

TAX CODE CHAPTER 23. APPRAISAL METHODS AND PROCEDURES

TAX CODE

TITLE 1. PROPERTY TAX CODE

SUBTITLE D. APPRAISAL AND ASSESSMENT

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.

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.

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.

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.

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.

Sec. 23.014. EXCLUSION OF PROPERTY AS REAL PROPERTY. 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.

Sec. 23.02. REAPPRAISAL OF PROPERTY DAMAGED IN NATURAL DISASTER AREA. (a) The governing body of a taxing unit that is located partly or entirely inside an area declared to be a natural disaster area by the governor may authorize reappraisal of all property damaged in the disaster at its market value immediately after the disaster.

(b) If a taxing unit authorizes a reappraisal pursuant to this section, the appraisal office shall complete the reappraisal as soon as practicable. The appraisal office shall include on the appraisal records, in addition to other information required or authorized by law:

(1) the date of the disaster;

(2) the appraised value of the property after the disaster; and

(3) if the reappraisal is not authorized by all taxing units in which the property is located, an indication of the taxing units to which the reappraisal applies.

(c) A taxing unit that authorizes a reappraisal under this section must pay the appraisal district all the costs of making the reappraisal. If two or more taxing units provide for the reappraisal in the same territory, each shall share the costs of the reappraisal in that territory in the proportion the total dollar amount of taxes imposed in that territory in the preceding year bears to the total dollar amount of taxes all units providing for reappraisal of that territory imposed in the preceding year.

(d) If property damaged in a natural disaster is reappraised as provided by this section, the governing body shall provide for prorating the taxes on the property for the year in which the disaster occurred. If the taxes are prorated, taxes due on the property are determined as follows: the taxes on the property 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 before the date the disaster occurred; the taxes on the property 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 disaster occurred, remaining in the year; and the total of the two amounts is the amount of taxes on the property for the year.

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

Added by Acts 1981, 67th Leg., 1st C.S., p. 136, ch. 13, Sec. 57, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4829, ch. 851, Sec. 28, eff. Aug. 29, 1983.

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 Transportation 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 by the Motor Vehicle Board of the Texas Department of Transportation;

(B) an entity that is owned or controlled by a person who holds a manufacturer's license issued by the Motor Vehicle Board of the Texas Department of Transportation; or

(C) a dealer whose general distinguishing number issued by the Texas Department of Transportation under the authority of Chapter 503, Transportation Code, prohibits the dealer from selling a vehicle to any person except a dealer.

(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 Transportation. 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 Transportation 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.

(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(1) 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. 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 Transportation;

(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) of this code.

(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 Transportation. 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 Transportation 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 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 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 Transportation 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 Transportation 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 Transportation 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 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 his 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 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.

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 provided 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. A dealer shall complete the form with respect to each motor vehicle 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 the 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. 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) of this code.

(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 (1) 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 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 his 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 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.

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 of this code;

(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 Transportation 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.

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 Transportation.

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(1) 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 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 his 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 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.

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 heavy equipment.

(2) "Dealer's heavy equipment inventory" means all items of heavy equipment that a dealer holds for sale at retail. The term includes items of heavy equipment that are leased or rented but subject to a purchase option by the lessee or renter.

(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 3,000 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 with an option to purchase, the total amount of the lease or rental payments plus any final consideration, excluding interest.

(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.

(9) "Total annual sales" means the total of the sales price for each sale from a dealer's heavy equipment inventory in a 12-month period.

(b) For the purpose of the computation of property tax:

(1) 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; and

(2) a sale is considered to occur when possession of an item of heavy equipment is transferred from the dealer to the purchaser.

(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 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) A dealer 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 person fails to file the declaration as required by Subsection (f) is a separate violation.

(j) In addition to other penalties provided by law, a dealer who fails to 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 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 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.

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, or an item of heavy equipment 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 heavy equipment inventory shall assign a unit property tax to each item of heavy equipment sold from a dealer's heavy equipment inventory. The unit property tax of each item of heavy equipment is determined by multiplying the sales price of the item 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 provided 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 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) 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. A dealer shall complete the form with respect to each item of heavy equipment sold. 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 the item of heavy equipment sold, including any unique identification or serial number affixed to the item by the manufacturer;

(2) the sales price of the item of heavy equipment;

(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 10th day of each month, a dealer shall file with the collector the statement covering the sale of each item of heavy equipment sold by the dealer in the preceding 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. 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) 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 that a dealer fails to comply with this subsection is a separate violation.

(m) In addition to other penalties provided by law, a dealer who fails to 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 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.

