

1-1 By: West S.B. No. 1396
 1-2 (In the Senate - Filed March 12, 2015; March 18, 2015, read
 1-3 first time and referred to Committee on Finance; April 30, 2015,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 13, Nays 0; April 30, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Hinojosa	X			
1-9 Bettencourt	X			
1-10 Eltife	X			
1-11 Hancock	X			
1-12 Huffman	X			
1-13 Kolthorst	X			
1-14 Nichols			X	
1-15 Schwertner	X			
1-16 Seliger			X	
1-17 Taylor of Galveston	X			
1-18 Uresti	X			
1-19 Watson	X			
1-20 West	X			
1-21 Whitmire	X			

1-23 COMMITTEE SUBSTITUTE FOR S.B. No. 1396 By: West

1-24 A BILL TO BE ENTITLED
 1-25 AN ACT

1-26 relating to the sales and use taxation of aircraft.
 1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-28 SECTION 1. Subtitle E, Title 2, Tax Code, is amended by
 1-29 adding Chapter 163 to read as follows:
 1-30 CHAPTER 163. SALES AND USE TAXATION OF AIRCRAFT
 1-31 Sec. 163.001. CERTIFICATED OR LICENSED CARRIERS. (a) For
 1-32 purposes of Chapter 151, "certificated or licensed carrier" means a
 1-33 person authorized by the Federal Aviation Administration to operate
 1-34 an aircraft to transport persons or property in compliance with the
 1-35 certification and operations specifications requirements of 14
 1-36 C.F.R. Part 121, 125, 133, or 135.
 1-37 (b) Section 151.328(a)(1) applies with respect to a
 1-38 certificated carrier's acquisition of an aircraft, without regard
 1-39 to whether the certificated carrier acquired the aircraft by
 1-40 purchase, lease, or rental.
 1-41 Sec. 163.002. RESALE OF AIRCRAFT. (a) For purposes of
 1-42 Section 151.006, "sale for resale" includes the sale of an aircraft
 1-43 to a purchaser who acquires the aircraft for the purpose of leasing,
 1-44 renting, or reselling the aircraft to another person in the United
 1-45 States of America or a possession or territory of the United States
 1-46 of America or in the United Mexican States in the form or condition
 1-47 in which it is acquired.
 1-48 (b) The leasing or renting of an aircraft under Subsection
 1-49 (a) includes the transfer of operational control of the aircraft
 1-50 from a lessor to one or more lessees pursuant to one or more written
 1-51 agreements in exchange for consideration, regardless of whether the
 1-52 consideration is in the form of a cash payment and regardless of
 1-53 whether the consideration is fixed, variable, or periodic. For
 1-54 purposes of this subsection, "operational control" has the meaning
 1-55 assigned by the Federal Aviation Regulations and includes the
 1-56 exercise of authority over initiating, conducting, or terminating a
 1-57 flight.
 1-58 (c) Subsection (a) applies to a purchase of an aircraft
 1-59 regardless of whether the purchaser, in addition to leasing,
 1-60 renting, or reselling the aircraft to another person, also uses the
 1-61 aircraft if, for a period of one year beginning on the date the

2-1 purchaser purchases the aircraft, more than 50 percent of the
2-2 aircraft's departures are made under the operational control of one
2-3 or more lessees pursuant to one or more written agreements as
2-4 described by Subsection (b).

2-5 (d) Section 151.154(a) does not apply to a purchaser of an
2-6 aircraft.

2-7 Sec. 163.003. USE OF AIRCRAFT. For purposes of the tax
2-8 imposed under Subchapter D, Chapter 151, an aircraft that is
2-9 brought into this state for the sole purpose of being completed,
2-10 repaired, remodeled, or restored is not brought into the state for
2-11 storage, use, or other consumption in this state.

2-12 Sec. 163.004. NO PRESUMPTION OF USE. For purposes of the
2-13 tax imposed under Subchapter D, Chapter 151, there is no
2-14 presumption that an aircraft was purchased for storage, use, or
2-15 consumption in this state if the person bringing the aircraft into
2-16 this state did not acquire the aircraft directly from a seller by
2-17 means of a purchase, as that term is defined by Section 151.005.

2-18 Sec. 163.005. NO IMPOSITION OF TAX FOLLOWING OUT-OF-STATE
2-19 USE. (a) No tax is imposed under Subchapter D, Chapter 151, with
2-20 respect to an aircraft that is brought into this state if the
2-21 aircraft is predominantly used outside of this state for a period of
2-22 one year beginning on the later of:

2-23 (1) the date the aircraft was acquired, whether by
2-24 purchase, lease, rental, or otherwise, by the person bringing the
2-25 aircraft into this state; or

2-26 (2) the date the aircraft:

2-27 (A) was substantially complete in the condition
2-28 for its intended use; and

2-29 (B) conducted its first flight for the carriage
2-30 of persons or property.

2-31 (b) For purposes of this section, an aircraft is
2-32 predominantly used outside of this state if more than 50 percent of
2-33 the aircraft's departures are from locations outside of this state.

2-34 Sec. 163.006. CERTAIN TRANSACTIONS BETWEEN RELATED
2-35 PERSONS. (a) For purposes of the tax imposed under Chapter 151, a
2-36 sale, lease, rental, or other transaction between a person and a
2-37 member, owner, or affiliate of the person involving an aircraft
2-38 that would not be subject to tax or would qualify for an exemption
2-39 from tax if the transaction were between unrelated persons remains
2-40 not subject to tax or exempt from tax to the same extent as if the
2-41 transaction were between unrelated persons.

2-42 (b) No tax is imposed under Chapter 151 with respect to the
2-43 use of an aircraft by an owner or member of the purchaser of the
2-44 aircraft, by an entity that is an affiliate of the purchaser of the
2-45 aircraft, or by an owner or member of an affiliate of the purchaser
2-46 of the aircraft if:

2-47 (1) with respect to the purchase of the aircraft, the
2-48 purchaser paid the tax imposed under Chapter 151; or

2-49 (2) the purchaser's purchase of the aircraft was
2-50 exempt from the tax imposed under Chapter 151, other than under:

2-51 (A) Section 151.302; or

2-52 (B) Section 151.304, unless the purchase would
2-53 have been exempt from tax under Section 151.304 if the owner,
2-54 member, affiliate, or owner or member of the affiliate who is using
2-55 the aircraft had been the purchaser.

2-56 (c) For purposes of this section, the term "affiliate" means
2-57 an entity that would be classified as a member of the purchaser's
2-58 affiliated group under Section 171.0001.

2-59 Sec. 163.007. AIRCRAFT OPERATED UNDER FRACTIONAL OWNERSHIP
2-60 PROGRAMS. No tax is imposed under Chapter 151 with respect to the
2-61 purchase, sale, or use of an aircraft that is operated pursuant to
2-62 14 C.F.R. Part 91, Subpart K.

2-63 Sec. 163.008. NO IMPOSITION OF TAX UNDER THIS CHAPTER.
2-64 Nothing in this chapter shall be construed to impose a tax.

2-65 Sec. 163.009. CONFLICTS WITH OTHER LAW. This chapter
2-66 controls over Chapter 151 to the extent of any conflict.

2-67 SECTION 2. This Act takes effect September 1, 2015.

2-68 * * * * *