

(a-2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(4), eff. June 14, 2013.

(a-3) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(4), eff. June 14, 2013.

(a-4) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(4), eff. June 14, 2013.

(b) A supplier, a permissive supplier, or its representative that conducts electronic transactions to draft an account of a licensed distributor or licensed importer for the payment of taxes due under this section shall provide at least two days' notice using an electronic means of the amount to be drafted from the account of the licensed distributor or licensed importer and the number of the account to be drafted from.

(c) If the supplier or permissive supplier cannot secure from the licensed distributor or licensed importer payment of taxes due for diesel fuel removed from the terminal during the previous reporting period and the supplier elects to take a credit against a subsequent payment of diesel fuel tax to this state for the taxes not remitted to the supplier or permissive supplier by the licensed distributor or licensed importer, the supplier or permissive supplier shall notify the comptroller of the licensed distributor's or licensed importer's failure to remit tax in conjunction with the report requesting a credit.

(d) The supplier or permissive supplier, after requesting a credit under this section, shall terminate the ability of the licensed distributor or licensed importer to defer the payment of diesel fuel tax. The supplier or permissive supplier may not reinstate the right of the licensed distributor or licensed importer to defer the payment of diesel fuel tax until the first anniversary of the date the supplier or permissive supplier requested the credit, subject to Subsection (d-1).

(d-1) A supplier or permissive supplier may reinstate the right of a licensed distributor or licensed importer to defer the payment of diesel fuel tax before the date prescribed by Subsection (d) if the comptroller determines that:

(1) the supplier or permissive supplier erroneously requested the credit that resulted in the termination of the licensed

distributor's or licensed importer's right to defer payment; or

(2) the licensed distributor or licensed importer failed to pay diesel fuel taxes due because of circumstances that may have been outside the distributor's or importer's control.

(e) A licensed distributor or licensed importer who makes timely payments of the diesel fuel tax imposed under this subchapter is entitled to retain an amount equal to 1.75 percent of the total taxes to be paid to the supplier or permissive supplier to cover administrative expenses.

(f) The license of a distributor, exporter, or importer who fails to pay the full amount of tax required by this subchapter is subject to cancellation as provided by Section 162.005.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 552 (S.B. 1782), Sec. 3, eff. June 19, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 9.02, eff. October 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(4), eff. June 14, 2013.

Sec. 162.215. RETURNS AND PAYMENTS. (a) Except as provided by Subsection (b), each person who is liable for the tax imposed by this subchapter, a terminal operator, and a licensed distributor shall file a return on or before the 25th day of the month following the end of each calendar month.

(b) A motor fuel transporter, interstate trucker, and dyed diesel fuel bonded user shall file a return on or before the 25th day of the month following the end of the calendar quarter.

(c) The return required by this section shall be accompanied by a payment for the amount of tax reported due.

(d) An aviation fuel dealer is not required to file a return.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.216. RECORDS. (a) A supplier and permissive supplier shall keep:

(1) a record showing the number of gallons of:

(A) all diesel fuel inventories on hand at the first of each month;

(B) all diesel fuel refined, compounded, or blended;

(C) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale, distribution, or use; and

(E) all diesel fuel lost by fire, theft, or accident; and

(2) an itemized statement showing by load the number of gallons of all diesel fuel:

(A) received during the preceding calendar month for export and the location of the loading;

(B) exported from this state by destination state or country; and

(C) imported during the preceding calendar month, by state or country of origin.

(b) A distributor shall keep:

(1) a record showing the number of gallons of:

(A) all diesel fuel inventories on hand at the first of each month;

(B) all diesel fuel blended;

(C) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale, distribution, or use; and

(E) all diesel fuel lost by fire, theft, or accident;

(2) an itemized statement showing by load the number of gallons of all diesel fuel:

(A) received during the preceding calendar month for export and the location of the loading;

(B) exported from this state by destination state or country; and

(C) imported during the preceding calendar month, by state or country of origin; and

(3) for diesel fuel exported outside this state, proof of payment of tax to the destination state, in a form acceptable to the comptroller.

(c) An importer shall keep:

(1) a record showing the number of gallons of:

(A) all diesel fuel inventories on hand at the first of each month;

(B) all diesel fuel compounded or blended;

(C) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale, distribution, or use; and

(E) all diesel fuel lost by fire, theft, or accident; and

(2) an itemized statement showing by load the number of gallons of all diesel fuel:

(A) received during the preceding calendar month for export and the location of the loading;

(B) exported from this state, by destination state or country; and

(C) imported during the preceding calendar month, by state or country of origin.

(d) An exporter shall keep:

(1) a record showing the number of gallons of:

(A) all diesel fuel inventories on hand at the first of each month;

(B) all diesel fuel compounded or blended;

(C) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(D) all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(E) all diesel fuel lost by fire, theft, or accident;

(2) an itemized statement showing by load the number of gallons of all diesel fuel:

(A) received during the preceding calendar month for export and the location of the loading; and

(B) exported from this state, by destination state or country;

(3) proof of payment of tax to the destination state in a form acceptable to the comptroller; and

(4) if an exemption under Section 162.204(a)(4) is claimed, proof of payment of tax to the destination state or proof that the

transaction was exempt in the destination state, in a form acceptable to the comptroller.

(e) A blender shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel compounded or blended;

(3) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(4) all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale, distribution, or use; and

(5) all diesel fuel lost by fire, theft, or accident.

(f) A terminal operator shall keep:

(1) a record showing the number of gallons of:

(A) all diesel fuel inventories on hand at the first of each month, including the name and license number of each owner and the amount of diesel fuel held for each owner;

(B) all diesel fuel received, showing the name of the seller and the date of each purchase or receipt;

(C) all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale, distribution, or use; and

(D) all diesel fuel lost by fire, theft, or accident; and

(2) an itemized statement showing by load the number of gallons of all diesel fuel:

(A) received during the preceding calendar month for export and the location of the loading;

(B) exported from this state, by destination state or country; and

(C) imported during the preceding calendar month, by state or country of origin.

(g) A motor fuel transporter shall keep a complete and separate record of each intrastate and interstate transportation of diesel fuel, showing:

(1) the date of transportation;

(2) the name of the consignor and consignee;

(3) the method of transportation;

(4) the quantity and kind of diesel fuel transported;

(5) full data concerning the diversion of shipments, including the number of gallons diverted from interstate to intrastate and intrastate to interstate commerce; and

(6) the points of origin and destination, the number of gallons shipped or transported, the date, the consignee and the consignor, and the kind of diesel fuel that has been diverted.

(h) A dealer shall keep a record showing the number of gallons of:

(1) diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all diesel fuel sold or used, showing the date of the sale or use; and

(4) all diesel fuel lost by fire, theft, or accident.

(i) An interstate trucker shall keep a record of:

(1) the total miles traveled in all states by all vehicles traveling into or from this state and the total quantity of diesel fuel consumed in those vehicles; and

(2) the total miles traveled in this state and the total quantity of diesel fuel purchased and delivered into the fuel supply tanks of motor vehicles in this state.

(j) An aviation fuel dealer shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all diesel fuel sold or used in aircraft or aircraft servicing equipment; and

(4) all diesel fuel lost by fire, theft, or accident.

(k) The records of an aviation fuel dealer made under Subsection (j)(3) must show:

(1) the name of the purchaser or user of diesel fuel;

(2) the date of the sale or use of diesel fuel; and

(3) the registration or "N" number of the airplane or a description or number of the aircraft or a description or number of the aircraft servicing equipment in which diesel fuel is used.

(l) A dyed diesel fuel bonded user shall keep a record showing the number of gallons of:

(1) dyed and undyed diesel fuel inventories on hand at the first of each month;

(2) dyed and undyed diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) dyed and undyed diesel fuel delivered into the fuel supply tanks of motor vehicles;

(4) dyed and undyed diesel fuel used in off-highway equipment or for other nonhighway purposes; and

(5) dyed and undyed diesel fuel lost by fire, theft, or accident.

(m) The comptroller may require selective schedules from a supplier, permissive supplier, distributor, importer, exporter, blender, terminal operator, motor fuel transporter, dealer, aviation fuel dealer, dyed diesel fuel bonded user, and interstate trucker for any purchase, sale, or delivery of diesel fuel if the schedules are not inconsistent with the requirements of this chapter.

(n) The records required by this section must be kept until the fourth anniversary of the date they are created and are open to inspection at all times by the comptroller and the attorney general.

(o) In addition to the records specifically required by this chapter, a license holder, a dealer, or a person required to hold a license shall keep any other record required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 25, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 8, eff. January 1, 2018.

Sec. 162.2165. DUTY TO REPORT SUBSEQUENT SALES OF TAX-FREE DIESEL FUEL PURCHASED FOR EXPORT. (a) A person who purchases or removes diesel fuel tax-free under Section 162.204(a)(4) or (7) and before export sells the diesel fuel in this state tax-free to a person who holds a license under Section 162.205(a)(1), (2), (3), (4), or (6) shall report that transaction to the comptroller as required by this section. If the diesel fuel is subsequently sold one or more times in this state before export and tax-free to a

person who holds a license under Section 162.205(a)(1), (2), (3), (4), or (6), each seller shall report the transaction to the comptroller as required by this section.

(b) Each person who sells tax-free diesel fuel in this state in a transaction described by Subsection (a) must provide to the comptroller:

(1) the bill of lading number issued at the terminal;

(2) the terminal control number;

(3) the date the diesel fuel was removed from the terminal;

(4) the number of gallons invoiced; and

(5) any other information required by the comptroller.

(c) The sales invoice for each transaction described by Subsection (a) must include:

(1) the name of the seller and purchaser; and

(2) the original bill of lading number.

(d) A person required to report a transaction under Subsection (a) shall report the transaction on a form prescribed by the comptroller and with the return required by Section 162.215.

Added by Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 9, eff. January 1, 2018.

Sec. 162.217. INFORMATION REQUIRED ON SUPPLIER'S AND PERMISSIVE SUPPLIER'S RETURN; CREDITS AND ALLOWANCES. (a) The monthly return and supplements of each supplier and permissive supplier shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel received by the supplier or permissive supplier during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;

(2) the number of net gallons of diesel fuel removed at a terminal rack during the month from the account of the supplier, sorted by product code, person receiving the diesel fuel, terminal code, and carrier;

(3) the number of net gallons of diesel fuel removed during the month for export, sorted by product code, person receiving the diesel fuel, terminal code, destination state, and carrier;

(4) the number of net gallons of diesel fuel removed during the month from a terminal located in another state for conveyance to

this state, as indicated on the shipping document for the diesel fuel, sorted by product code, person receiving the diesel fuel, terminal code, and carrier;

(5) the number of net gallons of diesel fuel the supplier or permissive supplier sold during the month in transactions exempt under Section 162.204, sorted by product code, carrier, purchaser, and terminal code;

(6) the number of net gallons of diesel fuel sold in the bulk transfer/terminal system in this state to any person not holding a supplier's or permissive supplier's license; and

(7) any other information required by the comptroller.

(b) A supplier or permissive supplier that timely pays the tax to this state may deduct from the amount of tax due a collection allowance equal to two percent of the amount of tax payable to this state.

(c) A supplier or permissive supplier may take a credit for any taxes that were not remitted in a previous period to the supplier or permissive supplier by a licensed distributor or licensed importer as required by Section 162.214. The supplier or permissive supplier is eligible to take this credit if the comptroller is notified of the default within 15 days after the default occurs. If a license holder pays to a supplier or permissive supplier the tax owed, but the payment occurs after the supplier or permissive supplier has taken a credit on its return, the supplier or permissive supplier shall remit the payment to the comptroller with the next monthly return after receipt of the tax, plus a penalty of 10 percent of the amount of unpaid taxes and interest at the rate provided by Section 111.060 beginning on the date the credit is taken.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 552, Sec. 5, eff. June 19, 2009.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 552 (S.B. 1782), Sec. 4, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 552 (S.B. 1782), Sec. 5, eff. June 19, 2009.

Sec. 162.218. DUTIES OF SELLER OF DIESEL FUEL. (a) A seller

who receives or collects tax holds the amount received or collected in trust for the benefit of this state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected.

(b) A seller shall furnish the purchaser with an invoice, bill of lading, or other documentation as evidence of the number of gallons received by the purchaser.

(c) A seller who receives a payment of tax may not apply the payment of tax to a debt that the person making the payment owes for diesel fuel purchased from the seller.

(d) A person required to receive or collect a tax under this chapter is liable for and shall pay the tax in the manner provided by this chapter.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 26, eff. September 1, 2009.

Sec. 162.219. INFORMATION REQUIRED ON DISTRIBUTOR'S RETURN. The monthly return and supplements of each distributor shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel received by the distributor during the month, sorted by product code, seller, point of origin, destination state, carrier, and receipt date;

(2) the number of net gallons of diesel fuel removed at a terminal rack by the distributor during the month, sorted by product code, seller, terminal code, and carrier;

(3) the number of net gallons of diesel fuel removed by the distributor during the month for export, sorted by product code, terminal code, bulk plant address, destination state, and carrier;

(4) the number of net gallons of diesel fuel removed by the distributor during the month from a terminal located in another state for conveyance to this state, as indicated on the shipping document for the diesel fuel, sorted by product code, seller, terminal code, bulk plant address, and carrier;

(5) the number of net gallons of diesel fuel the distributor sold during the month in transactions exempt under Section 162.204, dyed diesel fuel sold to a purchaser under a signed statement, or dyed diesel fuel sold to a dyed diesel fuel bonded

user, sorted by product code and by the entity receiving the diesel fuel; and

(6) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.220. INFORMATION REQUIRED ON IMPORTER'S RETURN; ALLOWANCES. (a) The monthly return and supplements of an importer shall contain for the period covered by the return:

(1) the number of net gallons of imported diesel fuel acquired from a supplier or permissive supplier who collected the tax due this state on the diesel fuel;

(2) the number of net gallons of imported diesel fuel acquired from a person who did not collect the tax due to this state on the diesel fuel, listed by product code, source state, person, and terminal;

(3) the number of net gallons of imported diesel fuel acquired from a bulk plant outside this state, listed by bulk plant name, address, and product code; and

(4) any other information required by the comptroller.

(b) An importer of diesel fuel that timely files a return and payment may deduct from the amount of tax payable with the return a collection allowance equal to two percent of the amount of tax payable to this state.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.221. INFORMATION REQUIRED ON TERMINAL OPERATOR'S RETURN. (a) A terminal operator shall file with the comptroller a monthly information return and supplement showing the amount of diesel fuel received and removed from the terminal during the month. The return also shall contain the following summary information:

(1) the beginning and ending inventory that relates to the applicable reporting month;

(2) the number of net gallons of diesel fuel received in inventory at the terminal during the month;

(3) the number of net gallons of diesel fuel removed from inventory at the terminal during the month; and

(4) any other summary information required by the

comptroller.

(b) The comptroller may accept the Federal ExSTARS terminal operator report provided to the Internal Revenue Service instead of the required state terminal operator report.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.222. INFORMATION REQUIRED ON MOTOR FUEL TRANSPORTER'S RETURN. The quarterly return and supplements of a motor fuel transporter shall contain for the period covered by the return:

(1) the name, license number, and terminal control number of each person or terminal from whom the transporter received diesel fuel outside this state for delivery in this state, the gross gallons of diesel fuel received, the date the diesel fuel was received, the product code, and the name and license number of the purchaser of the diesel fuel;

(2) the name, license number, and terminal control number of each person or terminal from whom the transporter received diesel fuel in this state for delivery outside this state, the gross gallons of diesel fuel delivered, the date the diesel fuel was delivered, the product code, and the destination state of the diesel fuel; and

(3) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.223. INFORMATION REQUIRED ON EXPORTER'S RETURN AND PAYMENT OF TAX ON IMPORTS. The monthly return and supplements of an exporter shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel acquired from a supplier and exported during the month, including supplier name, terminal control number, and product code;

(2) the number of net gallons of diesel fuel acquired from a bulk plant and exported during the month, including bulk plant name and product code;

(3) the number of net gallons of diesel fuel acquired from a source other than a supplier or bulk plant and exported during the month, including the name of the source from which the diesel fuel was acquired and the name and address of the person receiving the diesel fuel;

(4) the destination state of the diesel fuel exported during the month; and

(5) any other information the comptroller requires.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 27, eff. September 1, 2009.

Sec. 162.224. INFORMATION REQUIRED ON BLENDER'S RETURN. The monthly return and supplements of each blender shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel received by the blender during the month, sorted by product code, seller, point of origin, carrier, and receipt date;

(2) the number of net gallons of product blended with diesel fuel during the month, sorted by product code, type of blending agent if no product code exists, seller, and carrier;

(3) the number of net gallons of blended diesel fuel sold during the month and the license number or name and address of the entity receiving the blended diesel fuel; and

(4) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.225. INFORMATION REQUIRED ON INTERSTATE TRUCKER'S RETURN. The quarterly return and supplements of each interstate trucker shall contain for the period covered by the return:

(1) the total miles traveled in all states by all vehicles traveling into or from this state and the total quantity of diesel fuel consumed in those vehicles;

(2) the total miles traveled in this state and the total quantity of diesel fuel purchased and delivered into the fuel supply tanks of motor vehicles in this state; and

(3) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.226. INFORMATION REQUIRED ON DYED DIESEL FUEL BONDED USER'S RETURN. The quarterly return and supplements of each dyed diesel fuel bonded user shall contain for the period covered by the return:

(1) the number of net gallons of tax-free dyed diesel fuel received by the dyed diesel fuel bonded user during the quarter, sorted by product code and receipt date;

(2) the number of net gallons of dyed diesel fuel used by the dyed diesel fuel bonded user during the quarter, sorted by product code; and

(3) any other information required by the comptroller.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.227. REFUND OR CREDIT FOR CERTAIN TAXES PAID. (a) A license holder may take a credit on a return for the period in which the sale occurred if the license holder paid tax on the purchase of diesel fuel and subsequently resells the diesel fuel without collecting the tax to:

(1) the United States government for its exclusive use, provided that a credit is not allowed for gasoline used by a person operating under a contract with the United States;

(2) a public school district in this state for the district's exclusive use;

(3) an exporter licensed under this subchapter if the seller is a licensed supplier or distributor and the exporter subsequently exports the diesel fuel to another state;

(4) a licensed aviation fuel dealer if the seller is a licensed distributor; or

(5) a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the diesel fuel exclusively to provide those services.

(b) For truck or railcar movements between licensed suppliers or licensed permissive suppliers in which the diesel fuel removed from the first terminal comes to rest in the second terminal and tax was paid on the first removal, the license holder who receives the diesel fuel in the second terminal may take the credit.

(c) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter, other than a license as an aviation fuel dealer, may file a refund claim with the comptroller if the license holder or person paid tax on diesel fuel and the license holder or person:

(1) is the United States government and the diesel fuel is for its exclusive use, provided that a credit or refund is not allowed for diesel fuel used by a license holder or person operating under a contract with the United States;

(2) is a public school district in this state and the diesel fuel is for the district's exclusive use;

(3) is a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and the diesel fuel is used exclusively to provide those services; or

(4) is a licensed aviation fuel dealer who delivers the diesel fuel into the fuel supply tanks of aircraft or aircraft servicing equipment.

(c-1) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter may file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state:

(1) as a feedstock in the manufacturing of tangible personal property for resale not as a motor fuel; or

(2) in a medium for the removal of drill cuttings from a well bore in the production of oil or gas.

(c-2) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license may file a refund claim with the comptroller, if:

(1) the license holder or person paid tax on diesel fuel;

(2) the diesel fuel is used in this state by movable specialized equipment used in oil field well servicing; and

(3) the person who purchased the diesel fuel has received or is eligible to receive a federal diesel fuel tax refund under the Internal Revenue Code of 1986 for the diesel fuel used by movable specialized equipment used in oil field well servicing.

(d) A license holder may take a credit on a return for the period in which the purchase occurred if the license holder paid tax

on the diesel fuel and the license holder is a licensed interstate trucker who uses the diesel fuel outside this state in commercial vehicles operated under an interstate trucker license, provided that a credit or refund claimed under this subdivision must be taken or filed within the limitations period as provided by Section 162.230.

(e) A person who paid tax on the purchase of diesel fuel may claim a credit or seek a refund with the comptroller if 100 or more gallons of diesel fuel is subsequently exported or lost by fire, theft, or accident. A credit or refund claimed under this subsection must be taken or filed within the limitations period provided by Section 162.230.

(f) A transit company who paid tax on the purchase of diesel fuel may seek a refund with the comptroller of one-half of one cent per gallon for diesel fuel used in transit vehicles.

(f-1) A volunteer fire department exempt from the tax imposed under this subchapter that paid tax on the purchase of diesel fuel is entitled to a refund of the tax paid, and the volunteer fire department may file a refund claim with the comptroller for that amount.

(f-2) A nonprofit entity exempted under Section 162.204(a)(15) from the tax imposed under this subchapter that paid tax on the purchase of diesel fuel is entitled to a refund of the tax paid, and the entity may file a refund claim with the comptroller for that amount.

(g) The right to receive a refund or take a credit under this section is not assignable.

(h) The comptroller may adopt rules specifying procedures and requirements that must be followed to claim a credit or refund under this section.

(j) A license holder may take a credit on a return for the tax included in the retail purchase price of diesel fuel for the period in which the purchase occurred when made by one of the following purchasers, if the purchase was made by acceptance of a credit card not issued by the license holder, the credit card issuer did not collect the tax from the purchaser, and the license holder reimbursed the credit card issuer for the amount of tax included in the retail purchase price:

(1) the United States government for its exclusive use;

(2) a public school district in this state for the district's exclusive use;

(3) a commercial transportation company that provides public school transportation services to a public school district under Section 34.008, Education Code, for its exclusive use to provide those services;

(4) a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code; and

(5) a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 220 (H.B. 1332), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 3(a), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 15, eff. July 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(87), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 161 (S.B. 254), Sec. 4, eff. July 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 28, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 27, eff. September 1, 2015.

Sec. 162.2275. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for diesel fuel used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

(1) vehicle mileage;

(2) hours of service provided;

(3) fuel consumed;

(4) the total number of student passengers per route; and

(5) the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

Added by Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 16, eff. July 1, 2007.

Sec. 162.228. REFUND FOR BAD DEBTS; CREDIT FOR NONPAYMENT. (a) A licensed distributor may file a refund claim with the comptroller if:

(1) the distributor has paid the taxes imposed by this subchapter on diesel fuel sold on account;

(2) the distributor determines that the account is uncollectible and worthless; and

(3) the account is written off as a bad debt on the accounting books of the distributor.

(b) A licensed supplier or permissive supplier may take a credit on the monthly report to be filed with the comptroller if:

(1) on a previous report, the supplier or permissive supplier paid the taxes imposed by this subchapter on diesel fuel sold on account;

(2) the person to whom the supplier or permissive supplier sold the diesel fuel has not remitted the tax to the supplier or permissive supplier; and

(3) at the time of the transaction, the person to whom the supplier or permissive supplier sold the diesel fuel held a license issued by the comptroller.

(c) The return on which the refund is claimed or the credit is taken must state, if applicable, the license number of the person whose account has been written off as a bad debt, or who failed to

remit the tax, and any other information required by the comptroller. The amount of the refund or credit that may be claimed under Subsection (a) or (b) may equal but may not exceed the amount of taxes paid on the diesel fuel to which the written-off account or unpaid taxes apply.

(d) If, after a refund is received under Subsection (a) or a credit is taken under Subsection (b), the account on which the refund or credit was based is paid, or if the comptroller otherwise determines that the refund or credit was not authorized by Subsection (a) or (b), the unpaid taxes shall be paid by the distributor receiving the refund or the supplier or permissive supplier taking the credit, plus a penalty of 10 percent of the amount of the unpaid taxes and interest at the rate provided by Section 111.060 beginning on the day the refund was issued.

(e) This section does not apply to a sale of diesel fuel that is delivered into the fuel supply tank of a motor vehicle or motorboat and for which payment is made through the use and acceptance of a credit card.

(f) A refund under this section must be claimed at the time the account is written off as a bad debt, but may only be claimed before the expiration of the applicable limitation period as provided by Chapter 111.

(g) The comptroller may take action against a person in relation to whom a distributor, supplier, or permissive supplier has made a refund claim or taken a credit for collection of the tax owed and for penalty and interest as provided by Chapter 111.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.229. CLAIMS FOR REFUNDS. (a) A refund claim must be filed on a form provided by the comptroller, be supported by the original invoice issued by the seller, and contain:

(1) the stamped or preprinted name and address of the seller;

(2) the name of the purchaser;

(3) the date of delivery of the diesel fuel;

(4) the date of the issuance of the invoice, if different from the date of fuel delivery;

(5) the number of gallons of diesel fuel delivered;

(6) the amount of tax, either separately stated from the selling price or stated with a notation that the selling price includes the tax; and

(7) the type of vehicle or equipment into which the fuel is delivered.

(b) The purchaser must obtain the original invoice from the seller of diesel fuel not later than the 30th day after the date the diesel fuel is delivered to the purchaser. If the delivery of diesel fuel is made through an automated method in which the purchase is automatically applied to the purchaser's account, one invoice may be issued at the time of billing that covers multiple purchases made during a 30-day billing cycle.

(c) A distribution log filed with the comptroller to support the number of gallons of diesel fuel removed from a bulk user's own bulk storage must contain the name and address of the bulk user making the delivery stamped or preprinted on the log and, for each individual delivery from the bulk storage:

(1) the date of delivery;

(2) the number of gallons of diesel fuel delivered;

(3) the signature of the bulk user; and

(4) the type or description of off-highway equipment into which the diesel fuel was delivered, or the type of licensed motor vehicle into which the diesel fuel was delivered, including the state highway license plate number or vehicle identification number and odometer or hubmeter reading.

(d) A distributor or person who does not hold a license who files a valid refund claim with the comptroller shall be paid by a warrant issued by the comptroller. For purposes of this section, a distributor meets the requirement of filing a valid refund claim if the distributor designates the gallons of diesel fuel sold or used that are the subject of the refund claim on the monthly report submitted by the distributor to the comptroller.

(e) A person who files a claim for a tax refund on diesel fuel used for a purpose for which a tax refund is not authorized or who files an invoice supporting a refund claim on which the date, figures, or any material information has been falsified or altered forfeits the person's right to the entire amount of the refund claim filed unless the claimant provides proof satisfactory to the comptroller that the incorrect refund claim filed was due to a clerical or mathematical calculation error.

(f) After examination of the refund claim, the comptroller, before issuing a refund warrant, shall deduct from the amount of the refund the two percent deducted originally by the license holder on the first sale or distribution of the diesel fuel.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.230. WHEN DIESEL FUEL TAX REFUND OR CREDIT MAY BE FILED. (a) Except as otherwise provided by this section, a claim for a refund must be filed with the comptroller before the first anniversary of the first day of the calendar month following the purchase, use, delivery, or export, or loss by fire, theft, or accident of diesel fuel, whichever period expires latest.

(b) If the amount of credit that an interstate trucker is entitled to take under Section 162.227 exceeds the amount of tax due on that reporting period, the excess credit amount may be claimed on any of the three successive quarterly returns following the period in which the credit was established or the interstate trucker may file a refund claim with the comptroller on or before the due date of the third successive quarterly return following the period in which the credit was established. A credit that is not claimed within the period prescribed by this subsection expires.

(c) If the comptroller assesses a supplier or permissive supplier for a tax-free sale that is taxable, and the supplier or permissive supplier subsequently collects the tax from the purchaser, the purchaser may file a refund claim before the first anniversary of the date the supplier's or permissive supplier's deficiency assessment becomes final if the purchaser used the diesel fuel in an exempt manner.

(d) A supplier, permissive supplier, distributor, importer, exporter, or blender that determines taxes were erroneously reported and remitted or that paid more taxes than were due to this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 29, eff.

September 1, 2009.

Sec. 162.231. NOTICE REGARDING DYED DIESEL FUEL. A notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" must be:

(1) provided by a licensed supplier, permissive supplier, or distributor to a person who receives dyed diesel fuel;

(2) provided by a seller of dyed diesel fuel to the person's buyers; and

(3) posted by a seller on a retail pump or bulk plant at which the person sells dyed diesel fuel for use by the person's buyers.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.232. DYED DIESEL FUEL NOTICE REQUIRED ON SHIPPING DOCUMENTS, BILLS OF LADING, AND INVOICES. The form of notice required by Sections 162.231(1) and (2) must be provided when the dyed diesel fuel is removed or sold and must appear on each shipping document, bill of lading, cargo manifest, and invoice accompanying the sale or removal of the dyed diesel fuel.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.233. UNAUTHORIZED SALE OR USE OF DYED DIESEL FUEL. (a) A person may not sell or hold for sale dyed diesel fuel for any use that the person knows or has reason to know is a taxable use of the diesel fuel.

(b) A person may not use or hold for use dyed diesel fuel for a use other than a nontaxable use if the person knows or has reason to know that the diesel fuel is dyed diesel fuel.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.234. ALTERATION OF DYE OR MARKER IN DYED DIESEL FUEL PROHIBITED. A person, with the intent to evade payment of tax, may not alter or attempt to alter the strength or composition of a dye or

marker in dyed diesel fuel.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.235. USE OF DYED FUEL PROHIBITED. (a) A person may not operate a motor vehicle on a public highway in this state with taxable motor fuel that contains dye in the fuel supply tank of the motor vehicle.

(b) This section does not apply to a use of dyed fuel that is lawful under the Internal Revenue Code and implementing regulations, including use in state and local government vehicles or buses, unless otherwise prohibited by this chapter.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

SUBCHAPTER D-1. COMPRESSED NATURAL GAS AND LIQUEFIED NATURAL GAS TAX

Sec. 162.351. TAX IMPOSED; SALE OF FUEL DELIVERED INTO FUEL SUPPLY TANK OF MOTOR VEHICLE. (a) A tax is imposed on the sale of compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle in connection with a sale of the compressed natural gas or liquefied natural gas.

(b) The dealer is liable for the tax imposed under this section.

(c) The dealer shall add the amount of the tax to the selling price so that the tax is paid by the purchaser. When the amount of the tax is added:

(1) it becomes a part of the sales price;

(2) it is a debt of the purchaser to the dealer; and

(3) if unpaid, it is recoverable at law in the same manner as the original sales price.

(d) The dealer shall provide to the purchaser an invoice or receipt that states the rate and amount of tax added to the selling price or indicates that no tax was added to the selling price.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.352. TAX IMPOSED; DELIVERY OF FUEL INTO FUEL SUPPLY

TANK OF MOTOR VEHICLE NOT IN CONNECTION WITH SALE. (a) A tax is imposed on the delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle by a fleet user or other dealer not in connection with a sale of the compressed natural gas or liquefied natural gas.

(b) The fleet user or other dealer is liable for the tax imposed under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.353. TAX RATE; UNIT OF MEASUREMENT. (a) The rate of the tax under Sections 162.351 and 162.352 is 15 cents for each:

(1) gasoline gallon equivalent or fractional part of compressed natural gas or liquefied natural gas; or

(2) diesel gallon equivalent or fractional part of compressed natural gas or liquefied natural gas.

(b) The tax shall be imposed on an amount of compressed natural gas or liquefied natural gas equal to a:

(1) diesel gallon equivalent of compressed natural gas, as provided by Section 162.001(19-a)(A), if the natural gas dispenser lists the price in diesel gallon equivalents and the natural gas is supplied to the dispenser from a pipeline or other nonliquefied source;

(2) diesel gallon equivalent of liquefied natural gas, as provided by Section 162.001(19-a)(B), if the natural gas dispenser lists the price in diesel gallon equivalents and the natural gas is supplied to the dispenser from a liquefied source;

(3) gasoline gallon equivalent of compressed natural gas, as provided by Section 162.001(29-a)(A), if the natural gas dispenser lists the price in gasoline gallon equivalents and the natural gas is supplied to the dispenser from a pipeline or other nonliquefied source; or

(4) gasoline gallon equivalent of liquefied natural gas, as provided by Section 162.001(29-a)(B), if the natural gas dispenser lists the price in gasoline gallon equivalents and the natural gas is supplied to the dispenser from a liquefied source.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.354. BACKUP TAX; LIABILITY. (a) A backup tax is imposed at the rate prescribed by Section 162.353 on:

(1) a person who obtains a refund of tax on compressed natural gas or liquefied natural gas by claiming the fuel was used for an exempt purpose, but actually uses the fuel for a taxable purpose;

(2) a person who operates a motor vehicle on a public highway using compressed natural gas or liquefied natural gas on which tax has not been paid;

(3) a person who sells compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle, on which tax was not paid, and who knew or had reason to know that the fuel would be used for a taxable purpose; and

(4) a person who delivers into the fuel supply tank of a motor vehicle compressed natural gas or liquefied natural gas on which tax was not paid and who knew or had reason to know that the fuel would be used for a taxable purpose.

(b) If the person who operates a motor vehicle described by Subsection (a)(2) is not the owner or lessee of the motor vehicle, both the owner or lessee and the operator are liable for the tax.

(c) The tax imposed under Subsection (a)(3) is also imposed on the ultimate consumer.

(d) The tax imposed under Subsection (a)(4) is also imposed on the operator of the motor vehicle or the motor vehicle's owner or lessee.

(e) The tax liability imposed by this section is in addition to any penalty imposed under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.355. FUEL PRESUMED SUBJECT TO TAX. (a) All compressed natural gas and liquefied natural gas sold by a dealer and delivered into the fuel supply tank of a motor vehicle is presumed to be subject to tax, and the dealer is liable for the tax under Section 162.351(b) and in accordance with Section 162.012 unless the dealer maintains adequate records to establish that the fuel was exempt from

tax under Section 162.356.

(b) All compressed natural gas and liquefied natural gas delivered into the fuel supply tank of a motor vehicle by a fleet user or other dealer not in connection with a sale is presumed to be subject to tax, and the fleet user or other dealer is liable for the tax under Section 162.352(b) and in accordance with Section 162.012 unless the fleet user or other dealer maintains adequate records to establish that the fuel was exempt from tax under Section 162.356.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.356. EXEMPTIONS. (a) The tax imposed by this subchapter does not apply to compressed natural gas or liquefied natural gas delivered into the fuel supply tank of:

(1) a motor vehicle operated exclusively by the United States, provided that the exemption does not apply with respect to fuel delivered into the fuel supply tank of a motor vehicle of a person operating under a contract with the United States;

(2) a motor vehicle operated exclusively by a public school district in this state;

(3) a motor vehicle operated exclusively by a commercial transportation company or a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that provides public school transportation services to a school district under Section 34.008, Education Code, and that uses the fuel only to provide those services;

(4) a motor vehicle operated exclusively by a volunteer fire department in this state;

(5) a motor vehicle operated exclusively by a municipality or county in this state;

(6) a motor vehicle operated exclusively by a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code;

(7) a motor vehicle operated exclusively by a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code;

(8) a motor vehicle that is not registered for use on the public highways of this state and that is used exclusively off-

highway;

(9) a motor vehicle operated exclusively by a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and that uses the fuel exclusively to provide emergency medical services, including rescue and ambulance services;

(10) off-highway equipment, a stationary engine, a motorboat, an aircraft, equipment used solely for servicing aircraft and used exclusively off-highway, a locomotive, or any device other than a motor vehicle operated or intended to be operated on the public highways; or

(11) except as provided by Subsection (b), a motor vehicle:

(A) used to provide the services of a transit company, including a metropolitan rapid transit authority under Chapter 451, Transportation Code, or a regional transportation authority under Chapter 452, Transportation Code; and

(B) operated by a person who on January 1, 2015, paid tax on compressed natural gas or liquefied natural gas as provided by Section 162.312, as that section existed on that date.

(b) The exemption provided by Subsection (a)(11) does not apply to compressed natural gas or liquefied natural gas delivered into the fuel supply tank of a motor vehicle from a refueling facility accessible to motor vehicles other than those described by Subsection (a)(11)(A).

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 28, eff. September 1, 2015.

Sec. 162.357. DEALER'S LICENSE. (a) A person may not sell compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle and on which tax is imposed under Section 162.351 unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller.

(b) A person may not deliver compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle

not in connection with a sale and on which tax is imposed under Section 162.352, or otherwise conduct the activities of a fleet user, unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller.

(c) A person may not conduct the activities of an aviation fuel dealer who delivers compressed natural gas or liquefied natural gas unless the person holds a compressed natural gas and liquefied natural gas dealer's license issued by the comptroller.

(d) A compressed natural gas and liquefied natural gas dealer's license is permanent and is valid during the period the license holder has in force and effect the required bond or security and furnishes timely reports and supplements as required, or until the license is surrendered by the license holder or canceled by the comptroller. The comptroller shall cancel a license under this subsection if the license holder has not reported a delivery of compressed natural gas or liquefied natural gas during the previous nine months.

(e) A compressed natural gas and liquefied natural gas dealer's license is not transferable.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.358. INTERSTATE TRUCKER'S LICENSE. (a) An interstate trucker's license authorizes a person who operates a motor vehicle described by Section 162.001(36) and fueled by compressed natural gas or liquefied natural gas to report and pay the tax and take a credit or claim a refund as provided by this subchapter.

(b) An interstate trucker's license is valid from the date of issuance until December 31 of each calendar year or until the license is surrendered by the license holder or canceled by the comptroller. The comptroller may renew an interstate trucker's license each calendar year if the license holder furnishes timely reports as required.

(c) An interstate trucker's license is not transferable.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.359. LICENSE APPLICATION PROCEDURE. An applicant for a license under this subchapter must file an application using a form adopted by the comptroller that contains:

(1) the name under which the applicant transacts or intends to transact business;

(2) the applicant's principal office, residence, or place of business in this state, or other location of the applicant;

(3) if the applicant is not an individual, the names of the principal officers of an applicant corporation, or the names of the members of an applicant partnership, and the office, street, or post office addresses of each; and

(4) other information required by the comptroller.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.360. ISSUANCE AND DISPLAY OF LICENSE. (a) If the comptroller approves a license application, the comptroller shall issue a license to the applicant. A license holder shall post the license in a conspicuous place or keep the license available for inspection at the license holder's principal place of business. A license holder shall keep a copy of the license at each place of business or other place of storage from which compressed natural gas or liquefied natural gas is sold or delivered.

(b) An interstate trucker's license holder shall reproduce the license and carry a photocopy with each motor vehicle being operated in or traveling to or from this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.361. BOND AND OTHER SECURITY FOR TAXES. (a) The comptroller shall determine the amount of security required of a dealer, taking into consideration the amount of tax that has or is expected to become due from the person, any past history of the person as a license holder under this chapter or its predecessor, and the necessity to protect this state against the failure to pay the tax as the tax becomes due.

(b) The comptroller may require a license holder to post a bond

if the comptroller determines it is necessary for the license holder to post security to protect the revenues of this state. A license holder must post a bond equal to two times the maximum amount of tax that could accrue on compressed natural gas or liquefied natural gas produced, purchased, acquired, sold, or delivered during a reporting period. The minimum bond for a person described by Section 162.357(a) is $30,000. The comptroller shall prescribe the minimum bond for a person described by Section 162.357(b) or (c) who is not described by Section 162.357(a). The maximum bond is $600,000 unless the comptroller believes there is undue risk of loss of tax revenues, in which event the comptroller may require one or more bonds or securities in a total amount exceeding $600,000.

(c) A license holder who has filed a bond or other security under this subchapter is entitled, on request, to have the comptroller return, refund, or release the bond or security if in the judgment of the comptroller the person has for four consecutive years continuously complied with the conditions of the bond or other security filed under this subchapter. However, if the comptroller determines that the revenues of this state would be jeopardized by the return, refund, or release of the bond or security, the comptroller may elect not to return, refund, or release the bond or security and may reimpose a requirement of a bond or other security as the comptroller determines necessary to protect the revenues of this state.

(d) A bond must be a continuing instrument, must constitute a new and separate obligation in the penal sum named in the bond for each calendar year or portion of a year while the bond is in force, and must remain in effect until the surety on the bond is released and discharged.

(e) Instead of filing a surety bond, an applicant for a license may substitute the following security:

(1) cash in the form of United States currency in an amount equal to the required bond to be deposited in a suspense account of the state treasury;

(2) an assignment to the comptroller of a certificate of deposit in any bank or savings and loan association in this state that is a member of the Federal Deposit Insurance Corporation in an amount at least equal to the bond amount required; or

(3) an irrevocable letter of credit to the comptroller from any bank or savings and loan association in this state that is a

member of the Federal Deposit Insurance Corporation in an amount of credit at least equal to the bond amount required.

(f) If the amount of an existing bond becomes insufficient or a security becomes unsatisfactory or unacceptable, the comptroller may require the license holder to file a new or an additional bond or security.

(g) A surety bond or other form of security may not be released until the comptroller determines by examination or audit that a tax, penalty, or interest liability does not exist. The comptroller shall release the cash or securities not later than the 60th day after the date the comptroller determines that liability does not exist.

(h) The comptroller may use the cash or certificate of deposit security to satisfy a final determination of delinquent liability or a judgment secured in any action by this state to recover compressed natural gas or liquefied natural gas taxes, costs, penalties, and interest found to be due to this state by a person on whose behalf the cash or certificate of deposit security was deposited.

(i) The comptroller shall release and discharge from liability to this state a surety on a bond furnished by a license holder on the 31st day after the date on which the surety files with the comptroller a written request to be released and discharged. The request does not relieve, release, or discharge the surety from a liability that already accrued or that accrues before the expiration of the 30-day period. The comptroller, promptly on receipt of the request, shall notify the license holder who furnished the bond, and unless the license holder, before the expiration date of the existing security, files with the comptroller a new bond with a surety company authorized to do business under the laws of this state, or other authorized security, in the amount required by this section, the comptroller shall cancel the license in the manner provided by this chapter.

(j) The comptroller shall immediately notify the issuer of a letter of credit of a final determination of the license holder's delinquent liability or a judgment secured in any action by this state to recover compressed natural gas or liquefied natural gas taxes, costs, penalties, and interest found to be due this state by a license holder on whose behalf the letter of credit was issued. The letter of credit allowed as security under this section must contain a statement that the issuer agrees to respond to the comptroller's notice of liability with amounts to satisfy the comptroller's

delinquency claim against the license holder.

(k) A license holder may request an examination or audit to obtain release of the security when the license holder relinquishes the license or when the license holder wants to substitute one form of security for an existing one.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.362. RETURNS AND PAYMENTS; ALLOWANCES. (a) A licensed dealer, on or before the 25th day of the month following the end of each calendar quarter, shall file a report and remit the amount of tax due. A licensed dealer who has not made taxable deliveries during the reporting period shall file with the comptroller a report that includes those facts or that information.

(b) If a licensed dealer files a report and remits the tax due on or before the due date under Subsection (a), one percent of the tax due is allocated to the licensed dealer for the expense of collecting, accounting for, reporting, and timely remitting the taxes collected and for keeping the records. The licensed dealer shall deduct the allocated amount from the tax due when paying the tax to this state.

(c) A licensed interstate trucker, on or before the 25th day of the month following the end of each calendar quarter, shall file a report and remit the amount of tax due. A report shall be filed with the comptroller on forms provided for that purpose and must contain the number of miles traveled in this state, the number of miles traveled outside this state, and other information required by the comptroller. An interstate trucker who is required to file a report under this section and who has not made interstate trips or used compressed natural gas or liquefied natural gas in motor vehicles in this state during the reporting period shall file with the comptroller a report that includes those facts or that information.

(d) If a licensed interstate trucker files a report and remits the tax due on or before the due date under Subsection (c), one-half of one percent of the tax paid on compressed natural gas and liquefied natural gas used in this state by the interstate trucker is allocated to the interstate trucker for the expense of accounting for, reporting, and timely remitting the taxes due and for keeping

the records. The licensed interstate trucker shall deduct the allocated amount from the tax due when paying the tax to this state. If the allocated amount exceeds the amount of tax due, the interstate trucker may file a refund claim with the comptroller.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.363. RECORDS. (a) A dealer shall keep a record showing:

(1) compressed natural gas and liquefied natural gas inventories at the first of each month;

(2) the amount of natural gas compressed by the dealer and the amount of natural gas liquefied by the dealer;

(3) all compressed natural gas and liquefied natural gas purchased or received, showing the name of the seller and the date of each purchase or receipt;

(4) all compressed natural gas and liquefied natural gas sold and delivered into the fuel supply tank of a motor vehicle, showing the date of the sale;

(5) all compressed natural gas and liquefied natural gas sold but not delivered into the fuel supply tank of a motor vehicle, showing the date of the sale;

(6) all compressed natural gas and liquefied natural gas delivered into the fuel supply tank of a motor vehicle not in connection with a sale, showing the date of the delivery;

(7) all compressed natural gas and liquefied natural gas delivered into the fuel supply tank of a motor vehicle or other equipment exempt from tax under Section 162.356 or sold to the operator of a motor vehicle or owner of equipment exempt from tax under Section 162.356, showing the name of the operator of the vehicle or the owner of the equipment and the date of the delivery or sale; and

(8) all compressed natural gas and liquefied natural gas lost by fire, theft, or accident.

(b) An interstate trucker shall keep a record of:

(1) the total miles traveled in all states by all vehicles traveling to or from this state and the total quantity of compressed natural gas and liquefied natural gas consumed in those vehicles;

and

(2) the total miles traveled in this state and the total quantity of compressed natural gas or liquefied natural gas purchased and delivered into the fuel supply tanks of motor vehicles in this state.

(c) The records required by this section must be kept until the fourth anniversary of the date they are created and are open to inspection at all times by the comptroller and the attorney general.

(d) In addition to the records specifically required by this subchapter, a license holder or a person required to hold a license shall keep any other records required by the comptroller.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.364. DUTIES OF PERSONS HOLDING TAX PAYMENTS. (a) A person who receives or collects tax under this subchapter holds the amount received or collected in trust for the benefit of this state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected.

(b) A dealer who receives a payment of tax under this subchapter may not apply the payment of tax to a debt that the person making the payment owes for compressed natural gas or liquefied natural gas purchased from the dealer.

(c) A person required to receive or collect a tax under this subchapter is liable for and shall pay the tax in the manner provided by this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.365. REFUND OR CREDIT FOR CERTAIN TAXES PAID. (a) A license holder may take a credit on a return for the period in which the purchase occurred, and a person who does not hold a license under this subchapter may file a refund claim with the comptroller if the license holder or person paid tax on compressed natural gas or liquefied natural gas and the license holder or person:

(1) is the United States government and the fuel was delivered into the fuel supply tank of a motor vehicle operated

exclusively by the United States, provided that a credit or refund is not allowed for fuel delivered into the fuel supply tank of a motor vehicle operated by a person operating under a contract with the United States;

(2) is a public school district in this state and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the district;

(3) is a commercial transportation company that provides public school transportation services to a school district under Section 34.008, Education Code, and the fuel was delivered into the fuel supply tank of a motor vehicle used to provide those services;

(4) is a volunteer fire department in this state and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the department;

(5) is a municipality or county in this state and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the municipality or county;

(6) is a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code, and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the electric cooperative;

(7) is a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code, and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the telephone cooperative;

(8) uses the fuel in off-highway equipment, in a stationary engine, in a motorboat, in an aircraft, in equipment used solely for servicing aircraft and used exclusively off-highway, in a locomotive, or for other nonhighway purposes and not in a motor vehicle operated or intended to be operated on the public highways;

(9) uses the fuel in a motor vehicle that is operated exclusively off-highway, except for incidental travel on the public highways as determined by the comptroller, provided that a credit or refund may not be allowed for the portion used in the incidental highway travel; or

(10) is a nonprofit entity that is organized for the sole purpose of and engages exclusively in providing emergency medical services and the fuel was delivered into the fuel supply tank of a motor vehicle operated exclusively by the nonprofit entity to provide emergency medical services, including rescue and ambulance services.

(b) A licensed interstate trucker may take a credit on a return for the period in which the purchase occurred if the licensed interstate trucker paid tax on compressed natural gas or liquefied natural gas and uses the fuel outside this state in commercial vehicles operated under an interstate trucker license, provided that a credit taken under this subsection must be taken within the limitation period provided by Section 162.369.

(c) A transit company that paid tax on the purchase of compressed natural gas or liquefied natural gas may apply to the comptroller for and obtain a refund in an amount equal to one cent per gasoline gallon equivalent of compressed natural gas or diesel gallon equivalent of liquefied natural gas used in transit vehicles.

(d) The right to receive a refund or take a credit under this section is not assignable.

(e) The comptroller may adopt rules specifying procedures and requirements that must be followed to take a credit or receive a refund under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 29, eff. September 1, 2015.

Sec. 162.366. CREDIT FOR BAD DEBT OR NONPAYMENT. (a) A licensed dealer may take a credit on a return filed under this subchapter if:

(1) the dealer paid the taxes imposed by this subchapter on compressed natural gas or liquefied natural gas sold on account;

(2) the dealer determines that the account is uncollectible and worthless; and

(3) the account is written off as a bad debt on the dealer's accounting books.

(b) The return on which the credit is taken must state, if applicable, the name of the person whose account has been written off as a bad debt or who failed to remit the tax and any other information required by the comptroller. The amount of the credit that may be taken under Subsection (a) may be equal to but may not exceed the amount of taxes paid on the compressed natural gas or

liquefied natural gas to which the written-off account applies.

(c) If, after a credit is taken under Subsection (a), the account on which the credit was based is paid, or if the comptroller otherwise determines that the credit was not authorized by Subsection (a), the dealer who took the credit shall pay the unpaid taxes plus a penalty of 10 percent of the amount of the unpaid taxes and interest at the rate provided by Section 111.060 beginning on the day the report showing the credit was filed and ending on the date the taxes and penalty are paid.

(d) This section does not apply to a sale of compressed natural gas or liquefied natural gas for which payment is made through the use and acceptance of a credit card.

(e) A credit under this section must be taken at the time the account is written off as a bad debt, but may only be taken before the expiration of the applicable limitation period as provided by Chapter 111.

(f) The comptroller may take action against a person in relation to whom a dealer has taken a credit for collection of the tax owed and for penalty and interest as provided by Chapter 111.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.367. CLAIMS FOR REFUNDS. (a) A refund claim must be filed on a form provided by the comptroller, be supported by the original invoice issued by the dealer, and contain:

(1) the stamped or preprinted name and address of the dealer;

(2) the name of the purchaser or person who received the delivery of fuel;

(3) the date of delivery of the fuel;

(4) the date the invoice was issued, if different from the date of fuel delivery;

(5) the number of gasoline gallon equivalents of compressed natural gas or diesel gallon equivalents of liquefied natural gas delivered;

(6) the rate and amount of tax, separately stated from the selling price; and

(7) the type of vehicle or equipment into which the fuel is

delivered.

(b) The purchaser or person who received the delivery of compressed natural gas or liquefied natural gas must obtain the original invoice from the dealer not later than the 30th day after the date the fuel is delivered. If the purchase or delivery of fuel is made through an automated method in which the purchase or delivery is automatically applied to the purchaser or recipient's account, one invoice may be issued at the time of billing that covers multiple purchases or deliveries made during a 30-day billing cycle.

(c) The comptroller shall pay a refund by warrant to a person who files a valid refund claim.

(d) A person who files a claim for a tax refund on compressed natural gas or liquefied natural gas used for a purpose for which a tax refund is not authorized or who files an invoice supporting a refund claim on which the date, figures, or any material information has been falsified or altered forfeits the person's right to the entire amount of the refund claim filed unless the claimant provides proof satisfactory to the comptroller that the incorrect refund claim filed was due to a clerical or mathematical calculation error.

(e) After examining the refund claim and before issuing a refund warrant, the comptroller shall deduct from the amount of the refund the one percent originally deducted by the dealer under Section 162.362(b).

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.368. REFUND FOR CERTAIN METROPOLITAN RAPID TRANSIT AUTHORITIES. (a) Except as otherwise provided by this section, a metropolitan rapid transit authority operating under Chapter 451, Transportation Code, that is a party to a contract governed by Section 34.008, Education Code, is entitled to a refund of taxes paid under this subchapter for compressed natural gas or liquefied natural gas delivered into the fuel supply tank of a motor vehicle used to provide services under the contract and may file a refund claim with the comptroller for the amount of those taxes.

(b) The refund claim under Subsection (a) must contain information regarding:

(1) vehicle mileage;

(2) hours of service provided;
(3) fuel consumed;
(4) the total number of student passengers per route; and
(5) the total number of non-student passengers per route.

(c) If in any month of a school year the number of non-student passengers is greater than five percent of the total passengers for any single route under a contract governed by Section 34.008, Education Code, the metropolitan rapid transit authority is not entitled to a refund of taxes paid under this subchapter for the route for that month.

(d) A metropolitan rapid transit authority that requests a refund under this section shall maintain all supporting documentation relating to the refund until the sixth anniversary of the date of the request.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

Sec. 162.369. WHEN COMPRESSED NATURAL GAS OR LIQUEFIED NATURAL GAS TAX REFUND OR CREDIT MAY BE FILED. (a) Except as otherwise provided by this section, a claim for a refund must be filed with the comptroller before the first anniversary of the first day of the calendar month following the purchase, use, or delivery of compressed natural gas or liquefied natural gas, whichever period expires latest.

(b) If the amount of credit that a licensed interstate trucker is entitled to take under Section 162.365(b) exceeds the amount of tax due on that reporting period, the excess credit amount may be claimed on any of three successive quarterly returns following the period in which the credit was established, or the licensed interstate trucker may seek a refund from the comptroller on or before the due date of the third successive quarterly return following the period in which the credit was established. A credit that is not claimed within the period prescribed by this subsection expires.

(c) If the comptroller assesses a dealer for a tax-free sale that is taxable, and the dealer subsequently collects the tax from the purchaser, the purchaser may file a refund claim before the first anniversary of the date the dealer's deficiency assessment becomes

final if the purchaser used the fuel in an exempt manner.

(d) A dealer who determines taxes were erroneously reported and remitted or who paid more taxes than were due because of a mistake of fact or law may take a credit on the quarterly tax report on which the error occurred and the tax payment was made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 4, eff. September 1, 2013.

SUBCHAPTER E. PENALTIES AND OFFENSES

Sec. 162.401. FAILURE TO PAY TAX OR FILE REPORT. (a) If a person having a license, or a person required to have a license, fails to file a report as required by this chapter or fails to pay a tax imposed by this chapter when due, the person forfeits five percent of the amount due as a penalty, and if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional five percent.

(b) The comptroller may add a penalty of 75 percent of the amount of taxes, penalties, and interest due if failure to file the report or pay the tax when it becomes due is attributable to fraud or an intent to evade the application of this chapter or a rule adopted under this chapter or Chapter 111.

(c) The penalties provided by Subsection (b) are intended to be remedial in nature and are provided for the protection of state revenue and to reimburse the state for expenses incurred as a result of fraud, including expenses incurred in conducting an investigation.

(d) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

(e) In addition to any other penalty authorized by this section, a person who fails to report a subsequent sale in this state of tax-free motor fuel purchased for export as required by Section 162.1155 or 162.2165 shall pay for each sale that is not reported a

penalty of $200. The penalty provided by this subsection is not assessed if the taxpayer files an amended report that includes the sale not later than the 180th day after the due date of the original report of the sale.

(f) In addition to any other penalty authorized by this section, a person who fails to pay the tax imposed by Section 162.101(e-2) or 162.201(e-2) when due shall pay a penalty equal to the greater of $2,000 or five times the amount of the tax due on the motor fuel.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 25, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.07, eff. October 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 601 (S.B. 1557), Sec. 10, eff. January 1, 2018.

Sec. 162.402. PROHIBITED ACTS; CIVIL PENALTIES. (a) A person forfeits to the state a civil penalty of not less than $25 and not more than $200 if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;

(2) operates a motor vehicle in this state without a valid interstate trucker's license or a trip permit when the person is required to hold one of those licenses or permits;

(3) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor of, or with the fuel supply tank feeding the fuel injector or carburetor of, the motor vehicle transporting the product;

(4) sells or delivers gasoline or diesel fuel from any fuel supply tank connected with the fuel injector or carburetor of a motor vehicle;

(5) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record

accurately the miles traveled;

(6) furnishes to a licensed supplier or distributor a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(7) fails or refuses to comply with or violates a provision of this chapter;

(8) fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter;

(9) is an importer who does not obtain an import verification number when required by this chapter;

(10) purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number;

(11) delivers compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle and the person does not hold a valid compressed natural gas and liquefied natural gas dealer's license; or

(12) makes a tax-free delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle, unless the delivery is exempt from tax under Section 162.356.

(b) An importer or exporter that violates a requirement of Section 162.016 is liable to this state for a civil penalty of $2,000 or five times the amount of the unpaid tax, whichever is greater, for each violation.

(c) A person receiving motor fuel who accepts a shipping document that does not conform with the requirements of Section 162.016(a) is liable to this state for a civil penalty of $2,000 or five times the amount of the unpaid tax, whichever is greater, for each occurrence.

(d) A person who issues a shipping document that does not conform with the requirements of Section 162.016(a) is liable to this state for a civil penalty of $2,000 or five times the amount of the unpaid tax, whichever is greater, for each occurrence.

(e) A person operating a terminal or bulk plant who does not post notice as required by Section 162.016(i) is liable to this state for a civil penalty of $100 for each day the notice is not posted as

required by Section 162.016(i).

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 32, eff. September 1, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 6, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 30, eff. September 1, 2015.

Sec. 162.403. CRIMINAL OFFENSES. Except as provided by Section 162.404, a person commits an offense if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on the demand of a peace officer or the comptroller;

(2) is required to hold a valid trip permit or interstate trucker's license, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's license;

(3) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(4) sells or delivers gasoline or diesel fuel from a fuel supply tank that is connected with the fuel injector or carburetor of a motor vehicle;

(5) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(6) sells or delivers dyed diesel fuel for the operation of a motor vehicle on a public highway;

(7) uses dyed diesel fuel for the operation of a motor vehicle on a public highway except as allowed under Section 162.235;

(8) refuses to permit the comptroller or the attorney general to inspect, examine, or audit a book or record required to be kept by a license holder, other user, or any person required to hold a license under this chapter;

(9) refuses to permit the comptroller or the attorney general to inspect or examine any plant, equipment, materials, or premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(10) refuses to permit the comptroller, the attorney general, an employee of either of those officials, a peace officer, an employee of the Texas Commission on Environmental Quality, or an employee of the Texas Department of Licensing and Regulation to measure or gauge the contents of or take samples from a storage tank or container on premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(11) is a license holder, a person required to be licensed, or another user and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

(12) is an importer who does not obtain an import verification number when required by this chapter;

(13) purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number;

(14) conceals motor fuel with the intent of engaging in any conduct proscribed by this chapter or refuses to make sales of motor fuel on the volume-corrected basis prescribed by this chapter;

(15) refuses, while transporting motor fuel, to stop the motor vehicle the person is operating when called on to do so by a person authorized to stop the motor vehicle;

(16) refuses to surrender a motor vehicle and cargo for impoundment after being ordered to do so by a person authorized to impound the motor vehicle and cargo;

(17) mutilates, destroys, or secretes a book or record required by this chapter to be kept by a license holder, other user, or person required to hold a license under this chapter;

(18) is a license holder, other user, or other person required to hold a license under this chapter, or the agent or employee of one of those persons, and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person or fails to retain a document as required by

this chapter;

(19) transports in any manner motor fuel under a false cargo manifest or shipping document, or transports in any manner motor fuel to a location without delivering at the same time a shipping document relating to that shipment;

(20) engages in a motor fuel transaction that requires that the person have a license under this chapter without then and there holding the required license;

(21) makes and delivers to the comptroller a report required under this chapter to be made and delivered to the comptroller, if the report contains false information;

(22) forges, falsifies, or alters an invoice or shipping document prescribed by law;

(23) makes any statement, knowing said statement to be false, in a claim for a tax refund filed with the comptroller;

(24) furnishes to a licensed supplier or distributor a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(25) holds an aviation fuel dealer's license and makes a taxable sale or use of any gasoline or diesel fuel;

(26) fails to remit any tax funds collected or required to be collected by a license holder, another user, or any other person required to hold a license under this chapter;

(27) makes a sale of dyed diesel fuel tax-free into a storage facility of a person who:

(A) is not licensed as a distributor, as an aviation fuel dealer, or as a dyed diesel fuel bonded user; or

(B) does not furnish to the licensed supplier or distributor a signed statement prescribed in Section 162.206;

(28) makes a sale of gasoline tax-free to any person who is not licensed as an aviation fuel dealer;

(29) purchases any motor fuel tax-free when not authorized to make a tax-free purchase under this chapter;

(30) purchases motor fuel with the intent to evade any tax imposed by this chapter or accepts a delivery of motor fuel by any means and does not at the same time accept or receive a shipping document relating to the delivery;

(31) transports motor fuel for which a cargo manifest or shipping document is required to be carried without possessing or

exhibiting on demand by an officer authorized to make the demand a cargo manifest or shipping document containing the information required to be shown on the manifest or shipping document;

(32) imports, sells, uses, blends, distributes, or stores motor fuel within this state on which the taxes imposed by this chapter are owed but have not been first paid to or reported by a license holder, another user, or any other person required to hold a license under this chapter;

(33) blends products together to produce a blended fuel that is offered for sale, sold, or used and that expands the volume of the original product to evade paying applicable motor fuel taxes;

(34) evades or attempts to evade in any manner a tax imposed on motor fuel by this chapter;

(35) delivers compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle and the person does not hold a valid compressed natural gas and liquefied natural gas dealer's license; or

(36) makes a tax-free delivery of compressed natural gas or liquefied natural gas into the fuel supply tank of a motor vehicle, unless the delivery is exempt from tax under Section 162.356.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 33, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 7, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 31, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. 2119), Sec. 9, eff. September 1, 2020.

Sec. 162.404. CRIMINAL OFFENSES: SPECIAL PROVISIONS AND EXCEPTIONS. (a) A person does not commit an offense under Section 162.403 unless the person intentionally or knowingly engaged in conduct as the definition of the offense requires, except that no culpable mental state is required for an offense under Section 162.403(5).

(b) Each day that a refusal prohibited under Section

162.403(8), (9), or (10) continues is a separate offense.

(c) The prohibition under Section 162.403(27) does not apply to the tax-free sale or distribution of diesel fuel authorized by Section 162.204(a)(1), (2), or (3).

(d) The prohibition under Section 162.403(28) does not apply to the tax-free sale or distribution of gasoline under Section 162.104(a)(1), (2), or (3).

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 32, eff. September 1, 2015.

Sec. 162.405. CRIMINAL PENALTIES. (a) An offense under Section 162.403(1), (2), (3), (4), (5), or (7) is a Class C misdemeanor.

(b) An offense under Section 162.403(8), (9), (10), (11), (12), (13), (35), or (36) is a Class B misdemeanor.

(c) An offense under Section 162.403(14), (15), or (16) is a Class A misdemeanor.

(d) An offense under Section 162.403(6), (17), (18), (19), (20), (21), (22), (23), or (24) is a felony of the third degree.

(e) An offense under Section 162.403(25), (26), (27), (28), (29), (30), (31), (32), (33), or (34) is a felony of the second degree.

(f) Violations of three or more separate offenses under the following sections committed pursuant to one scheme or continuous course of conduct may be considered as one offense and punished as a felony of the second degree:

(1) Section 162.403(6);

(2) Sections 162.403(8) through (11); or

(3) Sections 162.403(17) through (24).

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by Acts 2003, 78th Leg., ch. 209, Sec. 96, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 34, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 8, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 33, eff. September 1, 2015.

Sec. 162.406. CRIMINAL PENALTIES: CORPORATIONS AND ASSOCIATIONS. (a) Except as provided by Subsection (b), Subchapter E, Chapter 12, Penal Code, applies to offenses under this chapter committed by a corporation or association.

(b) The court may not fine a corporation or association under Section 12.51(c), Penal Code, unless the amount of the fine under that subsection is greater than the amount that could be fixed by the court under Section 12.51(b), Penal Code.

(c) In addition to a sentence imposed on a corporation, the court shall give notice of the conviction to the attorney general as required by Article 17A.09, Code of Criminal Procedure.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.407. VENUE OF CRIMINAL PROSECUTIONS. The venue for a prosecution under this subchapter is in Travis County or in the county where the offense occurred.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.408. NEGATION OF EXCEPTION: INFORMATION, COMPLAINT, OR INDICTMENT. An information, complaint, or indictment charging a violation of this chapter need not negate an exception to an act prohibited by this chapter, but the exception may be urged by the defendant as a defense to the offense charged.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.409. ISSUANCE OF BAD CHECK OR SIMILAR SIGHT ORDER TO LICENSED DISTRIBUTOR, LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER. (a) A person commits an offense if:

(1) the person issues or passes a check or similar sight order, as defined by Section 1.07, Penal Code, for the payment of money knowing that the issuer does not have sufficient funds in or on

deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders outstanding at the time of issuance;

(2) the payee on the check or order is a licensed distributor, licensed supplier, or permissive supplier; and

(3) the payment is for an obligation or debt that includes a tax under this chapter to be collected by the licensed distributor, licensed supplier, or permissive supplier.

(b) Sections 32.41(b), (c), (d), (e), and (g), Penal Code, apply to an offense under this section in the same manner as those provisions are applicable to the offense under Section 32.41(a), Penal Code.

(c) An offense under this section is a Class C misdemeanor.

(d) A person who makes payment on an obligation or debt that includes a tax under this chapter and pays with an insufficient funds check or similar sight order, as defined by Section 1.07, Penal Code, issued to a licensed distributor, licensed supplier, or permissive supplier may be held liable for a penalty equal to the total amount of tax not paid to the licensed distributor, licensed supplier, or permissive supplier.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 35, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 36, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 128 (S.B. 821), Sec. 11, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 128 (S.B. 821), Sec. 12, eff. September 1, 2013.

Sec. 162.410. ELECTION OF OFFENSES. If a violation of a criminal offense provision of this chapter by a person constitutes another offense under the laws of this state, the state may elect the offense for which it will prosecute the person.

Added by Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 37, eff. September 1, 2009.

SUBCHAPTER F. ALLOCATION OF TAXES

Sec. 162.501. TAX ADMINISTRATION FUND. (a) Before any other allocation of the taxes collected under this chapter is made, one percent of the gross amount of the taxes shall be deposited in the state treasury in a special fund, subject to the use of the comptroller in the administration and enforcement of this chapter.

(b) The unexpended portion of the special fund shall revert, at the end of the fiscal year, to the other funds to which revenue is allocated by this subchapter in proportion to the amounts originally derived from the respective sources.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1203 , Sec. 21(7), eff. September 1, 2015.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1203 (S.B. 1455), Sec. 21(7), eff. September 1, 2015.

Sec. 162.502. ALLOCATION OF UNCLAIMED REFUNDABLE GASOLINE TAXES. (a) On or before the fifth workday after the end of each month, the comptroller, after making the deductions for refund purposes, shall determine as accurately as possible, for the period since the latest determination under this subsection, the number of gallons of fuel used in motorboats on which the gasoline tax has been paid to this state, on which refund of the tax has not been made, and against which limitation has run for filing claim for refund of the tax. From the number of gallons so determined the comptroller shall compute the amount of taxes that would have been refunded under the law had refund claims been filed in accordance with the law.

(b) The comptroller shall allocate and deposit these unclaimed refunds as follows:

(1) 25 percent of the revenues based on unclaimed refunds of taxes paid on motor fuel used in motorboats shall be deposited to the credit of the available school fund; and

(2) the remaining 75 percent of the revenue shall be deposited to the credit of the general revenue fund.

(c) Money deposited to the credit of the general revenue fund under Subsection (b)(2) may be appropriated only to the Parks and Wildlife Department for any lawful purpose.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.5025. ALLOCATION OF OTHER UNCLAIMED REFUNDABLE NONDEDICATED TAXES. (a) The comptroller by rule shall devise a method of determining as accurately as possible the:

(1) number of gallons of fuel that are not used to propel a motor vehicle on the public highways; and

(2) amount of taxes collected under this chapter from fuel that is not used to propel a motor vehicle on the public highways that would have been refunded under this chapter if refund claims had been filed in accordance with this chapter and that is not subject to allocation under Section 162.502.

(b) The comptroller shall allocate to the general revenue fund the amount determined under Subsection (a)(2).

(c) The determination and allocation shall be made periodically as prescribed by rule.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.503. ALLOCATION OF GASOLINE TAX. (a) On or before the fifth workday after the end of each month, the comptroller, after making all deductions for refund purposes and for the amounts allocated under Sections 162.502 and 162.5025, shall allocate the net remainder of the taxes collected under Subchapter B as follows:

(1) one-fourth of the tax shall be deposited to the credit of the available school fund;

(2) one-half of the tax shall be deposited to the credit of the state highway fund for the construction and maintenance of the state road system under existing law; and

(3) from the remaining one-fourth of the tax the comptroller shall:

(A) deposit to the credit of the county and road district highway fund all the remaining tax receipts until a total of $7,300,000 has been credited to the fund each fiscal year; and

(B) after the amount required to be deposited to the county and road district highway fund has been deposited, deposit to the credit of the state highway fund the remainder of the one-fourth of the tax, the amount to be provided on the basis of allocations

made each month of the fiscal year, which sum shall be used by the Texas Department of Transportation for the construction, improvement, and maintenance of farm-to-market roads.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(5), eff. June 14, 2013.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 9.03, eff. October 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(5), eff. June 14, 2013.

Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) On or before the fifth workday after the end of each month, the comptroller, after making deductions for refund purposes, for the administration and enforcement of this chapter, and for the amounts allocated under Section 162.5025, shall allocate the remainder of the taxes collected under Subchapter C as follows:

(1) one-fourth of the taxes shall be deposited to the credit of the available school fund; and

(2) three-fourths of the taxes shall be deposited to the credit of the state highway fund.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(6), eff. June 14, 2013.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 9.04, eff. October 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(6), eff. June 14, 2013.

Sec. 162.5045. ALLOCATION OF TAXES PAID ON UNDYED DIESEL FUEL USED OFF-HIGHWAY. On or before the fifth workday after the end of each month, the comptroller shall determine as accurately as possible for the period since the latest determination under this section the number of gallons of undyed diesel fuel used for purposes other than to propel a motor vehicle on the public highways of this state. From

the number of gallons so determined, the comptroller shall compute the amount of taxes that were paid on that undyed diesel fuel and shall allocate and deposit that amount to the credit of the general revenue fund.

Added by Acts 2003, 78th Leg., ch. 199, Sec. 1, eff. Jan. 1, 2004.

Sec. 162.506. ALLOCATION OF COMPRESSED NATURAL GAS AND LIQUEFIED NATURAL GAS TAX. On or before the fifth workday after the end of each month, the comptroller, after making deductions for refund purposes and for the administration and enforcement of this chapter, shall allocate the remainder of the taxes collected under Subchapter D-1 as follows:

(1) one-fourth of the taxes shall be deposited to the credit of the available school fund; and

(2) three-fourths of the taxes shall be deposited to the credit of the state highway fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 990 (H.B. 2148), Sec. 5, eff. September 1, 2013.

CHAPTER 163. SALES AND USE TAXATION OF AIRCRAFT

Sec. 163.001. CERTIFICATED OR LICENSED CARRIERS. (a) For purposes of Chapter 151, "certificated or licensed carrier" means a person authorized by the Federal Aviation Administration to operate an aircraft to transport persons or property in compliance with the certification and operations specifications requirements of 14 C.F.R. Part 121, 125, 133, or 135.

(b) Section 151.328(a)(1) applies with respect to a certificated carrier's acquisition of an aircraft, without regard to whether the certificated carrier acquired the aircraft by purchase, lease, or rental.

Added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015.

Sec. 163.002. RESALE OF AIRCRAFT. (a) For purposes of Section 151.006, "sale for resale" includes the sale of an aircraft to a

purchaser who acquires the aircraft for the purpose of leasing, renting, or reselling the aircraft to another person in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the form or condition in which it is acquired.

(b) The leasing or renting of an aircraft under Subsection (a) includes the transfer of operational control of the aircraft from a lessor to one or more lessees pursuant to one or more written agreements in exchange for consideration, regardless of whether the consideration is in the form of a cash payment and regardless of whether the consideration is fixed, variable, or periodic. For purposes of this subsection, "operational control" has the meaning assigned by the Federal Aviation Regulations and includes the exercise of authority over initiating, conducting, or terminating a flight.

(c) Subsection (a) applies to a purchase of an aircraft regardless of whether the purchaser, in addition to leasing, renting, or reselling the aircraft to another person, also uses the aircraft if, for a period of one year beginning on the date the purchaser purchases the aircraft, more than 50 percent of the aircraft's departures are made under the operational control of one or more lessees pursuant to one or more written agreements as described by Subsection (b).

(d) Section 151.154(a) does not apply to a purchaser of an aircraft.

Added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015.

Sec. 163.003. USE OF AIRCRAFT. For purposes of the tax imposed under Subchapter D, Chapter 151, an aircraft that is brought into this state for the sole purpose of being completed, repaired, remodeled, or restored is not brought into the state for storage, use, or other consumption in this state.

Added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015.

Sec. 163.004. NO PRESUMPTION OF USE. For purposes of the tax

imposed under Subchapter D, Chapter 151, there is no presumption that an aircraft was purchased for storage, use, or consumption in this state if the person bringing the aircraft into this state did not acquire the aircraft directly from a seller by means of a purchase, as that term is defined by Section 151.005.

Added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015.

Sec. 163.005. NO IMPOSITION OF TAX FOLLOWING OUT-OF-STATE USE. (a) No tax is imposed under Subchapter D, Chapter 151, with respect to an aircraft that is brought into this state if the aircraft is predominantly used outside of this state for a period of one year beginning on the later of:

(1) the date the aircraft was acquired, whether by purchase, lease, rental, or otherwise, by the person bringing the aircraft into this state; or

(2) the date the aircraft:

(A) was substantially complete in the condition for its intended use; and

(B) conducted its first flight for the carriage of persons or property.

(b) For purposes of this section, an aircraft is predominantly used outside of this state if more than 50 percent of the aircraft's departures are from locations outside of this state.

Added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015.

Sec. 163.006. CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS. (a) For purposes of the tax imposed under Chapter 151, a sale, lease, rental, or other transaction between a person and a member, owner, or affiliate of the person involving an aircraft that would not be subject to tax or would qualify for an exemption from tax if the transaction were between unrelated persons remains not subject to tax or exempt from tax to the same extent as if the transaction were between unrelated persons.

(b) No tax is imposed under Chapter 151 with respect to the use of an aircraft by an owner or member of the purchaser of the

aircraft, by an entity that is an affiliate of the purchaser of the aircraft, or by an owner or member of an affiliate of the purchaser of the aircraft if:

(1) with respect to the purchase of the aircraft, the purchaser paid the tax imposed under Chapter 151; or

(2) the purchaser's purchase of the aircraft was exempt from the tax imposed under Chapter 151, other than under:

(A) Section 151.302; or

(B) Section 151.304, unless the purchase would have been exempt from tax under Section 151.304 if the owner, member, affiliate, or owner or member of the affiliate who is using the aircraft had been the purchaser.

(c) For purposes of this section, the term "affiliate" means an entity that would be classified as a member of the purchaser's affiliated group under Section 171.0001.

Added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015.

Sec. 163.007. AIRCRAFT OPERATED UNDER FRACTIONAL OWNERSHIP PROGRAMS. No tax is imposed under Chapter 151 with respect to the purchase, sale, or use of an aircraft that is operated pursuant to 14 C.F.R. Part 91, Subpart K.

Added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015.

Sec. 163.008. NO IMPOSITION OF TAX UNDER THIS CHAPTER. Nothing in this chapter shall be construed to impose a tax.

Added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015.

Sec. 163.009. CONFLICTS WITH OTHER LAW. This chapter controls over Chapter 151 to the extent of any conflict.

Added by Acts 2015, 84th Leg., R.S., Ch. 631 (S.B. 1396), Sec. 1, eff. September 1, 2015.

SUBTITLE F. FRANCHISE TAX
CHAPTER 171. FRANCHISE TAX
SUBCHAPTER A. DEFINITIONS; TAX IMPOSED

Sec. 171.0001. GENERAL DEFINITIONS. In this chapter:

(1) "Affiliated group" means a group of one or more entities in which a controlling interest is owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member entities.

(1-a) "Artist" means a natural person or an entity that contracts to perform or entertain at a live entertainment event.

(2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 117, Sec. 28(3), eff. September 1, 2013.

(3) "Banking corporation" means each state, national, domestic, or foreign bank, whether organized under the laws of this state, another state, or another country, or under federal law, including a limited banking association organized under Subtitle A, Title 3, Finance Code, and each bank organized under Section 25(a), Federal Reserve Act (12 U.S.C. Sections 611-631) (edge corporations), but does not include a bank holding company as that term is defined by Section 2, Bank Holding Company Act of 1956 (12 U.S.C. Section 1841).

(4) "Beginning date" means:

(A) for a taxable entity chartered or organized in this state, the date on which the taxable entity's charter or organization takes effect; and

(B) for any other taxable entity, the date on which the taxable entity begins doing business in this state.

(5) "Charter" includes a limited liability company's certificate of organization, a limited partnership's certificate of limited partnership, and the registration of a limited liability partnership.

(6) "Client" means:

(A) a client as that term is defined by Section 91.001, Labor Code; or

(B) a client of a temporary employment service, as that term is defined by Section 93.001(2), Labor Code, to whom individuals are assigned for a purpose described by that subdivision.

(7) "Combined group" means taxable entities that are part

of an affiliated group engaged in a unitary business and that are required to file a group report under Section 171.1014.

(8) "Controlling interest" means:

(A) for a corporation, either more than 50 percent, owned directly or indirectly, of the total combined voting power of all classes of stock of the corporation, or more than 50 percent, owned directly or indirectly, of the beneficial ownership interest in the voting stock of the corporation;

(B) for a partnership, association, trust, or other entity other than a limited liability company, more than 50 percent, owned directly or indirectly, of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity; and

(C) for a limited liability company, either more than 50 percent, owned directly or indirectly, of the total membership interest of the limited liability company or more than 50 percent, owned directly or indirectly, of the beneficial ownership interest in the membership interest of the limited liability company.

(8-a) "Covered employee" has the meaning assigned by Section 91.001, Labor Code.

(9) "Internal Revenue Code" means the Internal Revenue Code of 1986 in effect for the federal tax year beginning on January 1, 2007, not including any changes made by federal law after that date, and any regulations adopted under that code applicable to that period.

(10) "Lending institution" means an entity that makes loans and:

(A) is regulated by the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, the Office of Thrift Supervision, the Texas Department of Banking, the Office of Consumer Credit Commissioner, the Credit Union Department, or any comparable regulatory body;

(B) is licensed by, registered with, or otherwise regulated by the Department of Savings and Mortgage Lending;

(C) is a "broker" or "dealer" as defined by the Securities Exchange Act of 1934 at 15 U.S.C. Section 78c; or

(D) provides financing to unrelated parties solely for agricultural production.

(10-a) "Live entertainment event" means an event that occurs on a specific date to which tickets are sold in advance by a

third-party vendor and at which:

(A) a natural person or a group of natural persons, physically present at the venue, performs for the purpose of entertaining a ticket holder who is present at the event;

(B) a traveling circus or animal show performs for the purpose of entertaining a ticket holder who is present at the event; or

(C) a historical, museum-quality artifact is on display in an exhibition.

(10-b) "Live event promotion services" means services related to the promotion, coordination, operation, or management of a live entertainment event. The term includes services related to:

(A) the provision of staff for the live entertainment event; or

(B) the scheduling and promotion of an artist performing or entertaining at the live entertainment event.

(11) "Management company" means a corporation, limited liability company, or other limited liability entity that conducts all or part of the active trade or business of another entity (the "managed entity") in exchange for:

(A) a management fee; and

(B) reimbursement of specified costs incurred in the conduct of the active trade or business of the managed entity, including "wages and cash compensation" as determined under Sections 171.1013(a) and (b).

(11-a) "Natural person" means a human being or the estate of a human being. The term does not include a purely legal entity given recognition as the possessor of rights, privileges, or responsibilities, such as a corporation, limited liability company, partnership, or trust.

(11-b) "Qualified live event promotion company" means a taxable entity that:

(A) receives at least 50 percent of the entity's annual total revenue from the provision or arrangement for the provision of three or more live event promotion services;

(B) maintains a permanent nonresidential office from which the live event promotion services are provided or arranged;

(C) employs 10 or more full-time employees during all or part of the period for which taxable margin is calculated;

(D) does not provide services for a wedding or

carnival; and

(E) is not a movie theater.

(12) "Retail trade" means:

(A) the activities described in Division G of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget;

(B) apparel rental activities classified as Industry 5999 or 7299 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget;

(C) the activities classified as Industry Group 753 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget;

(D) rental-purchase agreement activities regulated by Chapter 92, Business & Commerce Code;

(E) activities involving the rental or leasing of tools, party and event supplies, and furniture that are classified as Industry 7359 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget; and

(F) heavy construction equipment rental or leasing activities classified as Industry 7353 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

(13) "Savings and loan association" means a savings and loan association or savings bank, whether organized under the laws of this state, another state, or another country, or under federal law.

(13-a) "Security," for purposes of Sections 171.1011(g), 171.1011(g-2), and 171.106(f) only, has the meaning assigned by Section 475(c)(2), Internal Revenue Code, and includes instruments described by Sections 475(e)(2)(B), (C), and (D) of that code.

(14) "Shareholder" includes a limited liability company's member and a limited banking association's participant.

(15) "Professional employer organization" means:

(A) a business entity that offers professional employer services, as that term is defined by Section 91.001, Labor Code; or

(B) a temporary employment service, as that term is defined by Section 93.001, Labor Code.

(16) "Total revenue" means the total revenue of a taxable entity as determined under Section 171.1011.

(17) "Unitary business" means a single economic enterprise that is made up of separate parts of a single entity or of a commonly

controlled group of entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. In determining whether a unitary business exists, the comptroller shall consider any relevant factor, including whether:

(A) the activities of the group members are in the same general line, such as manufacturing, wholesaling, retailing of tangible personal property, insurance, transportation, or finance;

(B) the activities of the group members are steps in a vertically structured enterprise or process, such as the steps involved in the production of natural resources, including exploration, mining, refining, and marketing; or

(C) the members are functionally integrated through the exercise of strong centralized management, such as authority over purchasing, financing, product line, personnel, and marketing.

(18) "Wholesale trade" means the activities described in Division F of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 2, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 1, eff. January 1, 2008.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 45.01, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 51.01, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 117 (S.B. 1286), Sec. 23, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 117 (S.B. 1286), Sec. 28(3), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 1, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 329 (S.B. 1049), Sec. 1, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 329 (S.B. 1049), Sec. 2, eff. January 1, 2020.

Sec. 171.0002. DEFINITION OF TAXABLE ENTITY. (a) Except as otherwise provided by this section, "taxable entity" means a partnership, limited liability partnership, corporation, banking corporation, savings and loan association, limited liability company, business trust, professional association, business association, joint venture, joint stock company, holding company, or other legal entity. The term includes a combined group. A joint venture does not include joint operating or co-ownership arrangements meeting the requirements of Treasury Regulation Section 1.761-2(a)(3) that elect out of federal partnership treatment as provided by Section 761(a), Internal Revenue Code.

(b) "Taxable entity" does not include:

(1) a sole proprietorship;

(2) a general partnership:

(A) the direct ownership of which is entirely composed of natural persons; and

(B) the liability of which is not limited under a statute of this state or another state, including by registration as a limited liability partnership;

(3) a passive entity as defined by Section 171.0003; or

(4) an entity that is exempt from taxation under Subchapter B.

(c) "Taxable entity" does not include an entity that is:

(1) a grantor trust as defined by Sections 671 and 7701(a)(30)(E), Internal Revenue Code, all of the grantors and beneficiaries of which are natural persons or charitable entities as described in Section 501(c)(3), Internal Revenue Code, excluding a trust taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(2) an estate of a natural person as defined by Section 7701(a)(30)(D), Internal Revenue Code, excluding an estate taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(3) an escrow;

(4) a real estate investment trust (REIT) as defined by Section 856, Internal Revenue Code, and its "qualified REIT subsidiary" entities as defined by Section 856(i)(2), Internal Revenue Code, provided that:

(A) a REIT with any amount of its assets in direct holdings of real estate, other than real estate it occupies for business purposes, as opposed to holding interests in limited partnerships or other entities that directly hold the real estate, is a taxable entity; and

(B) a limited partnership or other entity that directly holds the real estate as described in Paragraph (A) is not exempt under this subdivision, without regard to whether a REIT holds an interest in it;

(5) a real estate mortgage investment conduit (REMIC), as defined by Section 860D, Internal Revenue Code;

(6) a nonprofit self-insurance trust created under Chapter 2212, Insurance Code, or a predecessor statute;

(7) a trust qualified under Section 401(a), Internal Revenue Code;

(8) a trust or other entity that is exempt under Section 501(c)(9), Internal Revenue Code; or

(9) an unincorporated entity organized as a political committee under the Election Code or the provisions of the Federal Election Campaign Act of 1971 (2 U.S.C. Section 431 et seq.).

(d) An entity that can file as a sole proprietorship for federal tax purposes is not a sole proprietorship for purposes of Subsection (b)(1) and is not exempt under that subsection if the entity is formed in a manner under the statutes of this state, another state, or a foreign country that limit the liability of the entity.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 2, eff. January 1, 2008.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 45.02, eff. January 1, 2012.

Sec. 171.0003. DEFINITION OF PASSIVE ENTITY. (a) An entity is a passive entity only if:

(1) the entity is a general or limited partnership or a trust, other than a business trust;

(2) during the period on which margin is based, the entity's federal gross income consists of at least 90 percent of the

following income:

(A) dividends, interest, foreign currency exchange gain, periodic and nonperiodic payments with respect to notional principal contracts, option premiums, cash settlement or termination payments with respect to a financial instrument, and income from a limited liability company;

(B) distributive shares of partnership income to the extent that those distributive shares of income are greater than zero;

(C) capital gains from the sale of real property, gains from the sale of commodities traded on a commodities exchange, and gains from the sale of securities; and

(D) royalties, bonuses, or delay rental income from mineral properties and income from other nonoperating mineral interests; and

(3) the entity does not receive more than 10 percent of its federal gross income from conducting an active trade or business.

(a-1) In making the computation under Subsection (a)(3), income described by Subsection (a)(2) may not be treated as income from conducting an active trade or business.

(b) The income described by Subsection (a)(2) does not include:

(1) rent; or

(2) income received by a nonoperator from mineral properties under a joint operating agreement if the nonoperator is a member of an affiliated group and another member of that group is the operator under the same joint operating agreement.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 2, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 3, eff. January 1, 2008.

Sec. 171.0004. DEFINITION OF CONDUCTING ACTIVE TRADE OR BUSINESS. (a) The definition in this section applies only to Section 171.0003.

(b) An entity conducts an active trade or business if:

(1) the activities being carried on by the entity include one or more active operations that form a part of the process of

earning income or profit; and

(2) the entity performs active management and operational functions.

(c) Activities performed by the entity include activities performed by persons outside the entity, including independent contractors, to the extent the persons perform services on behalf of the entity and those services constitute all or part of the entity's trade or business.

(d) An entity conducts an active trade or business if assets, including royalties, patents, trademarks, and other intangible assets, held by the entity are used in the active trade or business of one or more related entities.

(e) For purposes of this section:

(1) the ownership of a royalty interest or a nonoperating working interest in mineral rights does not constitute conduct of an active trade or business;

(2) payment of compensation to employees or independent contractors for financial or legal services reasonably necessary for the operation of the entity does not constitute conduct of an active trade or business; and

(3) holding a seat on the board of directors of an entity does not by itself constitute conduct of an active trade or business.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 2, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 4, eff. January 1, 2008.

Sec. 171.001. TAX IMPOSED. (a) A franchise tax is imposed on each taxable entity that does business in this state or that is chartered or organized in this state.

(b) The tax imposed under this chapter extends to the limits of the United States Constitution and the federal law adopted under the United States Constitution.

(c) The tax imposed under this section or Section 171.0011 is not imposed on an entity if, during the period on which the report is based, the entity qualifies as a passive entity as defined by Section 171.0003.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 329 , Sec. 9(2), eff. January 1, 2020.

Acts 1981, 67th Leg., p. 1691, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., ch. 901, Sec. 53(a), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.01, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 765, Sec. 7, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 914, Sec. 12, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1002, Sec. 1, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1185, Sec. 1, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 184, Sec. 1, eff. Jan. 1, 2000; Acts 2003, 78th Leg., ch. 209, Sec. 31, 32, eff. Oct. 1, 2003.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 2, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 5, eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 329 (S.B. 1049), Sec. 4, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 329 (S.B. 1049), Sec. 9(2), eff. January 1, 2020.

Sec. 171.0011. ADDITIONAL TAX. (a) Except as provided by Section 171.001(c), an additional tax is imposed on a taxable entity that for any reason becomes no longer subject to the tax imposed under this chapter.

(b) The additional tax is equal to the appropriate rate under Section 171.002 of the taxable entity's taxable margin computed on the period beginning on the day after the last day for which the tax imposed on taxable margin or net taxable earned surplus was computed and ending on the date the taxable entity is no longer subject to the tax imposed under this chapter.

(c) The additional tax imposed and any report required by the comptroller are due on the 60th day after the date the taxable entity becomes no longer subject to the tax imposed under this chapter.

(d) Except as otherwise provided by this section, the provisions of this chapter apply to the tax imposed under this section.

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1282, Sec.

37(1), eff. January 1, 2008.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.02, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 546, Sec. 1, eff. Jan. 1, 1994.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 2, eff. January 1, 2008.
Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 6, eff. January 1, 2008.
Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 37(1), eff. January 1, 2008.

