

By: Lyne

H.B. No. 2048

A BILL TO BE ENTITLED

AN ACT

relating to the collection and enforcement of state and local hotel occupancy taxes.

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

SECTION 1. Subchapter F, Chapter 156, Tax Code, is amended by adding Section 156.2513 to read as follows:

Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN MUNICIPALITIES AND COUNTIES. Not later than the last day of the month following a calendar quarter, the comptroller shall:

(1) compute the amount of revenue, excluding penalties and interest, derived from the collection of taxes imposed by this chapter that resulted from documentation or other information described by Section 351.008 or 352.008; and

(2) issue a warrant drawn on the general revenue fund in the amount of 20 percent of the revenue computed under Subdivision (1) to the municipality or county that provided the documentation or other information, subject to Sections 351.008(c) and 352.008(c).

SECTION 2. Sections 351.004(a), (a-1), (a-2), and (a-3), Tax Code, are amended 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

1 the tax when due, to collect the tax not paid or to enjoin the person
2 from operating a hotel in the municipality until the tax is paid or
3 the report filed, as applicable, as provided by the court's
4 order. In addition to the amount of any tax owed under this
5 chapter, the person is liable to the municipality for:

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

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

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

13 (a-1) If a person required to file a tax report under this
14 chapter does not file the report as required by the municipality,
15 the [~~municipal attorney or other attorney acting for the~~]
16 municipality may determine the amount of tax due under this chapter
17 by:

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

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

23 (a-2) If the person did not file a tax report under Section
24 156.151 for that reporting period in relation to that hotel, the
25 [~~municipal attorney or other attorney acting for the~~] municipality
26 may estimate the amount of tax due by using the tax reports in
27 relation to that hotel filed during the previous calendar year

1 under this chapter or Section 156.151. An estimate made under this
2 subsection is prima facie evidence of the amount of tax due for that
3 period in relation to that hotel.

4 (a-3) The authority to conduct an audit under this section
5 is in addition to any other audit authority provided by statute,
6 charter, or ordinance. A municipality may directly perform an
7 audit authorized by this section or contract with another person to
8 perform the audit.

9 SECTION 3. Subchapter A, Chapter 351, Tax Code, is amended
10 by adding Section 351.008 to read as follows:

11 Sec. 351.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as
12 a result of an audit conducted under Section 351.004, a
13 municipality obtains documentation or other information showing a
14 failure to collect or pay when due both the tax imposed by this
15 chapter and the tax imposed by Chapter 156 on a person who pays for
16 the right to occupy a room or space in a hotel, the municipality
17 shall notify and submit the relevant information to the
18 comptroller.

19 (b) The comptroller shall review the information submitted
20 by a municipality under Subsection (a) and determine whether to
21 proceed with collection and enforcement efforts. Except as
22 provided by Subsection (c), if the information results in the
23 collection of a delinquent tax under Chapter 156, the comptroller
24 shall distribute a percentage of the amount collected to the
25 municipality as provided by Section 156.2513 to defray the cost of
26 the municipal audit.

27 (c) A municipality may not receive a percentage of the

1 amount collected under Subsection (b) if the information submitted
2 under Subsection (a) was obtained as a result of an audit performed
3 on a contingent fee basis.

4 SECTION 4. Section 352.004, Tax Code, is amended by adding
5 Subsection (e) to read as follows:

6 (e) If a person required to file a tax report under this
7 chapter does not file the report as required by the county, the
8 county may determine the amount of tax due under this chapter by
9 conducting an audit of each hotel in relation to which the person
10 did not file the report as required by the county. A county may
11 directly perform an audit authorized under this subsection or
12 contract with another person to perform the audit.

13 SECTION 5. Subchapter A, Chapter 352, Tax Code, is amended
14 by adding Section 352.008 to read as follows:

15 Sec. 352.008. CONCURRENT STATE TAX DELINQUENCY. (a) If, as
16 a result of an audit conducted under Section 352.004, a county
17 obtains documentation or other information showing a failure to
18 collect or pay when due both the tax imposed by this chapter and the
19 tax imposed by Chapter 156 on a person who pays for the right to
20 occupy a room or space in a hotel, the county shall notify and
21 submit the relevant information to the comptroller.

22 (b) The comptroller shall review the information submitted
23 by a county under Subsection (a) and determine whether to proceed
24 with collection and enforcement efforts. Except as provided by
25 Subsection (c), if the information results in the collection of a
26 delinquent tax under Chapter 156, the comptroller shall distribute
27 a percentage of the amount collected to the county as provided by

1 Section 156.2513 to defray the cost of the county audit.

2 (c) A county may not receive a percentage of the amount
3 collected under Subsection (b) if the information submitted under
4 Subsection (a) was obtained as a result of an audit performed on a
5 contingent fee basis.

6 SECTION 6. The change in law made by this Act applies only
7 to an audit performed by a municipality or county on or after the
8 effective date of this Act. An audit performed by a municipality or
9 county before the effective date of this Act is governed by the law
10 in effect immediately before that date, and that law is continued in
11 effect for that purpose.

12 SECTION 7. This Act takes effect September 1, 2011.