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.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 24,

Sec. 1

(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 12,000 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 600,000;

(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 21,000 or less that borders the Neches River and in which there is located a national preserve;

(20) a county that has a population of 22,500 or less and that borders or contains a portion of Lake Livingston;

(21) a county that has a population of less than 22,000 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; and

(23) a county with a population of less than 10,000 that is bordered by the Sulphur River.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 1031, Sec. 1

(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 12,000 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 600,000;

(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 21,000 or less that borders the Neches River and in which there is located a national preserve;

(20) a county that has a population of 22,500 or less and that borders or contains a portion of Lake Livingston;

(21) a county that has a population of less than 22,000 and in which the birthplace of a president of the United States is located;

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

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

(24) 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; and

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

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 1359, Sec. 1

(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 12,000 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 600,000;

(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 21,000 or less that borders the Neches River and in which there is located a national preserve;

(20) a county that has a population of 22,500 or less and that borders or contains a portion of Lake Livingston;

(21) a county that has a population of less than 22,000 and in which the birthplace of a president of the United States is located;

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

(23) 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), (12), (17), (19), (20), (21), or (23) 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.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 24, Sec. 1

(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.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 749, Sec. 1

(f) 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). This subsection expires September 1, 2015.

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.

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 authorized to impose the tax under Section 352.002(a)(12) may not exceed three 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.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 167, Sec. 2

(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.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 749, Sec. 2

(h) The tax rate in a county authorized to impose the tax under Section 352.002(f) may not exceed two percent of the price paid for a room in a hotel. This subsection expires September 1, 2015.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 1031, Sec. 2

(h) The tax rate in a county authorized to impose the tax under Section 352.002(a)(22), (23), (24), or (25) may not exceed two percent of the price paid for a room in a hotel.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 1359, Sec. 2

(h) The tax rate in a county authorized to impose the tax under Section 352.002(a)(22) may not exceed two percent of the price paid for a room in a hotel.

Added by Acts 1987, 70th Leg., ch. 191, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 14.25(a), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 591, Sec. 1, eff. Sept. 1, 1995; Acts

1997, 75th Leg., ch. 418, Sec. 2, eff. May 28, 1997; Acts 1999, 76th Leg., ch. 1492, Sec. 2, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 669, Sec. 126, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1402, Sec. 2, eff. June 26, 2001; Acts 2003, 78th Leg., ch. 741, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 24, 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.

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.

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.

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