

TAX CODE

TITLE 3. LOCAL TAXATION

SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

CHAPTER 352. COUNTY HOTEL OCCUPANCY TAXES

SUBCHAPTER A. IMPOSITION AND COLLECTION OF TAX

Sec. 352.001. DEFINITIONS. In this chapter:

(1) "Hotel" has the meaning assigned by Section 156.001(1).

(2) "Convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the county or that are managed in whole or part by the county. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the immediate vicinity of other convention center facilities.

(3) "Tourism" means the guidance or management of tourists.

(4) "Tourist" means an individual who travels from the individual's residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.

(5) "Visitor information center" or "tourism information center" means a building or portion of a building used to distribute or disseminate information to tourists.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 643, Sec. 1, eff. Sept. 1, 1993.

Sec. 352.002. TAX AUTHORIZED.

(a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping:

(1) a county that has a population of more than 3.3 million;

(2) a county that has a population of 90,000 or more, borders the United Mexican States, and does not have three or more cities that each have a population of more than 17,500;

(3) a county in which there is no municipality;

(4) a county in which there is located an Indian reservation under the jurisdiction of the United States government;

(5) a county that has a population of 30,000 or less, that has no more than one municipality with a population of less than 2,500, and that borders two counties located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(6) a county that borders the Gulf of Mexico;

(7) a county that has a population of less than 5,000, that borders the United Mexican States, and in which there is located a major observatory;

(8) a county that has a population of 12,000 or less and borders the Toledo Bend Reservoir;

(9) a county that has a population of less than 12,500 and an area of less than 275 square miles;

(10) a county that has a population of 30,000 or less and borders Possum Kingdom Lake;

(11) a county that borders the United Mexican States and has a population of more than 300,000 and less than 800,000;

(12) a county that has a population of 35,000 or more and borders or contains a portion of Lake Fork Reservoir;

(13) a county that borders the United Mexican States and in which there is located a national recreation area;

(14) a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres;

(15) a county that has a population of 28,000 or less, that has no more than four municipalities, and that is located wholly in the Edwards Aquifer Authority established by Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993;

(16) a county that has a population of 25,000 or less, whose territory is less than 750 square miles, and that has two incorporated municipalities, each with a population of 800 or less, located on the Frio River;

(17) a county that has a population of 34,000 or more and borders Lake Buchanan;

(18) a county that has a population of more than 45,000 and less than 75,000, that borders the United Mexican States, and that borders or contains a portion of Falcon Lake;

(19) a county with a population of 22,000 or less that borders the Neches River and in which there is located a national preserve;

(20) a county that has a population of 28,000 or less and that borders or contains a portion of Lake Livingston;

(21) a county through which the Pedernales River flows and in which the birthplace of a president of the United States is located;

(22) a county that has a population of more than 15,000 but less than 20,000 and borders Lake Buchanan;

(23) a county with a population of less than 11,000 that is bordered by the Sulphur River;

(24) a county that has a population of 16,000 or more and borders the entire north shore of Lake Somerville;

(25) a county that has a population of 20,000 or less and that is bordered by the Brazos and Navasota Rivers;

(26) a county that has a population of more than 15,000 and less than 25,000 and is located on the Trinity and Navasota Rivers;

(27) a county that has a population of less than 15,000 and that is bordered by the Trinity and Navasota Rivers;

(28) a county that borders or contains a portion of the Neches River, the Sabine River, and Sabine Lake; and

(29) a county that borders Whitney Lake.

(a-1) In addition to the counties described by Subsection (a), the commissioners court of a county in which an airport essential to the economy of the county is located may by the adoption of an order or resolution impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping. For the purposes of this subsection, an airport is considered to be essential to the economy of a county only if the airport is a commercial-service international airport within Class C airspace and is located in a county and owned by a municipality each having a population of less than 125,000. This subsection does not apply to a county described by Subsection (a)(13).

(b) The price of a room in a hotel does not include the cost of food served by the hotel and the cost of

personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

(c) The tax does not apply to a person who is a permanent resident under Section 156.101 of this code.

