

By: Goodman (Senate Sponsor - Brimer) H.B. No. 352
(In the Senate - Received from the House March 30, 2005;
April 5, 2005, read first time and referred to Committee on
Intergovernmental Relations; May 5, 2005, reported favorably by
the following vote: Yeas 5, Nays 0; May 5, 2005, sent to printer.)

A BILL TO BE ENTITLED
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
chapter does not file the report as required by the municipality,
the municipal attorney or other attorney acting for the
municipality may determine the amount of tax due under this chapter
by:

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

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

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

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

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

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

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