Sec. 171.002. RATES; COMPUTATION OF TAX. (a) Subject to Sections 171.003 and 171.1016 and except as provided by Subsection (b), the rate of the franchise tax is 0.75 percent of taxable margin.

(b) Subject to Sections 171.003 and 171.1016, the rate of the franchise tax is 0.375 percent of taxable margin for those taxable entities primarily engaged in retail or wholesale trade.

(c) A taxable entity is primarily engaged in retail or wholesale trade only if:

(1) the total revenue from its activities in retail or wholesale trade is greater than the total revenue from its activities in trades other than the retail and wholesale trades;

(2) except as provided by Subsection (c-1), less than 50 percent of the total revenue from activities in retail or wholesale trade comes from the sale of products it produces or products produced by an entity that is part of an affiliated group to which the taxable entity also belongs; and

(3) the taxable entity does not provide retail or wholesale utilities, including telecommunications services, electricity, or gas.

(c-1) Subsection (c)(2) does not apply to total revenue from activities in a retail trade described by Major Group 58 of the Standard Industrial Classification Manual published by the federal Office of Management and Budget.

(c-2) For purposes of Subsection (c)(3), the provision of telecommunications services does not include selling telephone prepaid calling cards.

(d) A taxable entity is not required to pay any tax and is not considered to owe any tax for a period if:

(1) the amount of tax computed for the taxable entity is less than $1,000; or

(2) the amount of the taxable entity's total revenue from its entire business is less than or equal to $1 million or the amount determined under Section 171.006 per 12-month period on which margin is based.

Acts 1981, 67th Leg., p. 1691, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 3, part D, Sec. 1, eff. May 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 2, pt. 1, Sec. 1, eff. Jan. 1, 1988; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 2, pt. 2, Sec. 1, eff. Jan. 1, 1990; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.031(a), eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 1185, Sec. 2, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 394, Sec. 10, eff. Jan. 1, 2000.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 2, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 7, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 286 (H.B. 4765), Sec. 1(a), eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 286 (H.B. 4765), Sec. 2(a), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 17, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 449 (H.B. 32), Sec. 2, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 275 (H.B. 2126), Sec. 1, eff. January 1, 2018.

Sec. 171.003. INCREASE IN RATE REQUIRES VOTER APPROVAL. (a) An increase in a rate provided by Section 171.002(a) or (b) takes effect only if approved by a majority of the registered voters voting in a statewide referendum held on the question of increasing the rate. The referendum must specify the increased rate or rates.

(b) This section does not apply to a decrease in a rate

provided by Section 171.002(a) or (b). If a rate is decreased, this section applies to any subsequent increase in that rate.

(c) This section does not apply to any change in the tax imposed by this chapter in relation to:

(1) the manner in which the tax is computed, including the determination of margin and taxable margin and any allowable deductions or credits;

(2) the manner in which the tax is administered or enforced; or

(3) the applicability of the tax to certain entities.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 2, eff. January 1, 2008.

Sec. 171.006. ADJUSTMENT OF ELIGIBILITY FOR NO TAX DUE, DISCOUNTS, AND COMPENSATION DEDUCTION. (a) In this section, "consumer price index" means the average over a state fiscal biennium of the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, published monthly by the United States Bureau of Labor Statistics, or its successor in function.

(b) Beginning in 2010, on January 1 of each even-numbered year, the amounts prescribed by Sections 171.002(d)(2) and 171.1013(c) are increased or decreased by an amount equal to the amount prescribed by those sections on December 31 of the preceding year multiplied by the percentage increase or decrease during the preceding state fiscal biennium in the consumer price index and rounded to the nearest $10,000.

(c) The amounts determined under Subsection (b) apply to a report originally due on or after the date the determination is made.

(d) The comptroller shall make the determination required by this section and may adopt rules related to making that determination.

(e) A determination by the comptroller under this section is final and may not be appealed.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 2, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 9, eff.

January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 10, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 3, eff. January 1, 2014.

SUBCHAPTER B. EXEMPTIONS

Sec. 171.051. APPLICATION FOR EXEMPTION; EFFECTIVE DATE. (a) Except as provided by Subsection (c) of this section, a corporation may apply for an exemption under this subchapter by filing with the comptroller, as provided by the rules of the comptroller, evidence of the corporation's qualifications for the exemption.

(b) If a corporation files the evidence establishing the corporation's qualifications for an exemption within 15 months after the last day of the calendar month in which the corporation's charter or certificate of authority is dated, the exemption is recognized, if it is finally established, as of the date of the charter or certificate.

(c) The exemption provided by Section 171.063 of this code must be established as provided by that section, but a corporation may apply for and receive other exemptions as provided by this section.

(d) Neither this section nor Section 171.063 of this code requires a corporation that was granted a franchise tax exemption before September 1, 1975, that was entitled to the exemption on September 1, 1975, and that has held the exemption since that date, to file an additional application, report, letter of exemption, or other evidence of qualification for that exemption.

Acts 1981, 67th Leg., p. 1693, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.052. CERTAIN CORPORATIONS. (a) Except as provided by Subsection (c), an insurance organization, title insurance company, or title insurance agent authorized to engage in insurance business in this state that is required to pay an annual tax measured by its gross premium receipts is exempted from the franchise tax. A nonadmitted insurance organization that is required to pay a gross premium receipts tax during a tax year is exempted from the franchise tax for that same tax year. A nonadmitted insurance organization

that is subject to an occupation tax or any other tax that is imposed for the privilege of doing business in another state or a foreign jurisdiction, including a tax on gross premium receipts, is exempted from the franchise tax.

(b) Farm mutuals, local mutual aid associations, and burial associations are not subject to the franchise tax.

(c) An entity is subject to the franchise tax for a tax year in any portion of which the entity is in violation of an order issued by the Texas Department of Insurance under Section 2254.003(b), Insurance Code, that is final after appeal or that is no longer subject to appeal.

Acts 1981, 67th Leg., p. 1693, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 30, Sec. 1, eff. Aug. 26, 1985; Acts 1993, 73rd Leg., ch. 546, Sec. 2, eff. Jan. 1, 1994; Acts 2001, 77th Leg., ch. 1275, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 33, eff. Oct. 1, 2003.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 3, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 569 (S.B. 734), Sec. 5, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 4, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 16.003, eff. September 1, 2015.

Sec. 171.0525. EXEMPTION--CERTAIN INSURANCE COMPANIES. A corporation that is a farm mutual insurance company, local mutual aid association, or burial association is exempted from the franchise tax.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 23, eff. April 1, 2005.

Sec. 171.053. EXEMPTION--RAILWAY TERMINAL CORPORATION. A corporation organized as a railway terminal corporation and having no annual net income from its business is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1693, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Text of section effective until January 1, 2022

Sec. 171.055. EXEMPTION--OPEN-END INVESTMENT COMPANY. An open-end investment company, as defined by the Investment Company Act of 1940 (Section 80a-1 et seq., 15 U.S.C.), that is subject to that Act and that is registered under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes) is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1693, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.41, eff. January 1, 2022.

Text of section effective on January 1, 2022

Sec. 171.055. EXEMPTION--OPEN-END INVESTMENT COMPANY. An open-end investment company, as defined by the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.), that is subject to that Act and that is registered under The Securities Act (Title 12, Government Code) is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1693, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. 4171), Sec. 2.41, eff. January 1, 2022.

Sec. 171.056. EXEMPTION--CORPORATION WITH BUSINESS INTEREST IN SOLAR ENERGY DEVICES. A corporation engaged solely in the business of manufacturing, selling, or installing solar energy devices, as defined by Section 171.107 of this code, is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1693, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.057. EXEMPTION--NONPROFIT CORPORATION ORGANIZED TO

PROMOTE COUNTY, CITY, OR ANOTHER AREA. A nonprofit corporation organized solely to promote the public interest of a county, city, town, or another area in the state is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1694, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.058. EXEMPTION--NONPROFIT CORPORATION ORGANIZED FOR RELIGIOUS PURPOSES. A nonprofit corporation organized for the purpose of religious worship is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1694, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.059. EXEMPTION--NONPROFIT CORPORATION ORGANIZED TO PROVIDE BURIAL PLACES. A nonprofit corporation organized to provide places of burial is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1694, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.060. EXEMPTION--NONPROFIT CORPORATION ORGANIZED FOR AGRICULTURAL PURPOSES. A nonprofit corporation organized to hold agricultural fairs and encourage agricultural pursuits is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1694, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.061. EXEMPTION--NONPROFIT CORPORATION ORGANIZED FOR EDUCATIONAL PURPOSES. A nonprofit corporation organized solely for educational purposes is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1694, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1002, Sec. 3, eff. Jan. 1, 1996.

Sec. 171.062. EXEMPTION--NONPROFIT CORPORATION ORGANIZED FOR PUBLIC CHARITY. A nonprofit corporation organized for purely public charity is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1694, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.063. EXEMPTION-NONPROFIT CORPORATION EXEMPT FROM FEDERAL INCOME TAX. (a) The following corporations are exempt from the franchise tax:

(1) a nonprofit corporation exempted from the federal income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19), Internal Revenue Code which in the case of a nonprofit hospital means a hospital providing community benefits that include charity care and government-sponsored indigent health care as set forth in Subchapter D, Chapter 311, Health and Safety Code;

(2) a corporation exempted under Section 501(c)(2) or (25), Internal Revenue Code, if the corporation or corporations for which it holds title to property is either exempt from or not subject to the franchise tax; and

(3) a corporation exempted from federal income tax under Section 501(c)(16), Internal Revenue Code.

(b) A corporation is entitled to an exemption under this section based on the corporation's exemption from the federal income tax if the corporation files with the comptroller evidence establishing the corporation's exemption.

(c) A corporation's exemption under Subsection (b) of this section is established by furnishing the comptroller with a copy of the Internal Revenue Service's letter of exemption issued to the corporation.

(d) If the Internal Revenue Service has not timely issued to a corporation a letter of exemption, evidence establishing the corporation's provisional exemption under this section is sufficient if the corporation timely files with the comptroller evidence that the corporation has applied in good faith for the federal tax exemption. The evidence must be filed not later than the 15th month after the day that is the last day of a calendar month and that is nearest to the date of the corporation's charter or certificate of authority.

(e) An exemption established under Subsection (c) or (d) of this section is to be recognized, after it is finally established, as of the date of the corporation's charter or certificate of authority.

(f) If a corporation timely files evidence with the comptroller under Subsection (d) of this section that it has applied for a

federal tax exemption and if the application is finally denied by the Internal Revenue Service, this chapter does not impose a penalty on the corporation from the date of its charter or certificate of authority to the date of the final denial.

(g) If a corporation's federal tax exemption is withdrawn by the Internal Revenue Service for failure of the corporation to qualify or maintain its qualification for the exemption, the corporation's exemption under this section ends on the effective date of that withdrawal by the Internal Revenue Service. The effective date of the withdrawal is considered the corporation's beginning date for purposes of determining the corporation's privilege periods and for all other purposes of this chapter.

(h) A requirement that a nonprofit hospital provide charity care and community benefits under Subsection (a)(1) may be satisfied by a donation of money to the Texas Healthy Kids Corporation established by Chapter 109, Health and Safety Code, if:

(1) the money is donated to be used for a purpose described by Section 109.033(c), Health and Safety Code; and

(2) not more than 10 percent of the charity care required under any provision of Section 311.045, Health and Safety Code, may be satisfied by the donation.

Acts 1981, 67th Leg., p. 1694, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 324, Sec. 3, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 239, Sec. 1, eff. June 2, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.04, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 781, Sec. 6, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1002, Sec. 4, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 550, Sec. 3, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1185, Sec. 3, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 1467, Sec. 2.50, 2.51, eff. Jan. 1, 2000.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 329 (S.B. 1049), Sec. 5, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 329 (S.B. 1049), Sec. 6, eff. January 1, 2020.

Sec. 171.064. EXEMPTION--NONPROFIT CORPORATION ORGANIZED FOR CONSERVATION PURPOSES. A nonprofit corporation organized solely to

educate the public about the protection and conservation of fish, game, other wildlife, grasslands, or forests is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1695, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1002, Sec. 5, eff. Jan. 1, 1996.

Sec. 171.065. EXEMPTION--NONPROFIT CORPORATION ORGANIZED TO PROVIDE WATER SUPPLY OR SEWER SERVICES. A nonprofit water supply or sewer service corporation organized in behalf of a city or town under Chapter 67, Water Code, is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1695, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.47, eff. Sept. 1, 1999.

Sec. 171.066. EXEMPTION--NONPROFIT CORPORATION INVOLVED WITH CITY NATURAL GAS FACILITY. A nonprofit corporation organized to construct, acquire, own, lease, or operate a natural gas facility in behalf and for the benefit of a city or residents of a city is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1695, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.067. EXEMPTION--NONPROFIT CORPORATION ORGANIZED TO PROVIDE CONVALESCENT HOMES FOR ELDERLY. A nonprofit corporation organized to provide a convalescent home or other housing for persons who are at least 62 years old or who are handicapped or disabled is exempted from the franchise tax, whether or not the corporation is organized for purely public charity.

Acts 1981, 67th Leg., p. 1695, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.068. EXEMPTION--NONPROFIT CORPORATION ORGANIZED TO PROVIDE COOPERATIVE HOUSING. A nonprofit corporation engaged solely in the business of owning residential property for the purpose of providing cooperative housing for persons is exempted from the

franchise tax.

Acts 1981, 67th Leg., p. 1695, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.069. EXEMPTION--MARKETING ASSOCIATIONS. A marketing association incorporated under Chapter 52, Agriculture Code, is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1695, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1002, Sec. 6, eff. Jan. 1, 1996.

Sec. 171.070. EXEMPTION--LODGES. A lodge incorporated under Article 1399 et seq., Revised Civil Statutes of Texas, 1925, is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.071. EXEMPTION--FARMERS' COOPERATIVE SOCIETY. A cooperative that is either a farmers' cooperative society incorporated under Chapter 51, Agriculture Code, or a cooperative whose single member is a farmers' cooperative described in Section 521(b)(1), Internal Revenue Code, that has at least 500 farmer-fruit grower members, is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1002, Sec. 7, eff. Jan. 1, 1996. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1104 (H.B. 3992), Sec. 1, eff. June 15, 2017.

Sec. 171.072. EXEMPTION--HOUSING FINANCE CORPORATION. A housing finance corporation incorporated under the Texas Housing Finance Corporations Act (Chapter 394, Local Government Code) is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., ch. 149, Sec. 44, eff. Sept. 1,

1987.

Sec. 171.073. EXEMPTION--HOSPITAL LAUNDRY COOPERATIVE ASSOCIATION. A hospital laundry cooperative association incorporated under Subchapter A, Chapter 301, Health and Safety Code, is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(16), eff. Sept. 1, 1991.

Sec. 171.074. EXEMPTION--DEVELOPMENT CORPORATION. A nonprofit corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code) is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1983, 68th Leg., p. 1039, ch. 235, art. 7, Sec. 2(a), eff. Sept. 1, 1983.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.72, eff. April 1, 2009.

Sec. 171.075. EXEMPTION--COOPERATIVE ASSOCIATION. A cooperative association incorporated under Subchapter B, Chapter 301, Health and Safety Code, or under the Cooperative Association Act (Article 1396--50.01, Vernon's Texas Civil Statutes) is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(29), eff. Sept. 1, 1991.

Sec. 171.076. EXEMPTION--COOPERATIVE CREDIT ASSOCIATION. A cooperative credit association incorporated under Chapter 55, Agriculture Code, an organization organized under 12 U.S.C. Section 2071, or an agricultural credit association regulated by the Farm

Credit Administration is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1002, Sec. 8, eff. Jan. 1, 1996; Acts 2001, 77th Leg., ch. 1263, Sec. 56, eff. Sept. 1, 2001.

Sec. 171.077. EXEMPTION--CREDIT UNION. A credit union incorporated under Subtitle D, Title 3, Finance Code, is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.93, eff. Sept. 1, 1999.

Sec. 171.079. EXEMPTION--ELECTRIC COOPERATIVE CORPORATION. An electric cooperative corporation incorporated under Chapter 161, Utilities Code, that is not a participant in a joint powers agency is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 765, Sec. 2.27, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 18.48, eff. Sept. 1, 1999.

Sec. 171.080. EXEMPTION--TELEPHONE COOPERATIVE CORPORATIONS. A telephone cooperative corporation incorporated under Chapter 162, Utilities Code, is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.49, eff. Sept. 1, 1999.

Sec. 171.081. EXEMPTION--CORPORATION EXEMPT BY ANOTHER LAW. Another statute that exempts a corporation from the franchise tax is not affected by this chapter.

Acts 1981, 67th Leg., p. 1696, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.082. EXEMPTION--CERTAIN HOMEOWNERS' ASSOCIATIONS. (a) A nonprofit corporation is exempted from the franchise tax if:

(1) the corporation is organized and operated primarily to obtain, manage, construct, and maintain the property in or of a residential condominium or residential real estate development; and

(2) the owners of individual lots, residences, or residential units control at least 51 percent of the votes of the corporation and that voting control, however acquired, is not held by:

(A) a single individual or family; or

(B) one or more developers, declarants, banks, investors, or other similar parties.

(b) For purposes of this section, a condominium project is considered residential if the project is legally restricted for use as residences. A real estate development is considered residential if the property is legally restricted for use as residences.

Acts 1981, 67th Leg., p. 2758, ch. 752, Sec. 4, eff. May 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1002, Sec. 9, eff. Jan. 1, 1996.

Sec. 171.083. EXEMPTION--EMERGENCY MEDICAL SERVICE CORPORATION. A nonprofit corporation that is organized for the sole purpose of and engages exclusively in providing emergency medical services, including rescue and ambulance services, is exempted from the franchise tax.

Acts 1981, 67th Leg., p. 2785, ch. 752, Sec. 14, eff. May 1, 1982.

Sec. 171.084. EXEMPTION--CERTAIN TRADE SHOW PARTICIPANTS. (a) A corporation is exempted from the franchise tax if:

(1) the only business activity conducted by or on behalf of the corporation in this state is related to the solicitation of orders conducted by representatives of the corporation who:

(A) solicit orders of personal property to be sent outside this state for approval or rejection by the corporation and, if approved, to be filled by shipment or delivery from a point outside this state; or

(B) solicit orders in the name of or for the benefit of a customer or prospective customer of the corporation, if the orders

are filled or intended to be filled by the customer or prospective customer of the corporation by making orders to the corporation described by Paragraph (A) of this subdivision; and

(2) the solicitation of orders is conducted on an occasional basis at trade shows:

(A) promoted by wholesale centers;

(B) promoted by nonprofit trade or professional associations for the purpose of facilitating the solicitation of orders from members of the trade or profession; or

(C) held at municipally or county-owned convention centers or meeting facilities.

(b) For purposes of this section, the solicitation of orders is conducted on an occasional basis only if the solicitation is conducted during not more than five periods during the business period of the corporation to which a tax report applies and if no single period during which solicitation is conducted is longer than 120 hours.

(c) In this section, "wholesale center" means a permanent wholesale facility that has permanent tenants and that promotes at least four national or regional trade shows in a calendar year. A tenant leasing space at a wholesale center for a period longer than the period prescribed by Subsection (b) may qualify for the exemption provided by this section only if the tenant solicits orders on an occasional basis at the trade show as prescribed by Subsection (b).

Added by Acts 1987, 70th Leg., ch. 778, Sec. 1, eff. May 1, 1988.
Amended by Acts 2003, 78th Leg., ch. 209, Sec. 34, eff. Oct. 1, 2003.

Sec. 171.085. EXEMPTION; RECYCLING OPERATION. A corporation engaged solely in the business of recycling sludge, as defined by Section 361.003, Solid Waste Disposal Act (Chapter 361, Health and Safety Code), is exempted from the franchise tax.

Added by Acts 1989, 71st Leg., ch. 641, Sec. 3, eff. Sept. 1, 1991.
Amended by Acts 1990, 71st Leg., 6th C.S., ch. 10, art. 2, Sec. 33, eff. Sept. 6, 1990.

Sec. 171.086. EXEMPTION: POLITICAL SUBDIVISION CORPORATION. A political subdivision corporation formed under Section 304.001, Local

Government Code, is exempted from the franchise tax.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 5, eff. January 1, 2014.

Sec. 171.087. EXEMPTION--NONPROFIT CORPORATION ORGANIZED FOR STUDENT LOAN FUNDS OR STUDENT SCHOLARSHIP PURPOSES. A nonprofit corporation organized solely to provide a student loan fund or student scholarships is exempted from the franchise tax.

Added by Acts 1995, 74th Leg., ch. 1002, Sec. 10, eff. Jan. 1, 1996.

Sec. 171.088. EXEMPTION--NONCORPORATE ENTITY ELIGIBLE FOR CERTAIN EXEMPTIONS. An entity that is not a corporation but that, because of its activities, would qualify for a specific exemption under this subchapter if it were a corporation, qualifies for the exemption and is exempt from the tax in the same manner and under the same conditions as a corporation.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 4, eff. January 1, 2008.

SUBCHAPTER C. DETERMINATION OF TAXABLE MARGIN; ALLOCATION AND APPORTIONMENT

Sec. 171.101. DETERMINATION OF TAXABLE MARGIN. (a) The taxable margin of a taxable entity is computed by:

(1) determining the taxable entity's margin, which is the lesser of:

(A) the amount provided by this paragraph, which is the lesser of:

(i) 70 percent of the taxable entity's total revenue from its entire business, as determined under Section 171.1011; or

(ii) an amount equal to the taxable entity's total revenue from its entire business as determined under Section 171.1011 minus $1 million; or

(B) an amount computed by determining the taxable entity's total revenue from its entire business under Section

171.1011 and subtracting the greater of:

(i) $1 million; or

(ii) an amount equal to the sum of:

(a) at the election of the taxable entity, either:

(1) cost of goods sold, as determined under Section 171.1012; or

(2) compensation, as determined under Section 171.1013; and

(b) any compensation, as determined under Section 171.1013, paid to an individual during the period the individual is serving on active duty as a member of the armed forces of the United States if the individual is a resident of this state at the time the individual is ordered to active duty and the cost of training a replacement for the individual;

(2) apportioning the taxable entity's margin to this state as provided by Section 171.106 to determine the taxable entity's apportioned margin; and

(3) subtracting from the amount computed under Subdivision (2) any other allowable deductions to determine the taxable entity's taxable margin.

(b) Notwithstanding Subsection (a)(1)(B)(ii)(a), a professional employer organization may subtract only the greater of $1 million as provided by Subsection (a)(1)(B)(i) or compensation as determined under Section 171.1013.

(c) In making a computation under this section, an amount that is zero or less is computed as a zero.

(d) An election under Subsection (a)(1)(B)(ii) shall be made by the taxable entity on its annual report and is effective only for that annual report. A taxable entity shall notify the comptroller of its election not later than the due date of the annual report.

(e) For purposes of Subsection (f), "aerospace costs" means any costs not already subtracted under Subsection (a)(1)(B)(ii)(a) that are properly allocated and incurred under the Federal Acquisition Regulation (48 C.F.R. Chapter 1) and subject to the requirements of 48 C.F.R. Chapter 2 or Chapter 18 for contracts, or subcontracts supporting those contracts, for the sale of goods or services to the federal government by a taxable entity in the aerospace industry that is engaged in activities described by North American Industry Classification System code 334511, 3364, 3399, 5413, 5415, 5416, or

5419. For purposes of this subsection, a reference to a federal regulation includes a successor regulation.

(f) In computing the sum for purposes of Subsection (a)(1)(B)(ii), a taxable entity may add to other amounts described by that subparagraph:

(1) for a report originally due on or after January 1, 2020, and before January 1, 2021, 20 percent of aerospace costs;

(2) for a report originally due on or after January 1, 2021, and before January 1, 2022, 40 percent of aerospace costs;

(3) for a report originally due on or after January 1, 2022, and before January 1, 2023, 60 percent of aerospace costs;

(4) for a report originally due on or after January 1, 2023, and before January 1, 2024, 80 percent of aerospace costs; and

(5) for a report originally due on or after January 1, 2024, 100 percent of aerospace costs.

Acts 1981, 67th Leg., p. 1697, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., ch. 901, Sec. 53(b), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.05, eff. Jan. 1, 1992.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 11, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 117 (S.B. 1286), Sec. 24, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 6, eff. January 1, 2014.

Acts 2019, 86th Leg., R.S., Ch. 1073 (H.B. 1607), Sec. 2, eff. January 1, 2020.

Sec. 171.1011. DETERMINATION OF TOTAL REVENUE FROM ENTIRE BUSINESS. (a) In this section, a reference to an Internal Revenue Service form includes a variant of the form. For example, a reference to Form 1120 includes Forms 1120-A, 1120-S, and other variants of Form 1120. A reference to an Internal Revenue Service form also includes any subsequent form with a different number or designation that substantially provides the same information as the

original form.

(b) In this section, a reference to an amount reportable as income on a line number on an Internal Revenue Service form is the amount entered to the extent the amount entered complies with federal income tax law and includes the corresponding amount entered on a variant of the form, or a subsequent form, with a different line number to the extent the amount entered complies with federal income tax law.

(c) Except as provided by this section, and subject to Section 171.1014, for the purpose of computing its taxable margin under Section 171.101, the total revenue of a taxable entity is:

(1) for a taxable entity treated for federal income tax purposes as a corporation, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1120;

(ii) the amounts reportable as income on lines 4 through 10, Internal Revenue Service Form 1120; and

(iii) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); and

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(1)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(1)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection (c)(1)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) allowable deductions from Internal Revenue Service Form 1120, Schedule C, to the extent the relating dividend income is included in total revenue;

(v) to the extent included in Subsection (c)(1)(A), items of income attributable to an entity that is a disregarded entity for federal income tax purposes; and

(vi) to the extent included in Subsection

(c)(1)(A), other amounts authorized by this section;

(2) for a taxable entity treated for federal income tax purposes as a partnership, an amount computed by:

(A) adding:

(i) the amount reportable as income on line 1c, Internal Revenue Service Form 1065;

(ii) the amounts reportable as income on lines 4, 6, and 7, Internal Revenue Service Form 1065;

(iii) the amounts reportable as income on lines 3a and 5 through 11, Internal Revenue Service Form 1065, Schedule K;

(iv) the amounts reportable as income on line 17, Internal Revenue Service Form 8825;

(v) the amounts reportable as income on line 11, plus line 2 or line 45, Internal Revenue Service Form 1040, Schedule F; and

(vi) any total revenue reported by a lower tier entity as includable in the taxable entity's total revenue under Section 171.1015(b); and

(B) subtracting:

(i) bad debt expensed for federal income tax purposes that corresponds to items of gross receipts included in Subsection (c)(2)(A) for the current reporting period or a past reporting period;

(ii) to the extent included in Subsection (c)(2)(A), foreign royalties and foreign dividends, including amounts determined under Section 78 or Sections 951-964, Internal Revenue Code;

(iii) to the extent included in Subsection (c)(2)(A), net distributive income from a taxable entity treated as a partnership or as an S corporation for federal income tax purposes;

(iv) to the extent included in Subsection (c)(2)(A), items of income attributable to an entity that is a disregarded entity for federal income tax purposes; and

(v) to the extent included in Subsection (c)(2)(A), other amounts authorized by this section; or

(3) for a taxable entity other than a taxable entity treated for federal income tax purposes as a corporation or partnership, an amount determined in a manner substantially equivalent to the amount for Subdivision (1) or (2) determined by rules that the comptroller shall adopt.

(d) Subject to Section 171.1014, a taxable entity that is part of a federal consolidated group shall compute its total revenue under Subsection (c) as if it had filed a separate return for federal income tax purposes.

(e) A taxable entity that owns an interest in a passive entity shall exclude from the taxable entity's total revenue the taxable entity's share of the net income of the passive entity, but only to the extent the net income of the passive entity was generated by the margin of any other taxable entity.

(f) A taxable entity shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), flow-through funds that are mandated by law or fiduciary duty to be distributed to other entities, including taxes collected from a third party by the taxable entity and remitted by the taxable entity to a taxing authority.

(g) A taxable entity shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), only the following flow-through funds that are mandated by contract or subcontract to be distributed to other entities:

(1) sales commissions to nonemployees, including split-fee real estate commissions;

(2) the tax basis as determined under the Internal Revenue Code of securities underwritten; and

(3) subcontracting payments made under a contract or subcontract entered into by the taxable entity to provide services, labor, or materials in connection with the actual or proposed design, construction, remodeling, remediation, or repair of improvements on real property or the location of the boundaries of real property.

(g-1) A taxable entity that is a lending institution shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), proceeds from the principal repayment of loans.

(g-2) A taxable entity shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), the tax basis as determined under the Internal Revenue Code of securities and loans sold.

(g-3) A taxable entity that provides legal services shall exclude from its total revenue:

(1) to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), the following flow-through funds that are

mandated by law, contract, or fiduciary duty to be distributed to the claimant by the claimant's attorney or to other entities on behalf of a claimant by the claimant's attorney:

(A) damages due the claimant;

(B) funds subject to a lien or other contractual obligation arising out of the representation, other than fees owed to the attorney;

(C) funds subject to a subrogation interest or other third-party contractual claim; and

(D) fees paid an attorney in the matter who is not a member, partner, shareholder, or employee of the taxable entity;

(2) to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), reimbursement of the taxable entity's expenses incurred in prosecuting a claimant's matter that are specific to the matter and that are not general operating expenses; and

(3) $500 per pro bono services case handled by the attorney, but only if the attorney maintains records of the pro bono services for auditing purposes in accordance with the manner in which those services are reported to the State Bar of Texas.

(g-4) A taxable entity that is a pharmacy cooperative shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), flow-through funds from rebates from pharmacy wholesalers that are distributed to the pharmacy cooperative's shareholders. A taxable entity that provides a pharmacy network shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), reimbursements, pursuant to contractual agreements, for payments to pharmacies in the pharmacy network.

(g-5) A taxable entity that is a qualified live event promotion company shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), a payment made to an artist in connection with the provision of a live entertainment event or live event promotion services.

(g-6) A taxable entity that is a qualified destination management company as defined by Section 151.0565 shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), payments made to other persons to provide services, labor, or materials in connection with the provision of destination management services as defined by Section 151.0565.

(g-7) A taxable entity that is a qualified courier and

logistics company shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), subcontracting payments made by the taxable entity to nonemployee agents for the performance of delivery services on behalf of the taxable entity. For purposes of this subsection, "qualified courier and logistics company" means a taxable entity that:

(1) receives at least 80 percent of the taxable entity's annual total revenue from its entire business from a combination of at least two of the following courier and logistics services:

(A) expedited same-day delivery of an envelope, package, parcel, roll of architectural drawings, box, or pallet;

(B) temporary storage and delivery of the property of another entity, including an envelope, package, parcel, roll of architectural drawings, box, or pallet; and

(C) brokerage of same-day or expedited courier and logistics services to be completed by a person or entity under a contract that includes a contractual obligation by the taxable entity to make payments to the person or entity for those services;

(2) during the period on which margin is based, is registered as a motor carrier under Chapter 643, Transportation Code, and if the taxable entity operates on an interstate basis, is registered as a motor carrier or broker under the motor vehicle registration system established under 49 U.S.C. Section 14504a or a similar federal registration program that replaces that system during that period;

(3) maintains an automobile liability insurance policy covering individuals operating vehicles owned, hired, or otherwise used in the taxable entity's business, with a combined single limit for each occurrence of at least $1 million;

(4) maintains at least $25,000 of cargo insurance;

(5) maintains a permanent nonresidential office from which the courier and logistics services are provided or arranged;

(6) has at least five full-time employees during the period on which margin is based;

(7) is not doing business as a livery service, floral delivery service, motor coach service, taxicab service, building supply delivery service, water supply service, fuel or energy supply service, restaurant supply service, commercial moving and storage company, or overnight delivery service; and

(8) is not delivering items that the taxable entity or an

affiliated entity sold.

(g-8) A taxable entity that is primarily engaged in the business of transporting aggregates shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), subcontracting payments made by the taxable entity to independent contractors for the performance of delivery services on behalf of the taxable entity. In this subsection, "aggregates" means any commonly recognized construction material removed or extracted from the earth, including dimension stone, crushed and broken limestone, crushed and broken granite, other crushed and broken stone, construction sand and gravel, industrial sand, dirt, soil, cementitious material, and caliche.

(g-10) A taxable entity that is primarily engaged in the business of transporting barite shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), subcontracting payments made by the taxable entity to nonemployee agents for the performance of transportation services on behalf of the taxable entity. For purposes of this subsection, "barite" means barium sulfate (BaSO4), a mineral used as a weighing agent in oil and gas exploration.

(g-11) A taxable entity that is primarily engaged in the business of performing landman services shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), subcontracting payments made by the taxable entity to nonemployees for the performance of landman services on behalf of the taxable entity. In this subsection, "landman services" means:

(1) performing title searches for the purpose of determining ownership of or curing title defects related to oil, gas, or other related mineral or petroleum interests;

(2) negotiating the acquisition or divestiture of mineral rights for the purpose of the exploration, development, or production of oil, gas, or other related mineral or petroleum interests; or

(3) negotiating or managing the negotiation of contracts or other agreements related to the ownership of mineral interests for the exploration, exploitation, disposition, development, or production of oil, gas, or other related mineral or petroleum interests.

(g-12) A taxable entity that is a performing rights society that licenses the public performance of nondramatic musical works on

behalf of a copyright owner shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), payments made to the public performance rights holder and the copyright owner for whom the taxable entity licenses the public performance.

(h) If the taxable entity belongs to an affiliated group, the taxable entity may not exclude payments described by Subsection (f), (g), (g-1), (g-2), (g-3), or (g-4) that are made to entities that are members of the affiliated group.

(i) Except as provided by Subsection (g), a payment made under an ordinary contract for the provision of services in the regular course of business may not be excluded.

(j) Any amount excluded under this section may not be included in the determination of cost of goods sold under Section 171.1012 or the determination of compensation under Section 171.1013.

(k) A taxable entity that is a professional employer organization shall exclude from its total revenue payments received from a client for wages, payroll taxes on those wages, employee benefits, and workers' compensation benefits for the covered employees of the client.

(l) For purposes of Subsection (g)(1):

(1) "Sales commission" means:

(A) any form of compensation paid to a person for engaging in an act for which a license is required by Chapter 1101, Occupations Code; or

(B) compensation paid to a sales representative by a principal in an amount that is based on the amount or level of certain orders for or sales of the principal's product and that the principal is required to report on Internal Revenue Service Form 1099-MISC.

(2) "Principal" means a person who:

(A) manufactures, produces, imports, distributes, or acts as an independent agent for the distribution of a product for sale;

(B) uses a sales representative to solicit orders for the product; and

(C) compensates the sales representative wholly or partly by sales commission.

(m) A taxable entity shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3),

dividends and interest received from federal obligations.

(m-1) A taxable entity that is a management company shall exclude from its total revenue reimbursements of specified costs incurred in its conduct of the active trade or business of a managed entity, including "wages and cash compensation" as determined under Sections 171.1013(a) and (b).

(n) Except as provided by Subsection (o), a taxable entity that is a health care provider shall exclude from its total revenue:

(1) to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), the total amount of payments the health care provider received:

(A) under the Medicaid program, Medicare program, Indigent Health Care and Treatment Act (Chapter 61, Health and Safety Code), and Children's Health Insurance Program (CHIP);

(B) for professional services provided in relation to a workers' compensation claim under Title 5, Labor Code; and

(C) for professional services provided to a beneficiary rendered under the TRICARE military health system; and

(2) the actual cost to the health care provider for any uncompensated care provided, but only if the provider maintains records of the uncompensated care for auditing purposes and, if the provider later receives payment for all or part of that care, the provider adjusts the amount excluded for the tax year in which the payment is received.

(n-1) The comptroller shall adopt rules governing:

(1) the computation of the actual cost to a health care provider of any uncompensated care provided under Subsection (n)(2); and

(2) the audit requirements related to the computation of those costs.

(o) A health care provider that is a health care institution shall exclude from its total revenue 50 percent of the amounts described by Subsection (n).

(p) In this section:

(1) "Federal obligations" means:

(A) stocks and other direct obligations of, and obligations unconditionally guaranteed by, the United States government and United States government agencies; and

(B) direct obligations of a United States government-sponsored agency.

(2) "Health care institution" means:

(A) an ambulatory surgical center;

(B) an assisted living facility licensed under Chapter 247, Health and Safety Code;

(C) an emergency medical services provider;

(D) a home and community support services agency;

(E) a hospice;

(F) a hospital;

(G) a hospital system;

(H) an intermediate care facility for the mentally retarded or a home and community-based services waiver program for persons with mental retardation adopted in accordance with Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n);

(I) a birthing center;

(J) a nursing home;

(K) an end stage renal disease facility licensed under Section 251.011, Health and Safety Code; or

(L) a pharmacy.

(3) "Health care provider" means a taxable entity that participates in the Medicaid program, Medicare program, Children's Health Insurance Program (CHIP), state workers' compensation program, or TRICARE military health system as a provider of health care services.

(4) "Obligation" means any bond, debenture, security, mortgage-backed security, pass-through certificate, or other evidence of indebtedness of the issuing entity. The term does not include a deposit, a repurchase agreement, a loan, a lease, a participation in a loan or pool of loans, a loan collateralized by an obligation of a United States government agency, or a loan guaranteed by a United States government agency.

(4-a) "Pro bono services" means the direct provision of legal services to the poor, without an expectation of compensation.

(4-b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1282, Sec. 37(2), eff. January 1, 2008.

(5) "United States government" means any department or ministry of the federal government, including a federal reserve bank. The term does not include a state or local government, a commercial enterprise owned wholly or partly by the United States government, or a local governmental entity or commercial enterprise whose obligations are guaranteed by the United States government.

(6) "United States government agency" means an instrumentality of the United States government whose obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States government. The term includes the Government National Mortgage Association, the Department of Veterans Affairs, the Federal Housing Administration, the Farmers Home Administration, the Export-Import Bank, the Overseas Private Investment Corporation, the Commodity Credit Corporation, the Small Business Administration, and any successor agency.

(7) "United States government-sponsored agency" means an agency originally established or chartered by the United States government to serve public purposes specified by the United States Congress but whose obligations are not explicitly guaranteed by the full faith and credit of the United States government. The term includes the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Farm Credit System, the Federal Home Loan Bank System, the Student Loan Marketing Association, and any successor agency.

(8) "Vaccine" means a preparation or suspension of dead, live attenuated, or live fully virulent viruses or bacteria, or of antigenic proteins derived from them, used to prevent, ameliorate, or treat an infectious disease.

(q) A taxable entity shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), all revenue received that is directly derived from the operation of a facility that is:

(1) located on property owned or leased by the federal government; and

(2) managed or operated primarily to house members of the armed forces of the United States.

(r) A taxable entity shall exclude, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), total revenue received from oil or gas produced, during the dates certified by the comptroller pursuant to Subsection (s), from:

(1) an oil well designated by the Railroad Commission of Texas or similar authority of another state whose production averages less than 10 barrels a day over a 90-day period; and

(2) a gas well designated by the Railroad Commission of Texas or similar authority of another state whose production averages

less than 250 mcf a day over a 90-day period.

(s) The comptroller shall certify dates during which the monthly average closing price of West Texas Intermediate crude oil is below $40 per barrel and the average closing price of gas is below $5 per MMBtu, as recorded on the New York Mercantile Exchange (NYMEX).

(t) The comptroller shall adopt rules as necessary to accomplish the legislative intent prescribed by this section.

(u) A taxable entity shall exclude from its total revenue the actual cost paid by the taxable entity for a vaccine.

(v) A taxable entity primarily engaged in the business of transporting goods by waterways that does not subtract cost of goods sold in computing its taxable margin shall exclude from its total revenue direct costs of providing transportation services by intrastate or interstate waterways to the same extent that a taxable entity that sells in the ordinary course of business real or tangible personal property would be authorized by Section 171.1012 to subtract those costs as costs of goods sold in computing its taxable margin, notwithstanding Section 171.1012(e)(3).

(w-1) A taxable entity primarily engaged in the business of providing services as an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3, shall exclude from its total revenue the cost of labor, equipment, fuel, and materials used in providing those services.

(x) A taxable entity that is registered as a motor carrier under Chapter 643, Transportation Code, shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), flow-through revenue derived from taxes and fees.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 12, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 13, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 37(2), eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 3(a), eff. January 1, 2010.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 45.03, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 117 (S.B. 1286), Sec. 25, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1006 (H.B. 2451), Sec. 1, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1034 (H.B. 2766), Sec. 1, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 7, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 8, eff. January 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 703 (H.B. 3254), Sec. 1, eff. January 1, 2018.

Acts 2019, 86th Leg., R.S., Ch. 447 (S.B. 1824), Sec. 1, eff. June 4, 2019.

Sec. 171.1012. DETERMINATION OF COST OF GOODS SOLD. (a) In this section:

(1) "Goods" means real or tangible personal property sold in the ordinary course of business of a taxable entity.

(2) "Production" means construction, manufacture, development, mining, extraction, improvement, creation, raising, or growth.

(3)(A) "Tangible personal property" means:

(i) personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner;

(ii) films, sound recordings, videotapes, live and prerecorded television and radio programs, books, and other similar property embodying words, ideas, concepts, images, or sound, without regard to the means or methods of distribution or the medium in which the property is embodied, for which, as costs are incurred in producing the property, it is intended or is reasonably likely that any medium in which the property is embodied will be mass-distributed by the creator or any one or more third parties in a form that is not substantially altered; and

(iii) a computer program, as defined by Section 151.0031.

(B) "Tangible personal property" does not include:

(i) intangible property; or

(ii) services.

(b) Subject to Section 171.1014, a taxable entity that elects to subtract cost of goods sold for the purpose of computing its taxable margin shall determine the amount of that cost of goods sold as provided by this section.

(c) The cost of goods sold includes all direct costs of acquiring or producing the goods, including:

(1) labor costs;

(2) cost of materials that are an integral part of specific property produced;

(3) cost of materials that are consumed in the ordinary course of performing production activities;

(4) handling costs, including costs attributable to processing, assembling, repackaging, and inbound transportation costs;

(5) storage costs, including the costs of carrying, storing, or warehousing property, subject to Subsection (e);

(6) depreciation, depletion, and amortization, reported on the federal income tax return on which the report under this chapter is based, to the extent associated with and necessary for the production of goods, including recovery described by Section 197, Internal Revenue Code;

(7) the cost of renting or leasing equipment, facilities, or real property directly used for the production of the goods, including pollution control equipment and intangible drilling and dry hole costs;

(8) the cost of repairing and maintaining equipment, facilities, or real property directly used for the production of the goods, including pollution control devices;

(9) costs attributable to research, experimental, engineering, and design activities directly related to the production of the goods, including all research or experimental expenditures described by Section 174, Internal Revenue Code;

(10) geological and geophysical costs incurred to identify and locate property that has the potential to produce minerals;

(11) taxes paid in relation to acquiring or producing any material, or taxes paid in relation to services that are a direct cost of production;

(12) the cost of producing or acquiring electricity sold; and

(13) a contribution to a partnership in which the taxable entity owns an interest that is used to fund activities, the costs of which would otherwise be treated as cost of goods sold of the partnership, but only to the extent that those costs are related to goods distributed to the taxable entity as goods-in-kind in the ordinary course of production activities rather than being sold.

(d) In addition to the amounts includable under Subsection (c), the cost of goods sold includes the following costs in relation to the taxable entity's goods:

(1) deterioration of the goods;

(2) obsolescence of the goods;

(3) spoilage and abandonment, including the costs of rework labor, reclamation, and scrap;

(4) if the property is held for future production, preproduction direct costs allocable to the property, including costs of purchasing the goods and of storage and handling the goods, as provided by Subsections (c)(4) and (c)(5);

(5) postproduction direct costs allocable to the property, including storage and handling costs, as provided by Subsections (c)(4) and (c)(5);

(6) the cost of insurance on a plant or a facility, machinery, equipment, or materials directly used in the production of the goods;

(7) the cost of insurance on the produced goods;

(8) the cost of utilities, including electricity, gas, and water, directly used in the production of the goods;

(9) the costs of quality control, including replacement of defective components pursuant to standard warranty policies, inspection directly allocable to the production of the goods, and repairs and maintenance of goods; and

(10) licensing or franchise costs, including fees incurred in securing the contractual right to use a trademark, corporate plan, manufacturing procedure, special recipe, or other similar right directly associated with the goods produced.

(e) The cost of goods sold does not include the following costs in relation to the taxable entity's goods:

(1) the cost of renting or leasing equipment, facilities, or real property that is not used for the production of the goods;

(2) selling costs, including employee expenses related to sales;

(3) distribution costs, including outbound transportation costs;

(4) advertising costs;

(5) idle facility expense;

(6) rehandling costs;

(7) bidding costs, which are the costs incurred in the solicitation of contracts ultimately awarded to the taxable entity;

(8) unsuccessful bidding costs, which are the costs incurred in the solicitation of contracts not awarded to the taxable entity;

(9) interest, including interest on debt incurred or continued during the production period to finance the production of the goods;

(10) income taxes, including local, state, federal, and foreign income taxes, and franchise taxes that are assessed on the taxable entity based on income;

(11) strike expenses, including costs associated with hiring employees to replace striking personnel, but not including the wages of the replacement personnel, costs of security, and legal fees associated with settling strikes;

(12) officers' compensation;

(13) costs of operation of a facility that is:

(A) located on property owned or leased by the federal government; and

(B) managed or operated primarily to house members of the armed forces of the United States; and

(14) any compensation paid to an undocumented worker used for the production of goods. As used in this subdivision:

(A) "undocumented worker" means a person who is not lawfully entitled to be present and employed in the United States; and

(B) "goods" includes the husbandry of animals, the growing and harvesting of crops, and the severance of timber from realty.

(f) A taxable entity may subtract as a cost of goods sold indirect or administrative overhead costs, including all mixed service costs, such as security services, legal services, data processing services, accounting services, personnel operations, and

general financial planning and financial management costs, that it can demonstrate are allocable to the acquisition or production of goods, except that the amount subtracted may not exceed four percent of the taxable entity's total indirect or administrative overhead costs, including all mixed service costs. Any costs excluded under Subsection (e) may not be subtracted under this subsection.

(g) A taxable entity that is allowed a subtraction by this section for a cost of goods sold and that is subject to Section 263A, 460, or 471, Internal Revenue Code, may capitalize that cost in the same manner and to the same extent that the taxable entity capitalized that cost on its federal income tax return or may expense those costs, except for costs excluded under Subsection (e), or in accordance with Subsections (c), (d), and (f). If the taxable entity elects to capitalize costs, it must capitalize each cost allowed under this section that it capitalized on its federal income tax return. If the taxable entity later elects to begin expensing a cost that may be allowed under this section as a cost of goods sold, the entity may not deduct any cost in ending inventory from a previous report. If the taxable entity elects to expense a cost of goods sold that may be allowed under this section, a cost incurred before the first day of the period on which the report is based may not be subtracted as a cost of goods sold. If the taxable entity elects to expense a cost of goods sold and later elects to capitalize that cost of goods sold, a cost expensed on a previous report may not be capitalized.

(h) A taxable entity shall determine its cost of goods sold, except as otherwise provided by this section, in accordance with the methods used on the federal income tax return on which the report under this chapter is based. This subsection does not affect the type or category of cost of goods sold that may be subtracted under this section.

(i) A taxable entity may make a subtraction under this section in relation to the cost of goods sold only if that entity owns the goods. The determination of whether a taxable entity is an owner is based on all of the facts and circumstances, including the various benefits and burdens of ownership vested with the taxable entity. A taxable entity furnishing labor or materials to a project for the construction, improvement, remodeling, repair, or industrial maintenance (as the term "maintenance" is defined in 34 T.A.C. Section 3.357) of real property is considered to be an owner of that

labor or materials and may include the costs, as allowed by this section, in the computation of cost of goods sold. Solely for purposes of this section, a taxable entity shall be treated as the owner of goods being manufactured or produced by the entity under a contract with the federal government, including any subcontracts that support a contract with the federal government, notwithstanding that the Federal Acquisition Regulation may require that title or risk of loss with respect to those goods be transferred to the federal government before the manufacture or production of those goods is complete.

(j) A taxable entity may not make a subtraction under this section for cost of goods sold to the extent the cost of goods sold was funded by partner contributions and deducted under Subsection (c)(13).

(k) Notwithstanding any other provision of this section, if the taxable entity is a lending institution that offers loans to the public and elects to subtract cost of goods sold, the entity, other than an entity primarily engaged in an activity described by category 5932 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget, may subtract as a cost of goods sold an amount equal to interest expense. For purposes of this subsection, an entity engaged in lending to unrelated parties solely for agricultural production offers loans to the public.

(k-1) Notwithstanding any other provision of this section, the following taxable entities may subtract as a cost of goods sold the costs otherwise allowed by this section in relation to tangible personal property that the entity rents or leases in the ordinary course of business of the entity:

(1) a motor vehicle rental or leasing company that remits a tax on gross receipts imposed under Section 152.026;

(2) a heavy construction equipment rental or leasing company; and

(3) a railcar rolling stock rental or leasing company.

(k-2) This subsection applies only to a pipeline entity: (1) that owns or leases and operates the pipeline by which the product is transported for others and only to that portion of the product to which the entity does not own title; and (2) that is primarily engaged in gathering, storing, transporting, or processing crude oil, including finished petroleum products, natural gas, condensate, and natural gas liquids, except for a refinery installation that

manufactures finished petroleum products from crude oil. Notwithstanding Subsection (e)(3) or (i), a pipeline entity providing services for others related to the product that the pipeline does not own and to which this subsection applies may subtract as a cost of goods sold its depreciation, operations, and maintenance costs allowed by this section related to the services provided.

(k-3) For purposes of Subsection (k-2), "processing" means the physical or mechanical removal, separation, or treatment of crude oil, including finished petroleum products, natural gas, condensate, and natural gas liquids after those materials are produced from the earth. The term does not include the chemical or biological transformation of those materials.

(l) Notwithstanding any other provision of this section, a payment made by one member of an affiliated group to another member of that affiliated group not included in the combined group may be subtracted as a cost of goods sold only if it is a transaction made at arm's length.

(m) In this section, "arm's length" means the standard of conduct under which entities that are not related parties and that have substantially equal bargaining power, each acting in its own interest, would negotiate or carry out a particular transaction.

(n) In this section, "related party" means a person, corporation, or other entity, including an entity that is treated as a pass-through or disregarded entity for purposes of federal taxation, whether the person, corporation, or entity is subject to the tax under this chapter or not, in which one person, corporation, or entity, or set of related persons, corporations, or entities, directly or indirectly owns or controls a controlling interest in another entity.

(o) If a taxable entity, including a taxable entity with respect to which cost of goods sold is determined pursuant to Section 171.1014(e)(1), whose principal business activity is film or television production or broadcasting or the distribution of tangible personal property described by Subsection (a)(3)(A)(ii), or any combination of these activities, elects to subtract cost of goods sold, the cost of goods sold for the taxable entity shall be the costs described in this section in relation to the property and include depreciation, amortization, and other expenses directly related to the acquisition, production, or use of the property, including expenses for the right to broadcast or use the property.

(t) If a taxable entity that is a movie theater elects to subtract cost of goods sold, the cost of goods sold for the taxable entity shall be the costs described by this section in relation to the acquisition, production, exhibition, or use of a film or motion picture, including expenses for the right to use the film or motion picture.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 14, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 15, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 9, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 10(a), eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 377 (H.B. 4002), Sec. 1, eff. September 1, 2017.

Sec. 171.1013. DETERMINATION OF COMPENSATION. (a) Except as otherwise provided by this section, "wages and cash compensation" means the amount entered in the Medicare wages and tips box of Internal Revenue Service Form W-2 or any subsequent form with a different number or designation that substantially provides the same information. The term also includes, to the extent not included above:

(1) net distributive income from a taxable entity treated as a partnership for federal income tax purposes, but only if the person receiving the distribution is a natural person;

(2) net distributive income from limited liability companies and corporations treated as S corporations for federal income tax purposes, but only if the person receiving the distribution is a natural person;

(3) stock awards and stock options deducted for federal income tax purposes; and

(4) net distributive income from a limited liability company treated as a sole proprietorship for federal income tax

purposes, but only if the person receiving the distribution is a natural person.

(b) Subject to Section 171.1014, a taxable entity that elects to subtract compensation for the purpose of computing its taxable margin under Section 171.101 may subtract an amount equal to:

(1) subject to the limitation in Subsection (c), all wages and cash compensation paid by the taxable entity to its officers, directors, owners, partners, and employees; and

(2) the cost of all benefits, to the extent deductible for federal income tax purposes, the taxable entity provides to its officers, directors, owners, partners, and employees, including workers' compensation benefits, health care, employer contributions made to employees' health savings accounts, and retirement.

(b-1) This subsection applies to a taxable entity that is a small employer, as that term is defined by Section 1501.002, Insurance Code, and that has not provided health care benefits to any of its employees in the calendar year preceding the beginning date of its reporting period. Subject to Section 171.1014, a taxable entity to which this subsection applies that elects to subtract compensation for the purpose of computing its taxable margin under Section 171.101 may subtract health care benefits as provided under Subsection (b) and may also subtract:

(1) for the first 12-month period on which margin is based and in which the taxable entity provides health care benefits to all of its employees, an additional amount equal to 50 percent of the cost of health care benefits provided to its employees for that period; and

(2) for the second 12-month period on which margin is based and in which the taxable entity provides health care benefits to all of its employees, an additional amount equal to 25 percent of the cost of health care benefits provided to its employees for that period.

(c) Notwithstanding the actual amount of wages and cash compensation paid by a taxable entity to its officers, directors, owners, partners, and employees, a taxable entity may not include more than $300,000, or the amount determined under Section 171.006, per 12-month period on which margin is based, for any person in the amount of wages and cash compensation it determines under this section. If a person is paid by more than one entity of a combined group, the combined group may not subtract in relation to that person

a total of more than $300,000, or the amount determined under Section 171.006, per 12-month period on which margin is based.

(c-1) Subject to Section 171.1014, a taxable entity that elects to subtract compensation for the purpose of computing its taxable margin under Section 171.101 may not subtract any wages or cash compensation paid to an undocumented worker. As used in this section "undocumented worker" means a person who is not lawfully entitled to be present and employed in the United States.

(d) A taxable entity that is a professional employer organization:

(1) may not include as wages or cash compensation payments described by Section 171.1011(k); and

(2) shall determine compensation as provided by this section only for the taxable entity's own employees that are not covered employees.

(e) Subject to the other provisions of this section, in determining compensation, a taxable entity that is a client that contracts with a professional employer organization for covered employees:

(1) shall include payments made to the professional employer organization for wages and benefits for the covered employees as if the covered employees were actual employees of the entity;

(2) may not include an administrative fee charged by the professional employer organization for the provision of the covered employees; and

(3) may not include any other amount in relation to the covered employees, including payroll taxes.

(f) A taxable entity that is a management company:

(1) may not include as wages or cash compensation any amounts reimbursed by a managed entity; and

(2) shall determine compensation as provided by this section for only those wage and compensation payments that are not reimbursed by a managed entity.

(g) A taxable entity that is a managed entity shall include reimbursements made to the management company for wages and compensation as if the reimbursed amounts had been paid to employees of the managed entity.

(h) Subject to Section 171.1014, a taxable entity that elects to subtract compensation for the purpose of computing its taxable

margin under Section 171.101 may not include as wages or cash compensation amounts paid to an employee whose primary employment is directly associated with the operation of a facility that is:

(1) located on property owned or leased by the federal government; and

(2) managed or operated primarily to house members of the armed forces of the United States.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 16, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 117 (S.B. 1286), Sec. 26, eff. September 1, 2013.

Sec. 171.1014. COMBINED REPORTING; AFFILIATED GROUP ENGAGED IN UNITARY BUSINESS. (a) Taxable entities that are part of an affiliated group engaged in a unitary business shall file a combined group report in lieu of individual reports based on the combined group's business. The combined group may not include a taxable entity that conducts business outside the United States if 80 percent or more of the taxable entity's property and payroll, as determined by factoring under Chapter 141, are assigned to locations outside the United States. In applying Chapter 141, if either the property factor or the payroll factor is zero, the denominator is one. The combined group may not include a taxable entity that conducts business outside the United States and has no property or payroll if 80 percent or more of the taxable entity's gross receipts, as determined under Sections 171.103, 171.105, and 171.1055, are assigned to locations outside the United States.

(b) The combined group is a single taxable entity for purposes of the application of the tax imposed under this chapter, including Section 171.002(d).

(c) For purposes of Section 171.101, a combined group shall determine its total revenue by:

(1) determining the total revenue of each of its members as provided by Section 171.1011 as if the member were an individual taxable entity;

(2) adding the total revenues of the members determined under Subdivision (1) together; and

(3) subtracting, to the extent included under Section 171.1011(c)(1)(A), (c)(2)(A), or (c)(3), items of total revenue received from a member of the combined group.

(d) For purposes of Section 171.101, a combined group shall make an election to subtract either cost of goods sold or compensation that applies to all of its members, or $1 million. Regardless of the election, the taxable margin of the combined group may not exceed the amount provided by Section 171.101(a)(1)(A) for the combined group.

(d-1) A member of a combined group may claim as cost of goods sold those costs that qualify under Section 171.1012 if the goods for which the costs are incurred are owned by another member of the combined group.

(e) For purposes of Section 171.101, a combined group that elects to subtract costs of goods sold shall determine that amount by:

(1) determining the cost of goods sold for each of its members as provided by Section 171.1012 as if the member were an individual taxable entity;

(2) adding the amounts of cost of goods sold determined under Subdivision (1) together; and

(3) subtracting from the amount determined under Subdivision (2) any cost of goods sold amounts paid from one member of the combined group to another member of the combined group, but only to the extent the corresponding item of total revenue was subtracted under Subsection (c)(3).

(f) For purposes of Section 171.101, a combined group that elects to subtract compensation shall determine that amount by:

(1) determining the compensation for each of its members as provided by Section 171.1013 as if each member were an individual taxable entity, subject to the limitation prescribed by Section 171.1013(c);

(2) adding the amounts of compensation determined under Subdivision (1) together; and

(3) subtracting from the amount determined under Subdivision (2) any compensation amounts paid from one member of the combined group to another member of the combined group, but only to the extent the corresponding item of total revenue was subtracted

under Subsection (c)(3).

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1282, Sec. 37(3), eff. January 1, 2008.

(h) Each taxable entity that is part of a combined group report shall, for purposes of determining margin and apportionment, include its activities for the same period used by the combined group.

(i) Each member of the combined group shall be jointly and severally liable for the tax of the combined group.

(j) Notwithstanding any other provision of this section, a taxable entity that provides retail or wholesale electric utilities may not be included as a member of a combined group that includes one or more taxable entities that do not provide retail or wholesale electric utilities if that combined group in the absence of this subsection:

(1) would not meet the requirements of Section 171.002(c) solely because one or more members of the combined group provide retail or wholesale electric utilities; and

(2) would have less than five percent of the combined group's total revenue derived from providing retail or wholesale electric utilities.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 17, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 37(3), eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 11, eff. January 1, 2014.

Sec. 171.1015. REPORTING FOR CERTAIN PARTNERSHIPS IN TIERED PARTNERSHIP ARRANGEMENT. (a) In this section, "tiered partnership arrangement" means an ownership structure in which any of the interests in one taxable entity treated as a partnership or an S corporation for federal income tax purposes (a "lower tier entity") are owned by one or more other taxable entities (an "upper tier entity"). A tiered partnership arrangement may have two or more tiers.

(b) In addition to the tax it is required to pay under this chapter on its own taxable margin, a taxable entity that is an upper tier entity may include, for purposes of calculating its own taxable margin, the total revenue of a lower tier entity if the lower tier entity submits a report to the comptroller showing the amount of total revenue that each upper tier entity that owns it should include within the upper tier entity's own taxable margin calculation, according to the ownership interest of the upper tier entity.

(c) This section does not apply to that percentage of the total revenue attributable to an upper tier entity by a lower tier entity if the upper tier entity is not subject to the tax under this chapter. In this case, the lower tier entity is liable for the tax on its taxable margin.

(d) Section 171.002(d) does not apply to an upper tier entity if, before the attribution of any total revenue by a lower tier entity to an upper tier entity under this section, the lower tier entity does not meet the criteria of Section 171.002(d)(1) or (d)(2).

(e) The comptroller shall adopt rules to administer this section.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 18, eff. January 1, 2008.

Sec. 171.1016. E-Z COMPUTATION AND RATE. (a) Notwithstanding any other provision of this chapter, a taxable entity whose total revenue from its entire business is not more than $20 million may elect to pay the tax imposed under this chapter in the amount computed and at the rate provided by this section rather than in the amount computed and at the tax rate provided by Section 171.002.

(b) The amount of the tax for which a taxable entity that elects to pay the tax as provided by this section is liable is computed by:

(1) determining the taxable entity's total revenue from its entire business, as determined under Section 171.1011;

(2) apportioning the amount computed under Subdivision (1) to this state, as provided by Section 171.106, to determine the

taxable entity's apportioned total revenue; and

(3) multiplying the amount computed under Subdivision (2) by the rate of 0.331 percent.

(c) A taxable entity that elects to pay the tax as provided by this section may not take a credit, deduction, or other adjustment that is not specifically authorized by this section.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1232, Sec. 15, eff. January 1, 2014.

(e) A reference in this chapter or other law to the rate of the franchise tax means, as appropriate, the rate under Section 171.002 or, for a taxable entity that elects to pay the tax as provided by this section, the rate under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 19, eff. January 1, 2008.
Transferred from Tax Code, Section 171.1016 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(58), eff. September 1, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 15, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 449 (H.B. 32), Sec. 3, eff. January 1, 2016.

Sec. 171.103. DETERMINATION OF GROSS RECEIPTS FROM BUSINESS DONE IN THIS STATE FOR MARGIN. (a) Subject to Section 171.1055, in apportioning margin, the gross receipts of a taxable entity from its business done in this state is the sum of the taxable entity's receipts from:

(1) each sale of tangible personal property if the property is delivered or shipped to a buyer in this state regardless of the FOB point or another condition of the sale;

(2) each service performed in this state, except that receipts derived from servicing loans secured by real property are in this state if the real property is located in this state;

(3) each rental of property situated in this state;

(4) the use of a patent, copyright, trademark, franchise, or license in this state;

(5) each sale of real property located in this state, including royalties from oil, gas, or other mineral interests; and

(6) other business done in this state.

(b) A combined group shall include in its gross receipts computed under Subsection (a) the gross receipts of each taxable entity that is a member of the combined group and that has a nexus with this state for the purpose of taxation.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1232, Sec. 15, eff. January 1, 2014.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1232, Sec. 15, eff. January 1, 2014.

Acts 1981, 67th Leg., p. 1697, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 15, Sec. 1, eff. Oct. 2, 1984; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.06, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 1185, Sec. 5, eff. Jan. 1, 1998.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 20, eff. January 1, 2008.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 15, eff. January 1, 2014.

Sec. 171.105. DETERMINATION OF GROSS RECEIPTS FROM ENTIRE BUSINESS FOR MARGIN. (a) Subject to Section 171.1055, in apportioning margin, the gross receipts of a taxable entity from its entire business is the sum of the taxable entity's receipts from:

(1) each sale of the taxable entity's tangible personal property;

(2) each service, rental, or royalty; and

(3) other business.

(b) If a taxable entity sells an investment or capital asset, the taxable entity's gross receipts from its entire business for taxable margin includes only the net gain from the sale.

(c) A combined group shall include in its gross receipts computed under Subsection (a) the gross receipts of each taxable entity that is a member of the combined group, without regard to whether that entity has a nexus with this state for the purpose of taxation.

Acts 1981, 67th Leg., p. 1698, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.07, eff. Jan. 1, 1992.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Sec. 171.1055. EXCLUSION OF CERTAIN RECEIPTS FOR MARGIN APPORTIONMENT. (a) In apportioning margin, receipts excluded from total revenue by a taxable entity under Section 171.1011 may not be included in either the receipts of the taxable entity from its business done in this state as determined under Section 171.103 or the receipts of the taxable entity from its entire business done as determined under Section 171.105.

(b) In apportioning margin, receipts derived from transactions between individual members of a combined group that are excluded under Section 171.1014(c)(3) may not be included in the receipts of the taxable entity from its business done in this state as determined under Section 171.103, except that receipts ultimately derived from the sale of tangible personal property between individual members of a combined group where one member party to the transaction does not have nexus in this state shall be included in the receipts of the taxable entity from its business done in this state as determined under Section 171.103 to the extent that the member of the combined group that does not have nexus in this state resells the tangible personal property without substantial modification to a purchaser in this state. "Receipts ultimately derived from the sale" means the amount paid for the tangible personal property by the third party purchaser.

(c) In apportioning margin, receipts derived from transactions between individual members of a combined group that are excluded under Section 171.1014(c)(3) may not be included in the receipts of the taxable entity from its entire business done as determined under Section 171.105.

Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.
Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 21, eff.

January 1, 2008.

Sec. 171.106. APPORTIONMENT OF MARGIN TO THIS STATE. (a) Except as provided by this section, a taxable entity's margin is apportioned to this state to determine the amount of tax imposed under Section 171.002 by multiplying the margin by a fraction, the numerator of which is the taxable entity's gross receipts from business done in this state, as determined under Section 171.103, and the denominator of which is the taxable entity's gross receipts from its entire business, as determined under Section 171.105.

(b) A taxable entity's margin that is derived, directly or indirectly, from the sale of management, distribution, or administration services to or on behalf of a regulated investment company, including a taxable entity that includes trustees or sponsors of employee benefit plans that have accounts in a regulated investment company, is apportioned to this state to determine the amount of the tax imposed under Section 171.002 by multiplying the taxable entity's total margin from the sale of services to or on behalf of a regulated investment company by a fraction, the numerator of which is the average of the sum of shares owned at the beginning of the year and the sum of shares owned at the end of the year by the investment company shareholders who are commercially domiciled in this state or, if the shareholders are individuals, are residents of this state, and the denominator of which is the average of the sum of shares owned at the beginning of the year and the sum of shares owned at the end of the year by all investment company shareholders. In this subsection, "regulated investment company" has the meaning assigned by Section 851(a), Internal Revenue Code.

(c) A taxable entity's margin that is derived, directly or indirectly, from the sale of management, administration, or investment services to an employee retirement plan is apportioned to this state to determine the amount of the tax imposed under Section 171.002 by multiplying the taxable entity's total margin from the sale of services to an employee retirement plan company by a fraction, the numerator of which is the average of the sum of beneficiaries domiciled in Texas at the beginning of the year and the sum of beneficiaries domiciled in Texas at the end of the year, and the denominator of which is the average of the sum of all beneficiaries at the beginning of the year and the sum of all

beneficiaries at the end of the year. In this section, "employee retirement plan" means a plan or other arrangement that is qualified under Section 401(a), Internal Revenue Code, or satisfies the requirements of Section 403, Internal Revenue Code, or a government plan described in Section 414(d), Internal Revenue Code. The term does not include an individual retirement account or individual retirement annuity within the meaning of Section 408, Internal Revenue Code.

(d) A banking corporation shall exclude from the numerator of the bank's apportionment factor interest earned on federal funds and interest earned on securities sold under an agreement to repurchase that are held in this state in a correspondent bank that is domiciled in this state. In this subsection, "correspondent" has the meaning assigned by 12 C.F.R. Section 206.2(c).

(e) Receipts from services that a defense readjustment project performs in a defense economic readjustment zone are not receipts from business done in this state.

(f) Notwithstanding Section 171.1055, if a loan or security is treated as inventory of the seller for federal income tax purposes, the gross proceeds of the sale of that loan or security are considered gross receipts.

(f-1) Notwithstanding Section 171.1055, if a lending institution categorizes a loan or security as "Securities Available for Sale" or "Trading Securities" under Financial Accounting Standard No. 115, the gross proceeds of the sale of that loan or security are considered gross receipts. In this subsection, "Financial Accounting Standard No. 115" means the Financial Accounting Standard No. 115 in effect as of January 1, 2009, not including any changes made after that date. In this subsection, "security" means a security as defined in Section 171.0001(13-a).

(g) A receipt from Internet hosting as defined by Section 151.108(a) is a receipt from business done in this state only if the customer to whom the service is provided is located in this state.

(h) A taxable entity that is a broadcaster shall include in the numerator of the broadcaster's apportionment factor receipts arising from licensing income from broadcasting or otherwise distributing film programming by any means only if the legal domicile of the broadcaster's customer is in this state. In this subsection:

(1) "Broadcaster" means a taxable entity, not including a cable service provider or a direct broadcast satellite service, that

is a:

(A) television station licensed by the Federal Communications Commission;

(B) television broadcast network;

(C) cable television network; or

(D) television distribution company.

(2) "Customer" means a person, including a licensee, that has a direct connection or contractual relationship with a broadcaster under which the broadcaster derives revenue.

(3) "Film programming" means all or part of a live or recorded performance, event, or production intended to be distributed for visual and auditory perception by an audience.

(4) "Programming" includes news, entertainment, sporting events, plays, stories, or other literary, commercial, educational, or artistic works.

Acts 1981, 67th Leg., p. 1698, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.07, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 1185, Sec. 7, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 184, Sec. 2, eff. Jan. 1, 2000; Acts 2001, 77th Leg., ch. 1263, Sec. 59, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 209, Sec. 37, eff. Oct. 1, 2003.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 22, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1055 (H.B. 4611), Sec. 1, eff. January 1, 2010.

Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 12, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1098 (H.B. 2896), Sec. 1, eff. January 1, 2018.

Sec. 171.107. DEDUCTION OF COST OF SOLAR ENERGY DEVICE FROM MARGIN APPORTIONED TO THIS STATE. (a) In this section, "solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated

energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

(b) A taxable entity may deduct from its apportioned margin 10 percent of the amortized cost of a solar energy device if:

(1) the device is acquired by the taxable entity for heating or cooling or for the production of power;

(2) the device is used in this state by the taxable entity; and

(3) the cost of the device is amortized in accordance with Subsection (c).

(c) The amortization of the cost of a solar energy device must:

(1) be for a period of at least 60 months;

(2) provide for equal monthly amounts or conform to federal depreciation schedules;

(3) begin on the month in which the device is placed in service in this state; and

(4) cover only a period in which the device is in use in this state.

(d) A taxable entity that makes a deduction under this section shall file with the comptroller an amortization schedule showing the period in which a deduction is to be made. On the request of the comptroller, the taxable entity shall file with the comptroller proof of the cost of the solar energy device or proof of the device's operation in this state.

Acts 1981, 67th Leg., p. 1698, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.07, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 1467, Sec. 2.59, eff. Jan. 1, 2000.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Sec. 171.108. DEDUCTION OF COST OF CLEAN COAL PROJECT FROM MARGIN APPORTIONED TO THIS STATE. (a) In this section, "clean coal project" has the meaning assigned by Section 5.001, Water Code.

(b) A taxable entity may deduct from its apportioned margin 10 percent of the amortized cost of equipment:

(1) that is used in a clean coal project;

(2) that is acquired by the taxable entity for use in generation of electricity, production of process steam, or industrial production;

(3) that the taxable entity uses in this state; and

(4) the cost of which is amortized in accordance with Subsection (c).

(c) The amortization of the cost of capital used in a clean coal project must:

(1) be for a period of at least 60 months;

(2) provide for equal monthly amounts;

(3) begin in the month during which the equipment is placed in service in this state; and

(4) cover only a period during which the equipment is used in this state.

(d) A taxable entity that makes a deduction under this section shall file with the comptroller an amortization schedule showing the period for which the deduction is to be made. On the request of the comptroller, the taxable entity shall file with the comptroller proof of the cost of the equipment or proof of the equipment's operation in this state.

Added by Acts 2005, 79th Leg., Ch. 1097 (H.B. 2201), Sec. 4, eff. June 18, 2005.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Sec. 171.109. DEDUCTION OF RELOCATION COSTS BY CERTAIN TAXABLE ENTITIES FROM MARGIN APPORTIONED TO THIS STATE. (a) In this section, "relocation costs" means the costs incurred by a taxable entity to relocate the taxable entity's main office or other principal place of business from one location to another. The term includes:

(1) costs of relocating computers and peripherals, other business supplies, furniture, and inventory; and

(2) any other costs related to the relocation that are allowable deductions for federal income tax purposes.

(b) Subject to Subsection (c), a taxable entity may deduct from

its apportioned margin relocation costs incurred in relocating the taxable entity's main office or other principal place of business to this state from another state if the taxable entity:

(1) did not do business in this state before relocating the taxable entity's main office or other principal place of business to this state; and

(2) is not a member of an affiliated group engaged in a unitary business, another member of which is doing business in this state on the date the taxable entity relocates the taxable entity's main office or other principal place of business to this state.

(c) A taxable entity must take the deduction authorized by Subsection (b) on the report based on the taxable entity's initial period described by Section 171.151(1).

(d) On the comptroller's request, a taxable entity that takes a deduction authorized by this section shall file with the comptroller proof of the deducted relocation costs.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 13(a), eff. September 1, 2013.

For expiration of this section, see Subsection (e).

Sec. 171.111. TEMPORARY CREDIT ON TAXABLE MARGIN. (a) On the first report originally due under this chapter on or after January 1, 2008, a taxable entity must notify the comptroller in writing of its intent to take a credit in an amount allowed by this section on the tax due on taxable margin. The taxable entity may thereafter elect to claim the credit for the current year and future year at or before the original due date of any report due after January 1, 2008, until the taxable entity revokes the election or this section expires, whichever is earlier. A taxable entity may claim the credit for not more than 20 consecutive privilege periods beginning with the first report originally due under this chapter on or after January 1, 2008. A taxable entity may make only one election under this section and the election may not be conveyed, assigned, or transferred to another entity.

(b) The credit allowed under this section for any privilege period is computed by:

(1) determining the amount of the business loss carryforwards of the taxable entity under Section 171.110(e), as that

section applied to annual reports originally due before January 1, 2008, that were not exhausted on a report originally due under this chapter before January 1, 2008;

(2) multiplying the amount determined under Subdivision (1) by:

(A) 2.25 percent for reports originally due on or after January 1, 2008, and before January 1, 2018; and

(B) 7.75 percent for reports originally due on or after January 1, 2018, and before September 1, 2027; and

(3) multiplying the amount determined under Subdivision (2) by 4.5 percent.

(c) The comptroller may request that the taxable entity submit, with each annual report in which the taxable entity is eligible to take a credit, information relating to the amount determined under Subsection (b)(1). The taxable entity shall submit in the form and content the comptroller requires any information relating to the amount determined under Subsection (b)(1) or any other matter relevant to the computation of the credit for which the taxable entity is eligible.

(d) A credit that a taxable entity is entitled to under this section may not be conveyed, assigned, or transferred. A taxable entity loses the right to claim the credit if the entity changes combined groups after June 30, 2007.

(d-1) A taxable entity, other than a combined group, may not claim the credit under this section unless the taxable entity was, on May 1, 2006, subject to the tax imposed by this chapter as this chapter existed on that date. A taxable entity that is a combined group may claim the credit for each member entity that was, on May 1, 2006, subject to the tax imposed by this chapter as this chapter existed on that date and shall compute the amount of the credit for that member as provided by this section.

(d-2) The amount of credit claimed, including any unused credit carried forward, may not exceed the amount of franchise tax due for the report. Unused credits may not be carried forward to reports originally due on or after September 1, 2027.

(e) This section expires September 1, 2027.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.09, eff. Jan. 1, 1992.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 23, eff. January 1, 2008.

Sec. 171.1121. GROSS RECEIPTS FOR MARGIN. (a) For purposes of this section, "gross receipts" means all revenues reportable by a taxable entity on its federal tax return, without deduction for the cost of property sold, materials used, labor performed, or other costs incurred, unless otherwise specifically provided in this chapter.

(b) Except as otherwise provided by this section, a taxable entity shall use the same accounting methods to apportion margin as used in computing margin.

(c) A taxable entity may not change its accounting methods used to calculate gross receipts more often than once every four years without the express written consent of the comptroller. A change in accounting methods is not justified solely because it results in a reduction of tax liability.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.10, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 546, Sec. 8, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 1185, Sec. 11, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 1263, Sec. 61, eff. Jan. 1, 2002.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 5, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 24, eff. January 1, 2008.

SUBCHAPTER D. PAYMENT OF TAX

Sec. 171.151. PRIVILEGE PERIOD COVERED BY TAX. The franchise tax shall be paid for each of the following:

(1) an initial period beginning on the taxable entity's beginning date and ending on the day before the first anniversary of the beginning date;

(2) a second period beginning on the first anniversary of the beginning date and ending on December 31 following that date; and

(3) after the initial and second periods have expired, a regular annual period beginning each year on January 1 and ending the following December 31.

Acts 1981, 67th Leg., p. 1699, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1985, 69th Leg., ch. 31, Sec. 5, eff. Aug. 26, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.11, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 1002, Sec. 14, eff. Jan. 1, 1996.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 6, eff. January 1, 2008.

Sec. 171.152. DATE ON WHICH PAYMENT IS DUE. (a) Payment of the tax covering the initial period is due within 90 days after the date that the initial period ends or, if applicable, within 91 days after the date of the merger.

(b) Payment of the tax covering the second period is due on the same date as the tax covering the initial period.

(c) Payment of the tax covering the regular annual period is due May 15, of each year after the beginning of the regular annual period. However, if the first anniversary of the taxable entity's beginning date is after October 3 and before January 1, the payment of the tax covering the first regular annual period is due on the same date as the tax covering the initial period.

Acts 1981, 67th Leg., p. 1699, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 10, art. 3, Sec. 1, eff. Sept. 1, 1984; Acts 1985, 69th Leg., ch. 31, Sec. 7, eff. Aug. 26, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.12, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 1002, Sec. 15, eff. Jan. 1, 1996.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 6, eff. January 1, 2008.

Sec. 171.1532. BUSINESS ON WHICH TAX ON NET TAXABLE MARGIN IS BASED. (a) The tax covering the privilege periods included on the initial report is based on the business done by the taxable entity during the period beginning on the taxable entity's beginning date

and:

(1) ending on the last accounting period ending date that is at least 60 days before the original due date of the initial report; or

(2) if there is no such period ending date in Subdivision (1), then ending on the day that is the last day of a calendar month and that is nearest to the end of the taxable entity's first year of business.

(b) The tax covering the regular annual period, other than a regular annual period included on the initial report, is based on the business done by the taxable entity during the period beginning with the day after the last date upon which taxable margin or net taxable earned surplus on a previous report was based and ending with its last accounting period ending date for federal income tax purposes in the year before the year in which the report is originally due.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.14, eff. Jan. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 1002, Sec. 18, eff. Jan. 1, 1996.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 6, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 25, eff. January 1, 2008.

Sec. 171.154. PAYMENT TO COMPTROLLER. A taxable entity on which a tax is imposed by this chapter shall pay the tax to the comptroller.

Acts 1981, 67th Leg., p. 1700, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 6, eff. January 1, 2008.

Sec. 171.158. PAYMENT BY FOREIGN TAXABLE ENTITY BEFORE WITHDRAWAL FROM STATE. (a) Except as provided by Subsection (b), a foreign taxable entity holding a registration or certificate of authority to do business in this state may withdraw from doing business in this state by filing a certificate of withdrawal with the

secretary of state. The secretary of state shall file the certificate of withdrawal as provided by law.

(b) The foreign taxable entity may not withdraw from doing business in this state unless it has paid, before filing the certificate of withdrawal, any tax or penalty imposed by this chapter on the taxable entity.

Acts 1981, 67th Leg., p. 1701, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 6, eff. January 1, 2008.

SUBCHAPTER E. REPORTS AND RECORDS

Sec. 171.201. INITIAL REPORT. (a) Except as provided by Section 171.2022, a taxable entity on which the franchise tax is imposed shall file an initial report with the comptroller containing:

(1) financial information of the taxable entity necessary to compute the tax under this chapter;

(2) the name and address of:

(A) each officer, director, and manager of the taxable entity;

(B) for a limited partnership, each general partner;

(C) for a general partnership or limited liability partnership, each managing partner or, if there is not a managing partner, each partner; or

(D) for a trust, each trustee;

(3) the name and address of the agent of the taxable entity designated under Section 171.354; and

(4) other information required by the comptroller.

(b) The taxable entity shall file the report on or before the date the payment is due under Section 171.152(a).

Acts 1981, 67th Leg., p. 1701, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1985, 69th Leg., ch. 31, Sec. 9, eff. Aug. 26, 1985;
Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.15, eff. Jan. 1, 1992.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 26, eff. January 1, 2008.

Sec. 171.202. ANNUAL REPORT. (a) Except as provided by Section 171.2022, a taxable entity on which the franchise tax is imposed shall file an annual report with the comptroller containing:

(1) financial information of the taxable entity necessary to compute the tax under this chapter;

(2) the name and address of each officer and director of the taxable entity;

(3) the name and address of the agent of the taxable entity designated under Section 171.354; and

(4) other information required by the comptroller.

(b) The taxable entity shall file the report before May 16 of each year after the beginning of the regular annual period. The report shall be filed on forms supplied by the comptroller.

(c) The comptroller shall grant an extension of time to a taxable entity that is not required by rule to make its tax payments by electronic funds transfer for the filing of a report required by this section to any date on or before the next November 15, if a taxable entity:

(1) requests the extension, on or before May 15, on a form provided by the comptroller; and

(2) remits with the request:

(A) not less than 90 percent of the amount of tax reported as due on the report filed on or before November 15; or

(B) 100 percent of the tax reported as due for the previous calendar year on the report due in the previous calendar year and filed on or before May 14.

(d) In the case of a taxpayer whose previous return was its initial report, the optional payment provided under Subsection (c)(2)(B) or (e)(2)(B) must be equal to an amount produced by multiplying the taxable margin, as reported on the initial report filed on or before May 14, by the rate of tax in Section 171.002 that is effective January 1 of the year in which the report is due.

(e) The comptroller shall grant an extension of time for the filing of a report required by this section by a taxable entity required by rule to make its tax payments by electronic funds transfer to any date on or before the next August 15, if the taxable entity:

(1) requests the extension, on or before May 15, on a form

provided by the comptroller; and

(2) remits with the request:

(A) not less than 90 percent of the amount of tax reported as due on the report filed on or before August 15; or

(B) 100 percent of the tax reported as due for the previous calendar year on the report due in the previous calendar year and filed on or before May 14.

(f) The comptroller shall grant an extension of time to a taxable entity required by rule to make its tax payments by electronic funds transfer for the filing of a report due on or before August 15 to any date on or before the next November 15, if the taxable entity:

(1) requests the extension, on or before August 15, on a form provided by the comptroller; and

(2) remits with the request the difference between the amount remitted under Subsection (e) and 100 percent of the amount of tax reported as due on the report filed on or before November 15.

(h) If the sum of the amounts paid under Subsections (e)(2) and (f)(2) is at least 99 percent of the amount reported as due on the report filed on or before November 15, penalties for underpayment with respect to the amount paid under Subsection (f)(2) are waived.

(i) If a taxable entity requesting an extension under Subsection (c) or (e) does not file the report due in the previous calendar year on or before May 14, the taxable entity may not receive an extension under Subsection (c) or (e) unless the taxable entity complies with Subsection (c)(2)(A) or (e)(2)(A), as appropriate.

Acts 1981, 67th Leg., p. 1701, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 297, ch. 63, Sec. 2, eff. Aug. 29, 1983; Acts 1984, 68th Leg., 2nd C.S., ch. 10, art. 3, Sec. 3, 4, eff. Sept. 1, 1984; Acts 1985, 69th Leg., ch. 31, Sec. 10, eff. Aug. 26, 1985; Acts 1985, 69th Leg., ch. 37, Sec. 6, 7, eff. Aug. 26, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.16, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 486, Sec. 2.03, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 1002, Sec. 21, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1185, Sec. 12, eff. Jan. 1, 1998.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.2022. EXEMPTION FROM REPORTING REQUIREMENTS. A taxable entity that does not owe any tax under this chapter for any period is not required to file a report under Section 171.201 or 171.202. The exemption applies only to a period for which no tax is due.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.17, eff. Jan. 1, 1992.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.203. PUBLIC INFORMATION REPORT. (a) A corporation, limited liability company, limited partnership, or professional association on which the franchise tax is imposed, regardless of whether the entity is required to pay any tax, shall file a report with the comptroller containing:

(1) the name of each corporation, limited liability company, limited partnership, or professional association in which the corporation, limited liability company, limited partnership, or professional association filing the report owns a 10 percent or greater interest and the percentage owned by the entity;

(2) the name of each corporation, limited liability company, limited partnership, or professional association that owns a 10 percent or greater interest in the corporation, limited liability company, limited partnership, or professional association filing the report;

(3) the name, title, and mailing address of each person who is:

(A) an officer or director of the corporation, limited liability company, or professional association on the date the report is filed and the expiration date of each person's term as an officer or director, if any; and

(B) a general partner of the limited partnership on the date the report is filed;

(4) the name and address of the agent of the corporation, limited liability company, limited partnership, or professional association designated under Section 171.354; and

(5) the address of the corporation's, limited liability

company's, limited partnership's, or professional association's principal office and principal place of business.

(b) The corporation, limited liability company, limited partnership, or professional association shall file the report once a year on a form prescribed by the comptroller.

(c) The comptroller shall forward the report to the secretary of state.

(d) The corporation, limited liability company, limited partnership, or professional association shall send a copy of the report to each person named in the report under Subsection (a)(3) who is not currently employed by the corporation, limited liability company, limited partnership, or professional association or a related entity listed in Subsection (a)(1) or (2). An officer or director of the corporation, limited liability company, or professional association, a general partner of the limited partnership, or another authorized person must sign the report under a certification that:

(1) all information contained in the report is true and correct to the best of the person's knowledge; and

(2) a copy of the report has been mailed to each person identified in this subsection on the date the return is filed.

(e) If a person's name is included in a report under Subsection (a)(3) and the person is not an officer or director of the corporation, limited liability company, or professional association, or a general partner of the limited partnership, as applicable, on the date the report is filed, the person may file with the comptroller a sworn statement disclaiming the person's status as shown on the report. The comptroller shall maintain a record of statements filed under this subsection and shall make that information available on request using the same procedures the comptroller uses for other requests for public information.

(f) A public information report that is filed electronically complies with the signature and certification requirements prescribed by Subsection (d).

Acts 1981, 67th Leg., p. 1702, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1002, Sec. 19, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1185, Sec. 13, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 394, Sec. 11, eff. Jan. 1, 2000; Acts 2003, 78th Leg., ch. 209, Sec. 41, eff. Jan. 1, 2004.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 27, eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 1097 (H.B. 2891), Sec. 3, eff. January 1, 2016.

Sec. 171.204. INFORMATION REPORT. (a) Except as provided by Subsection (b), to determine eligibility for the exemption provided by Section 171.2022, or to determine the amount of the franchise tax or the correctness of a franchise tax report, the comptroller may require a taxable entity that may be subject to the tax imposed under this chapter to file an information report with the comptroller stating the amount of the taxable entity's margin, or any other information the comptroller may request that is necessary to make a determination under this subsection.

(b) The comptroller may require a taxable entity that does not owe any tax because of the application of Section 171.002(d)(2) to file an abbreviated information report with the comptroller stating the amount of the taxable entity's total revenue from its entire business. The comptroller may not require a taxable entity described by this subsection to file an information report that requires the taxable entity to report or compute its margin.

(c) The comptroller may require any entity to file information as necessary to verify that the entity is not subject to the tax imposed under this chapter.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 329 , Sec. 9(3), eff. January 1, 2020.

Acts 1981, 67th Leg., p. 1702, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.18, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 394, Sec. 12, eff. Jan. 1, 2000.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 28, eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 329 (S.B. 1049), Sec. 7, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 329 (S.B. 1049), Sec. 9(3), eff. January 1, 2020.

Sec. 171.205. ADDITIONAL INFORMATION REQUIRED BY COMPTROLLER. The comptroller may require a taxable entity on which the franchise tax is imposed to furnish to the comptroller information from the taxable entity's books and records that has not been filed previously and that is necessary for the comptroller to determine the amount of the tax.

Acts 1981, 67th Leg., p. 1702, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.206. CONFIDENTIAL INFORMATION. Except as provided by Section 171.207, the following information is confidential and may not be made open to public inspection:

(1) information that is obtained from a record or other instrument that is required by this chapter to be filed with the comptroller; or

(2) information, including information about the business affairs, operations, profits, losses, cost of goods sold, compensation, or expenditures of a taxable entity, obtained by an examination of the books and records, officers, partners, trustees, agents, or employees of a taxable entity on which a tax is imposed by this chapter.

Acts 1981, 67th Leg., p. 1702, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.207. INFORMATION NOT CONFIDENTIAL. The following information is not confidential and shall be made open to public inspection:

(1) information contained in a document filed under this chapter with a county clerk as notice of a tax lien; and

(2) information contained in a report required by Section 171.203 or 171.2035.

Acts 1981, 67th Leg., p. 1702, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.208. PROHIBITION OF DISCLOSURE OF INFORMATION. A person, including a state officer or employee or an owner of a taxable entity, who has access to a report filed under this chapter may not make known in a manner not permitted by law the amount or source of the taxable entity's income, profits, losses, expenditures, cost of goods sold, compensation, or other information in the report relating to the financial condition of the taxable entity.

Acts 1981, 67th Leg., p. 1703, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.209. RIGHT OF OWNER TO EXAMINE OR RECEIVE REPORTS. If an owner of a taxable entity on whom the franchise tax is imposed presents evidence of the ownership to the comptroller, the person is entitled to examine or receive a copy of an initial or annual report that is filed under Section 171.201 or 171.202 and that relates to the taxable entity.

Acts 1981, 67th Leg., p. 1703, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.210. PERMITTED USE OF CONFIDENTIAL INFORMATION. (a) To enforce this chapter, the comptroller or attorney general may use information made confidential by this chapter.