(d) The tax imposed by a county authorized by Subsection (a)(4), (6), (8), (9), (10), (11), (14), (15), (17), (19), (20), (21), (23), or (29) to impose the tax does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel. This subsection does not apply to:

(1) a county authorized by Subsection (a)(6) to impose the tax that:

(A) has a population of less than 40,000 and adjoins the most populous county in this state; or

(B) has a population of more than 200,000 and borders the Neches River; or

(2) a county authorized by Subsection (a)(9) to impose the tax that has a population of more than 9,000.

(e) In addition to the prohibition provided by Subsection (d), the tax imposed by a county authorized by Subsection (a)(17) to impose the tax does not apply to a hotel located in the extraterritorial jurisdiction of a municipality that imposes a tax under Chapter 351 applicable to that hotel. If, after the date the county begins to impose a tax under this chapter, a municipality in the county adopts an ordinance under Section 351.0025 authorizing the imposition of the municipal tax in the municipality's extraterritorial jurisdiction, the county may not impose a tax applicable to a hotel located in that territory on or after the date the municipality begins to impose that tax.

(f) The tax imposed by a county authorized by Subsection (a)(22) to impose the tax does not apply to a hotel located in a municipality.

(g) The commissioners court of a county that has a population of 150,000 or more and that is bordered by the Brazos and Navasota Rivers may impose a tax as provided by Subsection (a).

(h) The commissioners court of a county with a population of more than 16,000 that is bordered by Lake J. B. Thomas may impose a tax as provided by Subsection (a).

(i) The commissioners court of a county in which the Declaration of Independence of the Republic of Texas was signed in 1836 may impose a tax as provided by Subsection (a). A tax imposed under this subsection does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(j) The commissioners court of a county that has a population of less than 8,000, that borders the Pecos River, and that borders another county with a population of more than 120,000 may impose a tax as provided by Subsection (a). The tax imposed under this subsection does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(k) The commissioners court of a county with a population of more than 20,000 that is bordered by the Neches and Trinity Rivers and that contains portions of the Davy Crockett National Forest may impose a tax as provided by Subsection (a).

(l) The commissioners court of a county through which the Guadalupe River flows and in which the source of the Blanco River is located may impose a tax as provided by Subsection (a). A tax imposed under this subsection does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(m) A tax imposed by a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel.

(o) The commissioners court of a county that has a population of 65,000 or more and that is bordered by the Neches and Trinity Rivers may impose a tax as provided by Subsection (a).

(p) The commissioners court of a county that has a population of 80,000 or less, in which two state parks are located, and through which the Colorado River flows but that is not bordered by that river may impose a tax as authorized by Subsection (a).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.26(e), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 695, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 1110, Sec. 10, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 328, Sec. 6, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 109, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 866, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 7.02, 7.03, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 18, Sec. 1, 2, eff. April 6, 1993; Acts 1995, 74th Leg., ch. 673, Sec. 1, eff. June 15, 1995; Acts 1997, 75th Leg., ch. 117, Sec. 1, eff. May 19, 1997; Acts 1997, 75th Leg., ch. 417, Sec. 1, eff. May 28, 1997; Acts 1997, 75th Leg., ch. 418, Sec. 1, eff. May 28, 1997; Acts 1997, 75th Leg., ch. 469, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1492, Sec. 1, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 125, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1402, Sec. 1, eff. June 26, 2001; Acts 2003, 78th Leg., ch. 64, Sec. 1, eff. May 16, 2003; Acts 2003, 78th Leg., ch. 637, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 741, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1097, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1108, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [973](#), Sec. 1, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. [973](#), Sec. 2, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. [1365](#), Sec. 1, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. [1365](#), Sec. 2, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. [1365](#), Sec. 3, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. [24](#), Sec. 1, eff. May 4, 2007.

Acts 2007, 80th Leg., R.S., Ch. [167](#), Sec. 1, eff. May 22, 2007.

Acts 2007, 80th Leg., R.S., Ch. [749](#), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1031](#), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1359](#), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 22.008, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 22.009, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [327](#), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1087](#), Sec. 4, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1185](#), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1185](#), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1418](#), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [732](#), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [919](#), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [964](#), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1084](#), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1163](#), Sec. 122, eff. September 1, 2011.

Sec. 352.003. TAX RATES. (a) Except as provided by this section the tax authorized by this chapter may be imposed at any rate not to exceed seven percent of the price paid for a room in a hotel or, until January 1, 2001, eight percent of the price paid for a room in a hotel in a county with a population of more than 3.3 million.