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 provided 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." A dealer shall complete the form with respect to each vessel and outboard motor 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 the 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. 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) of this code.

(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 (1) 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 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 his 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 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.

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.

(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.

(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 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 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.

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.

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 provided 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." A retailer shall complete the form with respect to each unit of manufactured housing 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 the 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. 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 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.

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, 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 market condition 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. The comptroller shall calculate the market condition factor by dividing the comptroller's current calendar year statewide average price for oil or gas, as applicable, forecasted for revenue estimating purposes by the preceding calendar year actual statewide average price for oil or gas, as applicable. For purposes of calculating the market condition factor, "price" means the market value of oil or gas as determined under Subchapter C, Chapter 201, or Section 202.053, as applicable. The comptroller shall calculate the preceding calendar year actual statewide average prices for oil and gas and the market condition factors for oil and gas and publish that information to be used for ad valorem tax appraisal purposes concurrently with the current calendar year statewide average prices for oil and gas forecasted for revenue estimating purposes. The price for the interest used in the second or a subsequent calendar year of the appraisal shall reflect the same percentage rate increase or decrease in the price for oil or gas, as applicable, as projected for that calendar year by the comptroller for revenue estimating purposes.

(b) The comptroller by rule shall develop and distribute to each appraisal office appraisal manuals that specify 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 methods and procedures specified by the appraisal manuals developed under Subsection (b) of this section.

Added by Acts 1993, 73rd Leg., ch. 998, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 911, Sec. 2, eff. January 1, 2008.

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.

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.

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.

Text of subsection effective until approval by the voters of H.J.R.

40, 80th Leg., R.S.

(a) The appraised value of a residence homestead for a tax year may not exceed the lesser of:

(1) the market value of the property; or

(2) the sum of:

(A) 10 percent of the appraised value of the property for the last year in which the property was appraised for taxation times the number of years since the property was last appraised;

(B) the appraised value of the property for the last year in which the property was appraised; and

(C) the market value of all new improvements to

the property.

Text of subsection effective on approval by the voters of H.J.R. 40,
80th Leg., R.S.

(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 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.

(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 mold or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted a new improvement:

(1) the last year in which the property was appraised for taxation before the casualty or damage occurred is considered to be the last year in which the property was appraised for taxation for purposes of Subsection (a)(2)(A); and

(2) the replacement structure is considered to be a new improvement only to the extent it is a significant improvement over the replaced structure as that structure existed before the casualty or damage occurred.

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, Sec. 1, eff. January 1, 2008.

Sec. 23.24. FURNITURE, FIXTURES, AND EQUIPMENT. 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.

Added by Acts 1999, 76th Leg., ch. 479, Sec. 1, eff. Sept. 1, 1999.

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, Sec. 1, eff. January 1, 2008.

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 reshaping 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) Except as provided by

Subsection (a-1), 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) On or after January 1, 2008, an individual is not entitled to have land designated for agricultural use if the land secures a home equity loan described by Section 50(a)(6), Article XVI, Texas Constitution.

(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, Sec. 2, eff. January 1, 2008.

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. 23.43. 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.

(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.

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. 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.

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.

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, 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. 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 reshaping 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.

(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 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, Sec. 1, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 1126, Sec. 6, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 454, Sec. 1, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1112, Sec. 3, eff. January 1, 2008.

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 of this code. The rules, before taking effect, must be approved by a majority vote of a committee comprised of the following officials or their designees: the governor, the comptroller, the attorney general, the agriculture commissioner, and the Commissioner of the General Land Office.

(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) Repealed by Acts 2001, 77th Leg., ch. 1172, Sec. 2, eff.

Sept. 1, 2001.

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.

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, Sec. 2, eff. January 1, 2008.

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.

(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 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.

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 five 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 seven 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) 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.

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, Sec. 23.001(81), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 885, Sec. 3.69, eff. April 1, 2009.

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; or

(B) the land has been devoted principally to agricultural use 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. 2260, ch. 841, Sec. 1, eff. Jan. 1, 1982.

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, 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. 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 of this chapter for five of the preceding seven years.

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.

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 of this code. The rules, before taking effect, must be approved by majority vote of a committee comprised of the following officials or their designees: the governor, the comptroller, the attorney general, the agriculture commissioner, and the Commissioner of the General Land Office.

(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.

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 five 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 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 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, Sec. 1, eff. September 1, 2005.

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 reshaping 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.

Added by Acts 1999, 76th Leg., ch. 631, Sec. 5, eff. Jan. 1, 2000.

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.