

By: Lucio

S.B. No. 1355

A BILL TO BE ENTITLED

AN ACT

relating to the authority of an ad valorem tax collector to waive penalties for failing to file certain statements.

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

SECTION 1. Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.129 to read as follows:

Sec. 23.129. WAIVER OF PENALTY. (a) A collector may waive a penalty imposed by Section 23.122(n), 23.1242(m), 23.125(n), or 23.128(m) if the collector determines that the dealer or retailer, as applicable, exercised reasonable diligence to comply with or has substantially complied with the requirements of Section 23.122, 23.1242, 23.125, or 23.128, as applicable. A written request, accompanied by supporting documentation, stating the grounds on which the penalty should be waived must be sent to the collector not later than the 30th day after the date the dealer or retailer received notification of the imposition of the penalty. The collector shall make a determination of the penalty waiver request based on the information submitted.

(b) The collector shall notify the dealer or retailer of the collector's determination regarding the penalty waiver request after considering:

(1) the dealer or retailer's compliance history with respect to paying property taxes and filing statements;

(2) the type, nature, and taxability of the specific

1 property involved;

2 (3) the type, nature, size, and sophistication of the  
3 person's business or other entity for which the filing of a  
4 statement is required;

5 (4) the completeness of the person's records;

6 (5) the person's reliance on advice provided by the  
7 collector that may have contributed to the person's failure to  
8 comply and the imposition of the penalty;

9 (6) any change in the policies of the collector during  
10 the current or preceding tax year that may have affected the  
11 procedure for filing a statement; and

12 (7) any other factors that may have caused the dealer  
13 or retailer to fail to timely file a statement.

14 (c) The collector's decision is final and may not be  
15 appealed.

16 SECTION 2. This Act takes effect September 1, 2009.