(b) The county tax rate in a municipality that has a population of 1.9 million or more may not exceed two percent of the price paid for a room in a hotel.

(c) The rate in a county that does not have a municipality may not exceed four percent of the price paid for a room in a hotel. This subsection does not apply to a county that:

- (1) has a population of 10,000 or more; and
- (2) borders the United Mexican States.

(d) The tax rate in a county that borders the United Mexican States and in which there is located a national park of more than 400,000 acres may not exceed seven percent of the price paid for a room in a hotel.

(e) The tax rate in a county authorized to impose the tax under Section 352.002(a)(6) and that has a population of less than 40,000 and adjoins the most populous county in this state may not exceed three percent of the price paid for a room in a hotel.

(f) The tax rate in a county that borders the Gulf of Mexico, has a population of more than 200,000, and borders

the Neches River may not exceed two percent of the price paid for a room in a hotel in the county.

(g) The tax rate in a county authorized to impose the tax under Section 352.002(a)(18) may not exceed two percent of the price paid for a room in a hotel.

(h) The tax rate in a county authorized to impose the tax under Section 352.002(a-1) may not exceed one percent of the price paid for a room in a hotel in the county.

(i) The tax rate in a county authorized to impose the tax under Section 352.002(g) may not exceed two percent of the price paid for a room in a hotel.

(j) The tax rate in a county authorized to impose the tax under Section 352.002(a)(24), (25), (26), or (27) may not exceed two percent of the price paid for a room in a hotel.

(k) The tax rate in a county authorized to impose the tax under Section 352.002(a)(28) may not exceed two percent of the price paid for a room in a hotel.

(l) The tax rate in a county authorized to impose the tax under Section 352.002(h) may not exceed two percent of the price paid for a room in a hotel.

(m) The tax rate in a county authorized to impose the tax under Section 352.002(k) may not exceed two percent of the price paid for a room in a hotel.

(n) The tax rate in a county authorized to impose the tax under Section 352.002(o) may not exceed two percent of the price paid for a room in a hotel.

(o) Except as otherwise provided by this subsection, the tax rate in a county authorized to impose the tax under Section 352.002(p) may not exceed seven percent of the price paid for a room in a hotel. The county shall impose the tax authorized under Section 352.002(p) at a rate that may not exceed 0.75 percent of the price paid for a room in a hotel if the hotel is located in:

(1) a municipality that imposes a tax under Chapter 351 applicable to the hotel; or

(2) the extraterritorial jurisdiction of that municipality and the municipality imposes a tax in that area under Section 351.0025 applicable to the hotel.

(q) Except as otherwise provided by this subsection, the tax rate in a county authorized to impose the tax under Section 352.002(a)(13) may not exceed seven percent of the price paid for a room in the hotel. If a municipality in the county imposes a tax under Chapter 351, the county may impose the tax on a hotel to which the municipal tax applies at a rate that, when added to the municipal tax rate, does not exceed seven percent of the price paid for a room in the hotel.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.25(a), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 591, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 418, Sec. 2, eff. May 28, 1997; Acts 1999, 76th Leg., ch. 1492, Sec. 2, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 126, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1402, Sec. 2, eff. June 26, 2001; Acts 2003, 78th Leg., ch. 741, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [24](#), Sec. 2, eff. May 4, 2007.

Acts 2007, 80th Leg., R.S., Ch. [167](#), Sec. 2, eff. May 22, 2007.

Acts 2007, 80th Leg., R.S., Ch. [319](#), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. [749](#), Sec. 2, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1031](#), Sec. 2, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1359](#), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 22.011, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 22.012, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 22.013, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. [327](#), Sec. 2, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1087](#), Sec. 5, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1185](#), Sec. 3, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [1185](#), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. [828](#), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [919](#), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [1084](#), Sec. 2, eff. June 17, 2011.

Sec. 352.0031. PREEXISTING CONTRACTS. If a county increases the rate of the tax authorized by this chapter, the increased tax rate does not apply to the tax imposed on the use or possession of a room under a contract executed before October 1, 1989, that provides for the payment of the tax at the rate in effect when the contract was executed, unless the contract is subject to change or modification by reason of the tax rate increase. The tax rate applicable to the use or possession of a room under the contract is the rate in effect when the contract was executed.

