

AN ACT

relating to the collection of municipal hotel occupancy taxes.

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

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

(a) The municipal attorney or other attorney acting for the municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality 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 municipality until the tax is paid or the report filed, as applicable, as provided by the court's order. In addition to the amount of any tax owed under this chapter, the person is liable to the municipality for:

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

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

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

(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.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
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.

\_\_\_\_\_  
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.

\_\_\_\_\_  
Secretary of the Senate

APPROVED: \_\_\_\_\_  
Date

\_\_\_\_\_  
Governor