

1-1 By: Brimer S.B. No. 174
1-2 (In the Senate - Filed January 12, 2005; February 1, 2005,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; February 28, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 February 28, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 174 By: Brimer

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the collection of municipal hotel occupancy taxes.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 351.004, Tax Code, is amended by
1-13 amending Subsection (a) and adding Subsections (a-1), (a-2), and
1-14 (a-3) to read as follows:

1-15 (a) The municipal attorney or other attorney acting for the
1-16 municipality may bring suit against a person who is required to
1-17 collect the tax imposed by this chapter and pay the collections over
1-18 to the municipality and who has failed to file a tax report or pay
1-19 the tax when due to collect the tax not paid or to enjoin the person
1-20 from operating a hotel in the municipality until the tax is paid or
1-21 the report filed, as applicable, as provided by the court's order.
1-22 In addition to the amount of any tax owed under this chapter, the
1-23 person is liable to the municipality for:

1-24 (1) the municipality's reasonable attorney's fees;

1-25 (2) the costs of an audit conducted under Subsection
1-26 (a-1)(1), as determined by the municipality using a reasonable
1-27 rate, but only if the tax has been delinquent for at least two
1-28 complete municipal fiscal quarters at the time the audit is
1-29 conducted; and

1-30 (3) a penalty equal to 15 percent of the total amount
1-31 of the tax owed.

1-32 (a-1) If a person required to file a tax report under this
1-33 chapter does not file the report as required by the municipality,
1-34 the municipal attorney or other attorney acting for the
1-35 municipality may determine the amount of tax due under this chapter
1-36 by:

1-37 (1) conducting an audit of each hotel in relation to
1-38 which the person did not file the report as required by the
1-39 municipality; or

1-40 (2) using the tax report filed for the appropriate
1-41 reporting period under Section 156.151 in relation to that hotel.

1-42 (a-2) If the person did not file a tax report under Section
1-43 156.151 for that reporting period in relation to that hotel, the
1-44 municipal attorney or other attorney acting for the municipality
1-45 may estimate the amount of tax due by using the tax reports in
1-46 relation to that hotel filed during the previous calendar year
1-47 under this chapter or Section 156.151. An estimate made under this
1-48 subsection is prima facie evidence of the amount of tax due for that
1-49 period in relation to that hotel.

1-50 (a-3) The authority to conduct an audit under this section
1-51 is in addition to any other audit authority provided by statute,
1-52 charter, or ordinance.

1-53 SECTION 2. This Act applies only to taxes imposed on or
1-54 after the effective date of this Act. Taxes imposed before that
1-55 date are governed by the law in effect on the date the taxes were
1-56 imposed, and that law is continued in effect for that purpose.

1-57 SECTION 3. This Act takes effect September 1, 2005.

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