

By: Thierry

H.B. No. 5115

A BILL TO BE ENTITLED

AN ACT

relating to the collection of state, municipal, and county hotel occupancy taxes by an accommodations intermediary.

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

SECTION 1. Subchapter B, Chapter 156, Tax Code, is amended by adding Section 156.054 to read as follows:

Sec. 156.054. TAX COLLECTION BY ACCOMMODATIONS INTERMEDIARY. (a) For purposes of this section:

(1) "Accommodations intermediary" means a person that:

(A) facilitates the rental of a room or space in a hotel in this state to a person; and

(B) performs any of the following actions:

(i) charges the person renting the room or space in the hotel any amount required to secure the rental;

(ii) collects from the person the amount charged to rent the room or space in the hotel; or

(iii) charges the person renting the room or space in the hotel a fee for the service described by Paragraph (A).

(2) "Booking charge" means the charge imposed on a person by a hotel for the use or possession or for the right to the use or possession of a room or space in a hotel in this state and collected by an accommodations intermediary. The term includes any

1 fees charged by the hotel, regardless of whether separately
2 itemized. The term does not include the amount charged by an
3 accommodations intermediary for facilitating the rental of the room
4 or space in the hotel. The booking charge is considered the price
5 paid for a room or space in a hotel for purposes of the imposition of
6 a hotel occupancy tax when the rental of the room or space is
7 facilitated by an accommodations intermediary.

8 (b) Notwithstanding Section 156.053 or any other law:

9 (1) an accommodations intermediary:

10 (A) shall collect the appropriate amount of the
11 tax imposed under this chapter on each booking charge with respect
12 to a hotel located in this state;

13 (B) shall report and remit all taxes collected by
14 the accommodations intermediary under Paragraph (A) in the manner
15 required of a person owning, operating, managing, or controlling a
16 hotel under this chapter; and

17 (C) is considered to be the person owning,
18 operating, managing, or controlling the hotel for purposes of the
19 collection and enforcement of the tax imposed under this chapter on
20 a booking charge for a rental made through the accommodations
21 intermediary; and

22 (2) the hotel may not collect and is not liable for a
23 tax imposed by this chapter on a booking charge for a rental made
24 through the accommodations intermediary.

25 (c) This section does not apply to an accommodations
26 intermediary that has entered into a written agreement with the
27 comptroller to collect and remit the tax imposed under this chapter

1 for the rental of a room or space in a hotel in this state
2 facilitated by the intermediary.

3 (d) The comptroller may adopt rules to implement and
4 administer this section.

5 SECTION 2. Subchapter A, Chapter 351, Tax Code, is amended
6 by adding Section 351.0043 to read as follows:

7 Sec. 351.0043. TAX COLLECTION BY ACCOMMODATIONS
8 INTERMEDIARY. (a) For purposes of this section, "accommodations
9 intermediary" and "booking charge" have the meanings assigned by
10 Section 156.054.

11 (b) Notwithstanding Section 351.004 or any other law:

12 (1) an accommodations intermediary:

13 (A) shall collect the appropriate amount of the
14 tax imposed under this chapter by a municipality in which a hotel is
15 located on each booking charge with respect to that hotel;

16 (B) shall report and remit all taxes collected by
17 the accommodations intermediary under Paragraph (A) in the manner
18 required of a person owning, operating, managing, or controlling a
19 hotel under this chapter; and

20 (C) is considered to be the person owning,
21 operating, managing, or controlling the hotel for purposes of the
22 collection and enforcement of the tax imposed under this chapter on
23 a booking charge for a rental made through the accommodations
24 intermediary; and

25 (2) the hotel may not collect and is not liable for a
26 tax imposed by this chapter on a booking charge for a rental made
27 through the accommodations intermediary.

1 (c) An accommodations intermediary shall report and remit
2 all taxes collected by the intermediary under Subsection (b) to the
3 comptroller according to a schedule determined by the comptroller.

