

By: Button

H.B. No. 3779

A BILL TO BE ENTITLED

AN ACT

relating to the collection of state, municipal, and county hotel occupancy taxes by a short-term rental marketplace.

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

SECTION 1. Subchapter B, Chapter 156, Tax Code, is amended by adding Section 156.054 to read as follows:

Sec. 156.054. TAX COLLECTION BY SHORT-TERM RENTAL MARKETPLACE. (a) For purposes of this section:

(1) "Booking charge" means the charge imposed on a person by a host for the purpose of renting a short-term rental in this state and includes any fees charged by the host, regardless of whether separately itemized. The booking charge is considered the price paid for a room or space in a hotel for purposes of the imposition of a hotel occupancy tax.

(2) "Host" means a person who owns a short-term rental and offers the short-term rental for rent through a short-term rental marketplace or, if applicable, that person's authorized agent who offers the short-term rental for rent through a short-term rental marketplace.

(3) "Short-term rental" has the meaning assigned by Section 156.001.

(4) "Short-term rental marketplace" means a marketplace, Internet website, mobile application, or other platform:

1 (A) through which a host offers a short-term
2 rental for rent; and

3 (B) that collects the booking charge for the
4 rental of the short-term rental.

5 (b) Notwithstanding Section 156.053 or any other law:

6 (1) a short-term rental marketplace:

7 (A) shall collect the appropriate amount of the
8 tax imposed under this chapter on each booking charge with respect
9 to a short-term rental located in this state;

10 (B) shall report and remit all taxes collected by
11 the short-term rental marketplace under Paragraph (A) in the manner
12 required:

13 (i) of a person owning, operating,
14 managing, or controlling a hotel under this chapter; or

15 (ii) if applicable, by an agreement under
16 Subsection (c); and

17 (C) is considered to be the person owning,
18 operating, managing, or controlling the short-term rental for
19 purposes of the collection and enforcement of the tax imposed under
20 this chapter; and

21 (2) the host may not collect and is not liable for a
22 tax imposed by this chapter on a booking charge for a rental made
23 through the short-term rental marketplace.

24 (c) A short-term rental marketplace may enter into an
25 agreement with a third-party vendor to remit to the comptroller the
26 taxes imposed by this chapter that the short-term rental
27 marketplace collects. During the period the agreement is in

1 effect:

2 (1) the short-term rental marketplace shall report and
3 remit all taxes collected by the short-term rental marketplace
4 under Subsection (b) to the third-party vendor on a schedule
5 determined by the vendor; and

6 (2) the vendor shall report and remit the taxes
7 described by Subdivision (1) to the comptroller in the manner a
8 person owning, operating, managing, or controlling a hotel is
9 required to report and remit taxes under this chapter.

10 (d) The comptroller may adopt rules to implement and
11 administer this section.

12 SECTION 2. Subchapter A, Chapter 351, Tax Code, is amended
13 by adding Section 351.0043 to read as follows:

14 Sec. 351.0043. TAX COLLECTION BY SHORT-TERM RENTAL
15 MARKETPLACE. (a) For purposes of this section:

16 (1) "Booking charge," "host," and "short-term rental
17 marketplace" have the meanings assigned by Section 156.054.

18 (2) "Short-term rental" has the meaning assigned by
19 Section 156.001.

20 (b) Notwithstanding Section 351.004 or any other law:

21 (1) a short-term rental marketplace:

22 (A) shall collect the appropriate amount of the
23 tax imposed under this chapter by a municipality in which a
24 short-term rental is located on each booking charge with respect to
25 that short-term rental;

26 (B) shall report and remit all taxes collected by
27 the short-term rental marketplace under Paragraph (A) in the manner

1 required:

2 (i) of a person owning, operating,
3 managing, or controlling a hotel under this chapter and in
4 accordance with the ordinance adopted by the municipality imposing
5 the tax; or

6 (ii) if applicable, by an agreement under
7 this section; and

8 (C) is considered to be the person owning,
9 operating, managing, or controlling the short-term rental for
10 purposes of the collection and enforcement of the tax imposed under
11 this chapter; and

12 (2) the host may not collect and is not liable for a
13 tax imposed by this chapter on a booking charge for a rental made
14 through the short-term rental marketplace.

