

**HISTORY:** Enacted by Acts 1997, 75th Leg., ch. 1112 (H.B. 2606), § 2, effective January 1, 1998; am. Acts 1999, 76th Leg., ch. 1060 (H.B. 3197), § 1, effective January 1, 2000; am. Acts 2003, 78th Leg., ch. 1276 (H.B. 3507), § 14A.812, effective September 1, 2003; am. Acts 2009, 81st Leg., ch. 116 (H.B. 2071), § 7, effective September 1, 2009; am. Acts 2017, 85th Leg., ch. 408 (H.B. 2019), §§ 81, 82, effective September 1, 2017.

**Sec. 23.128. Prepayment of Taxes by Manufactured Housing Retailers.**

(a) In this section:

(1) “Aggregate tax rate” means the combined tax rates of all appropriate taxing units authorized by law to impose property taxes on a retail manufactured housing inventory.

(2) “Appropriate taxing unit” means a taxing unit, including the county, authorized by law to impose property taxes on a retail manufactured housing inventory.

(3) “Chief appraiser,” “collector,” “declaration,” “manufactured housing,” “owner,” “retail manufactured housing inventory,” “retailer,” “sales price,” “subsequent sale,” and “total annual sales” have the meanings assigned by Section 23.127.

(4) “Statement” means the retail manufactured housing inventory tax statement filed on a form adopted by the comptroller under this section.

(5) “Unit property tax factor” means a number equal to one-twelfth of the preceding year’s aggregate ad valorem tax rate at the location at which a retail manufactured housing inventory is located on January 1 of the current year.

(b) Except for a unit of manufactured housing sold to a retailer or a unit of manufactured housing that is the subject of a subsequent sale, a retailer or a person who has agreed by contract to pay the retailer’s current year property taxes imposed on the retailer’s manufactured housing inventory shall assign a unit property tax to each unit of manufactured housing sold from a retail manufactured housing inventory. The unit property tax of each unit of manufactured housing is determined by multiplying the sales price of the unit by the unit property tax factor. On or before the 10th day of each month the retailer shall, together with the statement filed by the retailer as required by this section, deposit with the collector an amount equal to the total of the unit property tax assigned to all units of manufactured housing sold from the retail manufactured housing inventory in the preceding month to which a unit property tax was assigned. The collector shall deposit the money to the credit of the retailer’s escrow account for prepayment of property taxes as provided by this section. An escrow account required by this section is used to pay property taxes imposed on the retail manufactured housing inventory, and the retailer shall fund the escrow account as provided by this subsection.

(c) The collector shall maintain the escrow account for each retailer in the county depository. The collector is not required to maintain a separate account in the depository for each escrow account created as provided by this section but shall maintain separate records for each retailer. The collector shall retain any interest generated by the escrow account to defray the cost of administration of the prepayment procedure established by this section. Interest generated by an escrow account created as provided by this section is the sole property of the collector and may not be used by an entity other than the collector. Interest generated by an escrow account may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

(d) The retailer may not withdraw money in an escrow account created under this section.

(e) The comptroller by rule shall adopt a form entitled “Retail Manufactured Housing Inventory Tax Statement.” Each month, a retailer shall complete the form regardless of whether a unit of manufactured housing is sold. A retailer may not use another form for that purpose. The statement shall include:

(1) a description of the unit of manufactured housing sold, including any unique identification or serial number affixed to each unit by the manufacturer;

(2) the sales price of the unit of manufactured housing;

(3) any unit property tax of the unit of manufactured housing;

(4) the reason a unit property tax is not assigned if that is the case; and

(5) any other information the comptroller considers appropriate.

(f) On or before the 10th day of each month, a retailer shall file with the collector the statement covering the sale of each unit of manufactured housing sold by the retailer in the preceding month. On or before the 10th day of a month following a month in which a dealer does not sell a unit of manufactured housing, the dealer must file the statement with the collector and indicate that no sales were made in the prior month. A retailer shall file a copy of the statement with the chief appraiser and retain documentation relating to the disposition of each unit of manufactured housing sold. A chief appraiser or collector may examine documents held by a retailer as required by this subsection in the same manner, and subject to the same conditions, as in Section 23.127(g).

(g) Subsection (f) applies to a retailer regardless of whether the retailer owes retail manufactured housing inventory tax for the current year. A retailer who does not owe any retail manufactured housing inventory tax for the current year because the retailer was not in business on January 1 may not assign a unit property tax to a unit of manufactured housing sold by the retailer or remit money with the statement unless under the terms of a contract as provided by Subsection (k).