(b) The comptroller or attorney general may authorize the use of the confidential information in a judicial proceeding in which the state is a party. The comptroller or attorney general may authorize examination of the confidential information by:

(1) another state officer of this state;

(2) a law enforcement official of this state; or

(3) a tax official of another state or an official of the federal government if the other state or the federal government has a reciprocal arrangement with this state.

Acts 1981, 67th Leg., p. 1703, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.211. EXAMINATION OF RECORDS. To determine the franchise tax liability of a taxable entity, the comptroller may investigate or examine the records of the taxable entity.

Acts 1981, 67th Leg., p. 1703, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1989, 71st Leg., ch. 584, Sec. 109, eff. Sept. 1, 1989.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.212. REPORT OF CHANGES TO FEDERAL INCOME TAX RETURN. (a) A taxable entity must file an amended report under this chapter if:

(1) the taxable entity's taxable margin is changed as the result of an audit or other adjustment by the Internal Revenue Service or another competent authority; or

(2) the taxable entity files an amended federal income tax return or other return that changes the taxable entity's taxable margin.

(b) The taxable entity shall file the amended report under Subsection (a)(1) not later than the 120th day after the date the revenue agent's report or other adjustment is final. For purposes of this subsection, a revenue agent's report or other adjustment is

final on the date on which all administrative appeals with the Internal Revenue Service or other competent authority have been exhausted or waived.

(c) The taxable entity shall file the amended report under Subsection (a)(2) not later than the 120th day after the date the taxable entity files the amended federal income tax return or other return. For purposes of this subsection, a taxable entity is considered to have filed an amended federal income tax return if the taxable entity is a member of an affiliated group during a period in which an amended consolidated federal income tax report is filed.

(d) If a taxable entity fails to comply with this section, the taxable entity is liable for a penalty of 10 percent of the tax that should have been reported under this section and that had not previously been reported to the comptroller. The penalty prescribed by this subsection is in addition to any other penalty provided by law.

Added by Acts 1997, 75th Leg., ch. 1185, Sec. 14.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 7, eff. January 1, 2008.

Sec. 171.2125. CALCULATING COST OF GOODS OR COMPENSATION IN PROFESSIONAL EMPLOYER SERVICES ARRANGEMENTS. In calculating cost of goods sold or compensation, a taxable entity that is a client of a professional employer organization shall rely on information provided by the professional employer organization on a form promulgated by the comptroller or an invoice.

Added by Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 29, eff. January 1, 2008.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 117 (S.B. 1286), Sec. 27, eff. September 1, 2013.

SUBCHAPTER F. FORFEITURE OF CORPORATE AND BUSINESS PRIVILEGES

Sec. 171.251. FORFEITURE OF CORPORATE PRIVILEGES. The comptroller shall forfeit the corporate privileges of a corporation on which the franchise tax is imposed if the corporation:

(1) does not file, in accordance with this chapter and within 45 days after the date notice of forfeiture is mailed, a report required by this chapter;

(2) does not pay, within 45 days after the date notice of forfeiture is mailed, a tax imposed by this chapter or does not pay, within those 45 days, a penalty imposed by this chapter relating to that tax; or

(3) does not permit the comptroller to examine under Section 171.211 of this code the corporation's records.

Acts 1981, 67th Leg., p. 1703, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 10, art. 3, Sec. 5, eff. Sept. 1, 1984; Acts 1989, 71st Leg., ch. 584, Sec. 110, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.19, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 546, Sec. 10, eff. Jan. 1, 1994.

Sec. 171.2515. FORFEITURE OF RIGHT OF TAXABLE ENTITY TO TRANSACT BUSINESS IN THIS STATE. (a) The comptroller may, for the same reasons and using the same procedures the comptroller uses in relation to the forfeiture of the corporate privileges of a corporation, forfeit the right of a taxable entity to transact business in this state.

(b) The provisions of this subchapter, including Section 171.255, that apply to the forfeiture of corporate privileges apply to the forfeiture of a taxable entity's right to transact business in this state.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 9, eff. January 1, 2008.

Sec. 171.252. EFFECTS OF FORFEITURE. If the corporate privileges of a corporation are forfeited under this subchapter:

(1) the corporation shall be denied the right to sue or defend in a court of this state; and

(2) each director or officer of the corporation is liable for a debt of the corporation as provided by Section 171.255 of this code.

Acts 1981, 67th Leg., p. 1704, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.253. SUIT ON CAUSE OF ACTION ARISING BEFORE FORFEITURE. In a suit against a corporation on a cause of action arising before the forfeiture of the corporate privileges of the corporation, affirmative relief may not be granted to the corporation unless its corporate privileges are revived under this chapter.

Acts 1981, 67th Leg., p. 1704, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.254. EXCEPTION TO FORFEITURE. The forfeiture of the corporate privileges of a corporation does not apply to the privilege to defend in a suit to forfeit the corporation's charter or certificate of authority.

Acts 1981, 67th Leg., p. 1704, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.255. LIABILITY OF DIRECTOR AND OFFICERS. (a) If the corporate privileges of a corporation are forfeited for the failure to file a report or pay a tax or penalty, each director or officer of the corporation is liable for each debt of the corporation that is created or incurred in this state after the date on which the report, tax, or penalty is due and before the corporate privileges are revived. The liability includes liability for any tax or penalty imposed by this chapter on the corporation that becomes due and payable after the date of the forfeiture.

(b) The liability of a director or officer is in the same manner and to the same extent as if the director or officer were a partner and the corporation were a partnership.

(c) A director or officer is not liable for a debt of the corporation if the director or officer shows that the debt was created or incurred:

(1) over the director's objection; or

(2) without the director's knowledge and that the exercise of reasonable diligence to become acquainted with the affairs of the corporation would not have revealed the intention to create the debt.

(d) If a corporation's charter or certificate of authority and its corporate privileges are forfeited and revived under this

chapter, the liability under this section of a director or officer of the corporation is not affected by the revival of the charter or certificate and the corporate privileges.

Acts 1981, 67th Leg., p. 1704, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.256. NOTICE OF FORFEITURE. (a) If the comptroller proposes to forfeit the corporate privileges of a corporation, the comptroller shall notify the corporation that the forfeiture will occur without a judicial proceeding unless the corporation:

(1) files, within the time established by Section 171.251 of this code, the report to which that section refers; or

(2) pays, within the time established by Section 171.251 of this code, the delinquent tax and penalty to which that section refers.

(b) The notice shall be written or printed and shall be verified by the seal of the comptroller's office.

(c) The comptroller shall mail the notice to the corporation at least 45 days before the forfeiture of corporate privileges. The notice shall be addressed to the corporation and mailed to the address named in the corporation's charter as its principal place of business or to another known place of business of the corporation.

(d) The comptroller shall keep at the comptroller's office a record of the date on which the notice is mailed. For the purposes of this chapter, the notice and the record of the mailing date constitute legal and sufficient notice of the forfeiture.

Acts 1981, 67th Leg., p. 1704, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 546, Sec. 11, eff. Jan. 1, 1994.

Sec. 171.257. JUDICIAL PROCEEDING NOT REQUIRED FOR FORFEITURE. The forfeiture of the corporate privileges of a corporation is effected by the comptroller without a judicial proceeding.

Acts 1981, 67th Leg., p. 1705, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.258. REVIVAL OF CORPORATE PRIVILEGES. The comptroller shall revive the corporate privileges of a corporation if the

corporation, before the forfeiture of its charter or certificate of authority, pays any tax, penalty, or interest due under this chapter.

Acts 1981, 67th Leg., p. 1705, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.259. BANKING CORPORATIONS AND SAVINGS AND LOAN ASSOCIATIONS. (a) Except as provided by Subsection (b), this subchapter does not apply to a banking corporation that is organized under the laws of this state or under federal law and has its main office in this state.

(b) The banking commissioner shall appoint a conservator under Subtitle A, Title 3, Finance Code, to pay the franchise tax of a banking corporation that is organized under the laws of this state and that the commissioner certifies as being delinquent in the payment of the corporation's franchise tax.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 3, part B, Sec. 5, eff. May 1, 1985. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.20, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 184, Sec. 3, eff. Jan. 1, 2000.

Sec. 171.260. SAVINGS AND LOAN ASSOCIATION. (a) Except as provided by Subsection (b), this subchapter does not apply to a savings and loan association that is organized under the laws of this state or under federal law and has its main office in this state.

(b) The savings and mortgage lending commissioner shall appoint a conservator under Subtitle B or C, Title 3, Finance Code, to pay the franchise tax of a savings and loan association that is organized under the laws of this state and that the commissioner certifies as being delinquent in the payment of the association's franchise tax.

Added by Acts 1999, 76th Leg., ch. 184, Sec. 4, eff. Jan. 1, 2000. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 62, eff. Jan. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.067, eff. September 1, 2007.

SUBCHAPTER G. FORFEITURE OF CHARTER OR CERTIFICATE OF AUTHORITY

Sec. 171.301. GROUNDS FOR FORFEITURE OF CHARTER OR CERTIFICATE OF AUTHORITY. It is a ground for the forfeiture of a corporation's charter or certificate of authority if:

(1) the corporate privileges of the corporation are forfeited under this chapter and the corporation does not pay, within 120 days after the date the corporate privileges are forfeited, the amount necessary for the corporation to revive under this chapter its corporate privileges; or

(2) the corporation does not permit the comptroller to examine the corporation's records under Section 171.211 of this code.

Acts 1981, 67th Leg., p. 1705, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 584, Sec. 111, eff. Sept. 1, 1989.

Sec. 171.3015. FORFEITURE OF CERTIFICATE OR REGISTRATION OF TAXABLE ENTITY. The comptroller may, for the same reasons and using the same procedures the comptroller uses in relation to the forfeiture of a corporation's charter or certificate of authority, forfeit the certificate or registration of a taxable entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 31, eff. January 1, 2008.

Sec. 171.302. CERTIFICATION BY COMPTROLLER. After the 120th day after the date that the corporate privileges of a corporation are forfeited under this chapter, the comptroller shall certify the name of the corporation to the attorney general and the secretary of state.

Acts 1981, 67th Leg., p. 1705, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.303. SUIT FOR JUDICIAL FORFEITURE. On receipt of the comptroller's certification, the attorney general shall bring suit to forfeit the charter or certificate of authority of the corporation if a ground exists for the forfeiture of the charter or certificate.

Acts 1981, 67th Leg., p. 1705, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.304. RECORD OF JUDICIAL FORFEITURE. (a) If a district court forfeits a corporation's charter or certificate of authority under this chapter, the clerk of the court shall promptly mail to the secretary of state a certified copy of the court's judgment. On receipt of the copy of the judgment, the secretary of state shall inscribe on the corporation's record at the secretary's office the words "Judgment of Forfeiture" and the date of the judgment.

(b) If an appeal of the judgment is perfected, the clerk of the court shall promptly certify to the secretary of state that the appeal has been perfected. On receipt of the certification, the secretary of state shall inscribe on the corporation's record at the secretary's office the word "Appealed" and the date on which the appeal was perfected.

(c) If final disposition of an appeal is made, the clerk of the court making the disposition shall promptly certify to the secretary of state the type of disposition made and the date of the disposition. On receipt of the certification, the secretary of state shall inscribe on the corporation's record at the secretary's office a brief note of the type of final disposition made and the date of the disposition.

Acts 1981, 67th Leg., p. 1705, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.305. REVIVAL OF CHARTER OR CERTIFICATE OF AUTHORITY AFTER JUDICIAL FORFEITURE. A corporation whose charter or certificate of authority is judicially forfeited under this chapter is entitled to have its charter or certificate revived and to have its corporate privileges revived if:

(1) the corporation files each report that is required by this chapter and that is delinquent;

(2) the corporation pays the tax, penalty, and interest that is imposed by this chapter and that is due at the time the suit under Section 171.306 of this code to set aside forfeiture is filed; and

(3) the forfeiture of the corporation's charter or

certificate is set aside in a suit under Section 171.306 of this code.

Acts 1981, 67th Leg., p. 1706, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.306. SUIT TO SET ASIDE JUDICIAL FORFEITURE. If a corporation's charter or certificate of authority is judicially forfeited under this chapter, a stockholder, director, or officer of the corporation at the time of the forfeiture of the charter or certificate or of the corporate privileges of the corporation may bring suit in a district court of Travis County in the name of the corporation to set aside the forfeiture of the charter or certificate. The suit must be in the nature of a bill of review. The secretary of state and attorney general must be made defendants in the suit.

Acts 1981, 67th Leg., p. 1706, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.307. RECORD OF SUIT TO SET ASIDE JUDICIAL FORFEITURE. If a court under this chapter sets aside the forfeiture of a corporation's charter or certificate of authority, the secretary of state shall inscribe on the corporation's record in the secretary's office the words "Charter Revived by Court Order" or "Certificate Revived by Court Order," a citation to the suit, and the date of the court's judgment.

Acts 1981, 67th Leg., p. 1706, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.308. CORPORATE PRIVILEGES AFTER JUDICIAL FORFEITURE IS SET ASIDE. If a court under this chapter sets aside the forfeiture of a corporation's charter or certificate of authority, the comptroller shall revive the corporate privileges of the corporation and shall inscribe on the corporation's record in the comptroller's office a note of the revival.

Acts 1981, 67th Leg., p. 1706, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.309. FORFEITURE BY SECRETARY OF STATE. The secretary of state may forfeit the charter, certificate, or registration of a taxable entity if:

(1) the secretary receives the comptroller's certification under Section 171.302; and

(2) the taxable entity does not revive its forfeited privileges within 120 days after the date that the privileges were forfeited.

Acts 1981, 67th Leg., p. 1707, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 10, art. 3, Sec. 6, eff. Sept. 1, 1984.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 32, eff. January 1, 2008.

Sec. 171.310. JUDICIAL PROCEEDING NOT REQUIRED FOR FORFEITURE BY SECRETARY OF STATE. The forfeiture by the secretary of state of a corporation's charter or certificate of authority under this chapter is effected without a judicial proceeding.

Acts 1981, 67th Leg., p. 1707, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.311. RECORD OF FORFEITURE BY SECRETARY OF STATE. The secretary of state shall effect a forfeiture of a corporation's charter or certificate of authority under this chapter by inscribing on the corporation's record in the secretary's office the words "Charter Forfeited" or "Certificate Forfeited," the date on which this inscription is made, and a citation to this chapter as authority for the forfeiture.

Acts 1981, 67th Leg., p. 1707, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.312. REVIVAL OF CHARTER OR CERTIFICATE OF AUTHORITY AFTER FORFEITURE BY SECRETARY OF STATE. A corporation whose charter or certificate of authority is forfeited under this chapter by the secretary of state is entitled to have its charter or certificate revived and to have its corporate privileges revived if:

(1) the corporation files each report that is required by this chapter and that is delinquent;

(2) the corporation pays the tax, penalty, and interest that is imposed by this chapter and that is due at the time the request under Section 171.313 of this code to set aside forfeiture is made; and

(3) the forfeiture of the corporation's charter or certificate is set aside in a proceeding under Section 171.313 of this code.

Acts 1981, 67th Leg., p. 1707, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.3125. REVIVAL OF CERTIFICATE OR REGISTRATION OF TAXABLE ENTITY AFTER FORFEITURE BY SECRETARY OF STATE. (a) The secretary of state may, using the same procedures the secretary uses in relation to the revival of a corporation's charter or certificate, revive the certificate or registration of a taxable entity.

(b) The secretary of state may adopt rules to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1282 (H.B. 3928), Sec. 31, eff. January 1, 2008.

Sec. 171.313. PROCEEDING TO SET ASIDE FORFEITURE BY SECRETARY OF STATE. (a) If a corporation's charter or certificate of authority is forfeited under this chapter by the secretary of state, a stockholder, director, or officer of the corporation at the time of the forfeiture of the charter or certificate or of the corporate privileges of the corporation may request in the name of the corporation that the secretary of state set aside the forfeiture of the charter or certificate.

(b) If a request is made, the secretary of state shall determine if each delinquent report has been filed and any delinquent tax, penalty, or interest has been paid. If each report has been filed and the tax, penalty, or interest has been paid, the secretary shall set aside the forfeiture of the corporation's charter or certificate of authority.

Acts 1981, 67th Leg., p. 1707, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.314. CORPORATE PRIVILEGES AFTER FORFEITURE BY SECRETARY OF STATE IS SET ASIDE. If the secretary of state sets aside under this chapter the forfeiture of a corporation's charter or certificate of authority, the comptroller shall revive the corporate privileges of the corporation.

Acts 1981, 67th Leg., p. 1708, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.315. USE OF CORPORATE NAME AFTER REVIVAL OF CHARTER OR CERTIFICATE OF AUTHORITY. If a corporation's charter or certificate of authority is forfeited under this chapter by the secretary of state and if the corporation requests the secretary to set aside the forfeiture under Section 171.313 of this code, the corporation shall determine from the secretary whether the corporation's name is available for use. If the name is not available, the corporation shall amend its charter or certificate to change its name.

Acts 1981, 67th Leg., p. 1708, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.316. BANKING CORPORATIONS. This subchapter does not apply to a banking corporation that is organized under the laws of this state or under federal law and has its main office in this state.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 3, part B, Sec. 6, eff. May 1, 1985. Amended by Acts 1999, 76th Leg., ch. 184, Sec. 5, eff. Jan. 1, 2000.

Sec. 171.317. SAVINGS AND LOAN ASSOCIATIONS. This subchapter does not apply to a savings and loan association that is organized under the laws of this state or under federal law and has its main office in this state.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.21, eff. Jan. 1, 1992. Amended by Acts 1999, 76th Leg., ch. 184, Sec. 6, eff. Jan. 1, 2000.

SUBCHAPTER H. ENFORCEMENT

Sec. 171.351. VENUE OF SUIT TO ENFORCE CHAPTER. Venue of a civil suit against a taxable entity to enforce this chapter is either in a county where the taxable entity's principal office is located according to its charter or certificate of authority or in Travis County.

Acts 1981, 67th Leg., p. 1708, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 10, eff. January 1, 2008.

Sec. 171.352. AUTHORITY TO RESTRAIN OR ENJOIN. To enforce this chapter, a court may restrain or enjoin a violation of this chapter.

Acts 1981, 67th Leg., p. 1708, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.353. APPOINTMENT OF RECEIVER. If a court forfeits a taxable entity's charter or certificate of authority, the court may appoint a receiver for the taxable entity and may administer the receivership under the laws relating to receiverships.

Acts 1981, 67th Leg., p. 1708, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 11, eff. January 1, 2008.

Sec. 171.354. AGENT FOR SERVICE OF PROCESS. Each taxable entity on which a tax is imposed by this chapter shall designate a resident of this state as the taxable entity's agent for the service of process.

Acts 1981, 67th Leg., p. 1708, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 12, eff. January 1, 2008.

Sec. 171.355. SERVICE OF PROCESS ON SECRETARY OF STATE. (a) Legal process may be served on a domestic corporation by serving it on the secretary of state if the process relates to the forfeiture of the corporation's charter or to the collection of a tax or penalty imposed by this chapter and:

(1) if the local agent of the corporation or if the officers named in the corporation's charter or annual report on file with the secretary of state do not reside or cannot be located in the county in which the corporation's principal office, as stated in the charter, is located; or

(2) if the principal office of the corporation is not maintained or cannot be located in the county in which the charter states that the office is located.

(b) Complete and valid service of process is made on a corporation through the secretary of state by delivering duplicate copies of the process to the secretary of state or the deputy secretary of state.

(c) On receipt of legal process under this section, the secretary of state promptly shall forward to the corporation by registered mail a copy of the process. The copy of the process shall be mailed to the address named in the corporation's charter as its principal place of business or to another place of business of the corporation as shown by the records in the secretary of state's office.

(d) The failure of the secretary of state to mail a copy of legal process to a corporation does not affect the validity of the service of process. It is competent and sufficient proof of the service of process that the secretary of state certifies under the state seal the receipt of the process.

(e) The secretary of state shall keep a record of each legal process served on the secretary under this section showing the date and time of the receipt of the process and the secretary's action on the process.

(f) This section is cumulative of other laws relating to service of process.

Acts 1981, 67th Leg., p. 1708, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1993, 73rd Leg., ch. 300, Sec. 38, eff. Aug. 30,

1993.
Amended by:
Acts 2005, 79th Leg., Ch. 41 (H.B. 297), Sec. 4, eff. September 1, 2005.

Sec. 171.361. PENALTY FOR DISCLOSURE OF INFORMATION ON REPORT. (a) A person commits an offense if the person violates Section 171.208 of this code prohibiting the disclosure of information on a report filed under this chapter.

(b) An offense under this section is punishable by a fine of not more than $1,000, confinement in jail for not more than one year, or both.

Acts 1981, 67th Leg., p. 1710, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 171.362. PENALTY FOR FAILURE TO PAY TAX OR FILE REPORT. (a) If a taxable entity on which a tax is imposed by this chapter fails to pay the tax when it is due and payable or fails to file a report required by this chapter when it is due, the taxable entity is liable for a penalty of five percent of the amount of the tax due.

(b) If the tax is not paid or the report is not filed within 30 days after the due date, a penalty of an additional five percent of the tax due is imposed.

(c) The minimum penalty under Subsections (a) and (b) is $1.

(d) If a taxable entity electing to remit under Section 171.202(c)(2)(A) remits less than the amount required, the penalties imposed by this section and the interest imposed under Section 111.060 are assessed against the difference between the amount required to be remitted under Section 171.202(c)(2)(A) and the amount actually remitted on or before May 15.

(e) If a taxable entity remits the entire amount required by Section 171.202(c), no penalties will be imposed against the amount remitted on or before November 15.

(f) In addition to any other penalty authorized by this section, a taxable entity who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxable entity subsequently files the report or whether any taxes were due

from the taxable entity for the reporting period under the required report.

Acts 1981, 67th Leg., p. 1710, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 10, art. 3, Sec. 7, eff. Sept. 1, 1984; Acts 1985, 69th Leg., ch. 37, Sec. 8, eff. Aug. 26, 1985; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.22, eff. Jan. 1, 1992.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 13, eff. January 1, 2008.
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.08, eff. October 1, 2011.

Sec. 171.363. WILFUL AND FRAUDULENT ACTS. (a) A taxable entity commits an offense if the taxable entity is subject to the provisions of this chapter and the taxable entity wilfully:

(1) fails to file a report;

(2) fails to keep books and records as required by this chapter;

(3) files a fraudulent report;

(4) violates any rule of the comptroller for the administration and enforcement of the provisions of this chapter; or

(5) attempts in any other manner to evade or defeat any tax imposed by this chapter or the payment of the tax.

(b) A person commits an offense if the person is an accountant or an agent for or an officer or employee of a taxable entity and the person knowingly enters or provides false information on any report, return, or other document filed by the taxable entity under this chapter.

(c) A person who commits an offense under this section may also, in addition to the punishment provided by this section, be liable for a penalty under this chapter.

(d) An offense under this section is a felony of the third degree.

(e) A person whose commercial domicile or whose residence is in this state may be prosecuted under this section only in the county in which the person's commercial domicile or residence is located unless the person asserts a right to be prosecuted in another county.

(f) A prosecution for a violation of this section must be commenced before the fifth anniversary of the date of the violation.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.23, eff. Jan. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 1002, Sec. 20, eff. Jan. 1, 1996.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 14, eff. January 1, 2008.

SUBCHAPTER I. DISPOSITION OF REVENUE

Sec. 171.401. REVENUE DEPOSITED IN GENERAL REVENUE FUND. The revenue from the tax imposed by this chapter shall be deposited to the credit of the general revenue fund.

Acts 1981, 67th Leg., p. 1710, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 3, part B, Sec. 7, eff. May 1, 1985; Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 2, pt. 1, Sec. 2, eff. Jan. 1, 1988; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 8.231, eff. Jan. 1, 1992.
Amended by:
Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 15, eff. January 1, 2008.

Sec. 171.4011. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND. (a) Notwithstanding Section 171.401, beginning with the state fiscal year that begins September 1, 2007, the comptroller shall, for each state fiscal year, deposit to the credit of the property tax relief fund under Section 403.109, Government Code, an amount of revenue calculated by:

(1) determining the revenue derived from the tax imposed by this chapter as it applied during that applicable state fiscal year; and

(2) subtracting the revenue the comptroller estimates that the tax imposed by this chapter, as it existed on August 31, 2007, would have generated if it had been in effect for that applicable state fiscal year.

(b) If the amount under Subsection (a) is less than zero, the comptroller shall consider the amount to be zero.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 3 (H.B. 2), Sec. 2(a), eff. September 1, 2007.

SUBCHAPTER J. REFUNDS

Sec. 171.501. REFUND FOR JOB CREATION IN ENTERPRISE ZONE. (a) A corporation that has been certified a qualified business as provided by Chapter 2303, Government Code, may apply for and be granted a refund of franchise tax paid with an initial or annual report if the governing body certifies to the comptroller that the business has created 10 or more new jobs held by qualified employees during the calendar year that contains the end of the accounting period on which the report is based.

(b) Only qualified businesses that have been certified as eligible for a refund under this section by the governing body to the comptroller are entitled to the refund.

(c) Repealed by Acts 2003, 78th Leg., ch. 814, Sec. 6.01(10).

(d) The amount of a refund under this section is the lesser of $5,000 or 25 percent of the amount of franchise tax due for any one privilege period before any other applicable credits. For purposes of this subsection, the initial and second periods are considered to be the same privilege period.

(e) In this section:

(1) "Enterprise zone" and "qualified employee" have the meanings assigned to those terms by Section 2303.003, Government Code.

(2) "Governing body" means the governing body of a municipality or county that applied to have the project or activity of a qualified business designated as an enterprise project under Section 2303.405, Government Code.

(3) "New job" has the meaning assigned "permanent new job" by Section 2303.401, Government Code.

(4) "Qualified business" means a person that is certified as a qualified business under Section 2303.402, Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 25, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 268, Sec. 44, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.59, 5.95(22), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.61, eff. Jan. 1, 2000; Acts 2001, 77th Leg., ch. 1263, Sec. 63, eff. Jan. 1, 2002;

Acts 2003, 78th Leg., ch. 814, Sec. 3.58, 3.59, 6.01(10), eff. Sept. 1, 2003.

SUBCHAPTER L. TAX CREDIT FOR CLEAN ENERGY PROJECT

Sec. 171.601. DEFINITION. In this subchapter, "clean energy project" has the meaning assigned by Section 120.001, Natural Resources Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1109 (H.B. 469), Sec. 1, eff. September 1, 2009.
Transferred, redesignated and amended from Government Code, Subchapter H, Chapter 490 by Acts 2013, 83rd Leg., R.S., Ch. 1003 (H.B. 2446), Sec. 1, eff. June 14, 2013.
Redesignated from Tax Code, Section 171.651 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(46), eff. September 1, 2015.

Sec. 171.602. TAX CREDIT FOR CLEAN ENERGY PROJECT. (a) The comptroller shall adopt rules for issuing to an entity implementing a clean energy project in this state a credit against the tax imposed under this chapter. A clean energy project is eligible for a credit only if the project is implemented in connection with the construction of a new facility.

(b) The comptroller shall issue a credit to an entity operating a clean energy project after:

(1) the Railroad Commission of Texas has issued a certificate of compliance for the project to the entity as provided by Section 120.004, Natural Resources Code;

(2) the construction of the project has been completed;

(3) the electric generating facility associated with the project is fully operational;

(4) the Bureau of Economic Geology of The University of Texas at Austin verifies to the comptroller that the electric generating facility associated with the project is sequestering at least 70 percent of the carbon dioxide resulting from or associated with the generation of electricity by the facility; and

(5) the owner or operator of the project has entered into an interconnection agreement relating to the project with the Electric Reliability Council of Texas.

(c) The total amount of the credit that may be issued to the entity designated in the certificate of compliance for a clean energy project is equal to the lesser of:

(1) 10 percent of the total capital cost of the project, including the cost of designing, engineering, permitting, constructing, and commissioning the project, the cost of procuring land, water, and equipment for the project, and all fees, taxes, and commissions paid and other payments made in connection with the project but excluding the cost of financing the capital cost of the project; or

(2) $100 million.

(d) The total credit that a taxable entity may claim under this section for a report, including the amount of any carryforward credit, may not exceed the amount of franchise tax due by the taxable entity for the report after any applicable tax credits. If a taxable entity is eligible to claim a credit that exceeds the limitation of this subsection, the taxable entity may carry the unused credit forward for not more than 20 consecutive reports. A carryforward is considered the remaining portion of the credit that the taxable entity does not claim in the current year because of the limitation.

(e) The entity designated in the certificate of compliance for a clean energy project may assign the credit to one or more taxable entities. A taxable entity to which the credit is assigned may claim the credit against the tax imposed under this chapter subject to the conditions and limitations of this subchapter.

(f) The comptroller may not issue a credit under this section before the later of:

(1) September 1, 2018; or

(2) the expiration of an agreement under Chapter 313 regarding the clean energy project for which the credit is issued.

Added by Acts 2009, 81st Leg., R.S., Ch. 1109 (H.B. 469), Sec. 1, eff. September 1, 2009.
Transferred, redesignated and amended from Government Code, Subchapter H, Chapter 490 by Acts 2013, 83rd Leg., R.S., Ch. 1003 (H.B. 2446), Sec. 1, eff. June 14, 2013.
Redesignated from Tax Code, Section 171.652 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(46), eff. September 1, 2015.

For expiration of this subchapter, see Section 171.665.

SUBCHAPTER M. TAX CREDIT FOR CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

Sec. 171.651. DEFINITIONS. In this subchapter:

(1) "Internal Revenue Code" means the Internal Revenue Code of 1986 in effect on December 31, 2011, excluding any changes made by federal law after that date, but including any regulations adopted under that code applicable to the tax year to which the provisions of the code in effect on that date applied.

(2) "Public or private institution of higher education" means:

(A) an institution of higher education, as defined by Section 61.003, Education Code; or

(B) a private or independent institution of higher education, as defined by Section 61.003, Education Code.

(3) "Qualified research" has the meaning assigned by Section 41, Internal Revenue Code, except that the research must be conducted in this state.

(4) "Qualified research expense" has the meaning assigned by Section 41, Internal Revenue Code, except that the expense must be for research conducted in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.652. ELIGIBILITY FOR CREDIT. A taxable entity is eligible for a credit against the tax imposed under this chapter in the amount and under the conditions and limitations provided by this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.653. INELIGIBILITY FOR CREDIT FOR CERTAIN PERIODS. (a) A taxable entity is not eligible for a credit on a report against the tax imposed under this chapter for qualified research expenses incurred during the period on which the report is based if the taxable entity, or a member of the combined group if the taxable entity is a combined group, received an exemption under Section

151.3182 during that period.

(b) A taxable entity's ineligibility under this section for a credit on a report for the period on which the report is based does not affect the taxable entity's eligibility to claim a carryforward of unused credit under Section 171.659 on that report.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.654. AMOUNT OF CREDIT. (a) Except as provided by Subsections (b), (c), and (d), the credit for any report equals five percent of the difference between:

(1) the qualified research expenses incurred during the period on which the report is based, subject to Section 171.655; and

(2) 50 percent of the average amount of qualified research expenses incurred during the three tax periods preceding the period on which the report is based, subject to Section 171.655.

(b) If the taxable entity contracts with one or more public or private institutions of higher education for the performance of qualified research and the taxable entity has qualified research expenses incurred in this state by the taxable entity under the contract during the period on which the report is based, the credit for the report equals 6.25 percent of the difference between:

(1) all qualified research expenses incurred during the period on which the report is based, subject to Section 171.655; and

(2) 50 percent of the average amount of all qualified research expenses incurred during the three tax periods preceding the period on which the report is based, subject to Section 171.655.

(c) Except as provided by Subsection (d), if the taxable entity has no qualified research expenses in one or more of the three tax periods preceding the period on which the report is based, the credit for the period on which the report is based equals 2.5 percent of the qualified research expenses incurred during that period.

(d) If the taxable entity contracts with one or more public or private institutions of higher education for the performance of qualified research and the taxable entity has qualified research expenses incurred in this state by the taxable entity under the contract during the period on which the report is based, but has no qualified research expenses in one or more of the three tax periods

preceding the period on which the report is based, the credit for the period on which the report is based equals 3.125 percent of all qualified research expenses incurred during that period.

(e) Notwithstanding whether the time for claiming a credit under this subchapter has expired for any tax period used in determining the average amount of qualified research expenses under Subsection (a)(2) or (b)(2), the determination of which research expenses are qualified research expenses for purposes of computing that average must be made in the same manner as that determination is made for purposes of Subsection (a)(1) or (b)(1). This subsection does not apply to a credit to which a taxable entity was entitled under Subchapter O, as that subchapter existed before January 1, 2008.

(f) The comptroller may adopt rules for determining which research expenses are qualified research expenses for purposes of Subsection (a) or (b) to prevent disparities in those determinations that may result from the taxable entity using different accounting methods for the period on which the report is based, as compared to any preceding tax periods used in determining the average amount of qualified research expenses under Subsection (a)(2) or (b)(2).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.655. ATTRIBUTION OF EXPENSES FOLLOWING TRANSFER OF CONTROLLING INTEREST. (a) If a taxable entity acquires a controlling interest in another taxable entity or in a separate unit of another taxable entity during a tax period with respect to which the acquiring taxable entity claims a credit under this subchapter, the amount of the acquiring taxable entity's qualified research expenses equals the sum of:

(1) the amount of qualified research expenses incurred by the acquiring taxable entity during the period on which the report is based; and

(2) subject to Subsection (d), the amount of qualified research expenses incurred by the acquired taxable entity or unit during the portion of the period on which the report is based that precedes the date of the acquisition.

(b) A taxable entity that sells or otherwise transfers to

another taxable entity a controlling interest in another taxable entity or in a separate unit of a taxable entity during a period on which a report is based may not claim a credit under this subchapter for qualified research expenses incurred by the transferred taxable entity or unit during the period if the taxable entity is ineligible for the credit under Section 171.653 or if the acquiring taxable entity claims a credit under this subchapter for the corresponding period.

(c) If during any of the three tax periods following the tax period in which a sale or other transfer described by Subsection (b) occurs, the taxable entity that sold or otherwise transferred the controlling interest reimburses the acquiring taxable entity for research activities conducted on behalf of the taxable entity that made the sale or other transfer, the amount of the reimbursement is:

(1) subject to Subsection (e), included as qualified research expenses incurred by the taxable entity that made the sale or other transfer for the tax period during which the reimbursement was paid; and

(2) excluded from the qualified research expenses incurred by the acquiring taxable entity for the tax period during which the reimbursement was paid.

(d) An acquiring taxable entity may not include on a report the amount of qualified research expenses otherwise authorized by Subsection (a)(2) to be included if the taxable entity that made the sale or other transfer described by Subsection (b) received an exemption under Section 151.3182 during the portion of the period on which the acquiring taxable entity's report is based that precedes the date of the acquisition.

(e) A taxable entity that makes a sale or other transfer described by Subsection (b) may not include on a report the amount of reimbursement otherwise authorized by Subsection (c)(1) to be included if the reimbursement is for research activities that occurred during a tax period under this chapter during which that taxable entity received an exemption under Section 151.3182.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.656. COMBINED REPORTING. (a) A credit under this

subchapter for qualified research expenses incurred by a member of a combined group must be claimed on the combined report required by Section 171.1014 for the group, and the combined group is the taxable entity for purposes of this subchapter.

(b) An upper tier entity that includes the total revenue of a lower tier entity for purposes of computing its taxable margin as authorized by Section 171.1015 may claim the credit under this subchapter for qualified research expenses incurred by the lower tier entity to the extent of the upper tier entity's ownership interest in the lower tier entity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.657. BURDEN OF ESTABLISHING CREDIT. The burden of establishing entitlement to and the value of the credit is on the taxable entity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.658. LIMITATIONS. The total credit claimed under this subchapter for a report, including the amount of any carryforward credit under Section 171.659, may not exceed 50 percent of the amount of franchise tax due for the report before any other applicable tax credits.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.659. CARRYFORWARD. If a taxable entity is eligible for a credit that exceeds the limitation under Section 171.658, the taxable entity may carry the unused credit forward for not more than 20 consecutive reports. Credits, including credit carryforwards, are considered to be used in the following order:

(1) a credit carryforward of unused credits accrued under Subchapter O before its repeal on January 1, 2008, and claimed as authorized by Section 18(d), Chapter 1 (H.B. 3), Acts of the 79th

Legislature, 3rd Called Session, 2006;

(2) a credit carryforward under this subchapter; and

(3) a current year credit.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.660. ASSIGNMENT PROHIBITED. A taxable entity may not convey, assign, or transfer the credit allowed under this subchapter to another entity unless all of the assets of the taxable entity are conveyed, assigned, or transferred in the same transaction.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.661. APPLICATION FOR CREDIT. A taxable entity must apply for a credit under this subchapter on or with the tax report for the period for which the credit is claimed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.662. RULES. The comptroller shall adopt rules and forms necessary to implement this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.663. REPORTING OF ESTIMATES AND COLLECTION OF INFORMATION. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the legislature and the governor estimates of:

(1) the total number of taxable entities that applied credits under this subchapter against the tax imposed under this chapter;

(2) the total amount of those credits; and

(3) the total amount of unused credits carried forward.

(b) The comptroller may require a taxable entity that claims a credit under this subchapter to complete a form to provide the information necessary for the comptroller to make the evaluations required by Section 151.3182. The information provided on the form is confidential and not subject to disclosure under Chapter 552, Government Code.

(c) The comptroller shall provide the estimates required by this section as part of the report required by Section 403.014, Government Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.664. DEPOSIT OF CERTAIN REVENUE. Notwithstanding any other law, for each fiscal year, the comptroller must deposit to the credit of the property tax relief fund an amount of revenue received from the tax imposed under this chapter sufficient to offset any decrease in deposits to that fund that results from the implementation of this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

Sec. 171.665. EXPIRATION. (a) This subchapter expires December 31, 2026.

(b) The expiration of this subchapter does not affect the carryforward of a credit under Section 171.659 or a credit authorized under this subchapter established before the date this subchapter expires.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1266 (H.B. 800), Sec. 3, eff. January 1, 2014.

SUBCHAPTER S. TAX CREDIT FOR CERTIFIED REHABILITATION OF CERTIFIED HISTORIC STRUCTURES

Sec. 171.901. DEFINITIONS. In this subchapter:

(1) "Certified historic structure" means a property in this state that is:

(A) listed individually in the National Register of Historic Places;

(B) designated as a Recorded Texas Historic Landmark under Section 442.006, Government Code, or as a state archeological landmark under Chapter 191, Natural Resources Code; or

(C) certified by the commission as contributing to the historic significance of:

(i) a historic district listed in the National Register of Historic Places; or

(ii) a local district certified by the United States Department of the Interior in accordance with 36 C.F.R. Section 67.9.

(2) "Certified rehabilitation" means the rehabilitation of a certified historic structure that the commission has certified as meeting the United States secretary of the interior's Standards for Rehabilitation as defined in 36 C.F.R. Section 67.7.

(3) "Commission" means the Texas Historical Commission.

Text of subdivision effective until January 1, 2022

(4) "Eligible costs and expenses" means qualified rehabilitation expenditures as defined by Section 47(c)(2), Internal Revenue Code, except that the depreciation and tax-exempt use provisions of that section do not apply to costs and expenses incurred by an entity exempt from the tax imposed under this chapter by Section 171.063 or by an institution of higher education or university system as defined by Section 61.003, Education Code, and those costs and expenses are eligible costs and expenses if the other provisions of Section 47(c)(2), Internal Revenue Code, are satisfied.

Text of subdivision effective on January 1, 2022

(4) "Eligible costs and expenses" means qualified rehabilitation expenditures as defined by Section 47(c)(2), Internal Revenue Code, except that the depreciation and tax-exempt use provisions of that section do not apply to costs and expenses incurred by an entity exempt from the tax imposed under this chapter by Section 171.063, and those costs and expenses are eligible costs and expenses if the other provisions of Section 47(c)(2), Internal Revenue Code, are satisfied.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 805 (H.B. 3230), Sec. 1, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 8(a), eff. June 14, 2017.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 8(b), eff. January 1, 2022.

Sec. 171.902. ELIGIBILITY FOR CREDIT. An entity is eligible to apply for a credit in the amount and under the conditions and limitations provided by this subchapter against the tax imposed under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Sec. 171.903. QUALIFICATION. An entity is eligible for a credit for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure as provided by this subchapter if:

(1) the rehabilitated certified historic structure is placed in service on or after September 1, 2013;

(2) the entity has an ownership interest in the certified historic structure in the year during which the structure is placed in service after the rehabilitation; and

(3) the total amount of the eligible costs and expenses incurred exceeds $5,000.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Sec. 171.904. CERTIFICATION OF ELIGIBILITY. (a) Before claiming, selling, or assigning a credit under this subchapter, the entity that incurred the eligible costs and expenses in the rehabilitation of a certified historic structure must request from the commission a certificate of eligibility on which the commission certifies that the work performed meets the definition of a certified rehabilitation. The entity must include with the entity's request:

(1) information on the property that is sufficient for the

commission to determine whether the property meets the definition of a certified historic structure; and

(2) information on the rehabilitation, and photographs before and after work is performed, sufficient for the commission to determine whether the rehabilitation meets the United States secretary of the interior's Standards for Rehabilitation as defined in 36 C.F.R. Section 67.7.

(b) The commission shall issue a certificate of eligibility to an entity that has incurred eligible costs and expenses as provided by this subchapter. The certificate must:

(1) confirm that:

(A) the property to which the eligible costs and expenses relate is a certified historic structure; and

(B) the rehabilitation qualifies as a certified rehabilitation; and

(2) specify the date the certified historic structure was first placed in service after the rehabilitation.

(c) The entity must forward the certificate of eligibility and the following documentation to the comptroller to claim the tax credit:

(1) an audited cost report issued by a certified public accountant, as defined by Section 901.002, Occupations Code, that itemizes the eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure by the entity;

(2) the date the certified historic structure was first placed in service after the rehabilitation and evidence of that placement in service; and

(3) an attestation of the total eligible costs and expenses incurred by the entity on the rehabilitation of the certified historic structure.

(d) For purposes of approving the tax credit under Subsection (c), the comptroller may rely on the audited cost report provided by the entity that requested the tax credit.

(e) An entity that sells or assigns a credit under this subchapter to another entity shall provide a copy of the certificate of eligibility, together with the audited cost report, to the purchaser or assignee.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Sec. 171.905. AMOUNT OF CREDIT; LIMITATIONS. (a) The total amount of the credit under this subchapter with respect to the rehabilitation of a single certified historic structure that may be claimed may not exceed 25 percent of the total eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure.

(b) The total credit claimed for a report, including the amount of any carryforward under Section 171.906, may not exceed the amount of franchise tax due for the report after any other applicable tax credits.

(c) Eligible costs and expenses may only be counted once in determining the amount of the tax credit available, and more than one entity may not claim a credit for the same eligible costs and expenses.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Sec. 171.906. CARRYFORWARD. (a) If an entity is eligible for a credit that exceeds the limitation under Section 171.905(b), the entity may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the limitation under Section 171.905(b).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Sec. 171.907. APPLICATION FOR CREDIT. (a) An entity must apply for a credit under this subchapter on or with the report for the period for which the credit is claimed.

(b) An entity shall file with any report on which the credit is claimed a copy of the certificate of eligibility issued by the commission under Section 171.904 and any other information required by the comptroller to sufficiently demonstrate that the entity is eligible for the credit.

(c) The burden of establishing eligibility for and the value of the credit is on the entity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Sec. 171.908. SALE OR ASSIGNMENT OF CREDIT. (a) An entity that incurs eligible costs and expenses may sell or assign all or part of the credit that may be claimed for those costs and expenses to one or more entities, and any entity to which all or part of the credit is sold or assigned may sell or assign all or part of the credit to another entity. There is no limit on the total number of transactions for the sale or assignment of all or part of the total credit authorized under this subchapter, however, collectively all transfers are subject to the maximum total limits provided by Section 171.905.

(b) An entity that sells or assigns a credit under this section and the entity to which the credit is sold or assigned shall jointly submit written notice of the sale or assignment to the comptroller on a form promulgated by the comptroller not later than the 30th day after the date of the sale or assignment. The notice must include:

(1) the date of the sale or assignment;

(2) the amount of the credit sold or assigned;

(3) the names and federal tax identification numbers of the entity that sold or assigned the credit or part of the credit and the entity to which the credit or part of the credit was sold or assigned; and

(4) the amount of the credit owned by the selling or assigning entity before the sale or assignment, and the amount the selling or assigning entity retained, if any, after the sale or assignment.

(c) The sale or assignment of a credit in accordance with this section does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed. After an entity claims a credit for eligible costs and expenses, another entity may not use the same costs and expenses as the basis for claiming a credit.

(d) Notwithstanding the requirements of this subchapter, a credit earned or purchased by, or assigned to, a partnership, limited

liability company, S corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of that entity and claimed under this subchapter in accordance with the provisions of any agreement among the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure, provided that the entity that claims the credit must be subject to the tax imposed under this chapter.

(e) An entity to which all or part of a credit is sold or assigned and that is subject to a premium tax imposed under Chapter 221, 222, 223, or 224, Insurance Code, may claim all or part of the credit against that tax. The provisions of this subchapter, including provisions relating to the total amount of the credit that may be claimed for a report, the carryforward of the credit, and the sale or assignment of the credit, apply with respect to a credit claimed against a tax imposed under Chapter 221, 222, 223, or 224, Insurance Code, to the same extent those provisions apply to a credit claimed against the tax imposed under this chapter. An entity claiming all or part of a credit as authorized by this subsection is not required to pay any additional retaliatory tax levied under Chapter 281, Insurance Code, as a result of claiming that credit.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 3 (S.B. 550), Sec. 1, eff. May 4, 2017.

Sec. 171.909. RULES. The commission and the comptroller shall adopt rules necessary to implement this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

SUBTITLE G. GROSS RECEIPTS AND MIXED BEVERAGE TAXES
CHAPTER 181. CEMENT PRODUCTION TAX
SUBCHAPTER A. TAX

Sec. 181.001. TAX IMPOSED. (a) A tax is imposed on a person who:

(1) manufactures or produces cement in, or imports cement into, the state; and

(2) distributes or sells the cement in intrastate commerce or uses the cement in the state.

(b) The tax is computed on the amount of cement distributed, sold, or used by the person for the first time in intrastate commerce.

(c) The tax applies to only one distribution, sale, or use of cement.

Acts 1981, 67th Leg., p. 1711, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 181.002. RATE OF TAX. The rate of the tax imposed by this chapter is $0.0275 for each 100 pounds or fraction of 100 pounds of taxable cement.

Acts 1981, 67th Leg., p. 1711, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 181.003. PAYMENT OF TAX. (a) The person on whom the tax is imposed by this chapter shall pay the tax to the comptroller at the comptroller's Austin office.

(b) The tax payment is due on the 25th day of each month, and the amount of the tax is computed on the amount of business done during the preceding month by the person on whom the tax is imposed.

Acts 1981, 67th Leg., p. 1711, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 181.004. EXEMPTION: INTERSTATE COMMERCE. The tax imposed by this chapter is not computed on an interstate distribution or sale of cement.

Acts 1981, 67th Leg., p. 1711, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER B. REPORTS AND RECORDS

Sec. 181.051. REPORT. On or before the 25th day of each month, a person on whom the tax is imposed by this chapter shall file with the comptroller a report stating:

(1) the amount of taxable cement distributed, sold, or used by the person during the preceding month;

(2) the amount of cement produced in, imported into, or exported out of the state by the person during the preceding month; and

(3) other information that the comptroller requires to be in the report.

Acts 1981, 67th Leg., p. 1712, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 181.052. RECORDS. (a) A person on whom the tax is imposed by this chapter shall keep a record of the business conducted by the person and of other information that the comptroller requires to be kept.

(b) The record is an open record to the comptroller and the attorney general.

(c) The comptroller shall adopt rules to enforce this section.

Acts 1981, 67th Leg., p. 1712, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER C. ENFORCEMENT

Sec. 181.101. INTEREST ON DELINQUENT TAXES. A tax imposed by this chapter that is delinquent draws interest as provided by Section 111.060 of this code.

Acts 1981, 67th Leg., p. 1712, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 181.102. TAX LIEN. The state has a prior lien for a tax or interest on a tax imposed by this chapter that is delinquent or for a penalty imposed by this chapter. The lien is on the property used in the business of distributing, selling, or using cement by the person on whom the tax is imposed by this chapter.

Acts 1981, 67th Leg., p. 1712, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 181.103. PROHIBITION ON DELINQUENT TAXPAYER; INJUNCTION. (a) A person who is delinquent in the payment of the tax imposed by

this chapter may not engage in an activity or participate in a transaction for which the person is taxed by this chapter.

(b) The attorney general may sue in Travis County or another county having venue to enjoin a person from violating this section.

Acts 1981, 67th Leg., p. 1712, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 181.104. PENALTY. (a) A person on whom the tax is imposed by this chapter and who fails to file a report as required by this chapter or does not pay the tax when it is due forfeits to the state a penalty of five percent of the amount of tax delinquent.

(b) If the report required by this chapter is not filed or the tax imposed by this chapter is not paid within 30 days after it is due, the person on whom the tax is imposed forfeits to the state a penalty of an additional five percent of the amount of tax delinquent.

(c) The minimum penalty under this section is $1.

Acts 1981, 67th Leg., p. 1712, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 451, ch. 93, Sec. 4, eff. Sept. 1, 1983.

Sec. 181.105. CRIMINAL PENALTY. (a) A person who violates a provision of this chapter commits an offense.

(b) An offense under this section is punishable by a fine of not less than $25 nor more than $1,000. A separate offense is committed each day a violation occurs.

Acts 1981, 67th Leg., p. 1712, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER D. RESTRICTION ON MUNICIPALITIES

Sec. 181.151. RESTRICTION ON TAXING AUTHORITY OF MUNICIPALITIES. A municipal corporation may not impose an occupation tax similar to the tax imposed by this chapter.

Acts 1981, 67th Leg., p. 1713, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER E. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE

Sec. 181.201. OCCUPATION TAX. The tax imposed by this chapter is an occupation tax.

Acts 1981, 67th Leg., p. 1713, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 181.202. ALLOCATION OF TAX REVENUE. One-fourth of the revenue from the tax imposed by this chapter shall be deposited to the credit of the foundation school fund and three-fourths to the general revenue fund.

Acts 1981, 67th Leg., p. 1713, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff. Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 4, eff. Sept. 1, 1984.

CHAPTER 182. MISCELLANEOUS GROSS RECEIPTS TAXES

SUBCHAPTER B. UTILITY COMPANIES

Sec. 182.021. DEFINITIONS. In this subchapter:

(1) "Utility company" means a person:

(A) who owns or operates a gas or water works, or water plant used for sale and distribution within an incorporated city or town in this state; or

(B) who owns or operates an electric light or electric power works, or light plant used for sale and distribution within an incorporated city or town in this state, or who is a retail electric provider, as that term is defined in Section 31.002, Utilities Code, that makes sales within an incorporated city or town in this state; provided, however, that a person who owns an electric light or electric power or gas plant used for distribution but who does not make retail sales to the ultimate consumer within an incorporated city or town in this state is not included in this definition.

(2) "Business" means the providing of gas, electric light, electric power, or water.

(3), (4) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 17.06, eff. Sept. 1, 1991.

Acts 1981, 67th Leg., p. 1715, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 5.02, eff.

Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 17.06, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 405, Sec. 55, eff. Sept. 1, 1999.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 102 (S.B. 559), Sec. 1, eff. May 23, 2017.

Sec. 182.022. IMPOSITION AND RATE OF TAX. (a) A tax is imposed on each utility company that makes a sale to an ultimate consumer in an incorporated city or town having a population of more than 1,000, according to the last federal census next preceding the filing of the report.

(b) The tax rates are:

(1) .581 percent of the gross receipts from business done in an incorporated city or town having a population of more than 1,000 but less than 2,500, according to the last federal census next preceding the filing of the report;

(2) 1.07 percent of the gross receipts from business done in an incorporated city or town having a population of 2,500 or more but less than 10,000, according to the last federal census next preceding the filing of the report; and

(3) 1.997 percent of the gross receipts from business done in an incorporated city or town having a population of 10,000 or more, according to the last federal census next preceding the filing of the report.

(c) Notwithstanding any other provision of this chapter, a tax under this chapter may not be imposed on gross receipts from the sale of electricity generated by an advanced clean energy project, as defined by Section 382.003, Health and Safety Code.

Text of subsection effective on January 1, 2024

(d) Notwithstanding any other provisions of this chapter, a tax under this chapter may not be imposed on the gross receipts from the sale of electricity to a public school district customer.

Acts 1981, 67th Leg., p. 1715, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 5.03, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 17.07, eff. Sept. 1, 1991.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. 3732), Sec. 6, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 102 (S.B. 559), Sec. 2, eff. May 23, 2017.

Acts 2019, 86th Leg., R.S., Ch. 53 (H.B. 2263), Sec. 4, eff. January 1, 2024.

Sec. 182.023. PAYMENT OF TAX. Only one utility company pays the tax on a commodity. If the commodity is produced by one utility company and distributed by another, the distributor pays the tax.

Acts 1981, 67th Leg., p. 1715, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.024. POLITICAL SUBDIVISIONS. No city or other political subdivision of this state may impose an occupation tax or charge of any sort on a utility company taxed under this subchapter.

Acts 1981, 67th Leg., p. 1715, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.025. CHARGES BY A CITY. (a) An incorporated city or town may make a reasonable lawful charge for the use of a city street, alley, or public way by a public utility in the course of its business.

(b) The total charges, however designated or measured, may not exceed two percent of the gross receipts of the public utility for the sale of gas or water within the city.

(c) The total charges, however designated or measured, relating to distribution service of an electric utility or transmission and distribution utility within the city may not exceed the amount or amounts prescribed by Section 33.008, Utilities Code. The charges paid by an electric utility or transmission and distribution utility under this subsection may be only for distribution service.

(d) If a public utility taxed under this subchapter pays a special tax, rental, contribution, or charge under a contract or franchise executed before May 1, 1941, the city shall credit the payment against the amount owed by the public utility on any charge allowable under Subsection (a) of this section.

(e) In this section:

(1) "Distribution service" has the meaning assigned by Section 33.008, Utilities Code.

(2) "Electric utility" has the meaning assigned by Section 31.002, Utilities Code.

(3) "Public utility" means:

(A) a person who owns or operates a gas or water works or water plant used for local sale and distribution located within an incorporated city or town in this state; or

(B) an electric utility or transmission and distribution utility providing distribution service within an incorporated city or town in this state.

(4) "Transmission and distribution utility" has the meaning assigned by Section 31.002, Utilities Code.

Acts 1981, 67th Leg., p. 1716, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 405, Sec. 56, eff. Jan. 1, 2002.

Sec. 182.026. SUBCHAPTER NOT APPLICABLE. (a) This subchapter does not apply to a utility company owned and operated by a city, town, county, water improvement district, or conservation district.

(b) This subchapter does not:

(1) affect collection of ad valorem taxes; or

(2) impair or alter a provision of a contract, agreement, or franchise made between a city and a public utility company relating to a payment made to the city.

Acts 1981, 67th Leg., p. 1716, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 5.04, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 17.08, eff. Sept. 1, 1991.

Sec. 182.027. NO EXEMPTION. Notwithstanding anything to the contrary in Chapter 161, Utilities Code, this subchapter applies to a retail electric provider as defined in Section 31.002(17), Utilities Code, that is owned, operated, or controlled by an electric cooperative.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 57, eff. Sept. 1, 1999.

SUBCHAPTER E. TAX COLLECTIONS AND BUSINESS PERMITS

Sec. 182.081. REPORTS. (a) A person required to pay a tax under this chapter shall report to the comptroller on the last day of January, April, July, and October of each year.

(b) A report must include a statement of the gross receipts from business done, as defined in this chapter for each taxpayer, during the preceding quarterly period.

Acts 1981, 67th Leg., p. 1717, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1379, ch. 284, Sec. 10, eff. Sept. 1, 1983.

Sec. 182.082. TAX PAYMENTS: DUE DATE. Except as provided in Section 182.083 of this code, the taxes imposed by this chapter are due and payable to the comptroller on the last day of January, April, July, and October of each year.

Acts 1981, 67th Leg., p. 1717, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1379, ch. 284, Sec. 10, eff. Sept. 1, 1983; Acts 1997, 75th Leg., ch. 1423, Sec. 19.117, eff. Sept. 1, 1997.

Sec. 182.083. PAYMENT OF TAX IF BUSINESS BEGUN AFTER BEGINNING OF QUARTER. (a) Except as provided in Subsection (b) of this section, if a person taxed under this chapter begins business on or after the first day of the quarter, then in lieu of the gross receipts tax provided for in this chapter, the tax for that quarter is $50, payable to the comptroller in advance.

(b) If a person that begins business on or after the first day of the quarter is an incorporation, reincorporation, or survivor of a merger of a person or persons that were previously subject to a tax under this chapter, its report required under Section 182.081 of this code must show the combined gross receipts during the preceding quarterly period of the person or persons that were incorporated, reincorporated, or merged to form the new entity. The gross receipts tax provided for in this chapter must be paid on the reported combined gross receipts required under this subsection.

Acts 1981, 67th Leg., p. 1717, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1985, 69th Leg., ch. 31, Sec. 2, eff. Aug. 26, 1985; Acts 1997, 75th Leg., ch. 1423, Sec. 19.118, eff. Sept. 1, 1997.

Sec. 182.084. ADDITIONAL REPORTS. The comptroller may require a person required to report under this chapter to supply additional or supplemental reports containing information necessary to compute the tax due.

Acts 1981, 67th Leg., p. 1717, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.085. FORMS. The comptroller shall prepare forms for use in making the reports required by this chapter.

Acts 1981, 67th Leg., p. 1718, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.086. PERMIT REQUIRED; FORM OF PERMIT. (a) Each person taxed under this chapter must have a permit to transact business.

(b) The comptroller shall issue the permit in a form prescribed by the attorney general.

(c) A permit shows:

(1) the name of the person to whom it is issued;

(2) the business to be transacted; and

(3) that the holder has complied with this chapter.

(d) The permit must be publicly displayed at the principal office of the person to whom it is issued.

Acts 1981, 67th Leg., p. 1718, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.087. APPLICATION AND ISSUANCE OF PERMIT. (a) The comptroller shall prescribe the form of the application for the permit to transact business.

(b) The application must show:

(1) to the satisfaction of the comptroller the facts required under Section 182.086 of this code; and

(2) that the applicant has paid the taxes required by this chapter or, if the applicant is the buyer of a going business, that

the seller has paid all taxes due or to become due under this chapter.

(c) After determining that all taxes due under this chapter have been paid, the comptroller shall issue the permit to transact business.

(d) Repealed by Acts 1993, 73rd Leg., ch. 587, Sec. 35, eff. Oct. 1, 1993.

(e) Repealed by Acts 1983, 68th Leg., p. 4769, ch. 840, Sec. 1, eff. Aug. 29, 1983.

Acts 1981, 67th Leg., p. 1718, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4769, ch. 840, Sec. 1, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 587, Sec. 35, eff. Oct. 1, 1993.

Sec. 182.088. SUSPENSION OF PERMIT. (a) If taxes due under this chapter are not paid before the expiration of 30 days after the due date, the comptroller shall mail a written notice to the delinquent taxpayer at the last known address stating that:

(1) the tax is unpaid; and

(2) the comptroller will suspend the permit to transact business if the tax is not paid within 10 days of the date of the notice.

(b) The mailing of the notice is sufficient compliance with this law.

(c) If the tax and accrued penalties are not paid before the expiration of 15 days after the mailing of the notice, the comptroller shall:

(1) Note on the records that the permit to transact business of the delinquent taxpayer has been suspended, giving the date of suspension;

(2) immediately certify the suspension to the attorney general; and

(3) have published a notice of suspension of the permit in a daily or weekly newspaper published in the county of the delinquent taxpayer's business or, if there is no newspaper published in that county, in a daily newspaper with statewide circulation.

Acts 1981, 67th Leg., p. 1718, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER F. PENALTIES

Sec. 182.102. PENALTY FOR FAILURE TO FILE REPORT OR TO PAY TAX. (a) A person who fails to file a report as required by this chapter or who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional five percent.

(b) The minimum penalty imposed by this section is $1.

Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 452, ch. 93, Sec. 5, eff. Sept. 1, 1983.

Sec. 182.103. SUITS. (a) The attorney general shall bring suits to collect penalties under this chapter.

(b) The courts of Travis County have concurrent jurisdiction of a violation under this chapter.

Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.104. TRANSACTING BUSINESS WITHOUT A PERMIT: PENALTY. (a) A person commits an offense if the person is required by Section 182.086 of this code to have a permit and the person transacts business without a valid permit.

(b) An offense under Subsection (a) of this section is punishable by a fine of not less than $50 nor more than $500. Each day on which a violation occurs is a separate offense.

Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER G. NATURE AND ALLOCATION OF TAX

Sec. 182.121. NATURE OF TAX. A tax imposed by this chapter is an occupation tax.

Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.122. ALLOCATION OF TAX. Revenues collected under this chapter are allocated:

(1) one-fourth to the foundation school fund; and

(2) three-fourths to the general revenue fund.

Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff. Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 5, eff. Sept. 1, 1984.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. 3732), Sec. 7, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. 3732), Sec. 8, eff. September 1, 2020.

CHAPTER 183. MIXED BEVERAGE TAXES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 183.001. DEFINITIONS. (a) The definitions in Section 1.04, Alcoholic Beverage Code, apply to this chapter.

(b) In this chapter:

Text of subdivision effective until September 1, 2021

(1) "Permittee" means a mixed beverage permittee, a private club registration permittee, a private club exemption certificate permittee, a private club late hours permittee, a daily temporary private club permittee, a private club registration permittee holding a food and beverage certificate, a daily temporary mixed beverage permittee, a mixed beverage late hours permittee, a mixed beverage permittee holding a food and beverage certificate, a caterer permittee, or a distiller's and rectifier's permittee.

Text of subdivision effective on September 1, 2021

(1) "Permittee" means a mixed beverage permittee, a private club registration permittee, a private club exemption certificate permittee, a private club registration permittee with a retailer late hours certificate, a nonprofit entity temporary event permittee, a private club registration permittee holding a food and beverage certificate, a mixed beverage permittee with a retailer late hours certificate, a mixed beverage permittee holding a food and beverage certificate, or a distiller's and rectifier's permittee.

(2) "Business day" means the period beginning at 3 a.m. one

day and ending at 3 a.m. the next day.

(3) "Sales price" has the meaning assigned by Section 151.007, as applicable.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 1001, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 1001, Sec. 7, eff. Sept. 1, 1995. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 106 (S.B. 905), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 4, eff. January 1, 2014.

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 403, eff. September 1, 2021.

SUBCHAPTER B. MIXED BEVERAGE GROSS RECEIPTS TAX

Sec. 183.021. TAX IMPOSED ON GROSS RECEIPTS OF PERMITTEE FROM MIXED BEVERAGES. A tax at the rate of 6.7 percent is imposed on the gross receipts of a permittee received from the sale, preparation, or service of mixed beverages or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 6, eff. January 1, 2014.

Sec. 183.0212. SEPARATE DISCLOSURE OF TAX ALLOWED. (a) For informational purposes only, a permittee may provide that each sales invoice, billing, service check, ticket, or other receipt to a customer for the purchase of an item subject to taxation under this subchapter include:

(1) a separate statement disclosing the amount of tax to be paid by the permittee under this subchapter in relation to that item; or

(2) a statement of the mixed beverage taxes, consisting of the combined amount of the tax to be paid by the permittee under this

subchapter in relation to that item and the amount of tax imposed under Subchapter B-1 on that item.

(b) A statement under Subsection (a)(1) must clearly disclose the amount of tax payable by the permittee.

(c) The tax may not be separately charged to or paid by the customer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 516 (H.B. 2033), Sec. 1, eff. June 17, 2011.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 7, eff. January 1, 2014.

Sec. 183.022. TAX RETURN DUE DATE. (a) A permittee shall file a tax return with the comptroller not later than the 20th day of each month.

(b) The return under this section shall be in a form prescribed by the comptroller and shall include a statement of the total gross taxable receipts during the preceding month and any other information required by the comptroller.

(c) A tax due for a business day that falls in two different months is allocated to the month in which the business day begins.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.
Amended by Acts 1995, 74th Leg., ch. 1001, Sec. 2, eff. Aug. 28, 1995.

Sec. 183.023. PAYMENT. (a) The tax due for the preceding month shall accompany the return and shall be payable to the state.

(b) The comptroller shall deposit the revenue received under this section in the general revenue fund.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(7), eff. June 14, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(7), eff. June 14, 2013.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(7), eff. June 14, 2013.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 71, eff. Sept. 1, 1997.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.06, eff. September 28, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(7), eff. June 14, 2013.

Sec. 183.024. FAILURE TO PAY TAX OR FILE REPORT. (a) A permittee who fails to file a report as required by this subchapter or who fails to pay a tax imposed by this subchapter when due shall pay five percent of the amount due as a penalty, and if the permittee fails to file the report or pay the tax within 30 days after the day the tax or report is due, the permittee shall pay an additional five percent of the amount due as an additional penalty.
(b) The minimum penalty under Subsection (a) is $1.
(c) A delinquent tax draws interest beginning 60 days from the due date.
(d) In addition to any other penalty authorized by this section, a permittee who fails to file a report as required by this subchapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the permittee subsequently files the report or whether any taxes were due from the permittee for the reporting period under the required report.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.09, eff. October 1, 2011.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 8, eff. January 1, 2014.

Sec. 183.025. SECURITY REQUIREMENT. (a) A permittee subject to the tax imposed by this subchapter must comply with the security requirements imposed by Chapter 151 except that a permittee is not required to comply with Section 151.253(b).
(b) The total of bonds, certificates of deposit, letters of credit, or other security determined to be sufficient by the comptroller of a permittee subject to the tax imposed by this

subchapter shall be in an amount that the comptroller determines to be sufficient to protect the fiscal interests of the state. The comptroller may not set the amount of security at less than $1,000 or more than the greater of $100,000 or four times the amount of the permittee's average monthly tax liability.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.
Amended by Acts 2001, 77th Leg., ch. 442, Sec. 24, eff. Sept. 1, 2001.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 9, eff. June 15, 2007.
Transferred, redesignated and amended from Tax Code, Section 183.053 by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 9, eff. January 1, 2014.

Sec. 183.026. AUDIT FREQUENCY. The comptroller shall have the discretion to determine the frequency of mixed beverage tax audits under this subchapter. In determining the frequency of the audit the comptroller may consider the following factors:

(1) reasonable and prudent accounting standards;
(2) the audit history of the permittee;
(3) the effect on state revenues; and
(4) other factors the comptroller deems appropriate.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.
Transferred, redesignated and amended from Tax Code, Section 183.054 by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 10, eff. January 1, 2014.

Sec. 183.027. CREDITS AND REFUNDS FOR BAD DEBTS. (a) A permittee may withhold the payment of the tax under this subchapter on a portion of the gross receipts that remains unpaid by a purchaser if:

(1) during the reporting period in which the mixed beverage is sold, the permittee determines that the unpaid portion will remain unpaid;
(2) the permittee enters the unpaid portion of the sales gross receipts in the permittee's books as a bad debt; and

(3) the bad debt is claimed as a deduction for federal tax purposes during the same or a subsequent reporting period.

(b) If the portion of a debt determined to be bad under Subsection (a) is paid, the permittee shall report and pay the tax on the portion during the reporting period in which payment is made.

(c) A permittee is entitled to credit or reimbursement for taxes paid on the portion of the gross receipts determined to be worthless and actually charged off for federal income tax purposes.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.
Amended by Acts 1995, 74th Leg., ch. 1001, Sec. 3, eff. Aug. 28, 1995.
Transferred, redesignated and amended from Tax Code, Section 183.055 by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 11, eff. January 1, 2014.

SUBCHAPTER B-1. MIXED BEVERAGE SALES TAX

Sec. 183.041. TAX IMPOSED ON SALES OF MIXED BEVERAGES AND RELATED ITEMS. (a) A tax is imposed on each mixed beverage sold, prepared, or served by a permittee in this state and on ice and each nonalcoholic beverage sold, prepared, or served by a permittee in this state for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee.

(b) The rate of the tax is 8.25 percent of the sales price of the item sold, prepared, or served.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 12, eff. January 1, 2014.

Sec. 183.042. DISCLOSURE OF TAX. A permittee may provide that a sales invoice, billing, service check, ticket, or other receipt to a customer for the purchase of an item subject to taxation under this subchapter include:

(1) a statement that mixed beverage sales tax is included in the sales price;

(2) a separate statement of the amount of tax imposed under this subchapter on that item;

(3) a statement of the mixed beverage taxes, consisting of the combined amount of the tax to be paid by the permittee under

Subchapter B in relation to that item and the amount of tax imposed under this subchapter on that item; or

(4) a statement of the combined amount of taxes imposed under this subchapter and Chapter 151 on all items listed on the invoice, billing, service check, ticket, or other receipt.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 12, eff. January 1, 2014.

Sec. 183.0421. TAX RETURN DUE DATE. (a) A permittee shall file a tax return with the comptroller not later than the 20th day of each month.

(b) The return under this section must be in a form prescribed by the comptroller and must include a statement of the total sales and total taxable sales during the preceding month and any other information required by the comptroller.

(c) A tax due for a business day that falls in two different months is allocated to the month in which the business day begins.

Added by Acts 2019, 86th Leg., R.S., Ch. 869 (H.B. 3006), Sec. 1, eff. October 1, 2019.

Sec. 183.0422. PAYMENT. The tax due for the preceding month must accompany the return and must be payable to the state.

Added by Acts 2019, 86th Leg., R.S., Ch. 869 (H.B. 3006), Sec. 1, eff. October 1, 2019.

Sec. 183.043. APPLICABILITY OF OTHER LAW. (a) Except as otherwise provided by this section:

(1) the tax imposed by this subchapter is administered, collected, and enforced in the same manner as the tax under Chapter 151 is administered, collected, and enforced; and

(2) Chapter 151 applies to the tax imposed by this subchapter in the same manner as Chapter 151 applies to the tax imposed under Section 151.051.

(b) Sections 151.027(a), 151.423, and 151.424 do not apply to the tax imposed by this subchapter.

(c) A sale to a permittee of an item described by Section 183.021 is not a sale for resale for purposes of Section 151.302 if the item is mixed with or becomes a component part of a mixed beverage subject to taxation under this subchapter that is served without any consideration paid to the permittee.

(d) An item subject to tax under this subchapter is exempt from the taxes imposed under Subtitle C, Title 3.

(e) To the extent of a conflict between a provision of this subchapter and a provision of Subchapter I, Chapter 151, the provision of this subchapter prevails.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 12, eff. January 1, 2014.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 869 (H.B. 3006), Sec. 2, eff. October 1, 2019.

SUBCHAPTER C. MIXED BEVERAGE TAX CLEARANCE

Sec. 183.051. MIXED BEVERAGE TAX CLEARANCE FUND. (a) Not later than the last day of the month following a calendar quarter, the comptroller shall calculate the total amount of taxes received under Subchapters B and B-1 during the quarter from permittees outside an incorporated municipality within each county and the total amount received from permittees within each incorporated municipality in each county.

(b) The comptroller shall issue to each county described in Subsection (a) a warrant drawn on the general revenue fund in an amount appropriated by the legislature that may not be less than 10.7143 percent of the taxes received from permittees within the county during the quarter and shall issue to each incorporated municipality described in Subsection (a) a warrant drawn on that fund in an amount appropriated by the legislature that may not be less than 10.7143 percent of the taxes received from permittees within the incorporated municipality during the quarter.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.
Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.63, 2.64, eff. Oct. 1, 1999.
Amended by:
Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 58.01, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 13, eff. January 1, 2014.

Sec. 183.052. CONFLICT OF RULES. If a rule or policy adopted by the Texas Alcoholic Beverage Commission conflicts with a rule adopted by the comptroller for the application, enforcement, or collection of a tax imposed by this chapter, the comptroller's rule prevails. A conflicting rule or policy adopted by the commission is invalid to the extent of the inconsistency. If the comptroller determines that a rule or policy adopted by the commission conflicts with one adopted by the comptroller relating to the application, enforcement, or collection of a tax imposed by this chapter, the comptroller shall notify the commission in writing of the determination. After receipt of the notification, the commission must amend or repeal the conflicting rule or policy not later than the 90th day after the date of notification.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 14, eff. January 1, 2014.

SUBTITLE H. BUSINESS PERMIT TAXES
CHAPTER 191. MISCELLANEOUS OCCUPATION TAXES
SUBCHAPTER E. OIL WELL SERVICE

Sec. 191.081. DEFINITION. In this subchapter, "oil well service" means cementing the casing seat of an oil or gas well, shooting, fracturing, or acidizing the sands or other formations of the earth in an oil or gas well, or surveying or testing the sands or other formations or their contents in an oil or gas well by using instruments or equipment at least a part of which are located in the well bore when the survey or test is made.

Acts 1981, 67th Leg., p. 1723, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.082. TAX IMPOSED. (a) A tax is imposed on each person who engages in the business of providing any oil well service

for another for consideration and who:

(1) owns, controls, or furnishes the tools, instruments, and equipment used in providing the oil well service; or

(2) uses any chemical, electrical, or mechanical process in providing the service at any oil or gas well during and in connection with the drilling and completion, or reworking or reconditioning, of the well.

(b) The tax imposed by this subchapter does not apply to the business of drilling or reworking an oil or gas well or to a service incidental to that business performed by persons engaged in the business of drilling or reworking.

Acts 1981, 67th Leg., p. 1723, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.083. TAX RATE. The rate of the tax imposed by this subchapter is 2.42 percent of the gross amount received for service after deduction for the reasonable value at the well of material used, consumed, or expended in or incorporated into the well.

Acts 1981, 67th Leg., p. 1723, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.084. REPORT AND TAX PAYMENT. (a) A person subject to the tax shall report the amount received from taxable services during the preceding calendar month.

(b) The comptroller shall prescribe and furnish the form for the report.

(c) The person subject to the tax shall pay the tax to the comptroller at the comptroller's office in Austin on or before the 20th day of each month.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.085. RECORD. (a) A person subject to the tax shall keep a complete record of business transacted and any other information the comptroller requires.

(b) The person shall keep the record open for four years for inspection by the comptroller or the attorney general.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.65, eff. Oct. 1, 1999.

Sec. 191.086. PENALTY. A person who violates this subchapter forfeits and shall pay to the state a penalty of not less than $25 nor more than $500. A separate offense is committed each day on which a violation occurs.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.087. FAILURE TO FILE REPORT OR PAY TAX. (a) If a person taxed under this subchapter fails to file a report required by this subchapter or to pay the tax imposed by this subchapter when due, the person forfeits five percent of the amount of tax due as a penalty. If the person then fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional penalty of five percent of the amount of the tax.

(b) The minimum penalty imposed by this section is $1.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 452, ch. 93, Sec. 6, eff. Sept. 1, 1983.

Sec. 191.088. STATE TAX LIEN. The taxes, penalties, interests, and costs that a person owes the state under this subchapter are secured by a preferred lien, first and prior to other existing liens, contract or statutory, legal or equitable, on all property of the person used in the person's business.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.089. PERMIT REQUIRED. A person subject to the tax imposed by this subchapter shall acquire the permit required by Section 182.086 of this code. Application, issuance, and suspension of the permit are subject to Sections 182.087 and 182.088 of this

code.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER F. TAX RECEIPT

Sec. 191.101. TAX RECEIPT AS PERMIT. (a) The receipt from the comptroller for tax payment is the permit to do business unless a separate permit is required by law.

(b) A person may not receive a permit to do or continue to do business in this state until the person pays the tax imposed by this chapter.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.119, eff. Sept. 1, 1997.

Sec. 191.102. DISPLAY OF PERMIT; PENALTY. (a) A person commits an offense if the person, without displaying the receipt for the tax imposed by this chapter, engages in a business taxed under this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than $50.

Acts 1981, 67th Leg., p. 1724, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4769, ch. 840, Sec. 2, eff. Aug. 29, 1983.

SUBCHAPTER G. NATURE AND ALLOCATION OF TAX

Sec. 191.121. NATURE OF TAX. A tax imposed by this chapter is an occupation tax.

Acts 1981, 67th Leg., p. 1725, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 191.122. ALLOCATION OF TAX. One-fourth of the revenue collected under this chapter shall be deposited to the credit of the foundation school fund and three-fourths to the credit of the general revenue fund.

Acts 1981, 67th Leg., p. 1725, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff. Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 6, eff. Sept. 1, 1984.

SUBTITLE I. SEVERANCE TAXES
CHAPTER 201. GAS PRODUCTION TAX
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 201.001. DEFINITIONS. In this chapter:

(1) "Casinghead gas" means gas or vapor indigenous to an oil stratum and produced from the stratum with oil.

(2) "Condensate" means liquid hydrocarbon that is or can be recovered from gas by a separator, but does not include liquid hydrocarbon recovered from gas by refrigeration or absorption and separated by a fractionating process.

(3) "First purchaser" means a person who purchases gas from a producer.

(4) "Gas" means natural gas, casinghead gas, or other gas taken from the earth or water, whether produced from a gas well or a well also producing oil, distillate or condensate or both, or other products.

(5) "Producer" means a person who takes gas from the earth or water, a person who owns, controls, manages, or leases a gas well, or a person who owns an interest, including a royalty interest, in gas or its value, whether the gas is produced by the person owning the interest or by another on his behalf by lease, contract, or other arrangement.

(6) "Production" or "gas produced" means the gross amount of gas taken from the earth or water as determined by meter readings that show 100 percent of the gas taken expressed in cubic feet.

(7) "Royalty interest" means an interest in mineral rights in a producing leasehold in the state, but does not include the interest of the person having the management and operation of a well.

(8) "Sour gas" means gas with more than 1-1/2 grains of hydrogen sulfide per 100 cubic feet or more than 30 grains of sulphur per 100 cubic feet.

(9) "Subsequent purchaser" means a person who purchases gas from a person other than the producer of the gas.

(10) "Sweet gas" means gas other than sour gas or

casinghead gas.

Acts 1981, 67th Leg., p. 1728, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.002. MEASUREMENT OF VOLUME OF GAS. The provisions of Section 91.052 of the Standard Gas Measurement Law, Subchapter C, Chapter 91, Natural Resources Code, apply to this code.

Acts 1982, 67th Leg., p. 1729, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER B. TAX IMPOSED

Sec. 201.051. TAX IMPOSED. There is imposed a tax on each producer of gas.

Acts 1981, 67th Leg., p. 1729, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.052. RATE OF TAX. (a) The tax imposed by this chapter is at the rate of 7.5 percent of the market value of gas produced and saved in this state by the producer.

(b) Repealed by Acts 2001, 77th Leg., ch. 1263, Sec. 84(3), eff. October 1, 2001.

Acts 1981, 67th Leg., p. 1729, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 84(3), eff. Oct. 1, 2001.

Sec. 201.053. GAS NOT TAXED. The tax imposed by this chapter does not apply to gas:

(1) injected into the earth in this state, unless sold for that purpose;

(2) produced from oil wells with oil and lawfully vented or flared;

(3) used for lifting oil, unless sold for that purpose; or

(4) produced in this state from a well that qualifies under Section 202.056 or 202.060.

Acts 1981, 67th Leg., p. 1729, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1993, 73rd Leg., ch. 1015, Sec. 2, eff. Sept. 1, 1993.
Amended by:
Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 7, eff. January 1, 2006.

Sec. 201.054. TAX ON LIQUID HYDROCARBONS. (a) There is imposed on each producer a tax on the market value of liquid hydrocarbons, other than condensate, recovered from gas produced in the state by a producer.

(b) The rate of the tax imposed by this section is the same as the rate of the tax imposed by Section 201.052 of this code.

Acts 1981, 67th Leg., p. 1729, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.055. TAX ON CONDENSATE. (a) There is imposed on each producer a tax measured by the amount of condensate recovered from gas produced in this state by a producer.

(b) The tax imposed by this section is at the same rate as the rate of the tax imposed on oil by Section 202.052 of this code.

Acts 1981, 67th Leg., p. 1729, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.057. TEMPORARY EXEMPTION OR TAX REDUCTION FOR CERTAIN HIGH-COST GAS. (a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "High-cost gas" means high-cost natural gas as described by Section 107, Natural Gas Policy Act of 1978 (15 U.S.C. Section 3317), as that section existed on January 1, 1989, without regard to whether that section is in effect or whether a determination has been made that the gas is high-cost natural gas for purposes of that Act.

(3) Repealed by Acts 2017, 85th Leg., R.S., Ch. 358 (H.B. 2277), Sec. 3, eff. September 1, 2017.

(4) Repealed by Acts 2017, 85th Leg., R.S., Ch. 358 (H.B. 2277), Sec. 3, eff. September 1, 2017.

(5) Repealed by Acts 2017, 85th Leg., R.S., Ch. 358 (H.B. 2277), Sec. 3, eff. September 1, 2017.

(6) "Operator" means the person responsible for the actual physical operation of an oil or gas well.

(7) "Consecutive months" means months in consecutive order, regardless of whether or not a well produces oil or gas during any or all such months.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 358 (H.B. 2277), Sec. 3, eff. September 1, 2017.

(c) High-cost gas produced from a well that is spudded or completed after August 31, 1996, is entitled to a reduction of the tax imposed by this chapter for the first 120 consecutive calendar months beginning on the first day of production, or until the cumulative value of the tax reduction equals 50 percent of the drilling and completion costs incurred for the well, whichever occurs first. The amount of tax reduction shall be computed by subtracting from the tax rate imposed by Section 201.052 the product of that tax rate times the ratio of drilling and completion costs incurred for the well to twice the median drilling and completion costs for high-cost wells spudded or completed during the previous state fiscal year, except that the effective rate of tax may not be reduced below zero.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 358 (H.B. 2277), Sec. 3, eff. September 1, 2017.

(e) The operator of a proposed or existing gas well, including a gas well that has not been completed, may apply to the commission for certification that the well produces or will produce high-cost gas. The application may be made at any time after the first day of production. The application may be made but is not required to be made concurrently with a request for a determination that gas produced from the well is high-cost natural gas for purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.). The commission may require an applicant to provide the commission with any relevant information required to administer this section. For purposes of this section, a determination that gas is high-cost natural gas for purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.) is a certification that the gas is high-cost gas for purposes of this section, and in that event additional certification is not required to qualify for the tax reduction provided by this section.

(f) To qualify for the tax reduction provided by this section, the person responsible for paying the tax must apply to the

comptroller. The application must contain the certification of the commission that the well produces high-cost gas and must contain a report of drilling and completion costs incurred for each well on a form and in the detail as determined by the comptroller. Drilling and completion costs for a recompletion shall only include current and contemporaneous costs associated with the recompletion. Notwithstanding any other provision of this section, to obtain the maximum tax reduction, an application to the comptroller for certification according to Subsection (a)(2) must be filed with the comptroller at the later of the 180th day after the date of first production or the 45th day after the date of approval by the commission. If the application is not filed by the applicable deadline, the tax reduction is reduced by 10 percent for the period beginning on the 180th day after the first day of production and ending on the date on which the application is filed with the comptroller. The comptroller shall approve the application of a person who demonstrates that the gas is eligible for the tax reduction. The comptroller may require a person applying for the tax reduction to provide any relevant information in the person's monthly report that the comptroller considers necessary to administer this section. The commission shall notify the comptroller in writing immediately if it determines that a well previously certified as producing high-cost gas does not produce high-cost gas or if it takes any action or discovers any information that affects the eligibility of gas for a tax reduction under this section.

(g) As soon as practicable after March 1 of each year, the comptroller shall determine the median drilling and completion cost for all high-cost wells for which an application for a tax reduction was made during the previous state fiscal year. In making the determination, the comptroller shall use the drilling and completion cost data required to be reported to the comptroller under Subsection (f). The median drilling and completion cost shall be used to compute the reduced tax under Subsection (c) and is fixed on the date of the comptroller's determination under this subsection.

(g-1) The report of drilling and completion costs required under Subsection (f) may not be amended after March 1 of the year following the state fiscal year in which the application was made.

(h) Information regarding drilling and completion costs included on an application under Subsection (f) is confidential and may not be disclosed, except to the extent aggregated with other

similar information to produce industry averages. Unauthorized disclosure is an offense subject to the same penalty as provided by Section 111.007 for unauthorized disclosure of federal tax return information.

(i) If, before the commission certifies that a well produces high-cost gas or before the comptroller approves an application for a tax reduction under this section, the tax imposed by this chapter is paid on high-cost gas that otherwise qualifies for the tax reduction provided by this section, the person who remitted the tax is entitled to a refund in an amount equal to the difference between the amount of the tax paid on the gas and the amount of tax that would have been paid on the gas if it had received a tax reduction under this section. The total allowable refund for taxes paid for reporting periods before the date the application is filed may not exceed the total tax paid on the gas that otherwise qualified for the tax reduction and that was produced during the 24 consecutive calendar months immediately preceding the month in which the application for certification under this section that the comptroller approved was filed with the commission. To receive a refund, the person entitled to the refund must apply to the comptroller for the refund not later than the first anniversary after the date the comptroller approves the application for a tax reduction under this section.

(j) Repealed by Acts 2017, 85th Leg., R.S., Ch. 358 (H.B. 2277), Sec. 3, eff. September 1, 2017.

Added by Acts 1989, 71st Leg., ch. 1197, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 958, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 895, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1040, Sec. 52, 53, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 365, Sec. 1, eff. Aug. 30, 1999; Acts 2003, 78th Leg., ch. 209, Sec. 52, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 110, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 358 (H.B. 2277), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 358 (H.B. 2277), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 358 (H.B. 2277), Sec. 3, eff. September 1, 2017.

Sec. 201.058. TAX EXEMPTIONS. (a) The exemptions described by Sections 202.056, 202.057, and 202.060 apply to the taxes imposed by this chapter as authorized by and subject to the certifications and approvals required by those sections.

(b) Operators increasing production by marketing gas from an oil well or lease that has been released into the air for 12 months or more pursuant to the rules of the commission shall be entitled to an exemption from the tax imposed by this chapter on the production resulting from the marketing of such gas for the life of the well or lease.

Added by Acts 1995, 74th Leg., ch. 989, Sec. 3, eff. Jan. 1, 1996.
Amended by Acts 1997, 75th Leg., ch. 1060, Sec. 1, eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 8, eff. January 1, 2006.

Acts 2009, 81st Leg., R.S., Ch. 10 (S.B. 997), Sec. 1, eff. September 1, 2009.

Subsec. (g) of this section provided for the expiration of the section on Sept. 1, 2007. Subsec. (g) was repealed by Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 4, which was effective January 1, 2008, after the section had expired.

Sec. 201.059. CREDITS FOR QUALIFYING LOW-PRODUCING WELLS. (a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Mcf" means 1,000 cubic feet of gas as measured in accordance with Section 91.052, Natural Resources Code.

(3) "Qualifying low-producing well" means a gas well whose production during a three-month period is no more than 90 mcf per day, excluding gas flared pursuant to the rules of the commission. For purposes of qualifying a gas well, production per well per day is determined by computing the average daily production from the well using the greater of the monthly production from the well as reported in the monthly well production reports made to the commission and the monthly production from the well as reported in the producer's reports made to the comptroller under Section 201.203, including any amendments to those reports.

(b) Each month, the comptroller shall certify the average taxable price of gas, adjusted to 2005 dollars, during the previous three months based on various price indices available to producers, including prices reported by Henry Hub, Houston Ship Channel, Mississippi Barge Transport, New York Mercantile Exchange, or other spot prices, as applicable. The comptroller shall publish certifications under this subsection in the Texas Register.

(c) An operator of a qualifying low-producing well is entitled to a 25 percent credit on the tax otherwise due on gas produced and saved from that well during a month if the average taxable price of gas certified by the comptroller under Subsection (b) for the previous three-month period is more than $3 per mcf but not more than $3.50 per mcf.

(d) An operator of a qualifying low-producing well is entitled to a 50 percent credit on the tax otherwise due on gas produced and saved from that well during a month if the average taxable price of gas certified by the comptroller under Subsection (b) for the previous three-month period is more than $2.50 per mcf but not more than $3 per mcf.

(e) An operator of a qualifying low-producing well is entitled to a 100 percent credit on the tax otherwise due on gas produced and saved from that well during a month if the average taxable price of gas certified by the comptroller under Subsection (b) for the previous three-month period is not more than $2.50 per mcf.

(f) If the tax is paid on gas at the full rate provided by Section 201.052, the person paying the tax is entitled to a credit against taxes imposed by this chapter or Chapter 202 on the amount overpaid. To receive the credit, the person must apply to the comptroller for the credit not later than the expiration of the applicable period for filing a tax refund under Section 111.104.

Subsec. (g) was repealed by Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 4. The effective date of the repeal was January 1, 2008, which was after the expiration of the section.

(g) This section expires September 1, 2007.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 911, Sec. 4, eff. January 1, 2008.

Added by Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 9, eff. September 1, 2005.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 4, eff. January 1, 2008.

Acts 2019, 86th Leg., R.S., Ch. 75 (S.B. 925), Sec. 1, eff. September 1, 2019.

Sec. 201.060. EXEMPTION OF GAS INCIDENTALLY PRODUCED IN ASSOCIATION WITH THE PRODUCTION OF GEOTHERMAL ENERGY. Gas incidentally produced in association with the production of geothermal energy is not subject to the tax imposed by this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1036 (H.B. 4433), Sec. 1, eff. September 1, 2009.

