

(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.

**HISTORY:** Enacted by Acts 1995, 74th Leg., ch. 836 (H.B. 2940), § 4, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(73), effective September 1, 1997 (renumbered from Sec. 23.12E); am. Acts 2009, 81st Leg., ch. 116 (H.B. 2071), § 6, effective September 1, 2009.

### Sec. 23.126. Declarations and Statements Confidential.

(a) In this section:

- (1) "Collector" has the meaning given it in Section 23.124 of this code.
- (2) "Chief appraiser" has the meaning given it in Section 23.124 of this code.
- (3) "Dealer" has the meaning given it in Section 23.124 of this code.
- (4) "Declaration" has the meaning given it in Section 23.124 of this code.
- (5) "Owner" has the meaning given it in Section 23.124 of this code.
- (6) "Statement" has the meaning given it in Section 23.124 of this code.

(b) Except as provided by this section, a declaration or statement filed with a chief appraiser or collector as required by Section 23.124 or Section 23.125 of this code is confidential and not open to public inspection. A declaration or statement and the information contained in either may not be disclosed to anyone except an employee of the appraisal office who appraises the property or to an employee of the county tax assessor-collector involved in the maintenance of the owner's escrow account.

(c) Information made confidential by this section may be disclosed:

- (1) in a judicial or administrative proceeding pursuant to a lawful subpoena;
- (2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;
- (3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;
- (4) to a collector or chief appraiser;
- (5) to a district attorney, criminal district attorney, or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.124 or Section 23.125 of this code;
- (6) for statistical purposes if in a form that does not identify specific property or a specific property owner; or
- (7) if and to the extent that the information is required for inclusion in a document or record that the appraisal or collection office is required by law to prepare or maintain.

(d) A person who knowingly permits inspection of a declaration or statement by a person not authorized to inspect the declaration or statement or who discloses confidential information contained in the declaration or statement to a person not authorized to receive the information commits an offense. An offense under this subsection is a Class B misdemeanor.

**HISTORY:** Enacted by Acts 1995, 74th Leg., ch. 836 (H.B. 2940), § 5, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(73), effective September 1, 1997 (renumbered from Sec. 23.12F).

### Sec. 23.127. Retail Manufactured Housing Inventory; Value.

(a) In this section:

- (1) "Chief appraiser" means the chief appraiser for the appraisal district in which a retailer's retail manufactured housing inventory is located.
- (2) "Collector" means the county tax assessor-collector for the county in which a retailer's retail manufactured housing inventory is located.
- (3) "Declaration" means a retail manufactured housing inventory declaration form adopted by the comptroller under this section in relation to units of manufactured housing considered to be retail manufactured housing inventory.
- (4) "Department" means the Texas Department of Housing and Community Affairs.
- (5) "HUD-code manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.
- (6) "Manufactured housing" means:
  - (A) a HUD-code manufactured home as it would customarily be held by a retailer in the normal course of business in a retail manufactured housing inventory; or
  - (B) a mobile home as it would customarily be held by a retailer in the normal course of business in a retail manufactured housing inventory.
- (7) "Mobile home" has the meaning assigned by Section 1201.003, Occupations Code.

(8) "Owner" means a retailer who owes current year inventory taxes imposed on a retailer's retail manufactured housing inventory.

(9) "Retail manufactured housing inventory" means all units of manufactured housing that a retailer holds for sale at retail and that are defined as inventory by Section 1201.201, Occupations Code.

(10) "Retailer" has the meaning assigned by Section 1201.003, Occupations Code.

(11) "Retailer-financed sale" means the sale at retail of a unit of manufactured housing in which the retailer finances the purchase of the unit of manufactured housing, is the sole lender in the transaction, and retains exclusively the right to enforce the terms of the agreement that evidences the sale.

(12) "Sales price" means the total amount of money paid or to be paid to a retailer for the purchase of a unit of manufactured housing, excluding any amount paid for the installation of the unit.

