

1-1 By: Bohac (Senate Sponsor - Seliger) H.B. No. 1724
1-2 (In the Senate - Received from the House May 6, 2013;
1-3 May 8, 2013, read first time and referred to Committee on Economic
1-4 Development; May 16, 2013, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 16, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9			X	
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the statute of limitations on municipal and county
1-18 hotel occupancy taxes and interest on delinquent payments of
1-19 municipal hotel occupancy taxes.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 351.004, Tax Code, is amended by
1-22 amending Subsections (a) and (b) and adding Subsection (b-1) to
1-23 read as follows:

1-24 (a) The municipality may bring suit against a person who is
1-25 required to collect the tax imposed by this chapter and pay the
1-26 collections over to the municipality, and who has failed to file a
1-27 tax report or pay the tax when due, to collect the tax not paid or to
1-28 enjoin the person from operating a hotel in the municipality until
1-29 the tax is paid or the report filed, as applicable, as provided by
1-30 the court's order. In addition to the amount of any tax owed under
1-31 this chapter, the person is liable to the municipality for:

1-32 (1) the municipality's reasonable attorney's fees;

1-33 (2) the costs of an audit conducted under Subsection
1-34 (a-1)(1), as determined by the municipality using a reasonable
1-35 rate, but only if:

1-36 (A) the tax has been delinquent for at least two
1-37 complete municipal fiscal quarters at the time the audit is
1-38 conducted; and

1-39 (B) the municipality has not received a
1-40 disbursement from the comptroller as provided by Section 156.2513
1-41 related to the person's concurrent state tax delinquency described
1-42 by Section 351.008; ~~and~~

1-43 (3) a penalty equal to 15 percent of the total amount
1-44 of the tax owed if the tax has been delinquent for at least one
1-45 complete municipal fiscal quarter; and

1-46 (4) interest under Section 351.0042.

1-47 (b) Except as provided by Subsection (b-1), a municipality
1-48 must bring suit under this section not later than the fourth
1-49 anniversary of the date the tax becomes due. [Section 16.061, Civil
1-50 Practice and Remedies Code, applies to the collection of a tax under
1-51 this chapter. A limitation period provided by Title 2 relating to
1-52 the time allowed to assess taxes and bring a suit to collect taxes
1-53 does not apply to a tax imposed under this chapter or to a suit
1-54 brought under this section.]

1-55 (b-1) The limitation provided by Subsection (b) does not
1-56 apply and a municipality may bring suit under this section at any
1-57 time if:

1-58 (1) with intent to evade the tax, the person files a
1-59 false or fraudulent report with the municipality; or

1-60 (2) the person has not filed a report for the tax with
1-61 the municipality.

2-1 SECTION 2. Subchapter A, Chapter 351, Tax Code, is amended
2-2 by adding Section 351.0042 to read as follows:

2-3 Sec. 351.0042. INTEREST ON DELINQUENT TAX. (a) A person
2-4 who fails to pay a tax due under this chapter is liable to the
2-5 municipality for interest on the unpaid amount at the greater of the
2-6 rate provided by Section 111.060(b) or the rate imposed by the
2-7 municipality on January 1, 2013.

2-8 (b) Interest under this section accrues from the first day
2-9 after the date due until the tax is paid.

2-10 SECTION 3. Section 352.004, Tax Code, is amended by adding
2-11 Subsections (d-1) and (d-2) to read as follows:

2-12 (d-1) Except as provided by Subsection (d-2), a county must
2-13 bring suit under this section not later than the fourth anniversary
2-14 of the date the tax becomes due.

2-15 (d-2) The limitation provided by Subsection (d-1) does not
2-16 apply and a county may bring suit under this section at any time if:

2-17 (1) with intent to evade the tax, the person files a
2-18 false or fraudulent report with the county; or

2-19 (2) the person has not filed a report for the tax with
2-20 the county.

2-21 SECTION 4. The change in law made by this Act does not
2-22 affect tax liability accruing before the effective date of this
2-23 Act. That liability continues in effect as if this Act had not been
2-24 enacted, and the former law is continued in effect for the
2-25 collection of taxes due and for civil and criminal enforcement of
2-26 the liability for those taxes.

2-27 SECTION 5. This Act takes effect September 1, 2013.

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