15 (c) A short-term rental marketplace may:

16 (1) enter into an agreement with the comptroller to
17 collect and remit to the comptroller the taxes imposed by a
18 municipality under this chapter on each booking charge for a rental
19 made through the short-term rental marketplace; or

20 (2) enter into an agreement with a third-party vendor
21 to remit to the municipality the taxes described by Subdivision (1)
22 that the short-term rental marketplace collects.

23 (d) To be effective, an agreement described by Subsection
24 (c)(2) must be approved by the governing body of the municipality.

25 During the period an agreement described by Subsection (c) is in
26 effect, the short-term rental marketplace shall report and remit
27 all taxes collected by the short-term rental marketplace under

1 Subsection (b) to:

2 (1) the comptroller on a schedule determined by the
3 comptroller, if the agreement in effect is with the comptroller; or

4 (2) the third-party vendor on a schedule determined by
5 the vendor, if the agreement in effect is with a vendor.

6 (e) The comptroller or third-party vendor, as applicable,
7 shall promulgate a form a short-term rental marketplace must use to
8 report the taxes collected by the short-term rental marketplace
9 under this section if an agreement under Subsection (c) is in
10 effect. The form must include the following information:

11 (1) the total receipts from the rental during the
12 reporting period of all short-term rentals located in any
13 municipality that has approved an agreement under this section and
14 offered for rent through the short-term rental marketplace,
15 categorized by municipality in which those short-term rentals are
16 located;

17 (2) the total amount of booking charges from the
18 rental during the reporting period of all short-term rentals
19 located in any municipality that has approved an agreement under
20 this section and offered for rent through the short-term rental
21 marketplace, categorized by municipality in which those short-term
22 rentals are located;

23 (3) the rate of the tax imposed under this chapter in
24 each municipality identified under Subdivision (2); and

25 (4) the total receipts and the total amount of booking
26 charges from the rental during the reporting period of all
27 short-term rentals located in a project financing zone as defined

1 by Section 351.1015 and offered for rent through the short-term
2 rental marketplace, categorized by project financing zone.

3 (f) The form described by Subsection (e) may not require the
4 identification of a specific guest or the host of a short-term
5 rental.

6 (g) If the short-term rental marketplace collects and
7 remits to the comptroller the taxes imposed by the municipality
8 under this chapter in accordance with an agreement under Subsection
9 (c)(1), the comptroller shall:

10 (1) deposit the taxes remitted to the comptroller
11 under this section in trust in the separate suspense account of the
12 municipality in which short-term rentals with respect to which the
13 taxes were collected are located; and

14 (2) send to the municipal treasurer or to the person
15 who performs the office of the municipal treasurer payable to the
16 municipality the municipality's share of the taxes remitted to the
17 comptroller under this chapter at least 12 times during each state
18 fiscal year.

19 (h) A suspense account described by Subsection (g)(1) is
20 outside the treasury and the comptroller may make a payment from the
21 account without the necessity of an appropriation.

22 (i) Before sending any money to a municipality under
23 Subsection (g) and subject to the limitation provided by this
24 subsection, the comptroller shall deduct and deposit to the credit
25 of the general revenue fund an amount equal to one percent of the
26 amount of the taxes collected from rentals of short-term rentals
27 located in the municipality under this section during the period

1 for which a distribution is made as the state's charge for services
2 provided by the state under this section. The comptroller may not
3 deduct from the distributions to a municipality more than \$50,000
4 in each state fiscal year under this subsection.

5 (j) If the short-term rental marketplace enters into an
6 agreement with a third-party vendor under Subsection (c)(2), the
7 vendor shall report and remit to a municipality that approved the
8 agreement all taxes imposed by the municipality under this chapter
9 and collected by the short-term rental marketplace on rentals of
10 short-term rentals located in that municipality at the times and in
11 the manner provided by the agreement.

12 (k) Notwithstanding any other law, this section applies to
13 the collection, remittance, and distribution of taxes imposed by a
14 political subdivision that is authorized to impose a hotel
15 occupancy tax under a provision of the Special District Local Laws
16 Code or civil statutes in the same manner the section applies to a
17 municipality authorized to impose a hotel occupancy tax under this
18 chapter.

19 (l) The comptroller may adopt rules to implement and
20 administer this section.

