

1 AN ACT

2 relating to the collection of municipal hotel occupancy taxes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 351.004, Tax Code, is amended by
5 amending Subsection (a) and adding Subsections (a-1), (a-2), and
6 (a-3) to read as follows:

7 (a) The municipal attorney or other attorney acting for the
8 municipality may bring suit against a person who is required to
9 collect the tax imposed by this chapter and pay the collections over
10 to the municipality and who has failed to file a tax report or pay
11 the tax when due to collect the tax not paid or to enjoin the person
12 from operating a hotel in the municipality until the tax is paid or
13 the report filed, as applicable, as provided by the court's order.
14 In addition to the amount of any tax owed under this chapter, the
15 person is liable to the municipality for:

16 (1) the municipality's reasonable attorney's fees;

17 (2) the costs of an audit conducted under Subsection
18 (a-1)(1), as determined by the municipality using a reasonable
19 rate, but only if the tax has been delinquent for at least two
20 complete municipal fiscal quarters at the time the audit is
21 conducted; and

22 (3) a penalty equal to 15 percent of the total amount
23 of the tax owed.

24 (a-1) If a person required to file a tax report under this

1 chapter does not file the report as required by the municipality,
2 the municipal attorney or other attorney acting for the
3 municipality may determine the amount of tax due under this chapter
4 by:

5 (1) conducting an audit of each hotel in relation to
6 which the person did not file the report as required by the
7 municipality; or

8 (2) using the tax report filed for the appropriate
9 reporting period under Section 156.151 in relation to that hotel.

10 (a-2) If the person did not file a tax report under Section
11 156.151 for that reporting period in relation to that hotel, the
12 municipal attorney or other attorney acting for the municipality
13 may estimate the amount of tax due by using the tax reports in
14 relation to that hotel filed during the previous calendar year
15 under this chapter or Section 156.151. An estimate made under this
16 subsection is prima facie evidence of the amount of tax due for that
17 period in relation to that hotel.

18 (a-3) The authority to conduct an audit under this section
19 is in addition to any other audit authority provided by statute,
20 charter, or ordinance.

21 SECTION 2. This Act applies only to taxes imposed on or
22 after the effective date of this Act. Taxes imposed before that
23 date are governed by the law in effect on the date the taxes were
24 imposed, and that law is continued in effect for that purpose.

25 SECTION 3. This Act takes effect September 1, 2005.

Raid Newkirk

President of the Senate

Jim Cullum

Speaker of the House

I certify that H.B. No. 352 was passed by the House on March 29, 2005, by a non-record vote.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 352 was passed by the Senate on May 24, 2005, by the following vote: Yeas 31, Nays 0

Daisy Shaw
Secretary of the Senate

APPROVED: 17 JUNE '05

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20 AM O'CLOCK

JUN 17 2005
Roger Williams
Secretary of State