Added by Acts 1989, 71st Leg., ch. 1110, Sec. 12, eff. Oct. 1, 1989.

Sec. 352.004. TAX COLLECTION; PENALTY. (a) The owner or operator of a hotel shall report and send the taxes collected under this chapter to the county as provided by the resolution or order imposing the tax.

(b) If the owner fails to report when required or pay the tax when due, the owner shall pay a penalty of five percent of the amount of the tax due. If the owner fails to file the report or pay the tax before the 31st day after the date that the report or tax payment was due, he shall pay an additional penalty of five percent of the amount of the tax due.

(c) Delinquent taxes and accrued penalties draw interest at the rate of 10 percent a year beginning 60 days after the date on which the tax was due.

(d) The county attorney may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the county and who has failed to file a tax report or pay the tax when due to collect the tax not paid or to enjoin the person from operating a hotel in the county until the tax is paid or the report filed, as applicable, as provided by the court's order. The remedy provided by this subsection is in addition to other available remedies.

(e) If a person required to file a tax report under this chapter does not file the report as required by the county, the county may determine the amount of tax due under this chapter by conducting an audit of each hotel in relation to which the person did not file the report as required by the county. A county may directly perform an audit authorized under this subsection or contract with another person to perform the audit on an hourly rate or fixed-fee basis. A county shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel under this subsection.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1110, Sec. 11, eff. Oct. 1, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1152](#), Sec. 4, eff. September 1, 2011.

Sec. 352.0041. COLLECTION PROCEDURES ON PURCHASE OF HOTEL. (a) If a person who is liable for the payment of a tax under this chapter is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt by a person designated by the county to provide the receipt showing that the amount has been paid or a certificate showing that no tax is due.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the person designated by the county to provide a receipt under Subsection (a) issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The person designated by the county shall issue the certificate or statement not later than the 60th day after the date that the person receives the request.

(d) If the person designated by the county to provide a receipt under Subsection (a) fails to issue the certificate or statement within the period provided by Subsection (c), the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

Added by Acts 1991, 72nd Leg., ch. 328, Sec. 2, eff. Aug. 26, 1991.

Sec. 352.005. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. A county may permit a person who is required to collect and pay over to the county the tax authorized by this chapter not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the tax.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 643, Sec. 2, eff. Sept. 1, 1993.

Sec. 352.006. AUDIT; ACCESS TO BOOKS AND RECORDS.

(a) The county that imposes the tax under this chapter may audit the hotel to determine the amount of taxes due under this chapter.

(b) After the county gives reasonable notice to the hotel that the county intends to inspect the books or records of the hotel, the county may access the hotel's books or records during business hours as necessary to conduct the audit.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1005](#), Sec. 1, eff. September 1, 2011.

Sec. 352.007. EXEMPTION. (a) A United States governmental entity described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter.

(b) A state governmental entity subject to the tax imposed by Chapter 156 under Section 156.103(b) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid.

(c) A person who is described by Section 156.103(d) is exempt from the payment of the tax authorized by this chapter.

(d) A person who is described by Section 156.103(c) shall pay the tax imposed by this chapter but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.

(e) To receive a refund of a tax paid under this chapter, the governmental entity entitled to the refund must file a refund claim on a form provided by the county and containing the information required by the county. The comptroller by rule shall prescribe the form that must be used and the information that must be provided.

(f) A governmental entity may file a refund claim with the county under this chapter only for each calendar quarter for all reimbursements accrued during that quarter. The county may adopt a resolution to enforce this section.

(g) The right to use or possess a room in a hotel is exempt from taxation under this chapter if the person required to collect the tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption provided in Subsection (c). The exemption must be supported by the documentation required under rules adopted by the comptroller and the county.

Added by Acts 1989, 71st Leg., ch. 504, Sec. 3, eff. Sept. 1, 1989. Renumbered from Sec. 352.006 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(33), eff. Sept. 6, 1990. Amended by Acts 1995, 74th Leg., ch. 454, Sec. 8, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1467, Sec. 2.74, eff. Oct. 1, 1999; Acts 2003, 78th Leg., ch. 209, Sec. 88, eff. Oct. 1, 2003.