SUBCHAPTER C. DETERMINING VALUE

Sec. 201.101. MARKET VALUE. (a) The market value of gas is its value at the mouth of the well from which it is produced. The value of gas at the mouth of the well is determined by ascertaining the producer's actual marketing costs and subtracting those costs from the producer's gross cash receipts from the sale of the gas.

(b) Marketing costs are the costs incurred by the producer to get the gas from the mouth of the well to the market, including:

(1) costs for compressing the gas sold;

(2) costs for dehydrating the gas sold;

(3) costs for sweetening the gas sold; and

(4) costs for delivering the gas to the purchaser.

(c) Marketing costs do not include:

(1) costs incurred in producing the gas;

(2) costs incurred in normal lease separation of the oil or condensate; or

(3) insurance premiums on the marketing facility.

(d) Marketing costs are determined by adding:

(1) a reasonable charge for depreciation of the marketing facility being used, provided that, if the facility is rented, the actual rental fee is added;

(2) a return on the producer-owned investment equal to six percent per year on the average depreciable balance;

(3) costs of direct or allocated labor associated with the marketing facility;

(4) costs of materials, supplies, maintenance, repairs, and fuel associated with the marketing facility; and

(5) ad valorem taxes paid on the marketing facility.

(e) If the facility is used for a purpose other than marketing the gas being sold, the cost shall be allocated accordingly.

(f) If the facility is handling gas for outside parties, the average cost for handling all of the gas shall be applied against the facility owner's gas.

(g) The actual cost being charged a producer by an outside party for marketing functions may be used for tax purposes if no other benefit or value accrues to the producer.

(h) A producer receiving a cost reimbursement from the gas purchaser shall include the reimbursement in the gross cash receipts and is entitled to deduct the actual marketing costs incurred.

Acts 1981, 67th Leg., p. 1730, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 111, eff. Sept. 1, 2003.

Sec. 201.102. CASH SALES. If gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. Payments from a purchaser of gas to a producer for the purpose of reimbursing the producer for taxes due under this chapter are not part of the gross cash receipts.

Acts 1981, 67th Leg., p. 1730, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 112, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 10, eff. September 1, 2005.

Sec. 201.103. VALUE IF CONSIDERATION INCLUDES EXTRACTS. If the consideration for the sale of gas includes products extracted from the gas, a portion of the residue gas, or both, the tax shall be computed on the gross value of all things of value received by the producer, including a bonus or premium.

Acts 1981, 67th Leg., p. 1730, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.104. RETURNED CYCLE GAS. (a) If gas is processed for its liquid hydrocarbon content and the residue gas is returned to a gas-producing formation by cycling methods, as distinguished from repressuring or pressure maintenance methods, the taxable value of the gas is three-fifths the value of all liquid hydrocarbons extracted, separated, and saved from the gas.

(b) The value of the liquid hydrocarbons for the purpose of this section is the highest posted price of crude oil in the field where the gas is produced. If no oil is produced in that field, the value is the highest posted price for crude oil in the nearest oil field.

(c) The value of the liquid hydrocarbons is determined when they are extracted and separated from gas and before they are absorbed, refined, or processed. The quantity of the liquid hydrocarbons is the yield from the gas at the processing plant.

(d) The valuation method prescribed by this section controls over the valuation methods described in Sections 201.102 and 201.103 of this code only in circumstances in which Subsection (a) of this section applies.

Acts 1981, 67th Leg., p. 1730, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.105. VALUE OF LIQUID HYDROCARBONS OTHER THAN CONDENSATE. The taxable value of liquid hydrocarbons other than condensate is the producer's total gross receipts for all liquid hydrocarbons, including condensate, recovered from gas produced by him less the taxable value of the condensate recovered from that gas.

Acts 1981, 67th Leg., p. 1730, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.106. VALUE OF CONDENSATE. The value of condensate for the purpose of computing the tax due on it is the prevailing price for condensate in the general area where it is recovered.

Acts 1981, 67th Leg., p. 1730, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER D. RECORDS

Sec. 201.151. PRODUCER'S RECORDS. A producer shall keep accurate records of all gas the producer produces. The records shall be kept in the state.

Acts 1981, 67th Leg., p. 1731, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.152. PURCHASER'S RECORDS. A purchaser shall keep accurate records of all gas the purchaser purchases. The records shall be kept in the state.

Acts 1981, 67th Leg., p. 1731, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER E. REPORTS AND PAYMENTS

Sec. 201.201. TAX DUE. The tax imposed by this chapter for gas produced and saved is due at the office of the comptroller in Austin on the 20th day of the second month following the month of production.

Acts 1981, 67th Leg., p. 1731, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1995, 74th Leg., ch. 1000, Sec. 63, eff. Oct. 1, 1995.

Sec. 201.202. PAYMENT OF TAX. The tax imposed by this chapter must be paid by legal tender or cashier's check payable to the comptroller.

Acts 1981, 67th Leg., p. 1731, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.120, eff. Sept. 1, 1997.

Sec. 201.203. PRODUCER'S REPORT. (a) On or before the 20th day of the second month following the month in which gas was produced, the producer shall file a report with the comptroller on forms prescribed by the comptroller. The report must contain the following information concerning gas produced during the month being reported:

(1) the gross amount of gas produced that is subject to the tax imposed by this chapter;

(2) the leases from which the gas was produced;

(3) the names and addresses of the first purchasers of the gas; and

(4) other information the comptroller may reasonably require.

(b) If the report the producer is required to file shows additional tax due, the producer must pay the additional tax when he files the report.

(c) If the producer is required to report and pay the tax under Section 201.2041 of this code, the producer's report shall include for that gas any additional information required to be reported by a first purchaser under Section 201.2035 of this code for gas for which the first purchaser is required to pay the tax.

Acts 1981, 67th Leg., p. 1731, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1378, ch. 284, Sec. 8, eff. Sept. 1, 1983; Acts 1987, 70th Leg., 2nd C.S., ch. 6, art. 4, Sec. 1, eff. July 21, 1987; Acts 1999, 76th Leg., ch. 1183, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 10 (S.B. 997), Sec. 2, eff. September 1, 2009.

Sec. 201.2035. FIRST PURCHASER'S REPORT. (a) On or before the 20th day of the second month following the month in which gas was purchased from a producer, the first purchaser must file a report with the comptroller on forms prescribed by the comptroller. The report must contain the following information concerning gas purchased from a producer during the month being reported:

(1) the gross amount of gas purchased from each producer;

(2) the price paid for the gas;

(3) the leases from which the gas was produced; and

(4) other information the comptroller may reasonably require.

(b) If the report the first purchaser is required to file shows any additional tax due, the first purchaser must pay the tax when he files the report.

Added by Acts 1983, 68th Leg., p. 1378, ch. 284, Sec. 9, eff. Sept. 1, 1983. Amended by Acts 1999, 76th Leg., ch. 1183, Sec. 3, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 10 (S.B. 997), Sec. 3, eff. September 1, 2009.

Sec. 201.204. FIRST PURCHASER TO PAY TAX. (a) Except as provided by Section 201.2041, a first purchaser shall pay the tax imposed by this chapter on gas that the first purchaser purchases from a producer and takes delivery on the premises where the gas is produced.

(b) A first purchaser shall withhold from payments to the producer the amount of the tax that the first purchaser is required to pay. This subsection does not affect a lease or contract between the state or a political subdivision of the state and a producer.

(c) Money withheld by a first purchaser under this section is held in trust for the use and benefit of the state and may not be commingled with other funds of the first purchaser.

Acts 1981, 67th Leg., p. 1731, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 6, art. 4, Sec. 2, eff. July 21, 1987.

Sec. 201.2041. PRODUCER TO PAY TAX ON CERTAIN GAS. If the first purchaser takes delivery of gas off the premises on which the gas is produced, the producer shall report and pay the tax imposed by this chapter on the volume of gas produced from the premises. In that event, the first purchaser is not required to report the purchase of the gas on the report required by Section 201.2035 of this code or pay the tax on that gas.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 6, art. 4, Sec. 3, eff. July 21, 1987.

Sec. 201.205. TAX BORNE RATABLY. The tax shall be borne ratably by all interested parties, including royalty interests. Producers or purchasers of gas, or both, are authorized and required

to withhold from any payment due interested parties the proportionate tax due and remit it to the comptroller.

Acts 1981, 67th Leg., p. 1731, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.206. TRANSFER OF OWNERSHIP. (a) If a gas-producing lease is transferred or is to be transferred, the producer transferring the lease shall note the name and address of the producer acquiring the lease and the date of the transfer on the last report that covers the lease and that he is required by Section 201.203 of this code to file.

(b) If a gas-producing lease is transferred, the producer acquiring the lease shall note the date of the transfer and the name and address of the person from whom the lease was acquired on the first report that covers the lease and that he is required by Section 201.203 of this code to file.

Acts 1981, 67th Leg., p. 1732, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.207. DETERMINATION OF OVERPAID AMOUNTS. (a) This section applies to the tax paid under this chapter by a person who filed a report under Section 201.203 or 201.2035 and remitted tax in error to this state.

(b) A person to whom this section applies may compute the amount of overpayment using a sampling of marketing cost transactions if the comptroller approves the sampling method.

(c) The person may obtain reimbursement for amounts determined to have been overpaid by taking a credit on one or more reports filed under Section 201.203 or 201.2035 or by filing a claim for refund with the comptroller within the limitation period specified by Section 111.107 and Subchapter D, Chapter 111.

(d) The person must record the method by which the computation of the overpayment is performed and must make available on request by the comptroller the records on which the computation is based.

(e) The comptroller may adopt rules specifying additional procedures that must be followed in connection with claiming a credit under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1113 (H.B. 2256), Sec. 1,

eff. September 1, 2019.

SUBCHAPTER F. LIABILITY FOR TAX

Sec. 201.251. LIABILITY OF PRODUCER AND PURCHASER. (a) The tax imposed by this chapter is the primary liability of the producer and, except as provided by Subsection (b) of this section, is a liability of the first purchaser and each subsequent purchaser. Failure of the first purchaser to pay the tax does not relieve the producer or a subsequent purchaser from liability for the tax. A purchaser of gas produced in the state shall satisfy himself that the tax on that gas has been or will be paid by the person liable for the tax.

(b) The first purchaser is not liable for the tax imposed by this chapter on gas for which the producer is required to pay the tax as provided by Section 201.2041 of this code, unless the first purchaser purchases the gas for resale or resells the gas.

Acts 1981, 67th Leg., p. 1732, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 6, art. 4, Sec. 4, eff. July 21, 1987.

Sec. 201.252. PRODUCER'S REMEDY. If a purchaser withholds the amount of the tax imposed by this chapter from payments to a producer for the sale of gas and fails to pay the tax as provided by this chapter, the producer may sue the purchaser to recover the amount of the tax withheld, penalties and interest that have accrued from failure to pay the tax, court costs, and reasonable attorney's fees.

Acts 1981, 67th Leg., p. 1732, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER G. ENFORCEMENT

Sec. 201.301. INVESTIGATIONS. The comptroller may enter the premises of a taxpayer liable for a tax imposed by this chapter or any other premises necessary to determine tax liability in order to examine books or records of a person subject to a tax imposed by this chapter or to secure any information related to the enforcement of this chapter.

Acts 1981, 67th Leg., p. 1732, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.302. AUDITS. (a) The comptroller shall employ auditors and other technical assistants to verify reports and investigate the affairs of producers and purchasers to determine whether the tax is properly reported and paid.

(b) A producer who has failed to pay the proper amount of tax, a penalty, or interest due is liable for the reasonable expenses incurred by representatives of the comptroller in the investigation or the reasonable value of their services. The amount for which the producer is liable under this subsection is an additional penalty.

Acts 1981, 67th Leg., p. 1732, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.3021. MANAGED AUDITS. (a) In this section, "managed audit" means a review and analysis of invoices, checks, accounting records, or other documents or information conducted by a taxpayer to determine a taxpayer's liability for tax under this chapter.

(b) The comptroller may, in a written agreement, authorize a taxpayer to conduct a managed audit under this section. The agreement must:

(1) be signed by an authorized representative of the comptroller and the taxpayer; and

(2) specify the period to be audited and the procedure to be followed.

(c) The decision to authorize or not authorize a managed audit rests solely with the comptroller.

(d) In determining whether to authorize a managed audit under this section, the comptroller may consider:

(1) the taxpayer's history of tax compliance;

(2) whether the taxpayer has sufficient time and resources to conduct the audit;

(3) the sufficiency and availability of the taxpayer's tax records;

(4) the taxpayer's ability to pay any liability arising as a result of the audit; and

(5) any other factor the comptroller determines is relevant.

(e) A managed audit may be limited to one or more factors affecting a taxpayer's liability for tax under this chapter, including:

(1) gross value of gas produced;

(2) exempt interest;

(3) marketing costs of gas produced;

(4) gas used to power operations at a well or lease; or

(5) tax reimbursement paid by a purchaser to a producer.

(f) The comptroller may examine records and perform reviews that the comptroller determines are necessary before the audit is finalized to verify the results of the audit.

(g) Unless the audit or information reviewed by the comptroller under Subsection (f) discloses fraud or wilful evasion of the tax, the comptroller may not assess a penalty and may waive all or part of the interest that would otherwise accrue on any amount identified to be due in a managed audit. This subsection does not apply to any amount collected by the taxpayer that was a tax or represented to be a tax but that was not remitted to this state.

(h) Except as provided by Section 111.104(f), the taxpayer is entitled to a refund of any tax overpayment disclosed by a managed audit under this section.

(i) The comptroller may adopt rules and establish procedures to administer this section, including procedures that must be followed when conducting a managed audit under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1113 (H.B. 2256), Sec. 2, eff. September 1, 2019.

Sec. 201.303. TAX LIEN. (a) If a tax imposed by this chapter is delinquent or if interest or a penalty on a delinquent tax has not been paid, the state has a prior lien for the tax, penalty, and interest on all property and equipment used by the producer to produce gas.

(b) The lien may be enforced by a suit filed by the attorney general. Venue of the suit is in Travis County.

Acts 1981, 67th Leg., p. 1733, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.304. SUIT FOR TAXES; SWORN DENIAL. Rule 185, Texas

Rules of Civil Procedure, applies to a suit by the attorney general for taxes imposed by this chapter if:

(1) the attorney general files as an exhibit a report or audit of the taxpayer; and

(2) the exhibit is supported by the comptroller's affidavit that the taxes shown to be due are past due and unpaid and that all payments and credits have been allowed.

Acts 1981, 67th Leg., p. 1733, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER H. PENALTIES

Sec. 201.351. DELINQUENT TAX; PENALTY. (a) A person who fails to pay the tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to pay the tax within 30 days after the day on which the tax is due, the person forfeits an additional five percent.

(b) The minimum penalty provided by this section is $1.

(c) Notwithstanding Subsections (a) and (b), a person is not subject to a penalty under Subsection (a) if:

(1) the delinquent tax results from the person's filing of an amended report with the comptroller for a timely filed original report under Section 201.203 or 201.2035;

(2) the person timely paid the full amount of tax due as indicated in the original report;

(3) the amount of additional tax due as a result of all amended reports for the original report does not exceed 25 percent of the tax due as indicated in the original report;

(4) the person resolves all errors identified by the comptroller on the amended or original report that could affect the amount of tax due on that report not later than the 60th day after the date on which the amended or original report, as applicable, is filed; and

(5) the person files the amended report not later than the 730th day after the date on which the original report was due and remits the full amount of the additional tax due with the amended report.

Acts 1981, 67th Leg., p. 1733, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 453, ch. 93, Sec. 7, eff. Sept. 1, 1983.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 702 (H.B. 3232), Sec. 1, eff. January 1, 2018.

Sec. 201.352. UNLAWFUL REMOVAL OF GAS. On notice from the comptroller, no person may produce or remove natural or casinghead gas from a lease in this state if the owner or operator of the lease has failed to file a report or pay a tax as required by this chapter.

Acts 1981, 67th Leg., p. 1733, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 11, eff. July 21, 1987.

Sec. 201.353. INCOMPLETE RECORDS OR REPORTS; CONCEALING PROPERTY UNDER LIEN; PENALTY. (a) A person commits an offense if the person:

(1) with intent to defraud the state, knowingly fails to keep a complete record that the person is required by this chapter to keep;

(2) knowingly fails to file a complete report on or before the day the person is required by this chapter to file the report; or

(3) with intent to defraud the state, conceals property or equipment that is under a lien authorized by Section 201.303 of this code.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $100 nor more than $1,000;

(2) confinement in county jail for not more than 12 months; or

(3) both a fine and confinement.

(c) In addition to the criminal penalty, a person is liable for a civil penalty of $1,000 if the person:

(1) performs any act constituting an offense under Subsection (a) of this section;

(2) with intent to defraud the state, makes a false entry in any record the person is required by this chapter to keep;

(3) destroys, damages, or conceals a record the person is

required by this chapter to keep;

(4) falsifies a report the person is required by this chapter to file; or

(5) violates any rule promulgated under this section.

Acts 1981, 67th Leg., p. 1733, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.354. COLLECTION OF CIVIL PENALTY. (a) The attorney general shall bring a suit for the collection of a penalty imposed by Section 201.353(c) of this code.

(b) Venue of a suit under this section is in the county where the violation occurs.

(c) A suit under this section may be joined with any other civil suit provided for by this chapter.

Acts 1981, 67th Leg., p. 1734, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.355. GENERAL PENALTY. (a) A person commits an offense if the person violates or fails to comply with any provision of this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $100 nor more than $1,000. A separate offense is committed each day that a violation of a provision of this chapter continues.

Acts 1981, 67th Leg., p. 1734, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER I. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE

Sec. 201.401. OCCUPATION TAX. The tax imposed by this chapter is an occupation tax.

Acts 1981, 67th Leg., p. 1734, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.402. PENALTY COLLECTED FOR AUDITS OR INVESTIGATIONS. A penalty collected for the expense or value of audits or investigations authorized by Section 201.302 of this code shall be deposited in the general revenue fund.

Acts 1981, 67th Leg., p. 1734, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.403. TAX SET ASIDE. One-half of one percent of the tax collected under this chapter shall be set aside in the state treasury for the use of the comptroller to administer and enforce the provisions of this chapter, subject to appropriation by the legislature. Money set aside by this section that is not spent at the end of a fiscal year reverts proportionally to the other funds to which the taxes imposed by this chapter are paid.

Acts 1981, 67th Leg., p. 1734, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 201.404. ALLOCATION OF REVENUE. After deducting the amount required to be deposited by Section 201.403 of this code, the comptroller shall deposit one-fourth of the revenue collected from the tax imposed by this chapter to the credit of the foundation school fund and three-fourths to the general revenue fund.

Acts 1981, 67th Leg., p. 1734, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff. Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 7, eff. Sept. 1, 1984.

CHAPTER 202. OIL PRODUCTION TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 202.001. DEFINITIONS. In this chapter:

(1) "Carrier" means a person who owns, operates, or manages a means of transporting oil.

(2) "First purchaser" means a person who purchases crude oil from a producer.

(3) "Oil" means crude oil or other oil taken from the earth, regardless of the gravity of the oil.

(4) "Producer" means a person who takes oil from the earth or water in any manner, a person who owns, controls, manages, or leases an oil well, or a person who owns an interest, including a royalty interest, in oil or its value, whether the oil is produced by the person owning the interest or by another on his behalf by lease, contract, or any other arrangement.

(5) "Royalty interest" means an interest in mineral rights in a producing leasehold in the state, but does not include the interest of a person having the management and operation of a well.

(6) "Subsequent purchaser" means a person who purchases oil from a person other than the producer of the oil, or a person operating a reclamation plant, topping plant, treating plant, refinery, or processing plant.

Acts 1981, 67th Leg., p. 1736, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.002. PRODUCTION AND MEASUREMENT OF OIL. (a) "Production" means the total gross amount of oil produced, including royalty and other interests.

(b) The amount of production shall be measured or determined by:

(1) tank tables compiled to show 100 percent of the capacity of the tanks without deduction for overage or losses in handling; or

(2) meter or other measuring devices that accurately determine the amount of production.

(c) If the amount of production has been measured or determined by a tank table compiled to show less than 100 percent of the full capacity of a tank, the amount must be raised to a basis of 100 percent.

(d) When measuring or determining the amount of production, a reasonable deduction may be made for basic sediment and water and a reasonable allowance may be made for correction of the temperature to 60 degrees Fahrenheit.

(e) This section does not authorize the use of metering devices for the measurement of oil on a well without the express permission of the operator of the well.

Acts 1981, 67th Leg., p. 1736, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.003. AGREEMENT TO PAY TAX NOT IMPAIRED. This code does not impair a contract in which any person has agreed to pay any part of the tax imposed by this chapter. This code does not relieve any person of any contractual liability.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.004. INSPECTION OF RECORDS AND REPORTS. A person required by this chapter to make and keep a record shall keep the record open for inspection by the comptroller or the attorney general at all times. Reports filed under this chapter are open to inspection by the attorney general.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.005. EMPLOYMENT OF AUDITORS. The comptroller may employ auditors and supervisors to verify reports and investigate the affairs of producers and purchasers to determine whether the tax imposed by this chapter is being properly reported and paid.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.006. TAXPAYER IDENTIFICATION NUMBER. (a) Except as otherwise provided by Subsection (b), each producer must obtain a taxpayer identification number from the comptroller.

(b) A producer whose only ownership interest in the oil is a royalty interest must obtain a tax identification number from the comptroller only if the producer has elected to take the producer's share of production in kind or if the comptroller determines that the producer's activity or interest requires that a number be assigned to protect the state's interest in the tax attributable to the producer.

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 33, eff. Jan. 1, 1994.

SUBCHAPTER B. TAX IMPOSED

Sec. 202.051. TAX IMPOSED. There is imposed a tax on the production of oil.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.052. RATE OF TAX. (a) The tax imposed by this

chapter is at the rate of 4.6 percent of the market value of oil produced in this state or 4.6 cents for each barrel of 42 standard gallons of oil produced in this state, whichever rate results in the greater amount of tax.

(b) For oil produced in this state from a new or expanded enhanced recovery project that qualifies under Section 202.054 of this code, the rate of the tax imposed by this chapter is 2.3 percent of the market value of the oil.

(c) The exemptions described by Sections 202.056, 202.059, and 202.060 apply to oil produced in this state from a well that qualifies under Section 202.056, 202.059, or 202.060, subject to the certifications and approvals required by those sections.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1989, 71st Leg., ch. 795, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 604, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 1015, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 989, Sec. 4, eff. Jan. 1, 1996.
Amended by:

Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 11, eff. January 1, 2006.

Sec. 202.053. MARKET VALUE. The market value of oil is the actual market value plus any bonus, premium, or other thing of value paid for the oil or that the oil will reasonably bring if lawfully produced.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.054. QUALIFICATION OF OIL FROM NEW OR EXPANDED ENHANCED RECOVERY PROJECT FOR SPECIAL TAX RATE. (a) In this section:

(1) "Active operation" means the start and continuation of a fluid injection program for a secondary or tertiary recovery project to enhance the displacement process in the reservoir.

(2) "Commission" means the Railroad Commission of Texas.

(3) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth other than primary recovery and includes the use of an immiscible, miscible, chemical,

thermal, or biological process and any co-production project.

(4) "Existing enhanced recovery project" means an enhanced recovery project that began active operations before September 1, 1989.

(5) "Expanded enhanced recovery project" or "expansion" means the addition of injection and producing wells, the change of injection pattern, or other operating changes to an existing enhanced oil recovery project that will result in the recovery of oil that would not otherwise be recovered.

(6) "Incremental production" means the volume of oil produced by an expanded enhanced recovery project in excess of the production decline rate established under conditions before expansion for an existing enhanced recovery project.

(7) "Operator" means the person responsible for the actual physical operation of an enhanced recovery project.

(8) "Positive production response" means that the rate of oil production from the wells affected by an enhanced recovery project is greater than the rate that would have occurred without the project.

(9) "Primary recovery" means the displacement of oil from the earth into the well bore by means of the natural pressure of the oil reservoir, including artificial lift.

(10) "Production decline rate" means the projected future oil production from a project area as extrapolated by a method approved by the commission.

(11) "Recovered oil tax rate" means the tax rate provided by Section 202.052(b) of this code.

(12) "Secondary recovery project" means an enhanced recovery project that is not a tertiary recovery project.

(13) "Tertiary recovery project" means an enhanced recovery project using a tertiary recovery method listed in the federal June 1979 energy regulations referred to in Section 4993, Internal Revenue Code of 1986, or approved by the United States secretary of the treasury for purposes of administering Section 4993, Internal Revenue Code of 1986, without regard to whether that section remains in effect.

(14) "Co-production project" means an enhanced recovery project in which water is permanently removed from an oil and/or gas reservoir in an effort to lower the gas-water or oil-water contact in the reservoir or to reduce reservoir pressure to recover entrained

hydrocarbons from the reservoir that would not be produced by conventional primary or secondary production methods.

(15) "Commission approved co-production project" means a reservoir development project in which the commission has recognized that water withdrawals from an oil or gas reservoir in excess of specified minimum volumes will result in recovery of additional oil and/or gas from the reservoir that would not be produced by conventional production methods and where operators in the field have begun to implement commission requirements to withdraw such volumes of water and dispose of such water outside the subject reservoir. Reservoirs potentially eligible for this designation shall be limited to those reservoirs in which oil and/or gas has been bypassed by water encroachment caused by production from the reservoir and such bypassed oil and/or gas may be produced as a result of fieldwide high-volume water withdrawals of natural formation water.

(16) "High-volume water withdrawals" means the withdrawal of water from a reservoir in an amount sufficient to dewater portions of the reservoir containing oil and/or gas previously bypassed by water encroachment.

(b) Oil produced from an enhanced recovery project other than a co-production project qualifies for the recovered oil tax rate if, before the project begins active operation, the commission approves the project and designates the area to be affected by the project. The incremental production from an expanded enhanced recovery project other than a co-production project qualifies for the recovered oil tax rate if, before the expansion begins, the commission approves the expansion and designates the area to be affected by the expansion. For a new or expanded enhanced recovery project, other than a co-production project, for which an application for approval under this section is filed with the commission on or after January 1, 1994, severance tax for all oil produced during the period from January 1, 1994, through August 31, 1995, to which the recovered tax rate is applicable, must be paid when due at the rate provided by Section 202.052(a) of this code. On or after January 1, 1996, the payor may apply to the comptroller for and shall be entitled to receive a tax credit equal to the difference between the tax paid and the tax which would have been due at the recovered oil tax rate for all production to which the recovered tax rate is applicable during the period from January 1, 1994, through August 31, 1995. The tax credit may be applied to either oil or gas severance taxes regardless of the field

from which the production originates. Oil produced from a commission approved co-production project, whether a new enhanced recovery project or an expanded enhanced recovery project, qualifies for the recovered oil tax rate following commission certification of a positive production response without regard to whether the commission approval is before or after the project began active operations; provided, however, tax must be paid when due at the rate provided in Section 202.052(a) of this code for all oil produced on or before July 31, 1995. On or after September 1, 1995, the operator may apply to the comptroller for a refund and shall be entitled to receive a refund equal to the difference between the tax paid on all oil produced from a commission approved co-production project after commission certification of a positive production response and the tax due at the recovered oil tax rate for all oil produced after commission certification of a positive production response from such co-production project. The operator of a proposed project or a proposed expansion may apply to the commission for approval of the project or expansion under this section. The commission may require an applicant to provide the commission with any relevant information required to administer this section. If approval by the commission of a unitization agreement under Subchapter B, Chapter 101, Natural Resources Code, is required for purposes of carrying out the project or expansion, the commission may not approve the project or expansion unless it approves the unitization agreement. A person may apply for approval of a proposed enhanced recovery project or a proposed expansion under this subsection concurrently with an application for approval of a unitization agreement for purposes of carrying out the enhanced recovery project or expansion under Section 101.011, Natural Resources Code, or with an application for certification of the project or expansion as a tertiary recovery project for purposes of Section 4993, Internal Revenue Code of 1986, or may make a separate application for approval.

(c) This section applies to an enhanced recovery project that begins active operation on or after September 1, 1989, and to an expansion that the commission approves on or after September 1, 1991. An application for approval under this section must be filed on or after September 1, 1989, for a new enhanced recovery project. An application for approval under this section must be filed on or after September 1, 1991, for an expansion of an existing enhanced recovery project. A project may not qualify as an expansion if the project

has qualified as a new enhanced recovery project under this section. An application may be filed on or after September 1, 1989, even if a separate application for approval of the project or expansion has already been filed under Subchapter B, Chapter 101, Natural Resources Code, or for approval as a tertiary recovery project for purposes of Section 4993, Internal Revenue Code of 1986, if the operation of a new project or the expansion of an existing project, other than a co-production project, does not begin before the application for approval under this section is approved by the commission; provided, however, nothing herein shall require commission approval of a co-production project prior to commencing active operations on such project in order for such project to be eligible for the recovered oil tax rate.

(d) An applicant for commission approval of a co-production project shall submit a written application for approval to the commission. Such application must be filed before January 1, 1994. The applicant shall provide the commission with any relevant information required to administer this section, including evidence demonstrating that the reservoir is eligible for the designation and demonstrating the minimum volumes of high-volume water withdrawal required to recover oil and/or gas from the reservoir that would not be produced by conventional production methods. A commission representative may administratively approve the application. If the commission representative denies administrative approval, the applicant shall have the right to a hearing upon request.

(e) If the commission approves an enhanced recovery project or an expansion under this section, it shall issue a certification of approval for an approved project designating the area to be affected by the project.

(f) The recovered oil tax rate applies only to oil produced from a new enhanced oil recovery project, any co-production project, or the incremental production caused by the expansion of an existing enhanced recovery project from the area the commission certifies to be affected by the project.

(g) Subject to the provisions of Subsections (b) and (h) of this section, the recovered oil tax rate applies to oil on which a tax is imposed by this chapter for the 10 years beginning the first day of the month following the date the commission certifies that, in the case of an enhanced recovery project including a co-production project, a positive production response has occurred or, in the case

of an expansion, other than related to a co-production project, incremental production has occurred, if the application for certification is filed:

(1) not later than three years from the date the commission approves the project if the project is designated as a new or existing project other than a co-production project that uses a secondary recovery process; or

(2) not later than five years from the date the commission approves the project if the project is designated as a new or existing project that uses a tertiary recovery process or is a co-production project.

(h) The operator may designate the certification date, subject to commission approval. If the commission determines that the project has caused a positive production response or incremental production, the commission shall certify that fact.

(i) Notwithstanding Subsection (g) of this section, qualification for the recovered oil tax rate ends on the first day of the first calendar month that begins on or after the 91st day following the date of termination of the active operation of the enhanced recovery project or of termination of an approved expansion.

(j) If the active operation of an approved enhanced recovery project or expansion is terminated, the person who immediately before the termination is the operator of the project shall notify the commission and the comptroller in writing not later than the 30th day after the last day of active operation. Any person who violates this subsection is liable to the state for a civil penalty if the person pays or attempts to pay the tax imposed by this chapter on oil from the project at the recovered oil tax rate after qualification for that rate ends under Subsection (g) or (i) of this section. The amount of the penalty may not exceed the sum of:

(1) $10,000; and

(2) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(k) The attorney general may recover a penalty under Subsection (j) of this section in a suit brought on behalf of the state. Venue for the suit is in Travis County.

(l) The commission has broad discretion in administering this section and shall adopt and enforce any appropriate rules or orders that the commission finds necessary to administer this section concerning the designation, operation, and termination of enhanced

recovery projects and expansions. The commission shall notify the comptroller of any action taken under this subsection. The comptroller shall have the power to establish procedures in order to comply with this Act.

(m) Subject to the provisions of Subsection (b) of this section, if , before the comptroller approves an application for taxation at the recovered oil tax rate, the tax imposed by this chapter is paid at the rate provided by Section 202.052(a) of this code on oil that qualifies under this section for the recovered oil tax rate, the producer or producers of the oil are entitled to a credit against taxes imposed by this chapter in an amount equal to the difference between the tax paid on the oil and the tax due on the oil at the recovered oil tax rate. The credit is allocated to each producer according to the producer's proportionate share in the oil. To receive a credit, one or more of the producers of the oil must apply to the comptroller for the credit not later than the first anniversary after the date the commission certifies that a positive production response has occurred.

(n) To qualify for the taxation of oil at the recovered oil tax rate, a person responsible for paying the tax must apply to the comptroller. The application must include the certification of the commission that the project or expansion has been approved and that the project has resulted in a positive production response or that the expansion has resulted in incremental production. The comptroller shall approve the application of a person who demonstrates that the oil is eligible for taxation at the recovered oil tax rate. The comptroller may require a person applying for the recovered oil tax rate to provide any relevant information in the person's monthly report and internal records that the comptroller considers necessary to administer this section. The commission shall notify the comptroller in writing immediately if it determines that active operation of an approved enhanced recovery project or an approved expansion has been terminated or if it takes any action or discovers any information that affects the taxation of oil at the recovered oil tax rate.

Added by Acts 1989, 71st Leg., ch. 795, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 604, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 335, Sec. 1, 2, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 958, Sec. 2, eff. Sept. 1, 1993; Acts 1997,

75th Leg., ch. 931, Sec. 1, 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 209, Sec. 53, eff. Oct. 1, 2003.

Sec. 202.0545. TAX EXEMPTION FOR ENHANCED RECOVERY PROJECTS USING ANTHROPOGENIC CARBON DIOXIDE. (a) Subject to the limitations provided by this section, until the 30th anniversary of the date that the comptroller first approves an application for a tax rate reduction under this section, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

(1) is captured from an anthropogenic source in this state;

(2) would otherwise be released into the atmosphere as industrial emissions;

(3) is measurable at the source of capture; and

(4) is sequestered in one or more geological formations in this state following the enhanced oil recovery process.

(b) In the event that a portion of the carbon dioxide used in the enhanced oil recovery project is anthropogenic carbon dioxide that satisfies the criteria of Subsection (a) and a portion of the carbon dioxide used in the project fails to satisfy the criteria of Subsection (a) because it is not anthropogenic, the tax reduction provided by Subsection (a) shall be reduced to reflect the proportion of the carbon dioxide used in the project that satisfies the criteria of Subsection (a).

(c) To qualify for the tax rate reduction under this section, the operator must:

(1) apply to the comptroller for the reduction and include with the application any information and documentation that the comptroller may require; and

(2) apply for a certification from:

(A) the Railroad Commission of Texas, if carbon dioxide used in the project is to be sequestered in an oil or natural gas reservoir;

(B) the Texas Commission on Environmental Quality, if carbon dioxide used in the project is to be sequestered in a geological formation other than an oil or natural gas reservoir; or

(C) both the Railroad Commission of Texas and the Texas Commission on Environmental Quality if both Paragraphs (A) and (B) apply.

(d) An agency to which an operator applies for a certification under Subsection (c)(2) may issue the certification only if the agency finds that, based on substantial evidence, there is a reasonable expectation that:

(1) at least 99 percent of the carbon dioxide sequestered as required by Subsection (a)(4) will remain sequestered for at least 1,000 years; and

(2) the operator's planned sequestration program will include appropriately designed monitoring and verification measures that will be employed for a period sufficient to demonstrate whether the sequestration program is performing as expected.

(e) The tax rate reduction does not apply if the operator's sequestration program or the operator's monitoring and verification measures differ substantially from the planned program described by Subsection (d), and the operator shall refund the difference between the amount of the tax paid under this section and the amount that would have been imposed in the absence of this section.

(f) The comptroller shall approve the application if the operator submits the certification or certifications required by Subsection (c)(2) and if the comptroller determines that the oil is otherwise eligible under this section.

(g) If, before the comptroller approves an application for the tax rate reduction under this section, the tax imposed by this chapter is paid at the rate provided by Section 202.052(a) or (b) on oil that qualifies under this section, the producer or producers of the oil are entitled to a credit against taxes imposed by this chapter in an amount equal to the difference between the tax paid on the oil and the tax due on the oil after the rate reduction under this section is applied. The credit is allowed to each producer according to the producer's proportionate share in the oil. To receive a credit, one or more of the producers of the oil must apply to the comptroller for the credit not later than the first anniversary of the date the oil is produced.

(h) The comptroller, the Railroad Commission of Texas, and the Texas Commission on Environmental Quality may adopt rules and establish procedures to implement and administer this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. 3732), Sec. 9, eff. September 1, 2007.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1109 (H.B. 469), Sec. 5, eff. September 1, 2009.

Sec. 202.056. EXEMPTION FOR OIL AND GAS FROM WELLS PREVIOUSLY INACTIVE. (a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Hydrocarbons" means any oil or gas produced from a well, including hydrocarbon production.

(3) Repealed by Acts 2019, 86th Leg., R.S., Ch. 17 (S.B. 533), Sec. 3, eff. September 1, 2019.

(4) "Two-year inactive well" means a well that has not produced oil or gas in more than one month in the two years preceding the date of application for severance tax exemption under this section. The term does not include a well that is:

(A) part of an enhanced oil recovery project, as defined by Section 89.002, Natural Resources Code; or

(B) drilled but not completed and that does not have a record of hydrocarbon production reported to the commission.

(b) Hydrocarbons produced from a well qualify for a five-year severance tax exemption if the commission designates the well as a two-year inactive well. The commission may require an applicant to provide the commission with any relevant information required to administer this section. The commission may require additional well tests to determine well capability as the commission deems necessary. The commission shall notify the comptroller in writing immediately if the commission determines that the operation of the two-year inactive well has been terminated or if the commission discovers any information that affects the taxation of the production from the designated well.

(c) If the commission designates a two-year inactive well under this section, the commission shall issue a certificate designating the well as a two-year inactive well.

(d) An application for two-year inactive well certification must be made to the commission to qualify for the tax exemption under this section. Hydrocarbons sold after the date of certification are eligible for the tax exemption.

(e) The commission may revoke a certificate if information indicates that a certified well was not a two-year inactive well or if other lease production is credited to the certified well. Upon notice to the operator from the commission that the certificate for tax exemption under this section has been revoked, the tax exemption may not be applied to hydrocarbons sold from that well from the date of revocation.

(f) The commission shall adopt all necessary rules to administer this section.

(g) To qualify for the tax exemption provided by this section, the person responsible for paying the tax must apply to the comptroller. The comptroller shall approve the application of a person who demonstrates that the hydrocarbon production is eligible for a tax exemption. The comptroller may require a person applying for the tax exemption to provide any relevant information necessary to administer this section. The comptroller shall have the power to establish procedures in order to comply with this section.

(h) If the tax is paid at the full rate provided by Section 201.052(a) or 202.052(a) before the comptroller approves an application for an exemption provided for in this chapter, the operator is entitled to a credit against taxes imposed by this chapter in an amount equal to the tax paid. To receive a credit, the operator must apply to the comptroller for the credit before the expiration of the applicable period for filing a tax refund claim under Section 111.104.

(i) A person who makes or subscribes any application, report, or other document and submits the application, report, or other document to the commission to form the basis for an application for a tax exemption under this section, knowing that the application, report, or other document is false or untrue in a material fact, may be subject to the penalties imposed by Chapters 85 and 91, Natural Resources Code.

(j) On notice from the commission that the certification for a two-year inactive well has been revoked, the tax exemption shall not apply to oil or gas production sold after the date of notification. A person who violates this subsection is liable to the state for a civil penalty if the person applies or attempts to apply the tax exemption allowed by this chapter after the certification for a two-year inactive well is revoked. The amount of the penalty may not exceed the sum of:

(1) $10,000; and

(2) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(k) The attorney general may recover a penalty under Subsection (j) in a suit brought on behalf of the state. Venue for the suit is in Travis County.

Added by Acts 1993, 73rd Leg., ch. 1015, Sec. 3, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 208, Sec. 1 to 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 365, Sec. 2, eff. Aug. 30, 1999; Acts 1999, 76th Leg., ch. 893, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 17 (S.B. 533), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 17 (S.B. 533), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 17 (S.B. 533), Sec. 3, eff. September 1, 2019.

Sec. 202.057. TAX CREDIT FOR INCREMENTAL PRODUCTION TECHNIQUES. (a) In this section:

(1) "Baseline production" means a lease's average monthly production during the four highest months of production in the time period from January 1, 1996, through December 31, 1996.

(2) "Commission" means the Railroad Commission of Texas.

(3) "Incremental production" means production from a qualifying lease in excess of the baseline production.

(4) "Incremental production technique" means any secondary or tertiary production enhancement technique. For wells in primary production, the use of incremental production techniques means that an expenditure of at least $5,000 must have been made to cause increased production. Operators must certify to the commission that such expenditure has been made to qualify for the tax exemption. The incremental production techniques listed in this subdivision must cause incremental production from an existing oil lease or from a newly drilled single-completion well on an existing lease.

(5) "Incremental ratio" means the amount of a qualifying lease's average monthly incremental production during the four-month period used to meet the definition of a qualifying lease divided by

its average monthly total production during the same four-month period.

(6) "Qualifying lease" means a commission-designated oil lease whose production during the four-month period used in computing the baseline is no more than seven barrels of oil equivalents per day per well, excluding gas flared pursuant to the rules of the commission, and which has shown incremental production for four of five consecutive months on or after September 1, 1997, and after performing an incremental production technique within the lease. For purposes of qualifying a lease, production per well per day is measured by dividing the sum of lease production during the four highest months of production in the baseline period by the sum of the number of well-days, where a well-day is one well producing for one day.

(7) "Qualified incremental production" means the lease's monthly total production multiplied by the incremental ratio.

(b) An operator of a qualifying lease is entitled to a 50 percent tax exemption on that lease's qualified incremental production for five years provided that:

(1) the incremental production required to define a qualifying lease occurred after September 1, 1997, and before December 31, 1998;

(2) the operator of a qualifying lease applies to the commission for a determination of a lease's incremental ratio before February 11, 1999; and

(3) the operator provides to the comptroller a commission-certified incremental ratio.

(c) If the comptroller's average taxable price of crude oil reaches $25 per barrel, adjusted to 1997 dollars, for three consecutive months, the tax credit under this section shall be suspended until the price drops below $25 per barrel, adjusted to 1997 dollars, for three consecutive months.

(d) If the tax is paid at the full rate provided by Section 201.052(a) or (b) or Section 202.052(a) or (b) before the comptroller approves an application for an exemption provided in this chapter, the operator is entitled to a credit against taxes imposed by this chapter in an amount equal to 50 percent of the tax paid on the incremental production. To receive the credit, the operator must apply to the comptroller for the credit not later than the first anniversary after the date the commission certifies the incremental

ratio for a qualifying lease.

(e) The commission may enact rules necessary to administer the provisions of this section.

Added by Acts 1997, 75th Leg., ch. 1060, Sec. 2, eff. Sept. 1, 1997.

Subsec. (h) of this section provided for the expiration of the section on Sept. 1, 2007. Subsec. (h) was repealed by Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 4, which was effective January 1, 2008, after the section had expired.

Sec. 202.058. CREDITS FOR QUALIFYING LOW-PRODUCING OIL LEASES. (a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Qualifying low-producing oil lease" means a well classified as an oil well that is part of a lease whose production during a 90-day period is less than:

(A) 15 barrels of oil per day of production; or

(B) five percent recoverable oil per barrel of produced water.

(b) For purposes of qualifying a lease, production per well per day is determined by computing the average daily per well production from the lease using the greater of the monthly production from the well as reported in the monthly lease production reports made to the commission and the monthly production from the well as reported in the producer's reports made to the comptroller under Section 202.201, including any amendments to those reports. For purposes of qualifying a lease, production per well per day is measured by dividing the sum of lease production during the three-month period by the sum of the number of well-days, where a well-day is one well producing for one day. The operator of a lease that is eligible for a credit under this section only on the basis of Subsection (a)(2)(B) must pay to the comptroller a filing fee of $100 before the comptroller may authorize the credit.

(c) Each month, the comptroller shall certify the average taxable price of oil, adjusted to 2005 dollars, during the previous three months based on various price indices available to producers, including the reported Texas Panhandle Spot Price, West Texas Intermediate Crude Spot Price, New York Mercantile Exchange, or other spot prices, as applicable. The comptroller shall publish

certifications under this subsection in the Texas Register.

(d) An operator of a qualifying low-producing lease is entitled to a 25 percent credit on the tax otherwise due on oil produced from that lease during a month if the average taxable price of oil certified by the comptroller under Subsection (c) for the previous three-month period is more than $25 per barrel but not more than $30 per barrel.

(e) An operator of a qualifying low-producing lease is entitled to a 50 percent credit on the tax otherwise due on oil produced from that lease during a month if the average taxable price of oil certified by the comptroller under Subsection (c) for the previous three-month period is more than $22 per barrel but not more than $25 per barrel.

(f) An operator of a qualifying low-producing lease is entitled to a 100 percent credit on the tax otherwise due on oil produced from that lease during a month if the average taxable price of oil certified by the comptroller under Subsection (c) for the previous three-month period is not more than $22 per barrel.

(g) If the tax is paid on oil at the full rate provided by Section 202.052, the person paying the tax is entitled to a credit against taxes imposed by this chapter or Chapter 201 on the amount overpaid. To receive the credit, the person must apply to the comptroller for the credit not later than the expiration of the applicable period for filing a tax refund under Section 111.104.

Subsec. (h) was repealed by Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 4. The effective date of the repeal was January 1, 2008, which was after the expiration of the section.

(h) This section expires September 1, 2007.

(h) Repealed by Acts 2007, 80th Leg., R.S., Ch. 911, Sec. 4, eff. January 1, 2008.

Added by Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 12, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 4, eff. January 1, 2008.

Acts 2019, 86th Leg., R.S., Ch. 75 (S.B. 925), Sec. 2, eff. September 1, 2019.

Sec. 202.059. EXEMPTION FOR HYDROCARBONS FROM TERRA WELLS. (a) Hydrocarbons produced from a well subject to an agreement under Chapter 93, Natural Resources Code, and under a license issued under that chapter qualify for an exemption from the taxes imposed by this chapter and Chapter 201 if the comptroller approves the tax exemption under Subsection (g).

(b) Hydrocarbons produced from a well formerly subject to an agreement under Chapter 93, Natural Resources Code, and a license issued under that chapter resuming production after participation in TERRA for two years qualify for an exemption from the taxes imposed by this chapter and Chapter 201 if the comptroller approves the tax exemption under Subsection (g).

(c) The commission may certify a well eligible for a tax exemption or an application may be made to the commission for certification under this section. The commission may require an applicant to provide the commission with any relevant information required to administer this section. The commission shall issue a certificate to each operator of the well. The certificate must:

(1) include identification of the well; and

(2) state the date on which the tax exemption takes effect, subject to the comptroller's approval of the exemption under Subsection (g).

(d) The commission shall furnish to the comptroller a copy of a certificate of exemption for each well qualifying under this section.

(e) The commission may revoke a certificate for a tax exemption if information indicates that a well was not eligible for that designation at the time of certification or if a license issued under Chapter 93, Natural Resources Code, is revoked by the commission. The commission shall notify the operator and the comptroller that a certificate has been revoked. A tax exemption granted under this section is automatically revoked on the date the certificate is revoked, and hydrocarbons produced from the well after the date of revocation are not eligible for the tax exemption.

(f) The commission may adopt and enforce any rules or orders that the commission finds necessary to administer this section.

(g) To qualify for the tax exemption, the person responsible for paying the tax must apply to the comptroller for the exemption and include with the application the certificate issued by the commission under Subsection (c). The comptroller shall approve the application of a person if the hydrocarbons are eligible for the tax

exemption. The comptroller may require a person applying for the tax exemption to provide any relevant information necessary to administer this section. The comptroller may establish procedures to comply with this subsection and Subsection (h).

(h) If the tax is paid at the full rate provided by this chapter and Chapter 201 on hydrocarbons produced on or after the effective date of the tax exemption but before the date the comptroller approves an application for the tax exemption, the operator is entitled to a credit on taxes due under Chapter 201 or this chapter in the amount equal to the tax paid during that period. To receive a credit, the operator must apply to the comptroller for the credit not later than one year after the date the commission certifies the well for a tax exemption.

(i) A person is subject to the penalties that may be imposed under Chapters 85 and 91, Natural Resources Code, if the person makes and submits to the commission or comptroller an application, report, or other document used or intended to be used for a certification, tax exemption, or tax credit under this section and the person knows that the application, report, or other document contains a false or untrue material fact.

(j) A person is liable to the state for a civil penalty if the person, after receiving notice from the commission that the person's tax exemption certificate for a TERRA well or a former TERRA well has been revoked, applies or attempts to apply for a tax exemption for hydrocarbons produced from the well under the revoked certificate. The amount of the penalty may not exceed the sum of:

(1) $10,000; and

(2) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(k) The attorney general may recover a penalty under Subsection (j) in a suit brought on behalf of the state. Venue for the suit is in Travis County.

(l) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Hydrocarbons" means any oil, gas, condensate, and other liquid hydrocarbons produced from a well.

(3) "TERRA" means the Texas Experimental Research and Recovery Activity under Chapter 93, Natural Resources Code.

Added by Acts 1995, 74th Leg., ch. 989, Sec. 5, eff. Jan. 1, 1996.

Sec. 202.060. EXEMPTION FOR OIL AND GAS FROM REACTIVATED ORPHANED WELLS. (a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Orphaned well" has the meaning assigned by Section 89.047, Natural Resources Code.

(b) The commission shall issue a certificate to a person who is designated by the commission under Section 89.047, Natural Resources Code, as the operator of an orphaned well. The certificate must identify the operator to whom and the well for which the certificate is issued.

(c) Hydrocarbons produced from the well identified in the certificate qualify for a severance tax exemption.

(d) The commission shall adopt all rules necessary to administer this section.

(e) To qualify for the tax exemption provided by this section, the person responsible for paying the tax must apply to the comptroller. The application must include a copy of the certificate issued by the commission. The comptroller shall approve the application if the person demonstrates that the hydrocarbon production is eligible for a tax exemption. The comptroller may require a person applying for the tax exemption to provide any relevant information necessary to administer this section. The comptroller may establish procedures to comply with this section.

(f) The exemption takes effect on the first day of the month following the month in which the comptroller approves the application.

(g) If the person to whom the certificate is issued ceases to be the operator of the well as shown by the records of the commission, the commission shall notify the comptroller. The exemption expires on the date the notice is received.

(h) A person who makes or subscribes an application, report, or other document and submits it to the commission to form the basis for an application for a tax exemption under this section, knowing that the application, report, or other document is untrue in a material fact, is subject to the penalties imposed by Chapters 85 and 91, Natural Resources Code.

(i) A person is liable to the state for a civil penalty if the person applies or attempts to apply the tax exemption authorized by

this section for a well after the person to whom the certificate for the well was issued ceases to be the operator of the well as shown by the records of the commission. The amount of the penalty may not exceed the sum of:

(1) $10,000; and

(2) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(j) The attorney general may recover a penalty under Subsection (i) in a suit brought on behalf of the state. Venue for the suit is in Travis County.

Added by Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 12, eff. January 1, 2006.

Sec. 202.061. TAX CREDIT FOR ENHANCED EFFICIENCY EQUIPMENT. (a) In this section:

(1) "Enhanced efficiency equipment" means equipment used in the production of oil that reduces the energy used to produce a barrel of fluid by 10 percent or more when compared to commonly available alternative equipment. The term does not include a motor or downhole pump. Equipment does not qualify as enhanced efficiency equipment unless an institution of higher education approved by the comptroller that is located in this state and that has an accredited petroleum engineering program evaluated the equipment and determined that the equipment does produce the required energy reduction.

(2) "Marginal well" means an oil well that produces 10 barrels of oil or less per day on average during a month.

(b) The taxpayer responsible for the payment of severance taxes on the production from a marginal well in this state on which enhanced efficiency equipment is installed and used is entitled to a credit in an amount equal to 10 percent of the cost of the equipment, provided that:

(1) the cumulative total of all severance tax credits authorized by this section may not exceed $1,000 for any marginal well;

(2) the enhanced efficiency equipment installed in a qualifying marginal well must have been purchased and installed not earlier than September 1, 2005, or later than September 1, 2013;

(3) the taxpayer must file an application with the

comptroller for the credit and must demonstrate to the comptroller that the enhanced efficiency equipment has been purchased and installed in the marginal well within the period prescribed by Subdivision (2);

(4) the number of applications the comptroller may approve each state fiscal year may not exceed a number equal to one percent of the producing marginal wells in this state on September 1 of that state fiscal year, as determined by the comptroller; and

(5) the manufacturer of the enhanced efficiency equipment must obtain an evaluation of the product under Subsection (a).

(c) The taxpayer may carry any unused credit forward until the credit is used.

Added by Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 12, eff. September 1, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 19, eff. September 1, 2007.

Sec. 202.063. EXEMPTION OF OIL INCIDENTALLY PRODUCED IN ASSOCIATION WITH THE PRODUCTION OF GEOTHERMAL ENERGY. Oil incidentally produced in association with the production of geothermal energy is not subject to the tax imposed by this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1036 (H.B. 4433), Sec. 2, eff. September 1, 2009.

SUBCHAPTER C. RECORDS

Sec. 202.101. PRODUCER'S RECORDS. A producer shall keep accurate records in the state. The records must show:

(1) the counties in which the producer produces oil;

(2) the names of the leases from which the producer produces oil;

(3) the total number of barrels of oil produced from each lease;

(4) for each sale or delivery to a first purchaser, the name and address of the first purchaser, the number of barrels sold or delivered, and the price received for the oil;

(5) the amount and disposition of oil refined, processed,

or used on the lease where it is produced;

(6) the location and number of barrels in storage that the producer owns and has not sold; and

(7) the name and address of each pipeline or refinery that is storing oil that the producer has not sold.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.102. FIRST PURCHASER'S RECORDS. A first purchaser shall keep accurate records in the state. The records must show:

(1) the name and address of each producer from which the first purchaser buys oil;

(2) for each producer, the counties where the oil is produced;

(3) for each producer, the name of the lease from which the oil is produced;

(4) the number of barrels of oil purchased from each producer and the price paid each producer for the oil;

(5) the number of barrels purchased and used, refined, or processed by the first purchaser; and

(6) for each sale to a subsequent purchaser, the name and address of the subsequent purchaser, the number of barrels sold, and the price received for the oil.

Acts 1981, 67th Leg., p. 1738, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.103. SUBSEQUENT PURCHASER'S RECORDS. A subsequent purchaser shall keep accurate records in the state. The records must show:

(1) the name and address of each person who sells oil to the subsequent purchaser, the number of barrels sold, the price paid to each seller, and the date of each sale;

(2) the disposition of all oil purchased by the subsequent purchaser;

(3) the number of barrels of oil used, refined, or processed by the subsequent purchaser; and

(4) the name and address of each person who buys oil from the subsequent purchaser, the number of barrels sold or delivered to each buyer, the price received for the oil from each buyer, and the

date of the sale or delivery.

Acts 1981, 67th Leg., p. 1738, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.104. ROYALTY OWNER'S RECORDS. The owner of a royalty interest shall keep:

(1) a record of all money received as royalty from each producing leasehold in the state; and

(2) a copy of all settlement sheets furnished by a purchaser or operator or other statement showing the number of barrels of oil for which a royalty was received and the amount of tax deducted.

Acts 1981, 67th Leg., p. 1738, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.105. CARRIER'S RECORDS. A carrier shall keep accurate monthly records of oil the carrier transports for hire, for itself or for its owners. The records shall be kept within the state and must show, for each shipment:

(1) the date the oil was received;

(2) the number of barrels of oil received;

(3) the person from whom the oil was received;

(4) the point of delivery;

(5) the person to whom the oil was delivered; and

(6) the manner of transportation.

Acts 1981, 67th Leg., p. 1738, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER D. PAYMENTS

Sec. 202.151. TAX DUE. The tax imposed by this chapter is due at the office of the comptroller on the 25th day of each calendar month for oil produced during the preceding calendar month.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.152. PAYMENT OF TAX. The tax imposed by this chapter must be paid by legal tender or cashier's check payable to the

comptroller.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.121, eff. Sept. 1, 1997.

Sec. 202.153. FIRST PURCHASER TO PAY TAX. (a) A first purchaser shall pay the tax imposed by this chapter on oil that the first purchaser purchases from a producer and takes delivery on the premises where the oil is produced.

(b) A first purchaser shall withhold from payments to the producer the amount of tax that the first purchaser is required by Subsection (a) of this section to pay. This subsection does not affect a lease or contract between the state or a political subdivision of the state and a producer.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.154. PRODUCER TO PAY TAX ON OIL NOT SOLD. If the producer does not sell oil produced in the same month it is produced, the producer shall pay the tax imposed by this chapter as if the oil were sold that month. In such a case, the working interest operator may pay the tax and deduct it from the interest of other interest holders.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.155. PURCHASER TO PAY TAX ON OIL FROM PROPERTY UNDER LEGAL CONSTRAINT. (a) A purchaser shall pay the tax imposed by this chapter on oil purchased from property in bankruptcy, receivership, covered by an assignment, or subject to a legal proceeding.

(b) The purchaser shall withhold the amount of tax required to be paid by Subsection (a) of this section from payments to the producer, trustee, assignee, or other person claiming the payments and from payments the purchaser impounds or places in escrow.

(c) The purchaser is not liable for the amount of tax paid as required by this section to any claimant of payments for the purchase of oil.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.156. TAX BORNE RATABLY. The tax shall be borne ratably by all interested parties, including royalty interests. Producers or purchasers of oil, or both, are authorized and required to withhold from any payment due interested parties the proportionate amount of tax due.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER E. REPORTS

Sec. 202.201. PRODUCER'S REPORT. (a) A producer authorized by the comptroller to remit the tax due shall file with the comptroller, on or before the 25th day of each calendar month, the report under this subsection and, as applicable, the report under Subsection (d) showing the total oil produced, used, lost or stolen, or possessed and otherwise unaccounted for by the producer during the preceding calendar month. The report under this subsection must show:

(1) the number of barrels of oil produced from each lease;

(2) each county in which each lease from which oil was produced is located;

(3) the name, address, and taxpayer identification number assigned by the comptroller of each first purchaser of oil and for each the amount of oil purchased from each lease;

(4) the payment received for the oil from each first purchaser from each lease from which oil was produced;

(5) the name and lease identification number of each lease from which the oil was produced; and

(6) other information the comptroller may reasonably require.

(b) If the report the producer is required to file shows additional tax due, the producer must pay the additional tax when he files the report.

(c) A producer whose only sales are to a purchaser who remits the tax due under Section 202.153 is not required to file a report on the oil sold.

(d) A producer shall file a crude oil special tax report with the comptroller and pay the applicable tax imposed under this chapter

if any oil has been used, lost or stolen, or possessed and otherwise unaccounted for by the producer after it has been produced and measured. The producer must file the report on or before the 25th day of the month following the month in which the oil is used, lost or stolen, or possessed and otherwise unaccounted for. The report must show:

(1) the total number of barrels of oil used, lost or stolen, or possessed and otherwise unaccounted for by the producer;

(2) where the oil was used, lost or stolen, or possessed and otherwise unaccounted for; and

(3) other information the comptroller may reasonably require.

(e) A producer that is no longer in business shall notify the comptroller of this fact on or before the 25th day of the first month following the producer's last day of business.

Acts 1981, 67th Leg., p. 1740, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1375, ch. 284, Sec. 2, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 587, Sec. 34, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 1040, Sec. 55, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 1183, Sec. 4, eff. Sept. 1, 2001.

Sec. 202.202. FIRST PURCHASER'S REPORT. (a) On or before the 25th day of each calendar month, each first purchaser or his authorized agent shall file a report with the comptroller. The report must contain the following information concerning oil purchased from a producer during the preceding calendar month:

(1) the number of barrels of oil purchased from each lease for each producer;

(2) the amount paid to each producer for each lease from which oil was purchased;

(3) the name and address of each producer;

(4) each county in which each lease from which the purchased oil was produced is located;

(5) the name and lease identification number of each lease from which the purchased oil was produced; and

(6) other information the comptroller may reasonably require.

(b) If the report the first purchaser is required to file shows

additional tax due, the first purchaser must pay the additional tax when he files the report.

Acts 1981, 67th Leg., p. 1740, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1376, ch. 284, Sec. 3, eff. Sept. 1, 1983; Acts 1997, 75th Leg., ch. 1040, Sec. 56, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 1183, Sec. 5, eff. Sept. 1, 2001.

Sec. 202.204. REPORTS OF CARRIER. A carrier shall provide information and file reports on the movements of oil if requested by the comptroller as often as required by the comptroller.

Acts 1981, 67th Leg., p. 1740, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.205. TRANSFER OF OWNERSHIP. (a) If an oil-producing lease is transferred, or is to be transferred, the producer transferring the lease shall note the name and address of the producer acquiring the lease and the date of the transfer on the last report covering the lease that he is required by Section 202.201 of this code to file.

(b) If an oil-producing lease is transferred, the producer acquiring the lease shall note the date of the transfer and the name and address of the person from whom the lease was acquired on the first report covering the lease that he is required by Section 202.201 of this code to file.

Acts 1981, 67th Leg., p. 1740, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER F. LIABILITY FOR TAX

Sec. 202.251. LIABILITY OF PRODUCER AND PURCHASER. The tax imposed by this chapter is the primary liability of the producer and is a liability of the first purchaser and each subsequent purchaser. Failure of the first purchaser to pay the tax does not relieve the producer or a subsequent purchaser from liability for the tax. A purchaser of oil produced in the state shall satisfy himself that the tax on that oil has been or will be paid by the person liable for the tax.

Acts 1981, 67th Leg., p. 1741, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.252. PRODUCER'S REMEDY. If a purchaser withholds the amount of the tax imposed by this chapter from payments to a producer for the sale of oil and fails to pay the tax as provided by this chapter, the producer may sue the purchaser to recover the amount of the tax withheld, penalties and interest that have accrued from failure to pay the tax, court costs, and reasonable attorney's fees.

Acts 1981, 67th Leg., p. 1741, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER G. ENFORCEMENT

Sec. 202.301. DELINQUENT TAXES: PENALTY. (a) A person who fails to pay the tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to pay the tax within 30 days after the day on which the tax is due, the person forfeits an additional five percent.

(b) The minimum penalty under this section is $1.

(c) Notwithstanding Subsections (a) and (b), a person is not subject to a penalty under Subsection (a) if:

(1) the delinquent tax results from the person's filing of an amended report with the comptroller for a timely filed original report under Section 202.201 or 202.202;

(2) the person timely paid the full amount of tax due as indicated in the original report;

(3) the amount of additional tax due as a result of all amended reports for the original report does not exceed 25 percent of the tax due as indicated in the original report;

(4) the person resolves all errors identified by the comptroller on the amended or original report that could affect the amount of tax due on that report not later than the 60th day after the date on which the amended or original report, as applicable, is filed; and

(5) the person files the amended report not later than the 730th day after the date on which the original report was due and remits the full amount of the additional tax due with the amended report.

Acts 1981, 67th Leg., p. 1741, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 453, ch. 93, Sec. 8, eff. Sept. 1, 1983.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 702 (H.B. 3232), Sec. 2, eff. January 1, 2018.

Sec. 202.302. TAX LIEN. The state has a prior and preferred lien for the amount of the taxes, penalties, and interest imposed by this chapter on:

(1) the oil to which the tax applies that is possessed by the producer, first purchaser, or subsequent purchaser;

(2) the leasehold interest, oil rights, the value of oil rights, and other interests, including oil produced and oil runs, owned by a person liable for the tax;

(3) equipment, tools, tanks, and other implements used on the lease from which the oil is produced; and

(4) any other property not exempt from forced sale owned by the person liable for the tax.

Acts 1981, 67th Leg., p. 1741, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.303. FORCED SALE BY OFFICER. (a) A peace officer may levy on oil for which the tax imposed by this chapter is due and unpaid by notice to the owner or person in charge of the oil.

(b) After notice to the owner or person in charge, the peace officer shall post a notice at the site of the oil that the oil will be sold to the highest bidder 10 days after the notice has been posted.

(c) After the notice has been posted for 10 days, the peace officer shall sell the oil to the highest bidder.

(d) The peace officer, except a ranger, may deduct 10 percent of the proceeds of the sale of the oil as his commission. The officer shall forward the balance, up to the amount of tax due, to the comptroller. The officer shall deliver any proceeds in excess of the tax due and the officer's commission, if any, to the owner of the oil.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.304. SUIT FOR TAXES; SWORN DENIAL. Rule 185, Texas Rules of Civil Procedure, applies to a suit by the attorney general for taxes imposed by this chapter if:

(1) the attorney general files as an exhibit a report or audit of the taxpayer; and

(2) the exhibit is supported by the comptroller's affidavit that the taxes shown to be due are past due and unpaid and that all payments and credits have been allowed.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.305. UNLAWFUL REMOVAL OF OIL. On notice from the comptroller, no person may remove oil from a lease in this state if the owner or operator of the lease has failed to file a report or pay a tax as required by this chapter.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 12, eff. July 21, 1987.

Sec. 202.306. INSPECTOR HAS FREE ACCESS. A person appointed by the Railroad Commission of Texas and holding the commission's certificate authorizing him to inspect oil wells, oil leases, pipelines, or railroad cars or tanks has the right of free access at all times to the wells, leases, pipelines, railroad cars and tanks, and motortruck tanks for the purpose of inspecting the production or transportation of oil.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.307. INCOMPLETE RECORDS OR REPORTS; CONCEALING PROPERTY UNDER LIEN; PENALTY. (a) A person commits an offense if the person:

(1) with intent to defraud the state, knowingly fails to keep a complete record that he is required by this chapter to keep;

(2) knowingly fails to file a complete report that he is required by this chapter to file;

(3) with intent to defraud the state, conceals property or

equipment that is under a lien authorized by Section 202.302 of this code; or

(4) fails or refuses to permit the comptroller or attorney general to inspect a record or report required by this chapter.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $25 nor more than $5,000;

(2) confinement in county jail for not less than one month nor more than six months; or

(3) both a fine and confinement.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER H. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE

Sec. 202.351. OCCUPATION TAX. The tax imposed by this chapter is an occupation tax.

Acts 1981, 67th Leg., p. 1743, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.352. TAX SET ASIDE. One-half of one percent of the tax collected under this chapter shall be deposited in the state treasury for the use of the comptroller to administer and enforce the provisions of this chapter, to be expended in the amounts and for the purposes prescribed in the General Appropriations Act. Money deposited under this section that is not spent at the end of a fiscal year reverts proportionally to the other funds to which the tax imposed by this chapter is paid.

Acts 1981, 67th Leg., p. 1743, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.353. ALLOCATION OF REVENUE. After deducting the amount required to be deposited by Section 202.352 of this code, the comptroller shall deposit one-fourth of the revenue collected from the tax imposed by this chapter to the credit of the foundation school fund and three-fourths to the general revenue fund.

Acts 1981, 67th Leg., p. 1743, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff.

Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 8, eff. Sept. 1, 1984.

Sec. 202.354. DEDICATION TO TEXAS TUITION ASSISTANCE GRANT PROGRAM. The revenue collected from any incremental production from a qualifying lease, as those terms are defined by Section 202.057, and deposited to the general revenue fund may only be spent to fund the Texas tuition assistance grant program under Subchapter G, Chapter 56, Education Code.

Added by Acts 1997, 75th Leg., ch. 1060, Sec. 3, eff. Sept. 1, 1997.

CHAPTER 204. TAX CREDIT FOR NEW FIELD DISCOVERIES

Sec. 204.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Field" means an accumulation of oil or gas or both that is not in natural pressure communication or otherwise connected to any other accumulation of oil or gas or both.

(3) "New field" means a field that has been certified by the commission as a previously unrecognized and unidentified field.

(4) "Discovery well" means an oil or gas well by which a new field discovery is made.

(5) "Spud" means the initial penetration of the earth by the drill bit for an oil or gas well under proper permit from the commission.

(6) "Completed" means the well has been equipped to produce hydrocarbons and the commission has been notified as required by commission rules.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

Sec. 204.002. TAX CREDIT FOR NEW FIELD DISCOVERIES. (a) Persons who obtain a certification of a new field discovery from the commission as the result of a discovery well spudded during the period of January 1, 1994, through December 31, 1994, are eligible for a tax credit applicable against the taxes imposed by Chapters 201 and 202 upon the commission notifying the comptroller that 521 new fields have been discovered as the result of wells spudded during

1994.

(b) The amount of the tax credit shall be as follows:

(1) $10,000 for each discovery well spudded during 1994 if the number of discovery wells spudded that year is 521 or more, but less than 721;

(2) $25,000 for each discovery well spudded during 1994 if the number of discovery wells spudded that year is 721 or more.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

Sec. 204.003. CERTIFICATION OF NEW FIELD DISCOVERY. (a) The commission shall have the authority to establish the method of determining whether a new field has been discovered. The commission may require an applicant for a new field discovery to provide the commission with any relevant information required to administer this chapter. Upon determining that a well spudded during 1994 resulted in the discovery of a new field, the commission shall furnish a certificate of new field discovery to the applicant.

(b) For purposes of obtaining a tax credit under this chapter, applications for new field discoveries must be made to the commission within 90 days of the date the discovery well is completed in the proposed new field. In no event will an application for new field discovery be accepted by the commission, for purposes of obtaining a tax credit, after 180 days from the cessation of drilling operations.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

Sec. 204.004. TAX CREDIT FOR ADDITIONAL WELLS IN A NEW FIELD. Upon the commission notifying the comptroller that 842 discovery wells have been spudded in 1994, persons obtaining a new field discovery during that year shall be eligible for an additional $25,000 tax credit for each additional well spudded and producing from that field, within 10 years from the spud date of the discovery well. The tax credit is available to persons who obtain a new field discovery regardless of who drills the additional well.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

Sec. 204.005. APPLICATION. To qualify for the tax credit, a person who receives a new field discovery certificate from the commission must apply to the comptroller. The comptroller shall approve the application of a person who demonstrates eligibility for a tax credit. The comptroller shall have the power to establish procedures in order to comply with this chapter and may require a person applying for the tax credit to provide any relevant information. The commission shall immediately notify the comptroller in writing if it determines that the new field designation obtained by the applicant has been revoked or if it discovers any information that affects the tax credit.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

Sec. 204.006. APPLICABILITY OF TAX CREDIT. (a) Tax credits earned under this chapter may only be applied against the severance taxes imposed by Chapters 201 and 202 of this code. The tax credit may not be used until September 1, 1995, and may not be used after August 31, 2000. The tax credit may be applied to either oil or gas severance taxes regardless of the field from which the production originates.

(b) Tax credits provided under this chapter shall only be available if at the time the application for a tax credit is made, the discovery well that is the basis for the tax credit is producing oil or gas from the discovery field.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

Sec. 204.007. TRANSFERABILITY OF TAX CREDIT. The tax credit earned under this chapter is fully transferable.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

Sec. 204.008. REVOCATION OF NEW FIELD DESIGNATION. (a) If the commission determines that a designated new field is connected with another recognized field, the tax credit provided by this chapter is canceled.

(b) Persons responsible for paying the severance tax will not

be liable for any taxes offset by tax credits available under this chapter prior to the date of cancellation unless the tax credits were obtained in violation of this chapter or any rules or orders of the commission.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

Sec. 204.009. PENALTIES. (a) Any person who makes or subscribes any application, report, or other document and submits it to the commission to form the basis for an application for a tax credit under this chapter knowing that the application, report, or other document is false or untrue in a material fact may be subject to the penalties imposed by Chapters 85 and 91, Natural Resources Code.

(b) Upon notice from the commission that the certification for a new field discovery has been revoked, the tax credit may not be applied to oil or gas production sold after the date of notification. Any person who violates this subsection is liable to the state for a civil penalty if the person applies or attempts to apply the tax credit allowed by this chapter after the certification for new field discovery is revoked. The amount of the penalty may not exceed the sum of:

(1) $10,000; and

(2) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(c) The attorney general may recover a penalty under Subsection (b) in a suit brought on behalf of the state. Venue for the suit is in Travis County.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

Sec. 204.010. RULES AND ORDERS. The commission has broad discretion in administering this chapter and may adopt and enforce any appropriate rules or orders that the commission finds necessary to administer this chapter.

Added by Acts 1993, 73rd Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1993.

SUBTITLE J. INHERITANCE TAX
TITLE 3. LOCAL TAXATION
SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS
CHAPTER 301. GENERAL PROVISIONS

Sec. 301.001. PURPOSE OF TITLE. (a) This title is enacted as a part of the state's continuing statutory revision program, conducted by the Texas Legislative Council as directed by Section 323.007, Government Code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this title is to make the general and permanent state tax laws more accessible and understandable by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 301.002. CONSTRUCTION OF CODE. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this title, except as specifically provided by this title.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 301.003. INTERNAL REFERENCES. In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of this code in which the reference appears.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 301.004. TELEPHONE COMPANY EXEMPTION. (a) A municipality or other political subdivision of this state may not impose an occupation tax or any charge for the privilege of doing business on a telephone company taxed under Chapter 171 of this code.

(b) This section does not:

(1) prohibit the collection by a municipality of a franchise tax in effect on October 31, 1936;

(2) prohibit the collection of ad valorem taxes; or

(3) affect any contracts made between a municipality and a franchise holder.

(c) In this section, "telephone company" means a person who owns or operates a telephone line or a telephone network in this state, charges for its use, and is regulated by the Public Utility Commission of Texas as a certificated provider of local exchange telephone service.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 3, Sec. 3, eff. Oct. 1, 1988.

CHAPTER 302. TAXATION POWERS OF MUNICIPALITIES

SUBCHAPTER A. PROPERTY TAXES

Sec. 302.001. PROPERTY TAXES AUTHORIZED; PURPOSES. (a) A Type A general-law municipality may levy property taxes for current expenses, for the construction or purchase of public buildings, water works, sewers, and other permanent improvements in the municipality, including municipal schools and school sites, and for the construction and improvement of municipal roads, streets, and bridges in the municipality.

(b) A Type B general-law municipality may levy property taxes at an annual rate not to exceed 25 cents for each $100 of property valuation.

(c) A home-rule municipality may levy special or general property taxes for lawful purposes.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 302.002. OTHER TAXES NOT CONSIDERED: CERTAIN HOME-RULE MUNICIPALITIES. (a) In determining the power of certain home-rule municipalities to levy taxes, the taxes levied by a county, a political subdivision of a county, or a district under Article III, Section 52, of the Texas Constitution are not considered.

(b) This section prevails over a provision of a municipal charter to the extent of a conflict.

(c) This section applies only to a municipality that attempted to amend its charter before June 30, 1939, and at the time of the election to amend the charter did not own a water system, sanitary sewer system, electric light system, or natural gas system from which it could derive revenue.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. GENERAL PROVISIONS RELATING TO EXCISE TAXES

Sec. 302.101. OCCUPATION TAXES. (a) The governing body of a municipality, other than a Type C general-law municipality having 200 or fewer inhabitants, may impose and collect occupation taxes.

(b) A license required by a Type A general-law municipality may not extend to more than one establishment or apply to more than one occupation, business, or calling and may not be imposed except by a vote of two-thirds of the elected aldermen.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 302.102. TAX COLLECTION POWERS. (a) The governing body of a Type A general-law municipality may adopt ordinances and make rules relating to the imposition, assessment, and collection of taxes, except ad valorem taxes, authorized by this subchapter. An ordinance may provide for the sale of real and personal property for the collection of a tax authorized by this subchapter.

(b) A home-rule municipality may collect taxes that are authorized by the charter of the municipality or by law and may impose penalties for delinquent taxes. This subsection does not apply to property taxes.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS
CHAPTER 311. TAX INCREMENT FINANCING ACT

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Tax Increment Financing Act.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 311.002. DEFINITIONS. In this chapter:

(1) "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality or county designating a reinvestment zone that are listed in the project plan as costs of public works, public improvements, programs, or other projects benefiting the zone, plus other costs incidental to those expenditures and obligations. "Project costs" include:

(A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; the actual costs of the remediation of conditions that contaminate public or private land or buildings; the actual costs of the preservation of the facade of a public or private building; the actual costs of the demolition of public or private buildings; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;

(B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;

(C) real property assembly costs;

(D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;

(E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality or county in connection with the implementation of a project plan;

(F) relocation costs;

(G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;

(H) interest before and during construction and for one year after completion of construction, whether or not capitalized;

(I) the cost of operating the reinvestment zone and project facilities;

(J) the amount of any contributions made by the municipality or county from general revenue for the implementation of the project plan;

(K) the costs of school buildings, other educational buildings, other educational facilities, or other buildings owned by or on behalf of a school district, community college district, or other political subdivision of this state; and

(L) payments made at the discretion of the governing body of the municipality or county that the governing body finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.

(2) "Project plan" means the project plan for the development or redevelopment of a reinvestment zone approved under this chapter, including all amendments of the plan approved as provided by this chapter.

(3) "Reinvestment zone financing plan" means the financing plan for a reinvestment zone described by this chapter.

(4) "Taxing unit" has the meaning assigned by Section 1.04.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 35, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 1, eff. June 17, 2011.

Sec. 311.003. PROCEDURE FOR CREATING REINVESTMENT ZONE. (a) The governing body of a county by order may designate a contiguous geographic area in the county and the governing body of a municipality by ordinance may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality,

in the extraterritorial jurisdiction of the municipality, or in both to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future. The designation of an area that is wholly or partly located in the extraterritorial jurisdiction of a municipality is not affected by a subsequent annexation of real property in the reinvestment zone by the municipality.

(b) Before adopting an ordinance or order designating a reinvestment zone, the governing body of the municipality or county must prepare a preliminary reinvestment zone financing plan.

(c) Before adopting an ordinance or order providing for a reinvestment zone, the municipality or county must hold a public hearing on the creation of the zone and its benefits to the municipality or county and to property in the proposed zone. At the hearing an interested person may speak for or against the creation of the zone, its boundaries, or the concept of tax increment financing. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the municipality or county.

(d) A municipality or county proposing to designate a reinvestment zone must provide a reasonable opportunity for the owner of property to protest the inclusion of the property in a proposed reinvestment zone.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1032, Sec. 21, eff. June 17, 2011.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1032, Sec. 21, eff. June 17, 2011.

(g) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1032, Sec. 21, eff. June 17, 2011.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 16, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 983, Sec. 14, eff. June 18, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 36, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 910 (H.B. 1770), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 2, eff.

June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 21, eff. June 17, 2011.

Sec. 311.0031. ENTERPRISE ZONE. Designation of an area under the following other law constitutes designation of the area as a reinvestment zone under this chapter without further hearing or other procedural requirements other than those provided by the other law:

(1) Chapter 2303, Government Code; and

(2) Chapter 373A, Local Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 26, eff. Aug. 28, 1989.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(22), eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1175 (H.B. 470), Sec. 16, eff. September 1, 2007.

Sec. 311.004. CONTENTS OF REINVESTMENT ZONE ORDINANCE OR ORDER. (a) The ordinance or order designating an area as a reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) create a board of directors for the zone and specify the number of directors of the board as provided by Section 311.009 or 311.0091, as applicable;

(3) provide that the zone take effect immediately upon passage of the ordinance or order;

(4) provide a date for termination of the zone;

(5) assign a name to the zone for identification, with the first zone created by a municipality or county designated as "Reinvestment Zone Number One, City (or Town, as applicable) of (name of municipality)," or "Reinvestment Zone Number One, (name of county) County," as applicable, and subsequently created zones assigned names in the same form numbered consecutively in the order of their creation;

(6) establish a tax increment fund for the zone; and

(7) contain findings that:

(A) improvements in the zone will significantly enhance the value of all the taxable real property in the zone and will be of general benefit to the municipality or county; and

(B) the area meets the requirements of Section 311.005.

(b) For purposes of complying with Subsection (a)(7)(A), the ordinance or order is not required to identify the specific parcels of real property to be enhanced in value.

(c) To designate a reinvestment zone under Section 311.005(a)(4), the governing body of a municipality or county must specify in the ordinance or order that the reinvestment zone is designated under that section.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 17, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 983, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1162, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 36, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.002, eff. September 1, 2007.

Sec. 311.005. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality or county designating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the

fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more;

(2) be predominantly open or undeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county;

(3) be in a federally assisted new community located in the municipality or county or in an area immediately adjacent to a federally assisted new community; or

(4) be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

(a-1) Notwithstanding Subsection (a), if the proposed project plan for a potential zone includes the use of land in the zone in connection with the operation of an existing or proposed regional commuter or mass transit rail system, or for a structure or facility that is necessary, useful, or beneficial to such a regional rail system, the governing body of a municipality may designate an area as a reinvestment zone.

(b) In this section, "federally assisted new community" means a federally assisted area that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act, if a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.05(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 27, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1137, Sec. 18, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 37, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1347 (S.B. 771), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.003, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1361 (H.B. 2092), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 3, eff. June 17, 2011.

Sec. 311.006. RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONE. (a) A municipality may not designate a reinvestment zone if:

(1) more than 30 percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds:

(A) 25 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality has a population of 100,000 or more; or

(B) 50 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality has a population of less than 100,000.

(b) A municipality may not change the boundaries of an existing reinvestment zone to include property in excess of the restrictions on composition of a zone described by Subsection (a).

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1032, Sec. 21, eff. June 17, 2011.

(d) For purposes of this section, property is used for residential purposes if it is occupied by a house having fewer than five living units, and the appraised value is determined according to the most recent appraisal rolls of the municipality.

(e) Subsection (a)(1) does not apply to a reinvestment zone designated under Section 311.005(a)(4).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 19, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.004, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 543 (S.B. 1633), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 910 (H.B. 1770), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 4, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 21, eff. June 17, 2011.

Sec. 311.007. CHANGING BOUNDARIES OR TERM OF EXISTING ZONE. (a) Subject to the limitations provided by Section 311.006, if applicable, the boundaries of an existing reinvestment zone may be reduced or enlarged by ordinance or resolution of the governing body of the municipality or by order or resolution of the governing body of the county that created the zone.

(b) The governing body of the municipality or county may enlarge an existing reinvestment zone to include an area described in a petition requesting that the area be included in the zone if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located. The composition of the board of directors of the zone continues to be governed by Section 311.009(a) or (b), whichever applied to the zone immediately before the enlargement of the zone, except that the membership of the board must conform to the requirements of the applicable subsection of Section 311.009 as applied to the zone after its enlargement. The provision of Section 311.006(b) relating to the amount of property used for residential purposes that may be included in the zone does not apply to the enlargement of a zone under this subsection.

(c) The governing body of the municipality or county that designated a reinvestment zone by ordinance or resolution or by order

or resolution, respectively, may extend the term of all or a portion of the zone after notice and hearing in the manner provided for the designation of the zone. A taxing unit other than the municipality or county that designated the zone is not required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 20, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 38, eff. September 1, 2005.
Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 5, eff. June 17, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 6, eff. June 17, 2011.

Sec. 311.008. POWERS OF MUNICIPALITY OR COUNTY. (a) In this section, "educational facility" includes equipment, real property, and other facilities, including a public school building, that are used or intended to be used jointly by the municipality or county and an independent school district.

(b) A municipality or county may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase, condemnation, or other means and sell real property, on the terms and conditions and in the manner it considers advisable, to implement project plans;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality or county to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed real property or other

property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes;

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, or parking facilities, but not including educational facilities; or

(C) in a reinvestment zone created on or before September 1, 1999, acquire, construct, or reconstruct educational facilities in the municipality.

(c) The powers authorized by Subsection (b)(2) prevail over any law or municipal charter to the contrary.

(d) A municipality or county may make available to the public on request financial information regarding the acquisition by the municipality or county of land in the zone when the municipality or county acquires the land.

(e) The implementation of a project plan to alleviate a condition described by Section 311.005(a)(1), (2), or (3) and to promote development or redevelopment of a reinvestment zone in accordance with this chapter serves a public purpose.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 44, Sec. 2, eff. Oct. 20, 1987; Acts 1999, 76th Leg., ch. 1521, Sec. 1, eff. June 19, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 39, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 40, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1347 (S.B. 771), Sec. 2, eff. June 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 7, eff. June 17, 2011.

Sec. 311.0085. POWER OF CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of less than

130,000 as shown by the 2000 federal decennial census that has territory in three counties.

(b) In this section, "educational facility" has the meaning assigned by Section 311.008.

(c) In addition to exercising the powers described by Section 311.008, a municipality may enter into a new agreement, or amend an existing agreement, with a school district that is located in whole or in part in a reinvestment zone created by the municipality to dedicate revenue from the tax increment fund to the school district for acquiring, constructing, or reconstructing an educational facility located in or outside of the zone.

Added by Acts 2001, 77th Leg., ch. 1133, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 38 (H.B. 752), Sec. 1, eff. May 19, 2009.

Sec. 311.0087. RESTRICTION ON POWERS OF CERTAIN MUNICIPALITIES. (a) This section applies only to a proposed reinvestment zone:

(1) the designation of which is requested in a petition submitted under Section 311.005(a)(4) before July 31, 2004, to the governing body of a home-rule municipality that:

(A) has a population of more than 1.1 million;

(B) is located primarily in a county with a population of 1.5 million or less; and

(C) has created at least 20 reinvestment zones under this chapter; and

(2) that is the subject of a resolution of intent that was adopted before October 31, 2004, by the governing body of the municipality.

(b) If the municipality imposes a fee of more than $25,000 for processing the petition, the municipality may not require a property owner who submitted the petition, as a condition of designating the reinvestment zone or approving a development agreement, interlocal agreement, or project plan for the proposed reinvestment zone:

(1) to waive any rights of the owner under Chapter 245, Local Government Code, or under any agreed order or settlement agreement to which the municipality is a party;

(2) to dedicate more than 20 percent of the owner's land in

the area described in the petition as open-space land; or

(3) to use a nonconventional use pattern for a development to be located within the proposed reinvestment zone.

Added by Acts 2005, 79th Leg., Ch. 1347 (S.B. 771), Sec. 3, eff. June 18, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.005, eff. September 1, 2007.

Sec. 311.009. COMPOSITION OF BOARD OF DIRECTORS. (a) Except as provided by Subsection (b), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit other than the municipality or county that designated the zone that levies taxes on real property in the zone may appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. A unit may waive its right to appoint a director. The governing body of the municipality or county that designated the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the municipality or county, the governing body of the municipality or county may appoint more than 10 members as long as the total membership of the board does not exceed 15.

(b) If the zone was designated under Section 311.005(a)(4), the governing body of the municipality or county that designated the zone may provide that the board of directors of the zone consists of nine members appointed as provided by this subsection, unless more than nine members are required to comply with this subsection. Each taxing unit, other than the municipality or county that designated the zone, that levies taxes on real property in the zone may appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate

another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable. If fewer than seven taxing units, other than the municipality or county that designated the zone, are eligible to appoint members of the board of directors of the zone, the municipality or county may appoint a number of members of the board such that the board comprises nine members. If at least seven taxing units, other than the municipality or county that designated the zone, are eligible to appoint members of the board of directors of the zone, the municipality or county may appoint one member.

(c) Members of the board are appointed for terms of two years unless longer terms are provided under Article XI, Section 11, of the Texas Constitution. Terms of members may be staggered.

(d) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

(e) To be eligible for appointment to the board by the governing body of the municipality or county that designated the zone, an individual must be at least 18 years of age and:

(1) if the board is covered by Subsection (a):

(A) be a resident of the county in which the zone is located or a county adjacent to that county; or

(B) own real property in the zone, whether or not the individual resides in the county in which the zone is located or a county adjacent to that county; or

(2) if the board is covered by Subsection (b), own real property in the zone or be an employee or agent of a person that owns real property in the zone.

(f) Each year the governing body of the municipality or county that created the zone shall appoint one member of the board to serve as chairman for a term of one year that begins on January 1 of the following year. The board of directors may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The board may elect other officers as it considers appropriate.

(g) A member of the board of directors of a reinvestment zone:

(1) is not a public official by virtue of that position;

and

(2) unless otherwise ineligible, may be appointed to serve concurrently on the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 21, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 983, Sec. 2, eff. June 18, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 41, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.006, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 8, eff. June 17, 2011.

Sec. 311.0091. COMPOSITION OF BOARD OF DIRECTORS OF CERTAIN REINVESTMENT ZONES. (a) This section applies to a reinvestment zone designated by a municipality which is wholly or partially located in a county with a population of less than 1.8 million in which the principal municipality has a population of 1.1 million or more.

(b) Except as provided by Subsection (c), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. In determining the number of members a taxing unit may appoint to the board, the taxing unit's percentage of anticipated pro rata contributions to the tax increment fund is multiplied by the number of members of the board, and a number containing a fraction that is one-half or greater shall be rounded up to the next whole number. Notwithstanding any other provision of this subsection, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint at least one member of the board, and the municipality that

designated the zone is entitled to appoint at least as many members of the board as any other participating taxing unit. A taxing unit may waive its right to appoint a director.

(c) If the zone was designated under Section 311.005(a)(4), the board of directors of the zone consists of nine members, unless a greater number of members is necessary to comply with this subsection. Each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. In determining the number of members a taxing unit may appoint to the board, the taxing unit's percentage of anticipated pro rata contributions to the tax increment fund is multiplied by nine, and a number containing a fraction that is one-half or greater shall be rounded up to the next whole number. Notwithstanding any other provision of this subsection, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint at least one member of the board, and the municipality that designated the zone is entitled to appoint at least as many members of the board as any other participating taxing unit. A taxing unit may waive its right to appoint a director. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable.

(d) Members of the board are appointed for terms of two years unless longer terms are provided under Section 11, Article XI, Texas Constitution. Terms of members may be staggered.

(e) A vacancy on the board is filled for the unexpired term by appointment of the governing body of the taxing unit that appointed the director who served in the vacant position.

(f) Except as provided by Subsection (i), to be eligible for appointment to the board, an individual must:

(1) be a qualified voter of the municipality; or

(2) be at least 18 years of age and own real property in the zone or be an employee or agent of a person that owns real property in the zone.

