

By: Bohac

H.B. No. 1724

Substitute the following for H.B. No. 1724:

By: Hilderbran

C.S.H.B. No. 1724

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the statute of limitations on municipal and county
3 hotel occupancy taxes and interest on delinquent payments of
4 municipal hotel occupancy taxes.

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

6 SECTION 1. Section 351.004, Tax Code, is amended by
7 amending Subsections (a) and (b) and adding Subsection (b-1) to
8 read as follows:

9 (a) The municipality may bring suit against a person who is
10 required to collect the tax imposed by this chapter and pay the
11 collections over to the municipality, and who has failed to file a
12 tax report or pay the tax when due, to collect the tax not paid or to
13 enjoin the person from operating a hotel in the municipality until
14 the tax is paid or the report filed, as applicable, as provided by
15 the court's order. In addition to the amount of any tax owed under
16 this chapter, the person is liable to the municipality for:

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

18 (2) the costs of an audit conducted under Subsection
19 (a-1)(1), as determined by the municipality using a reasonable
20 rate, but only if:

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

24 (B) the municipality has not received a

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

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

7 (4) interest under Section 351.0042.

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

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

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

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

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

25 Sec. 351.0042. INTEREST ON DELINQUENT TAX. (a) A person
26 who fails to pay a tax due under this chapter is liable to the
27 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.