Sec. 352.008. CONCURRENT STATE TAX DELINQUENCY.

(a) If, as a result of an audit conducted under Section 352.004, a county obtains documentation or other

information showing a failure to collect or pay when due both the tax imposed by this chapter and the tax imposed by Chapter 156 on a person who pays for the right to occupy a room or space in a hotel, the county shall notify and submit the relevant information to the comptroller.

(b) The comptroller shall review the information submitted by a county under Subsection (a) and determine whether to proceed with collection and enforcement efforts. If the information results in the collection of a delinquent tax under Chapter 156 and the assessment has become administratively final, the comptroller shall distribute a percentage of the amount collected to the county as provided by Section 156.2513 to defray the cost of the county audit.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1152](#), Sec. 5, eff. September 1, 2011.

SUBCHAPTER B. USE AND ALLOCATION OF REVENUE

Sec. 352.101. USE OF REVENUE IN POPULOUS COUNTIES.

(a) The revenue from a tax imposed under this chapter by a county having a population of more than 3.3 million may be used only for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities that serve the purpose of attracting visitors and tourists to the county, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances, hotels owned by a municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within 1,000 feet of a convention center owned by a

municipality with a population of 1,500,000 or more, or a historic hotel owned by a municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within one mile of a convention center owned by a municipality with a population of 1,500,000 or more;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants; and

(3) general promotion and tourist advertising of the county and its vicinity and conducting a solicitation program to attract conventions and visitors, any of which may be conducted by the county or through contracts with persons or organizations selected by the county.

(b) A county having a population of more than 3.3 million shall endeavor to coordinate its promotional and advertising activities conducted under authority of Subsection (a) (3) with the city having the largest population in the county.

(c) A county to which this section applies may delegate the authority to spend the county's hotel occupancy tax revenue to a private organization only through a contract. The contract must require the organization to select a new governing body as soon as practicable after the contract takes effect and to limit the composition of its governing body to not more than 54 members, and provide that the appointment, election, or other designation of each member of the governing body be submitted to and approved by the governing body of the county as long as the contract is in effect. The contract is not valid unless before the contract is executed the private organization amends its charter, bylaws, or other governing rules to conform to the requirements of this subsection.

(d) Subsection (c) does not apply to any private entity, person, or organization that receives tax revenue

under Section 351.101(a) and makes expenditures pursuant to Section 351.101(a)(4).

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.26(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1110, Sec. 14, eff. Oct. 1, 1989; Acts 1993, 73rd Leg., ch. 231, Sec. 2, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 30.275, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 127, 128, eff. Sept. 1, 2001.

Sec. 352.1015. USE OF REVENUE: GENERAL PROVISIONS.

(a) The commissioners court of a county by contract may delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the tax authorized by this chapter. The commissioners court in writing shall approve in advance the annual budget of the person to which it delegates those functions and shall require the person to make periodic reports to the commissioners court at least quarterly listing the expenditures made by the person with revenue derived from the tax authorized by this chapter. The person must maintain revenue provided from the tax authorized by this chapter in a separate account established for that purpose and may not commingle that revenue with any other money. The commissioners court may not delegate to any person the management or supervision of its tourist and convention programs and activities funded with revenue from the tax authorized by this chapter **other than by contract as provided by this subsection.** The approval by the commissioners court of the county of the annual budget of the person to whom the commissioners court delegates those functions creates a fiduciary duty in the person with respect to the revenue provided by the tax authorized under the contract.

(b) A person with whom a county contracts under this section shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person and, on request of the commissioners court of the county or other person, shall make the records available for inspection and review to the commissioners court or other person.

(c) Hotel occupancy tax revenue spent for a purpose authorized by this section may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures authorized by the applicable provisions of this subchapter governing the use of revenue by that particular county. If a county or other public or private entity that conducts an activity authorized by the applicable provisions of this subchapter governing the use of revenue by that particular county conducts other activities that are not authorized, the portion of the total administrative costs of the entity for which hotel occupancy tax revenue may be used may not exceed the portion of those administrative costs actually incurred in conducting the authorized activities.

(d) County hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner.

(e) Revenue derived from the tax authorized by this chapter is to be expended in a manner directly enhancing and promoting tourism and the convention and hotel industry as permitted by the applicable provisions of this subchapter governing the use of revenue by that particular county. That revenue may not be used for the general

revenue purposes or general governmental operations of a county.