(g) Each year the board of directors of a reinvestment zone shall elect one of its members to serve as presiding officer for a term of one year. The board of directors may elect an assistant presiding officer to preside in the absence of the presiding officer or when there is a vacancy in the office of presiding officer. The board may elect other officers as it considers appropriate.

(h) A member of the board of directors of a reinvestment zone:

(1) is not a public official by virtue of that position; and

(2) unless otherwise ineligible, may be appointed to serve concurrently on the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code.

(i) The eligibility criteria for appointment to the board specified by Subsection (f) do not apply to an individual appointed by a conservation and reclamation district:

(1) created under Section 59, Article XVI, Texas Constitution; and

(2) the jurisdiction of which covers four counties.

Added by Acts 2001, 77th Leg., ch. 1162, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.007, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 9, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 116, eff. September 1, 2011.

Sec. 311.0092. NOTICE TO STATE SENATOR AND STATE REPRESENTATIVE; WAIVER OF SERVICE ON BOARD. (a) Not later than the 90th day after the date a member of the state senate or state house of representatives who is an ex officio member of the board of directors of a reinvestment zone under Section 311.009(b) or 311.0091(c), as applicable, is elected to the state senate or the state house of representatives, as applicable, at a general or

special election, the board shall send to the member of the state senate or state house of representatives written notice by certified mail informing the state senator or state representative of the person's membership on the board.

(b) Notwithstanding Section 311.009(b) or 311.0091(c), as applicable, a state senator or state representative may elect not to serve on the board or designate another individual to serve in the member's place. If the state senator or state representative elects not to serve on the board or designate another individual to serve in the member's place, the state senator or state representative shall notify the board in writing as soon as practicable after receipt of the notice under Subsection (a) by certified mail and may not be counted as a member of the board for voting or quorum purposes.

Added by Acts 2017, 85th Leg., R.S., Ch. 600 (S.B. 1465), Sec. 1, eff. September 1, 2017.

Sec. 311.010. POWERS AND DUTIES OF BOARD OF DIRECTORS. (a) The board of directors of a reinvestment zone shall make recommendations to the governing body of the municipality or county that created the zone concerning the administration of this chapter in the zone. The governing body of the municipality by ordinance or resolution or the county by order or resolution may authorize the board to exercise any of the municipality's or county's powers with respect to the administration, management, or operation of the zone or the implementation of the project plan for the zone, except that the governing body may not authorize the board to:

(1) issue bonds;

(2) impose taxes or fees;

(3) exercise the power of eminent domain; or

(4) give final approval to the project plan.

(b) The board of directors of a reinvestment zone and the governing body of the municipality or county that creates a reinvestment zone may each enter into agreements as the board or the governing body considers necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes. An agreement may provide for the regulation or restriction of the use of land by imposing conditions, restrictions, or covenants that run with the land. An agreement may during the term of the

agreement dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay any project costs that benefit the reinvestment zone, including project costs relating to the cost of buildings, schools, or other educational facilities owned by or on behalf of a school district, community college district, or other political subdivision of this state, railroad or transit facilities, affordable housing, the remediation of conditions that contaminate public or private land or buildings, the preservation of the facade of a private or public building, the demolition of public or private buildings, or the construction of a road, sidewalk, or other public infrastructure in or out of the zone, including the cost of acquiring the real property necessary for the construction of the road, sidewalk, or other public infrastructure. An agreement may dedicate revenue from the tax increment fund to pay the costs of providing affordable housing or areas of public assembly in or out of the zone.

(c) Subject to the approval of the governing body of the municipality that created the zone, the board of a zone designated by the governing body of a municipality under Section 311.005(a)(4) may exercise the power granted by Chapter 211, Local Government Code, to the governing body of the municipality that created the zone to restrict the use or uses of property in the zone. The board may provide that a restriction adopted by the board continues in effect after the termination of the zone. In that event, after termination of the zone the restriction is treated as if it had been adopted by the governing body of the municipality.

(d) The board of directors of a reinvestment zone may exercise any power granted to a municipality or county by Section 311.008, except that:

(1) the municipality or county that created the reinvestment zone by ordinance, resolution, or order may restrict any power granted to the board by this chapter; and

(2) the board may exercise a power granted to a municipality or county under Section 311.008(b)(2) only with the consent of the governing body of the municipality or county.

(e) After the governing body of a municipality by ordinance or the governing body of a county by order creates a reinvestment zone under this chapter, the board of directors of the zone may exercise any power granted to a board under this chapter.

(f) The board of directors of a reinvestment zone and the

governing body of the municipality or county that created the zone may enter into a contract with a local government corporation or a political subdivision to manage the reinvestment zone or implement the project plan and reinvestment zone financing plan for the term of the agreement. In this subsection, "local government corporation" means a local government corporation created by the municipality or county under Chapter 431, Transportation Code.

(g) Chapter 252, Local Government Code, does not apply to a dedication, pledge, or other use of revenue in the tax increment fund for a reinvestment zone under Subsection (b).

(h) Subject to the approval of the governing body of the municipality or county that designated the zone, the board of directors of a reinvestment zone, as necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes, may establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the zone, eliminating unemployment and underemployment in the zone, and developing or expanding transportation, business, and commercial activity in the zone, including programs to make grants and loans from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment fund for the zone for activities that benefit the zone and stimulate business and commercial activity in the zone. For purposes of this subsection, on approval of the municipality or county, the board of directors of the zone has all the powers of a municipality under Chapter 380, Local Government Code. The approval required by this subsection may be granted in an ordinance, in the case of a zone designated by a municipality, or in an order, in the case of a zone designated by a county, approving a project plan or reinvestment zone financing plan or approving an amendment to a project plan or reinvestment zone financing plan.

(i) The board of directors of a reinvestment zone or a local government corporation administering a reinvestment zone may contract with the municipality that created the zone to allocate from the tax increment fund for the zone an amount equal to the tax increment produced by the municipality and paid into the tax increment fund for the zone to pay the incremental costs of providing municipal services incurred as a result of the creation of the zone or the development or redevelopment of the land in the zone, regardless of whether the

costs of those services are identified in the project plan or reinvestment zone financing plan for the zone.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 22, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 2nd C.S., ch. 11, Sec. 58, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(23), eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 983, Sec. 3, eff. June 18, 1999. Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 42, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1347 (S.B. 771), Sec. 4, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.008, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1358 (S.B. 576), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 10, eff. June 17, 2011.

Sec. 311.01005. COSTS ASSOCIATED WITH TRANSPORTATION OR TRANSIT PROJECTS. (a) In this section:

(1) "Bus rapid transit project" means a mass transportation facility designed to give preferential treatment to buses on a roadway in order to reduce bus travel time, improve service reliability, increase the convenience of users, and increase bus ridership, including:

(A) a fixed guideway, high occupancy vehicle lane, bus way, or bus lane;

(B) a transit center or station;

(C) a maintenance facility; and

(D) other real property associated with a bus rapid transit operation.

(2) "Rail transportation project" means a passenger rail facility, including:

(A) tracks;

(B) a rail line;

(C) a depot;

(D) a maintenance facility; and

(E) other real property associated with a passenger rail operation.

(b) This section does not affect the power of the board of directors of a reinvestment zone or the governing body of the municipality that creates a reinvestment zone to enter into an agreement under Section 311.010(b) to dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay the costs of acquiring, constructing, operating, or maintaining property located in the zone or to acquire or reimburse acquisition costs of real property outside the zone for right-of-way or easements necessary to construct public rights-of-way or infrastructure that benefits the zone.

(c) An agreement under Section 311.010(b) may dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay the costs of acquiring land, or the development rights or a conservation easement in land, located outside the reinvestment zone, if:

(1) the zone is or will be served by a rail transportation project or bus rapid transit project;

(2) the land or the development rights or conservation easement in the land is acquired for the purpose of preserving the land in its natural or undeveloped condition; and

(3) the land is located in the county in which the zone is located.

(d) The board of directors of a reinvestment zone, if all of the members of the board are appointed by the municipality that creates the zone, or the governing body of the municipality that creates a reinvestment zone may enter into an agreement described by Subsection (c) only if:

(1) the board or the governing body determines that the acquisition of the land, or the development rights or conservation easement in the land, located outside the zone benefits or will benefit the zone by facilitating the preservation of regional open space in order to balance the regional effects of urban development promoted by the rail transportation project or bus rapid transit project; and

(2) the municipality that creates the reinvestment zone and the county in which the zone is located pay the same portion of their tax increment into the tax increment fund for the zone.

(e) Property acquired under Subsection (c) may not be acquired

through condemnation.

Added by Acts 2005, 79th Leg., Ch. 1134 (H.B. 2653), Sec. 1, eff. June 18, 2005.

Sec. 311.0101. PARTICIPATION OF DISADVANTAGED BUSINESSES IN CERTAIN ZONES. (a) It is the goal of the legislature, subject to the constitutional requirements spelled out by the United States Supreme Court in J. A. Croson Company v. City of Richmond (822 F.2d 1355) and as hereafter further elaborated by federal and state courts, that all disadvantaged businesses in the zone designated under Section 311.005(a)(4) be given full and complete access to the procurement process whereby supplies, materials, services, and equipment are acquired by the board. It is also the intent of the legislature that to the extent constitutionally permissible, a preference be given to disadvantaged businesses. The board and general contractor shall give preference, among bids or other proposals that are otherwise comparable, to a bid or other proposal by a disadvantaged business having its home office located in this state.

(b) It is the intent of the legislature that the zone shall:

(1) implement a program or programs targeted to disadvantaged businesses in order to inform them fully about the zone procurement process and the requirements for their participation in that process;

(2) implement such steps as are necessary to ensure that all disadvantaged businesses are made fully aware of opportunities in the zone, including but not limited to specific opportunities to submit bids and proposals. Steps that may be appropriate in certain circumstances include mailing requests for proposals or notices inviting bids to all disadvantaged businesses in the county;

(3) require prime contractors, as part of their responses to requests for proposals or bids, to make a specific showing of how they intend to maximize participation by disadvantaged businesses as subcontractors. The zone shall be required to evaluate such actions by prime contractors as a factor in the award of contracts within the zone procurement process;

(4) identify disadvantaged businesses in the county that provide or have the potential to provide supplies, materials,

services, and equipment to the zone; and

(5) identify barriers to participation by disadvantaged businesses in the zone procurement process, such as bonding, insurance, and working capital requirements that may be imposed on businesses.

(c) It is the intent of the legislature that the zone shall be required to develop a program pursuant to this Act for the purchase of supplies, materials, services, and equipment and that the board of the zone compile a report on an annual basis listing the total number and dollar amount of contracts awarded to disadvantaged businesses during the previous year as well as the total number and dollar amount of all contracts awarded. Such annual report shall be available for inspection by the general public during regular business hours.

(d) The board by rule shall adopt goals for the participation of minority business enterprises and women-owned business enterprises in the awarding of state contracts for professional services. To implement the participation goals, the board shall encourage each issuer to award to minority business enterprises and women-owned business enterprises not less than 15 percent of the total value of all professional services contract awards that the issuer expects to make in its fiscal year.

Added by Acts 1989, 71st Leg., ch. 1137, Sec. 23, eff. Sept. 1, 1989.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.009, eff. September 1, 2007.

Sec. 311.011. PROJECT AND FINANCING PLANS. (a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality or county that designated the zone.

(b) The project plan must include:

(1) a description and map showing existing uses and conditions of real property in the zone and proposed uses of that property;

(2) proposed changes of zoning ordinances, the master plan of the municipality, building codes, other municipal ordinances, and

subdivision rules and regulations, if any, of the county, if applicable;

(3) a list of estimated nonproject costs; and

(4) a statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan.

(c) The reinvestment zone financing plan must include:

(1) a detailed list describing the estimated project costs of the zone, including administrative expenses;

(2) a statement listing the proposed kind, number, and location of all public works or public improvements to be financed by the zone;

(3) a finding that the plan is economically feasible and an economic feasibility study;

(4) the estimated amount of bonded indebtedness to be incurred;

(5) the estimated time when related costs or monetary obligations are to be incurred;

(6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit anticipated to contribute tax increment to the zone that levies taxes on real property in the zone;

(7) the current total appraised value of taxable real property in the zone;

(8) the estimated captured appraised value of the zone during each year of its existence; and

(9) the duration of the zone.

(d) The governing body of the municipality or county that designated the zone must approve a project plan or reinvestment zone financing plan after its adoption by the board. The approval must be by ordinance, in the case of a municipality, or by order, in the case of a county, that finds that the plan is feasible.

(e) The board of directors of the zone at any time may adopt an amendment to the project plan consistent with the requirements and limitations of this chapter. The amendment takes effect on approval by the governing body of the municipality or county that created the zone. That approval must be by ordinance, in the case of a municipality, or by order, in the case of a county. If an amendment reduces or increases the geographic area of the zone, increases the

amount of bonded indebtedness to be incurred, increases or decreases the percentage of a tax increment to be contributed by a taxing unit, increases the total estimated project costs, or designates additional property in the zone to be acquired by the municipality or county, the approval must be by ordinance or order, as applicable, adopted after a public hearing that satisfies the procedural requirements of Sections 311.003(c) and (d).

(f) In a zone designated under Section 311.005(a)(4) that is located in a county with a population of 3.3 million or more, the project plan must provide that at least one-third of the tax increment of the zone be used to provide affordable housing during the term of the zone.

(g) A school district that participates in a zone is not required to increase the percentage or amount of the tax increment to be contributed by the school district because of an amendment to the project plan or reinvestment zone financing plan for the zone unless the governing body of the school district by official action approves the amendment.

(h) Unless specifically provided otherwise in the plan, all amounts contained in the project plan or reinvestment zone financing plan, including amounts of expenditures relating to project costs and amounts relating to participation by taxing units, are considered estimates and do not act as a limitation on the described items, but the amounts contained in the project plan or reinvestment zone financing plan may not vary materially from the estimates. This subsection may not be construed to increase the amount of any reduction under Section 403.302(d)(4), Government Code, in the total taxable value of the property in a school district that participates in the zone as computed under Section 403.302(d) of that code.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 24, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 983, Sec. 4, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 120, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 43, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 14.010, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 11, eff.

June 17, 2011.

Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT. (a) The amount of a taxing unit's tax increment for a year is the amount of property taxes levied and assessed by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone or the amount of property taxes levied and collected by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone. The governing body of a taxing unit shall determine which of the methods specified by this subsection is used to calculate the amount of the unit's tax increment.

(b) The captured appraised value of real property taxable by a taxing unit for a year is the total taxable value of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit.

(c) The tax increment base of a taxing unit is the total taxable value of all real property taxable by the unit and located in a reinvestment zone for the year in which the zone was designated under this chapter. If the boundaries of a zone are enlarged, the tax increment base is increased by the taxable value of the real property added to the zone for the year in which the property was added. If the boundaries of a zone are reduced, the tax increment base is reduced by the taxable value of the real property removed from the zone for the year in which the property was originally included in the zone's boundaries. If the municipality that designates a zone does not levy an ad valorem tax in the year in which the zone is designated, the tax increment base is determined by the appraisal district in which the zone is located using assumptions regarding exemptions and other relevant information provided to the appraisal district by the municipality.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1999, 76th Leg., ch. 983, Sec. 5, eff. June 18, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 910 (H.B. 1770), Sec. 3, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 12, eff. June 17, 2011.

Sec. 311.0123. SALES TAX INCREMENT. (a) In this section, "sales tax base" for a reinvestment zone means the amount of municipal sales and use taxes attributable to the zone for the year in which the zone was designated under this chapter.

(b) The governing body of a municipality may determine, in an ordinance designating an area as a reinvestment zone or in an ordinance adopted subsequent to the designation of a zone, the portion or amount of tax increment generated from municipal sales and use taxes attributable to the zone, above the sales tax base, to be deposited into the tax increment fund. Nothing in this section requires a municipality to contribute sales tax increment into a tax increment fund.

(c) Before the issuance of a bond, note, or other obligation under this chapter that pledges the payments into the tax increment fund under Subsection (b), the governing body of a municipality may enter into an agreement, under Subchapter E, Chapter 271, Local Government Code, to authorize and direct the comptroller to:

(1) withhold from any payment to which the municipality may be entitled the amount of the payment into the tax increment fund under Subsection (b);

(2) deposit that amount into the tax increment fund; and

(3) continue withholding and making additional payments into the tax increment fund until an amount sufficient to satisfy the amount due has been met.

(d) A local government corporation created under Chapter 431, Transportation Code, that has contracted with a reinvestment zone and a municipality under Section 311.010(f) may be a party to an agreement under Subsection (c) and the agreement may provide for payments to be made to a paying agent of the local government corporation.

(e) The sales and use taxes to be deposited into the tax increment fund under this section may be disbursed from the fund only to:

(1) satisfy claims of holders of tax increment bonds, notes, or other obligations issued or incurred for the reinvestment zone;

(2) pay project costs for the zone; and

(3) make payments in accordance with an agreement made

under Section 311.010(b) dedicating revenue from the tax increment fund.

Added by Acts 2005, 79th Leg., Ch. 114 (S.B. 1199), Sec. 1, eff. May 20, 2005.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 189 (S.B. 1264), Sec. 1, eff. May 23, 2007.

Sec. 311.0125. TAX ABATEMENT AGREEMENTS. (a) Notwithstanding any provision in this chapter to the contrary, a taxing unit other than a school district may enter into a tax abatement agreement with an owner of real or personal property in a reinvestment zone, regardless of whether the taxing unit deposits or agrees to deposit any portion of its tax increment into the tax increment fund.

(b) To be effective, an agreement to abate taxes on real property in a reinvestment zone must be approved by:

(1) the board of directors of the reinvestment zone; and

(2) the governing body of each taxing unit that imposes taxes on real property in the reinvestment zone and deposits or agrees to deposit any of its tax increment into the tax increment fund for the zone.

(c) In any contract entered into by the board of directors of a reinvestment zone in connection with bonds or other obligations, the board may convenant that the board will not approve a tax abatement agreement that applies to real property in that zone.

(d) If a taxing unit enters into a tax abatement agreement authorized by this section, taxes that are abated under that agreement are not considered taxes to be imposed or produced by that taxing unit in calculating the amount of:

(1) the tax increment of that taxing unit; or

(2) that taxing unit's deposit to the tax increment fund for the reinvestment zone.

(e) The Texas Department of Economic Development or its successor may recommend that a taxing unit enter into a tax abatement agreement with a person under this chapter. In determining whether to approve an agreement to abate taxes on real property in a reinvestment zone under Subsection (b), the board of directors of the reinvestment zone and the governing body of a taxing unit shall

consider any recommendation made by the Texas Department of Economic Development or its successor.

Added by Acts 1999, 76th Leg., ch. 983, Sec. 6, eff. June 18, 1999. Amended by Acts 2003, 78th Leg., ch. 978, Sec. 4, eff. Sept. 1, 2003.

Sec. 311.013. COLLECTION AND DEPOSIT OF TAX INCREMENTS. (a) Each taxing unit that taxes real property located in a reinvestment zone shall provide for the collection of its taxes in the zone as for any other property taxed by the unit.

(b) Each taxing unit shall pay into the tax increment fund for the zone an amount equal to the tax increment produced by the unit, less the sum of:

(1) property taxes produced from the tax increments that are, by contract executed before the designation of the area as a reinvestment zone, required to be paid by the unit to another political subdivision; and

(2) for a taxing unit other than the municipality that created the zone, a portion, not to exceed 15 percent, of the tax increment produced by the unit as provided by the reinvestment zone financing plan or a larger portion as provided by Subsection (f).

(c) Notwithstanding any termination of the reinvestment zone under Section 311.017(a) and unless otherwise specified by an agreement between the taxing unit and the municipality or county that created the zone, a taxing unit shall make a payment required by Subsection (b) not later than the 90th day after the later of:

(1) the delinquency date for the unit's property taxes; or

(2) the date the municipality or county that created the zone submits to the taxing unit an invoice specifying the tax increment produced by the taxing unit and the amount the taxing unit is required to pay into the tax increment fund for the zone.

(c-1) A delinquent payment incurs a penalty of five percent of the amount delinquent and accrues interest at an annual rate of 10 percent.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1032, Sec. 21, eff. June 17, 2011.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1032, Sec. 21, eff. June 17, 2011.

(f) A taxing unit is not required to pay into the tax increment

fund any of its tax increment produced from property located in a reinvestment zone designated under Section 311.005(a) or in an area added to a reinvestment zone under Section 311.007 unless the taxing unit enters into an agreement to do so with the governing body of the municipality or county that designated the zone. A taxing unit may enter into an agreement under this subsection at any time before or after the zone is designated or enlarged. The agreement may include conditions for payment of that tax increment into the fund and must specify the portion of the tax increment to be paid into the fund and the years for which that tax increment is to be paid into the fund. In addition to any other terms to which the parties may agree, the agreement may specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone. The agreement and the conditions in the agreement are binding on the taxing unit, the municipality or county, and the board of directors of the zone.

(f-1) This subsection does not apply to a hospital district to which Section 281.095, Health and Safety Code, applies. Notwithstanding Subsection (f), the commissioners court of a county that enters into an agreement with the governing body of a municipality under Subsection (f) may enter into an agreement with the governing body of the municipality under that subsection on behalf of a taxing unit other than the county if by statute the ad valorem tax rate of the other taxing unit is approved by the commissioners court or the commissioners court is expressly required by statute to levy the ad valorem taxes of the other taxing unit. The agreement entered into on behalf of the other taxing unit is not required to contain the same conditions as the agreement entered into on behalf of the county. This subsection does not authorize the commissioners court of a county to enter into an agreement on behalf of another taxing unit solely because the county tax assessor-collector is required by law to assess or collect the taxing unit's ad valorem taxes.

(f-2) This subsection does not apply to a hospital district to which Section 281.095, Health and Safety Code, applies. Notwithstanding Subsection (f), the commissioners court of a county that creates a zone may provide by order for the payment into the tax increment fund for the zone of a portion of the tax increment produced by a taxing unit other than the county if by statute the ad

valorem tax rate of the other taxing unit is approved by the commissioners court or the commissioners court is expressly required by statute to levy the ad valorem taxes of the other taxing unit. The order may include conditions for payment of that tax increment into the fund that are different from the conditions applicable to the county's obligation to pay into the fund the tax increment produced by the county. This subsection does not authorize the commissioners court of a county to provide for the payment into the fund of a portion of the tax increment produced by another taxing unit solely because the county tax assessor-collector is required by law to assess or collect the taxing unit's ad valorem taxes.

(g) Subject to the provisions of Section 311.0125, in lieu of permitting a portion of its tax increment to be paid into the tax increment fund, and notwithstanding the provisions of Section 312.203, a taxing unit, including a municipality, may elect to offer the owners of taxable real property in a reinvestment zone created under this chapter an exemption from taxation of all or part of the value of the property. To be effective, an agreement to exempt real property from ad valorem taxes under this subsection must be approved by:

(1) the board of directors of the reinvestment zone; and

(2) the governing body of each taxing unit that imposes taxes on real property in the reinvestment zone and deposits or agrees to deposit any of its tax increment into the tax increment fund for the zone.

(h) Repealed by Acts 2003, 78th Leg., ch. 8, Sec. 1, eff. April 24, 2003.

(i) Notwithstanding Subsection (c) and Section 311.012(a), a taxing unit is not required to pay into a tax increment fund the applicable portion of a tax increment attributable to delinquent taxes until those taxes are collected.

(j) Section 26.05(f) does not prohibit a taxing unit from depositing all of the tax increment produced by the taxing unit in a reinvestment zone into the tax increment fund for that zone.

(k) A school district is not required to pay into the tax increment fund any of its tax increment produced from property located in an area added to the reinvestment zone under Section 311.007(a) or (b) unless the governing body of the school district enters into an agreement to do so with the governing body of the municipality or county that created the zone. The governing body of

a school district may enter into an agreement under this subsection at any time before or after the zone is created or enlarged. The agreement may include conditions for payment of that tax increment into the fund and must specify the portion of the tax increment to be paid into the fund and the years for which that tax increment is to be paid into the fund. The agreement and the conditions in the agreement are binding on the school district, the municipality or county, and the board of directors of the zone.

(l) The governing body of a municipality or county that designates an area as a reinvestment zone may determine, in the designating ordinance or order adopted under Section 311.003 or in the ordinance or order adopted under Section 311.011 approving the reinvestment zone financing plan for the zone, the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for the zone. If a municipality or county does not determine the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for a reinvestment zone, the municipality or county is required to pay into the fund for the zone the entire tax increment produced by the municipality or county, except as provided by Subsection (b)(1).

(m) The governing body of a municipality that is located in a county with a population of more than 1.8 million but less than 1.9 million or in a county with a population of 3.3 million or more by ordinance may reduce the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone. The municipality may not reduce under this subsection the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone unless the municipality provides each county that has entered into an agreement with the municipality to pay all or a portion of the county's tax increment into the fund an opportunity to enter into an agreement with the municipality to reduce the portion of the tax increment produced by the county that the county is required to pay into the tax increment fund for the zone by the same proportion that the portion of the municipality's tax increment that the municipality is required to pay into the fund is reduced. The portion of the tax increment produced by a municipality that the municipality is required to pay into the tax

increment fund for a reinvestment zone, as reduced by the ordinance adopted under this subsection, together with all other revenues required to be paid into the fund, must be sufficient to complete and pay for the estimated costs of projects listed in the reinvestment zone financing plan and pay any tax increment bonds or notes issued for the zone, and any other obligations of the zone.

(n) This subsection applies only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (4) of that subsection. In addition to the amount otherwise required to be paid into the tax increment fund, the district shall pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction. This additional amount may not exceed the amount the school district receives in state aid for the current tax year under Section 48.253, Education Code. The school district shall pay the additional amount after the district receives the state aid to which the district is entitled for the current tax year under Section 48.253, Education Code.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 25, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 17.06, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 112, Sec. 1, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 983, Sec. 7, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 8, Sec. 1, eff. April 24, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 44, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1347 (S.B. 771), Sec. 5, eff. June 18, 2005.

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.16, eff. May 31, 2006.

Acts 2009, 81st Leg., R.S., Ch. 910 (H.B. 1770), Sec. 4, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 89, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1358 (S.B. 576), Sec. 2, eff.

June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 13, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 21, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 117, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1326 (S.B. 627), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 57.30, eff. September 28, 2011.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.092, eff. September 1, 2019.

Sec. 311.014. TAX INCREMENT FUND. (a) In addition to the deposits required by Section 311.013, all revenues from the sale of tax increment bonds or notes, revenues from the sale of any property acquired as part of the tax increment financing plan, and other revenues to be used in the reinvestment zone shall be deposited in the tax increment fund for the zone.

(b) Money may be disbursed from the fund only to satisfy claims of holders of tax increment bonds or notes issued for the zone, to pay project costs for the zone, to make payments pursuant to an agreement made under Section 311.010(b) dedicating revenue from the tax increment fund, or to repay other obligations incurred for the zone.

(c) Subject to an agreement with the holders of tax increment bonds or notes, money in a tax increment fund may be temporarily invested in the same manner as other funds of the municipality or county that created the zone.

(d) After all project costs, all tax increment bonds or notes issued for a reinvestment zone, and any other obligations incurred for the zone have been paid, and subject to any agreement with bondholders, any money remaining in the tax increment fund shall be paid to the municipality or county that created the zone and other taxing units levying taxes on property in the zone in proportion to the municipality's or county's and each other unit's respective share of the total amount of tax increments derived from taxable real property in the zone that were deposited in the fund during the

fund's existence.

(e) A taxing unit that levies taxes on real property in a reinvestment zone may make a loan to the board of directors of the zone for deposit in the tax increment fund for the zone if the governing body of the taxing unit determines that the loan is beneficial to, and serves a public purpose of, the taxing unit. The loan is payable on the terms agreed to by the taxing unit, or an instrumentality of the taxing unit if applicable, and the board of directors of the zone. A loan under this subsection:

(1) is not considered to be a tax increment bond or note under Section 311.015; and

(2) is considered to be:

(A) an authorized investment under Chapter 2256, Government Code; and

(B) an obligation incurred for the zone.

(f) Money in the tax increment fund for a reinvestment zone may be transferred to the tax increment fund for an adjacent zone if:

(1) the taxing units that participate in the zone from which the money is to be transferred participate in the adjacent zone and vice versa;

(2) each participating taxing unit has agreed to deposit the same portion of its tax increment in the fund for each zone;

(3) each participating taxing unit has agreed to the transfer; and

(4) the holders of any tax increment bonds or notes issued for the zone from which the money is to be transferred have agreed to the transfer.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 26, eff. Sept. 1, 1989.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 45, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 189 (S.B. 1264), Sec. 2, eff. May 23, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1023 (H.B. 2636), Sec. 1, eff. September 1, 2013.

Sec. 311.015. TAX INCREMENT BONDS AND NOTES. (a) A municipality designating a reinvestment zone may issue tax increment bonds or notes, the proceeds of which may be used to make payments pursuant to agreements made under Section 311.010(b), to pay project costs for the reinvestment zone on behalf of which the bonds or notes were issued, or to satisfy claims of holders of the bonds or notes. The municipality may issue refunding bonds or notes for the payment or retirement of tax increment bonds or notes previously issued by it.

(b) Tax increment bonds and notes are payable, as to both principal and interest, solely from the tax increment fund established for the reinvestment zone. The governing body of the municipality may pledge irrevocably all or part of the fund for payment of tax increment bonds or notes. The part of the fund pledged in payment may be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. A holder of the bonds or notes or of coupons issued on the bonds has a lien against the fund for payment of the bonds or notes and interest on the bonds or notes and may protect or enforce the lien at law or in equity.

(c) Tax increment bonds are issued by ordinance of the municipality without any additional approval other than that of the attorney general.

(d) Tax increment bonds or notes, together with the interest on and income from those bonds or notes, are exempt from all taxes.

(e) The issuing municipality may provide in the contract with the owners or holders of tax increment bonds that it will pay into the tax increment fund all or any part of the revenue produced or received from the operation or sale of a facility acquired, improved, or constructed pursuant to a project plan, to be used to pay principal and interest on the bonds. If the municipality agrees, the owners or holders of tax increment bonds may have a lien or mortgage on a facility acquired, improved, or constructed with the proceeds of the bonds.

(f) Tax increment bonds may be issued in one or more series. The ordinance approving a tax increment bond or note, or the trust indenture or mortgage issued in connection with the bond or note, shall provide:

(1) the date that the bond or note bears;

(2) that the bond or note is payable on demand or at a

specified time;

(3) the interest rate that the bond or note bears;

(4) the denomination of the bond or note;

(5) whether the bond or note is in coupon or registered form;

(6) the conversion or registration privileges of the bond or note;

(7) the rank or priority of the bond or note;

(8) the manner of execution of the bond or note;

(9) the medium of payment in which and the place or places at which the bond or note is payable;

(10) the terms of redemption, with or without premium, to which the bond or note is subject;

(11) the manner in which the bond or note is secured; and

(12) any other characteristic of the bond or note.

(g) A bond or note issued under this chapter is fully negotiable. In a suit, action, or other proceeding involving the validity or enforceability of a bond or note issued under this chapter or the security of a bond or note issued under this chapter, if the bond or note recites in substance that it was issued by the municipality for a reinvestment zone, the bond or note is conclusively deemed to have been issued for that purpose, and the development or redevelopment of the zone is conclusively deemed to have been planned, located, and carried out as provided by this chapter.

(h) A bank, trust company, savings bank or institution, savings and loan association, investment company or other person carrying on a banking or investment business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, curator, trustee, or other fiduciary may invest any sinking funds, money, or other funds belonging to it or in its control in tax increment bonds or notes issued under this chapter. Tax increment bonds or notes are authorized security for all public deposits. A person, political subdivision, or public or private officer may use funds owned or controlled by the person, political subdivision, or officer to purchase tax increment bonds or notes. This chapter does not relieve any person of the duty to exercise reasonable care in selecting securities.

(i) A tax increment bond or note is not a general obligation of the municipality issuing the bond or note. A tax increment bond or

note does not give rise to a charge against the general credit or taxing powers of the municipality and is not payable except as provided by this chapter. A tax increment bond or note issued under this chapter must state the restrictions of this subsection on its face.

(i-1) A municipality's obligation to deposit sales and use taxes into the tax increment fund is not a general obligation of the municipality. An obligation to make payments from sales and use taxes under Section 311.0123 does not give rise to a charge against the general credit or taxing powers of the municipality and is not payable except as provided by this chapter. A tax increment bond or note issued under this chapter that pledges payments made under Section 311.0123 must state the restrictions of this subsection on its face.

(j) A tax increment bond or note may not be included in any computation of the debt of the issuing municipality.

(k) A municipality may not issue tax increment bonds or notes in an amount that exceeds the total cost of implementing the project plan for the reinvestment zone for which the bonds or notes are issued.

(l) A tax increment bond or note must mature on or before the date by which the final payments of tax increment into the tax increment fund are due.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 114 (S.B. 1199), Sec. 2, eff. May 20, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 14, eff. June 17, 2011.

Sec. 311.016. ANNUAL REPORT BY MUNICIPALITY OR COUNTY. (a) On or before the 150th day following the end of the fiscal year of the municipality or county, the governing body of a municipality or county shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality or county a report on the status of the zone. The report must include:

(1) the amount and source of revenue in the tax increment

fund established for the zone;

(2) the amount and purpose of expenditures from the fund;

(3) the amount of principal and interest due on outstanding bonded indebtedness;

(4) the tax increment base and current captured appraised value retained by the zone; and

(5) the captured appraised value shared by the municipality or county and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality or county.

(b) The municipality or county shall send a copy of a report made under this section to the comptroller.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.06(a), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 471, Sec. 1, eff. June 11, 2001; Acts 2001, 77th Leg., ch. 471, Sec. 2, eff. June 11, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 977 (H.B. 1820), Sec. 2, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 46, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 990 (H.B. 1781), Sec. 9, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 15, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 16, eff. June 17, 2011.

Sec. 311.0163. ANNUAL REPORT BY COMPTROLLER. (a) Not later than December 31 of each even-numbered year, the comptroller shall submit a report to the legislature and to the governor on reinvestment zones designated under this chapter and on project plans and reinvestment zone financing plans adopted under this chapter.

(b) A report submitted under this section must include, for each reinvestment zone designated under this chapter, a summary of the information reported under Section 311.016.

Added by Acts 2001, 77th Leg., ch. 471, Sec. 3, eff. June 11, 2001.

Sec. 311.017. TERMINATION OF REINVESTMENT ZONE. (a) A reinvestment zone terminates on the earlier of:

(1) the termination date designated in the ordinance or order, as applicable, designating the zone or an earlier or later termination date designated by an ordinance or order adopted under Section 311.007(c); or

(2) the date on which all project costs, tax increment bonds and interest on those bonds, and other obligations have been paid in full.

Text of subsection as added by Acts 2009, 81st Leg., R.S., Ch. 910 (H.B. 1770), Sec. 5

(a-1) Notwithstanding the designation of a later termination date under Subsection (a), a taxing unit that taxes real property located in the reinvestment zone, other than the municipality or county that created the zone, is not required to pay any of its tax increment into the tax increment fund for the zone after the termination date designated in the ordinance or order creating the zone unless the governing body of the taxing unit enters into an agreement to do so with the governing body of the municipality or county that created the zone.

Text of subsection as added by Acts 2009, 81st Leg., R.S., Ch. 137 (S.B. 1105), Sec. 1

(a-1) This subsection applies only to a reinvestment zone created by a municipality that has a population of more than 220,000 but less than 235,000 and is the county seat of a county that has a population of 280,000 or less. Notwithstanding Subsection (a)(1), a municipality by ordinance adopted subsequent to the ordinance adopted by the municipality creating a reinvestment zone may designate a termination date for the zone that is later than the termination date designated in the ordinance creating the zone but not later than the 20th anniversary of that date. If a municipality adopts an ordinance extending the termination date for a reinvestment zone as authorized by this subsection, the zone terminates on the earlier of:

(1) the termination date designated in the ordinance; or

(2) the date provided by Subsection (a)(2).

(b) The tax increment pledged to the payment of bonds and interest on the bonds and to the payment of any other obligations may

be discharged and the reinvestment zone may be terminated if the municipality or county that created the zone deposits or causes to be deposited with a trustee or other escrow agent authorized by law funds in an amount that, together with the interest on the investment of the funds in direct obligations of the United States, will be sufficient to pay the principal of, premium, if any, and interest on all bonds issued on behalf of the reinvestment zone at maturity or at the date fixed for redemption of the bonds, and to pay any other amounts that may become due, including compensation due or to become due to the trustee or escrow agent, as well as to pay the principal of and interest on any other obligations incurred on behalf of the zone.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 46, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 189 (S.B. 1264), Sec. 3, eff. May 23, 2007.

Acts 2009, 81st Leg., R.S., Ch. 137 (S.B. 1105), Sec. 1, eff. May 23, 2009.

Acts 2009, 81st Leg., R.S., Ch. 910 (H.B. 1770), Sec. 5, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 17, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 118, eff. September 1, 2011.

Sec. 311.018. CONFLICTS WITH MUNICIPAL CHARTER. To the extent of a conflict between this chapter and a municipal charter, this chapter controls.

Added by Acts 1999, 76th Leg., ch. 983, Sec. 8, eff. June 18, 1999.

Sec. 311.019. CENTRAL REGISTRY. (a) The comptroller shall maintain a central registry of:

(1) reinvestment zones designated under this chapter;

(2) project plans and reinvestment zone financing plans adopted under this chapter; and

(3) annual reports submitted under Section 311.016.

(b) A municipality or county that designates a reinvestment zone or approves a project plan or reinvestment zone financing plan under this chapter shall deliver to the comptroller before April 1 of the year following the year in which the zone is designated or the plan is approved a report containing:

(1) a general description of each zone, including:

(A) the size of the zone;

(B) the types of property located in the zone;

(C) the duration of the zone; and

(D) the guidelines and criteria established for the zone under Section 311.005;

(2) a copy of each project plan or reinvestment zone financing plan adopted; and

(3) any other information required by the comptroller to administer this section and Subchapter F, Chapter 111.

(c) A municipality or county that amends or modifies a project plan or reinvestment zone financing plan adopted under this chapter shall deliver a copy of the amendment or modification to the comptroller before April 1 of the year following the year in which the plan was amended or modified.

Added by Acts 2001, 77th Leg., ch. 471, Sec. 4, eff. June 11, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 47, eff. September 1, 2005.

Sec. 311.020. STATE ASSISTANCE. (a) On request of the governing body of a municipality or county or of the presiding officer of the governing body, the comptroller may provide assistance to a municipality or county relating to the administration of this chapter.

(b) The Texas Department of Economic Development and the comptroller may provide technical assistance to a municipality or county regarding:

(1) the designation of reinvestment zones under this chapter; and

(2) the adoption and execution of project plans or reinvestment zone financing plans under this chapter.

Added by Acts 2001, 77th Leg., ch. 471, Sec. 4, eff. June 11, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 48, eff. September 1, 2005.

Sec. 311.021. ACT OR PROCEEDING PRESUMED VALID. (a) A governmental act or proceeding of a municipality or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f) relating to the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan under this chapter is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if:

(1) the third anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before the later of that second anniversary or August 1, 2011.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;

(3) a rule that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or

(4) a matter that on the effective date of the Act enacting this section:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(B) has been held invalid by a final judgment of a court.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1032 (H.B. 2853), Sec. 18, eff. June 17, 2011.

CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.001. SHORT TITLE. This chapter may be cited as the Property Redevelopment and Tax Abatement Act.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 312.002. ELIGIBILITY OF TAXING UNIT TO PARTICIPATE IN TAX ABATEMENT. (a) A taxing unit may not enter into a tax abatement agreement under this chapter and the governing body of a municipality or county may not designate an area as a reinvestment zone unless the governing body has established guidelines and criteria governing tax abatement agreements by the taxing unit and a resolution stating that the taxing unit elects to become eligible to participate in tax abatement. The guidelines applicable to property other than property described by Section 312.211(a) must provide for the availability of tax abatement for both new facilities and structures and for the expansion or modernization of existing facilities and structures.

(b) The governing body of a taxing unit may not enter into a tax abatement agreement under this chapter unless it finds that the terms of the agreement and the property subject to the agreement meet the applicable guidelines and criteria adopted by the governing body under this section.

(c) The guidelines and criteria adopted under this section are effective for two years from the date adopted. During that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body.

(c-1) Before the governing body of a taxing unit may adopt, amend, repeal, or reauthorize guidelines and criteria, the body must hold a public hearing regarding the proposed adoption, amendment, repeal, or reauthorization at which members of the public are given the opportunity to be heard.

(c-2) A taxing unit that maintains an Internet website shall post the current version of the guidelines and criteria governing tax abatement agreements adopted under this section on the website.

(d) The adoption of the guidelines and criteria by the governing body of a taxing unit does not:

(1) limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement;

(2) limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or

(3) create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.

(e) The guidelines and criteria adopted by the commissioners court of a county may include a requirement that an application or request for tax abatement submitted to the county under this chapter must be accompanied by a reasonable application fee not to exceed $1,000.

(f) On or after September 1, 2001, a school district may not enter into a tax abatement agreement under this chapter.

(g) "Taxing unit" has the meaning assigned by Section 1.04, except that for a tax abatement agreement executed on or after September 1, 2001, the term does not include a school district that is subject to Chapter 48, Education Code, and that is organized primarily to provide general elementary and secondary public education.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 14.07(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 20, Sec. 22, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 391, Sec. 26, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 836, Sec. 9.2, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 4.13(2), eff. May 31, 1993; Acts 1997, 75th Leg., ch. 855, Sec. 9, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1029, Sec. 3, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1145, Sec. 1, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1275, Sec. 2(124), eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.093, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1155 (H.B. 3143), Sec. 1, eff. September 1, 2019.

Sec. 312.0021. PROHIBITION ON ABATEMENT OF TAXES ON CERTAIN

PROPERTY NEAR MILITARY AVIATION FACILITY. (a) In this section:

(1) "Military aviation facility" means a base, station, fort, or camp at which fixed-wing aviation operations or training is conducted by the United States Air Force, the United States Air Force Reserve, the United States Army, the United States Army Reserve, the United States Navy, the United States Navy Reserve, the United States Marine Corps, the United States Marine Corps Reserve, the United States Coast Guard, the United States Coast Guard Reserve, or the Texas National Guard.

(2) "Wind-powered energy device" has the meaning assigned by Section 11.27.

(b) Notwithstanding any other provision of this chapter, an owner or lessee of a parcel of real property that is located wholly or partly in a reinvestment zone may not receive an exemption from taxation of any portion of the value of the parcel of real property or of tangible personal property located on the parcel of real property under a tax abatement agreement under this chapter that is entered into on or after September 1, 2017, if, on or after that date, a wind-powered energy device is installed or constructed on the same parcel of real property at a location that is within 25 nautical miles of the boundaries of a military aviation facility located in this state. The prohibition provided by this section applies regardless of whether the wind-powered energy device is installed or constructed at a location that is in the reinvestment zone.

(c) The prohibition provided by this section does not apply if the wind-powered energy device is installed or constructed as part of an expansion or repowering of an existing project.

Added by Acts 2017, 85th Leg., R.S., Ch. 444 (S.B. 277), Sec. 2, eff. September 1, 2017.

Sec. 312.0025. DESIGNATION OF REINVESTMENT ZONE BY SCHOOL DISTRICT. (a) Notwithstanding any other provision of this chapter to the contrary, the governing body of a school district, in the manner required for official action and for purposes of Subchapter B or C, Chapter 313, may designate an area entirely within the territory of the school district as a reinvestment zone if the governing body finds that, as a result of the designation and the granting of a limitation on appraised value under Subchapter B or C,

Chapter 313, for property located in the reinvestment zone, the designation is reasonably likely to:

(1) contribute to the expansion of primary employment in the reinvestment zone; or

(2) attract major investment in the reinvestment zone that would:

(A) be a benefit to property in the reinvestment zone and to the school district; and

(B) contribute to the economic development of the region of this state in which the school district is located.

(b) The governing body of the school district may seek the recommendation of the commissioners court of each county and the governing body of each municipality that has territory in the school district before designating an area as a reinvestment zone under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 4, eff. Jan. 1, 2002.

Sec. 312.003. CONFIDENTIALITY OF PROPRIETARY INFORMATION. Information that is provided to a taxing unit in connection with an application or request for tax abatement under this chapter and that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed. That information in the custody of a taxing unit after the agreement is executed is not confidential under this section.

Added by Acts 1989, 71st Leg., ch. 1137, Sec. 2, eff. Sept. 1, 1989.

Sec. 312.004. TAXING UNIT WITH TAX RATE SET BY COMMISSIONERS COURT. (a) The commissioners court of a county that enters into a tax abatement agreement for the county may enter into a tax abatement agreement applicable to the same property on behalf of a taxing unit other than the county if by statute the ad valorem tax rate of the other taxing unit is approved by the commissioners court or the commissioners court is expressly required by statute to levy the ad valorem taxes of the other taxing unit. The tax abatement agreement entered into on behalf of the other taxing unit is not required to

contain the same terms as the tax abatement agreement entered into on behalf of the county.

(b) This section does not apply to a taxing unit because the county tax assessor-collector is required by law to assess or collect the taxing unit's ad valorem taxes.

Added by Acts 1989, 71st Leg., ch. 1137, Sec. 3, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1039, Sec. 1, eff. Sept. 1, 1999.

Sec. 312.005. STATE ADMINISTRATION. (a) The comptroller shall maintain a central registry of reinvestment zones designated under this chapter and of ad valorem tax abatement agreements executed under this chapter. The chief appraiser of each appraisal district that appraises property for a taxing unit that has designated a reinvestment zone or executed a tax abatement agreement under this chapter shall deliver to the comptroller before July 1 of the year following the year in which the zone is designated or the agreement is executed a report providing the following information:

(1) for a reinvestment zone, a general description of the zone, including its size, the types of property located in it, its duration, and the guidelines and criteria established for the reinvestment zone under Section 312.002, including subsequent amendments and modifications of the guidelines or criteria;

(2) a copy of each tax abatement agreement to which a taxing unit that participates in the appraisal district is a party; and

(3) any other information required by the comptroller to administer this section and Subchapter F, Chapter 111.

(a-1) For each of the first three tax years following the expiration of a tax abatement agreement executed under this chapter, the chief appraiser shall deliver to the comptroller a report containing the appraised value of the property that was the subject of the agreement.

(b) The comptroller may provide assistance to a taxing unit on request of its governing body or the presiding officer of its governing body relating to the administration of this chapter. The Texas Department of Commerce and the comptroller may provide technical assistance to a local governing body regarding the

designation of reinvestment zones, the adoption of tax abatement guidelines, and the execution of tax abatement agreements.

(c) Not later than December 31 of each even-numbered year, the comptroller shall submit a report to the legislature and to the governor on reinvestment zones designated under this chapter and on tax abatement agreements adopted under this chapter, including a summary of the information reported under this section.

Added by Acts 1989, 71st Leg., ch. 1137, Sec. 4, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 59, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 995, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1382, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 268, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1029, Sec. 2, eff. June 15, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1155 (H.B. 3143), Sec. 2, eff. September 1, 2019.

Sec. 312.006. EXPIRATION DATE. If not continued in effect, this chapter expires September 1, 2029.

Added by Acts 1989, 71st Leg., ch. 1137, Sec. 5, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 2.16, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 995, Sec. 4, eff. Aug. 31, 1995; Acts 2001, 77th Leg., ch. 1029, Sec. 1, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1505, Sec. 5, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 610 (H.B. 773), Sec. 1, eff. June 19, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1155 (H.B. 3143), Sec. 3, eff. September 1, 2019.

Sec. 312.007. DEFERRAL OF COMMENCEMENT OF ABATEMENT PERIOD. (a) In this section, "abatement period" means the period during which all or a portion of the value of real property or tangible personal property that is the subject of a tax abatement agreement is exempt from taxation.

(b) Notwithstanding any other provision of this chapter, the governing body of the taxing unit granting the abatement and the

owner of the property that is the subject of the agreement may agree to defer the commencement of the abatement period until a date that is subsequent to the date the agreement is entered into, except that the duration of an abatement period may not exceed 10 years.

Added by Acts 2009, 81st Leg., R.S., Ch. 1195 (H.B. 3896), Sec. 2, eff. June 19, 2009.
Added by Acts 2009, 81st Leg., R.S., Ch. 1225 (S.B. 1458), Sec. 2, eff. June 19, 2009.

SUBCHAPTER B. TAX ABATEMENT IN MUNICIPAL REINVESTMENT ZONE

Sec. 312.201. DESIGNATION OF REINVESTMENT ZONE. (a) The governing body of a municipality by ordinance may designate as a reinvestment zone an area, or real or personal property the use of which is directly related to outdoor advertising, in the taxing jurisdiction or extraterritorial jurisdiction of the municipality that the governing body finds satisfies the requirements of Section 312.202.

(b) The ordinance must describe the boundaries of the zone and the eligibility of the zone for residential tax abatement or commercial-industrial tax abatement or tax increment financing as provided for in Chapter 311.

(c) Area of a reinvestment zone designated for residential tax abatement or commercial-industrial tax abatement may be included in an overlapping or coincidental residential or commercial-industrial zone. In that event, the zone in which the property is considered to be located for purposes of executing an agreement under Section 312.204 or 312.211 is determined by the comprehensive zoning ordinance, if any, of the municipality.

(d) The governing body may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Section 312.204 or 312.211, as applicable. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be:

(1) published in a newspaper having general circulation in the municipality; and

(2) delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.

(e) A notice made under Subsection (d)(2) is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.08(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 855, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 2, eff. Sept. 1, 1997.

Sec. 312.2011. ENTERPRISE ZONE. Designation of an area as an enterprise zone under Chapter 2303, Government Code constitutes designation of the area as a reinvestment zone under this subchapter without further hearing or other procedural requirements other than those provided by Chapter 2303, Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 28, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(22), eff. Sept. 1, 1995.

Sec. 312.202. CRITERIA FOR REINVESTMENT ZONE. (a) To be designated as a reinvestment zone under this subchapter, an area must:

(1) substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate

sidewalks or streets;

(C) faulty size, adequacy, accessibility, or usefulness of lots;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) any combination of these factors;

(2) be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality;

(3) be in a federally assisted new community located in a home-rule municipality or in an area immediately adjacent to a federally assisted new community located in a home-rule municipality;

(4) be located entirely in an area that meets the requirements for federal assistance under Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5318);

(5) encompass signs, billboards, or other outdoor advertising structures designated by the governing body of the municipality for relocation, reconstruction, or removal for the purpose of enhancing the physical environment of the municipality, which the legislature declares to be a public purpose; or

(6) be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the municipality.

(b) For purposes of this section, a federally assisted new community is a federally assisted area:

(1) that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.); and

(2) a portion of which has received grants under Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5307) made pursuant to the authority created by that section for grants in behalf of new communities assisted under Title VII of

the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968 or in behalf of new community projects assisted under Title X of the National Housing Act (12 U.S.C. Section 1749aa et seq.).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.09(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1106, Sec. 29, eff. Aug. 28, 1989.

Sec. 312.203. EXPIRATION OF REINVESTMENT ZONE. The designation of a reinvestment zone for residential or commercial-industrial tax abatement expires five years after the date of the designation and may be renewed for periods not to exceed five years, except that a reinvestment zone that is a state enterprise zone is designated for the same period as a state enterprise zone as provided by Chapter 2303, Government Code. The expiration of the designation does not affect an existing tax abatement agreement made under this subchapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 985, Sec. 12, eff. Sept. 1, 1995.

Sec. 312.204. MUNICIPAL TAX ABATEMENT AGREEMENT. (a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years, on the condition that the owner of the property make specific improvements or repairs to the property. The governing body of an eligible municipality may agree in writing with the owner of a leasehold interest in tax-exempt real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real

property, for a period not to exceed 10 years, on the condition that the owner of the leasehold interest make specific improvements or repairs to the real property. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. An agreement exempting taxable real property or leasehold interests or improvements on tax-exempt real property may provide for the exemption of such taxable interests in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed. An agreement exempting tangible personal property located on taxable or tax-exempt real property may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, including inventory and supplies. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

(b) The agreements made with the owners of property in a reinvestment zone must contain identical terms for the portion of the value of the property that is to be exempt and the duration of the exemption. For purposes of this subsection, if agreements made with the owners of property in a reinvestment zone before September 1, 1989, exceed 10 years in duration, agreements made with owners of property in the zone on or after that date must have a duration of 10 years.

(c) The property subject to an agreement made under this section may be located in the extraterritorial jurisdiction of the municipality. In that event, the agreement applies to taxes of the municipality if the municipality annexes the property during the period specified in the agreement.

(d) Except as otherwise provided by this subsection, property that is in a reinvestment zone and that is owned or leased by a person who is a member of the governing body of the municipality or a member of a zoning or planning board or commission of the municipality is excluded from property tax abatement or tax increment financing. Property that is subject to a tax abatement agreement in effect when the person becomes a member of the governing body or of the zoning or planning board or commission does not cease to be

eligible for property tax abatement under that agreement because of the person's membership on the governing body, board, or commission. Property that is subject to tax increment financing when the person becomes a member of the governing body or of the zoning or planning board or commission does not become ineligible for tax increment financing in the same reinvestment zone because of the person's membership on the governing body, board, or commission.

(e) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner or lessee of real property that is located in a reinvestment zone to exempt from taxation for a period not to exceed 10 years a portion of the value of the real property or of personal property, or both, located within the zone and owned or leased by a certificated air carrier, on the condition that the certificated air carrier make specific real property improvements or lease for a term of 10 years or more real property improvements located within the reinvestment zone. An agreement may provide for the exemption of the real property in each year covered by the agreement to the extent its value for that year exceeds its value for the year in which the agreement is executed. An agreement may provide for the exemption of the personal property owned or leased by a certificated air carrier located within the reinvestment zone in each year covered by the agreement other than specific personal property that was located within the reinvestment zone at any time before the period covered by the agreement with the municipality.

(f) The agreements made with owners of property in an enterprise zone that is also designated as a reinvestment zone are not required to contain identical terms for the portion of the value of property that is to be exempt and the duration of the agreement.

(g) Notwithstanding the other provisions of this chapter, the governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner of real property that is located in a reinvestment zone to exempt from taxation for a period not to exceed five years a portion of the value of the real property or of tangible personal property located on the real property, or both, that is used to provide housing for military personnel employed at a military facility located in or near the municipality. An agreement may provide for the exemption of the real property in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in

which the agreement is executed. An agreement may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality and other than inventory or supplies. The governing body of the municipality may adopt guidelines and criteria for tax abatement agreements entered into under this subsection that are different from the guidelines and criteria that apply to tax abatement agreements entered into under another provision of this section. Tax abatement agreements entered into under this subsection are not required to contain identical terms for the portion of the value of the property that is to be exempt or for the duration of the exemption as tax abatement agreements entered into with the owners of property in the reinvestment zone under another provision of this section.

(h) The Texas Department of Economic Development or its successor may recommend that a taxing unit enter into a tax abatement agreement with a person under this chapter. In determining whether to enter into a tax abatement agreement under this section, the governing body of a municipality shall consider any recommendation made by the Texas Department of Economic Development or its successor.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.10(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 486, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 1137, Sec. 6, 7, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 985, Sec. 13, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 560, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 640, Sec. 1, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 765, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1016, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1258, Sec. 1, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 149, Sec. 18, eff. May 27, 2003; Acts 2003, 78th Leg., ch. 978, Sec. 5, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 412 (S.B. 1652), Sec. 16, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(82), eff. September 1, 2005.

Sec. 312.2041. NOTICE OF TAX ABATEMENT AGREEMENT TO OTHER TAXING UNITS. (a) Not later than the seventh day before the date on which a municipality enters into an agreement under Section 312.204 or 312.211, the governing body of the municipality or a designated officer or employee of the municipality shall deliver to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the agreement is located a written notice that the municipality intends to enter into the agreement. The notice must include a copy of the proposed agreement.

(b) A notice is presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.

(c) Failure to deliver the notice does not affect the validity of the agreement.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 14.11(a), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 8, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 855, Sec. 11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 3, eff. Sept. 1, 1997.

Sec. 312.205. SPECIFIC TERMS OF TAX ABATEMENT AGREEMENT. (a) An agreement made under Section 312.204 or 312.211 must:

(1) list the kind, number, and location of all proposed improvements of the property;

(2) provide access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;

(3) limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect;

(4) provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement;

(5) contain each term agreed to by the owner of the property;

(6) require the owner of the property to certify annually

to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement; and

(7) provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

(b) An agreement made under Section 312.204 or 312.211 may include, at the option of the governing body of the municipality, provisions for:

(1) improvements or repairs by the municipality to streets, sidewalks, and utility services or facilities associated with the property, except that the agreement may not provide for lower charges or rates than are made for other services or properties of a similar character;

(2) an economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when related costs or monetary obligations are to be incurred;

(3) a map showing existing uses and conditions of real property in the reinvestment zone;

(4) a map showing proposed improvements and uses in the reinvestment zone;

(5) proposed changes of zoning ordinances, the master plan, the map, building codes, and city ordinances; and

(6) the recapture of all or a portion of property tax revenue lost as a result of the agreement if the owner of the property fails to create all or a portion of the number of new jobs provided by the agreement, if the appraised value of the property subject to the agreement does not attain a value specified in the agreement, or if the owner fails to meet any other performance criteria provided by the agreement, and payment of a penalty or interest, or both, on that recaptured property tax revenue.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 995, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 855, Sec. 12, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 740, Sec. 1, eff. June 13, 2001.

Sec. 312.206. TAX ABATEMENT BY OTHER TAXING UNITS. (a) If

property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement made under Section 312.204 or 312.211, the governing body of each other taxing unit eligible to enter into tax abatement agreements under Section 312.002 in which the property is located may execute a written tax abatement agreement with the owner of the property. The agreement is not required to contain terms identical to those contained in the agreement with the municipality. The execution, duration, and other terms of an agreement made under this section are governed by the provisions of Sections 312.204, 312.205, and 312.211 applicable to a municipality. If the governing body of the taxing unit by official action at any time before the execution of the municipal agreement expresses an intent to be bound by the terms of the municipal agreement if the municipality enters into an agreement under Section 312.204 or 312.211 with the owner relating to the property, the terms of the municipal agreement regarding the share of the property to be exempt in each year of the municipal agreement apply to the taxation of the property by the taxing unit.

(b) If property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement made by the municipality before September 1, 1989, the terms of the agreement with the municipality regarding the share of the property that is to be exempt in each year of the agreement apply to the taxation of the property by every other taxing unit, other than a county or school district, in which the property is located. If the agreement was made before September 1, 1987, the terms regarding the share of the property to be exempt in each year of the agreement also apply to the taxation of the property by a county or school district.

(c) If the governing body of a municipality designates a reinvestment zone that includes property in the extraterritorial jurisdiction of the municipality, the governing body of a taxing unit eligible to enter into tax abatement agreements under Section 312.002 in which the property is located may execute a written agreement with the owner of the property to exempt from its property taxes all or part of the value of the property in the same manner and subject to the same restrictions as provided by Section 312.204 or 312.211 for a municipality. The taxing unit may execute an agreement even if the municipality does not execute an agreement for the property, and the terms of the agreement are not required to be identical to the terms of a municipal agreement. However, if the governing body of another

eligible taxing unit has previously executed an agreement to exempt all or part of the value of the property and that agreement is still in effect, the terms of the subsequent agreement relating to the share of the property that is to be exempt in each year that the existing agreement remains in effect must be identical to those of the existing agreement.

(d) If property taxes are abated on property in the extraterritorial jurisdiction of a municipality due to an agreement with a county or school district made before September 1, 1989, the terms of the agreement with the county or school district relating to the share of the property that is to be exempt in each year of the agreement apply to the taxation of the property by every other taxing unit, other than a municipality, school district, or county, in which the property is located.

(e) If property taxes on property located in an enterprise zone are abated under this chapter, the governing body of each taxing jurisdiction may execute a written agreement with the owner of the property not later than the 90th day after the date the municipal or county agreement is executed, whichever is later. The agreement may, but is not required to, contain terms that are identical to those contained in the agreement with the municipality, county, or both, whichever applies, and the only terms of the agreement that may vary are the portion of the property that is to be exempt from taxation under the agreement and the duration of the agreement.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.10(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1137, Sec. 9, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 985, Sec. 14, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 855, Sec. 13, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1039, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 765, Sec. 1, eff. Sept. 1, 2001.

Sec. 312.207. APPROVAL BY GOVERNING BODY. (a) To be effective, an agreement made under this subchapter must be approved by the affirmative vote of a majority of the members of the governing body of the municipality or other taxing unit at a regularly scheduled meeting of the governing body.

(b) On approval by the governing body, an agreement may be executed in the same manner as other contracts made by the municipality or other taxing unit.

(c) In addition to any other requirement of law, the public notice of a meeting at which the governing body of a municipality or other taxing unit will consider the approval of a tax abatement agreement with a property owner must contain:

(1) the name of the property owner and the name of the applicant for the tax abatement agreement;

(2) the name and location of the reinvestment zone in which the property subject to the agreement is located;

(3) a general description of the nature of the improvements or repairs included in the agreement; and

(4) the estimated cost of the improvements or repairs.

(d) The notice of a meeting required by this section must be given in the manner required by Chapter 551, Government Code, except that the notice must be provided at least 30 days before the scheduled time of the meeting.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1155 (H.B. 3143), Sec. 4, eff. September 1, 2019.

Sec. 312.208. MODIFICATION OR TERMINATION OF AGREEMENT. (a) At any time before the expiration of an agreement made under this subchapter, the agreement may be modified by the parties to the agreement to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was approved and executed. The original agreement may not be modified to extend beyond 10 years from the date of the original agreement.

(b) An agreement made under this subchapter may be terminated by the mutual consent of the parties in the same manner that the agreement was approved and executed.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 1137, Sec. 10, eff. Sept. 1, 1989.

Sec. 312.209. APPLICATION OF NONSEVERABILITY PROVISION. Section 2, Article 5, Chapter 221, Acts of the 69th Legislature, Regular Session, 1985, applies to the provisions of this subchapter that are derived from amendments to the Property Redevelopment and Tax Abatement Act made by Chapter 221, Acts of the 69th Legislature, Regular Session, 1985.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 312.210. AGREEMENT BY TAXING UNITS RELATING TO PROPERTY IN CERTAIN SCHOOL DISTRICTS. (a) This section applies only to a tax abatement agreement applicable to property located in a reinvestment zone with respect to which a municipality, county, and junior college district have entered into a joint agreement to offer tax abatements exempting from taxation a specified portion of the value of the property in the reinvestment zone.

(b) A tax abatement agreement with the owner of real property or tangible personal property that is located in the reinvestment zone described by Subsection (a) and in a school district that has a local revenue level that does not exceed the level established under Section 48.257 must exempt from taxation:

(1) the portion of the value of the property in the amount specified in the joint agreement among the municipality, county, and junior college district; and

(2) an amount equal to 10 percent of the maximum portion of the value of the property that may under Section 312.204(a) be otherwise exempted from taxation.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(c)(2), eff. September 1, 2019.

Added by Acts 1995, 74th Leg., ch. 1053, Sec. 1, eff. June 17, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 6.84, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 640, Sec. 2, eff. June 13, 2001. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.094, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 4.001(c)(2), eff. September 1, 2019.

Sec. 312.211. AGREEMENT BY MUNICIPALITY RELATING TO PROPERTY SUBJECT TO VOLUNTARY CLEANUP AGREEMENT. (a) This section applies only to:

(1) real property:

(A) that is located in a reinvestment zone;

(B) that is not in an improvement project financed by tax increment bonds; and

(C) that is the subject of a voluntary cleanup agreement under Section 361.606, Health and Safety Code; and

(2) tangible personal property located on the real property.

(b) The governing body of a municipality eligible to enter into a tax abatement agreement under Section 312.002 may agree in writing with the owner of property described by Subsection (a) to exempt from taxation a portion of the value of the property for a period not to exceed four years. The agreement takes effect on January 1 of the next tax year after the date the owner receives a certificate of completion for the property under Section 361.609, Health and Safety Code. The agreement may exempt from taxation:

(1) not more than 100 percent of the value of the property in the first year covered by the agreement;

(2) not more than 75 percent of the value of the property in the second year covered by the agreement;

(3) not more than 50 percent of the value of the property in the third year covered by the agreement; and

(4) not more than 25 percent of the value of the property in the fourth year covered by the agreement.

(c) A property owner may not receive a tax abatement under this section for the first tax year covered by the agreement unless the property owner includes with the application for an exemption under Section 11.28 filed with the chief appraiser of the appraisal district in which the property has situs a copy of the certificate of completion for the property.

(d) A property owner who files a copy of the certificate of completion for property for the first tax year covered by the agreement is not required to refile the certificate in a subsequent tax year to receive a tax abatement under this section for the property for that tax year.

(e) The chief appraiser shall accept a certificate of completion filed under Subsection (c) as conclusive evidence of the facts stated in the certificate.

(f) The governing body of the municipality may cancel or modify the agreement if:

(1) the use of the land is changed from the use specified in the certificate of completion; and

(2) the governing body determines that the new use may result in an increased risk to human health or the environment.

(g) A municipality may enter into a tax abatement agreement covering property described by Subsection (a) under this section or under Section 312.204, but not under both sections. Section 312.204 applies to an agreement entered into under this section except as otherwise provided by this section.

(h) A school district may not enter into a tax abatement agreement under this section.

Added by Acts 1997, 75th Leg., ch. 855, Sec. 8, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 6, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 483, Sec. 6, eff. Sept. 1, 2001.

SUBCHAPTER C. TAX ABATEMENT IN COUNTY REINVESTMENT ZONE

Sec. 312.401. DESIGNATION OF REINVESTMENT ZONE. (a) The commissioners court of a county eligible to do so under Section 312.002 by order may designate as a reinvestment zone an area of the county that does not include area in the taxing jurisdiction of a municipality.

(b) The commissioners court may not designate an area as a reinvestment zone until it holds a public hearing on the designation and finds that the designation would contribute to the retention or expansion of primary employment or would attract major investment in the zone that would be a benefit to the property to be included in the zone and would contribute to the economic development of the county. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing must be given in the same manner as provided for notice of a hearing to be held by a municipality under Section 312.201.

(c) The designation of a reinvestment zone under this section expires five years after the date of the designation and may be

renewed for periods not to exceed five years. The expiration of the designation does not affect existing agreements made under this subchapter.

(d) Property may be located both in a reinvestment zone designated by a county under this subchapter and in a reinvestment zone designated by a municipality under Subchapter B.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.12(a), eff. Aug. 28, 1989.

Sec. 312.4011. ENTERPRISE ZONE. Designation of an area as an enterprise zone under Chapter 2303, Government Code constitutes designation of the area as a reinvestment zone under this subchapter without further hearing or other procedural requirements other than those provided by Chapter 2303, Government Code.

Added by Acts 1989, 71st Leg., ch. 1106, Sec. 30, eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(22), eff. Sept. 1, 1995.

Sec. 312.402. COUNTY TAX ABATEMENT AGREEMENT. (a) The commissioners court may execute a tax abatement agreement with the owner of taxable real property located in a reinvestment zone designated under this subchapter or with the owner of tangible personal property located on real property in a reinvestment zone to exempt from taxation all or a portion of the value of the real property, all or a portion of the value of the tangible personal property located on the real property, or all or a portion of the value of both.

(a-1) The commissioners court may execute a tax abatement agreement with the owner of a leasehold interest in tax-exempt real property located in a reinvestment zone designated under this subchapter to exempt all or a portion of the value of the leasehold interest in the real property. The court may execute a tax abatement agreement with the owner of tangible personal property or an improvement located on tax-exempt real property that is located in a designated reinvestment zone to exempt all or a portion of the value of the tangible personal property or improvement located on the real

property.

(a-2) The execution, duration, and other terms of an agreement entered into under this section are governed by the provisions of Sections 312.204, 312.205, and 312.211 applicable to a municipality. Section 312.2041 applies to an agreement entered into under this section in the same manner as that section applies to an agreement entered into under Section 312.204 or 312.211.

(a-3) The commissioners court may execute a tax abatement agreement with a lessee of taxable real property located in a reinvestment zone designated under this subchapter to exempt from taxation all or a portion of the value of the fixtures, improvements, or other real property owned by the lessee and located on the property that is subject to the lease, all or a portion of the value of tangible personal property owned by the lessee and located on the real property that is the subject of the lease, or all or a portion of the value of both the fixtures, improvements, or other real property and the tangible personal property described by this subsection.

(b) A tax abatement agreement made by a county has the same effect on the school districts and other taxing units in which the property subject to the agreement is located as is provided by Sections 312.206(a) and (b) for an agreement made by a municipality to abate taxes on property located in the taxing jurisdiction of the municipality.

(c) If on or after September 1, 1989, property subject to an agreement with a county under this section is annexed by a municipality during the existence of the agreement, the terms of the county agreement regarding the share of the property to be exempt in each year of the agreement apply to the taxation of the property by the municipality if before the annexation the governing body of the municipality by official action expresses an intent to enter into an agreement with the owner of the property to abate taxes on the property if it is annexed or to be bound by the terms of the county agreement after annexation, even if that official action of the governing body of the municipality expressing that intent occurs before September 1, 1989.

(d) Except as otherwise provided by this subsection, property that is located in a reinvestment zone designated by a county under this subchapter and that is owned or leased by a person who is a member of the commissioners court may not be subject to a tax

abatement agreement made under this section. Property that is subject to a tax abatement agreement under this section in effect when the person becomes a member of the commissioners court does not cease to be eligible for property tax abatement under that agreement because of the person's membership on the commissioners court.

(e) An agreement made under this section by a county or other taxing unit may be modified or terminated in the same manner and subject to the same limitations as provided by Section 312.208 for an agreement made under Subchapter B.

(f) The Texas Department of Economic Development or its successor may recommend that a taxing unit enter into a tax abatement agreement with a person under this chapter. In determining whether to enter into a tax abatement agreement under this section, the commissioners court of a county shall consider any recommendation made by the Texas Department of Economic Development or its successor.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.12(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1137, Sec. 11, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 855, Sec. 14, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1333, Sec. 7, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 640, Sec. 3, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 1016, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 978, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1195 (H.B. 3896), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1225 (S.B. 1458), Sec. 3, eff. June 19, 2009.

Sec. 312.403. TAX ABATEMENT AGREEMENT FOR NUCLEAR ELECTRIC POWER GENERATION FACILITY IN COUNTY REINVESTMENT ZONE. (a) In this section, "nuclear electric power generation" has the meaning assigned by Section 313.024(e).

(b) An agreement made under this subchapter with the owner of property that is a nuclear electric power generation facility may include a provision that defers the effective date of the agreement to a later date agreed to by the taxing unit and the owner of the

property, but not later than the seventh anniversary of the date the agreement is made.

(c) If the effective date of an agreement is deferred under Subsection (b), the agreement may have a term ending not later than 10 years after the effective date of the agreement, notwithstanding Sections 312.204 and 312.208.

Added by Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. 2994), Sec. 1, eff. June 15, 2007.

Sec. 312.404. APPROVAL BY GOVERNING BODY. To be effective, an agreement made under this subchapter must be approved by the governing body of the county or other taxing unit in the manner that the governing body of a municipality authorizes an agreement under Section 312.207.

Added by Acts 2019, 86th Leg., R.S., Ch. 1155 (H.B. 3143), Sec. 5, eff. September 1, 2019.

CHAPTER 313. TEXAS ECONOMIC DEVELOPMENT ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 313.001. SHORT TITLE. This chapter may be cited as the Texas Economic Development Act.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.002. FINDINGS. The legislature finds that:

(1) many states have enacted aggressive economic development laws designed to attract large employers, create jobs, and strengthen their economies;

(2) given Texas' relatively high ad valorem taxes, it is difficult for the state to compete for new capital projects without temporarily limiting ad valorem taxes imposed on new capital investments;

(3) a significant portion of the Texas economy continues to be based in manufacturing and other capital-intensive industries, and their continued growth and overall health serve the Texas economy well;

(4) without a vibrant, strong manufacturing sector, other sectors of the economy, especially the state's service sector, will also suffer adverse consequences; and

(5) the current ad valorem tax system of this state does not favor capital-intensive businesses such as manufacturers.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 1, eff. January 1, 2014.

Sec. 313.003. PURPOSES. The purposes of this chapter are to:

(1) encourage large-scale capital investments in this state;

(2) create new, high-paying jobs in this state;

(3) attract to this state large-scale businesses that are exploring opportunities to locate in other states or other countries;

(4) enable state and local government officials and economic development professionals to compete with other states by authorizing economic development incentives that are comparable to incentives being offered to prospective employers by other states and to provide state and local officials with an effective means to attract large-scale investment;

(5) strengthen and improve the overall performance of the economy of this state;

(6) expand and enlarge the ad valorem tax base of this state; and

(7) enhance this state's economic development efforts by providing state and local officials with an effective economic development tool.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 1, eff. January 1, 2014.

Sec. 313.004. LEGISLATIVE INTENT. It is the intent of the legislature in enacting this chapter that:

(1) economic development decisions involving school

district taxes should occur at the local level with oversight by the state and should be consistent with identifiable statewide economic development goals;

(2) this chapter should not be construed or interpreted to allow:

(A) property owners to pool investments to create sufficiently large investments to qualify for an ad valorem tax benefit provided by this chapter;

(B) an applicant for an ad valorem tax benefit provided by this chapter to assert that jobs will be eliminated if certain investments are not made if the assertion is not true; or

(C) an entity not subject to the tax imposed by Chapter 171 to receive an ad valorem tax benefit provided by this chapter;

(3) in implementing this chapter, school districts should:

(A) strictly interpret the criteria and selection guidelines provided by this chapter; and

(B) approve only those applications for an ad valorem tax benefit provided by this chapter that:

(i) enhance the local community;

(ii) improve the local public education system;

(iii) create high-paying jobs; and

(iv) advance the economic development goals of this state; and

(4) in implementing this chapter, the comptroller should:

(A) strictly interpret the criteria and selection guidelines provided by this chapter; and

(B) issue certificates for limitations on appraised value only for those applications for an ad valorem tax benefit provided by this chapter that:

(i) create high-paying jobs;

(ii) provide a net benefit to the state over the long term; and

(iii) advance the economic development goals of this state.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 1, eff. January 1, 2014.

Sec. 313.005. DEFINITIONS. Unless this chapter defines a word or phrase used in this chapter, Section 1.04 or any other section of Title 1 or this title that defines the word or phrase or ascribes a meaning to the word or phrase applies to the word or phrase used in this chapter.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.006. IMPOSITION OF IMPACT FEE. (a) In this section, "impact fee" means a charge or assessment imposed against a qualified property, as defined by Section 313.021, in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions for water, wastewater, or storm water services or for roads necessitated by or attributable to property that receives a limitation on appraised value under this chapter.

(b) Notwithstanding any other law, including Chapter 395, Local Government Code, a municipality or county may impose and collect from the owner of a qualified property a reasonable impact fee under this section to pay for the cost of providing improvements associated with or attributable to property that receives a limitation on appraised value under this chapter.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.007. EXPIRATION. Subchapters B and C expire December 31, 2022.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 864 (H.B. 1470), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 1, eff. January 1, 2014.

Sec. 313.009. CERTAIN ENTITIES INELIGIBLE. An entity that has been issued a registration number under Section 151.359 or Section

151.3595 is not eligible to receive a limitation on appraised value under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 4, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 412 (H.B. 2712), Sec. 3, eff. June 10, 2015.
Redesignated from Tax Code, Section 313.010 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(47), eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 17.002, eff. September 1, 2017.

Sec. 313.010. AUDIT OF AGREEMENTS BY STATE AUDITOR. (a) Each year, the state auditor shall review at least three major agreements, as determined by the state auditor, under this chapter to determine whether:

(1) each agreement accomplishes the purposes of this chapter as expressed in Section 313.003;

(2) each agreement complies with the intent of the legislature in enacting this chapter as expressed in Section 313.004; and

(3) the terms of each agreement were executed in compliance with the terms of this chapter.

(b) As part of the review, the state auditor shall make recommendations relating to increasing the efficiency and effectiveness of the administration of this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 2, eff. January 1, 2014.

For expiration of this subchapter, see Sec. 313.007

SUBCHAPTER B. LIMITATION ON APPRAISED VALUE OF CERTAIN PROPERTY USED TO CREATE JOBS

Sec. 313.021. DEFINITIONS. In this subchapter:

(1) "Qualified investment" means:

(A) tangible personal property that is first placed in

service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;

(B) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including:

(i) integrated systems, fixtures, and piping;

(ii) all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances; and

(iii) production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting;

(C) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with the operation of a nuclear electric power generation facility, including:

(i) property, including pressure vessels, pumps, turbines, generators, and condensers, used to produce nuclear electric power; and

(ii) property and systems necessary to control radioactive contamination;

(D) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an integrated gasification combined cycle electric generation facility, including:

(i) property used to produce electric power by means of a combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification

of coal or another carbon-based feedstock; or

(ii) property used in handling materials to be used as feedstock for gasification or used in the gasification process to produce synthetic gas or another carbon-based feedstock for use in the production of electric power in the manner described by Subparagraph (i);

(E) tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2010, without regard to whether the property is affixed to or incorporated into real property, and that is used in connection with operating an advanced clean energy project, as defined by Section 382.003, Health and Safety Code; or

(F) a building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by Paragraph (A), (B), (C), (D), or (E).

(2) "Qualified property" means:

(A) land:

(i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code;

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person submits a complete application for a limitation on appraised value under this subchapter;

(iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(iv) on which, in connection with the new building or new improvement described by Subparagraph (ii), the owner or lessee of, or the holder of another possessory interest in, the land proposes to:

(a) make a qualified investment in an amount equal to at least the minimum amount required by Section 313.023; and

(b) create at least 25 new qualifying jobs;

(B) the new building or other new improvement described by Paragraph (A)(ii); and

(C) tangible personal property:

(i) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312;

(ii) for which a sales and use tax refund is not claimed under Section 151.3186; and

(iii) except for new equipment described in Section 151.318(q) or (q-1), that is first placed in service in the new building, in the newly expanded building, or in or on the new improvement described by Paragraph (A)(ii), or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.

(3) "Qualifying job" means a permanent full-time job that:

(A) requires at least 1,600 hours of work a year;

(B) is not transferred from one area in this state to another area in this state;

(C) is not created to replace a previous employee;

(D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and

(E) pays at least 110 percent of the county average weekly wage for manufacturing jobs in the county where the job is located.

(F) In determining whether a property owner has created the number of qualifying jobs required under this chapter, operations, services and other related jobs created in connection with the project, including those employed by third parties under contract, may satisfy the minimum qualifying jobs requirement for the project if the Texas Workforce Commission determines that the cumulative economic benefits to the state of these jobs is the same or greater than that associated with the minimum number of qualified jobs required to be created under this chapter. The Texas Workforce Commission may adopt rules to implement this subsection.

(4) "Qualifying time period" means:

(A) the period that begins on the date that a person's application for a limitation on appraised value under this subchapter is approved by the governing body of the school district and ends on December 31 of the second tax year that begins after that date, except as provided by Paragraph (B) or (C) of this subdivision or Section 313.027(h);

(B) in connection with a nuclear electric power

generation facility, the first seven tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner; or

(C) in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, the first five tax years that begin on or after the third anniversary of the date the school district approves the property owner's application for a limitation on appraised value under this subchapter, unless a shorter time period is agreed to by the governing body of the school district and the property owner.

(5) "County average weekly wage for manufacturing jobs" means:

(A) the average weekly wage in a county for manufacturing jobs during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission; or

(B) the average weekly wage for manufacturing jobs in the region designated for the regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, in which the county is located during the most recent four quarterly periods for which data is available at the time a person submits an application for a limitation on appraised value under this subchapter, as computed by the Texas Workforce Commission.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 113, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. 2994), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1109 (H.B. 469), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 2, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1272 (H.B. 1133), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 3, eff. January 1, 2014.

Sec. 313.022. APPLICABILITY; CATEGORIZATION OF SCHOOL DISTRICTS. (a) This subchapter applies to each school district in this state other than a school district to which Subchapter C applies.

(b) For purposes of determining the required minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a), and the minimum amount of a limitation on appraised value under Section 313.027(b), school districts to which this subchapter applies are categorized according to the taxable value of property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code, as follows:

CATEGORY	TAXABLE VALUE OF PROPERTY
I	$10 billion or more
II	$1 billion or more but less than $10 billion
III	$500 million or more but less than $1 billion
IV	$100 million or more but less than $500 million
V	less than $100 million

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.023. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT. For each category of school district established by Section 313.022, the minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) is as follows:

CATEGORY	MINIMUM QUALIFIED INVESTMENT
I	$100 million
II	$80 million
III	$60 million
IV	$40 million
V	$20 million

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.024. ELIGIBLE PROPERTY. (a) This subchapter and Subchapter C apply only to property owned by an entity subject to the tax imposed by Chapter 171.

(b) To be eligible for a limitation on appraised value under this subchapter, the entity must use the property for:

(1) manufacturing;

(2) research and development;

(3) a clean coal project, as defined by Section 5.001, Water Code;

(4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code;

(5) renewable energy electric generation;

(6) electric power generation using integrated gasification combined cycle technology;

(7) nuclear electric power generation;

(8) a computer center primarily used in connection with one or more activities described by Subdivisions (1) through (7) conducted by the entity; or

(9) a Texas priority project.

(b-1) Notwithstanding any other provision of this subchapter, an owner of a parcel of land that is located wholly or partly in a reinvestment zone, a new building constructed on the parcel of land, a new improvement erected or affixed on the parcel of land, or tangible personal property placed in service in the building or improvement or on the parcel of land may not receive a limitation on appraised value under this subchapter for the parcel of land, building, improvement, or tangible personal property under an agreement under this subchapter that is entered into on or after September 1, 2017, if, on or after that date, a wind-powered energy device is installed or constructed on the same parcel of land at a location that is within 25 nautical miles of the boundaries of a military aviation facility located in this state. The prohibition provided by this subsection applies regardless of whether the wind-powered energy device is installed or constructed at a location that is in the reinvestment zone.

(c) For purposes of determining an applicant's eligibility for a limitation under this subchapter:

(1) the land on which a building or component of a building

described by Section 313.021(1)(E) is located is not considered a qualified investment;

(2) property that is leased under a capitalized lease may be considered a qualified investment;

(3) property that is leased under an operating lease may not be considered a qualified investment; and

(4) property that is owned by a person other than the applicant and that is pooled or proposed to be pooled with property owned by the applicant may not be included in determining the amount of the applicant's qualifying investment.

(d) To be eligible for a limitation on appraised value under this subchapter, the property owner must create the required number of new qualifying jobs as defined by Section 313.021(3) and the average weekly wage for all jobs created by the owner that are not qualifying jobs must exceed the county average weekly wage for all jobs in the county where the jobs are located.

(d-2) For purposes of determining whether a property owner has created the number of new qualifying jobs required for eligibility for a limitation on appraised value under this subchapter, the new qualifying jobs created under an agreement between the property owner and another school district may be included in the total number of new qualifying jobs created in connection with the project if the Texas Economic Development and Tourism Office determines that the projects covered by the agreements constitute a single unified project. The Texas Economic Development and Tourism Office may adopt rules to implement this subsection.

(e) In this section:

(1) "Manufacturing" means an establishment primarily engaged in activities described in sectors 31-33 of the 2007 North American Industry Classification System.

(2) "Renewable energy electric generation" means an establishment primarily engaged in activities described in category 221119 of the 1997 North American Industry Classification System.

(3) "Integrated gasification combined cycle technology" means technology used to produce electricity in a combined combustion turbine and steam turbine application using synthetic gas or another product produced from the gasification of coal or another carbon-based feedstock, including related activities such as materials-handling and gasification of coal or another carbon-based feedstock.

(4) "Nuclear electric power generation" means activities

described in category 221113 of the 2002 North American Industry Classification System.

(5) "Research and development" means an establishment primarily engaged in activities described in category 541710 of the 2002 North American Industry Classification System.

(6) "Computer center" means an establishment primarily engaged in providing electronic data processing and information storage.

(7) "Texas priority project" means a project on which the applicant has committed to expend or allocate a qualified investment of more than $1 billion.

(8) "Military aviation facility" has the meaning assigned by Section 312.0021.

(9) "Wind-powered energy device" has the meaning assigned by Section 11.27.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2005, 79th Leg., Ch. 1097 (H.B. 2201), Sec. 5, eff. June 18, 2005.

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 16(b), eff. January 1, 2008.

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 16(c), eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. 2994), Sec. 3, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. 2994), Sec. 4, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. 2994), Sec. 5, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. 3732), Sec. 10, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 4, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 4, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 5, eff. January 1, 2014.

Acts 2017, 85th Leg., R.S., Ch. 444 (S.B. 277), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 444 (S.B. 277), Sec. 4, eff. September 1, 2017.

Sec. 313.025. APPLICATION; ACTION ON APPLICATION. (a) The owner or lessee of, or the holder of another possessory interest in, any qualified property described by Section 313.021(2)(A), (B), or (C) may apply to the governing body of the school district in which the property is located for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified property. An application must be made on the form prescribed by the comptroller and include the information required by the comptroller, and it must be accompanied by:

(1) the application fee established by the governing body of the school district;

(2) information sufficient to show that the real and personal property identified in the application as qualified property meets the applicable criteria established by Section 313.021(2); and

(3) any information required by the comptroller for the purposes of Section 313.026.

(a-1) Within seven days of the receipt of each document, the school district shall submit to the comptroller a copy of the application and the proposed agreement between the applicant and the school district. If the applicant submits an economic analysis of the proposed project to the school district, the district shall submit a copy of the analysis to the comptroller. In addition, the school district shall submit to the comptroller any subsequent revision of or amendment to any of those documents within seven days of its receipt. The comptroller shall publish each document received from the school district under this subsection on the comptroller's Internet website. If the school district maintains a generally accessible Internet website, the district shall provide on its website a link to the location of those documents posted on the comptroller's website in compliance with this subsection. This subsection does not require the comptroller to post information that is confidential under Section 313.028.

(b) The governing body of a school district is not required to consider an application for a limitation on appraised value. If the

governing body of the school district elects to consider an application, the governing body shall deliver a copy of the application to the comptroller and request that the comptroller conduct an economic impact evaluation of the investment proposed by the application. The comptroller shall conduct or contract with a third person to conduct the economic impact evaluation, which shall be completed and provided to the governing body of the school district, along with the comptroller's certificate or written explanation under Subsection (d), as soon as practicable but not later than the 90th day after the date the comptroller receives the application. The governing body shall provide to the comptroller or to a third person contracted by the comptroller to conduct the economic impact evaluation any requested information. A methodology to allow comparisons of economic impact for different schedules of the addition of qualified investment or qualified property may be developed as part of the economic impact evaluation. The governing body shall provide a copy of the economic impact evaluation to the applicant on request. The comptroller may charge the applicant a fee sufficient to cover the costs of providing the economic impact evaluation. The governing body of a school district shall approve or disapprove an application not later than the 150th day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the governing body and the applicant.

(b-1) The comptroller shall promptly deliver a copy of the application to the Texas Education Agency. The Texas Education Agency shall determine the effect that the applicant's proposal will have on the number or size of the school district's instructional facilities and submit a written report containing the agency's determination to the school district. The governing body of the school district shall provide any requested information to the Texas Education Agency. Not later than the 45th day after the date the Texas Education Agency receives the application, the Texas Education Agency shall make the required determination and submit the agency's written report to the governing body of the school district.

(c) In determining whether to approve an application, the governing body of the school district is entitled to request and receive assistance from:

(1) the comptroller;

(2) the Texas Economic Development and Tourism Office;

(3) the Texas Workforce Investment Council; and

(4) the Texas Workforce Commission.

(d) Not later than the 90th day after the date the comptroller receives the copy of the application, the comptroller shall issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the comptroller's decision not to issue a certificate.

(d-1) The governing body of a school district may not approve an application unless the comptroller submits to the governing body a certificate for a limitation on appraised value of the property.

(e) Before approving or disapproving an application under this subchapter that the governing body of the school district elects to consider, the governing body must make a written finding as to any criteria considered by the comptroller in conducting the economic impact evaluation under Section 313.026. The governing body shall deliver a copy of those findings to the applicant.

(f) The governing body may approve an application only if the governing body finds that the information in the application is true and correct, finds that the applicant is eligible for the limitation on the appraised value of the person's qualified property, and determines that granting the application is in the best interest of the school district and this state.

(f-1) Notwithstanding any other provision of this chapter to the contrary, including Section 313.003(2) or 313.004(3)(A) or (B)(iii), the governing body of a school district may waive the new jobs creation requirement in Section 313.021(2)(A)(iv)(b) or 313.051(b) and approve an application if the governing body makes a finding that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

(g) The Texas Economic Development and Tourism Office or its successor may recommend that a school district approve an application under this chapter. In determining whether to approve an application, the governing body of the school district shall consider any recommendation made by the Texas Economic Development and Tourism Office or its successor.

(h) After receiving a copy of the application, the comptroller shall determine whether the property meets the requirements of

Section 313.024 for eligibility for a limitation on appraised value under this subchapter. The comptroller shall notify the governing body of the school district of the comptroller's determination and provide the applicant an opportunity for a hearing before the determination becomes final. A hearing under this subsection is a contested case hearing and shall be conducted by the State Office of Administrative Hearings in the manner provided by Section 2003.101, Government Code. The applicant has the burden of proof on each issue in the hearing. The applicant may seek judicial review of the comptroller's determination in a Travis County district court under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.