(13) "Subsequent sale" means a retailer-financed sale of a unit of manufactured housing that, at the time of the sale, has been the subject of a retailer-financed sale from the same retail manufactured housing inventory in the same calendar year.

(14) "Total annual sales" means the total of the sales price for each sale from a retail manufactured housing inventory in a 12-month period.

(b) For the purpose of the computation of property taxes, the market value of a retail manufactured housing inventory on January 1 is the total annual sales, less sales to retailers and subsequent sales, for the 12-month period corresponding to the preceding tax year, divided by 12.

(c) For the purpose of the computation of property taxes on the market value of the retail manufactured housing inventory of an owner who was not a retailer on January 1 of the preceding tax year, the chief appraiser shall estimate the market value of the retail manufactured housing inventory. In making the estimate required by this subsection, the chief appraiser shall extrapolate using any sales data generated by sales from the retail manufactured housing inventory in the preceding tax year.

(d) Except for a retail manufactured housing inventory, personal property held by a retailer is appraised as provided by the other sections of this code. In the case of a retailer whose sales from the retail manufactured housing inventory are made predominately to other retailers, the chief appraiser shall appraise the retail manufactured housing inventory as provided by Section 23.12.

(e) A retailer is presumed to be an owner of a retail manufactured housing inventory on January 1 if, in the 12-month period ending on December 31 of the immediately preceding year, the retailer sold a unit of manufactured housing to a person other than a retailer. The presumption created by this subsection is not rebutted by the fact that a retailer does not have any units of manufactured housing physically on hand for sale from the retail manufactured housing inventory on January 1.

(f) The comptroller by rule shall adopt a form entitled "Retail Manufactured Housing Inventory Declaration." Except as provided by Section 23.128(k), not later than February 1 of each year or, in the case of a retailer who was not in business on January 1, not later than the 30th day after the date the retailer commences business, each retailer shall file a declaration with the chief appraiser and file a copy with the collector. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which the retailer conducts business;

(2) the retailer's license number issued by the department;

(3) a statement that the retailer is the owner of a retail manufactured housing inventory; and

(4) the market value of the retailer's manufactured housing inventory for the current tax year as computed under Subsection (b).

(g) The chief appraiser may examine the books and records of a retailer. A request made under this subsection must be made in writing, delivered personally to the custodian of the records at a location at which the retailer conducts business, provide a period of not less than 15 days for the person to respond to the request, and state that the person to whom the request is addressed has the right to seek judicial relief from compliance with the request. In an examination made under this section, the chief appraiser may examine:

(1) the document issued by the department showing the retailer's license number;

(2) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.128 to the retailer; and

(3) sales records to substantiate information stated in a retailer's declaration filed by the person.

(h) If a retailer fails to file a declaration as required by Subsection (f), or if, on the declaration required by Subsection (f) a retailer reports the sale of fewer than two units of manufactured housing in the preceding year, the chief appraiser shall report that fact to the department.

(i) A retailer who fails to file a declaration as required by Subsection (f) commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$500. Each day that a retailer fails to file the declaration as required by Subsection (f) is a separate violation.

(j) A retailer who violates Subsection (g) commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$500. Each day that a retailer fails to comply with Subsection (g) is a separate violation.

(k) In addition to other penalties provided by law, a retailer who fails to file or fails to timely file a declaration required by Subsection (f) is liable for a penalty in the amount of \$1,000 for each month or part of a month in which a

declaration is not filed or timely filed after it is due. A lien attaches to the retailer's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, county attorney, chief appraiser, or person designated by the chief appraiser shall collect the penalty established by this section in the name of the chief appraiser. Venue of an action brought under this subsection is in the county in which the violation occurred or in the county in which the retailer maintains the retailer's principal place of business or residence.

(l) Section 23.123 applies to a declaration filed under this section in the same manner in which that section applies to a declaration filed as required by Section 23.121.

(m) Except as provided by Subsection (d), a chief appraiser shall appraise retail manufactured housing inventory in the manner provided by this section.

**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).