Added by Acts 1993, 73rd Leg., ch. 643, Sec. 3, eff. Sept. 1, 1993.

Sec. 352.102. USE OF REVENUE: COUNTIES BORDERING MEXICO. (a) Except as provided by Subsection (b), the revenue from a tax imposed under this chapter by a county that borders the Republic of Mexico and that is further described by Section 352.002(a)(2) may only be used for:

- (1) the purposes provided by Sections 351.101(a)(1) and (2);
- (2) general promotion and tourist advertising of the county and its vicinity and conducting a solicitation program to attract conventions and visitors, any of which may be conducted by the county or through contracts with persons or organizations selected by the county; or
- (3) the encouragement, promotion, improvement, or application of historical preservation and restoration either by the county or through contracts with persons or organizations selected by the county.

(b) A county that borders the Republic of Mexico and that is further described by Section 352.002(a)(2) may use 15 percent or less of the revenue collected each fiscal year from the tax imposed under this chapter for the purposes provided by Section 351.101(a)(4).

(c) A county that borders the Republic of Mexico and that is further described by Section 352.002(a)(14) shall use at least one-third of the revenue collected each fiscal year from the tax imposed under this chapter for the purposes authorized by this chapter in unincorporated areas of the county.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec.

14.26(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1110, Sec. 15, eff. Oct. 1, 1989; Acts 1991, 72nd Leg., ch. 273, Sec. 1, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 643, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 418, Sec. 3, eff. May 28, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 22.013A, eff. September 1, 2009.

Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO MUNICIPALITY. The revenue from a tax imposed under this chapter by a county that has no municipality may be used only for:

- (1) the purposes provided by Sections 351.101(a)(1), (2), and (4);
- (2) advertising for general promotional and tourist advertising of the county and conducting a solicitation program to attract conventions and visitors either by the county or through contracts with persons or organizations selected by the commissioners court; and
- (3) historical preservation and restoration.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 643, Sec. 4, eff. Sept. 1, 1993.

Sec. 352.1031. GENERAL LIMITATIONS ON USE OF REVENUE.

(a) Except as otherwise explicitly provided, revenue derived from the tax authorized by this chapter may be used only for the purposes stated in Section 351.101.

(b) Revenue derived from the tax authorized by this chapter may not be used for the general revenue purposes or general governmental operations of a county.

Added by Acts 1989, 71st Leg., ch. 1110, Sec. 9, eff. Oct. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 7.04, eff. Sept. 1, 1991.

Sec. 352.1032. USE OF REVENUE: COUNTIES BORDERING EDWARDS AQUIFER AUTHORITY. The revenue from a tax imposed under this chapter by a county authorized to impose the tax by Section 352.002(a)(5) may be used only for:

(1) general promotional and tourist advertising of the county and its vicinity and for conducting a solicitation program to attract conventions and visitors, any of which may be conducted by the county or through contracts with persons or organizations selected by the county; and

(2) acquiring a site for and constructing, improving, enlarging, equipping, repairing, operating, and maintaining a visitor information center.

Added by Acts 1989, 71st Leg., ch. 1110, Sec. 16, eff. Oct. 1, 1989. Renumbered from Sec. 352.1031 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(34), eff. Sept. 6, 1990. Amended by Acts 1995, 74th Leg., ch. 673, Sec. 2, eff. June 15, 1995; Acts 2003, 78th Leg., ch. 637, Sec. 2, eff. Sept. 1, 2003.

Sec. 352.1033. USE OF REVENUE; COUNTIES BORDERING THE GULF OF MEXICO. (a) Subject to Subsection (c), the revenue from a tax imposed under this chapter by a county that borders the Gulf of Mexico authorized to impose the tax by Section 352.002(a)(6) may be used only to:

(1) clean public beaches;

(2) acquire, furnish, or maintain facilities, including parks, that enhance public access to beaches;

(3) provide and maintain public restrooms on or adjacent to beaches or beach access facilities;

(4) provide and maintain litter containers on or adjacent to beaches or beach access facilities;

(5) create, renovate, promote, and maintain parks adjacent to bays, rivers, and other navigable waterways if the county does not operate a public beach on the Gulf of Mexico; and

(6) advertise and conduct solicitations and promotional programs to attract tourists and convention delegates or registrants to the county or its vicinity, any of which may be conducted by the county or through contracts with persons or organizations selected by the county.