4 (d) The comptroller shall promulgate a form an
5 accommodations intermediary must use to report the taxes collected
6 by the accommodations intermediary under this section. The form
7 must include the following information:

8 (1) the total receipts from the rental during the
9 reporting period of rooms and spaces in all hotels located in any
10 municipality and offered for rent through the accommodations
11 intermediary, categorized by municipality in which those hotels are
12 located;

13 (2) the total amount of booking charges from the
14 rental during the reporting period of rooms and spaces in all hotels
15 located in any municipality and offered for rent through the
16 accommodations intermediary, categorized by municipality in which
17 those hotels are located;

18 (3) the rate of the tax imposed under this chapter in
19 each municipality identified under Subdivision (2); and

20 (4) the total receipts and the total amount of booking
21 charges from the rental during the reporting period of rooms and
22 spaces in all hotels located in a project financing zone as defined
23 by Section 351.1015 and offered for rent through the accommodations
24 intermediary, categorized by project financing zone.

25 (e) The form described by Subsection (d) may not require the
26 identification of a specific guest or the owner or operator of a
27 hotel.

1 (f) The comptroller shall:

2 (1) deposit the taxes remitted to the comptroller
3 under this section in trust in the separate suspense account of the
4 municipality in which hotels with respect to which the taxes were
5 collected are located; and

6 (2) send to the municipal treasurer or to the person
7 who performs the office of the municipal treasurer payable to the
8 municipality the municipality's share of the taxes remitted to the
9 comptroller under this chapter at least 12 times during each state
10 fiscal year.

11 (g) A suspense account described by Subsection (f)(1) is
12 outside the treasury and the comptroller may make a payment from the
13 account without the necessity of an appropriation.

14 (h) Before sending any money to a municipality under
15 Subsection (f) and subject to the limitation provided by this
16 subsection, the comptroller shall deduct and deposit to the credit
17 of the general revenue fund an amount equal to one percent of the
18 amount of the taxes collected from booking charges for hotels
19 located in the municipality under this section during the period
20 for which a distribution is made as the state's charge for services
21 provided by the state under this section. The comptroller may not
22 deduct from the distributions to a municipality more than \$50,000
23 in each state fiscal year under this subsection.

24 (i) An accommodations intermediary that collects the tax
25 imposed by this chapter is subject to audit by the comptroller. The
26 accommodations intermediary is entitled to seek review and to
27 appeal a determination made by the comptroller in relation to the

1 collection of a tax imposed by this chapter in the same manner
2 provided for a tax imposed under Chapter 151.

3 (j) Notwithstanding any other law, this section applies to
4 the collection, remittance, and distribution of taxes imposed by a
5 political subdivision that is authorized to impose a hotel
6 occupancy tax under a provision of the Special District Local Laws
7 Code or civil statutes in the same manner the section applies to a
8 municipality authorized to impose a hotel occupancy tax under this
9 chapter.

10 (k) This section does not apply to an accommodations
11 intermediary that has entered into an agreement with a municipality
12 or other political subdivision to collect and remit hotel occupancy
13 taxes for the rental of a room or space in a hotel in the
14 municipality or political subdivision that is facilitated by the
15 intermediary and provided written notice of the agreement to the
16 comptroller.

17 (l) The comptroller may adopt rules to implement and
18 administer this section.

19 SECTION 3. Subchapter A, Chapter 352, Tax Code, is amended
20 by adding Section 352.0042 to read as follows:

21 Sec. 352.0042. TAX COLLECTION BY ACCOMMODATIONS
22 INTERMEDIARY. (a) For purposes of this section, "accommodations
23 intermediary" and "booking charge" have the meanings assigned by
24 Section 156.054.

25 (b) Notwithstanding Section 352.004 or any other law:

26 (1) an accommodations intermediary:

27 (A) shall collect the appropriate amount of the

1 tax imposed under this chapter by a county in which a hotel is
2 located on each booking charge with respect to that hotel;

3 (B) shall report and remit all taxes collected by
4 the accommodations intermediary under Paragraph (A) in the manner
5 required of a person owning, operating, managing, or controlling a
6 hotel under this chapter; and

7 (C) is considered to be the person owning,
8 operating, managing, or controlling the hotel for purposes of the
9 collection and enforcement of the tax imposed under this chapter on
10 a booking charge for a rental made through the accommodations
11 intermediary; and

12 (2) the hotel may not collect and is not liable for a
13 tax imposed by this chapter on a booking charge for a rental made
14 through the accommodations intermediary.