(i) If the comptroller's determination under Subsection (h) that the property does not meet the requirements of Section 313.024 for eligibility for a limitation on appraised value under this subchapter becomes final, the comptroller is not required to provide an economic impact evaluation of the application or to submit a certificate for a limitation on appraised value of the property or a written explanation of the decision not to issue a certificate, and the governing body of the school district may not grant the application.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002. Amended by Acts 2003, 78th Leg., ch. 818, Sec. 6.11, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 978, Sec. 7, eff. Sept. 1, 2003. Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 16(d), eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 864 (H.B. 1470), Sec. 2, eff. December 31, 2007.

Acts 2007, 80th Leg., R.S., Ch. 864 (H.B. 1470), Sec. 3, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 5, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 5, eff. January 1, 2010.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 6, eff. January 1, 2014.

Sec. 313.026. ECONOMIC IMPACT EVALUATION. (a) The economic impact evaluation of the application must include any information the comptroller determines is necessary or helpful to:

(1) the governing body of the school district in determining whether to approve the application under Section 313.025; or

(2) the comptroller in determining whether to issue a certificate for a limitation on appraised value of the property under Section 313.025.

(b) Except as provided by Subsections (c) and (d), the comptroller's determination whether to issue a certificate for a limitation on appraised value under this chapter for property described in the application shall be based on the economic impact evaluation described by Subsection (a) and on any other information available to the comptroller, including information provided by the governing body of the school district.

(c) The comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that:

(1) the project proposed by the applicant is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue, including state tax revenue, school district maintenance and operations ad valorem tax revenue attributable to the project, and any other tax revenue attributable to the effect of the project on the economy of the state, in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement; and

(2) the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.

(d) The comptroller shall state in writing the basis for the determinations made under Subsections (c)(1) and (2).

(e) The applicant may submit information to the comptroller that would provide a basis for an affirmative determination under Subsection (c)(2).

(f) Notwithstanding Subsections (c) and (d), if the comptroller makes a qualitative determination that other considerations associated with the project result in a net positive benefit to the state, the comptroller may issue the certificate.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 864 (H.B. 1470), Sec. 4, eff. June 15, 2007.
Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 6, eff. June 19, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 7, eff. January 1, 2014.

Sec. 313.0265. DISCLOSURE OF APPRAISED VALUE LIMITATION INFORMATION. (a) The comptroller shall post on the comptroller's Internet website each document or item of information the comptroller designates as substantive before the 15th day after the date the document or item of information was received or created. Each document or item of information must continue to be posted until the appraised value limitation expires.

(b) The comptroller shall designate the following as substantive:

(1) each application requesting a limitation on appraised value; and

(2) the economic impact evaluation made in connection with the application.

(c) If a school district maintains a generally accessible Internet website, the district shall maintain a link on its Internet website to the area of the comptroller's Internet website where information on each of the district's agreements to limit appraised value is maintained.

Added by Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 7, eff. January 1, 2010.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 8, eff. January 1, 2014.

Sec. 313.027. LIMITATION ON APPRAISED VALUE; AGREEMENT. (a) If the person's application is approved by the governing body of the school district, the appraised value for school district maintenance and operations ad valorem tax purposes of the person's qualified

property as described in the agreement between the person and the district entered into under this section in the school district may not exceed the lesser of:

(1) the market value of the property; or

(2) subject to Subsection (b), the amount agreed to by the governing body of the school district.

(a-1) The agreement must:

(1) provide that the limitation under Subsection (a) applies for a period of 10 years; and

(2) specify the beginning date of the limitation, which must be January 1 of the first tax year that begins after:

(A) the application date;

(B) the qualifying time period; or

(C) the date commercial operations begin at the site of the project.

(b) The amount agreed to by the governing body of a school district under Subsection (a)(2) must be an amount in accordance with the following, according to the category established by Section 313.022 to which the school district belongs:

CATEGORY	MINIMUM AMOUNT OF LIMITATION
I	$100 million
II	$80 million
III	$60 million
IV	$40 million
V	$20 million

(c) The limitation amounts listed in Subsection (b) are minimum amounts. A school district, regardless of category, may agree to a greater amount than those amounts.

(d) The governing body of the school district and the property owner shall enter into a written agreement for the implementation of the limitation on appraised value under this subchapter on the owner's qualified property.

(e) The agreement must describe with specificity the qualified investment that the person will make on or in connection with the person's qualified property that is subject to the limitation on appraised value under this subchapter. Other property of the person that is not specifically described in the agreement is not subject to the limitation unless the governing body of the school district, by official action, provides that the other property is subject to the

limitation.

(f) In addition, the agreement:

(1) must incorporate each relevant provision of this subchapter and, to the extent necessary, include provisions for the protection of future school district revenues through the adjustment of the minimum valuations, the payment of revenue offsets, and other mechanisms agreed to by the property owner and the school district;

(2) may provide that the property owner will protect the school district in the event the district incurs extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project;

(3) must require the property owner to maintain a viable presence in the school district for at least five years after the date the limitation on appraised value of the owner's property expires;

(4) must provide for the termination of the agreement, the recapture of ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to comply with the terms of the agreement, and payment of a penalty or interest, or both, on that recaptured ad valorem tax revenue;

(5) may specify any conditions the occurrence of which will require the district and the property owner to renegotiate all or any part of the agreement;

(6) must specify the ad valorem tax years covered by the agreement; and

(7) must be in a form approved by the comptroller.

(g) When appraising a person's qualified property subject to a limitation on appraised value under this section, the chief appraiser shall determine the market value of the property and include both the market value and the appropriate value under Subsection (a) in the appraisal records.

(h) The agreement between the governing body of the school district and the applicant may provide for a deferral of the date on which the qualifying time period for the project is to commence or, subsequent to the date the agreement is entered into, be amended to provide for such a deferral. The agreement may not provide for the deferral of the date on which the qualifying time period is to

commence to a date later than January 1 of the fourth tax year that begins after the date the application is approved except that if the agreement is one of a series of agreements related to the same project, the agreement may provide for the deferral of the date on which the qualifying time period is to commence to a date not later than January 1 of the sixth tax year that begins after the date the application is approved. This subsection may not be construed to permit a qualifying time period that has commenced to continue for more than the number of years applicable to the project under Section 313.021(4).

(i) A person and the school district may not enter into an agreement under which the person agrees to provide supplemental payments to a school district or any other entity on behalf of a school district in an amount that exceeds an amount equal to the greater of $100 per student per year in average daily attendance, as defined by Section 48.005, Education Code, or $50,000 per year, or for a period that exceeds the period beginning with the period described by Section 313.021(4) and ending December 31 of the third tax year after the date the person's eligibility for a limitation under this chapter expires. This limit does not apply to amounts described by Subsection (f)(1) or (2).

(j) An agreement under this chapter must disclose any consideration promised in conjunction with the application and the limitation.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 8, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 9, eff. January 1, 2014.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.095, eff. September 1, 2019.

Sec. 313.0275. RECAPTURE OF AD VALOREM TAX REVENUE LOST. (a) Notwithstanding any other provision of this chapter to the contrary, a person with whom a school district enters into an agreement under this subchapter must make the minimum amount of qualified investment during the qualifying time period.

(b) If in any tax year a property owner fails to comply with Subsection (a), the property owner is liable to this state for a penalty equal to the amount computed by subtracting from the market value of the property for that tax year the value of the property as limited by the agreement and multiplying the difference by the maintenance and operations tax rate of the school district for that tax year.

(c) A penalty imposed under Subsection (b) becomes delinquent if not paid on or before February 1 of the following tax year. Section 33.01 applies to the delinquent penalty in the manner that section applies to delinquent taxes.

(d) In the event of a casualty loss that prevents a person from complying with Subsection (a), the person may request and the comptroller may grant a waiver of the penalty imposed under Subsection (b).

Added by Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 9, eff. June 19, 2009.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 10, eff. January 1, 2014.

Sec. 313.0276. PENALTY FOR FAILURE TO COMPLY WITH JOB-CREATION REQUIREMENTS. (a) The comptroller shall conduct an annual review and issue a determination as to whether a person with whom a school district has entered into an agreement under this chapter satisfied in the preceding year the requirements of this chapter regarding the creation of the required number of qualifying jobs. If the comptroller makes an adverse determination in the review, the comptroller shall notify the person of the cause of the adverse determination and the corrective measures necessary to remedy the determination.

(b) If a person who receives an adverse determination fails to remedy the determination following notification of the determination and the comptroller makes an adverse determination with respect to the person's compliance in the following year, the person must submit to the comptroller a plan for remedying the determination and certify the person's intent to fully implement the plan not later than December 31 of the year in which the determination is made.

(c) If a person who receives an adverse determination under Subsection (b) fails to comply with that subsection following notification of the determination and receives an adverse determination in the following year, the comptroller shall impose a penalty on the person. The penalty is in an amount equal to the amount computed by:

(1) subtracting from the number of qualifying jobs required to be created the number of qualifying jobs actually created; and

(2) multiplying the amount computed under Subdivision (1) by the average annual wage for all jobs in the county during the most recent four quarters for which data is available.

(d) Notwithstanding Subsection (c), if a person receives an adverse determination and the comptroller has previously imposed a penalty on the person under this section one or more times, the comptroller shall impose a penalty on the person in an amount equal to the amount computed by multiplying the amount computed under Subsection (c)(1) by an amount equal to twice the amount computed under Subsection (c)(2).

(e) Notwithstanding Subsections (c) and (d), a penalty imposed under this section may not exceed an amount equal to the difference between the amount of the ad valorem tax benefit received by the person under the agreement in the preceding year and the amount of any supplemental payments made to the school district in that year.

(f) A job created by a person that is not a qualifying job because the job does not meet a numerical requirement of Section 313.021(3)(A), (D), or (E) is considered for purposes of this section to be a nonqualifying job only if the job fails to meet the numerical requirement by at least 10 percent.

(g) An adverse determination under this section is a deficiency determination under Section 111.008. A penalty imposed under this section is an amount the comptroller is required to collect, receive, administer, or enforce, and the determination is subject to the payment and redetermination requirements of Sections 111.0081 and 111.009.

(h) A redetermination under Section 111.009 of an adverse determination under this section is a contested case as defined by Section 2001.003, Government Code.

(i) If a person on whom a penalty is imposed under this section contends that the amount of the penalty is unlawful or that the comptroller may not legally demand or collect the penalty, the person

may challenge the determination of the comptroller under Subchapters A and B, Chapter 112.

(j) If the comptroller imposes a penalty on a person under this section three times, the comptroller may rescind the agreement between the person and the school district under this chapter.

(k) A person may contest a determination by the comptroller to rescind an agreement between the person and a school district under this chapter pursuant to Subsection (j) by filing suit against the comptroller and the attorney general. The district courts of Travis County have exclusive, original jurisdiction of a suit brought under this subsection. This subsection prevails over a provision of Chapter 25, Government Code, to the extent of any conflict.

(l) If a person files suit under Subsection (k) and the comptroller's determination to rescind the agreement is upheld on appeal, the person shall pay to the comptroller any tax that would have been due and payable to the school district during the pendency of the appeal, including statutory interest and penalties imposed on delinquent taxes under Sections 111.060 and 111.061.

(m) The comptroller shall deposit a penalty collected under this section, including any interest and penalty applicable to the penalty, to the credit of the foundation school fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 11, eff. January 1, 2014.

Sec. 313.028. CERTAIN BUSINESS INFORMATION CONFIDENTIAL. Information provided to a school district in connection with an application for a limitation on appraised value under this subchapter that describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application shall be segregated in the application from other information in the application and is confidential and not subject to public disclosure unless the governing body of the school district approves the application. Other information in the custody of a school district or the comptroller in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility under this chapter, such as the nature and amount of the projected investment, employment, wages, and benefits, may not be

considered confidential business information if the governing body of the school district agrees to consider the application. Information in the custody of a school district or the comptroller if the governing body approves the application is not confidential under this section.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 10, eff. June 19, 2009.

Sec. 313.030. PROPERTY NOT ELIGIBLE FOR TAX ABATEMENT. Property subject to a limitation on appraised value in a tax year under this subchapter is not eligible for tax abatement by a school district under Chapter 312 in that tax year.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.031. RULES AND FORMS; FEES. (a) The comptroller shall:

(1) adopt rules and forms necessary for the implementation and administration of this chapter, including rules for determining whether a property owner's property qualifies as a qualified investment under Section 313.021(1); and

(2) provide without charge one copy of the rules and forms to any school district and to any person who states that the person intends to apply for a limitation on appraised value under this subchapter.

(b) The governing body of a school district by official action shall establish reasonable nonrefundable application fees to be paid by property owners who apply to the district for a limitation on the appraised value of the person's property under this subchapter. The amount of an application fee must be reasonable and may not exceed the estimated cost to the district of processing and acting on an application, including any cost to the school district associated with the economic impact evaluation required by Section 313.025.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 12, eff. January 1, 2014.

Sec. 313.032. REPORT ON COMPLIANCE WITH AGREEMENTS. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature a report on the agreements entered into under this chapter that includes:

(1) an assessment of the following with regard to the agreements entered into under this chapter, considered in the aggregate:

(A) the total number of jobs created, direct and otherwise, in this state;

(B) the total effect on personal income, direct and otherwise, in this state;

(C) the total amount of investment in this state;

(D) the total taxable value of property on the tax rolls in this state, including property for which the limitation period has expired;

(E) the total value of property not on the tax rolls in this state as a result of agreements entered into under this chapter; and

(F) the total fiscal effect on the state and local governments; and

(2) an assessment of the progress of each agreement made under this chapter that states for each agreement:

(A) the number of qualifying jobs each recipient of a limitation on appraised value committed to create;

(B) the number of qualifying jobs each recipient created;

(C) the total amount of wages and the median wage of the new qualifying jobs each recipient created;

(D) the amount of the qualified investment each recipient committed to spend or allocate for each project;

(E) the amount of the qualified investment each recipient spent or allocated for each project;

(F) the market value of the qualified property of each recipient as determined by the applicable chief appraiser, including

property that is no longer eligible for a limitation on appraised value under the agreement;

(G) the limitation on appraised value for the qualified property of each recipient;

(H) the dollar amount of the taxes that would have been imposed on the qualified property if the property had not received a limitation on appraised value; and

(I) the dollar amount of the taxes imposed on the qualified property.

(b) The report may not include information that is confidential by law.

(b-1) In preparing the portion of the report described by Subsection (a)(1), the comptroller may use standard economic estimation techniques, including economic multipliers.

(c) The portion of the report described by Subsection (a)(2) must be based on data certified to the comptroller by each recipient or former recipient of a limitation on appraised value under this chapter.

(d) The comptroller may require a recipient or former recipient of a limitation on appraised value under this chapter to submit, on a form the comptroller provides, information required to complete the report.

Added by Acts 2007, 80th Leg., R.S., Ch. 1262 (H.B. 2994), Sec. 6, eff. June 15, 2007.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 13, eff. January 1, 2014.

Sec. 313.033. REPORT ON COMPLIANCE WITH JOB-CREATION REQUIREMENTS. Each recipient of a limitation on appraised value under this chapter shall submit to the comptroller an annual report on a form provided by the comptroller that provides information sufficient to document the number of qualifying jobs created.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 14, eff. January 1, 2014.

For expiration of this subchapter, see Sec. 313.007

SUBCHAPTER C. LIMITATION ON APPRAISED VALUE OF PROPERTY IN STRATEGIC INVESTMENT AREA OR CERTAIN RURAL SCHOOL DISTRICTS

Sec. 313.051. APPLICABILITY. (a) In this section, "strategic investment area" means an area the comptroller determines under Subsection (a-3) is:

(1) a county within this state with unemployment above the state average and per capita income below the state average;

(2) an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community; or

(3) a defense economic readjustment zone designated under Chapter 2310, Government Code.

(a-1) This subchapter applies only to a school district that has territory in:

(1) an area that qualifies as a strategic investment area; or

(2) a county:

(A) that has a population of less than 50,000; and

(B) in which, from 2000 to 2010, according to the federal decennial census, the population:

(i) remained the same;

(ii) decreased; or

(iii) increased, but at a rate of not more than the average rate of increase in the state during that period.

(a-2) Notwithstanding Subsection (a-1), if on January 1, 2002, this subchapter applied to a school district in whose territory is located a federal nuclear facility, this subchapter continues to apply to the school district regardless of whether the school district ceased or ceases to be described by Subsection (a-1) after that date.

(a-3) Not later than September 1 of each year, the comptroller shall determine areas that qualify as a strategic investment area using the most recently completed full calendar year data available on that date and, not later than October 1, shall publish a list and map of the designated areas. A determination under this subsection is effective for the following tax year for purposes of this subchapter.

(b) The governing body of a school district to which this subchapter applies may enter into an agreement in the same manner as

a school district to which Subchapter B applies may do so under Subchapter B, subject to Sections 313.052-313.054. Except as otherwise provided by this subchapter, the provisions of Subchapter B apply to a school district to which this subchapter applies. For purposes of this subchapter, a property owner is required to create at least 10 new qualifying jobs as defined by Section 313.021(3) on the owner's qualified property.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 1 (H.B. 3), Sec. 16(e), eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1186 (H.B. 3676), Sec. 11, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 16, eff. January 1, 2014.

Sec. 313.052. CATEGORIZATION OF SCHOOL DISTRICTS. For purposes of determining the required minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) and the minimum amount of a limitation on appraised value under this subchapter, school districts to which this subchapter applies are categorized according to the taxable value of industrial property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code, as follows:

CATEGORY	TAXABLE VALUE OF INDUSTRIAL PROPERTY
I	$200 million or more
II	$90 million or more but less than $200 million
III	$1 million or more but less than $90 million
IV	$100,000 or more but less than $1 million
V	less than $100,000

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.053. MINIMUM AMOUNTS OF QUALIFIED INVESTMENT. For

each category of school district established by Section 313.052, the minimum amount of a qualified investment under Section 313.021(2)(A)(iv)(a) is as follows:

CATEGORY	MINIMUM QUALIFIED INVESTMENT
I	$30 million
II	$20 million
III	$10 million
IV	$5 million
V	$1 million

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.

Sec. 313.054. LIMITATION ON APPRAISED VALUE. (a) For a school district to which this subchapter applies, the amount agreed to by the governing body of the district under Section 313.027(a)(2) must be an amount in accordance with the following, according to the category established by Section 313.052 to which the school district belongs:

CATEGORY	MINIMUM AMOUNT OF LIMITATION
I	$30 million
II	$25 million
III	$20 million
IV	$15 million
V	$10 million

(b) The limitation amounts listed in Subsection (a) are minimum amounts. A school district, regardless of category, may agree to a greater amount than those amounts.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 17, eff. January 1, 2014.

SUBCHAPTER E. AVAILABILITY OF TAX CREDIT AFTER PROGRAM EXPIRES OR IS REPEALED

Sec. 313.171. SAVING PROVISIONS. (a) A limitation on appraised value approved under Subchapter B or C before the

expiration of that subchapter continues in effect according to that subchapter as that subchapter existed immediately before its expiration, and that law is continued in effect for purposes of the limitation on appraised value.

(b) The repeal of Subchapter D does not affect a property owner's entitlement to a tax credit granted under Subchapter D if the property owner qualified for the tax credit before the repeal of Subchapter D.

Added by Acts 2001, 77th Leg., ch. 1505, Sec. 1, eff. Jan. 1, 2002.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1304 (H.B. 3390), Sec. 19, eff. January 1, 2014.

CHAPTER 320. MISCELLANEOUS PROVISIONS

Sec. 320.001. SAVING PROVISION AFTER EXPIRATION OF CHAPTER 312. The expiration of Chapter 312 under Section 312.006 does not affect the validity of a reinvestment zone designated or a tax abatement agreement executed before the expiration of Chapter 312. A reinvestment zone designated or a tax abatement agreement executed before the expiration of Chapter 312 under Section 312.006 is governed by the applicable law in effect immediately before the expiration of Chapter 312, except that the designation of an existing reinvestment zone may not be renewed after the expiration of Chapter 312. A tax abatement agreement in effect when Chapter 312 expires may be extended as provided by the law in effect immediately before the expiration of Chapter 312. A tax abatement agreement executed after the expiration of Chapter 312 may not be extended.

Added by Acts 1989, 71st Leg., ch. 1137, Sec. 14, eff. Sept. 1, 1989.

SUBTITLE C. LOCAL SALES AND USE TAXES
CHAPTER 321. MUNICIPAL SALES AND USE TAX ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 321.001. SHORT TITLE. This chapter may be cited as the Municipal Sales and Use Tax Act.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.002. DEFINITIONS. (a) In this chapter:

(1) "Additional municipal sales and use tax" means only the additional tax authorized by Section 321.101(b).

(2) "Municipality" includes any incorporated city, town, or village.

(3)(A) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant.

(B) An outlet, office, facility, or any location that contracts with a retail or commercial business to process for that business invoices, purchase orders, bills of lading, or other equivalent records onto which sales tax is added, including an office operated for the purpose of buying and selling taxable goods to be used or consumed by the retail or commercial business, is not a "place of business of the retailer" if the comptroller determines that the outlet, office, facility, or location functions or exists to avoid the tax legally due under this chapter or exists solely to rebate a portion of the tax imposed by this chapter to the contracting business. An outlet, office, facility, or location does not exist to avoid the tax legally due under this chapter or solely to rebate a portion of the tax imposed by this chapter if the outlet, office, facility, or location provides significant business services, beyond processing invoices, to the contracting business, including logistics management, purchasing, inventory control, or other vital business services.

(C) Notwithstanding any other provision of this subdivision, a kiosk is not a "place of business of the retailer." In this subdivision, "kiosk" means a small stand-alone area or structure that:

(i) is used solely to display merchandise or to submit orders for taxable items from a data entry device, or both;

(ii) is located entirely within a location that is a place of business of another retailer, such as a department store or shopping mall; and

(iii) at which taxable items are not available for immediate delivery to a customer.

(b) Words used in this chapter and defined by Chapter 151 have the meanings assigned by Chapter 151.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 2003, 78th Leg., ch. 1155, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 942 (H.B. 590), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1361 (S.B. 1533), Sec. 1, eff. September 1, 2013.

Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B, Title 2, and Chapters 142 and 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes, unless modified by this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.13, eff. Aug. 28, 1989; Acts 2003, 78th Leg., ch. 1310, Sec. 114, eff. Oct. 1, 2003.

Sec. 321.004. REFERENCES TO SALES OR USE TAX. A reference to a sales tax or a use tax imposed or authorized by this chapter is a reference to both the taxes imposed under Sections 321.101(a) and (b) unless otherwise provided.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY MUNICIPALITIES

Sec. 321.101. TAX AUTHORIZED. (a) A municipality may adopt or repeal a sales and use tax authorized by this chapter, other than the additional municipal sales and use tax, and may reduce or increase the rate of the tax, at an election in which a majority of the

qualified voters of the municipality approve the adoption, reduction, increase, or repeal of the tax.

(b) A municipality that is not disqualified may, by a majority vote of the qualified voters of the municipality voting at an election held for that purpose, adopt an additional sales and use tax for the benefit of the municipality in accordance with this chapter. A municipality is disqualified from adopting the additional sales and use tax if the municipality:

(1) is included within the boundaries of a rapid transit authority created under Chapter 451, Transportation Code;

(2) is included within the boundaries of a regional transportation authority created under Chapter 452, Transportation Code, by a principal municipality having a population of less than 1.1 million according to the most recent federal decennial census, unless the municipality has a population of 400,000 or more and is located in more than one county;

(3) is wholly or partly located in a county that contains territory within the boundaries of a regional transportation authority created under Chapter 452, Transportation Code, by a principal municipality having a population in excess of 1.1 million according to the most recent federal decennial census, unless:

(A) the municipality is a contiguous municipality; or

(B) the municipality is not included within the boundaries of the authority and is located wholly or partly in a county in which fewer than 250 persons are residents of both the county and the authority according to the most recent federal census; or

(C) the municipality is not and on January 1, 1993, was not included within the boundaries of the authority; or

(4) imposes a tax authorized by Chapter 453, Transportation Code.

(c) For the purposes of Subsection (b), "principal municipality" and "contiguous municipality" have the meanings assigned by Section 452.001, Transportation Code.

(d) In any municipality in which an additional sales and use tax has been imposed, in the same manner and by the same procedure the municipality by majority vote of the qualified voters of the municipality voting at an election held for that purpose may reduce, increase, or abolish the additional sales and use tax.

(e) An authority created under Chapter 451 or 452,

Transportation Code, is prohibited from imposing the tax provided for by those chapters if within the boundaries of the authority there is a municipality that has adopted the additional sales and use tax provided for by this section.

(f) A municipality may not adopt or increase a sales and use tax or an additional sales and use tax under this section if as a result of the adoption or increase of the tax the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed two percent at any location in the municipality.

(g) For the purposes of Subsection (f), "territory" in a municipality having a population of 5,000 or less and bordering on the Gulf of Mexico does not include any area covered by water and in which no person has a place of business to which a sales tax permit issued under Subchapter F of Chapter 151 applies.

(h) Expired.

(i) A municipality for which the adoption or increase of a sales and use tax approved by the voters in an election held after May 1, 1995, and before December 31, 1995, is invalid because the election combined into a single proposition proposal for adopting an economic development sales and use tax under Chapter 505, Local Government Code, and an additional sales and use tax under Subsection (b) may adopt or increase the sales and use tax previously approved by the voters by ordinance or resolution of the governing body of the municipality. If the governing body of the municipality adopts or increases the sales and use tax under this subsection, the municipal secretary shall send to the comptroller by certified or registered mail a certified copy of the ordinance or resolution. The tax takes effect on the first day of the month following the expiration of the calendar quarter occurring after the date on which the comptroller receives the ordinance or resolution.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 54, Sec. 1, eff. Oct. 20, 1987; Acts 1989, 71st Leg., ch. 2, Sec. 14.14(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 489, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 184, Sec. 2, eff. May 24, 1991; Acts 1991, 72nd Leg., ch. 223, Sec. 1, eff. May 29, 1991; Acts 1993, 73rd Leg., ch. 320, Sec. 1, eff. May 28, 1993; Acts 1993, 73rd Leg., ch. 1031,

Sec. 25, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 65, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 165, Sec. 30.264, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 705, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.73, eff. April 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. 3777), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 12, eff. September 1, 2015.

Sec. 321.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL, BOUNDARY CHANGE. (a) A tax imposed under this chapter, a tax rate increase or decrease adopted under this chapter, or the repeal of a tax abolished under this chapter takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 321.405(b). This subsection does not apply to the additional municipal sales and use tax.

(b) The additional municipal sales and use tax takes effect or is increased, reduced, or repealed in the municipality on the October 1st after the expiration of the first complete calendar quarter after the date on which the comptroller receives notice from the municipality of the adoption, increase, reduction, or repeal of the additional municipal sales and use tax.

(c) If a municipality in which the tax imposed under this chapter is in effect changes its boundaries, the municipal secretary shall send by United States registered or certified mail to the comptroller a certified copy of the ordinance that adds or detaches municipal territory and that shows the effective date of the boundary change. The ordinance must be accompanied by a map clearly showing the added or detached territory. Except as provided by Subsection (d), the tax takes effect in the added territory or is inapplicable to the detached territory on the first day of the first calendar quarter after the comptroller receives the ordinance and map.

(d) If, within 10 days after the receipt of an ordinance and map sent under Subsection (c), the comptroller notifies the secretary

of the municipality that more time is required, the effective date of the application of the tax in the added or detached area is the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives the ordinance and map.

(e) If as a result of the imposition or increase in a sales and use tax by a municipality in which there is located all or part of a local governmental entity that has adopted a sales and use tax or as a result of the annexation by a municipality of all or part of the territory in a local governmental entity that has adopted a sales and use tax the overlapping local sales and use taxes in the area will exceed two percent, the entity's sales and use tax is automatically reduced in that area to a rate that when added to the combined rate of local sales and use taxes will equal two percent.

(f) If an entity's rate is reduced in accordance with Subsection (e), the comptroller shall withhold from the municipality's monthly sales and use tax allocation an amount equal to the amount that would have been collected by the entity had the municipality not imposed or increased its sales and use tax or annexed the area in the entity less amounts that the entity collects following the municipality's levy of or increase in its sales and use tax or annexation of the area in the entity. The comptroller shall withhold and pay the amount withheld to the entity under policies or procedures that the comptroller considers reasonable.

(g) Subsections (e) and (f) do not apply if and during any period in which a local governmental entity has outstanding indebtedness or obligations that are payable wholly or partly from the sales and use tax revenue of the entity. A municipality may not implement the imposition or increase of the sales and use tax as a result of the circumstances described by Subsection (e) if, as a result of the implementation of that imposition or increase, the combined rate of all sales and use taxes imposed by the municipality, the local governmental entity, and any other political subdivisions having territory in the district would exceed two percent at any location in the municipality.

(h) A transit authority is not a local governmental entity for the purposes of Subsections (e) and (f).

(i) Subsection (g) does not apply to a local governmental entity or political subdivision created under Chapter 326, Local Government Code.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 256, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 184, Sec. 3, eff. May 24, 1991; Acts 1999, 76th Leg., ch. 1467, Sec. 2.67, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 1263, Sec. 74, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 13, eff. September 1, 2015.

Sec. 321.1025. ANNEXATION TO CERTAIN REGIONAL TRANSPORTATION AUTHORITIES. (a) A municipality that is wholly or partly located in a county that contains territory within the boundaries of a regional transportation authority created under Chapter 452, Transportation Code, by a principal municipality having a population of more than 1.1 million according to the most recent federal decennial census and that has adopted an additional sales and use tax for the benefit of the municipality may hold an election on the question of whether the municipality shall be annexed to the authority.

(b) The election must be held in the manner required by Chapter 452, Transportation Code.

(c) If the annexation is approved by the voters, the election is to be treated for all purposes as an election to abolish the additional sales and use tax in the municipality and the tax is repealed in the manner provided by this chapter.

Added by Acts 1991, 72nd Leg., ch. 223, Sec. 2, eff. May 29, 1991.
Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.265, eff. Sept. 1, 1997.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. 3777), Sec. 2, eff. September 1, 2015.

Sec. 321.103. SALES TAX. (a) In a municipality that has adopted the tax authorized by Section 321.101(a), there is imposed a tax on the receipts from the sale at retail of taxable items within the municipality at any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, that would not result in a combined rate that exceeds the maximum combined

rate prescribed by Section 321.101(f), and that is approved by the voters. The tax is imposed at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use.

(b) In a municipality that has adopted the additional municipal sales and use tax, the tax is imposed at any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f), and that is approved by the voters. The rate may be reduced in one or more increments of one-eighth of one percent or increased in one or more increments of one-eighth of one percent. The rate that the municipality adopts is on the receipts from the sale at retail of all taxable items within the municipality and at the same rate on the receipts from the sale at retail within the municipality of gas and electricity for residential use unless the residential use of gas and electricity is exempted from the tax imposed under Section 321.101(a), in which case the residential use of gas and electricity is exempted under this subsection also.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1991, 72nd Leg., ch. 184, Sec. 4, eff. May 24, 1991.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 14, eff. September 1, 2015.

Sec. 321.104. USE TAX. (a) In a municipality that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the municipality of taxable items purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the taxable items.

(b) In a municipality that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption of gas or electricity for residential purposes and purchased from any retailer during the period that the tax is effective within the municipality. The tax is imposed at the same rate as the tax provided by Subsection (a).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 25, eff. Sept. 1, 1991.

Sec. 321.1045. IMPOSITION OF SALES AND USE TAX IN CERTAIN FEDERAL MILITARY INSTALLATIONS. (a) This section applies only to a municipality with a population of more than 500,000 that borders the United Mexican States.

(b) For purposes of the sales and use tax imposed under this chapter, a reference in this chapter or other law to the municipality as the territory in which the tax or an incident of the tax applies includes the area within the boundaries of a federal military installation that is located in the municipality's extraterritorial jurisdiction.

(c) This section does not affect:

(1) the boundaries of an emergency services district that contains territory within the boundaries of a federal military installation on the effective date of this section;

(2) the authority of that emergency services district to continue to impose a sales and use tax in the entire territory of the district; or

(3) the duty of that emergency services district to provide services in the entire territory of the district.

Added by Acts 2011, 82nd Leg., R.S., Ch. 146 (H.B. 205), Sec. 1, eff. July 1, 2011.

Sec. 321.105. RESIDENTIAL USE OF GAS AND ELECTRICITY. (a) There are exempted from the taxes imposed by a municipality under this chapter the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption within the municipality of gas and electricity for residential use in any municipality that:

(1) adopted the tax on or after October 1, 1979; or

(2) adopted the tax before that time but:

(A) failed to exempt the residential use of gas and electricity before May 1, 1979; and

(B) has not reimposed the tax as provided by Subsection (c).

(b) A governing body of a municipality that adopted the taxes under this chapter before October 1, 1979, may, by ordinance adopted by a vote of a majority of the membership of the governing body and recorded in the municipal minutes, exempt from the taxes authorized by this chapter the receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption of gas and electricity for residential use.

(c) A governing body of a municipality that has adopted the taxes authorized by this chapter before May 1, 1979, and in which residential use of gas and electricity is exempted within the municipality, may reimpose the taxes on gas and electricity for residential use by ordinance adopted by a vote of the majority of the membership of the governing body and entered in the municipal minutes.

(d) The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of an ordinance exempting or imposing the taxes on residential use of gas and electricity.

(e) The exemption or reimposition of taxes on residential use of gas and electricity takes effect within the municipality as provided by Section 321.104(a) after receipt of a copy of the ordinance.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.1055. IMPOSITION OF FIRE CONTROL OR CRIME CONTROL DISTRICT TAX ON THE RESIDENTIAL USE OF GAS AND ELECTRICITY. (a) This section applies to a fire control, prevention, and emergency medical services district or crime control and prevention district located in all or part of a municipality that imposes a tax on the residential use of gas and electricity under Section 321.105.

(b) The board of directors of a district to which this section applies may, by order or resolution adopted in a public hearing by a vote of a majority of the membership of the board and recorded in the district's minutes:

(1) impose a tax adopted under Section 321.106 or 321.108, as applicable, on receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption within the district of, gas and electricity for residential use;

(2) exempt from taxation the items described by Subdivision (1); or

(3) reimpose the tax under Subdivision (1).

(c) A district that adopts an order or resolution under Subsection (b) shall:

(1) send a copy of the order or resolution to the comptroller by United States certified or registered mail;

(2) send a copy of the order or resolution and a copy of the district's boundaries to each gas and electric company whose customers are subject to the tax by United States certified or registered mail; and

(3) publish notice of the order or resolution in a newspaper of general circulation in the district.

(d) If the residential use of gas and electricity ceases to be taxable in the municipality in which a district is located, then the residential use of gas and electricity is not taxable by the district.

(e) The provisions of Sections 321.201 and 321.204 that govern the computation of municipal taxes on gas and electricity for residential use apply to the computation of district taxes on gas and electricity for residential use under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1420 (S.B. 575), Sec. 2, eff. January 1, 2010.

Sec. 321.106. FIRE CONTROL DISTRICT TAX. (a) Subject to an election held in accordance with Chapter 344, Local Government Code, a municipality in which a fire control, prevention, and emergency medical services district is established shall adopt a sales and use tax in the area of the district for the purpose of financing the operation of the fire control, prevention, and emergency medical services district. The revenue from the tax may be used only for the purpose of financing the operation of the fire control, prevention, and emergency medical services district. The proposition for adopting a tax under this section and the proposition for creation of a fire control, prevention, and emergency medical services district shall be submitted at the same election. For purposes of Section 321.101, a tax under this section is not an additional sales and use tax.

(b) A tax adopted for a district under this section for financing the operation of the district may be decreased in increments of one-eighth of one percent by order of the board of directors of the district.

(c) The rate of a tax adopted for a district under this section may be increased in increments of one-eighth of one percent, not to exceed a total tax rate of one-half percent, for financing the operation of the fire control, prevention, and emergency medical services district by order of the board of directors of the fire control, prevention, and emergency medical services district if approved by a majority of the qualified voters voting at an election called by the board and held in the district on the question of increasing the tax rate. At the election, the ballot shall be printed to provide for voting for or against the proposition: "The increase of the _____ (name of the municipality that created the district) Fire Control, Prevention, and Emergency Medical Services District sales and use tax rate to _____ percent." If there is an increase or decrease under this section in the rate of a tax imposed under this section, the new rate takes effect on the first day of the next calendar quarter after the expiration of one calendar quarter after the comptroller receives notice of the increase or decrease. However, if the comptroller notifies the president of the board of directors of the district in writing within 10 days after receipt of the notification that the comptroller requires more time to implement reporting and collection procedures, the comptroller may delay implementation of the rate change for one calendar quarter, and the new rate takes effect on the first day of the calendar quarter that follows the elapsed quarter.

(d) The comptroller shall remit to the municipality amounts collected at the rate imposed under this section as part of the regular allocation of other municipal tax revenue collected by the comptroller. The municipality shall remit that amount to the district. A retailer may not be required to use allocation and reporting procedures in the collection of taxes under this section that are different from the procedures that retailers use in the collection of other sales and use taxes under this chapter. An item, transaction, or service that is taxable in a municipality under a sales or use tax authorized by another section of this chapter is taxable under this section. An item, transaction, or service that is not taxable in a municipality under a sales or use tax authorized by

another section of this chapter is not taxable under this section.

(e) If, in a municipality where a fire control, prevention, and emergency medical services district is composed of the whole municipality, a municipal sales and use tax or a municipal sales and use tax rate increase for the purpose of financing a fire control, prevention, and emergency medical services district is approved, the municipality is responsible for distributing to the district that portion of the municipal sales and use tax revenue received from the comptroller that is to be used for the purposes of financing the fire control, prevention, and emergency medical services district. Not later than the 10th day after the date the municipality receives money under this section from the comptroller, the municipality shall make the distribution in the proportion that the fire control, prevention, and emergency medical services portion of the tax rate bears to the total sales and use tax rate of the municipality. The amounts distributed to a fire control, prevention, and emergency medical services district are not considered to be sales and use tax revenue for the purpose of property tax reduction and computation of the municipal tax rate under Section 26.041.

(f) For purposes of the tax imposed under this section, a reference in this chapter to the municipality as the territory in which the tax or an incident of the tax applies means only the territory located in the fire control, prevention, and emergency medical services district, if that district is composed of an area less than an entire municipality.

(g) The comptroller may adopt rules and the municipality's governing body may adopt orders to administer this section.

Added by Acts 2001, 77th Leg., ch. 1295, Sec. 2, eff. June 1, 2001.

Sec. 321.107. ADMINISTRATION OF LOCAL SALES AND USE TAXES IMPOSED BY OTHER GOVERNMENTAL ENTITIES. The imposition, computation, administration, enforcement, and collection of any local sales and use tax imposed by any other local governmental entity is governed by this chapter, except as otherwise provided by law. In this section, "other local governmental entity" includes any governmental entity created by the legislature that has a limited purpose or function, that has a defined or restricted geographic territory, and that is authorized by law to impose a local sales and use tax. The term does

not include a county, county health services district, county landfill and criminal detention center district, metropolitan transportation authority, coordinated county transportation authority, economic development district, crime control district, hospital district, emergency services district, or library district.

Added by Acts 2003, 78th Leg., ch. 209, Sec. 54, eff. Oct. 1, 2003.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 21, eff. September 1, 2007.

Sec. 321.108. MUNICIPAL CRIME CONTROL AND PREVENTION DISTRICT TAX. (a) Subject to an election held in accordance with Chapter 363, Local Government Code, a municipality in which a crime control and prevention district is established shall adopt a sales and use tax in the area of the district for the purpose of financing the operation of the crime control and prevention district. The revenue from the tax may be used only for the purpose of financing the operation of the crime control and prevention district. The proposition for adopting a tax under this section and the proposition for creation of a crime control and prevention district shall be submitted at the same election.

(b) A tax adopted for a district under this section for financing the operation of the district may be decreased in increments of one-eighth of one percent by order of the board of directors of the district.

(c) The governing body of the municipality that proposed the creation of the crime control and prevention district may call an election in the district on the question of decreasing the tax rate in increments of one-eighth of one percent in the district. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The decrease of the _____ Crime Control and Prevention District sales and use tax rate to _____ percent."

(d) The rate of a tax adopted for a district under this section may be increased to any rate that is an increment of one-eighth of one percent for financing the operation of the crime control and prevention district by order of the board of directors of the crime control and prevention district if the board determines that the rate

is appropriate, would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 321.101(f), and is approved by a majority of the voters voting at an election called by the board and held in the district on the question of increasing the tax rate. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The increase of the _____ Crime Control and Prevention District sales and use tax rate to _____ percent." If there is an increase or decrease under this subsection in the rate of a tax imposed under this section, the new rate takes effect on the first day of the next calendar quarter after the expiration of one calendar quarter after the comptroller receives notice of the increase or decrease. However, if the comptroller notifies the president of the board of directors of the district in writing within 10 days after receipt of the notification that the comptroller requires more time to implement reporting and collection procedures, the comptroller may delay implementation of the rate change for another calendar quarter, and the new rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

(e) The comptroller shall remit to the municipality amounts collected at the rate imposed under this section as part of the regular allocation of municipal tax revenue collected by the comptroller if the district is composed of the entire municipality. The comptroller shall, if the district is composed of an area less than the entire municipality, remit that amount to the district. Retailers may not be required to use allocation and reporting procedures in the collection of taxes under this section that are different from the procedures that retailers use in the collection of other sales and use taxes under this chapter. An item, transaction, or service that is taxable in a municipality under a sales or use tax authorized by another section of this chapter is taxable under this section. An item, transaction, or service that is not taxable in a municipality under a sales or use tax authorized by another section of this chapter is not taxable under this section.

(f) If, in a municipality in which a crime control and prevention district is composed of the whole municipality, a municipal sales and use tax or a municipal sales and use tax rate increase for the purpose of financing a crime control and prevention district is approved, the municipality is responsible for distributing to the district that portion of the municipal sales and

use tax revenue received from the comptroller that is to be used for the purposes of financing the crime control and prevention district. Not later than the 10th day after the date the municipality receives money under this section from the comptroller, the municipality shall make the distribution in the proportion that the crime control and prevention portion of the tax rate bears to the total sales and use tax rate of the municipality. The amounts distributed to a crime control and prevention district are not considered to be additional municipal sales and use tax revenue for the purpose of property tax reduction and computation of the municipal tax rate under Section 26.041.

(g) For purposes of the tax imposed under this section, a reference in this chapter to the municipality as the territory in which the tax or an incident of the tax applies means only the territory located in the crime control and prevention district, if that district is composed of an area less than an entire municipality.

(h) The comptroller may adopt rules and the governing body of the municipality may adopt orders to administer this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1101 (H.B. 3417), Sec. 5, eff. June 15, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 15, eff. September 1, 2015.

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 321.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a municipality that has adopted a tax authorized by this chapter shall add each sales tax imposed by the municipality under this chapter and by Chapter 151 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price. If the municipality imposes the tax on gas and electricity for residential use, only the municipal tax is added to the sales price of sales of gas and electricity for residential use.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates, or the rate of the municipal tax only for sales of gas and electricity for residential use in a

municipality that imposes the tax on gas and electricity for residential use, by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The comptroller may publish schedules and brackets of amounts of taxes based on the formula provided by Subsection (b) for use in municipalities that have adopted the taxes authorized by this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined state and local taxes.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

For expiration of Subsections (c-4) and (c-5), see Subsection (c-5).

Sec. 321.203. CONSUMMATION OF SALE. (a) A sale of a taxable item occurs within the municipality in which the sale is consummated. A sale is consummated as provided by this section regardless of the place where transfer of title or possession occurs.

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales of taxable items are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, each sale of each taxable item by the retailer is consummated at the place of business of the retailer in this state where the retailer first receives the order, provided that the order is placed in person by the purchaser or lessee of the taxable item at the place of business of the retailer in this state where the retailer first receives the order.

(c-1) If the retailer has more than one place of business in

this state and Subsection (c) does not apply, the sale is consummated at the place of business of the retailer in this state:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(c-4) Subsection (c) does not apply if:

(1) the taxable item is shipped or delivered from a warehouse:

(A) located in a municipality with a population of 5,000 or less;

(B) that is a place of business of the retailer;

(C) in relation to which the retailer has an economic development agreement with the municipality that was entered into under Chapter 380, 504, or 505, Local Government Code, or a predecessor statute, before January 1, 2009; and

(D) in relation to which the municipality provided information relating to the economic development agreement as required by Subsection (c-3), as that subsection existed immediately before its expiration; and

(2) the place of business of the retailer at which the retailer first receives the order in the manner described by Subsection (c) is a retail outlet identified in the information required by Subsection (c-3), as that subsection existed immediately before its expiration, as being served by the warehouse on January 1, 2009.

(c-5) This subsection and Subsection (c-4) expire September 1, 2024.

(d) If the retailer has more than one place of business in this state and Subsections (c) and (c-1) do not apply, the sale is consummated at:

(1) the place of business of the retailer in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent or employee who took the order operates.

(e) A sale of a taxable item is consummated at the location in this state to which the item is shipped or delivered or at which

possession is taken by the customer if transfer of possession of the item occurs at, or shipment or delivery of the item originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business in this state;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's agent or employee who took the order operates is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the item is shipped or delivered directly to the purchaser by the supplier.

(e-1) Notwithstanding any other provision of this section, a sale of a taxable item made by a marketplace seller through a marketplace as provided by Section 151.0242 is consummated at the location in this state to which the item is shipped or delivered or at which possession is taken by the purchaser.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of mobile telecommunications services is consummated in accordance with Section 151.061.

(g-1) The sale of telecommunications services sold based on a price that is measured by individual calls is consummated at the location where the call originates and terminates or the location where the call either originates or terminates and at which the service address is also located.

(g-2) Except as provided by Subsection (g-3), the sale of telecommunications services sold on a basis other than on a call-by-call basis is consummated at the location of the customer's place of primary use.

(g-3) A sale of post-paid calling services is consummated at the location of the origination point of the telecommunications signal as first identified by the seller's telecommunications system or by information received by the seller from the seller's service provider if the system used to transport the signal is not that of the seller.

(h) The sale of an amusement service is consummated in the municipality in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any

use of a taxable item that subjects the taxable item to the sales tax under the provisions of Section 151.154, the use or other consumption of the taxable item that subjected the taxable item to the tax is consummated at the place where the taxable item is stored or kept at the time of or just before the use or consumption.

(j) The sale of services delivered through a cable system is consummated at the point of delivery to the consumer.

(k) The sale of garbage or other solid waste collection or removal service is consummated at the location at which the garbage or other solid waste is located when its collection or removal begins.

(l) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1266, Sec. 15(4), eff. September 1, 2007.

(m) If there is no place of business of the retailer because the comptroller determines that an outlet, office, facility, or location contracts with a retail or commercial business to process for that business invoices or bills of lading and that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business, a sale is consummated at the place of business of the retailer from whom the outlet, office, facility, or location purchased the taxable item for resale to the contracting business.

(n) A sale of a service described by Section 151.0047 to remodel, repair, or restore nonresidential real property is consummated at the location of the job site.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.22(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 810, Sec. 1, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 705, Sec. 26, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 370, Sec. 2, eff. Aug. 1, 2002; Acts 2003, 78th Leg., ch. 209, Sec. 55, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 1155, Sec. 2, 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 115, eff. July 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(83), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 11, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 15(4), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 5, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1342 (S.B. 997), Sec. 1, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 182 (H.B. 1525), Sec. 3, eff. October 1, 2019.

Sec. 321.204. COMPUTATION OF USE TAX. (a) In each municipality that has adopted the taxes authorized by this chapter, the taxes imposed by Section 321.104(a) and the tax imposed by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except:

(1) in a municipality that imposes the tax on gas and electricity for residential use only the rate of the municipal tax is used to determine the amount of tax on the use, storage, or other consumption of gas and electricity for residential use; and

(2) only the rate of the municipal tax is used in a situation described by Section 321.205(b).

(b) The formula prescribed by Section 321.201(b) applies to the computation of the amount of use taxes under this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.205. USE TAX: MUNICIPALITY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter the name of the municipality adopting the tax is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of a taxable item does not apply if the item is first used, stored, or consumed in a municipality or area that has not adopted the taxes authorized by this chapter.

(b) If a sale of a taxable item is consummated in this state but not within a municipality that has adopted the taxes authorized by this chapter and the item is shipped directly, or brought by the purchaser or lessee directly, into a municipality that has adopted

the taxes authorized by this chapter, the item is subject to the municipality's use tax. The use is considered to be consummated at the location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If a taxable item is shipped from outside this state to a customer within this state and the use of the item is consummated within a municipality that has adopted the tax authorized by this chapter, the item is subject to the municipality's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the item is stored, used, or consumed after the interstate transit has ceased. A taxable item delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the municipality in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation or further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a municipality that has adopted the tax under this chapter shall be subject to the municipal use tax.

(e) With respect to a taxable service, "use" means the derivation in the municipality of direct or indirect benefit from the service.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 27, eff. Sept. 1, 1991.

Sec. 321.206. INCIDENCE OF ADDITIONAL MUNICIPAL SALES AND USE TAX. For the purpose of determining the proper sales tax under this chapter and the proper excise tax on the use, storage, or other consumption of taxable items under Section 321.101(b):

(1) if a taxable item is used, stored, or otherwise consumed in a municipality that has adopted the additional municipal sales and use tax, the statutes listed in Section 322.108(a) apply; and

(2) if the sales tax applies in a municipality that has not adopted the municipal sales and use tax, the excise tax on the use, storage, or other consumption of the taxable item does not apply.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.15(a), eff. Aug. 28, 1989.

Sec. 321.207. LOCAL TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of a taxable item does not apply to the use, storage, or consumption of a taxable item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 321.205(b).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 28, eff. Sept. 1, 1991.

Sec. 321.208. STATE EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Sections 151.359(j) and 151.317(b).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 5, eff. September 1, 2013.

Sec. 321.209. TRANSITION EXEMPTION: GENERAL PURPOSE SALES AND USE TAX. (a) For a period of three years only after the effective date of the tax authorized by Section 321.101(a) in a municipality, the receipts from the sale of, and the use, storage, and consumption of, taxable items are exempt from the tax imposed by the municipality under Section 321.101(a) if the notice required by Subsection (b) is given and if:

(1) the items are used for the performance of a written contract entered into before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the contract may not be modified because of the tax; or

(2) the items are used under the obligation of a bid submitted before the effective date of the tax imposed under Section 321.101(a) in the municipality if the contract may be affected and the bid may not be withdrawn or modified because of the tax.

(b) The taxpayer must give the comptroller notice of the contract or bid on which an exemption is to be claimed within 60 days after the effective date of the tax imposed under Section 321.101(a) in the municipality.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.14(d), eff. Aug. 28, 1989.

Sec. 321.2091. TRANSITION EXEMPTION: ADDITIONAL MUNICIPAL SALES AND USE TAX. (a) The receipts from the sale, use, or rental of and the storage, use, or consumption of taxable items in this state are exempt from the adoption or increase of the additional municipal sales and use tax if the items are used:

(1) for the performance of a written contract entered into before the date the adoption or increase of the additional tax takes effect in the municipality, if the contract is not subject to change or modification by reason of the tax; or

(2) pursuant to an obligation of a bid or bids submitted prior to the date the adoption or increase of the additional tax

takes effect in the municipality, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax.

(b) The exemptions provided by this section have no effect after three years from the date the adoption or increase of the additional tax takes effect in the municipality.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 14.14(c), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., ch. 184, Sec. 5, eff. May 24, 1991.

Sec. 321.210. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed under this chapter the sales within the municipality of telecommunications services unless the application of the exemption is repealed under this section. A municipality may not repeal the application of this exemption as it applies to interstate long-distance telecommunications services, but if a municipality has repealed the exemption before the effective date of Part 4, Article 1, H.B. No. 61, Acts of the 70th Legislature, 2nd Called Session, 1987, interstate long-distance telecommunications services in that municipality are not subject to taxes imposed under this chapter.

(b) The governing body of a municipality by ordinance adopted by a majority vote of the governing body in the manner required for the adoption of other ordinances may repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the municipality.

(c) A municipality that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the governing body of a municipality repealing the application of or reinstating the exemption must be entered in the minutes of the municipality. The municipal secretary shall send to the comptroller by United States certified or registered mail a copy of each ordinance adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the municipality as provided by Section 321.102(a) after receipt of a copy of the ordinance.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 33.

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 321.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax imposed by a municipality under this chapter. The taxes imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a municipality that has adopted the taxes authorized by this chapter if the municipality requests the reports. A report must include the name, address, and account number of each person in the municipality that has remitted to the comptroller a tax payment during the quarter covered by the report.

(b) If a municipality requests an additional report, the comptroller shall make an additional quarterly report to the municipality including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the municipality who has failed to pay the tax under this chapter to the municipality or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a municipality determines that a person doing business in the municipality is not included in a comptroller's report, the municipality shall report to the comptroller the name and address of the person. Within 90 days after receiving the report from a municipality, the comptroller shall send to the municipality:

(1) an explanation as to why the person is not obligated for the municipal tax;

(2) a statement that the person is obligated for the

municipal tax and the tax is delinquent; or

(3) a certification that the person is obligated for the municipal tax and that the full amount of the tax due has been credited to the municipality's account.

(d) The comptroller shall send by United States certified or registered mail to the municipal tax collector a notice of each person who is delinquent in the payment to the municipality of the taxes authorized by this chapter and shall send a copy of the notice to the attorney general. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.3022. TAX INFORMATION. (a) In this section, "other local governmental entity" has the meaning assigned by Section 321.107.

(a-1) Except as otherwise provided by this section, the comptroller on request shall provide to a municipality or other local governmental entity that has adopted a tax under this chapter:

(1) information relating to the amount of tax paid to the municipality or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in the municipality or other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than $5,000; and

(2) any other information as provided by this section.

(a-2) The comptroller on request shall provide to a municipality or other local governmental entity that has adopted a tax under this chapter and that does not impose an ad valorem tax information relating to the amount of tax paid to the municipality or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in the municipality or other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than $500.

(b) The comptroller on request shall provide to a municipality or other local governmental entity that has adopted a tax under this chapter information relating to the amount of tax paid to the

municipality or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in an area, as defined by the municipality or other local governmental entity, that is part of:

(1) an interlocal agreement;

(2) a tax abatement agreement;

(3) a reinvestment zone;

(4) a tax increment financing district;

(5) a revenue sharing agreement;

(6) an enterprise zone;

(7) a neighborhood empowerment zone;

(8) a crime control and prevention district;

(9) a fire control, prevention, and emergency medical services district;

(10) any other agreement, zone, or district similar to those listed in Subdivisions (1)-(9); or

(11) any area defined by the municipality or other local governmental entity for the purpose of economic forecasting.

(c) The comptroller shall provide the information under Subsection (b) as an aggregate total for all persons doing business in the defined area without disclosing individual tax payments.

(d) If the request for information under Subsection (b) involves not more than three persons doing business in the defined area who remit taxes under this chapter, the comptroller shall refuse to provide the information to the municipality or other local governmental entity unless the comptroller receives permission from each of the persons allowing the comptroller to provide the information to the municipality or other local governmental entity as requested.

(e) A separate request for information under this section must be made in writing by the municipality's mayor or chief administrative officer or by the governing body of the other local governmental entity each year.

(f) Information received by a municipality or other local governmental entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the municipality or other local governmental entity under this chapter, or for the purpose described in Subsection (g).

(g) Information received by a municipality or other local

governmental entity under Subsection (b) may be used by the municipality or other local governmental entity to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

(h) The comptroller may set and collect from a municipality or other local governmental entity reasonable fees to cover the expense of compiling and providing information under this section.

(i) Notwithstanding Chapter 551, Government Code, the governing body of a municipality or other local governmental entity is not required to confer with one or more employees or a third party in an open meeting to receive information or question the employees or third party regarding the information received by the municipality or other local governmental entity under this section.

Added by Acts 1995, 74th Leg., ch. 1000, Sec. 70, eff. Oct. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 291, Sec. 1, eff. May 29, 1999; Acts 2001, 77th Leg., ch. 840, Sec. 1, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 1285, Sec. 1, 2.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 4 (S.B. 190), Sec. 1, eff. April 5, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1420 (S.B. 575), Sec. 3, eff. January 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 140 (S.B. 758), Sec. 1, eff. September 1, 2011.

Sec. 321.3025. DISPOSITION OF AMOUNT ERRONEOUSLY COLLECTED. (a) If in a territory added to a municipality a retailer erroneously collects an amount as a tax imposed under this chapter before the date the taxes imposed under this chapter by the municipality take effect in the added territory under Section 321.102, the amount collected is treated as if it were revenue from the taxes imposed by the municipality under this chapter, and the comptroller shall collect and administer the amount in the same manner as tax revenue.

(b) This section does not affect the right of a person who paid an amount erroneously collected by a retailer to claim a refund or the authority of the comptroller to make a refund of that amount.

Added by Acts 1989, 71st Leg., ch. 291, Sec. 1, eff. June 14, 1989.

Sec. 321.303. SALES TAX PERMITS AND EXEMPTION AND RESALE CERTIFICATES. (a) Each place of business of a retailer must have a permit issued by the comptroller under Subchapter F, Chapter 151.

(b) The same sales tax permit, exemption certificate, and resale certificate required by Chapter 151 for the administration and collection of the taxes imposed by that chapter satisfy the requirements of this chapter. No additional permit or exemption or resale certificate may be required except that the comptroller may prescribe a separate exemption certificate form for the transition exemption for prior contracts and bids under Section 321.209.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION. All discounts allowed a retailer under Chapter 151 for the collection and prepayment of the taxes under that chapter are allowed and applicable to the taxes collected under this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.305. PENALTIES. The penalties provided by Chapter 151 for violations of that chapter apply to violations of this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.306. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, reporting, and enforcement of this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.307. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a tax imposed or a

penalty due under this chapter after the tax and penalty are delinquent or after a determination against the taxpayer are the same as limitations provided by Chapter 151.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.308. SEIZURE AND SALE OF PROPERTY. If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties of both taxes. The proceeds of a sale of seized property shall first be applied to the payment of amounts due the state and the remainder, if any, to the amounts due to the municipality to which the taxes are due.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.309. SUIT FOR TAX COLLECTION. (a) A municipality acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the municipality under this chapter.

(b) A municipality may bring suit for the collection of taxes owed to the municipality under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 321.302(d);

(2) a written notice of the tax delinquency and the municipality's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.310. DISAPPROVAL OF MUNICIPAL SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a municipality under Section 321.309(b) if:

(1) negotiations between the state and the taxpayer are

being conducted for the purpose of the collection of delinquent taxes owed to the state and the municipality seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a municipality must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a municipal collection suit, the municipality may again proceed as provided by Section 321.309(b) even though the liability of the taxpayer includes taxes for which the municipality has previously given notice and the comptroller or attorney general has disapproved of the suit.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.311. JUDGMENTS IN MUNICIPAL SUIT. (a) A judgment in a suit under Section 321.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another municipality or the state unless the state is party to the suit.

(b) A municipality shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A municipality shall by execution collect the taxes awarded to it in each judgment received by the municipality and is responsible for the renewal of the judgment before its expiration.

(d) The municipality shall notify the comptroller by certified mail of the amount of any taxes collected on the judgment.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.312. RETENTION OF CERTAIN MUNICIPAL SALES TAXES. A municipality that holds a sales and use tax permit issued by the comptroller and that imposes a sales and use tax may retain the portion of the tax that the municipality collects and that constitutes the municipality's own tax. The municipality shall remit to the comptroller all other applicable local sales and use taxes and the state sales and use tax.

Added by Acts 2001, 77th Leg., ch. 1263, Sec. 75, eff. Oct. 1, 2001.

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 321.401. CALLING OF ELECTION. (a) An election under this chapter is called by the adoption of an ordinance by the governing body of a municipality.

(b) The governing body may call the election by a vote of a majority of its members.

(c) The governing body shall call the election if a number of qualified voters of the municipality equal to at least 20 percent of the number of votes cast in the most recent regular municipal election petitions the governing body for a vote on the question.

(d) The governing body of any municipality that has not adopted the additional sales and use tax shall, on petition of qualified voters of the municipality equal in number to at least five percent of the number of voters registered in the municipality, provide by ordinance for the calling and holding of an election on the question of adopting the additional sales and use tax.

(e) The governing body of any municipality that has adopted the additional sales and use tax shall, on petition of qualified voters of the municipality equal in number to at least five percent of the number of voters registered in the municipality, provide by ordinance for the calling and holding of an election on the question of increasing, reducing, or repealing the additional sales and use tax.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1991, 72nd Leg., ch. 184, Sec. 6, eff. May 24, 1991.

Sec. 321.402. DEADLINES AFTER PETITION. (a) After the receipt of a petition for an election under this chapter, the governing body of a municipality shall determine the sufficiency of the petition

within 30 days.

(b) If the petition is sufficient, the governing body shall pass the ordinance calling the election within 60 days after receiving the petition.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.403. TIME OF ELECTION. (a) An election under this chapter to adopt the tax authorized under Section 321.101(a) must be held on the first succeeding uniform election date for which sufficient time elapses for the holding of an election.

(b) An election on the approval of the additional sales and use tax must be held on the next succeeding uniform election date not less than 30 days after the passage of the ordinance calling the election.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.404. BALLOT WORDING. (a) In an election to adopt the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "A sales and use tax is adopted within the city at the rate of _____ percent" (insert appropriate rate) or "The adoption of an additional sales and use tax within the city at the rate of _____ percent to be used to reduce the property tax rate" (insert appropriate rate).

(b) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the applicable proposition: "The local sales and use tax within the city is abolished" or "The abolition of the additional sales and use tax within the city."

(c) In a municipality that does not impose a property tax, the ballot at an election to adopt the additional municipal sales and use tax shall be printed to provide for voting for or against the following proposition: "The adoption of an additional sales and use tax within the city at the rate of _____ percent" (insert appropriate rate).

(d) In an election to reduce or increase the tax, the ballot shall be printed to provide for voting for or against the proposition: "The adoption of a local sales and use tax in (name of

municipality) at the rate of _____ (insert appropriate rate)."

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.14(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 184, Sec. 7, eff. May 24, 1991. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 16, eff. September 1, 2015.

Sec. 321.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters approve of the adoption, change in rate, or abolition of a tax authorized by this chapter, the governing body of the municipality shall by resolution or ordinance entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the municipal secretary shall send to the comptroller by United States certified or registered mail a certified copy of the resolution or the ordinance along with a map of the municipality clearly showing its boundaries.

(c) Not later than the 30th day after the date the comptroller receives a certified copy of an ordinance or resolution showing the adoption of the additional municipal sales and use tax, the comptroller shall notify the municipal secretary that he is prepared for the administration of the tax.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 17, eff. September 1, 2015.

Sec. 321.406. FREQUENCY OF ELECTION. An election under this

chapter in a municipality may not be held earlier than one year after the date of any previous election under this chapter in the municipality.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.407. ELECTION CONTEST: NOTICE. (a) If an election held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending.

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the municipal secretary shall notify the comptroller by United States certified or registered mail and enclose a certified copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the municipality under this chapter, the tax or the abolition of the tax takes effect as provided by Section 321.102 except that the notice of the final judgment is substituted for the notice of election results prescribed by Section 321.405.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.409. COMBINED MUNICIPAL SALES TAX BALLOT PROPOSITIONS. (a) Notwithstanding any provisions of this code or other state law, a municipality may by a combined ballot proposition lower or repeal any municipal sales tax, including the additional sales tax for

property tax relief, and by the same proposition raise or adopt any other municipal sales tax, including the additional sales tax for property tax relief.

(b) A combined sales tax proposition under this section shall contain substantially the same language, if any, required by law for the lowering, repealing, raising, or adopting of each tax as appropriate.

(c) A negative vote on a combined sales tax proposition under this section shall have no effect on either the sales tax to be lowered or repealed by the proposition or the sales tax to be raised or adopted by the proposition.

(d) This section does not apply to sales tax elections called by any method other than by the governing body.

(e) This section shall not be construed to change the substantive law of any sales tax, including the allowed maximum rate or combined rate of local sales taxes.

Added by Acts 2005, 79th Leg., Ch. 1313 (H.B. 3195), Sec. 1, eff. September 1, 2005.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 883 (H.B. 3046), Sec. 1, eff. June 15, 2017.

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 321.501. TRUST ACCOUNT. (a) The comptroller shall deposit the taxes collected by the comptroller under this chapter in trust in the separate suspense account of the municipality from which the taxes were collected.

(b) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(44).

(c) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(44).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.123, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 285, Sec. 31(44), eff. Sept. 1, 2003.

Sec. 321.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as feasible, the comptroller shall send to the municipal treasurer or to

the person who performs the office of the municipal treasurer payable to the municipality the municipality's share of the taxes collected by the comptroller under this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.503. STATE'S SHARE. Before sending any money to a municipality under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the municipality during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to premiums payments under Section 321.501(c), credit the money deducted to the general revenue fund.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a municipality a portion of the municipality's share of the tax collected for the municipality under this chapter, not to exceed five percent of the amount remitted to the municipality. If the municipality has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the municipality at the time of the termination of the collection of the tax.

(b) From the amounts retained in a municipality's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a municipality's tax under this chapter the comptroller shall send to the municipality the remainder of the money in the municipality's account and shall close the account.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.505. INTEREST ON TRUST ACCOUNT. Interest earned on all deposits made with the comptroller under Section 321.501, including interest earned from retained suspense accounts, shall be

credited to the general revenue fund.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.124, eff. Sept. 1, 1997.

Sec. 321.506. USE OF TAX REVENUE BY MUNICIPALITY. Except as provided by Section 321.507, the money received by a municipality under this chapter is for the use and benefit of the municipality and may be used for any purpose for which the general funds of the municipality may be used, except that a municipality may not pledge the revenue received under this chapter to the payment of bonds or other indebtedness.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.507. USE OF ADDITIONAL MUNICIPAL SALES AND USE TAX. (a) In each year in which a municipality imposes an additional municipal sales and use tax, if the revenue from the collection of the additional tax exceeds the amount of taxes computed for the municipality under Section 26.04(c), except for the amount required to be deposited in a special account under Subsection (b), the excess shall be deposited in an account to be called the municipal sales tax debt service fund. Revenue deposited in the municipal sales tax debt service fund may be spent only for the reduction of lawful debts of the municipality, except that deposits that exceed the amount of revenue needed to pay the debt service needs of the municipality in the current year may be used for any municipal purpose consistent with the municipal budget.

(b) Revenue from the collection of the additional municipal sales and use tax in each of the first three years in which the tax is imposed in the municipality in excess of the amount determined as provided by Section 26.041(d), for each year shall be deposited in an account to be called the excess sales tax revenue fund. During those three years, revenue deposited in the excess sales tax revenue fund may be spent only if and to the extent that taxes or other revenues of the municipality are collected in amounts less than anticipated. After that period, the revenue in the fund may be used for any municipal purpose consistent with the municipality's budget. The

fund ceases to exist when all revenue deposited in the fund has been spent. This subsection does not apply to a municipality that does not impose a property tax.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.16(a), eff. Aug. 28, 1989.

Sec. 321.508. PLEDGE OF TAX REVENUE. (a) A municipality may call and hold an election on the issue of authorizing the municipality to pledge a percentage of the sales and use tax revenue received under Section 321.101(a) or (b), or both, to the payment of obligations issued to pay all or part of the costs of one or more sports and community venue projects located in the municipality.

(b) The ballot at the election under this section must be printed to permit voting for or against the proposition: "Authorizing the City of _____ (insert name of municipality) to pledge not more than _____ percent (insert percentage not to exceed 25 percent) of the revenue received from the _____ (insert municipal sales and use tax, additional municipal sales and use tax, or both) previously adopted in the city to the payment of obligations issued to pay all or part of the costs of _____ (insert description of each sports and community venue project)."

(c) If a majority of the voters vote in favor of the proposition, the municipality may:

(1) issue bonds, notes, or other obligations that are payable from the pledged revenues to pay for all or part of the costs of the sports and community venue project or projects described in the proposition; and

(2) set aside the portion of the revenue approved at the election that the municipality actually receives and pledge that revenue as security for the payment of the bonds, notes, or other obligations.

(d) If the municipality pledges revenue under Subsection (c), the pledge and security interest shall continue while the bonds, notes, or obligations, including refunding obligations, are outstanding and unpaid.

(e) The municipality may direct the comptroller to deposit the pledged revenue to a trust or account as may be required to obtain

the financing and to protect the related security interest.

(f) Sections 321.506 and 321.507 do not apply to taxes pledged under this section.

(g) In this section, "sports and community venue project" has the meaning assigned by Section 334.001, Local Government Code.

Added by Acts 1997, 75th Leg., ch. 551, Sec. 4, eff. Sept. 1, 1997.

Sec. 321.509. TAX POWERS OF MUNICIPALITY NOT LIMITED. This chapter does not abolish or limit the tax powers of a municipality.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 321.510. REALLOCATION OF MUNICIPAL OR LOCAL GOVERNMENTAL ENTITY TAX REVENUE. (a) In this section, "local governmental entity" includes any governmental entity created by the legislature that has a limited purpose or function, that has a defined or restricted geographic territory, and that is authorized by law to impose a local sales and use tax the imposition, computation, administration, enforcement, and collection of which is governed by this chapter.

(b) This section applies only if:

(1) the comptroller:

(A) reallocates local tax revenue from a municipality or local governmental entity to another municipality or local governmental entity; or

(B) refunds local tax revenue that was previously allocated to a municipality or local governmental entity; and

(2) the amount the comptroller reallocates or refunds is at least equal to the lesser of:

(A) $200,000;

(B) an amount equal to 10 percent of the revenue received by the municipality or local governmental entity under this chapter during the calendar year preceding the calendar year in which the reallocation or refund is made; or

(C) an amount that increases or decreases the amount of revenue the municipality or local governmental entity receives under this chapter during a calendar month by more than 15 percent as compared to revenue received by the municipality or local

governmental entity during the same month in any previous year.

(c) Subject to the criteria provided by this section, a municipality or local governmental entity may request a review of all available sales tax returns and reports in the comptroller's possession filed by not more than five individual taxpayers doing business in the municipality or local governmental entity that are included and identified by the municipality or local governmental entity from the information received from the comptroller under Section 321.3022 and that relate to a reallocation or refund in an amount described by Subsection (b).

(d) The comptroller shall provide the returns and reports requested under Subsection (c) for review regardless of whether the information in the returns or reports is confidential under state law, including Sections 111.006 and 151.027.

(e) The provision of confidential information to a municipality or local governmental entity under this section does not affect the confidential nature of the information in the returns or reports. A municipality or local governmental entity shall use the information only in a manner that maintains the confidential nature of the information and may not disclose or release the information to the public.

(f) A municipality or local governmental entity must submit the request under Subsection (c) not later than the 90th day after the date the municipality or local governmental entity discovers a reallocation or refund described by Subsection (b).

(g) Not earlier than the 30th day or later than the 90th day after the date the comptroller receives a request under Subsection (c), the comptroller shall provide the requested returns and reports to the requesting municipality or local governmental entity for review.

(h) The comptroller may set and collect from a municipality or local governmental entity a reasonable fee to cover the expense of compiling and providing information under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 942 (H.B. 590), Sec. 2, eff. September 1, 2011.

CHAPTER 322. SALES AND USE TAXES FOR SPECIAL PURPOSE TAXING AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 322.001. APPLICATION OF CHAPTER. (a) This chapter applies to the imposition, assessment, collection, administration, and enforcement of a sales and use tax imposed under Chapter 451, 452, 453, or 460, Transportation Code.

(b) The effective dates and rates of the taxes imposed by a taxing entity are determined under the laws authorizing the adoption of the taxes.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.266, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 209, Sec. 56, eff. Oct. 1, 2003.

Sec. 322.002. DEFINITIONS. In this chapter:

(1) "Taxing entity" means a rapid transit authority, a regional transit authority, including a subregional transportation authority, or a municipal mass transit department created under Chapter 451, 452, or 453, Transportation Code, or a coordinated county transportation authority created under Chapter 460, Transportation Code, that has adopted a sales and use tax under the law authorizing the creation of the entity.

(2) "Entity area" means the geographical limits of a taxing entity.

(3) "Municipal sales and use tax" means a sales and use tax imposed by a municipality under the Municipal Sales and Use Tax Act (Chapter 321) within an entity area.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.267, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 209, Sec. 57, eff. Oct. 1, 2003.

SUBCHAPTER B. ASSESSMENT AND COMPUTATION OF TAXES

Sec. 322.101. SALES TAX. There is imposed in a taxing entity a sales tax at the rate authorized and set as provided by the law authorizing the creation of the taxing entity and applied to the receipts from the sale within the entity area of all taxable items that are subject to the sales tax under Chapter 151.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.102. USE TAX. In a taxing entity, there is imposed an excise tax on the use, storage, and other consumption within the entity area of taxable items purchased, leased, or rented from a retailer during the period that the sales tax is effective within the entity area. The rate of the excise tax is the same rate as the rate of the sales tax imposed by the taxing entity and is applied to the sales price of the taxable item.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.103. COMPUTATION OF SALES TAXES. (a) Each retailer in an entity area shall add the sales tax imposed under this chapter, the sales taxes imposed under Chapter 151, and, if applicable, any sales taxes imposed under Chapter 321 or 323 to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction is one-half of one cent or more, the fraction shall be collected as one cent.

(c) The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined applicable tax rates.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.104. COMPUTATION OF USE TAX. (a) In each taxing entity the tax imposed by Subchapter D, Chapter 151, the tax imposed under Section 321.104(a), if applicable, and the tax imposed under Section 322.102 are added together to form a single combined tax rate, except in a situation described by Section 322.105(b).

(b) The formula prescribed by Section 322.103(b) applies to the

computation of the amount of the tax under this section.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.105. USE TAX: WHERE USE OCCURS. (a) In determining the incidence of the use tax of a taxing entity, the name of the taxing entity is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax of a taxing entity on the use, storage, or other consumption of a taxable item does not apply if the item is first used, stored, or consumed in an area other than an entity area.

(b) If a sale of a taxable item is consummated within this state but not within an entity area and the item is shipped directly or brought by the purchaser or lessee directly into an entity area, the item is subject to the entity's use tax. The use is considered to be consummated at the location where the item is first used, stored, or consumed after the intrastate transit has ceased.

(c) If a taxable item is shipped from outside this state to a customer within this state, the item is subject to the use tax of the taxing entity and not its sales tax. A use is considered to be consummated at the first point in this state where the item is stored, used, or consumed after the interstate transit has ceased. A taxable item delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 823, Sec. 1(1), eff. September 1, 2007.

(e) With respect to a taxable service, "use" means the derivation in the taxing entity of direct or indirect benefit from the service.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.21(a), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 705, Sec. 29, eff. Sept. 1, 1991. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 823 (H.B. 142), Sec. 1(1), eff. September 1, 2007.

Sec. 322.106. TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax of a taxing entity does not apply to the sale of a taxable item unless the sales tax imposed under Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax of a taxing entity on the use, storage, or consumption of a taxable item does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption of the item.

(c) Subsection (b) does not apply to the application of the tax in a situation described by Section 322.105(b).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 30, eff. Sept. 1, 1991.

Sec. 322.108. CERTAIN PROVISIONS OF MUNICIPAL SALES AND USE TAX APPLICABLE. (a) Except as provided by Subsection (b), the following apply to the taxes imposed by this chapter in the same manner as applicable to a municipality under Chapter 321:

(1) Section 321.002(a)(3);
(2) Section 321.003;
(3) Section 321.203;
(4) Section 321.205(d);
(5) Section 321.208;
(6) Section 321.209;
(7) Section 321.303;
(8) Section 321.304;
(9) Section 321.305; and
(10) Section 321.510.

(b) The provisions of this chapter applicable to a taxing entity created under Chapter 453, Transportation Code, prevail over any inconsistent provision in a statute listed in Subsection (a).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.20(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 30.268, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 942 (H.B. 590), Sec. 3, eff.

September 1, 2011.

Sec. 322.109. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed by a taxing entity under this chapter the sales within the entity area of telecommunications services unless the application of the exemption is repealed under this section. A taxing entity may not repeal the application of this exemption as it applies to interstate long-distance telecommunications services, but if a taxing entity has repealed the exemption before the effective date of Part 4, Article 1, H.B. No. 61, Acts of the 70th Legislature, 2nd Called Session, 1987, interstate long-distance telecommunications services in that taxing entity are not subject to taxes imposed under this chapter.

(b) Except as provided by Subsection (d), the board of a taxing entity may, by a majority vote of the board in the manner required for the adoption of other orders, repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the city.

(c) A taxing entity board that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) The governing board of a taxing entity created under Chapter 451, Transportation Code, may not repeal the application of the exemption provided by Subsection (a) unless the repeal is first approved by a majority of the members of the governing body of each municipality that created the taxing entity. A reinstatement of the exemption must be approved in the same manner.

(e) A vote of a taxing entity board repealing the application of or reinstating the exemption must be entered in the minutes of the entity. The entity board chairman or secretary shall send to the comptroller by United States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the entity on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives a copy of the order.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 34; Acts 1999, 76th Leg., ch. 1008, Sec. 1, eff. June 18, 1999.

Sec. 322.110. TRANSITION EXEMPTION IN CERTAIN TAXING ENTITIES. (a) The receipts from the sale, use, or rental of and the storage, use, or consumption of taxable items in this state are exempt from the tax imposed under this chapter by a taxing entity created under Chapter 453, Transportation Code, if the items are used:

(1) for the performance of a written contract entered into before the date the tax takes effect in the taxing entity, if the contract is not subject to change or modification by reason of the tax; or

(2) pursuant to an obligation of a bid or bids submitted before the date the tax takes effect in the taxing entity, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax.

(b) The exemptions provided by this section have no effect after three years from the date the tax takes effect in the taxing entity.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 14.19(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.269, eff. Sept. 1, 1997.

SUBCHAPTER C. ADMINISTRATION OF TAXES

Sec. 322.201. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. (a) The comptroller shall administer, collect, and enforce the sales and use tax of a taxing entity.

(b) The sales and use taxes imposed under this chapter, the taxes imposed under Chapters 321 and 323, and the taxes imposed under Chapter 151 shall be collected together to the extent that each is imposed in an entity area.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.202. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall report to a taxing entity on the entity's sales and use taxes by making substantially the same reports that are required to be made by the comptroller to a municipality under Sections 321.302(a), (b), and (c).

(b) The comptroller shall send to a taxing entity by United States certified or registered mail a notice of each person who is delinquent in the payment of the entity's sales and use taxes and shall send to the attorney general a copy of the notice. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.2022. TAX INFORMATION. (a) Except as otherwise provided by this section, the comptroller on request shall provide to a taxing entity:

(1) information relating to the amount of tax paid to the entity under this chapter during the preceding or current calendar year by each person doing business in the area included in the entity who annually remits to the comptroller state and local sales tax payments of more than $5,000; and

(2) any other information as provided by this section.

(b) The comptroller on request shall provide to a taxing entity information relating to the amount of tax paid to the entity under this chapter during the preceding or current calendar year by each person doing business in an area included in the entity, as defined by the entity, that is part of:

(1) an interlocal agreement;

(2) a revenue sharing agreement;

(3) any other agreement similar to those listed in Subdivisions (1) and (2); or

(4) any area defined by the entity for the purpose of economic forecasting.

(c) The comptroller shall provide the information under Subsection (b) as an aggregate total for all persons doing business in the defined area without disclosing individual tax payments.

(d) If the request for information under Subsection (b) involves not more than three persons doing business in the defined area who remit taxes under this chapter, the comptroller shall refuse to provide the information to the taxing entity unless the comptroller receives permission from each of the persons allowing the comptroller to provide the information to the entity as requested.

(e) A separate request for information under this section must be made in writing by the governing body of the taxing entity each year.

(f) Information received by a taxing entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the entity under this chapter, or for the purpose described by Subsection (g).

(g) Information received by a taxing entity under Subsection (b) may be used by the entity to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

(h) The comptroller may set and collect from a taxing entity reasonable fees to cover the expense of compiling and providing information under this section.

(i) Notwithstanding Chapter 551, Government Code, the governing body of a taxing entity is not required to confer with one or more employees or a third party in an open meeting to receive information or question the employees or third party regarding the information received by the entity under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 7, eff. September 1, 2009.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 140 (S.B. 758), Sec. 2, eff. September 1, 2011.

Sec. 322.203. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, and enforcement of this chapter and for the reporting of the taxes imposed under this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.204. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a sales and use tax imposed by a taxing entity or a penalty due on the tax after the tax and penalty are delinquent or after a determination against a taxpayer are the same as the limitations provided by Chapter 151.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.205. SEIZURE AND SALE OF PROPERTY. (a) If the comptroller lawfully seizes property for the payment of the taxes imposed under Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties under this chapter, Chapter 151, and Chapter 321.

(b) The proceeds of the sale of seized property shall first be applied to the payment of amounts due the state, then to the payments of amounts due a municipality under Chapter 321, and the remainder, if any, to the payment of amounts due to the taxing entity to which the taxes are due.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.206. SUITS FOR TAX COLLECTION. (a) A taxing entity acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the taxing entity under this chapter.

(b) A taxing entity may bring suit for the collection of taxes owed to the taxing entity under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 322.202(b);

(2) a written notice of the tax delinquency and the entity's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.207. DISAPPROVAL OF SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a taxing entity under Section 322.206(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes

owed to the state and the taxing entity seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a taxing entity must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a taxing entity collection suit, the taxing entity may again proceed as provided by Section 322.206(b) even though the liability of the taxpayer includes taxes for which the entity has previously given notice and the comptroller or attorney general has disapproved of the suit.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.208. JUDGMENTS IN SUIT. (a) A judgment in a suit under Section 322.206(b) for or against a taxpayer does not affect a claim against the taxpayer by a municipality or the state unless the state is party to the suit.

(b) A taxing entity shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A taxing entity shall by execution collect the taxes awarded to it in each judgment received by it and is responsible for the renewal of the judgment before its expiration.

(d) The taxing entity shall notify the comptroller by certified mail of the amount of any taxes collected on the judgment.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER D. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 322.301. COLLECTIONS HELD BY COMPTROLLER. The comptroller shall deposit, hold, account for, and transmit sales and use taxes collected under this chapter for each taxing entity in the same manner as required under Section 321.501 for each municipality.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.302. DISTRIBUTION OF TRUST FUNDS. At least quarterly during each state fiscal year and as often as feasible, the comptroller shall send to the person at each taxing entity who performs the function of entity treasurer, payable to the taxing entity, the entity's share of the taxes collected by the comptroller under this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 16, Sec. 5, eff. Aug. 31, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 30.270, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.68, eff. Oct. 1, 1999.

Sec. 322.303. STATE'S SHARE. Before sending any money to a taxing entity under this subchapter, the comptroller shall deduct two percent of the amount of the taxes collected within the entity area during the period for which a distribution is made as the state's charge for its services under this chapter and shall credit the money deducted to the general revenue fund.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 322.304. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a taxing entity a portion of the entity's share of the tax collected for the entity under this chapter, not to exceed five percent of the amount remitted to the entity. If the entity has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the entity at the time of the termination of the collection of the tax.

(b) From the amounts retained in an entity's suspense account, the comptroller may make refunds for overpayments to the account and

to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of an entity's tax under this chapter other than a department under Chapter 453, Transportation Code, the comptroller shall send to the entity the remainder of the money in the entity's account and shall close the account.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.271, eff. Sept. 1, 1997.

Sec. 322.305. INTEREST ON TRUST ACCOUNTS. Interest earned on all deposits made with the comptroller under this chapter, including interest earned on retained accounts, shall be credited to the general revenue fund.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.125, eff. Sept. 1, 1997.

Sec. 322.306. RETENTION OF CERTAIN SPECIAL PURPOSE DISTRICT SALES TAXES. A taxing entity that holds a sales and use tax permit issued by the comptroller and that imposes a sales and use tax may retain the portion of the tax that the taxing entity collects and that constitutes the entity's own tax. The taxing entity shall remit to the comptroller all other applicable local sales and use taxes and the state sales and use tax.

Added by Acts 2001, 77th Leg., ch. 1263, Sec. 76, eff. Oct. 1, 2001.

CHAPTER 323. COUNTY SALES AND USE TAX ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 323.001. SHORT TITLE. This chapter may be cited as the County Sales and Use Tax Act.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.002. DEFINITIONS. The words used in this chapter and defined by Chapters 151 and 321 have the meanings assigned by Chapters 151 and 321.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles A and B, Title 2, and Chapters 142 and 151 apply to the taxes and to the administration and enforcement of the taxes imposed by this chapter in the same manner that those laws apply to state taxes unless modified by this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.13, eff. Aug. 28, 1989; Acts 2003, 78th Leg., ch. 1310, Sec. 117, eff. Oct. 1, 2003.

SUBCHAPTER B. IMPOSITION OF SALES AND USE TAXES BY COUNTIES

Sec. 323.101. TAX AUTHORIZED. (a) A qualified county may adopt or repeal the county sales and use tax authorized by this chapter at an election in which a majority of the qualified voters of the county approve the adoption or repeal of the tax, as applicable.

(b) A county is qualified to adopt the tax only if no part of the county is located in a rapid transit authority created under Chapter 451, Transportation Code, or a regional transportation authority created under Chapter 452 of that code.

(c) An authority created under Chapter 451 or 452, Transportation Code, is prohibited from imposing the tax provided for by those chapters in a county in which the county sales and use tax provided for by this section is in effect or is scheduled to take effect. For the purposes of this section, an authority is not considered to be located in any county in which fewer than 250 persons are both residents of the authority and the county.

(d) A county may not adopt a sales and use tax under this section if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state having territory in the county would exceed two percent at any location in the county.

(e) If the voters of a county approve the adoption of a sales and use tax at an election held on the same election date on which a

municipality having territory in the county adopts a sales and use tax or an additional sales and use tax and as a result the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state having territory in the county would exceed two percent at any location in the county, the election to adopt a county sales and use tax has no effect.

(f) The provisions of this chapter govern the application, collection, and administration of a sales and use tax imposed under Chapter 285 or 775, Health and Safety Code, to the extent not inconsistent with the provisions of those chapters. Provided, however, that Subsection (b) shall not apply to a tax authorized under those chapters.

(g) Expired.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 54, Sec. 2, eff. Oct. 20, 1987; Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 6, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 65, Sec. 2, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 165, Sec. 30.272, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 639 (S.B. 917), Sec. 15, eff. June 17, 2011.

Sec. 323.102. EFFECTIVE DATES: NEW TAX, TAX REPEAL. (a) Except as provided by Subsection (c), a tax imposed under this chapter takes effect on the October 1st after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

(b) The repeal of a tax abolished under this chapter takes effect on the October 1st after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

(c) A tax imposed under Section 323.105 of this code or Chapter 326 or 383, Local Government Code, takes effect on the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1989, 71st Leg., ch. 256, Sec. 2, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 342, Sec. 1, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.69, eff. June 19, 1999.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 12, eff. September 1, 2007.

Sec. 323.103. SALES TAX. In a county that has adopted the tax authorized by this chapter, there is imposed a tax on the receipts from the sale at retail of taxable items within the county at the rate of one-half of one percent, or in a county that includes no territory within the limits of a municipality, one percent.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.104. USE TAX. In a county that has adopted the tax authorized by this chapter, there is imposed an excise tax on the use, storage, or other consumption within the county of taxable items purchased, leased, or rented from a retailer during the period that the tax is effective within the county. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the taxable item. With respect to a taxable service, "use" means the derivation in the county of direct or indirect benefit from the service.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 32, eff. Sept. 1, 1991.

Sec. 323.105. CRIME CONTROL DISTRICT TAX. (a) Subject to an election held in accordance with the Crime Control and Prevention District Act, a county in which a crime control and prevention district is established shall adopt a sales and use tax in the area of the district for the purpose of financing the operation of the crime control and prevention district. The revenue from the tax may be used only for the purpose of financing the operation of the crime control and prevention district. The proposition for adopting a tax under this section and the proposition for creation of a crime

control and prevention district shall be submitted at the same election. For purposes of Subsection (c) of Section 323.101 of this code, a tax under this section is not a county sales and use tax.

(b) A tax adopted for a district under this section for financing the operation of the district may be decreased in increments of one-eighth of one percent by order of the board of directors of the district.

(c) The board of directors or the governing body of the governmental entity that proposed the creation of the crime control and prevention district may call an election on the question of decreasing the tax rate in increments of one-eighth of one percent in the district if the district was created before January 1, 1996. The board of directors or governing body may dedicate a portion of the tax for the payment of bonds used in conjunction with the renovation or extension of a county-owned or municipally owned convention center facility, as defined in Section 351.001, that was constructed before 1969 if the dedication is approved by a majority of the qualified voters in an election held in the district on the question of decreasing the tax rate. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The decrease of the _____ Crime Control and Prevention District sales and use tax to _____ percent and authorizing the use of _____ of one percent for the payment of bonds issued for the renovation or extension of certain county-owned or municipally owned convention center facilities as that term is defined under Section 351.001, Tax Code, and authorizing that the tax expire on payment of the bonds."

(d) The rate of a tax adopted for a district under this section may be increased in increments of one-eighth of one percent, not to exceed a total tax rate of one-half percent for financing the operation of the crime control and prevention district, by order of the board of directors of the crime control and prevention district if approved by a majority of the qualified voters voting at an election called by the board and held in the district on the question of increasing the tax rate. At the election, the ballot shall be printed to provide for voting for or against the following proposition: "The increase of the _____ Crime Control and Prevention District sales and use tax rate to _____ percent." If there is an increase or decrease under this subsection in the rate of a tax imposed under this section, the new rate takes effect on the

first day of the next calendar quarter after the expiration of one calendar quarter after the comptroller receives notice of the increase or decrease. However, if the comptroller notifies the president of the board of directors of the district in writing within 10 days after receipt of the notification that the comptroller requires more time to implement reporting and collection procedures, the comptroller may delay implementation of the rate change for one whole calendar quarter. In that event, the new rate takes effect on the first day of the next calendar quarter following the elapsed quarter.