(b) A county that borders the Gulf of Mexico and that is authorized to impose the tax by Section 352.002(a)(6) may use 50 percent or less of the revenue from the tax for the promotion of tourism.

(c) In addition to the uses allowed by Subsection (a), a county authorized to impose a tax under this chapter by Section 352.002(a)(6) that has a population of 50,000 or less and in which there is located at least one state park and one national wildlife refuge may use the revenue from the tax to:

(1) acquire, construct, furnish, or maintain facilities, such as aquariums, birding centers and viewing sites, history and art centers, and nature centers and trails;

(2) advertise and conduct solicitations and promotional programs to attract conventions and visitors; and

(3) provide and maintain public restrooms and litter containers on public land in an area that is a tourism venue.

(d) The limitation prescribed by Subsection (b) does not apply to the use of revenue from a tax imposed under this chapter by a county to which Subsection (c) applies.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 7.05, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 503, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 643, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 29.11, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 284, Sec. 1, eff. May 26, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [630](#), Sec. 1, eff. June 17, 2011.

For expiration of this section, see Subsection (e).

Sec. 352.1034. USE OF REVENUE AND RELATED ISSUES: MID-SIZED COUNTY BORDERING BRAZOS AND NAVASOTA RIVERS. (a) This section applies only to a county authorized to impose a tax by Section 352.002(g).

(b) The county must spend at least 45 percent of the revenue from the tax on marketing projects that directly promote tourism, hotel, and convention activity.

(c) The county shall produce an annual report indicating the tourism, hotel, and convention activity attributable to events held at facilities that receive money from the tax.

(d) The county shall create an advisory committee to oversee spending of the tax. The committee must include at least two representatives from the hotel industry.

(e) This section expires September 1, 2015.

Added by Acts 2007, 80th Leg., R.S., Ch. [749](#), Sec. 3, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 22.014, eff. September 1, 2009.

Sec. 352.1035. CERTAIN COUNTIES BORDERING WHITNEY LAKE. The revenue from a tax imposed under this chapter by

a county authorized to impose the tax by Section 352.002(a)(29) may be used only for the purpose described in Section 352.101(a)(3) and only in relation to unincorporated areas of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. [1359](#), Sec. 3, eff. June 15, 2007.

Renumbered from Tax Code, Section 352.1034 and amended by Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 22.015, eff. September 1, 2009.

Sec. 352.1036. USE OF REVENUE: COUNTIES BORDERING LAKE J. B. THOMAS. The revenue from a tax imposed under this chapter by a county authorized to impose the tax under Section 352.002(h) may be used only to operate and maintain a coliseum in the county.

Added by Acts 2009, 81st Leg., R.S., Ch. [327](#), Sec. 3, eff. June 19, 2009.

Sec. 352.1037. USE OF REVENUE: CERTAIN COUNTIES BORDERING NECHES AND TRINITY RIVERS. The revenue from a tax imposed under this chapter by a county authorized to impose the tax under Section 352.002(o) may be used only to operate and maintain a fairground in the county that has a substantial impact on tourism and hotel activity.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1084](#), Sec. 3, eff. June 17, 2011.

Sec. 352.104. PLEDGE FOR BONDS. A county may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued by the county under Section 1477.303, Government Code, for one or more of the purposes provided by Section 352.101.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.370, eff. Sept. 1, 2001.

Sec. 352.105. ALLOCATION OF REVENUE: COUNTIES OF MORE THAN 3.3 MILLION. In each county fiscal year, a county with a population of more than 3.3 million that levies a tax under this chapter must spend for the purposes provided by Section 352.101(a)(3) an amount that is not less than 15 percent of the amount of revenue derived from the application of the tax at a rate of one percent.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 14.26(c), eff. Aug. 28, 1989. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 129, eff. Sept. 1, 2001.

Sec. 352.106. USE OF REVENUE; CERTAIN COUNTIES BORDERING MEXICO. The revenue from a tax imposed under this chapter by a county authorized to impose the tax by Section 352.002(a)(11) may be used for the bond debt service, construction, maintenance, or operation of a special events facility with a seating capacity of at least 8,000.