15 (c) An accommodations intermediary shall report and remit
16 all taxes collected by the intermediary under Subsection (b) to the
17 comptroller according to a schedule determined by the comptroller.

18 (d) The comptroller shall promulgate a form an
19 accommodations intermediary must use to report the taxes collected
20 by the accommodations intermediary under this section. The form
21 must include the following information:

22 (1) the total receipts from the rental during the
23 reporting period of rooms and spaces in all hotels located in any
24 county and offered for rent through the accommodations
25 intermediary, categorized by county in which those hotels are
26 located;

27 (2) the total amount of booking charges from the

1 rental during the reporting period of rooms and spaces in all hotels
2 located in any county and offered for rent through the
3 accommodations intermediary, categorized by county in which those
4 hotels are located; and

5 (3) the rate of the tax imposed under this chapter in
6 each county identified under Subdivision (2).

7 (e) The form described by Subsection (d) may not require the
8 identification of a specific guest or the owner or operator of a
9 hotel.

10 (f) The comptroller shall:

11 (1) deposit the taxes remitted to the comptroller
12 under this section in trust in the separate suspense account of the
13 county in which hotels with respect to which the taxes were
14 collected are located; and

15 (2) send to the county treasurer payable to the county
16 the county's share of the taxes remitted to the comptroller under
17 this chapter at least 12 times during each state fiscal year.

18 (g) A suspense account described by Subsection (f)(1) is
19 outside the treasury and the comptroller may make a payment from the
20 account without the necessity of an appropriation.

21 (h) Before sending any money to a county under Subsection
22 (f) and subject to the limitation provided by this subsection, the
23 comptroller shall deduct and deposit to the credit of the general
24 revenue fund an amount equal to one percent of the amount of the
25 taxes collected from booking charges for hotels located in the
26 county under this section during the period for which a
27 distribution is made as the state's charge for services provided by

1 the state under this section. The comptroller may not deduct from
2 the distributions to a county more than \$50,000 in each state fiscal
3 year under this subsection.

4 (i) An accommodations intermediary that collects the tax
5 imposed by this chapter is subject to audit by the comptroller. The
6 accommodations intermediary is entitled to seek review and to
7 appeal a determination made by the comptroller in relation to the
8 collection of a tax imposed by this chapter in the same manner
9 provided for a tax imposed under Chapter 151.

10 (j) Notwithstanding any other law, this section applies to
11 the collection, remittance, and distribution of taxes imposed by a
12 political subdivision that is authorized to impose a hotel
13 occupancy tax under a provision of the Special District Local Laws
14 Code or civil statutes in the same manner the section applies to a
15 county authorized to impose a hotel occupancy tax under this
16 chapter.

17 (k) This section does not apply to an accommodations
18 intermediary that has entered into an agreement with a county or
19 other political subdivision to collect and remit hotel occupancy
20 taxes for the rental of a room or space in a hotel in the county or
21 political subdivision that is facilitated by the intermediary and
22 provided written notice of the agreement to the comptroller.

23 (l) The comptroller may adopt rules to implement and
24 administer this section.

25 SECTION 4. Sections 334.253(a) and (b), Local Government
26 Code, are amended to read as follows:

27 (a) Sections 351.002(c), 351.004, 351.0041, 351.0043,

1 351.005, and 351.006, Tax Code, govern the imposition, computation,
2 administration, collection, and remittance of a municipal tax
3 authorized under this subchapter except as inconsistent with this
4 subchapter.

5 (b) Sections 352.002(c), 352.004, 352.0041, 352.0042,
6 352.005, and 352.007, Tax Code, govern the imposition, computation,
7 administration, collection, and remittance of a county tax
8 authorized under this subchapter except as inconsistent with this
9 subchapter.

10 SECTION 5. This Act takes effect September 1, 2023.