(e) The comptroller shall remit to the county amounts collected at the rate imposed under this section as part of the regular allocation of county tax revenue collected by the comptroller if the district is composed of the entire county. The comptroller shall, if the district is composed of an area less than the entire county, remit that amount to the district. Retailers may not be required to use the allocation and reporting procedures in the collection of taxes under this section different from the procedures that retailers use in the collection of other sales and use taxes under this chapter. An item, transaction, or service that is taxable in a county under a sales or use tax authorized by another section of this chapter is taxable under this section. An item, transaction, or service that is not taxable in a county under a sales or use tax authorized by another section of this chapter is not taxable under this section.

(f) If, in a county where a crime control and prevention district is composed of the whole county, a county sales and use tax or a county sales and use tax rate increase for the purpose of financing a crime control and prevention district is approved, the county is responsible for distributing to the district that portion of the county sales and use tax revenue received from the comptroller that is to be used for the purposes of financing the crime control and prevention district. Not later than the 10th day after the date the county receives funds under this section from the comptroller, the county shall make the distribution in the proportion that the crime control and prevention portion of the tax rate bears to the total sales and use tax rate of the county. The amounts distributed to a crime control and prevention district are not considered to be sales and use tax revenue for the purpose of property tax reduction and computation of the county tax rate under Section 26.041, Tax

Code.

(g) For purposes of the tax imposed under this section, a reference in this chapter to the county as the territory in which the tax or an incident of the tax applies means only the territory located in the crime control and prevention district, if that district is composed of an area less than an entire county.

(h) The comptroller may adopt rules and the county commissioners court may adopt orders to administer this section.

Added by Acts 1989, 71st Leg., ch. 664, Sec. 2, eff. June 14, 1989. Amended by Acts 1993, 73rd Leg., ch. 864, Sec. 15, eff. June 18, 1993; Acts 1997, 75th Leg., ch. 1248, Sec. 6, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 1467, Sec. 2.70, eff. Oct. 1, 1999.

SUBCHAPTER C. COMPUTATION OF TAXES

Sec. 323.201. COMPUTATION OF SALES TAXES. (a) Each retailer in a county that has adopted the tax authorized by this chapter shall add the sales tax imposed by this chapter and by Chapter 151, plus any other applicable sales tax, to the sales price, and the sum of the taxes is a part of the price, a debt of the purchaser to the retailer until paid, and recoverable at law in the same manner as the purchase price.

(b) The amount of the total tax is computed by multiplying the combined applicable tax rates by the amount of the sales price. If the product results in a fraction of a cent less than one-half of one cent, the fraction of a cent is not collected. If the fraction of a cent is one-half of one cent or more, the fraction shall be collected as one cent.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.202. METHOD OF REPORTING: RETAILERS HAVING SALES BELOW TAXABLE AMOUNT. The exclusion provided by Section 151.411 applies to a retailer under this chapter 50 percent of whose receipts from the sales of taxable items comes from individual transactions in which the sales price is an amount on which no tax is produced from the combined state and local taxes.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

For expiration of Subsections (c-4) and (c-5), see Subsection (c-5).

Sec. 323.203. CONSUMMATION OF SALE. (a) A sale of a taxable item occurs within the county in which the sale is consummated. A sale is consummated as provided by this section regardless of the place where transfer of title or possession occurs.

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales of taxable items are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, each sale of each taxable item by the retailer is consummated at the place of business of the retailer in this state where the retailer first receives the order, provided that the order is placed in person by the purchaser or lessee of the taxable item at the place of business of the retailer in this state where the retailer first receives the order.

(c-1) If the retailer has more than one place of business in this state and Subsection (c) does not apply, the sale is consummated at the place of business of the retailer in this state:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(c-4) Subsection (c) does not apply if:

(1) the taxable item is shipped or delivered from a warehouse:

(A) located in a municipality with a population of 5,000 or less;

(B) that is a place of business of the retailer;

(C) in relation to which the retailer has an economic development agreement with the municipality that was entered into under Chapter 380, 504, or 505, Local Government Code, or a predecessor statute, before January 1, 2009; and

(D) in relation to which the municipality provided information relating to the economic development agreement as required by Section 321.203(c-3), as that subsection existed immediately before its expiration; and

(2) the place of business of the retailer at which the retailer first receives the order in the manner described by Subsection (c) is a retail outlet identified in the information required by Section 321.203(c-3), as that subsection existed immediately before its expiration, as being served by the warehouse on January 1, 2009.

(c-5) This subsection and Subsection (c-4) expire September 1, 2024.

(d) If the retailer has more than one place of business in this state and Subsections (c) and (c-1) do not apply, the sale is consummated at:

(1) the place of business of the retailer in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent or employee who took the order operates.

(e) A sale of a taxable item is consummated at the location in this state to which the item is shipped or delivered or at which possession is taken by the customer if transfer of possession of the item occurs at, or shipment or delivery of the item originates from, a location in this state other than a place of business of the retailer and if:

(1) the retailer is an itinerant vendor who has no place of business in this state;

(2) the retailer's place of business where the purchase order is initially received or from which the retailer's agent or employee who took the order operates is outside this state; or

(3) the purchaser places the order directly with the retailer's supplier and the item is shipped or delivered directly to the purchaser by the supplier.

(e-1) Notwithstanding any other provision of this section, a sale of a taxable item made by a marketplace seller through a marketplace as provided by Section 151.0242 is consummated at the location in this state to which the item is shipped or delivered or at which possession is taken by the purchaser.

(f) The sale of natural gas and electricity is consummated at the point of delivery to the consumer.

(g) The sale of mobile telecommunications services is consummated in accordance with Section 151.061.

(g-1) The sale of telecommunications services sold based on a

price that is measured by individual calls is consummated at the location where the call originates and terminates or the location where the call either originates or terminates and at which the service address is also located.

(g-2) Except as provided by Subsection (g-3), the sale of telecommunications services sold on a basis other than on a call-by-call basis is consummated at the location of the customer's place of primary use.

(g-3) A sale of post-paid calling services is consummated at the location of the origination point of the telecommunications signal as first identified by the seller's telecommunications system or by information received by the seller from the seller's service provider if the system used to transport the signal is not that of the seller.

(h) The sale of an amusement service is consummated in the county in which the performance or other delivery of the service takes place.

(i) If a purchaser who has given a resale certificate makes any use of a taxable item that subjects the taxable item to the sales tax under the provisions of Section 151.154, the use or other consumption of the taxable item that subjected the taxable item to the tax is consummated at the place where the taxable item is stored or kept at the time of or just before the use or consumption.

(j) The sale of services delivered through a cable system is consummated at the point of delivery to the consumer.

(k) The sale of garbage or other solid waste collection or removal service is consummated at the location at which the garbage or other solid waste is located when its collection or removal begins.

(l) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1266, Sec. 15(5), eff. September 1, 2007.

(m) A sale of a service described by Section 151.0047 to remodel, repair, or restore nonresidential real property is consummated at the location of the job site.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.22(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 810, Sec. 2, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 705, Sec. 33, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 370, Sec. 3, eff. Aug. 1, 2002; Acts 2003, 78th

Leg., ch. 209, Sec. 58, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 118, eff. July 1, 2004.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 13, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 1266 (H.B. 3319), Sec. 15(5), eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 8, eff. June 19, 2009.
Acts 2013, 83rd Leg., R.S., Ch. 1342 (S.B. 997), Sec. 2, eff. June 14, 2013.
Acts 2019, 86th Leg., R.S., Ch. 182 (H.B. 1525), Sec. 4, eff. October 1, 2019.

Sec. 323.204. COMPUTATION OF USE TAX. In each county that has adopted the taxes authorized by this chapter, the tax imposed by Section 323.104, by other applicable local taxes, and by Subchapter D, Chapter 151, are added together to form a single combined tax rate, except only the rate of the county tax is used in a situation described by Section 323.205(b).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.205. USE TAX: COUNTY IN WHICH USE OCCURS. (a) In determining the incidence of the use tax authorized by this chapter, the name of the county adopting the tax is substituted in Subchapter D, Chapter 151, for "this state" where those words are used to designate the taxing entity or delimit the tax imposed. However, the excise tax authorized by this chapter on the use, storage, or consumption of a taxable item does not apply if the taxable item is first used, stored, or consumed in a county that has not adopted the taxes authorized by this chapter.

(b) If a sale of a taxable item is consummated in this state but not within a county that has adopted the taxes authorized by this chapter and the taxable item is shipped directly, or brought by the purchaser or lessee directly, into a county that has adopted the taxes authorized by this chapter, the taxable item is subject to the county's use tax. The use is considered to be consummated at the

location where the item is first stored, used, or consumed after the intrastate transit has ceased.

(c) If a taxable item is shipped from outside this state to a customer within this state and the use of the taxable item is consummated within a county that has adopted the tax authorized by this chapter, the taxable item is subject to a county's use tax and not its sales tax. A use is considered to be consummated at the first point in this state where the taxable item is stored, used, or consumed after the interstate transit has ceased. A taxable item delivered to a point in this state is presumed to be for storage, use, or consumption at that point until the contrary is established.

(d) The holder of a direct payment permit issued under Chapter 151 who becomes liable for the use tax under this chapter by reason of the storage, use, or consumption of a taxable item purchased in this state under a direct payment exemption certificate shall allocate the tax to the county in which the item was first removed from the permit holder's storage, or if not stored, the place at which the item was first used or consumed by the permit holder after transportation. In this subsection an item is not considered to have been stored, used, or consumed because of a temporary delay or interruption necessary and incidental to its transportation or further fabrication, processing, or assembling within this state for delivery to the permit holder. A charge for fabrication, processing, or further assembly in a county that has adopted the tax under this chapter shall be subject to the county use tax.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 34, eff. Sept. 1, 1991.

Sec. 323.206. COUNTY TAX INAPPLICABLE WHEN NO STATE TAX; EXCEPTIONS. (a) The sales tax authorized by this chapter does not apply to the sale of a taxable item unless the sales tax imposed by Subchapter C, Chapter 151, also applies to the sale.

(b) The excise tax authorized by this chapter on the use, storage, or consumption of a taxable item does not apply to the use, storage, or consumption of an item unless the tax imposed by Subchapter D, Chapter 151, also applies to the use, storage, or consumption.

(c) Subsections (a) and (b) do not apply to the taxes authorized by this chapter on the sale, production, distribution, lease, or rental of, and the use, storage, or consumption of gas and electricity for residential use.

(d) Subsection (b) does not apply to the application of the tax in a situation described by Section 323.205(b).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 705, Sec. 35, eff. Sept. 1, 1991.

Sec. 323.207. STATE EXEMPTIONS APPLICABLE. The exemptions provided by Subchapter H, Chapter 151, apply to the taxes authorized by this chapter, except as provided by Sections 151.359(j) and 151.317(b).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1274 (H.B. 1223), Sec. 6, eff. September 1, 2013.

Sec. 323.208. TELECOMMUNICATIONS EXEMPTION. (a) There are exempted from the taxes imposed under this chapter the sale within the county of telecommunications services unless the application of the exemption is repealed under this section. A county may not repeal the application of this exemption as it applies to interstate long-distance telecommunications services, but if a county has repealed the exemption before the effective date of Part 4, Article 1, H.B. No. 61, Acts of the 70th Legislature, 2nd Called Session, 1987, interstate long-distance telecommunications services in that county are not subject to taxes imposed under this chapter.

(b) The commissioners court of a county by a majority vote may repeal the application of the exemption provided by Subsection (a) for telecommunications services sold within the county.

(c) A county that has repealed the application of the exemption may in the same manner reinstate the exemption.

(d) A vote of the commissioners court repealing the application of or reinstating the exemption must be entered in the minutes of the court. The county judge shall send to the comptroller by United

States certified or registered mail a copy of each order adopted under this section. The repeal of the application of the exemption or a reinstated exemption takes effect within the county on the first day of the first calendar quarter after the expiration of the first complete calendar quarter after the date on which the comptroller receives notification of the order.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 5, art. 1, pt. 4, Sec. 35.

Sec. 323.209. TRANSITION EXEMPTION. (a) The receipts from the sale, use, or rental of and the storage, use, or consumption of taxable items in this state are exempt from the tax imposed by a county under this chapter if the items are used:

(1) for the performance of a written contract entered into before the date the tax takes effect in the county, if the contract is not subject to change or modification by reason of the tax; or

(2) pursuant to an obligation of a bid or bids submitted before the date the tax takes effect in the county, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax.

(b) The exemptions provided by this section have no effect after three years from the date the tax takes effect in the county.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 14.17(a), eff. Aug. 28, 1989.

SUBCHAPTER D. ADMINISTRATION OF TAXES

Sec. 323.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES. The comptroller shall administer, collect, and enforce any tax imposed by a county under this chapter. The tax imposed under this chapter and the tax imposed under Chapter 151 shall be collected together, if both taxes are imposed.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.302. COMPTROLLER'S REPORTING DUTIES. (a) The comptroller shall make quarterly reports to a county that has adopted

the taxes authorized by this chapter if the county requests the reports. A report must include the name, address, and account number of each person in the county that has remitted to the comptroller a tax payment during the quarter covered by the report.

(b) If a county requests an additional report, the comptroller shall make an additional quarterly report to the county including the name, address, and account number, if any, of, and the amount of tax due from, each person doing business in the county who has failed to pay the tax under this chapter to the county or under Chapter 151. The additional report must also include statements:

(1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;

(2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes to the state; and

(3) describing the steps taken by the comptroller to collect the delinquent taxes.

(c) If a county determines that a person doing business in the county is not included in a comptroller's report, the county shall report to the comptroller the name and address of the person. Within 90 days after receiving the report from a county, the comptroller shall send to the county:

(1) an explanation as to why the person is not obligated for the county tax;

(2) a statement that the person is obligated for the county tax and the tax is delinquent; or

(3) a certification that the person is obligated for the county tax and that the full amount of the tax due has been credited to the county's account.

(d) The comptroller shall send by United States certified or registered mail to the county attorney a notice of each person who is delinquent in the payment to the county of the taxes authorized by this chapter and shall send a copy of the notice to the attorney general. A notice sent under this subsection is a certification of the amount of tax owed and is prima facie evidence of a determination of that amount and of its delinquency.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.3022. TAX INFORMATION. (a) In this section, "other

local governmental entity" includes any governmental entity created by the legislature that has a limited purpose or function, that has a defined or restricted geographic territory, and that is authorized by law to impose a local sales and use tax the imposition, computation, administration, enforcement, and collection of which is governed by this chapter.

(b) Except as otherwise provided by this section, the comptroller on request shall provide to a county or other local governmental entity that has adopted a tax under this chapter:

(1) information relating to the amount of tax paid to the county or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in the county or other local governmental entity who annually remits to the comptroller state and local sales tax payments of more than $5,000; and

(2) any other information as provided by this section.

(c) The comptroller on request shall provide to a county or other local governmental entity that has adopted a tax under this chapter information relating to the amount of tax paid to the county or other local governmental entity under this chapter during the preceding or current calendar year by each person doing business in an area, as defined by the county or other local governmental entity, that is part of:

(1) an interlocal agreement;

(2) a tax abatement agreement;

(3) a reinvestment zone;

(4) a tax increment financing district;

(5) a revenue sharing agreement;

(6) an enterprise zone;

(7) any other agreement, zone, or district similar to those listed in Subdivisions (1)-(6); or

(8) any area defined by the county or other local governmental entity for the purpose of economic forecasting.

(d) The comptroller shall provide the information under Subsection (c) as an aggregate total for all persons doing business in the defined area without disclosing individual tax payments.

(e) If the request for information under Subsection (c) involves not more than three persons doing business in the defined area who remit taxes under this chapter, the comptroller shall refuse to provide the information to the county or other local governmental

entity unless the comptroller receives permission from each of the persons allowing the comptroller to provide the information to the county or other local governmental entity as requested.

(f) A separate request for information under this section must be made in writing each year by the county judge or the governing body of the other local governmental entity.

(g) Information received by a county or other local governmental entity under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the county or other local governmental entity under this chapter, or for the purpose described by Subsection (h).

(h) Information received by a county or other local governmental entity under Subsection (c) may be used by the county or other local governmental entity to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

(i) The comptroller may set and collect from a county or other local governmental entity reasonable fees to cover the expense of compiling and providing information under this section.

(j) Notwithstanding Chapter 551, Government Code, the commissioners court of a county or the governing body of the other local governmental entity is not required to confer with one or more employees or a third party in an open meeting to receive information or question the employees or third party regarding the information received by the county or other local governmental entity under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1360 (S.B. 636), Sec. 9, eff. September 1, 2009.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 140 (S.B. 758), Sec. 3, eff. September 1, 2011.

Sec. 323.303. SALES TAX PERMITS AND EXEMPTION AND RESALE CERTIFICATES. (a) Each place of business of a retailer must have a permit issued by the comptroller under Subchapter F, Chapter 151.

(b) The same sales tax permit, exemption certificate, and resale certificate required by Chapter 151 for the administration and collection of the taxes imposed by that chapter satisfy the

requirements of this chapter. No additional permit or exemption or resale certificate may be required.

(c) The comptroller may prescribe the form of an exemption certificate for a prior contract exemption under this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.304. DISCOUNTS FOR PREPAYMENT AND TAX COLLECTION. All discounts allowed a retailer under Chapter 151 for the collection and prepayment of the taxes under that chapter are allowed and applicable to the taxes collected under this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.305. PENALTIES. The penalties provided by Chapter 151 for violations of that chapter apply to violations of this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.306. COMPTROLLER'S RULES. The comptroller may adopt reasonable rules and prescribe forms that are consistent with this chapter for the administration, collection, reporting, and enforcement of this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.307. DELINQUENT TAXES: LIMITATIONS. The limitations for the bringing of a suit for the collection of a tax imposed or a penalty due under this chapter after the tax and penalty are delinquent or after a determination against the taxpayer are the same as limitations provided by Chapter 151.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.308. SEIZURE AND SALE OF PROPERTY. If the comptroller lawfully seizes property for the payment of the taxes imposed under

Chapter 151 and the property owner is delinquent in the payment of taxes under this chapter, the comptroller shall sell sufficient property to pay the delinquent taxes and penalties of both taxes. The proceeds of a sale of seized property shall first be applied to the payment of amounts due the state, any remainder to the amounts due to a municipality to which the taxes are due under Chapter 321, and any remainder to the amounts due to a county to which taxes are due.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.309. SUIT FOR TAX COLLECTION. (a) A county acting through its attorney may join as a plaintiff in any suit brought by the attorney general to seek a judgment for delinquent taxes and penalties due to the county under this chapter.

(b) A county may bring suit for the collection of taxes owed to the county under this chapter if:

(1) the taxes are certified by the comptroller in the notice required by Section 323.302(d);

(2) a written notice of the tax delinquency and the county's intention to bring suit is given by certified mail to the taxpayer, the attorney general, and the comptroller at least 60 days before the suit is filed; and

(3) neither the comptroller nor the attorney general disapproves of the suit.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.310. DISAPPROVAL OF COUNTY SUIT. (a) The comptroller or the attorney general may disapprove of the institution of a suit by a county under Section 323.309(b) if:

(1) negotiations between the state and the taxpayer are being conducted for the purpose of the collection of delinquent taxes owed to the state and the county seeking to bring suit;

(2) the taxpayer owes substantial taxes to the state and there is a reasonable possibility that the taxpayer may be unable to pay the total amount owed;

(3) the state will bring suit against the taxpayer for all taxes due under Chapter 151 and this chapter; or

(4) the suit involves a critical legal question relating to the interpretation of state law or a provision of the Texas or United States constitution in which the state has an overriding interest.

(b) A notice of disapproval to a county must be in writing and give the reason for the determination by the comptroller or attorney general.

(c) A disapproval is final and not subject to review.

(d) Not earlier than one year after the date of a disapproval of the institution of a county collection suit, the county may again proceed as provided by Section 323.309(b) even though the liability of the taxpayer includes taxes for which the county has previously given notice and the comptroller or attorney general has disapproved of the suit.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.311. JUDGMENTS IN COUNTY SUIT. (a) A judgment in a suit under Section 323.309(b) for or against a taxpayer does not affect a claim against the taxpayer by another county, a municipality, or the state unless the state is party to the suit.

(b) A county shall abstract a copy of each final judgment for taxes imposed under this chapter in a case in which the state is not a party and shall send to the comptroller a copy of the judgment and the abstract.

(c) A county shall by execution collect the taxes awarded to it in each judgment received by the county and is responsible for the renewal of the judgment before its expiration.

(d) The county shall send to the comptroller for deposit in the county's suspense account the amount of any taxes collected on the judgment.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.312. RETENTION OF CERTAIN COUNTY SALES TAXES. A county that holds a sales and use tax permit issued by the comptroller and that imposes a sales and use tax may retain the portion of the tax that the county collects and that constitutes the county's own tax. The county shall remit to the comptroller all other applicable local sales and use taxes and the state sales and

use tax.

Added by Acts 2001, 77th Leg., ch. 1263, Sec. 77, eff. Oct. 1, 2001.

SUBCHAPTER E. TAX ELECTION PROCEDURES

Sec. 323.401. CALLING OF ELECTION. (a) An election under this chapter is called by the adoption of an order by the commissioners court of a county.

(b) The commissioners court may call the election by a vote of a majority of its members.

(c) The commissioners court shall call the election if a number of qualified voters of the county equal to at least five percent of the number of registered voters in the county petitions for a vote on the question.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.402. DEADLINES AFTER PETITION. (a) After the receipt of a petition for an election under this chapter, the commissioners court shall determine the sufficiency of the petition within 30 days.

(b) If the petition is sufficient, the commissioners court shall pass the ordinance calling the election within 60 days after receiving the petition.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.403. TIME OF ELECTION. An election under this chapter must be held on the next uniform election day not less than 30 days after the day on which the order calling the election was passed.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.404. BALLOT WORDING. (a) Except as provided by Subsection (b), in an election to adopt the tax, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one-half percent county sales and use tax within the county to be used to reduce the county property tax rate."

(b) In an election in a county that includes no territory within the limits of a municipality, the ballot shall be printed to provide for voting for or against the proposition: "Adoption of a one percent county sales and use tax within the county to be used to reduce the county property tax rate."

(c) In an election to repeal the tax, the ballot shall be printed to provide for voting for or against the proposition: "Abolition of the county sales and use tax within the county."

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.405. OFFICIAL RESULTS OF ELECTION. (a) Within 10 days after an election in which the voters of a county approve of the adoption or abolition of the tax authorized by this chapter, the commissioners court of the county shall, by resolution entered in its minutes of proceedings, declare the results of the election. A resolution or ordinance under this section must include statements showing:

(1) the date of the election;

(2) the proposition on which the vote was held;

(3) the total number of votes cast for and against the proposition; and

(4) the number of votes by which the proposition was approved.

(b) If the application of the taxes that may be imposed under this chapter is changed by the results of the election, the county judge shall send to the comptroller by United States certified or registered mail a certified copy of the resolution.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.406. FREQUENCY OF ELECTION. An election under this chapter in a county may not be held earlier than one year after the date of any previous election under this chapter in the county.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.407. ELECTION CONTEST: NOTICE. (a) If an election

held under this chapter is contested, the contestant shall send to the comptroller by United States certified or registered mail within 10 days after the filing of the contest a notice of contest containing the style of the suit, the date it was filed, its case number, and the name of the court in which the contest is pending.

(b) A court may not hear an election contest of an election held under this chapter unless the comptroller is notified within the time and in the manner provided by this section.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.408. ELECTION CONTEST: DELAYED EFFECTIVE DATE. (a) When the comptroller receives a notice of contest of an election under this chapter, the effective date of the tax or the abolition of a tax is suspended.

(b) When a final judgment is entered in the election contest, the county judge shall notify the comptroller by United States certified or registered mail and enclose a certified copy of the final judgment.

(c) If the final judgment in the election contest results in a change in the tax status of the county under this chapter, the tax or the abolition of the tax takes effect as provided by Section 323.102 except that the notice of the final judgment is substituted for the notice of election results prescribed by Section 323.405.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER F. REVENUE DEPOSIT, DISTRIBUTION, AND USE

Sec. 323.501. TRUST ACCOUNT. (a) The comptroller shall deposit the taxes collected by the comptroller under this chapter in trust in the separate suspense account of the county from which the taxes were collected.

(b) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(45).

(c) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(45).

(d) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(45).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.126, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 285, Sec. 31(45), eff. Sept. 1,

2003.

Sec. 323.502. DISTRIBUTION OF TRUST FUNDS. At least twice during each state fiscal year and at other times as often as feasible, the comptroller shall send to the county treasurer payable to the county the county's share of the taxes collected by the comptroller under this chapter.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.503. STATE'S SHARE. Before sending any money to a county under this subchapter the comptroller shall deduct two percent of the amount of the taxes collected within the county during the period for which a distribution is made as the state's charge for its services under this chapter and shall, subject to premiums payments under Section 323.501(c), credit the money deducted to the general revenue fund.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.504. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The comptroller may retain in the suspense account of a county a portion of the county's share of the tax collected for the county under this chapter, not to exceed five percent of the amount remitted to the county. If the county has abolished the tax, the amount that may be retained may not exceed five percent of the final remittance to the county at the time of the termination of the collection of the tax.

(b) From the amounts retained in a county's suspense account, the comptroller may make refunds for overpayments to the account and to redeem dishonored checks and drafts deposited to the credit of the account.

(c) Before the expiration of one year after the effective date of the abolition of a county's tax under this chapter the comptroller shall send to the county the remainder of the money in the county's account and shall close the account.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.

Sec. 323.5041. INTEREST ON TAX REVENUE. Interest earned on all deposits made with the comptroller under this chapter, including interest earned from the suspense accounts retained under Section 323.504, shall be credited to the general revenue fund.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 14.18(a), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.127, eff. Sept. 1, 1997.

Sec. 323.505. USE OF TAX REVENUE. (a) The money received by a county under this chapter is for the use and benefit of the county and shall be used for the replacement of property tax revenue lost as a result of the adoption of the taxes authorized by this chapter. Except as provided by Subsection (b), the revenue in excess of the revenue used to replace those property taxes shall be used for the reduction of indebtedness of the county. After all indebtedness is paid, the excess may be used for any purpose for which county general revenue may be used. A county may not pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness for a period longer than one year.

(b) Revenue collected from the tax imposed under this chapter in each of the first three years in which the tax is imposed in the county in excess of the amount determined as provided by Section 26.041(d) for each year shall be deposited in an account to be called the excess sales tax revenue fund. During those three years, revenue deposited in the excess sales tax revenue fund may be used only if and to the extent that taxes or other revenues of the county are collected in amounts less than anticipated. After that period, the revenue in the fund may be used for any purpose for which county general revenue may be used. The fund ceases to exist when all revenue deposited in the fund has been spent.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.18(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 17.07, eff. Aug. 26, 1991.

Sec. 323.510. REALLOCATION OF COUNTY OR LOCAL GOVERNMENTAL ENTITY TAX REVENUE. (a) In this section, "local governmental entity" includes any governmental entity created by the legislature that has

a limited purpose or function, that has a defined or restricted geographic territory, and that is authorized by law to impose a local sales and use tax the imposition, computation, administration, enforcement, and collection of which is governed by this chapter.

(b) This section applies only if:

(1) the comptroller:

(A) reallocates local tax revenue from a county or local governmental entity to another county or local governmental entity; or

(B) refunds local tax revenue that was previously allocated to a county or local governmental entity; and

(2) the amount the comptroller reallocates or refunds is at least equal to the lesser of:

(A) $200,000;

(B) an amount equal to 10 percent of the revenue received by the county or local governmental entity under this chapter during the calendar year preceding the calendar year in which the reallocation or refund is made; or

(C) an amount that increases or decreases the amount of revenue the county or local governmental entity receives under this chapter during a calendar month by more than 15 percent as compared to revenue received by the county or local governmental entity during the same month in any previous year.

(c) Subject to the criteria provided by this section, a county or local governmental entity may request a review of all available sales tax returns and reports in the comptroller's possession filed by not more than five individual taxpayers doing business in the county or local governmental entity that are included and identified by the county or local governmental entity from the information received from the comptroller under Section 323.3022 and that relate to a reallocation or refund in an amount described by Subsection (b).

(d) The comptroller shall provide the returns and reports requested under Subsection (c) for review regardless of whether the information in the returns or reports is confidential under state law, including Sections 111.006 and 151.027.

(e) The provision of confidential information to a county or local governmental entity under this section does not affect the confidential nature of the information in the returns or reports. A county or local governmental entity shall use the information only in a manner that maintains the confidential nature of the information

and may not disclose or release the information to the public.

(f) A county or local governmental entity must submit the request under Subsection (c) not later than the 90th day after the date the county or local governmental entity discovers a reallocation or refund described by Subsection (b).

(g) Not earlier than the 30th day or later than the 90th day after the date the comptroller receives a request under Subsection (c), the comptroller shall provide the requested returns and reports to the requesting county or local governmental entity for review.

(h) The comptroller may set and collect from a county or local governmental entity a reasonable fee to cover the expense of compiling and providing information under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 942 (H.B. 590), Sec. 4, eff. September 1, 2011.

CHAPTER 324. COUNTY HEALTH SERVICES SALES AND USE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 324.001. COUNTY SALES AND USE TAX ACT APPLICABLE. Except to the extent that a provision of this chapter applies, Chapter 323 applies to the tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 324.021. TAX AUTHORIZED. (a) A county having a population of 50,000 or less may adopt, increase, decrease, or abolish the sales and use tax authorized by this chapter at an election held in the county.

(b) A county may not adopt or increase a tax under this chapter if as a result of the adoption of or increase in the tax the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state having territory in the county would exceed two percent at any location in the county.

(c) If the voters of a county approve the adoption of or the increase in the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or

approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state having territory in the county would exceed two percent at any location in the county, the election to adopt a sales and use tax under this chapter or increase the tax has no effect.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 473 (H.B. 132), Sec. 1, eff. June 17, 2005.

Sec. 324.022. TAX RATE. (a) The tax authorized by this chapter may be imposed at the rate of one-half, five-eighths, three-fourths, seven-eighths, or one percent.

(b) The rate may be reduced in one or more increments of one-eighth of one percent to a minimum of one-half of one percent or increased in one or more increments of one-eighth of one percent to a maximum of one percent, or the tax may be abolished.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 473 (H.B. 132), Sec. 2, eff. June 17, 2005.

Sec. 324.023. SALES AND USE TAX EFFECTIVE DATE. (a) The adoption, increase, decrease, or abolition of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election.

(b) If the comptroller determines that an effective date provided by Subsection (a) will occur before the comptroller can reasonably take the action required to begin collecting the tax or to implement the increase, decrease, or abolition of the tax, the effective date may be extended by the comptroller until the first day of the next succeeding calendar quarter.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 473 (H.B. 132), Sec. 3, eff. June 17, 2005.

SUBCHAPTER C. TAX ELECTION PROCEDURES

Sec. 324.061. ELECTION PROCEDURE. (a) An election to adopt, increase, decrease, or abolish the tax authorized by this chapter is called by the adoption of an order by the commissioners court of the county. The commissioners court shall call an election if a number of qualified voters of the county equal to at least five percent of the number of registered voters in the county petitions the commissioners court to call the election.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of county) at the rate of _____ (one-half, five-eighths, three-fourths, seven-eighths, or one, to be inserted as appropriate) percent to provide revenue for health services in the county."

(b-1) At an election to increase or decrease the tax, the ballot shall be prepared to permit voting for or against the proposition: "The (increase or decrease) of the local sales and use tax in (name of county) to the rate of _____ (one-half, five-eighths, three-fourths, seven-eighths, or one, to be inserted as appropriate) percent to provide revenue for health services in the county."

(c) At an election to abolish the tax, the ballot shall be prepared to permit voting for or against the proposition: "The abolition of the local health services sales and use tax in (name of county)."

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.
Amended by:
Acts 2005, 79th Leg., Ch. 473 (H.B. 132), Sec. 4, eff. June 17, 2005.

SUBCHAPTER D. USE OF TAX REVENUE

Sec. 324.081. USE OF TAX REVENUE. Revenue from the tax imposed under this chapter may be used only to provide health services in the county. The county imposing the tax may allocate all or part of that revenue to:

(1) a county hospital authority or a hospital district having the same boundaries as the county; or

(2) a public health district in which the county participates.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 7, eff. Sept. 1, 1989.

CHAPTER 325. COUNTY SALES AND USE TAX FOR LANDFILL AND CRIMINAL DETENTION CENTER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 325.001. COUNTY SALES AND USE TAX ACT APPLICABLE. Except to the extent that a provision of this chapter applies, Chapter 323 applies to the tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter.

Added by Acts 1995, 74th Leg., ch. 39, Sec. 1, eff. May 5, 1995.

SUBCHAPTER B. IMPOSITION OF TAX

Sec. 325.021. TAX AUTHORIZED. (a) A county having a population of 55,000 or less that borders the Rio Grande containing a municipality with a population of more than 22,000 may adopt or abolish the sales and use tax authorized by this chapter at an election held in the county.

(b) A county may not adopt a tax under this chapter if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state having territory in the county would exceed two percent at any location in the county.

(c) If the voters of a county approve the adoption of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the county and

other political subdivisions of this state having territory in the county would exceed two percent at any location in the county, the election to adopt a sales and use tax under this chapter has no effect.

(d) That portion of the tax collected under this chapter necessary for the operation of the landfill is dedicated solely to that purpose.

(e) That portion of the tax collected under this chapter necessary for debt services for criminal detention center bonds is dedicated solely to that purpose.

(f) Any tax collected under this chapter not dedicated under Subsection (d) or (e) shall be used for ad valorem reduction.

(g) The dedication established under Subsection (d) expires when the landfill is sold or closed. The dedication established under Subsection (e) expires when the criminal detention center bonds are retired.

(h) If the commissioners court adopts an order finding that the purposes for which the dedications made under Subsections (d) and (e) have been accomplished, the tax authorized by this chapter is abolished.

Added by Acts 1995, 74th Leg., ch. 39, Sec. 1, eff. May 5, 1995.
Amended by Acts 2001, 77th Leg., ch. 669, Sec. 121, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 119, eff. September 1, 2011.

Sec. 325.022. TAX RATE. The rate of the tax authorized by this chapter is one-half percent.

Added by Acts 1995, 74th Leg., ch. 39, Sec. 1, eff. May 5, 1995.

Sec. 325.023. SALES AND USE TAX EFFECTIVE DATE. (a) The adoption or abolition of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election.

(b) If the comptroller determines that an effective date

provided by Subsection (a) will occur before the comptroller can reasonably take the action required to begin collecting the tax or to implement the abolition of the tax, the effective date may be extended by the comptroller until the first day of the next succeeding calendar quarter.

Added by Acts 1995, 74th Leg., ch. 39, Sec. 1, eff. May 5, 1995.

SUBCHAPTER C. TAX ELECTION PROCEDURES

Sec. 325.061. ELECTION PROCEDURE. (a) An election to adopt or abolish the tax authorized by this chapter is called by the adoption of an order by the commissioners court of the county. The commissioners court may call an election on its own motion or shall call an election if a number of qualified voters of the county equal to at least five percent of the number of registered voters in the county petition the commissioners court to call the election. An election under this chapter must be held on the next uniform election date not less than 10 days after the day on which the order calling the election was passed.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of county) at the rate of one-half percent to provide revenue for the operation of a county landfill and a criminal detention center."

(c) At an election to abolish the tax, the ballot shall be prepared to permit voting for or against the proposition: "The abolition of the sales and use tax for the operation of a county landfill and a criminal detention center in (name of county)."

(d) The commissioners court shall modify regular election procedures as necessary to hold an election on a day permitted under Subsection (a).

Added by Acts 1995, 74th Leg., ch. 39, Sec. 1, eff. May 5, 1995.

SUBCHAPTER D. USE OF TAX REVENUE

Sec. 325.081. USE OF TAX REVENUE. Revenue from the tax imposed under this chapter may be used only to build, operate, or maintain a landfill and a criminal detention center in the county.

Added by Acts 1995, 74th Leg., ch. 39, Sec. 1, eff. May 5, 1995.

CHAPTER 327. MUNICIPAL SALES AND USE TAX FOR STREET MAINTENANCE

Sec. 327.001. DEFINITION. In this chapter, "municipal street" means the entire width of a way held by a municipality in fee or by easement or dedication that has a part open for public use for vehicular travel. The term does not include a designated state or federal highway or road or a designated county road.

Added by Acts 2001, 77th Leg., ch. 464, Sec. 1, eff. June 11, 2001.

Sec. 327.002. MUNICIPAL SALES AND USE TAX ACT APPLICABLE. Except to the extent that a provision of this chapter applies, Chapter 321 applies to the tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter.

Added by Acts 2001, 77th Leg., ch. 464, Sec. 1, eff. June 11, 2001.

Sec. 327.003. TAX AUTHORIZED. (a) A municipality may adopt the sales and use tax authorized by this chapter at an election held in the municipality.

(b) A municipality may not adopt a tax under this chapter or increase the rate of the tax if as a result of the adoption of the tax or the increase in the rate of the tax the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed two percent at any location in the municipality.

(c) If the voters of a municipality approve the adoption of the tax or the increase in the rate of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions of this state having territory in the municipality would exceed two percent at any location in the municipality, the election to adopt a sales and use tax under this chapter has no effect.

Added by Acts 2001, 77th Leg., ch. 464, Sec. 1, eff. June 11, 2001.

Amended by Acts 2003, 78th Leg., ch. 403, Sec. 1, eff. June 20, 2003.

Sec. 327.004. TAX RATE. The tax authorized by this chapter may be imposed at any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 327.003(b).

Added by Acts 2001, 77th Leg., ch. 464, Sec. 1, eff. June 11, 2001.
Amended by Acts 2003, 78th Leg., ch. 403, Sec. 2, eff. June 20, 2003.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 18, eff. September 1, 2015.

Sec. 327.005. SALES AND USE TAX EFFECTIVE DATE. (a) The adoption of the tax or the change in the rate of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives notice of the results of the election.

(b) If the comptroller determines that an effective date provided by Subsection (a) will occur before the comptroller can reasonably take the action required to begin collecting the tax, the effective date may be extended by the comptroller until the first day of the next succeeding calendar quarter.

Added by Acts 2001, 77th Leg., ch. 464, Sec. 1, eff. June 11, 2001.
Amended by Acts 2003, 78th Leg., ch. 403, Sec. 3, eff. June 20, 2003.

Sec. 327.006. ELECTION PROCEDURE. (a) An election to adopt the tax authorized by this chapter is called by the adoption of an ordinance by the governing body of the municipality.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of municipality) at the rate of (insert appropriate rate) to provide revenue for maintenance and repair of municipal streets."

Added by Acts 2001, 77th Leg., ch. 464, Sec. 1, eff. June 11, 2001.
Amended by Acts 2003, 78th Leg., ch. 403, Sec. 4, eff. June 20, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 19, eff. September 1, 2015.

Sec. 327.0065. RATE CHANGE. (a) A municipality that has adopted a sales and use tax under this chapter may by ordinance decrease the rate of the tax in increments of one-eighth of one percent.

(b) A municipality that has adopted a sales and use tax under this chapter may by ordinance increase the rate of the tax to any rate that is an increment of one-eighth of one percent, that the municipality determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by Section 327.003(b) if the increase is authorized at an election held in the municipality.

(c) The ballot for an election to increase the tax shall be printed to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of municipality) at the rate of (insert appropriate rate) to provide revenue for maintenance and repair of municipal streets."

Added by Acts 2003, 78th Leg., ch. 403, Sec. 5, eff. June 20, 2003.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1246 (H.B. 157), Sec. 20, eff. September 1, 2015.

Sec. 327.007. REAUTHORIZATION OF TAX. (a) Unless imposition of the sales and use tax authorized by this chapter is reauthorized as provided by this section, the tax expires on:

(1) the fourth anniversary of the date the tax originally took effect under Section 327.005;

(2) the first day of the first calendar quarter occurring after the fourth anniversary of the date the tax was last reauthorized under this section if, at that election, the voters approved the imposition of the tax for a period that expires on that anniversary;

(2-a) if the tax is imposed in a municipality that is intersected by two interstate highways, that has a population of 150,000 or more, and in which at least 66 percent of the voters voting in each of the last two consecutive elections concerning the adoption or reauthorization of the tax favored adoption or reauthorization, and that tax has not expired as provided by Subdivision (1) or (2) since the first of those two consecutive elections, the last day of the first calendar quarter occurring after the eighth anniversary of the date the tax was last reauthorized under this section if, at that election, the voters approved the imposition of the tax for a period that expires on that anniversary instead of the period described by Subdivision (2); or

(3) if the tax is imposed in a general-law municipality with a population of 10,000 or more surrounded entirely by a municipality with a population of 1.3 million or more, the last day of the first calendar quarter occurring after the 10th anniversary of the date the tax was last reauthorized under this section if, at that election, the voters approved the imposition of the tax for a period that expires on that anniversary instead of the period described by Subdivision (2).

(b) An election to reauthorize the tax is called and held in the same manner as an election to adopt the tax under Section 327.006, except the ballot proposition shall be prepared to permit voting for or against the proposition: "The reauthorization of the local sales and use tax in (name of municipality) at the rate of (insert appropriate rate) to continue providing revenue for maintenance and repair of municipal streets. The tax expires on the (insert fourth, eighth, or 10th) anniversary of the date of this election unless the imposition of the tax is reauthorized."

(c) If an election to reauthorize the tax is not held before the tax expires as provided by Subsection (a), or if a majority of the votes cast in an election to reauthorize the tax do not favor reauthorization, the municipality may not call an election on the question of authorizing a new tax under this chapter before the first anniversary of the date on which the tax expired.

(d) Not later than the 10th day after the date the municipality determines that the tax will expire as provided by Subsection (a), the municipality shall notify the comptroller of the scheduled expiration. The comptroller may delay the scheduled expiration date if the comptroller notifies the municipality that more time is

required. The comptroller must provide a new expiration date that is not later than the last day of the first calendar quarter occurring after the notification to the comptroller.

Added by Acts 2001, 77th Leg., ch. 464, Sec. 1, eff. June 11, 2001.
Amended by Acts 2003, 78th Leg., ch. 403, Sec. 6, eff. June 20, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1322 (S.B. 475), Sec. 1, eff. June 14, 2013.
Acts 2015, 84th Leg., R.S., Ch. 385 (H.B. 2853), Sec. 1, eff. June 10, 2015.

Sec. 327.008. USE OF TAX REVENUE. Revenue from the tax imposed under this chapter may be used only to maintain and repair municipal streets or sidewalks existing on the date of the election to adopt the tax.

Added by Acts 2001, 77th Leg., ch. 464, Sec. 1, eff. June 11, 2001.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 385 (H.B. 2853), Sec. 2, eff. June 10, 2015.

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES
CHAPTER 351. MUNICIPAL HOTEL OCCUPANCY TAXES
SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 351.001. DEFINITIONS. In this chapter:

(1) "Municipality" includes any incorporated city, town, or village.

(2) "Convention center facilities" or "convention center complex" means facilities that are primarily used to host conventions and meetings. The term means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in whole or part by the municipality. In a municipality with a population of 1.5 million or more, "convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in part by the municipality, hotels owned by the municipality

or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within 1,000 feet of a convention center owned by the municipality, or a historic hotel owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within one mile of a convention center owned by the municipality. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the vicinity of other convention center facilities. The term also includes a hotel owned by or located on land that is owned by an eligible central municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that is located within 1,000 feet of a convention center facility owned by the municipality. The term also includes a hotel that is owned in part by an eligible central municipality described by Subdivision (7)(D) and that is located within 1,000 feet of a convention center facility. For purposes of this subdivision, "meetings" means gatherings of people that enhance and promote tourism and the convention and hotel industry.

(3) "Eligible coastal municipality" means a home-rule municipality that borders on the Gulf of Mexico and has a population of less than 80,000.

(4) "Hotel" has the meaning assigned by Section 156.001.

(5) "Tourism" means the guidance or management of tourists.

(6) "Tourist" means an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.

(7) "Eligible central municipality" means:

(A) a municipality with a population of more than 140,000 but less than 1.5 million that is located in a county with a population of one million or more and that has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(B) a municipality with a population of 250,000 or more that:

(i) is located wholly or partly on a barrier island that borders the Gulf of Mexico;

(ii) is located in a county with a population of 300,000 or more; and

(iii) has adopted a capital improvement plan to

expand an existing convention center facility;

(C) a municipality with a population of 116,000 or more that:

(i) is located in two counties both of which have a population of 660,000 or more; and

(ii) has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(D) a municipality with a population of less than 50,000 that contains a general academic teaching institution that is not a component institution of a university system, as those terms are defined by Section 61.003, Education Code; or

(E) a municipality with a population of 640,000 or more that:

(i) is located on an international border; and

(ii) has adopted a capital improvement plan for the construction or expansion of a convention center facility.

(8) "Visitor information center" or "tourism information center" means a building or a portion of a building used to distribute or disseminate information to tourists.

(9) "Revenue" includes any interest derived from the revenue.

(10) "Revenue" includes any interest derived from the revenue.

(11) "Eligible barrier island coastal municipality" means a municipality:

(A) that borders on the Gulf of Mexico;

(B) that is located wholly on a barrier island; and

(C) the boundaries of which are within 30 miles of the United Mexican States.

(12) "Retail establishment" means an establishment engaged in activities described by North American Industry Classification System subsector code 442, 443, 445, 446, 448, 451, 452, or 453.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1110, Sec. 1, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 231, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 620, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 680, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 17.01(51), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 454, Sec. 5, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch.

165, Sec. 30.273, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 495, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1004, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.71, eff. Oct. 1, 1999; Acts 2001, 77th Leg., ch. 1308, Sec. 1, eff. June 16, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 264 (H.B. 2032), Sec. 3, eff. May 30, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1220 (S.B. 1247), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1271 (H.B. 1324), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 179 (S.B. 977), Sec. 3, eff. May 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 490 (S.B. 1719), Sec. 4, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 227 (H.B. 1964), Sec. 1, eff. May 29, 2015.

Acts 2017, 85th Leg., R.S., Ch. 267 (H.B. 1896), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 1, eff. September 1, 2019.

Sec. 351.002. TAX AUTHORIZED. (a) A municipality by ordinance may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs $2 or more each day, and is ordinarily used for sleeping.

(b) The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

(c) The tax does not apply to a person who is a permanent resident under Section 156.101 of this code.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1991, 72nd Leg., ch. 328, Sec. 5, eff. Aug. 26, 1991.

Sec. 351.0025. EXTRATERRITORIAL JURISDICTION. (a) A municipality with a population of less than 35,000 by ordinance may impose the tax authorized under Section 351.002 in the municipality's extraterritorial jurisdiction.

(b) The municipality may not impose a tax under this section if as a result of the adoption the combined rate of state, county, and municipal hotel occupancy taxes in the extraterritorial jurisdiction exceeds 15 percent of the price paid for a room in a hotel.

Added by Acts 1991, 72nd Leg., ch. 328, Sec. 3, eff. Aug. 26, 1991.
Amended by Acts 1993, 73rd Leg., ch. 680, Sec. 2, eff. Sept. 1, 1993.

Sec. 351.003. TAX RATES. (a) Except as provided by this section, the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel.

(b) The rate in an eligible central municipality may not exceed nine percent of the price paid for a room. This subsection does not apply to a municipality to which Section 351.106 applies or to an eligible central municipality with a population of less than 440,000.

(c) The rate in a municipality that borders on the Gulf of Mexico and has a population of more than 250,000 or in a municipality with a population of less than 5,000 adjacent to a home-rule city with a population of less than 80,000 may not exceed nine percent of the price paid for a room.

(d) The rate in an eligible barrier island coastal municipality may not exceed 8-1/2 percent of the price paid for a room.

(e) The rate in a municipality that has a population of more than 95,000 and is in a county that borders Lake Palestine and has a population of more than 200,000 may not exceed nine percent of the price paid for a room. The municipality shall allocate for the construction, expansion, maintenance, or operation of convention center facilities all revenue received by the municipality that is derived from the application of the tax at a rate of more than seven percent of the price paid for a room in a hotel.

(f) The rate in a municipality that has a population of at least 80,000 and is partly located in a county that borders the State of Louisiana and has a population of at least 60,000 may not exceed nine percent of the price paid for a room. The municipality shall

allocate for the construction, expansion, maintenance, or operation of convention center facilities all revenue received by the municipality that is derived from the application of the tax at a rate of more than seven percent of the price paid for a room in a hotel.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.23(a), eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 620, Sec. 2, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 825, Sec. 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1308, Sec. 2, eff. June 16, 2001; Acts 2003, 78th Leg., ch. 247, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 382, Sec. 1, 3, eff. June 18, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1220 (S.B. 1247), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1271 (H.B. 1324), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 751 (H.B. 1315), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 888 (S.B. 349), Sec. 1, eff. June 17, 2011.

Sec. 351.004. TAX COLLECTION. (a) The municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality, and who has failed to file a tax report or pay the tax when due, to collect the tax not paid or to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order. In addition to the amount of any tax owed under this chapter, the person is liable to the municipality for:

(1) the municipality's reasonable attorney's fees;

(2) the costs of an audit conducted under Subsection (a-1)(1), as determined by the municipality using a reasonable rate, but only if:

(A) the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and

(B) the municipality has not received a disbursement from the comptroller as provided by Section 156.2513 related to the person's concurrent state tax delinquency described by Section 351.008;

(3) a penalty equal to 15 percent of the total amount of the tax owed if the tax has been delinquent for at least one complete municipal fiscal quarter; and

(4) interest under Section 351.0042.

(a-1) If a person required to file a tax report under this chapter does not file the report as required by the municipality, the municipality may determine the amount of tax due under this chapter by:

(1) conducting an audit of each hotel in relation to which the person did not file the report as required by the municipality; or

(2) using the tax report filed for the appropriate reporting period under Section 156.151 in relation to that hotel.

(a-2) If the person did not file a tax report under Section 156.151 for that reporting period in relation to that hotel, the municipality may estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year under this chapter or Section 156.151. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.

(a-3) The authority to conduct an audit under this section is in addition to any other audit authority provided by statute, charter, or ordinance. A municipality may directly perform an audit authorized by this section or contract with another person to perform the audit on an hourly rate or fixed-fee basis. A municipality shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this section.

(b) Except as provided by Subsection (b-1), a municipality must bring suit under this section not later than the fourth anniversary of the date the tax becomes due.

(b-1) The limitation provided by Subsection (b) does not apply and a municipality may bring suit under this section at any time if:

(1) with intent to evade the tax, the person files a false or fraudulent report with the municipality; or

(2) the person has not filed a report for the tax with the

municipality.

(c) A municipality by ordinance may authorize misdemeanor punishment for a violation of an ordinance adopted under this chapter.

(d) The remedies provided by this section are in addition to other available remedies.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 1110, Sec. 2, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 259, Sec. 1.
Amended by:

Acts 2005, 79th Leg., Ch. 488 (H.B. 352), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1152 (H.B. 2048), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 944 (H.B. 1724), Sec. 1, eff. September 1, 2013.

Sec. 351.0041. COLLECTION PROCEDURES ON PURCHASE OF HOTEL. (a) If a person who is liable for the payment of a tax under this chapter is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt by a person designated by the municipality to provide the receipt showing that the amount has been paid or a certificate showing that no tax is due.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the person designated by the municipality to provide a receipt under Subsection (a) issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The person designated by the municipality shall issue the certificate or statement not later than the 60th day after the date that the person receives the request.

(d) If the person designated by the municipality to provide a receipt under Subsection (a) fails to issue the certificate or

statement within the period provided by Subsection (c), the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

Added by Acts 1991, 72nd Leg., ch. 328, Sec. 1, eff. Aug. 26, 1991.

Sec. 351.0042. INTEREST ON DELINQUENT TAX. (a) A person who fails to pay a tax due under this chapter is liable to the municipality for interest on the unpaid amount at the greater of the rate provided by Section 111.060(b) or the rate imposed by the municipality on January 1, 2013.

(b) Interest under this section accrues from the first day after the date due until the tax is paid.

Added by Acts 2013, 83rd Leg., R.S., Ch. 944 (H.B. 1724), Sec. 2, eff. September 1, 2013.

Sec. 351.005. REIMBURSEMENT FOR EXPENSES OF TAX COLLECTION AND USE OF ELECTRONIC TAX ADMINISTRATION SYSTEM. (a) A municipality may permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter to withhold not more than one percent of the amount of the tax collected and required to be reported as reimbursement to the person for the cost of collecting the tax.

(b) If a municipality uses revenue derived from the tax authorized by this chapter to create, maintain, operate, or administer an electronic tax administration system as authorized by Section 351.1012, the municipality shall permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter to withhold not more than one percent of the amount of the tax collected and required to be reported as reimbursement to the person for the cost of collecting the tax.

(c) The municipality may provide that the reimbursement provided or required by this section be forfeited because of a failure to pay the tax or to file a report as required by the municipality.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 22(c), eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 4, eff. June 15, 2017.

Sec. 351.006. EXEMPTION. (a) A United States governmental entity described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter.

(b) A state governmental entity described in Section 156.103(b) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid.

(c) A person who is described by Section 156.103(d) is exempt from the payment of the tax authorized by this chapter.

(d) A person who is described by Section 156.103(c) shall pay the tax imposed by this chapter but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.

(e) To receive a refund of tax paid under this chapter, the governmental entity entitled to the refund must file a refund claim on a form provided by the municipality and containing the information required by the municipality. The comptroller by rule shall prescribe the form that must be used and the information that must be provided.

(f) A governmental entity may file a refund claim with the municipality under this chapter only for each calendar quarter for all reimbursements accrued during that quarter. The municipality may adopt an ordinance to enforce this section.

(g) The right to use or possess a room in a hotel is exempt from taxation under this chapter if the person required to collect the tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption provided in Subsection (c). The exemption must be supported by the documentation required under rules adopted by the comptroller and the municipality.

Added by Acts 1989, 71st Leg., ch. 504, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 454, Sec. 6, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.72, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 209, Sec. 87, eff. Oct. 1, 2003.

Sec. 351.007. PREEXISTING CONTRACTS. (a) If a municipality increases the rate of the tax authorized by this chapter, the increased tax rate does not apply to the tax imposed on the use or possession, or the right to the use or possession, of a room under a contract that was executed before the date the increased rate takes effect and that provides for the payment of the tax at the rate in effect when the contract was executed, unless the contract is subject to change or modification by reason of the tax rate increase.

(b) This subsection applies only to a contract that provides for the payment of one or more taxes imposed on the use or possession, or the right to the use or possession, of a room that is in a hotel, including a tax authorized by Chapter 156 or 352 of this code or by Subchapter H, Chapter 334, Local Government Code. If a municipality adopts an ordinance imposing a tax under this chapter that is not imposed at any rate before the effective date of the tax prescribed by the ordinance, the imposition of the tax does not apply to the use or possession, or the right to the use or possession, of a room under a contract executed before the date the imposition of the tax takes effect, unless the contract is subject to change or modification by reason of the imposition of the new tax.

(c) The tax rate applicable to the use or possession, or the right to the use or possession, of a room under a contract described by Subsection (a) is the rate in effect when the contract was executed. Notwithstanding Section 351.002(a), no tax is imposed under this chapter on the use or possession, or the right to the use or possession, of a room under a contract described by Subsection (b).

Added by Acts 1989, 71st Leg., ch. 1110, Sec. 3, eff. Oct. 1, 1989.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 267 (H.B. 1896), Sec. 3, eff. September 1, 2017.

Sec. 351.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 351.004, a municipality obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the municipality shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a municipality under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the municipality as provided by Section 156.2513 to defray the cost of the municipal audit.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1152 (H.B. 2048), Sec. 3, eff. September 1, 2011.

Sec. 351.009. ANNUAL REPORT TO COMPTROLLER. (a) Not later than February 20 of each year, a municipality that imposes the tax authorized by this chapter shall report to the comptroller:

(1) the rate of:

(A) the tax imposed by the municipality under this chapter; and

(B) if applicable, the tax imposed by the municipality under Subchapter H, Chapter 334, Local Government Code;

(2) the amount of revenue collected during the municipality's preceding fiscal year from:

(A) the tax imposed by the municipality under this chapter; and

(B) if applicable, the tax imposed by the municipality under Subchapter H, Chapter 334, Local Government Code; and

(3) the amount and percentage of the revenue described by Subdivision (2)(A) allocated by the municipality to each use described by Sections 351.101(a)(1), (2), (3), (4), (5), and (9) during the municipality's preceding fiscal year, stated separately as an amount and percentage for each of those subdivisions.

(b) The municipality must make the report required by this section by:

(1) submitting the report to the comptroller on a form prescribed by the comptroller; or

(2) providing the comptroller a direct link to, or a clear statement describing the location of, the information required to be reported that is posted on the Internet website of the municipality.

(c) Subject to Subsection (b)(2), the comptroller shall

prescribe the form a municipality must use for the report required to be submitted under this section.

(d) The comptroller may adopt rules necessary to administer this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 420 (S.B. 1221), Sec. 1, eff. June 1, 2017.

SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

Sec. 351.101. USE OF TAX REVENUE. (a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

(6) expenses, including promotion expenses, directly

related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity if:

(A) the municipality is located in a county with a population of one million or less;

(B) the municipality has a population of more than 67,000 and is located in two counties with 90 percent of the municipality's territory located in a county with a population of at least 580,000, and the remaining territory located in a county with a population of at least four million; or

(C) the municipality has a population of at least 200,000 and shares a border with:

(i) a municipality described by Section 351.102(e)(7); and

(ii) Lake Ray Hubbard;

(7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields if:

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;

(ii) has a population of at least 75,000 but not more than 95,000 and is located in a county that has a population of less than 200,000 but more than 160,000;

(iii) has a population of at least 36,000 but not more than 39,000 and is located in a county that has a population of 100,000 or less that is not adjacent to a county with a population of more than two million;

(iv) has a population of at least 13,000 but less than 39,000 and is located in a county that has a population of at least 200,000;

(v) has a population of at least 70,000 but less than 90,000 and no part of which is located in a county with a population greater than 150,000;

(vi) is located in a county that:

(a) is adjacent to the Texas-Mexico border;

(b) has a population of at least 500,000; and

(c) does not have a municipality with a population greater than 500,000;

(vii) has a population of at least 25,000 but not more than 26,000 and is located in a county that has a population of 90,000 or less;

(viii) is located in a county that has a population of not more than 300,000 and in which a component university of the University of Houston System is located;

(ix) has a population of at least 40,000 and the San Marcos River flows through the municipality;

(x) has a population of more than 67,000 and is located in two counties with 90 percent of the municipality's territory located in a county with a population of at least 580,000, and the remaining territory located in a county with a population of at least four million;

(xi) contains an intersection of Interstates 35E and 35W and at least two public universities; or

(xii) is described by Subdivision (6)(C); and

(C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments;

(8) for a municipality with a population of at least 70,000 but less than 90,000, no part of which is located in a county with a population greater than 150,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility;

(9) signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality;

(10) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility, if the municipality:

(A) has a population of at least 90,000 but less than 120,000; and

(B) is located in two counties, at least one of which contains the headwaters of the San Gabriel River; and

(11) for a municipality with a population of more than 175,000 but less than 225,000 that is located in two counties, each of which has a population of less than 200,000, the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of a coliseum or multiuse facility and related infrastructure or a venue, as defined by Section 334.001(4), Local Government Code, that is related to the promotion of tourism.

(b) Revenue derived from the tax authorized by this chapter shall be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by Subsection (a). That revenue may not be used for the general revenue purposes or general governmental operations of a municipality.

(c) The governing body of a municipality by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this chapter. The governing body in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the governing body at least quarterly listing the expenditures made by the person with revenue from the tax authorized by this chapter. The person must maintain revenue provided from the tax authorized by this chapter in a separate account established for that purpose and may not commingle that revenue with any other money. The municipality may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with revenue from the tax authorized by this chapter other than by contract as provided by this subsection. The approval by the governing body of the municipality of the annual budget of the person to whom the governing body delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the tax authorized by this chapter.

(d) A person with whom a municipality contracts under this section to conduct an activity authorized by this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the governing body of the municipality or other person, shall make the records available for inspection and review to the governing body or other person.

(e) Hotel occupancy tax revenue spent for a purpose authorized by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized under Section 351.101(a). If a municipal or other public or private entity that conducts an activity authorized under this section conducts other activities that are not authorized under this section, the portion of

the total administrative costs of the entity for which hotel occupancy tax revenue may be used may not exceed the portion of those administrative costs actually incurred in conducting the authorized activities.

(f) Municipal hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner.

(g) This section does not prohibit a person that receives a grant from a municipality to conduct an activity authorized by Subsection (a)(4) from making a grant by contract to another person to conduct an activity authorized by that subdivision. A person that receives a grant from a grantee of the municipality under this subsection shall:

(1) at least annually submit a report of the person's expenditures of funds received from the grantee to the governing body of the municipality; and

(2) make records of those expenditures available for review to the governing body of the municipality and any other person.

(g-1) A municipality may not require a person that receives funds directly from the municipality through a grant to conduct an activity authorized by Subsection (a)(4) to waive a right guaranteed by law to the person or to enter into an agreement with another person.

(h) In addition to the uses authorized by Subsection (a), a municipality described by Subsection (a)(7)(B)(viii), as added by Chapter 546 (S.B. 585), Acts of the 83rd Legislature, Regular Session, 2013, may use revenue derived from the tax authorized by this chapter to promote tourism and the convention and hotel industry by constructing, maintaining, or expanding a sporting-related facility owned by the municipality if:

(1) the majority of the events at the facility involve participants staying at hotels in the municipality; and

(2) for a fiscal year, the municipality does not reduce the amount of that revenue that it uses for a purpose described by Subsection (a)(3) to an amount that is less than the lesser of:

(A) the amount of that revenue used by the municipality for that purpose during the municipality's 2015 fiscal year; or

(B) the total amount of that revenue received in the

fiscal year.

(i) In addition to the purposes provided by Subsection (a), a municipality that has a population of at least 75,000 but not more than 95,000 and that is located in a county that has a population of more than 160,000 but less than 200,000 may use revenue from the municipal hotel tax to promote tourism and the convention and hotel industry by constructing, operating, or expanding a sporting related facility or sports field owned by the municipality, if the majority of the events at the facility or field are directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels in the municipality.

(j) In addition to the purposes provided by Subsection (a), a municipality that has a population of not more than 5,000 and at least part of which is located less than one-eighth of one mile from a space center operated by an agency of the federal government may use revenue from the municipal hotel occupancy tax for expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity.

(k) In addition to other authorized uses, a municipality that is intersected by both State Highways 71 and 95 may use revenue from the municipal hotel occupancy tax for the promotion of tourism by the enhancement and upgrading of an existing sports facility or field as specified by Subsection (a)(7), provided that the requirements of Subsections (a)(7)(A) and (C) are met.

(m) In addition to the uses authorized by Subsections (a) and (e), and notwithstanding any provision of this chapter to the contrary, a municipality with a population of 6,500 or less that has at least 800 hotel rooms within the corporate boundaries of the municipality and that is located in a county adjacent to a county with a population of 3.3 million or more may use revenue derived from the tax authorized by this chapter to directly enhance and promote tourism and the convention and hotel industry by acquiring sites for and constructing, improving, enlarging, equipping, repairing, operating, and maintaining a municipally owned:

(1) convention center facility;

(2) sports-related facility with seating for at least 4,500 people that is used or is planned for use for one or more

professional or amateur sports events or other events, including rodeos, livestock shows, and performing arts events;

(3) multiuse facility that includes facilities described by Subdivisions (1) and (2); and

(4) related infrastructure for a facility described by Subdivision (1), (2), or (3), as that term is defined by Section 334.001(3), Local Government Code, for a venue.

(m-1) A municipality described by Subsection (m) that issues obligations secured wholly or partly by revenue derived from the tax authorized by this chapter for a use described by that subsection may use that revenue for those uses as long as the obligations are outstanding even if the municipality is no longer a municipality described by that subsection.

(n) In addition to other authorized uses, a municipality that has a population of not more than 1,500 and is located in a county that borders Arkansas and Louisiana may use revenue from the municipal hotel occupancy tax for the promotion of tourism by the enhancement and upgrading of an existing sports facility or field as specified by Subsection (a)(7), provided that the requirements of Subsections (a)(7)(A) and (C) and Section 351.1076 are met.

(o) In addition to the purposes provided by Subsection (a), a municipality that has a population of not more than 10,000, that contains an outdoor gear and sporting goods retailer with retail space larger than 175,000 square feet, and that hosts an annual wiener dog race may use revenue from the municipal hotel occupancy tax to promote tourism and the convention and hotel industry by constructing, operating, or expanding a sporting related facility or sports field owned by the municipality, if the majority of the events at the facility or field are directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels in the municipality. If a municipality to which this subsection applies uses revenue derived from the municipal hotel occupancy tax for a purpose described by this subsection, the municipality may not reduce the percentage of revenue from that tax allocated for a purpose described by Subsection (a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using the revenue for a purpose described by this subsection.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 351

(H.B. 3356), Sec. 1

(q) In addition to the purposes provided by Subsection (a), a municipality with a population of more than 48,000 but less than 95,000 that is located in two counties, one of which has a population of at least 900,000 but less than 1.7 million, may use revenue from the municipal hotel occupancy tax to promote tourism and the convention and hotel industry by constructing, improving, equipping, repairing, maintaining, operating, or expanding a coliseum or multiuse facility if the majority of the events at the coliseum or facility attract tourists who substantially increase economic activity at hotels in the municipality.

Text of subsection as added by Acts 2019, 86th Leg., R.S., Ch. 998 (H.B. 1634), Sec. 1

(q) In addition to the purposes provided by Subsections (a) and (e), a municipality with a population of more than 10,000 that has a city hall located less than three miles from a space center operated by an agency of the federal government and that is wholly located in a county with a population of four million or more may use revenue from the hotel occupancy tax for the construction, improvement, enlarging, equipping, renovating, repairing, operation, and maintenance of a coliseum or multiuse facility and related infrastructure or a venue, as defined by Section 334.001(4), Local Government Code, that is related to the promotion of tourism, including a hotel, resort, or convention center facility located on land owned by the municipality or a nonprofit corporation acting on behalf of the municipality.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.24(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1110, Sec. 4, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 680, Sec. 3, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1027, Sec. 1, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 755, Sec. 1, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 1308, Sec. 3, eff. June 16, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 90, eff. Oct. 1, 2003; Acts 2003, 78th Leg., ch. 303, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1247 (H.B. 1734), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1144 (S.B. 765), Sec. 1, eff.

June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 402 (H.B. 1789), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1220 (S.B. 1247), Sec. 3(a), eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1322 (H.B. 3098), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 23.004, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 247 (H.B. 970), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 764 (H.B. 1690), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 120, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 19.012, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 541 (S.B. 551), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 546 (S.B. 585), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 663 (H.B. 3595), Sec. 1, eff. June 17, 2015.

Acts 2015, 84th Leg., R.S., Ch. 665 (H.B. 3629), Sec. 1, eff. June 17, 2015.

Acts 2015, 84th Leg., R.S., Ch. 666 (H.B. 3772), Sec. 1, eff. June 17, 2015.

Acts 2015, 84th Leg., R.S., Ch. 970 (H.B. 1585), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 979 (H.B. 3615), Sec. 1, eff. June 19, 2015.

Acts 2015, 84th Leg., R.S., Ch. 979 (H.B. 3615), Sec. 2, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 53 (S.B. 1365), Sec. 1, eff. May 22, 2017.

Acts 2017, 85th Leg., R.S., Ch. 267 (H.B. 1896), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 17.003, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 453 (S.B. 942), Sec. 1, eff. June

9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 652 (S.B. 2166), Sec. 1, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 5, eff. June 15, 2017.

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 6, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 351 (H.B. 3356), Sec. 1, eff. June 2, 2019.

Reenacted and amended by Acts 2019, 86th Leg., R.S., Ch. 405 (S.B. 1262), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 14.003, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 998 (H.B. 1634), Sec. 1, eff. June 14, 2019.

Sec. 351.1012. ELECTRONIC TAX ADMINISTRATION SYSTEM. (a) Notwithstanding any other provision of this chapter, a municipality may spend each year not more than the lesser of one percent or $75,000 of the revenue derived from the tax authorized by this chapter during that year for the creation, maintenance, operation, and administration of an electronic tax administration system. A municipality may not use revenue the municipality is authorized to spend under this subsection to conduct an audit.

(b) A municipality may contract with a third party to assist in the creation, maintenance, operation, or administration of the electronic tax administration system.

Added by Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 22(d), eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 7, eff. June 15, 2017.

Sec. 351.1015. CERTAIN QUALIFIED PROJECTS. (a) In this section:

(1) "Base year amount" means the amount of hotel-associated

revenue collected in a project financing zone during the calendar year in which a municipality designates the zone.

(2) "Hotel-associated revenue" means the sum of:

(A) state tax revenue collected in a project financing zone from all hotels located in the zone that would be available to the owners of qualified hotel projects under Section 151.429(h) if the hotels were qualified hotel projects, excluding the amount of that revenue received by a municipality under Section 351.102(c) for a hotel project described by Section 351.102(b) and located in the zone that exists on the date the municipality designates the zone; and

(B) tax revenue collected from all permittees under Chapter 183 at hotels located in the zone, excluding revenue disbursed by the comptroller under Section 183.051(b).

(3) "Incremental hotel-associated revenue" means the amount in any calendar year by which hotel-associated revenue, including hotel-associated revenue from hotels built in the project financing zone after the year in which a municipality designates the zone, exceeds the base year amount.

(4) "Project financing zone" means an area within a municipality:

(A) that the municipality by ordinance or by agreement under Chapter 380, Local Government Code, designates as a project financing zone;

(B) the boundaries of which are within a three-mile radius of the center of a qualified project;

(C) the designation of which specifies the longitude and latitude of the center of the qualified project; and

(D) the designation of which expires not later than the 30th anniversary of the date of designation.

(5) "Qualified project" means:

(A) a convention center facility; or

(B) a multipurpose arena or venue that includes a livestock facility and is located within or adjacent to a recognized cultural district, and any related infrastructure, that is:

(i) located on land owned by a municipality or by the owner of the venue;

(ii) partially financed by private contributions that equal not less than 40 percent of the project costs; and

(iii) related to the promotion of tourism and the

convention and hotel industry.

(6) "Venue" and "related infrastructure" have the meanings assigned by Section 334.001, Local Government Code.

(b) This section applies only to a qualified project located in a municipality with a population of at least 650,000 but less than 750,000 according to the most recent federal decennial census.

(c) In addition to the uses provided by Section 351.101, revenue from the municipal hotel occupancy tax may be used to fund a qualified project.

(d) A municipality may pledge the revenue derived from the tax imposed under this chapter from a hotel located in the project financing zone for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, improve, enlarge, and equip the qualified project.

(e) A municipality may pledge for the payment of bonds or other obligations described by Subsection (d) the local revenue from eligible tax proceeds as defined by Section 2303.5055(e), Government Code, from hotels located in a project financing zone that would be available to the owners of qualified hotel projects under that section if the hotels were qualified hotel projects, excluding any amount received by the municipality for a hotel project described by Section 351.102(b) and located in the zone that exists on the date the municipality designates the zone.

(f) A municipality shall notify the comptroller of the municipality's designation of a project financing zone not later than the 30th day after the date the municipality designates the zone. Notwithstanding other law, the municipality is entitled to receive the incremental hotel-associated revenue from the project financing zone for the period beginning on the first day of the year after the year in which the municipality designates the zone and ending on the last day of the month during which the designation expires. The municipality may pledge the revenue for the payment of bonds or other obligations described by Subsection (d).

(g) The comptroller shall deposit incremental hotel-associated revenue collected by or forwarded to the comptroller in a separate suspense account to be held in trust for the municipality that is entitled to receive the revenue. The suspense account is outside the state treasury, and the comptroller may make a payment authorized by this section from the account without the necessity of an appropriation. The comptroller shall begin making payments from the

suspense account to the municipality for which the money is held on the date the qualified project in the project financing zone is commenced. If the qualified project is not commenced by the fifth anniversary of the first deposit to the account, the comptroller shall transfer the money in the account to the general revenue fund and cease making deposits to the account.

(h) The comptroller may estimate the amount of incremental hotel-associated revenue that will be deposited to a suspense account under Subsection (g) during each calendar year. The comptroller may make deposits to the account and the municipality may request disbursements from the account on a monthly basis based on the estimate. At the end of each calendar year, the comptroller shall adjust the deposits and disbursements to reflect the amount of revenue actually deposited to the account during the calendar year.

(i) A municipality shall notify the comptroller if the qualified project in the project financing zone is abandoned. If the qualified project is abandoned, the comptroller shall transfer to the general revenue fund the amount of money in the suspense account that exceeds the amount required for the payment of bonds or other obligations described by Subsection (d).

Added by Acts 2013, 83rd Leg., R.S., Ch. 127 (S.B. 748), Sec. 1, eff. September 1, 2013.

Sec. 351.102. PLEDGE FOR BONDS. (a) Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued under Section 1504.002(a), Government Code, for one or more of the purposes provided by Section 351.101 or, in the case of a municipality of 1,500,000 or more, for the payment of principal of or interest on bonds or other obligations of a municipally sponsored local government corporation created under Chapter 431, Transportation Code, that were issued to pay the cost of the acquisition and construction of a convention center hotel or the cost of acquisition, remodeling, or rehabilitation of a historic hotel structure; provided, however, such pledge may only be that portion of the tax collected at such hotel.

(b) A municipality described by Subsection (e) may pledge the revenue derived from the tax imposed under this chapter from a hotel

project that is owned by or located on land owned by the municipality or, in an eligible central municipality, by a nonprofit corporation acting on behalf of an eligible central municipality, and that is located within 1,000 feet of a qualified convention center facility, as defined by Section 351.151, owned by the municipality for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, and equip the hotel and any facilities ancillary to the hotel, including convention center entertainment-related facilities, restaurants, retail establishments, street and water and sewer infrastructure necessary for the operation of the hotel or ancillary facilities, and parking facilities within 1,000 feet of the hotel or convention center facility. For bonds or other obligations issued under this subsection, a municipality described by Subsection (e) may only pledge revenue or other assets of the hotel project benefiting from those bonds or other obligations.

(b-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 9, eff. September 1, 2019.

(c) A municipality described by Subsection (e) is entitled to receive all funds from a project described by Subsection (b) that an owner of a project may receive under Section 151.429(h) of this code, or Section 2303.5055, Government Code, and may pledge the funds for the payment of obligations issued under this section, but only if the municipality has pledged the revenue derived from the tax imposed under this chapter from the project for the payment of bonds or other obligations issued or incurred for the project.

(c-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 9, eff. September 1, 2019.

(e) Subsection (b) applies only to:

(1) a municipality with a population of two million or more;

(2) a municipality with a population of 700,000 or more but less than 1.3 million;

(3) a municipality with a population of 350,000 or more but less than 450,000 in which two professional sports stadiums are located, each of which:

(A) has a seating capacity of at least 40,000 people; and

(B) was approved by the voters of the municipality as a sports and community venue project under Chapter 334, Local Government Code; and

(4) a municipality with a population of less than 2,000 that:

(A) is located adjacent to a bay connected to the Gulf of Mexico;

(B) is located in a county with a population of 290,000 or more that is adjacent to a county with a population of four million or more; and

(C) has a boardwalk on the bay.

(g) Repealed by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 9, eff. September 1, 2019.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 231, Sec. 3, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.274, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1004, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1308, Sec. 4, eff. June 16, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.365, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 91, eff. Oct. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 519 (S.B. 1207), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1087 (H.B. 4781), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1220 (S.B. 1247), Sec. 4, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 490 (S.B. 1719), Sec. 5, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 227 (H.B. 1964), Sec. 2, eff. May 29, 2015.

Acts 2017, 85th Leg., R.S., Ch. 50 (S.B. 345), Sec. 1, eff. May 22, 2017.

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 8, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 9, eff. September 1, 2019.

Sec. 351.1021. PLEDGE OR COMMITMENT OF CERTAIN TAX REVENUE FOR

CERTAIN PROJECTS. (a) In this section:

(1) "Eligible municipality" means a municipality described by Section 351.102(e)(4).

(2) "Multipurpose convention center facility" means a facility that will be constructed and, after that construction:

(A) is used to host conventions, meetings, live performances, and sporting events;

(B) is:

(i) leased by an eligible municipality; or

(ii) wholly owned by an eligible municipality, and none of which is or may be owned through an undivided common interest;

(C) is not located in a hotel or other structure;

(D) has at least 10,000 square feet of continuous and usable meeting space; and

(E) is configurable to simultaneously accommodate multiple events described by Paragraph (A) of different sizes and types.

(3) "Multipurpose convention center facility project" means a project that consists of a hotel owned by an eligible municipality or another person and a multipurpose convention center facility, the nearest exterior wall of which is located not more than 2,500 feet from the nearest exterior wall of the hotel. A multipurpose convention center facility project may include:

(A) each new or existing business located in the municipality, regardless of who owns the business or the property on which the business is located, the nearest exterior wall of which is located not more than 2,500 feet from the nearest exterior wall of the multipurpose convention center facility or the hotel that is part of the project;

(B) a parking shuttle or transportation system; and

(C) any parking area or structure located in the municipality, regardless of who owns the area or structure or the property on which the area or structure is located, the nearest property line of which is located not more than two miles from the nearest exterior wall of the multipurpose convention center facility.

(b) An eligible municipality or local government corporation acting on behalf of an eligible municipality is entitled to receive all funds from a multipurpose convention center facility project that the owner of a project could receive under Section 151.429(h) of this

code or Section 2303.5055, Government Code, if a project for purposes of those provisions included a multipurpose convention center facility project. The municipality or local government corporation is entitled to receive the funds for a period of 10 years beginning on the date the multipurpose convention center facility is issued a certificate of occupancy.

(c) An eligible municipality or local government corporation acting on behalf of an eligible municipality may pledge or commit the funds to which the municipality or local government corporation is entitled as provided by Subsection (b) for the payment of bonds, other obligations, or contractual obligations issued or incurred for the multipurpose convention center facility project.

(d) The comptroller shall deposit the funds to which an eligible municipality or local government corporation is entitled as provided by Subsection (b) in a separate suspense account of the municipality outside the state treasury.

(e) The comptroller may make a rebate, refund, or payment authorized under this section without the necessity of an appropriation. The comptroller shall rebate, refund, or pay to the eligible municipality the funds to which the municipality or local government corporation is entitled as provided by Subsection (b) at least quarterly.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 5, eff. September 1, 2019.

Sec. 351.1022. PLEDGE OR COMMITMENT OF CERTAIN TAX REVENUE BY CERTAIN MUNICIPALITIES WITH SPORTS STADIUMS. (a) This section applies only to a municipality described by Section 351.102(e)(3).

(b) A municipality is entitled to receive all funds from a hotel project described by Section 351.102(b) that an owner of a project may receive under Section 151.429(h) of this code or Section 2303.5055, Government Code, and all tax revenue collected under Chapter 183 by or from all permittees at the hotel project, excluding revenue disbursed by the comptroller under Section 183.051(b). Notwithstanding any other law, the municipality is entitled to receive the funds for a period of 30 years beginning on the date the hotel project is open for initial occupancy.

(c) The municipality may pledge the funds to which the

municipality is entitled as provided by Subsection (b) for the payment of bonds, other obligations, or contractual obligations issued or incurred to acquire, lease, construct, improve, enlarge, and equip the hotel project.

(d) The comptroller shall deposit the funds to which the municipality is entitled as provided by Subsection (b) in a separate suspense account of the municipality outside the state treasury.

(e) The comptroller may make a rebate, refund, or payment authorized under this section without the necessity of an appropriation. The comptroller shall rebate, refund, or pay to the municipality the funds to which the municipality is entitled as provided by Subsection (b) at least monthly.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 6, eff. September 1, 2019.

Sec. 351.103. ALLOCATION OF REVENUE: GENERAL RULE. (a) At least 50 percent of the hotel occupancy tax revenue collected by a municipality with a population of 200,000 or greater must be allocated for the purposes provided by Section 351.101(a)(3). For municipalities with a population of less than 200,000, allocations for the purposes provided by Section 351.101(a)(3) are as follows:

(1) if the tax rate in a municipality is not more than three percent of the cost paid for a room, not less than the amount of revenue received by the municipality from the tax at a rate of one-half of one percent of the cost of the room; or

(2) if the tax in a municipality exceeds three percent of the cost of a room, not less than the amount of revenue received by the municipality from the tax at a rate of one percent of the cost of a room. This subsection does not apply to a municipality, regardless of population, that before October 1, 1989, adopted an ordinance providing for the allocation of an amount in excess of 50 percent of the hotel occupancy tax revenue collected by the municipality for one or more specific purposes provided by Section 351.101(a)(1) until the ordinance is repealed or expires or until the revenue is no longer used for those specific purposes in an amount in excess of 50 percent of the tax revenue.

(b) Subsection (a) does not apply to a municipality in a fiscal year of the municipality if the total amount of hotel occupancy tax

collected by the municipality in the most recent calendar year that ends at least 90 days before the date the fiscal year begins exceeds $2 million. A municipality excepted from the application of Subsection (a) by this subsection shall allocate hotel occupancy tax revenue by ordinance, consistent with the other limitations of this section. The portion of the tax revenue allocated by a municipality with a population of more than 1.6 million for the purposes provided by Section 351.101(a)(3) may not be less than 23 percent, except that the allocation is subject to and may not impair the authority of the municipality to:

(1) pledge all or any portion of that tax revenue to the payment of bonds as provided by Section 351.102(a) or bonds issued to refund bonds secured by that pledge; or

(2) spend all or any portion of that tax revenue for the payment of operation and maintenance expenses of convention center facilities.

(b-1) Notwithstanding Subsection (a), at least 30 percent of the hotel occupancy tax revenue collected by a municipality described by Section 351.101(a)(6)(C) must be allocated for the purposes provided by Section 351.101(a)(3).

(c) Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality, other than a municipality having a population of more than 1.6 million, or the amount of tax received by the municipality at the rate of one percent of the cost of a room, whichever is greater, may be used for the purposes provided by Section 351.101(a)(4). Not more than 19.30 percent of the hotel occupancy tax revenue collected by a municipality having a population of more than 1.6 million, or the amount of tax received by the municipality at the rate of one percent of the cost of a room, whichever is greater, may be used for the purposes provided by Section 351.101(a)(4). Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality having a population of more than 125,000 may be used for the purposes provided by Section 351.101(a)(5).

(d) A municipality that does not allocate any hotel occupancy tax revenue for the purposes provided by Section 351.101(a)(1) may allocate not more than 50 percent of the hotel occupancy tax revenue collected by the municipality for the purposes provided by Section 351.101(a)(5). A municipality that before October 1, 1989, adopts an ordinance providing for the allocation of an amount in excess of 50

percent of the hotel occupancy tax revenue collected by the municipality for one or more specific purposes provided by Section 351.101(a)(5) may allocate the tax revenue as provided by that ordinance until the ordinance is repealed or expires or until the revenue is no longer used for those specific purposes.

(e) A municipality may use hotel occupancy tax revenue collected by the municipality for a purpose provided by Section 351.101(a)(1) only if the municipality complies with the applicable provisions of this section.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.24(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1110, Sec. 6, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 153, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 680, Sec. 5, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1308, Sec. 5, eff. June 16, 2001.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 405 (S.B. 1262), Sec. 2, eff. September 1, 2019.

Sec. 351.1035. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES IN BORDER COUNTIES. (a) This section applies only to a municipality that is the largest municipality in a county described by Section 352.002(a)(14).

(b) At least 50 percent of the hotel occupancy tax revenue collected by a municipality described by Subsection (a) must be allocated for the purposes provided by Section 351.101(a)(3).

(c) Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality described by Subsection (a) may be used for the purposes provided by Section 351.101(a)(4).

(d) Not more than 15 percent of the hotel occupancy tax revenue collected by a municipality described by Subsection (a) may be used for the purposes provided by Section 351.101(a)(5).

Added by Acts 2003, 78th Leg., ch. 303, Sec. 2, eff. June 18, 2003.

For expiration of this section, see Subsection (f).

Sec. 351.1036. ALLOCATION OF REVENUE FOR AIRPORTS BY CERTAIN

MUNICIPALITIES IN BORDER COUNTIES. (a) This section applies only to a municipality that is the county seat of a county that borders:

(1) the United Mexican States;

(2) a county described by Section 352.002(a)(7); and

(3) a county described by Section 352.002(a)(14).

(b) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use municipal hotel occupancy tax revenue to improve or expand an airport:

(1) owned by the county in which the municipality is located;

(2) located more than 150 miles from the nearest airport in this state with regularly scheduled commercial airline flights; and

(3) substantially used for private air service that transports individuals staying at hotels in or near the municipality.

(c) A municipality to which this section applies may not use municipal hotel occupancy tax revenue to improve or expand an airport described by Subsection (b):

(1) in an amount each fiscal year that exceeds 15 percent of the hotel occupancy tax revenue collected by the municipality during that year; or

(2) in a total amount under this section that would exceed the amount of hotel revenue in the municipality that is likely to be reasonably attributable to guests traveling through the airport during the 15-year period beginning on the date the municipality first uses municipal hotel occupancy tax revenue to improve or expand the airport.

(d) A municipality to which this section applies may not use municipal hotel occupancy tax revenue to improve or expand an airport described by Subsection (b) after the 10th anniversary of the date the municipality first uses that revenue for that purpose.

(e) The governing body of a municipality shall retain sufficient control over revenue described by this section to ensure the revenue is used to benefit the municipality by improving or expanding an airport described by Subsection (b).

(f) This section expires December 31, 2032.

Added by Acts 2017, 85th Leg., R.S., Ch. 223 (S.B. 440), Sec. 1, eff. May 29, 2017.

Sec. 351.104. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES BORDERING BAYS. (a) This section applies only to a home-rule municipality that borders a bay, that has a population of less than 80,000, and that is not an eligible coastal municipality.

(b) In this section:

(1) "Adjacent public land" means land that:

(A) is owned by this state or a local governmental entity; and

(B) is located adjacent to a bay that is bordered by a municipality to which this section applies.

(2) "Clean and maintain" means the collection and removal of litter and debris and the supervision and elimination of sanitary and safety conditions that would pose a threat to personal health or safety if not removed or otherwise corrected.

(c) Notwithstanding any other provision of this chapter and subject to Subsections (d) and (e), a municipality to which this section applies may use not more than 10 percent of the revenue derived from the tax imposed under this chapter:

(1) for a purpose described by Section 351.105(a)(1) or (2);

(2) to clean and maintain adjacent public land; or

(3) to mitigate coastal erosion on adjacent public land.

(d) A municipality to which this section applies may not reduce the amount of revenue that it uses for a purpose described by Section 351.101(a)(3) to an amount that is less than the average amount of revenue used by the municipality for that purpose during the 36-month period that precedes the municipality's use of revenue under Subsection (c).

(e) A municipality that uses revenue from the tax imposed under this chapter for a purpose provided by this section must spend the same amount of revenue for the same purpose from a source other than that tax.

Acts 2003, 78th Leg., ch. 699, Sec. 1, eff. Sept. 1, 2003.

Sec. 351.105. ALLOCATION OF REVENUE: ELIGIBLE COASTAL MUNICIPALITIES. (a) An eligible coastal municipality that levies and collects an occupancy tax authorized by this chapter at a rate of seven percent shall pledge a portion of the revenue equal to at least

one percent of the cost of a room to either or both of the following purposes:

(1) the payment of the bonds that the municipality or a park board of trustees may issue under Section 1504.002(a), Government Code, or under Chapter 306, Local Government Code, in order to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment, or repair of public improvements, including parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality; or

(2) the maintenance, improvement, or operation of the parks, civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, marinas, cruise ship terminal facilities, hotels, motels, parking facilities, golf courses, trolley or trolley transportation systems, and other facilities as may be considered advisable in connection with these facilities that serve the purpose of attracting visitors and tourists to the municipality.

(b) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of four or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of three percent of the cost of a room shall be used for the purpose provided by Section 351.101(a)(3).

(c) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of five or more percent of the cost of a room, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent shall be used for beach patrol, lifeguard services, marine water safety, and park law enforcement.

(d) If the tax authorized by this chapter is imposed by an eligible coastal municipality at a rate of six or more percent, no lesser amount than the amount of revenue derived from the application of the tax at a rate of one percent of the cost of a room shall be used as matching funds for state funds available to clean and maintain public beaches and for other public beach-cleaning funds.

(e) Money received under Section 156.2511 and used to clean and

maintain beaches is included in determining whether the municipality has met the funding obligation prescribed by Subsections (c) and (d), and the municipality may credit that money against the funding requirements prescribed by Subsections (c) and (d).

(f) An eligible coastal municipality and a park board of trustees created by the municipality may:

(1) contract for the park board to use the tax authorized by this chapter as provided by this section; and

(2) without further authorization, use the tax authorized by this chapter as provided by this section, including for the purpose of issuing bonds or entering into other agreements.

(g) The following statutes prevail over any conflicting provision in the charter of an eligible coastal municipality:

(1) this section;

(2) Chapter 306, Local Government Code; and

(3) Subchapter A, Chapter 1504, Government Code.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 680, Sec. 6, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 15.02, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 454, Sec. 7, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 298, Sec. 1, eff. May 29, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 8.367, eff. Sept. 1, 2001.

Sec. 351.1054. ALLOCATION OF REVENUE: ELIGIBLE BARRIER ISLAND COASTAL MUNICIPALITY. (a) In this section, "spacecraft" and "spaceport" have the meanings assigned by Section 507.001, Local Government Code.

