

By: Bohac

H.B. No. 1724

A BILL TO BE ENTITLED

AN ACT

relating to the statute of limitations on municipal and county hotel occupancy taxes and interest on delinquent payments 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 Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) 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:

(A) the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and

(B) the municipality has not received a

disbursement from the comptroller as provided by Section 156.2513 related to the person's concurrent state tax delinquency described by Section 351.008; ~~and~~

(3) a penalty equal to 15 percent of the total amount of the tax owed if the tax has been delinquent for at least one complete municipal fiscal quarter; and

(4) interest under Section 351.0042.

(b) Except as provided by Subsection (b-1), a municipality must bring suit under this section not later than the fourth anniversary of the date the tax becomes due. ~~[Section 16.061, Civil Practice and Remedies Code, applies to the collection of a tax under this chapter. A limitation period provided by Title 2 relating to the time allowed to assess taxes and bring a suit to collect taxes does not apply to a tax imposed under this chapter or to a suit brought under this section.]~~

(b-1) The limitation provided by Subsection (b) does not apply and a municipality may bring suit under this section at any time if:

(1) with intent to evade the tax, the person files a false or fraudulent report with the municipality; or

(2) the person has not filed a report for the tax with the municipality.

SECTION 2. Subchapter A, Chapter 351, Tax Code, is amended by adding Section 351.0042 to read as follows:

Sec. 351.0042. INTEREST ON DELINQUENT TAX. (a) A person who fails to pay a tax due under this chapter is liable to the municipality for interest on the unpaid amount at the greater of the

1 rate provided by Section 111.060(b) or the rate imposed by the  
2 municipality on January 1, 2013.

3 (b) Interest under this section accrues from the first day  
4 after the date due until the tax is paid.

5 SECTION 3. Section 352.004, Tax Code, is amended by adding  
6 Subsections (d-1) and (d-2) to read as follows:

7 (d-1) Except as provided by Subsection (d-2), a county must  
8 bring suit under this section not later than the fourth anniversary  
9 of the date the tax becomes due.

10 (d-2) The limitation provided by Subsection (d-1) does not  
11 apply and a county may bring suit under this section at any time if:

12 (1) with intent to evade the tax, the person files a  
13 false or fraudulent report with the county; or

14 (2) the person has not filed a report for the tax with  
15 the county.

16 SECTION 4. The change in law made by this Act does not  
17 affect tax liability accruing before the effective date of this  
18 Act. That liability continues in effect as if this Act had not been  
19 enacted, and the former law is continued in effect for the  
20 collection of taxes due and for civil and criminal enforcement of  
21 the liability for those taxes.

22 SECTION 5. This Act takes effect September 1, 2013.