(h) An appropriate taxing unit shall, on its tax bill prepared for the owner of a retail manufactured housing inventory, separately itemize the taxes imposed on the retail manufactured housing inventory. When the tax bill is prepared for a retail manufactured housing inventory, the assessor for the taxing unit, or an entity, if any, other than the collector, that collects taxes on behalf of the taxing unit, shall provide the collector a true and correct copy of the tax bill sent to

the owner, including taxes imposed on the retail manufactured housing inventory. The collector shall apply the money in the owner's escrow account to the taxes imposed and deliver a tax receipt to the owner. The collector shall apply the amount to each appropriate taxing unit in proportion to the amount of taxes imposed, and the assessor of each taxing unit shall apply the money received from the collector to the taxes owed by the owner. No penalties or interest shall be assessed against an owner for property taxes which the owner has previously paid but which are not delivered to the appropriate taxing unit before the date on which such taxes become delinquent.

(i) If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due; however, no penalty or interest shall be assessed against an owner for that portion of the property taxes which represents the amount of the partial payment if the amount of the deficiency is not paid before the date the deficiency is delinquent.

(j) The collector shall remit to each appropriate taxing unit the total amount collected by the collector in deficiency payments. The assessor of each taxing unit shall apply that amount to the taxes owed by the owner. Taxes that are due but not received by the collector on or before January 31 are delinquent. Not later than February 15, the collector shall distribute to each appropriate taxing unit in the manner provided by this section all money collected under this section and held in escrow by the collector under this section. This section does not impose a duty on a collector to collect delinquent taxes that the collector is not otherwise obligated by law or contract to collect.

(k) A person who acquires the business or assets of a retailer may, by contract, agree to pay the current year retail manufactured housing inventory taxes owed by the retailer. The retailer who owes the current year tax and the person who acquires the business or assets of the retailer shall jointly notify the chief appraiser and the collector of the terms of the agreement and of the fact that the purchaser has agreed to pay the current year retail manufactured housing inventory taxes owed by the selling retailer. The chief appraiser and the collector shall adjust their records accordingly. Notwithstanding Section 23.127, a person who agrees to pay current year retail manufactured housing inventory taxes as provided by this subsection is not required to file a declaration until the year following the acquisition. This subsection does not relieve the selling retailer of tax liability.

(l) A retailer who fails to file a statement as required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$100. Each day that a retailer fails to comply with this subsection is a separate violation.

(m) In addition to other penalties provided by law, a retailer who fails to file or fails to timely file a statement as required by this section is liable for a penalty in the amount of \$500 for each month or part of a month in which a statement is not filed after it is due. A tax lien attaches to the retailer's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, county attorney, collector, or person designated by the collector shall collect the penalty established by this section in the name of the collector. Venue of an action brought under this subsection is in the county in which the violation occurred or in the county in which the retailer maintains the retailer's principal place of business or residence.

(n) A retailer who fails to remit unit property taxes due as required by this section shall pay a penalty of five percent of the amount due. If the amount is not paid within 10 days after the due date, the retailer shall pay an additional penalty of five percent of the amount due. Notwithstanding this section, unit property taxes paid on or before January 31 of the year following the date on which they are due are not delinquent. The collector, the collector's designated agent, or the county or district attorney shall enforce this subsection. A penalty under this subsection is in addition to any other penalty provided by law if the owner's taxes are delinquent.

(o) A fine collected under this section shall be deposited in the county depository to the credit of the general fund. A penalty collected under this section is the sole property of the collector and may not be used by an entity other than the collector or used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

(p) Section 23.123 applies to a statement filed under this section in the same manner in which that section applies to a statement filed as required by Section 23.122.

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### Sec. 23.129. Waiver of Certain Penalties.

(a) Subject to Subsection (b):

- (1) a chief appraiser may waive a penalty imposed by Section 23.121(k), 23.1241(j), or 23.127(k); and
- (2) a collector may waive a penalty imposed by Section 23.122(n), 23.1242(m), or 23.128(m).

(b) A chief appraiser or collector may waive a penalty under Subsection (a) only if:

- (1) the taxpayer seeking the waiver files a written application for the waiver with the chief appraiser or collector, as applicable, not later than the 30th day after the date the declaration or statement, as applicable, was required to be filed;
- (2) the taxpayer's failure to file or failure to timely file the declaration or statement was a result of:
  - (A) a disaster that made it effectively impossible for the taxpayer to comply with the filing requirement; or
  - (B) an event beyond the control of the taxpayer that destroyed the taxpayer's property or records; and
- (3) the taxpayer is otherwise in compliance with this chapter.