(b) Notwithstanding any other provision of this chapter, an eligible barrier island coastal municipality may use revenue from the municipal hotel occupancy tax for:

(1) promotional and event expenses for an ecological tourism event, including an event for which the primary attraction is traveling to an area of natural or ecological interest for the purpose of observing and learning about wildlife and the area's natural environment, if:

(A) a majority of the event's participants are tourists; and

(B) the event substantially increases economic activity

at hotels and motels within or in the vicinity of the municipality;

(2) expenses directly related to:

(A) the acquisition of sites to observe spacecraft and spaceport activities; and

(B) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of facilities utilized by hotel guests to observe and learn about spacecraft and spaceport operations; and

(3) expenses directly related to the construction, improvement, equipping, repairing, operation, and maintenance of coastal sports facilities owned by the municipality, including boat docks, boat ramps, and fishing piers used by hotel guests, if:

(A) the coastal sports facilities have been used in the preceding calendar year a combined total of more than five times for district, state, regional, or national sports tournaments or events; and

(B) the majority of the events at the coastal sports facilities are directly related to a sports tournament or event in which the majority of participants are tourists who substantially increase economic activity at hotels within or in the vicinity of the municipality.

(c) A municipality may use for the purposes provided by Subsections (b)(1), (2), and (3) not more than the greater of:

(1) 15 percent of the hotel occupancy tax revenue collected by the municipality; or

(2) the amount of tax received by the municipality at the rate of one percent of the cost of a room.

Added by Acts 2015, 84th Leg., R.S., Ch. 540 (H.B. 1717), Sec. 1, eff. June 16, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 616 (H.B. 4029), Sec. 1, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 616 (H.B. 4029), Sec. 2, eff. June 12, 2017.

Sec. 351.1055. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) In this section:

(1) "Clean and maintain" has the meaning assigned by

Section 61.063, Natural Resources Code.

(2) "Public beach" has the meaning assigned by Section 61.001, Natural Resources Code.

(3) "Beach security" means beach patrol, lifeguard services, marine water safety, and park law enforcement.

(4) "Erosion response project" has the meaning assigned by Section 33.601, Natural Resources Code.

(b) Notwithstanding any other provision of this chapter, a home-rule municipality that borders on the Gulf of Mexico and has a population of more than 250,000 may use all or any portion of the revenue derived from the municipal hotel occupancy tax from hotels in an area previously subject to a county hotel occupancy tax and located on an island bordering the Gulf of Mexico to clean and maintain public beaches in the municipality.

(c) Notwithstanding any other provision of this chapter, a municipality that has a population of less than 5,000 adjacent to a home-rule city with a population of less than 80,000 may use all or any portion of the revenue heretofore or hereafter derived from the municipal hotel tax:

(1) to clean and maintain the beaches in the municipality;

(2) to provide beach security within the municipality;

(3) for any of the purposes permitted or allowed by Section 1504.001, Government Code;

(4) for any purpose allowed by Section 351.105; or

(5) to pay the principal of or interest on bonds or notes issued for any of these purposes.

(d) Notwithstanding any other provision of this chapter and except as provided by Subsection (e), an eligible barrier island coastal municipality shall use at least the amount of revenue derived from the application of the tax at a rate of seven percent of the cost of a room for the purposes authorized under Sections 351.101(a)(1) and (3) and Sections 351.1054(b)(1) and (2). If an eligible barrier island coastal municipality uses hotel occupancy tax revenue for a purpose described by Section 351.1054(b)(2), the municipality may not reduce the amount of revenue that is used for purposes described by Section 351.101(a)(3) to an amount that is less than the average amount of revenue used by the municipality for purposes described by Section 351.101(a)(3) during the 36-month period that precedes the municipality's first use of revenue for a purpose described by Section 351.1054(b)(2).

(e) An eligible barrier island coastal municipality that imposes the tax at a rate equal to or greater than 7-1/2 percent of the price paid for a room shall use at least the amount of revenue derived from the application of the tax at a rate of one-half of one percent of the cost of a room for erosion response projects.

Added by Acts 1999, 76th Leg., ch. 1359, Sec. 3, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 117, Sec. 1, eff. July 1, 2003; Acts 2003, 78th Leg., ch. 247, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1271 (H.B. 1324), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1271 (H.B. 1324), Sec. 4, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 540 (H.B. 1717), Sec. 2, eff. June 16, 2015.

Sec. 351.106. ALLOCATION OF REVENUE: POPULOUS MUNICIPALITIES WITH COUNCIL-MANAGER GOVERNMENT. (a) A municipality that has a population of 1.18 million or more, is located predominantly in a county that has a total area of less than 1,000 square miles, and that has adopted a council-manager form of government shall use the amount of revenue from the tax that is derived from the application of the tax at a rate of more than four percent of the cost of a room as follows:

(1) no more than 55 percent to:

(A) constructing, improving, enlarging, equipping, and repairing the municipality's convention center complex; or

(B) pledging payment of revenue bonds and revenue refunding bonds issued under Subchapter A, Chapter 1504, Government Code, for the municipality's convention center complex; and

(2) at least 45 percent for the purposes provided by Section 351.101(a)(3).

(b) Revenue received by a municipality described by Subsection (a) from the application of the tax at a rate of four percent or less may be used as provided by Section 351.101.

(c) A municipality to which this section applies:

(1) is entitled to receive in the same manner all funds and revenue that a municipality to which Section 351.1015 applies may

receive under that section; and

(2) may pledge the funds and revenue for the payment of obligations incurred for the construction of qualified projects authorized under that section.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.23(b), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 597, Sec. 108, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 123, 124, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 8.368, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 121, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1330 (S.B. 660), Sec. 2, eff. June 14, 2013.

Sec. 351.1063. ALLOCATION OF REVENUE FOR ADVERTISING AND PROMOTION: CERTAIN MUNICIPALITIES WITH CERTAIN PROJECTS. (a) This section applies only to a municipality described by Section 351.102(e) or 351.152, other than an eligible central municipality described by Section 351.001(7)(D).

(b) A municipality that uses revenue derived from the tax imposed under this chapter or funds received under Section 351.102(c), 351.156, or 351.157 for a hotel project under Section 351.102(b) or a qualified project under Section 351.155 may not reduce the percentage of revenue from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using the revenue or funds for the hotel project.

Redesignated and amended by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 3, eff. September 1, 2019.

Sec. 351.1064. ALLOCATION OF REVENUE FOR CERTAIN SPORTING EVENT EXPENSES: CERTAIN MUNICIPALITIES WITH QUALIFIED PROJECT. (a) This section applies only to a municipality with a population of 200,000 or more but less than 300,000 that contains a component institution

of the Texas Tech University System.

(b) A municipality that uses revenue derived from the tax imposed under this chapter or funds received under Section 351.156 for repayment of bonds, other obligations, or contractual obligations issued or incurred for a qualified project under Section 351.155 may not, in a fiscal year that begins after the qualified project is complete and during any part of which the bonds, other obligations, or contractual obligations are outstanding, reduce the amount of revenue derived from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(6) to an amount that is less than the sum of:

(1) the amount of the revenue derived from the tax imposed under this chapter and allocated by the municipality for a purpose described by Section 351.101(a)(6) during the fiscal year beginning October 1, 2016; and

(2) three percent of the amount of revenue derived from the tax imposed under this chapter during the fiscal year for which the amount required by this subsection is being determined.

Redesignated and amended by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 4, eff. September 1, 2019.

Sec. 351.1065. ALLOCATION OF REVENUE: ELIGIBLE CENTRAL MUNICIPALITY. (a) An eligible central municipality shall use the amount of revenue from the tax that is derived from the application of the tax at a rate of more than seven percent of the cost of a room only for:

(1) the construction of an expansion of an existing convention center facility;

(2) a qualified project to which Section 351.1015 applies; and

(3) pledging payment of revenue bonds and revenue refunding bonds issued under Subchapter A, Chapter 1504, Government Code, for the construction or qualified project.

(b) Any interest income derived from the application of the tax at a rate of more than seven percent of the cost of a room may be used only for the purposes provided by this section.

(c) An eligible central municipality expending tax revenue under this section shall attempt to include minority-owned businesses

in the issuance of at least 32 percent of the total dollar value of the bonds issued, and in at least 32 percent of the total fees paid by the issuer, in connection with the construction.

Added by Acts 1993, 73rd Leg., ch. 620, Sec. 3, eff. Aug. 30, 1993.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.369, eff. Sept. 1, 2001.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 127 (S.B. 748), Sec. 2, eff. September 1, 2013.

Sec. 351.1066. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) This section applies only to:

(1) a municipality with a population of at least 3,500 but less than 5,500 that is the county seat of a county with a population of less than 50,000 that borders a county with a population of more than 1.6 million;

(2) a municipality with a population of at least 2,900 but less than 3,500 that is the county seat of a county with a population of less than 22,000 that is bordered by the Trinity River and includes a state park and a portion of a wildlife management area;

(3) a municipality with a population of at least 7,500 that is located in a county that borders the Pecos River and that has a population of not more than 15,000;

(4) a municipality with a population of not more than 15,000 that is located in a county through which the Frio River flows and an interstate highway crosses, and that has a population of at least 15,000;

(5) a municipality with a population of not less than 7,500 that is located in a county with a population of not less than 40,000 but less than 250,000 that is adjacent to a county with a population of less than 750;

(6) a municipality that is the county seat of a county with a population of at least 8,500 and that county contains part of the Chaparral Wildlife Management Area; and

(7) a municipality that has a population of not more than 25,000, that contains a cultural heritage museum, and that is located in a county that borders the United Mexican States and the Gulf of Mexico.

(b) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use all or any portion of the revenue derived from the municipal hotel occupancy tax for:

(1) the construction, enlarging, equipping, improvement, maintenance, repairing, and operation of a recreational facility to substantially enhance hotel activity and encourage tourism; and

(2) the construction, enlarging, equipping, improvement, maintenance, repairing, and operation of an arena used for rodeos, livestock shows, and agricultural expositions to substantially enhance hotel activity and encourage tourism.

(c) A municipality to which this section applies may not use municipal hotel tax revenue to construct or expand a facility described by Subsection (b) in an amount that would exceed the amount of hotel revenue in the area that is likely to be reasonably attributable to events held at that facility during the 15-year period beginning on the date the construction or expansion is completed.

(d) An independent analyst or consultant hired by the municipality must make the projection required by Subsection (c).

(e) A municipality that uses municipal hotel occupancy tax revenue under this section shall annually prepare a report that describes:

(1) the events held during the preceding year at each facility that received municipal hotel occupancy tax revenue from the municipality during that year; and

(2) the number of hotel room nights, hotel revenue, and municipal hotel occupancy tax revenue attributable to those events.

Added by Acts 2011, 82nd Leg., R.S., Ch. 751 (H.B. 1315), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 666 (H.B. 3772), Sec. 2, eff. June 17, 2015.

Acts 2019, 86th Leg., R.S., Ch. 58 (S.B. 320), Sec. 1, eff. May 20, 2019.

Acts 2019, 86th Leg., R.S., Ch. 999 (H.B. 2199), Sec. 1, eff. September 1, 2019.

Sec. 351.1067. ALLOCATION OF REVENUE; CERTAIN MUNICIPALITIES.

(a) This section applies only to a municipality that has a population of at least 190,000, no part of which is located in a county with a population of at least 150,000.

(b) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use revenue from the municipal hotel occupancy tax to conduct an audit of a person in the municipality required to collect the tax authorized by this chapter, provided that the municipality use the revenue to audit not more than one-third of the total number of those persons in any fiscal year.

Added by Acts 2013, 83rd Leg., R.S., Ch. 939 (H.B. 1662), Sec. 1, eff. June 14, 2013.
Added by Acts 2013, 83rd Leg., R.S., Ch. 944 (H.B. 1724), Sec. 3, eff. September 1, 2013.

Sec. 351.1068. ALLOCATION OF REVENUE FOR SPORTS FACILITIES BY CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that is the county seat of a county that:

(1) is located on the Texas-Mexico border;

(2) has a population of 500,000 or more; and

(3) is adjacent to two or more counties, each of which has a population of 50,000 or more.

(b) A municipality to which this section applies may use revenue derived from the municipal hotel occupancy tax to construct, maintain, or expand a sporting-related facility, a sporting-related field, or related infrastructure as defined by Section 334.001, Local Government Code, that is located within 2,500 feet of the facility or field and is directly related to the facility or field, provided that:

(1) the facility, field, or infrastructure is located on property owned by the municipality; and

(2) the municipality's sports facilities and fields have been used in the preceding calendar year a combined total of more than 10 times for district, state, regional, or national sports tournaments, games, or events.

(c) A municipality to which this section applies that uses revenue derived from the municipal hotel occupancy tax for a purpose described by Subsection (b):

(1) shall determine the amount of municipal hotel occupancy

tax revenue generated for the municipality by hotel activity attributable to the newly constructed, enhanced, or upgraded facilities, fields, or related infrastructure for 10 years after the date the original construction, enhancements, or upgrades of the first of the facilities or fields are completed; and

(2) may not spend municipal hotel occupancy tax revenue for the construction, enhancement, or upgrading of the facilities, fields, or related infrastructure in a total amount that exceeds the amount of area hotel revenue attributable to the construction, enhancements, or upgrades as determined under Subdivision (1).

(d) A municipality to which this section applies shall reimburse from the municipality's general fund any expenditure in excess of the amount of area hotel revenue attributable to the construction, enhancements, or upgrades to the municipality's hotel occupancy tax revenue fund.

(e) If a municipality to which this section applies uses revenue derived from the municipal hotel occupancy tax for a purpose described by Subsection (b), the municipality may not reduce the percentage of revenue from that tax allocated for a purpose described by Section 351.101(a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using the revenue for a purpose described by Subsection (b).

Added by Acts 2017, 85th Leg., R.S., Ch. 227 (S.B. 1136), Sec. 1, eff. May 29, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 1016 (S.B. 2137), Sec. 1, eff. September 1, 2019.

Sec. 351.10692. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of less than 2,000 located in a county that:

(1) is adjacent to the county in which the State Capitol is located; and

(2) has a population of:

(A) not more than 25,000; or

(B) at least 100,000 but not more than 200,000.

(b) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use revenue from the municipal hotel occupancy tax for the promotion and preservation of dark skies through construction and maintenance of infrastructure and the purchase and installation of hardware that reduces light pollution and sky glow.

(c) A municipality that uses revenue from the municipal hotel occupancy tax for a purpose described by Subsection (b):

(1) shall determine the amount of area hotel revenue attributable to dark skies related events and activities for five years after the date the municipality first uses hotel occupancy tax revenue for a purpose described by Subsection (b); and

(2) may not spend municipal hotel occupancy tax revenue for the purposes described by Subsection (b) in a total amount that exceeds the amount determined under Subdivision (1).

(d) A municipality may not spend more than 25 percent of the municipality's annual hotel occupancy tax revenue for a purpose described by Subsection (b).

Added by Acts 2019, 86th Leg., R.S., Ch. 1004 (H.B. 4158), Sec. 1, eff. June 14, 2019.

Sec. 351.107. ALLOCATION OF REVENUE; CERTAIN LARGE COASTAL MUNICIPALITIES. (a) This section applies only to a municipality that borders on the Gulf of Mexico and has a population of more than 250,000.

(b) A municipality to which this section applies shall separately account for all revenue derived from the application of the tax imposed by this chapter at a rate of more than seven percent of the cost of a room.

(c) Subject to Subsection (e), revenue described by Subsection (b) may be used only for:

(1) acquiring land for a municipally owned convention center;

(2) constructing, improving, enlarging, equipping, repairing, operating, and maintaining a municipally owned convention center; and

(3) paying bonds used to finance activities described by Subdivision (1) or (2).

(d) For the purpose of the allocation of revenue under Section 351.103, revenue described by Subsection (b) is not counted.

(e) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use all or any portion of the revenue derived from the municipal hotel occupancy tax from hotels in an area previously subject to a county hotel occupancy tax and located on an island bordering the Gulf of Mexico to clean and maintain public beaches in the municipality.

(f) In this section:

(1) "Clean and maintain" has the meaning assigned by Section 61.063, Natural Resources Code.

(2) "Public beach" has the meaning assigned by Section 61.001, Natural Resources Code.

Added by Acts 1999, 76th Leg., ch. 825, Sec. 2, eff. June 18, 1999.
Amended by Acts 2003, 78th Leg., ch. 117, Sec. 2, eff. July 1, 2003.

Sec. 351.1071. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality:

(1) that has a population of not more than 5,000; and

(2) at least part of which is located less than one-eighth of one mile from a space center operated by an agency of the federal government.

(b) In this section, "authorized facility" means a civic center, marina, meeting room, hotel, parking facility, or visitor center, including signage related to the facility, that:

(1) is owned by the municipality or a nonprofit corporation acting on behalf of the municipality;

(2) is located not more than 1,000 feet from a hotel property in the municipality; and

(3) substantially enhances hotel activity and encourages tourism within the municipality.

(c) Subject to Subsection (d) and notwithstanding any other provision of this chapter, a municipality to which this section applies may use the amount of revenue derived from the application of the tax under this chapter at a rate of three percent of the price paid for a room in a hotel to:

(1) establish, acquire, purchase, construct, improve, maintain, or operate an authorized facility; and

(2) pay bonds issued for a purpose described by Subdivision (1).

(d) A municipality may not use municipal hotel occupancy tax revenue on an authorized facility in a total amount that would exceed the amount of hotel revenue attributable to events at that facility for the 15-year period following the completion of construction.

(e) A municipality that uses municipal hotel occupancy tax revenue for a purpose authorized by this section shall publish annually for the 15-year period following the completion of construction at the authorized facility for which the revenue was used a report on the Internet website of the municipality that lists:

(1) for the preceding year, the events held at the authorized facility with respect to which the tax revenue was used and the number of hotel room nights attributable to those events; and

(2) the amount of hotel revenue and municipal hotel occupancy tax revenue attributable to events held at the authorized facility in that year.

(f) If a municipality uses municipal hotel occupancy tax revenue to establish, acquire, purchase, construct, or improve an authorized facility, the municipality shall, on the 5th, 10th, and 15th anniversaries of the completion of construction at the facility:

(1) calculate:

(A) the sum of:

(i) municipal hotel occupancy tax revenue used to maintain or operate the facility in the past five years;

(ii) one-third of the amount of municipal hotel occupancy tax revenue used to establish, acquire, purchase, construct, or improve the authorized facility; and

(iii) any credits carried over from a previous five-year period, as authorized by Subsection (g); and

(B) hotel revenue directly attributable to events held at the authorized facility in the past five years; and

(2) if the amount calculated under Subdivision (1)(A) exceeds the amount calculated under Subdivision (1)(B), reimburse the municipality's hotel occupancy tax revenue fund from the municipality's general fund in the amount of the difference.

(g) If, for a given five-year period, the amount calculated under Subsection (f)(1)(B) exceeds the amount calculated under Subsection (f)(1)(A), the municipality may carry forward the difference to be used as a credit in a subsequent five-year period.

Added by Acts 2015, 84th Leg., R.S., Ch. 970 (H.B. 1585), Sec. 2, eff. September 1, 2015.

Sec. 351.10711. ALLOCATION OF REVENUE FOR MAINTENANCE, ENHANCEMENT, AND UPGRADE OF SPORTS FACILITIES AND FIELDS BY CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that is the county seat of a county that has a population of more than 10,000 and contains a portion of Mound Lake.

(b) In addition to other authorized uses, a municipality to which this section applies may use revenue derived from the tax imposed under this chapter to promote tourism by maintaining, enhancing, or upgrading sports facilities or fields, provided that:

(1) the requirements of Section 351.1076 are met if the municipality uses the revenue to enhance or upgrade a sports facility or field;

(2) the municipality owns the sports facilities or fields; and

(3) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments.

(c) A municipality that uses revenue derived from the tax imposed under this chapter as authorized by Subsection (b) may not reduce the percentage of revenue from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using the revenue as authorized by Subsection (b).

Added by Acts 2017, 85th Leg., R.S., Ch. 650 (S.B. 2056), Sec. 1, eff. June 12, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 9, eff. June 15, 2017.

Sec. 351.10712. ALLOCATION OF REVENUE FOR CONSTRUCTION AND MAINTENANCE OF SPORTS-RELATED FACILITIES BY CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of

at least 95,000 that is located in a county that is bisected by United States Highway 385 and has a population of not more than 140,000.

(b) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use revenue derived from the tax imposed under this chapter to construct and maintain:

(1) a sports facility located in the municipality; or

(2) a multipurpose convocation center capable of hosting intercollegiate athletic events on land owned by a state university if the municipality leases the land on which the center will be located from the university for a term of at least 25 years.

(c) A municipality that uses revenue derived from the tax imposed under this chapter for a purpose described by Subsection (b):

(1) shall determine the amount of area hotel revenue attributable to the sports events and tournaments held at the sports facility or multipurpose convocation center for seven years after the date the municipality first uses hotel occupancy tax revenue for the purpose described by Subsection (b);

(2) shall at the end of the seven-year period described by Subdivision (1) reimburse from the municipality's general fund to the municipality's hotel occupancy tax revenue fund any hotel occupancy tax revenue expended on the sports facility or multipurpose convocation center during that period in excess of the amount determined under Subdivision (1); and

(3) may not during the seven-year period described by Subdivision (1) reduce the percentage of revenue from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality first uses hotel occupancy tax revenue for the purpose described by Subsection (b).

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 7, eff. September 1, 2019.

Sec. 351.1075. ALLOCATION OF REVENUE FOR THE ARTS BY CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality:

(1) a portion of which is designated as a cultural arts

district; and

(2) that is the county seat of a county:

(A) described by Section 352.002(a)(6);

(B) with a population of less than 50,000; and

(C) that includes a state park and a national wildlife refuge.

(b) Notwithstanding any other provision of this chapter and subject to Subsection (c)(1), a municipality to which this section applies may use not more than 30 percent of the revenue derived from the municipal hotel occupancy tax for the purposes provided by Section 351.101(a)(4).

(c) A municipality to which this section applies that spends more than 15 percent of the hotel occupancy tax revenue collected by the municipality in a fiscal year for the purposes provided by Section 351.101(a)(4):

(1) may not in that fiscal year reduce the percentage of hotel occupancy tax revenue that the municipality spends for the purposes described by Section 351.101(a)(3) to a percentage that is less than the average percentage of hotel occupancy tax revenue spent by the municipality for those purposes during the 36-month period preceding that fiscal year; and

(2) shall determine for that fiscal year:

(A) the increase in the amount of hotel revenue that is attributable to that expenditure; and

(B) the total amount of hotel occupancy tax revenue spent by the municipality for the purposes provided by Section 351.101(a)(4).

(d) If the amount of money determined under Subsection (c)(2)(A) is less than the amount of money determined under Subsection (c)(2)(B), the municipality shall reimburse the municipality's hotel occupancy tax revenue fund from the municipality's general fund an amount equal to 50 percent of the difference between those determined amounts.

Added by Acts 2017, 85th Leg., R.S., Ch. 321 (H.B. 1494), Sec. 1, eff. June 1, 2017.

Sec. 351.1076. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) A municipality that spends municipal hotel occupancy tax revenue

for the enhancement and upgrading of existing sports facilities or fields as authorized by Section 351.101(a)(7) or (n) or Section 351.10711:

(1) shall determine the amount of municipal hotel occupancy tax revenue generated for the municipality by hotel activity attributable to the sports events and tournaments held on the enhanced or upgraded facilities or fields for five years after the date the enhancements and upgrades are completed; and

(2) may not spend hotel occupancy tax revenue for the enhancement and upgrading of the facilities or fields in a total amount that exceeds the amount of area hotel revenue attributable to the enhancements and upgrades.

(b) The municipality shall reimburse from the municipality's general fund any expenditure in excess of the amount of area hotel revenue attributable to the enhancements and upgrades to the municipality's hotel occupancy tax revenue fund.

Added by Acts 2005, 79th Leg., Ch. 1247 (H.B. 1734), Sec. 2, eff. June 18, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 453 (S.B. 942), Sec. 2, eff. June 9, 2017.

Acts 2017, 85th Leg., R.S., Ch. 650 (S.B. 2056), Sec. 2, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 10, eff. June 15, 2017.

For expiration of this section, see Subsection (g).

Sec. 351.1077. ALLOCATION OF REVENUE FOR THE ARTS FOR CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that:

(1) has a population of more than 190,000;

(2) is located in a county in which another municipality that has a population of more than one million is predominately located; and

(3) issued bonds before January 1, 2007, for the construction of a municipal arts center payable from and secured by revenue from the tax imposed under this chapter.

(b) Notwithstanding any other provision of this chapter, a

municipality to which this section applies may use an amount that is less than or equal to 15 percent of the hotel occupancy tax revenue collected by the municipality for the purposes provided by Section 351.101(a)(4).

(c) Notwithstanding any other provision of this chapter, a municipality to which this section applies may use an amount that is less than or equal to an additional $1.6 million in hotel occupancy tax revenue collected by the municipality for the purposes provided by Section 351.101(a)(4). The $1.6 million is in addition to the 15 percent amount allowed by Subsection (b).

(d) A municipality to which this section applies may not reduce the amount of revenue that an arts center that receives funds under Subsection (b) spends for a purpose described by Section 351.101(a)(3) to an amount that is less than the amount of revenue spent by the arts center for those purposes during the fiscal year of the arts center preceding the effective date of this section. If the municipality reduces the funding of the arts center under Subsection (b), the art center's required funding amount for purposes described by Section 351.101(a)(3) is also reduced by a proportional amount.

(e) An arts center that receives funds under Subsection (b) shall include a website address that contains a link to area hotels and lodging options in the municipality on all materials produced for the purposes of Section 351.101(a)(3).

(f) A municipality that spends more than 15 percent of the hotel occupancy tax revenue collected by the municipality in a fiscal year for a purpose described by Section 351.101(a)(4) may not in that fiscal year reduce the percentage of hotel occupancy tax revenue that the municipality spends for a purpose described by Section 351.101(a)(3) to a percentage that is less than the percentage of hotel occupancy tax revenue spent by the municipality for that purpose during the municipality's 2011-2012 fiscal year.

(g) This section expires September 1, 2026.

Added by Acts 2007, 80th Leg., R.S., Ch. 14 (S.B. 462), Sec. 1, eff. April 25, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1097 (H.B. 3643), Sec. 1, eff. September 1, 2013.

Sec. 351.1078. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) A municipality that spends municipal hotel occupancy tax revenue as authorized by Section 351.101(i) or (o):

(1) may not use municipal hotel occupancy tax revenue for the acquisition of land for the sporting related facility or sports field described by that subsection;

(2) shall annually determine and prepare and publish on the municipality's Internet website a report on the events held at the facility or field, the number of hotel room nights attributable to events held at the facility or field, and the amount of hotel revenue and municipal tax revenue attributable to the sports events and tournaments held at the facility or field for five years after the date the construction expenditures are completed; and

(3) may only spend hotel occupancy tax revenue for operational expenses of the facility or field if the costs are directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels in or near the municipality.

(a-1) The report described by Subsection (a)(2) shall be made accessible through a link that appears in a prominent place on the municipality's Internet website.

(b) The municipality shall reimburse to the municipality's hotel occupancy tax revenue fund from the municipality's general fund any expenditure in excess of the amount of area hotel revenue attributable to sporting events held at the sporting related facility or sports field described by Section 351.101(i) or (o) for five years after the date the construction or expansion of the facility or field described by that subsection is completed.

(c) At least annually, a municipality to which this section applies shall compare the area hotel revenue that is attributable to sporting events held at the sporting related facility or sports field described by Section 351.101(i) to the projected annual amount of that revenue anticipated by the municipality to be generated as a result of the construction or expansion of the facility or field. If area hotel revenue attributable to sporting events held at the facility or field is less than the projected amount, the municipality shall, as soon as practicable, develop and implement a plan to increase that revenue.

Added by Acts 2015, 84th Leg., R.S., Ch. 665 (H.B. 3629), Sec. 2, eff.

June 17, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 617 (H.B. 4187), Sec. 1, eff. June 12, 2017.
Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 11, eff. June 15, 2017.

Sec. 351.1079. ALLOCATION OF REVENUE FOR SPORTS FACILITIES AND FIELDS BY CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality that has a population of at least 6,000 and that is the county seat of a county that:

(1) borders the State of Louisiana;

(2) is bisected by a United States highway; and

(3) has a population of 75,000 or less.

(b) Notwithstanding any other provision of this chapter and subject to Subsection (c), a municipality to which this section applies may use all or any portion of the revenue derived from the municipal hotel occupancy tax to construct, improve, maintain, and operate sports facilities and fields for the purpose of promoting tourism and the convention and hotel industry.

(c) A municipality to which this section applies may use revenue derived from the municipal hotel occupancy tax to:

(1) maintain or operate sports facilities and fields only if the conditions specified by Sections 351.101(a)(7)(A) and (C) are met; and

(2) improve a sports facility or field only if the requirements of Sections 351.101(a)(7)(A) and (C) are met and the municipality complies with Section 351.1076.

Added by Acts 2017, 85th Leg., R.S., Ch. 221 (H.B. 3484), Sec. 1, eff. May 29, 2017.

Sec. 351.108. RECORDS. (a) A municipality shall maintain a record that accurately identifies the receipt and expenditure of all revenue derived from the tax imposed under this chapter.

(b) A municipality or entity that spends revenue derived from the tax imposed under this chapter shall, before making an expenditure, specify in a list each scheduled activity, program, or

event that:

(1) is directly funded by the tax or has its administrative costs funded in whole or in part by the tax; and

(2) is directly enhancing and promoting tourism and the convention and hotel industry.

(c) If a municipality delegates to another entity the management or supervision of an activity or event funded by the tax imposed under this chapter, each entity that is ultimately funded by the tax shall, before making an expenditure, specify in a list each scheduled activity, program, or event that:

(1) is directly funded by the tax or has its administrative costs funded in whole or in part by the tax; and

(2) is directly enhancing and promoting tourism and the convention and hotel industry.

(d) The list required in Subsections (b) and (c) should be provided to the office of the city secretary or to the city secretary's designee.

(e) Subsections (b) and (c) do not prevent a municipality or funded entity from subsequently adding an activity, program, or event to the list required by those subsections if the activity, program, or event is directly enhancing and promoting tourism and the convention and hotel industry.

(f) This section does not prevent a municipality or entity receiving revenue from the tax imposed under this chapter from setting aside tax revenue in a designated reserve fund for use in supporting planned activities, future events, and facility improvements that are directly enhancing and promoting tourism and the convention and hotel industry.

(g) Subsections (b) and (c) do not apply if the funded entity already provides written information to the municipality that indicates which scheduled activities, programs, or events offered by the entity are directly enhancing and promoting tourism and the convention and hotel industry.

(h) Subsections (b) and (c) do not affect the level of local hotel occupancy tax funding that was approved at an election held pursuant to the initiative and referendum provisions of a city charter, and do not prohibit the use of local hotel occupancy tax for the encouragement, promotion, improvement, and application of the arts or for historical restoration and preservation as otherwise provided by this chapter.

Added by Acts 1999, 76th Leg., ch. 495, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1467, Sec. 2.73, eff. Oct. 1, 1999. Renumbered from Sec. 351.107 and amended by Acts 2001, 77th Leg., ch. 636, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(101), eff. Sept. 1, 2001.

Sec. 351.110. ALLOCATION OF REVENUE FOR CERTAIN TRANSPORTATION SYSTEMS. (a) Notwithstanding any other provision of this chapter, a municipality may use the revenue derived from the tax imposed under this chapter for a transportation system to transport tourists from hotels in and near the municipality to:

(1) the commercial center of the municipality;

(2) a convention center in the municipality;

(3) other hotels in or near the municipality; and

(4) tourist attractions in or near the municipality.

(b) The transportation system that transports tourists as described by Subsection (a) may be:

(1) owned and operated by the municipality; or

(2) privately owned and operated but partially financed by the municipality.

(c) This section does not authorize the use of revenue derived from the tax imposed under this chapter for a transportation system that serves the general public other than for a system that transports tourists as described by Subsection (a).

Added by Acts 2007, 80th Leg., R.S., Ch. 1231 (H.B. 2438), Sec. 1, eff. June 15, 2007.

SUBCHAPTER C. MUNICIPAL HOTEL AND CONVENTION CENTER PROJECTS

Sec. 351.151. DEFINITIONS. In this subchapter:

(1) "Infrastructure" includes:

(A) a road, street, highway, bridge, overpass, underpass, and interchange;

(B) a fresh, reuse, or alternative water supply system, sanitary sewer system, and storm drainage system;

(C) an electric system, telecommunications system, and gas system;

(D) signage, landscaping, and hardscaping; and

(E) a public amenity or public area, such as a plaza, park, or trail.

(2) "Qualified convention center facility" means a facility that has been or will be constructed and that:

(A) is primarily used to host conventions or meetings;

(B) is wholly owned by a municipality to which this subchapter applies, and none of which is or may be owned through an undivided common interest;

(C) is connected to a qualified hotel or has an exterior wall that is located not more than 1,000 feet from the nearest exterior wall of a qualified hotel;

(D) is not located in a hotel, sports stadium, or other structure but may share common infrastructure or facilities with a hotel, such as a heating, ventilation, and air-conditioning system, electrical system, or kitchen;

(E) has at least 10,000 square feet of continuous meeting space; and

(F) is configurable to simultaneously accommodate multiple events described by Paragraph (A) of different sizes and types.

(3) "Qualified hotel" means a hotel that is designated by a municipality to which this subchapter applies as the hotel that is part of a qualified project. A qualified hotel:

(A) must be located on land owned by the designating municipality;

(B) must be connected to a qualified convention center facility or have an exterior wall that is located not more than 1,000 feet from the nearest exterior wall of the qualified convention center facility; and

(C) may consist of two or more towers, regardless of whether named differently, branded differently, reporting different addresses to the comptroller under this code, or reporting taxes separately to the comptroller under this code, that:

(i) are constructed at the same time;

(ii) are connected to each other or to a qualified convention center facility; and

(iii) each meet the requirements of Paragraphs (A) and (B).

(4) "Qualified project" means a project:

(A) to:

(i) acquire, construct, repair, remodel, expand, or equip a qualified convention center facility; or

(ii) acquire, lease, construct, repair, remodel, expand, or equip a qualified hotel; and

(B) that may include:

(i) acquiring, leasing, constructing, repairing, remodeling, expanding, or equipping:

(a) a restaurant, bar, retail establishment, or spa located in a qualified convention center facility or qualified hotel or connected to a qualified convention center facility or qualified hotel, including by a covered walkway; or

(b) a parking area or structure, the nearest property line of which is located not more than 1,000 feet from the nearest property line of a qualified convention center facility or qualified hotel;

(ii) acquiring, constructing, repairing, remodeling, or expanding infrastructure that:

(a) is directly related to and necessary for the qualified convention center facility or qualified hotel; and

(b) is located within the property lines of the qualified convention center facility or qualified hotel, or not more than 1,000 feet from the nearest property line of the facility or hotel; or

(iii) acquiring a property right, including a fee simple interest, easement, or other interest in connection with a purpose described by this subdivision.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff. September 1, 2019.

Sec. 351.152. APPLICABILITY. This subchapter applies only to:

(1) a municipality described by Section 351.001(7)(B);

(2) a municipality described by Section 351.001(7)(D);

(3) a municipality described by Section 351.001(7)(E);

(4) a municipality described by Section 351.102(e)(3);

(5) a municipality that contains more than 75 percent of the population of a county with a population of 1.5 million or more;

(6) a municipality with a population of 150,000 or more but less than 200,000 that is partially located in at least one county

with a population of 125,000 or more;

(7) a municipality with a population of 150,000 or more but less than one million that is located in one county with a population of 2.3 million or more;

(8) a municipality with a population of 180,000 or more that:

(A) is located in two counties, each with a population of 100,000 or more; and

(B) contains an American Quarter Horse Hall of Fame and Museum;

(9) a municipality with a population of 96,000 or more that is located in a county that borders Lake Palestine;

(10) a municipality with a population of 96,000 or more that is located in a county that contains the headwaters of the San Gabriel River;

(11) a municipality with a population of 99,900 or more but less than 111,000 that is located in a county with a population of 135,000 or more;

(12) a municipality with a population of 110,000 or more but less than 135,000 at least part of which is located in a county with a population of less than 135,000;

(13) a municipality with a population of 9,000 or more but less than 10,000 that is located in two counties, each of which has a population of 662,000 or more and a southern border with a county with a population of 2.3 million or more;

(14) a municipality with a population of 200,000 or more but less than 300,000 that contains a component institution of the Texas Tech University System;

(15) a municipality with a population of 95,000 or more that:

(A) is located in more than one county; and

(B) borders Lake Lewisville;

(16) a municipality with a population of 45,000 or more that:

(A) contains a portion of Cedar Hill State Park;

(B) is located in two counties, one of which has a population of two million or more and one of which has a population of 149,000 or more; and

(C) has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(17) a municipality with a population of less than 6,000 that:

(A) is almost wholly located in a county with a population of 600,000 or more that is adjacent to a county with a population of two million or more;

(B) is partially located in a county with a population of 1.8 million or more that is adjacent to a county with a population of two million or more;

(C) has a visitor center and museum located in a 19th-century rock building in the municipality's downtown; and

(D) has a waterpark open to the public;

(18) a municipality with a population of 56,000 or more that:

(A) borders Lake Ray Hubbard; and

(B) is located in two counties, one of which has a population of less than 80,000;

(19) a municipality with a population of 83,000 or more that:

(A) borders Clear Lake; and

(B) is primarily located in a county with a population of less than 300,000;

(20) a municipality with a population of less than 2,000 that:

(A) is located adjacent to a bay connected to the Gulf of Mexico;

(B) is located in a county with a population of 290,000 or more that is adjacent to a county with a population of four million or more; and

(C) has a boardwalk on the bay;

(21) a municipality with a population of 75,000 or more that:

(A) is located wholly in one county with a population of 575,000 or more that is adjacent to a county with a population of four million or more; and

(B) has adopted a capital improvement plan for the construction or expansion of a convention center facility;

(22) a municipality with a population of less than 75,000 that is located in three counties, at least one of which has a population of four million or more;

(23) an eligible coastal municipality with a population of

3,000 or more but less than 5,000;

(24) a municipality with a population of 90,000 or more but less than 150,000 that:

(A) is located in three counties; and

(B) contains a branch campus of a component institution of the University of Houston System;

(25) a municipality that is:

(A) primarily located in a county with a population of four million or more; and

(B) connected by a bridge to a municipality described by Subdivision (20);

(26) a municipality with a population of 20,000 or more but less than 25,000 that:

(A) contains a portion of Mustang Bayou; and

(B) is wholly located in a county with a population of less than 500,000;

(27) a municipality with a population of 70,000 or more but less than 90,000 that is located in two counties, one of which has a population of four million or more and the other of which has a population of less than 50,000;

(28) a municipality with a population of 10,000 or more that:

(A) is wholly located in a county with a population of four million or more; and

(B) has a city hall located less than three miles from a space center operated by an agency of the federal government;

(29) a municipality that is the county seat of a county:

(A) through which the Pedernales River flows; and

(B) in which the birthplace of a president of the United States is located;

(30) a municipality that contains a portion of U.S. Highway 79 and State Highway 130;

(31) a municipality with a population of 48,000 or more but less than 95,000 that is located in two counties, one of which has a population of 900,000 or more but less than 1.7 million;

(32) a municipality with a population of less than 25,000 that contains a museum of Western American art;

(33) a municipality with a population of 50,000 or more that is the county seat of a county that contains a portion of the Sam Houston National Forest;

(34) a municipality with a population of less than 25,000 that:

(A) contains a cultural heritage museum; and

(B) is located in a county that borders the United Mexican States and the Gulf of Mexico;

(35) a municipality that is the county seat of a county that:

(A) has a population of 115,000 or more;

(B) is adjacent to a county with a population of 1.8 million or more; and

(C) hosts an annual peach festival;

(36) a municipality that is the county seat of a county that:

(A) has a population of 585,000 or more; and

(B) is adjacent to a county with a population of four million or more;

(37) a municipality with a population of less than 10,000 that:

(A) contains a component university of The Texas A&M University System; and

(B) is located in a county adjacent to a county that borders Oklahoma;

(38) a municipality with a population of less than 6,100 that:

(A) is located in two counties, each of which has a population of 600,000 or more but less than two million; and

(B) hosts an annual Cajun Festival;

(39) a municipality with a population of 13,000 or more that:

(A) is located on an international border; and

(B) is located in a county:

(i) with a population of less than 400,000; and

(ii) in which at least one World Birding Center site is located;

(40) a municipality with a population of 4,000 or more that:

(A) is located on an international border; and

(B) is located not more than five miles from a state historic site that serves as a visitor center for a state park that contains 300,000 or more acres of land;

(41) a municipality with a population of 36,000 or more that is adjacent to at least two municipalities described by Subdivision (15); and

(42) a municipality with a population of 28,000 or more in which is located a historic railroad depot and heritage center.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff. September 1, 2019.

Sec. 351.153. EXCEPTION TO OWNERSHIP REQUIREMENT. (a) This section applies only to a municipality described by Section 351.152(6) or (29).

(b) Section 351.151(2)(B) does not apply to a facility that otherwise meets the requirements of a qualified convention center facility under Section 351.151.

(c) Section 351.151(3)(A) does not apply to a hotel that otherwise meets the requirements of a qualified hotel under Section 351.151.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff. September 1, 2019.

Sec. 351.154. NONPROFIT CORPORATION AS MUNICIPAL AGENT. A municipality may authorize a nonprofit corporation to act on behalf of the municipality for any purpose under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff. September 1, 2019.

Sec. 351.155. PLEDGE OR COMMITMENT OF CERTAIN TAX REVENUE FOR OBLIGATIONS FOR QUALIFIED PROJECT. (a) In addition to the authority of a municipality to issue debt under Chapter 1504, Government Code, a municipality may pledge or commit the revenue derived from the tax imposed under this chapter from a qualified hotel and the revenue to which the municipality is entitled under Section 351.156 and, if applicable, Section 351.157 for the payment of:

(1) bonds or other obligations issued for a qualified project; and

(2) contractual obligations related to the project, including obligations under:

(A) a contract authorized by Chapter 380, Local Government Code, for the project; and

(B) an interlocal agreement directly related to the project.

(b) A municipality may pledge or commit revenue for the payment of bonds, other obligations, or contractual obligations under Subsection (a) only if the qualified hotel that is a component of the qualified project for which that revenue is pledged or committed benefits from the pledging or committing of that revenue.

(c) A municipality may pledge or commit revenue under this section for only one qualified project. After a municipality pledges or commits revenue under this section for a qualified project, the municipality may not ever again pledge or commit revenue for a qualified project.

(d) Subsection (c) does not apply to a municipality with a population of 175,000 or more.

(e) A municipality is not entitled to receive revenue under Section 351.156 or 351.157 unless the municipality has pledged or committed a portion of the revenue derived from the tax imposed under this chapter and collected by the qualified hotel for the payment of bonds, other obligations, or contractual obligations described by Subsection (a) and issued or incurred for the qualified project.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff. September 1, 2019.

Sec. 351.156. ENTITLEMENT TO CERTAIN TAX REVENUE. Subject to Sections 351.155(e) and 351.158, a municipality is entitled to receive the revenue derived from the following taxes generated, paid, and collected by a qualified hotel, and each restaurant, bar, and retail establishment located in or connected to the hotel or the related qualified convention center facility, that is located in the municipality:

(1) the sales and use tax imposed under Chapter 151;

(2) the hotel occupancy tax imposed under Chapter 156; and

(3) if a political subdivision that is entitled to receive the revenue from the tax agrees in writing to the municipality

receiving that revenue:

(A) the sales and use tax imposed by the political subdivision under Chapter 322 or 323;

(B) the hotel occupancy tax imposed by the political subdivision under Chapter 352; and

(C) the mixed beverage tax issued under Section 183.051.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff. September 1, 2019.

Sec. 351.157. ADDITIONAL ENTITLEMENT FOR CERTAIN MUNICIPALITIES. (a) In this section, "qualified establishment" means an establishment:

(1) that is located on land:

(A) owned by a municipality; or

(B) owned by any person if the establishment is located in a municipality described by Section 351.152(3);

(2) the nearest exterior wall of which is located not more than 1,000 feet from the nearest exterior wall of a qualified hotel or qualified convention center facility;

(3) that is constructed:

(A) on or after the date the municipality commences a qualified project under this subchapter; or

(B) at any time if the establishment is located in a municipality described by Section 351.152(3);

(4) that is not a sports stadium; and

(5) that is the type of establishment described by Subsection (c) from which the municipality is entitled to receive revenue under Subsection (d).

(b) This section applies only to:

(1) a municipality described by Section 351.152(3);

(2) a municipality described by Section 351.152(6);

(3) a municipality described by Section 351.152(7);

(4) a municipality described by Section 351.152(10);

(5) a municipality described by Section 351.152(16);

(6) a municipality described by Section 351.152(22);

(7) a municipality described by Section 351.152(25);

(8) a municipality described by Section 351.152(34);

(9) a municipality described by Section 351.152(35);

(10) a municipality described by Section 351.152(36); and

(11) a municipality described by Section 351.152(38).

(c) A municipality is entitled to receive revenue under Subsection (d) derived from the following types of establishments that meet the requirements of Subsections (a)(1), (2), (3), and (4):

(1) for a municipality described by Subsection (b)(1):

(A) restaurants, bars, and retail establishments; and

(B) swimming pools and swimming facilities owned or operated by the related qualified hotel;

(2) for a municipality described by Subsection (b)(2), restaurants, bars, and retail establishments;

(3) for a municipality described by Subsection (b)(3), restaurants, bars, and retail establishments;

(4) for a municipality described by Subsection (b)(4):

(A) restaurants, bars, and retail establishments; and

(B) swimming pools and swimming facilities owned or operated by the related qualified hotel;

(5) for a municipality described by Subsection (b)(5), restaurants, bars, and retail establishments;

(6) for a municipality described by Subsection (b)(6), restaurants, bars, and retail establishments;

(7) for a municipality described by Subsection (b)(7), restaurants, bars, and retail establishments;

(8) for a municipality described by Subsection (b)(8), restaurants, bars, and retail establishments;

(9) for a municipality described by Subsection (b)(9), restaurants, bars, and retail establishments;

(10) for a municipality described by Subsection (b)(10):

(A) restaurants, bars, and retail establishments; and

(B) swimming pools and swimming facilities owned or operated by the related qualified hotel; and

(11) for a municipality described by Subsection (b)(11):

(A) restaurants, bars, and retail establishments; and

(B) swimming pools and swimming facilities owned or operated by the related qualified hotel.

(d) Subject to Subsection (e), in addition to the revenue to which the municipality is entitled under Section 351.156, a municipality to which this section applies is entitled to receive the revenue derived from the following taxes generated, paid, and

collected from a qualified establishment located in the municipality:

(1) the sales and use tax imposed under Chapter 151; and

(2) the mixed beverage tax issued under Section 183.051, if the political subdivision that is entitled to receive the revenue from the tax agrees in writing to the municipality receiving that revenue.

(e) A municipality to which this section applies is not entitled to receive revenue under Subsection (d) unless the municipality commences a qualified project under this subchapter before September 1, 2023.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff. September 1, 2019.

Sec. 351.158. PERIOD OF ENTITLEMENT. A municipality is entitled to receive revenue as provided by Sections 351.156 and 351.157 until the 10th anniversary of the date the qualified hotel to which the entitlement relates is open for initial occupancy.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff. September 1, 2019.

Sec. 351.159. DEPOSIT OF REVENUE. Notwithstanding any other law, the comptroller shall deposit the revenue from the taxes described by Sections 351.156 and 351.157 that were collected by or forwarded to the comptroller in trust in a separate suspense account of the qualified project. The suspense account is outside the state treasury and the comptroller may make a payment authorized by this subchapter without the necessity of an appropriation.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff. September 1, 2019.

Sec. 351.160. QUARTERLY PAYMENTS. The comptroller shall pay to each municipality the revenue to which the municipality is entitled under this subchapter at least quarterly.

Added by Acts 2019, 86th Leg., R.S., Ch. 952 (H.B. 4347), Sec. 8, eff.

September 1, 2019.

CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES
SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 352.001. DEFINITIONS. In this chapter:

(1) "Hotel" has the meaning assigned by Section 156.001(1).

(2) "Convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the county or that are managed in whole or part by the county. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the immediate vicinity of other convention center facilities.

(3) "Tourism" means the guidance or management of tourists.

(4) "Tourist" means an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.

(5) "Visitor information center" or "tourism information center" means a building or portion of a building used to distribute or disseminate information to tourists.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1993, 73rd Leg., ch. 643, Sec. 1, eff. Sept. 1, 1993.

Sec. 352.002. TAX AUTHORIZED. (a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs $2 or more each day, and is ordinarily used for sleeping:

(1) a county that has a population of more than 3.3 million;

(2) a county that has a population of 90,000 or more, borders the United Mexican States, does not border the Gulf of Mexico, and does not have four or more cities that each have a population of more than 25,000;

(3) a county in which there is no municipality;

(4) a county in which there is located an Indian reservation under the jurisdiction of the United States government;

(5) a county that has a population of 30,000 or less, that has no more than one municipality with a population of less than 2,500, and that borders two counties located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(6) a county that borders the Gulf of Mexico;

(7) a county that has a population of less than 5,000, that borders the United Mexican States, and in which there is located a major observatory;

(8) a county that has a population of 12,000 or less and borders the Toledo Bend Reservoir;

(9) a county that has a population of less than 12,500 and an area of less than 275 square miles;

(10) a county that has a population of 30,000 or less and borders Possum Kingdom Lake;

(11) a county that borders the United Mexican States and has a population of more than 300,000 and less than 800,000;

(12) a county that has a population of 35,000 or more and borders or contains a portion of Lake Fork Reservoir;

(13) a county that borders the United Mexican States and in which there is located a national recreation area;

(14) a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres;

(15) a county that has a population of 28,000 or less, that has no more than four municipalities, and that is located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(16) a county that has a population of 25,000 or less, whose territory is less than 750 square miles, and that has two incorporated municipalities, each with a population of 800 or less, at least one of which is located on the Frio River;

(17) a county that has a population of 34,000 or more and borders Lake Buchanan;

(18) a county that has a population of more than 45,000 and less than 75,000, that borders the United Mexican States, and that borders or contains a portion of Falcon Lake;

(19) a county with a population of 22,000 or less that borders the Neches River and in which there is located a national

preserve;

(20) a county that has a population of 28,000 or less and that borders or contains a portion of Lake Livingston;

(21) a county through which the Pedernales River flows and in which the birthplace of a president of the United States is located;

(22) a county that has a population of more than 15,000 but less than 20,000 and borders Lake Buchanan;

(23) a county with a population of less than 11,000 that is bordered by the Sulphur River;

(24) a county that has a population of 16,000 or more and borders the entire north shore of Lake Somerville;

(25) a county that has a population of 20,000 or less and that is bordered by the Brazos and Navasota Rivers;

(26) a county that has a population of more than 15,000 and less than 25,000 and is located on the Trinity and Navasota Rivers;

(27) a county that has a population of less than 15,000 and that is bordered by the Trinity and Navasota Rivers;

(28) a county that borders or contains a portion of the Neches River, the Sabine River, and Sabine Lake; and

(29) a county that borders Whitney Lake.

(a-1) In addition to the counties described by Subsection (a), the commissioners court of a county in which an airport essential to the economy of the county is located may by the adoption of an order or resolution impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs $2 or more each day, and is ordinarily used for sleeping. For the purposes of this subsection, an airport is considered to be essential to the economy of a county only if the airport is a commercial-service international airport within Class C airspace and is located in a county and owned by a municipality each having a population of less than 150,000. This subsection does not apply to a county described by Subsection (a)(13).

(b) The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

(c) The tax does not apply to a person who is a permanent

resident under Section 156.101 of this code.

(d) The tax imposed by a county authorized by Subsection (a)(4), (6), (8), (9), (10), (11), (14), (15), (17), (19), (20), (21), (23), or (29) to impose the tax does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel. This subsection does not apply to:

(1) a county authorized by Subsection (a)(6) to impose the tax that:

(A) has a population of less than 40,000 and adjoins the most populous county in this state; or

(B) has a population of more than 200,000 and borders the Neches River; or

(2) a county authorized by Subsection (a)(9) to impose the tax that has a population of more than 9,000.

(e) In addition to the prohibition provided by Subsection (d), the tax imposed by a county authorized by Subsection (a)(17) to impose the tax does not apply to a hotel located in the extraterritorial jurisdiction of a municipality that imposes a tax under Chapter 351 applicable to that hotel. If, after the date the county begins to impose a tax under this chapter, a municipality in the county adopts an ordinance under Section 351.0025 authorizing the imposition of the municipal tax in the municipality's extraterritorial jurisdiction, the county may not impose a tax applicable to a hotel located in that territory on or after the date the municipality begins to impose that tax.

(f) The tax imposed by a county authorized by Subsection (a)(22) to impose the tax does not apply to a hotel located in a municipality.

(g) The commissioners court of a county that has a population of 150,000 or more and that is bordered by the Brazos and Navasota Rivers may impose a tax as provided by Subsection (a).

(h) The commissioners court of a county with a population of more than 16,000 that is bordered by Lake J. B. Thomas may impose a tax as provided by Subsection (a).

(i) The commissioners court of a county in which the Declaration of Independence of the Republic of Texas was signed in 1836 may impose a tax as provided by Subsection (a). A tax imposed under this subsection does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(j) The commissioners court of a county that has a population of less than 8,000, that borders the Pecos River, and that borders another county with a population of more than 120,000 may impose a tax as provided by Subsection (a). The tax imposed under this subsection does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(k) The commissioners court of a county with a population of more than 20,000 that is bordered by the Neches and Trinity Rivers and that contains portions of the Davy Crockett National Forest may impose a tax as provided by Subsection (a).

(l) The commissioners court of a county through which the Guadalupe River flows and in which the source of the Blanco River is located may impose a tax as provided by Subsection (a). A tax imposed under this subsection does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(m) A tax imposed by a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(n) The commissioners court of a county with a population of more than 300,000 and in which there is located all or part of the most populous military installation in this state may impose a tax as provided by Subsection (a).

(o) The commissioners court of a county that has a population of 65,000 or more and that is bordered by the Neches and Trinity Rivers may impose a tax as provided by Subsection (a).

(p) The commissioners court of a county that has a population of 80,000 or less, in which two state parks are located, and through which the Colorado River flows but that is not bordered by that river may impose a tax as authorized by Subsection (a).

(q) The commissioners court of a county with a population of less than 200,000 in which a minor league hockey team is or has been located and in which a component institution of The University of Texas System is located may impose a tax as provided by Subsection (a).

(r) The commissioners court of a county with a population of less than 50,000 through which the Aransas River flows and that has a municipality with a population of more than 10,000 may impose a tax as provided by Subsection (a).

(s) The commissioners court of a county with a population of less than 17,000 that borders the Red River and in which at least two United States highways cross into Oklahoma may impose a tax as provided by Subsection (a).

(t) The commissioners court of a county through which the Frio River flows, that has a population of 17,000 or more, that does not share a border with a county that borders the United Mexican States, and the county seat of which holds an annual potato fest may impose a tax as provided by Subsection (a). The tax imposed under this subsection does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(u) The commissioners court of a county that borders the Rio Grande River and has a population of less than 6,000 and an area of more than 2,500 square miles may impose a tax as provided by Subsection (a). A tax imposed under this subsection does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(x) The commissioners court of a county that has a population of less than 100,000 and that borders Lake Ray Roberts may impose a tax as provided by Subsection (a).

(y) The commissioners court of a county with a population of 110,000 or more through which the Guadalupe River flows may impose a tax as provided by Subsection (a). The tax imposed under this subsection does not apply to a hotel located in a municipality that:

(1) has a population of 50,000 or more;

(2) is the county seat of a county adjacent to the county to which this subsection applies; and

(3) imposes a tax under Chapter 351 applicable to the hotel.

(z) The commissioners court of a county with a population of not more than 50,000 and in which an annual peanut festival is held may impose a tax as provided by Subsection (a).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.26(e), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 695, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 1110, Sec. 10, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 328, Sec. 6, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 109, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 866, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st

C.S., ch. 3, Sec. 7.02, 7.03, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 18, Sec. 1, 2, eff. April 6, 1993; Acts 1995, 74th Leg., ch. 673, Sec. 1, eff. June 15, 1995; Acts 1997, 75th Leg., ch. 117, Sec. 1, eff. May 19, 1997; Acts 1997, 75th Leg., ch. 417, Sec. 1, eff. May 28, 1997; Acts 1997, 75th Leg., ch. 418, Sec. 1, eff. May 28, 1997; Acts 1997, 75th Leg., ch. 469, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1492, Sec. 1, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 125, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1402, Sec. 1, eff. June 26, 2001; Acts 2003, 78th Leg., ch. 64, Sec. 1, eff. May 16, 2003; Acts 2003, 78th Leg., ch. 637, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 741, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1097, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1108, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 973 (H.B. 1773), Sec. 1, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 973 (H.B. 1773), Sec. 2, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1365 (H.B. 214), Sec. 1, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1365 (H.B. 214), Sec. 2, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1365 (H.B. 214), Sec. 3, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 24 (S.B. 213), Sec. 1, eff. May 4, 2007.

Acts 2007, 80th Leg., R.S., Ch. 167 (S.B. 1463), Sec. 1, eff. May 22, 2007.

Acts 2007, 80th Leg., R.S., Ch. 749 (H.B. 3132), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1031 (H.B. 1669), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1359 (H.B. 1820), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.008, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.009, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 327 (H.B. 749), Sec. 1, eff. June

19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1087 (H.B. 4781), Sec. 4, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1185 (H.B. 3669), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1185 (H.B. 3669), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1418 (H.B. 1275), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 732 (H.B. 1033), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 919 (S.B. 1413), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 964 (H.B. 1234), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1084 (S.B. 1185), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 122, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 83 (S.B. 412), Sec. 1, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 113 (S.B. 1041), Sec. 1, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 377 (H.B. 3337), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1362 (S.B. 1585), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 972 (H.B. 2019), Sec. 1, eff. June 19, 2015.

Acts 2015, 84th Leg., R.S., Ch. 981 (H.B. 4037), Sec. 1, eff. June 19, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 16.005, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 224 (S.B. 686), Sec. 1, eff. May 29, 2017.

Acts 2017, 85th Leg., R.S., Ch. 225 (S.B. 799), Sec. 1, eff. May 29, 2017.

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 12, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 349 (H.B. 1633), Sec. 1, eff.

June 2, 2019.

Acts 2019, 86th Leg., R.S., Ch. 998 (H.B. 1634), Sec. 2, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1016 (S.B. 2137), Sec. 2, eff. September 1, 2019.

For expiration of Subsections (i-1) and (i-2), see Subsection (i-2).

Sec. 352.003. TAX RATES. (a) Except as provided by this section the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel or, until January 1, 2001, eight percent of the price paid for a room in a hotel in a county with a population of more than 3.3 million.

(b) The county tax rate in a municipality that has a population of 1.9 million or more may not exceed two percent of the price paid for a room in a hotel.

(c) The rate in a county that does not have a municipality may not exceed four percent of the price paid for a room in a hotel. This subsection does not apply to:

(1) a county that has a population of 10,000 or more and borders the United Mexican States; or

(2) a county that borders three counties, each of which borders the United Mexican States.

(d) The tax rate in a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres may not exceed seven percent of the price paid for a room in a hotel.

(e) The tax rate in a county authorized to impose the tax under Section 352.002(a)(6) and that has a population of less than 40,000 and adjoins the most populous county in this state may not exceed three percent of the price paid for a room in a hotel.

(f) The tax rate in a county that borders the Gulf of Mexico, has a population of more than 200,000, and borders the Neches River may not exceed two percent of the price paid for a room in a hotel in the county.

(g) The tax rate in a county authorized to impose the tax under Section 352.002(a)(18) may not exceed two percent of the price paid for a room in a hotel.

(h) The tax rate in a county authorized to impose the tax under Section 352.002(a-1) may not exceed one percent of the price paid for

a room in a hotel in the county.

(i) The tax rate in a county authorized to impose the tax under Section 352.002(g) may not exceed two percent of the price paid for a room in a hotel.

(i-1) Notwithstanding Subsection (i), the tax rate in a county authorized to impose the tax under Section 352.002(g) may not exceed 2.75 percent of the price paid for a room in a hotel if:

(1) the convention and visitors bureau within the county executes a preferred access facilities contract with a major state university based in the county for the purpose of promoting tourism in the county;

(2) the county allocates, for payments to the university under the contract described by Subdivision (1) to be used for the renovation of a stadium located in the county and owned by the university, the portion of the revenue received by the county that is derived from the application of the tax at a rate of more than two percent of the price paid for a room in a hotel; and

(3) not more than 30 years have passed from the date bonds were originally issued by the university to finance a stadium renovation project for the stadium described by Subdivision (2).

(i-2) Subsection (i-1) and this subsection expire on the date the county commissioners court certifies that all debt issued or incurred by the university to finance or refinance the stadium renovation project described by Subsection (i-1), including interest and any costs relating to the debt, has been paid in full.

(j) The tax rate in a county authorized to impose the tax under Section 352.002(a)(24), (25), (26), or (27) may not exceed two percent of the price paid for a room in a hotel.

(k) The tax rate in a county authorized to impose the tax under Section 352.002(a)(28) may not exceed two percent of the price paid for a room in a hotel.

(l) The tax rate in a county authorized to impose the tax under Section 352.002(h) may not exceed two percent of the price paid for a room in a hotel.

(m) The tax rate in a county authorized to impose the tax under Section 352.002(k) may not exceed two percent of the price paid for a room in a hotel.

(n) The tax rate in a county authorized to impose the tax under Section 352.002(o) may not exceed two percent of the price paid for a room in a hotel.

(o) Except as otherwise provided by this subsection, the tax rate in a county authorized to impose the tax under Section 352.002(p) may not exceed seven percent of the price paid for a room in a hotel. The county shall impose the tax authorized under Section 352.002(p) at a rate that may not exceed 0.75 percent of the price paid for a room in a hotel if the hotel is located in:

(1) a municipality that imposes a tax under Chapter 351 applicable to the hotel; or

(2) the extraterritorial jurisdiction of that municipality and the municipality imposes a tax in that area under Section 351.0025 applicable to the hotel.

(p) In a county authorized to impose the tax under Section 352.002(n), the county tax rate in relation to a hotel located in a municipality that imposes a tax under Chapter 351 may not exceed a rate that, when added to the rate of the tax imposed by the municipality under Chapter 351, exceeds the sum of the rate prescribed by Section 351.003(a) plus two percent.

(q) Except as otherwise provided by this subsection, the tax rate in a county authorized to impose the tax under Section 352.002(a)(13) may not exceed seven percent of the price paid for a room in the hotel. The county shall impose the tax authorized under Section 352.002(a)(13) at a rate that may not exceed two percent of the price paid for a room in a hotel if the hotel is located in:

(1) a municipality that imposes a tax under Chapter 351 applicable to the hotel; or

(2) the extraterritorial jurisdiction of that municipality and the municipality imposes a tax in that area under Section 351.0025 applicable to the hotel.

(r) The tax rate in a county authorized to impose the tax under Section 352.002(q) may not exceed two percent of the price paid for a room in a hotel.

(s) The county tax rate in a county authorized to impose the tax under Section 352.002(r) may not exceed two percent of the price paid for a room in a hotel if the hotel is located in a municipality that imposes a tax under Chapter 351 applicable to that hotel.

(t) The tax rate in a county that is authorized to impose the tax under Section 352.002(a)(6), that has a population of less than 25,000, and that is adjacent to a county with a population of more than 750,000 may not exceed nine percent of the price paid for a room in a hotel.

(u) The tax rate in a county authorized to impose the tax under Section 352.002(x) may not exceed two percent of the price paid for a room in a hotel.

(v) The tax rate in a county authorized to impose the tax under Section 352.002(y) may not exceed seven percent of the price paid for a room in a hotel, except that the tax rate may not exceed two percent of the price paid for a room in a hotel if the hotel is located in:

(1) a municipality that imposes a tax under Chapter 351 applicable to the hotel; or

(2) the extraterritorial jurisdiction of a municipality that imposes a tax under Section 351.0025 applicable to the hotel.

(w) The tax rate in a county authorized to impose the tax under Section 352.002(z) may not exceed seven percent of the price paid for a room in a hotel, except that the tax rate may not exceed two percent of the price paid for a room in a hotel if the hotel is located in:

(1) a municipality that imposes a tax under Chapter 351 applicable to the hotel; or

(2) the extraterritorial jurisdiction of a municipality that imposes a tax under Section 351.0025 applicable to the hotel.

(x) The tax rate in a county authorized to impose the tax under Section 352.002(s) may not exceed two percent of the price paid for a room in a hotel.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.25(a), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 591, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 418, Sec. 2, eff. May 28, 1997; Acts 1999, 76th Leg., ch. 1492, Sec. 2, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 126, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1402, Sec. 2, eff. June 26, 2001; Acts 2003, 78th Leg., ch. 741, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 24 (S.B. 213), Sec. 2, eff. May 4, 2007.

Acts 2007, 80th Leg., R.S., Ch. 167 (S.B. 1463), Sec. 2, eff. May 22, 2007.

Acts 2007, 80th Leg., R.S., Ch. 319 (H.B. 2322), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 749 (H.B. 3132), Sec. 2, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1031 (H.B. 1669), Sec. 2, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1359 (H.B. 1820), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.011, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.012, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.013, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 327 (H.B. 749), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1087 (H.B. 4781), Sec. 5, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1185 (H.B. 3669), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1185 (H.B. 3669), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 828 (H.B. 3076), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 919 (S.B. 1413), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1084 (S.B. 1185), Sec. 2, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 83 (S.B. 412), Sec. 2, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 113 (S.B. 1041), Sec. 2, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1073 (H.B. 3296), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1239 (S.B. 1833), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 981 (H.B. 4037), Sec. 2, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 13, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 349 (H.B. 1633), Sec. 2, eff. June 2, 2019.

Acts 2019, 86th Leg., R.S., Ch. 536 (H.B. 2272), Sec. 1, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 998 (H.B. 1634), Sec. 3, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1016 (S.B. 2137), Sec. 3, eff. September 1, 2019.

Sec. 352.0031. PREEXISTING CONTRACTS. (a) If a county increases the rate of the tax authorized by this chapter, the increased tax rate does not apply to the tax imposed on the use or possession, or the right to the use or possession, of a room under a contract that was executed before the date the increased rate takes effect and that provides for the payment of the tax at the rate in effect when the contract was executed, unless the contract is subject to change or modification by reason of the tax rate increase.

(b) This subsection applies only to a contract that provides for the payment of one or more taxes imposed on the use or possession, or the right to the use or possession, of a room that is in a hotel, including a tax authorized by Chapter 156 or 351 of this code or by Subchapter H, Chapter 334, Local Government Code. If the commissioners court of a county adopts an order or resolution imposing a tax under this chapter as authorized by Section 352.002 and the tax was not imposed at any rate before the effective date of the tax prescribed by the order or resolution, the imposition of the tax does not apply to the use or possession, or the right to the use or possession, of a room under a contract executed before the date the imposition of the tax takes effect, unless the contract is subject to change or modification by reason of the imposition of the new tax.

(c) The tax rate applicable to the use or possession, or the right to the use or possession, of a room under a contract described by Subsection (a) is the rate in effect when the contract was executed. Notwithstanding Section 352.002, no tax is imposed under this chapter on the use or possession, or the right to the use or possession, of a room under a contract described by Subsection (b).

Added by Acts 1989, 71st Leg., ch. 1110, Sec. 12, eff. Oct. 1, 1989.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 267 (H.B. 1896), Sec. 5, eff.

September 1, 2017.

Sec. 352.004. TAX COLLECTION; PENALTY. (a) The owner or operator of a hotel shall report and send the taxes collected under this chapter to the county as provided by the resolution or order imposing the tax.

(b) If the owner fails to report when required or pay the tax when due, the owner shall pay a penalty of five percent of the amount of the tax due. If the owner fails to file the report or pay the tax before the 31st day after the date that the report or tax payment was due, he shall pay an additional penalty of five percent of the amount of the tax due.

(c) Delinquent taxes and accrued penalties draw interest at the rate of 10 percent a year beginning 60 days after the date on which the tax was due.

(d) The county attorney may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the county and who has failed to file a tax report or pay the tax when due to collect the tax not paid or to enjoin the person from operating a hotel in the county until the tax is paid or the report filed, as applicable, as provided by the court's order. The remedy provided by this subsection is in addition to other available remedies.

(d-1) Except as provided by Subsection (d-2), a county must bring suit under this section not later than the fourth anniversary of the date the tax becomes due.

(d-2) The limitation provided by Subsection (d-1) does not apply and a county may bring suit under this section at any time if:

(1) with intent to evade the tax, the person files a false or fraudulent report with the county; or

(2) the person has not filed a report for the tax with the county.

(e) If a person required to file a tax report under this chapter does not file the report as required by the county, the county may determine the amount of tax due under this chapter by conducting an audit of each hotel in relation to which the person did not file the report as required by the county. A county may directly perform an audit authorized under this subsection or contract with another person to perform the audit on an hourly rate or fixed-fee

basis. A county shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this subsection.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 1110, Sec. 11, eff. Oct. 1, 1989.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1152 (H.B. 2048), Sec. 4, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 944 (H.B. 1724), Sec. 4, eff. September 1, 2013.

Sec. 352.0041. COLLECTION PROCEDURES ON PURCHASE OF HOTEL. (a) If a person who is liable for the payment of a tax under this chapter is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt by a person designated by the county to provide the receipt showing that the amount has been paid or a certificate showing that no tax is due.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the person designated by the county to provide a receipt under Subsection (a) issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The person designated by the county shall issue the certificate or statement not later than the 60th day after the date that the person receives the request.

(d) If the person designated by the county to provide a receipt under Subsection (a) fails to issue the certificate or statement within the period provided by Subsection (c), the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

Added by Acts 1991, 72nd Leg., ch. 328, Sec. 2, eff. Aug. 26, 1991.

Sec. 352.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. A county may permit a person who is required to collect and pay over to the county the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 643, Sec. 2, eff. Sept. 1, 1993.

Sec. 352.006. AUDIT; ACCESS TO BOOKS AND RECORDS. (a) The county that imposes the tax under this chapter may audit the hotel to determine the amount of taxes due under this chapter.

(b) After the county gives reasonable notice to the hotel that the county intends to inspect the books or records of the hotel, the county may access the hotel's books or records during business hours as necessary to conduct the audit.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1005 (H.B. 2265), Sec. 1, eff. September 1, 2011.

Sec. 352.007. EXEMPTION. (a) A United States governmental entity described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter.

(b) A state governmental entity subject to the tax imposed by Chapter 156 under Section 156.103(b) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid.

(c) A person who is described by Section 156.103(d) is exempt from the payment of the tax authorized by this chapter.

(d) A person who is described by Section 156.103(c) shall pay the tax imposed by this chapter but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.

(e) To receive a refund of a tax paid under this chapter, the governmental entity entitled to the refund must file a refund claim on a form provided by the county and containing the information required by the county. The comptroller by rule shall prescribe the form that must be used and the information that must be provided.

(f) A governmental entity may file a refund claim with the county under this chapter only for each calendar quarter for all reimbursements accrued during that quarter. The county may adopt a resolution to enforce this section.

(g) The right to use or possess a room in a hotel is exempt from taxation under this chapter if the person required to collect the tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption provided in Subsection (c). The exemption must be supported by the documentation required under rules adopted by the comptroller and the county.

Added by Acts 1989, 71st Leg., ch. 504, Sec. 3, eff. Sept. 1, 1989. Renumbered from Sec. 352.006 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(33), eff. Sept. 6, 1990. Amended by Acts 1995, 74th Leg., ch. 454, Sec. 8, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.74, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 209, Sec. 88, eff. Oct. 1, 2003.

Sec. 352.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as a result of an audit conducted under Section 352.004, a county obtains documentation or other information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the county shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a county under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the county as provided by Section 156.2513 to defray the cost of the county audit.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1152 (H.B. 2048), Sec. 5, eff. September 1, 2011.

SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

Sec. 352.101. USE OF REVENUE IN POPULOUS COUNTIES. (a) The revenue from a tax imposed under this chapter by a county having a

population of more than 3.3 million may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities that serve the purpose of attracting visitors and tourists to the county, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances, hotels owned by a municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within 1,000 feet of a convention center owned by a municipality with a population of 1,500,000 or more, or a historic hotel owned by a municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within one mile of a convention center owned by a municipality with a population of 1,500,000 or more;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants; and

(3) general promotion and tourist advertising of the county and its vicinity and conducting a solicitation program to attract conventions and visitors, any of which may be conducted by the county or through contracts with persons or organizations selected by the county.

(b) A county having a population of more than 3.3 million shall endeavor to coordinate its promotional and advertising activities conducted under authority of Subsection (a)(3) with the city having the largest population in the county.

(c) A county to which this section applies may delegate the authority to spend the county's hotel occupancy tax revenue to a private organization only through a contract. The contract must require the organization to select a new governing body as soon as practicable after the contract takes effect and to limit the composition of its governing body to not more than 54 members, and provide that the appointment, election, or other designation of each member of the governing body be submitted to and approved by the governing body of the county as long as the contract is in effect. The contract is not valid unless before the contract is executed the private organization amends its charter, bylaws, or other governing rules to conform to the requirements of this subsection.

(d) Subsection (c) does not apply to any private entity, person, or organization that receives tax revenue under Section 351.101(a) and makes expenditures pursuant to Section 351.101(a)(4).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.26(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1110, Sec. 14, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 231, Sec. 2, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.275, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 127, 128, eff. Sept. 1, 2001.

Sec. 352.1015. USE OF REVENUE: GENERAL PROVISIONS. (a) The commissioners court of a county by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this chapter. The commissioners court in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the commissioners court at least quarterly listing the expenditures made by the person with revenue derived from the tax authorized by this chapter. The person must maintain revenue provided from the tax authorized by this chapter in a separate account established for that purpose and may not commingle that revenue with any other money. The commissioners court may not delegate to any person the management or supervision of its tourist and convention programs and activities funded with revenue from the tax authorized by this chapter other than by contract as provided by this subsection. The approval by the commissioners court of the county of the annual budget of the person to whom the commissioners court delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the tax authorized under the contract.

(b) A person with whom a county contracts under this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the commissioners court of the county or other person, shall make the records available for inspection and review to the commissioners court or other person.

(c) Hotel occupancy tax revenue spent for a purpose authorized

by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized by the applicable provisions of this subchapter governing the use of revenue by that particular county. If a county or other public or private entity that conducts an activity authorized by the applicable provisions of this subchapter governing the use of revenue by that particular county conducts other activities that are not authorized, the portion of the total administrative costs of the entity for which hotel occupancy tax revenue may be used may not exceed the portion of those administrative costs actually incurred in conducting the authorized activities.

(d) County hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner.

(e) Revenue derived from the tax authorized by this chapter is to be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by the applicable provisions of this subchapter governing the use of revenue by that particular county. That revenue may not be used for the general revenue purposes or general governmental operations of a county.

Added by Acts 1993, 73rd Leg., ch. 643, Sec. 3, eff. Sept. 1, 1993.

Sec. 352.102. USE OF REVENUE: COUNTIES BORDERING MEXICO. (a) Except as provided by Subsection (b), the revenue from a tax imposed under this chapter by a county that borders the Republic of Mexico and that is further described by Section 352.002(a)(2) may only be used for:

(1) the purposes provided by Sections 351.101(a)(1) and (2);

(2) general promotion and tourist advertising of the county and its vicinity and conducting a solicitation program to attract conventions and visitors, any of which may be conducted by the county or through contracts with persons or organizations selected by the county; or

(3) the encouragement, promotion, improvement, or application of historical preservation and restoration either by the county or through contracts with persons or organizations selected by the county.

(b) A county that borders the Republic of Mexico and that is further described by Section 352.002(a)(2) may use 15 percent or less of the revenue collected each fiscal year from the tax imposed under this chapter for the purposes provided by Section 351.101(a)(4).

(c) A county that borders the Republic of Mexico and that is further described by Section 352.002(a)(14) shall use at least one-third of the revenue collected each fiscal year from the tax imposed under this chapter for the purposes authorized by this chapter in unincorporated areas of the county.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.26(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1110, Sec. 15, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 273, Sec. 1, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 643, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 418, Sec. 3, eff. May 28, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.013A, eff. September 1, 2009.

Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY. (a) Except as provided by Subsection (b), the revenue from a tax imposed under this chapter by a county that has no municipality may be used only for:

(1) the purposes provided by Sections 351.101(a)(1), (2), and (4);

(2) advertising for general promotional and tourist advertising of the county and conducting a solicitation program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the commissioners court; and

(3) historical preservation and restoration.

(b) Notwithstanding any other provision of this chapter, a county described by Subsection (a) that owns an airport may use revenue from a tax imposed under this chapter for repairs and

improvements to the county airport or reimbursement for repairs and improvements to the airport.

(c) A county to which Subsection (b) applies may not use revenue from a tax imposed under this chapter for a purpose described by Subsection (b) in a total amount that would exceed the amount of hotel revenue in the county that is likely to be reasonably attributable to guests traveling through the airport during the 15-year period beginning on the date the county first uses the tax revenue for that purpose.

(d) A county to which Subsection (b) applies may not use revenue from a tax imposed under this chapter for a purpose described by Subsection (b) after the 10th anniversary of the date the county first uses that revenue for that purpose.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987.
Amended by Acts 1993, 73rd Leg., ch. 643, Sec. 4, eff. Sept. 1, 1993.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 14, eff. June 15, 2017.

Sec. 352.1031. GENERAL LIMITATIONS ON USE OF REVENUE. (a) Except as otherwise explicitly provided, revenue derived from the tax authorized by this chapter may be used only for the purposes stated in Section 351.101.

(b) Revenue derived from the tax authorized by this chapter may not be used for the general revenue purposes or general governmental operations of a county.

Added by Acts 1989, 71st Leg., ch. 1110, Sec. 9, eff. Oct. 1, 1989.
Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 7.04, eff. Sept. 1, 1991.

Sec. 352.1032. USE OF REVENUE: COUNTIES BORDERING EDWARDS AQUIFER AUTHORITY. The revenue from a tax imposed under this chapter by a county authorized to impose the tax by Section 352.002(a)(5) may be used only for:

(1) general promotional and tourist advertising of the county and its vicinity and for conducting a solicitation program to attract conventions and visitors, any of which may be conducted by

the county or through contracts with persons or organizations selected by the county; and

(2) acquiring a site for and constructing, improving, enlarging, equipping, repairing, operating, and maintaining a visitor information center.

Added by Acts 1989, 71st Leg., ch. 1110, Sec. 16, eff. Oct. 1, 1989. Renumbered from Sec. 352.1031 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(34), eff. Sept. 6, 1990. Amended by Acts 1995, 74th Leg., ch. 673, Sec. 2, eff. June 15, 1995; Acts 2003, 78th Leg., ch. 637, Sec. 2, eff. Sept. 1, 2003.

Sec. 352.1033. USE OF REVENUE; COUNTIES BORDERING THE GULF OF MEXICO. (a) Subject to Subsection (c), the revenue from a tax imposed under this chapter by a county that borders the Gulf of Mexico authorized to impose the tax by Section 352.002(a)(6) may be used only to:

(1) clean public beaches;

(2) acquire, furnish, or maintain facilities, including parks, that enhance public access to beaches;

(3) provide and maintain public restrooms on or adjacent to beaches or beach access facilities;

(4) provide and maintain litter containers on or adjacent to beaches or beach access facilities;

(5) create, renovate, promote, and maintain parks adjacent to bays, rivers, and other navigable waterways if the county does not operate a public beach on the Gulf of Mexico;

(6) advertise and conduct solicitations and promotional programs to attract tourists and convention delegates or registrants to the county or its vicinity, any of which may be conducted by the county or through contracts with persons or organizations selected by the county;

(7) acquire a site for and construct, improve, enlarge, equip, repair, operate, and maintain a visitor information center; and

(8) encourage, promote, and improve historical preservation and restoration efforts.

(b) A county that borders the Gulf of Mexico and that is authorized to impose the tax by Section 352.002(a)(6) may use 50

percent or less of the revenue from the tax for the promotion of tourism.

(c) In addition to the uses allowed by Subsection (a), a county authorized to impose a tax under this chapter by Section 352.002(a)(6) that has a population of 50,000 or less and in which there is located at least one national wildlife refuge may use the revenue from the tax to:

(1) acquire, construct, furnish, or maintain facilities, such as aquariums, birding centers and viewing sites, history and art centers, and nature centers and trails;

(2) advertise and conduct solicitations and promotional programs to attract conventions and visitors; and

(3) provide and maintain public restrooms and litter containers on public land in an area that is a tourism venue.

(d) The limitation prescribed by Subsection (b) does not apply to the use of revenue from a tax imposed under this chapter by a county to which Subsection (c) applies.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 7.05, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 503, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 643, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 29.11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 284, Sec. 1, eff. May 26, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 630 (S.B. 804), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 981 (H.B. 4037), Sec. 3, eff. June 19, 2015.

Sec. 352.1035. CERTAIN COUNTIES BORDERING WHITNEY LAKE. The revenue from a tax imposed under this chapter by a county authorized to impose the tax by Section 352.002(a)(29) may be used only for the purpose described in Section 352.101(a)(3) and only in relation to unincorporated areas of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 1359 (H.B. 1820), Sec. 3, eff. June 15, 2007.
Renumbered from Tax Code, Section 352.1034 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.015, eff. September 1, 2009.

Sec. 352.1036. USE OF REVENUE: COUNTIES BORDERING LAKE J. B. THOMAS. The revenue from a tax imposed under this chapter by a county authorized to impose the tax under Section 352.002(h) may be used only to operate and maintain a coliseum in the county.

Added by Acts 2009, 81st Leg., R.S., Ch. 327 (H.B. 749), Sec. 3, eff. June 19, 2009.

Sec. 352.1037. USE OF REVENUE: CERTAIN COUNTIES BORDERING NECHES AND TRINITY RIVERS. The revenue from a tax imposed under this chapter by a county authorized to impose the tax under Section 352.002(o) may be used only to operate and maintain a fairground in the county that has a substantial impact on tourism and hotel activity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1084 (S.B. 1185), Sec. 3, eff. June 17, 2011.

Sec. 352.1038. USE OF REVENUE: CERTAIN COUNTIES CONTAINING UNIVERSITIES. The revenue from a tax imposed under this chapter by a county authorized to impose the tax under Section 352.002(q) may be used only to:

(1) operate, maintain, and improve a coliseum in the county; and

(2) advertise and conduct solicitations and promotional programs to attract visitors to the coliseum.

Added by Acts 2013, 83rd Leg., R.S., Ch. 83 (S.B. 412), Sec. 3, eff. May 18, 2013.

Sec. 352.1039. USE OF REVENUE: CERTAIN COUNTIES THROUGH WHICH ARANSAS RIVER FLOWS. The revenue from a tax imposed under this chapter by a county authorized to impose the tax under Section 352.002(r) may be used only to:

(1) operate, maintain, and improve a convention center in the county; and

(2) advertise and conduct solicitations and promotional programs to attract tourists and convention delegates and registrants to the county.

Added by Acts 2013, 83rd Leg., R.S., Ch. 113 (S.B. 1041), Sec. 3, eff. May 18, 2013.

Sec. 352.104. PLEDGE FOR BONDS. A county may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued by the county under Section 1477.303, Government Code, for one or more of the purposes provided by Section 352.101.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.370, eff. Sept. 1, 2001.

Sec. 352.105. ALLOCATION OF REVENUE: COUNTIES OF MORE THAN 3.3 MILLION. In each county fiscal year, a county with a population of more than 3.3 million that levies a tax under this chapter must spend for the purposes provided by Section 352.101(a)(3) an amount that is not less than 15 percent of the amount of revenue derived from the application of the tax at a rate of one percent.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 14.26(c), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 129, eff. Sept. 1, 2001.

Sec. 352.106. USE OF REVENUE; CERTAIN COUNTIES BORDERING MEXICO. The revenue from a tax imposed under this chapter by a county authorized to impose the tax by Section 352.002(a)(11) may be used for the bond debt service, construction, maintenance, or operation of a special events facility with a seating capacity of at least 8,000.

Added by Acts 1995, 74th Leg., ch. 673, Sec. 3, eff. June 15, 1995.

Sec. 352.107. HOTEL TAX AUTHORIZED FOR COUNTY DEVELOPMENT DISTRICTS. Notwithstanding any other provision of this chapter to the contrary, a commissioners court of a county with a population of less than 600,000 may impose a hotel occupancy tax not to exceed seven percent on a person who pays for the use or possession or for the right to the use or possession of a room in a hotel ordinarily used for sleeping that is located within the boundaries of the county development district created under Subchapter D, Chapter 312, and that is not located within the corporate limits of a municipality, subject to the limitations set forth in Sections 352.002(b) and (c). Taxes collected by a county under this section shall be remitted to the county development district not later than the 10th day after the date the county receives such funds and may be used by the district for the purposes for which sales and use tax proceeds may be used by the district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 6, eff. Sept. 1, 1995.
Amended by Acts 2001, 77th Leg., ch. 669, Sec. 130, eff. Sept. 1, 2001.

Sec. 352.108. USE OF REVENUE; CERTAIN COUNTIES THAT BORDER MEXICO AND CONTAIN A NATIONAL RECREATION AREA. A county authorized to impose a tax under this chapter by Section 352.002(a)(13) may use the revenue from the tax only as follows:

(1) 75 percent of the revenue for the promotion of tourism; and

(2) notwithstanding Section 352.1015, 25 percent of the revenue for the general revenue purposes or general governmental operations of the county.

Added by Acts 1997, 75th Leg., ch. 417, Sec. 2, eff. May 28, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 22.016, eff. September 1, 2009.

Sec. 352.109. RECORDS. (a) A county shall maintain a record that accurately identifies the receipt and expenditure of all revenue derived from the tax imposed under this chapter.

(b) A county or entity that spends revenue derived from the tax

imposed under this chapter shall, before making an expenditure, specify in a list each scheduled activity or event that:

(1) is directly funded by the tax or is offered by an entity that has its administrative costs funded wholly or partly by the tax; and

(2) directly promotes tourism and hotel and convention activity.

(b-1) A county authorized by Section 352.002(a-1) to impose a tax under this chapter shall produce an annual report that describes the tourism, hotel, and convention activity that is attributable to events held at facilities that received funding from the tax during the period covered by the report.

(c) If the commissioners court of a county delegates to another entity the management or supervision of an activity or event funded by the tax imposed under this chapter, each entity that is ultimately funded by the tax shall, before making an expenditure, specify in a list each scheduled activity or event that:

(1) is directly funded by the tax or is offered by an entity that has its administrative costs funded wholly or partly by the tax; and

(2) directly promotes tourism and hotel and convention activity.

(d) Subsections (b) and (c) do not prevent the county or funded entity from subsequently adding an activity or event to the list required by those subsections if the activity or event directly promotes tourism and hotel and convention activity.

(e) This section does not prevent a county or funded entity from setting aside tax revenue in a designated reserve fund for use in supporting planned activities, future events, and facility improvements that directly promote tourism and hotel and convention activity.

(f) For the purposes of this section, all expenditures for a sports and community venue project and related infrastructure, as those terms are defined by Section 334.001, Local Government Code, are a single scheduled activity or event.

Added by Acts 2001, 77th Leg., ch. 1458, Sec. 1.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 167 (S.B. 1463), Sec. 3, eff. May 22, 2007.

Sec. 352.110. USE OF REVENUE; CERTAIN COUNTIES LOCATED WHOLLY IN EDWARDS AQUIFER AUTHORITY. A county authorized to impose a tax by Section 352.002(a)(15) may use the revenue from the tax only as follows:

(1) 75 percent of the revenue for the promotion of tourism and lodging; and

(2) notwithstanding Section 352.1015, 25 percent of the revenue for:

(A) the removal of trash and litter in the state-owned rivers and riverbeds located within the boundaries of the county; and

(B) the provision and maintenance of litter containers on or adjacent to state-owned rivers and riverbeds primarily used by lodging guests and located within the boundaries of the county.

Added by Acts 2009, 81st Leg., R.S., Ch. 938 (H.B. 3136), Sec. 1, eff. September 1, 2009.

Sec. 352.111. USE OF REVENUE; COUNTIES BORDERING PORTION OF NECHES RIVER, SABINE RIVER, AND SABINE LAKE. (a) In addition to the purposes authorized by this chapter, the revenue from a tax imposed under this chapter by a county authorized to impose the tax by Section 352.002(a)(28) may be used to construct and equip a pavilion that is primarily used for events attended by tourists and hotel guests and that has a substantial impact on hotel activity.

(b) If a county to which this section applies uses revenue derived from the tax imposed under this chapter for a purpose described by Subsection (a), the county may not reduce the percentage of revenue from the tax imposed under this chapter and allocated for a purpose described by Section 351.101(a)(3) to a percentage that is less than the average percentage of that revenue allocated by the county for that purpose during the 36-month period preceding the date the county first uses hotel occupancy tax revenue for the purpose described by Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 406 (S.B. 2208), Sec. 1, eff. June 4, 2019.

Sec. 352.113. USE OF REVENUE: CERTAIN COUNTIES BORDERING LAKE RAY ROBERTS. In addition to the purposes authorized by this chapter, the revenue from a tax imposed under this chapter by a county authorized to impose the tax under Section 352.002(x) may be used for any purpose described by Section 352.101(a).

Added by Acts 2017, 85th Leg., R.S., Ch. 785 (H.B. 2445), Sec. 15, eff. June 15, 2017.