Added by Acts 1995, 74th Leg., ch. 673, Sec. 3, eff. June 15, 1995.

Sec. 352.107. HOTEL TAX AUTHORIZED FOR COUNTY DEVELOPMENT DISTRICTS. Notwithstanding any other provision of this chapter to the contrary, a commissioners court of a county with a population of less than 600,000 may impose a hotel occupancy tax not to exceed seven percent on a person who pays for the use or possession or for the right to the use or possession of a room in a hotel ordinarily used for sleeping that is located within the boundaries of the

county development district created under Subchapter D, Chapter 312, and that is not located within the corporate limits of a municipality, subject to the limitations set forth in Sections 352.002(b) and (c). Taxes collected by a county under this section shall be remitted to the county development district not later than the 10th day after the date the county receives such funds and may be used by the district for the purposes for which sales and use tax proceeds may be used by the district.

Added by Acts 1995, 74th Leg., ch. 995, Sec. 6, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 130, eff. Sept. 1, 2001.

Sec. 352.108. USE OF REVENUE; CERTAIN COUNTIES THAT BORDER MEXICO AND CONTAIN A NATIONAL RECREATION AREA. A county authorized to impose a tax under this chapter by Section 352.002(a)(13) may use the revenue from the tax only as follows:

- (1) 75 percent of the revenue for the promotion of tourism; and
- (2) notwithstanding Section 352.1015, 25 percent of the revenue for the general revenue purposes or general governmental operations of the county.

Added by Acts 1997, 75th Leg., ch. 417, Sec. 2, eff. May 28, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [87](#), Sec. 22.016, eff. September 1, 2009.

Sec. 352.109. RECORDS. (a) A county shall maintain a record that accurately identifies the receipt and expenditure of all revenue derived from the tax imposed under this chapter.

(b) A county or entity that spends revenue derived from the tax imposed under this chapter shall, before making an expenditure, specify in a list each scheduled activity or event that:

(1) is directly funded by the tax or is offered by an entity that has its administrative costs funded wholly or partly by the tax; and

(2) directly promotes tourism and hotel and convention activity.

(b-1) A county authorized by Section 352.002(a-1) to impose a tax under this chapter shall produce an annual report that describes the tourism, hotel, and convention activity that is attributable to events held at facilities that received funding from the tax during the period covered by the report.

(c) If the commissioners court of a county delegates to another entity the management or supervision of an activity or event funded by the tax imposed under this chapter, each entity that is ultimately funded by the tax shall, before making an expenditure, specify in a list each scheduled activity or event that:

(1) is directly funded by the tax or is offered by an entity that has its administrative costs funded wholly or partly by the tax; and

(2) directly promotes tourism and hotel and convention activity.

(d) Subsections (b) and (c) do not prevent the county or funded entity from subsequently adding an activity or event to the list required by those subsections if the activity or event directly promotes tourism and hotel and convention activity.

(e) This section does not prevent a county or funded entity from setting aside tax revenue in a designated reserve fund for use in supporting planned activities, future events, and facility improvements that directly promote tourism and hotel and convention activity.

(f) For the purposes of this section, all expenditures for a sports and community venue project and related infrastructure, as those terms are defined by Section 334.001, Local Government Code, are a single scheduled activity or event.

Added by Acts 2001, 77th Leg., ch. 1458, Sec. 1.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [167](#), Sec. 3, eff. May 22, 2007.

Sec. 352.110. USE OF REVENUE; CERTAIN COUNTIES LOCATED WHOLLY IN EDWARDS AQUIFER AUTHORITY. A county authorized to impose a tax by Section 352.002(a)(15) may use the revenue from the tax only as follows:

(1) 75 percent of the revenue for the promotion of tourism and lodging; and

(2) notwithstanding Section 352.1015, 25 percent of the revenue for:

(A) the removal of trash and litter in the state-owned rivers and riverbeds located within the boundaries of the county; and

(B) the provision and maintenance of litter containers on or adjacent to state-owned rivers and riverbeds primarily used by lodging guests and located within the boundaries of the county.

Added by Acts 2009, 81st Leg., R.S., Ch. [938](#), Sec. 1, eff. September 1, 2009.