21 SECTION 3. Subchapter A, Chapter 352, Tax Code, is amended
22 by adding Section 352.0042 to read as follows:

23 Sec. 352.0042. TAX COLLECTION BY SHORT-TERM RENTAL
24 MARKETPLACE. (a) For purposes of this section:

25 (1) "Booking charge," "host," and "short-term rental
26 marketplace" have the meanings assigned by Section 156.054.

27 (2) "Short-term rental" has the meaning assigned by

1 Section 156.001.

2 (b) Notwithstanding Section 352.004 or any other law:

3 (1) a short-term rental marketplace:

4 (A) shall collect the appropriate amount of the
5 tax imposed under this chapter by a county in which a short-term
6 rental is located on each booking charge with respect to that
7 short-term rental;

8 (B) shall report and remit all taxes collected by
9 the short-term rental marketplace under Paragraph (A) in the manner
10 required:

11 (i) of a person owning, operating,
12 managing, or controlling a hotel under this chapter and in
13 accordance with the order adopted by the county imposing the tax; or

14 (ii) if applicable, by an agreement under
15 this section; and

16 (C) is considered to be the person owning,
17 operating, managing, or controlling the short-term rental for
18 purposes of the collection and enforcement of the tax imposed under
19 this chapter; and

20 (2) the host may not collect and is not liable for a
21 tax imposed by this chapter on a booking charge for a rental made
22 through the short-term rental marketplace.

23 (c) A short-term rental marketplace may:

24 (1) enter into an agreement with the comptroller to
25 collect and remit to the comptroller the taxes imposed by a county
26 under this chapter on each booking charge for a rental made through
27 the short-term rental marketplace; or

1 (2) enter into an agreement with a third-party vendor
2 to remit to the county the taxes described by Subdivision (1) that
3 the short-term rental marketplace collects.

4 (d) To be effective, an agreement described by Subsection
5 (c)(2) must be approved by the commissioners court of the county.
6 During the period an agreement described by Subsection (c) is in
7 effect, the short-term rental marketplace shall report and remit
8 all taxes collected by the short-term rental marketplace under
9 Subsection (b) to:

10 (1) the comptroller on a schedule determined by the
11 comptroller, if the agreement in effect is with the comptroller; or

12 (2) the third-party vendor on a schedule determined by
13 the vendor, if the agreement in effect is with a vendor.

14 (e) The comptroller or third-party vendor, as applicable,
15 shall promulgate a form a short-term rental marketplace must use to
16 report the taxes collected by the short-term rental marketplace
17 under this section if an agreement under Subsection (c) is in
18 effect. The form must include the following information:

19 (1) the total receipts from the rental during the
20 reporting period of all short-term rentals located in any county
21 that has approved an agreement under this section and offered for
22 rent through the short-term rental marketplace, categorized by
23 county in which those short-term rentals are located;

24 (2) the total amount of booking charges from the
25 rental during the reporting period of all short-term rentals
26 located in any county that has approved an agreement under this
27 section and offered for rent through the short-term rental

1 marketplace, categorized by county in which those short-term
2 rentals are located; and

3 (3) the rate of the tax imposed under this chapter in
4 each county identified under Subdivision (2).

5 (f) The form described by Subsection (e) may not require the
6 identification of a specific guest or the host of a short-term
7 rental.

8 (g) If the short-term rental marketplace collects and
9 remits to the comptroller the taxes imposed by the county under this
10 chapter in accordance with an agreement under Subsection (c)(1),
11 the comptroller shall:

12 (1) deposit the taxes remitted to the comptroller
13 under this section in trust in the separate suspense account of the
14 county in which short-term rentals with respect to which the taxes
15 were collected are located; and

16 (2) send to the county treasurer payable to the county
17 the county's share of the taxes remitted to the comptroller under
18 this chapter at least 12 times during each state fiscal year.

19 (h) A suspense account described by Subsection (g)(1) is
20 outside the treasury and the comptroller may make a payment from the
21 account without the necessity of an appropriation.

22 (i) Before sending any money to a county under Subsection
23 (g) and subject to the limitation provided by this subsection, the
24 comptroller shall deduct and deposit to the credit of the general
25 revenue fund an amount equal to one percent of the amount of the
26 taxes collected from rentals of short-term rentals located in the
27 county under this section during the period for which a

1 distribution is made as the state's charge for services provided by
2 the state under this section. The comptroller may not deduct from
3 the distributions to a county more than \$50,000 in each state fiscal
4 year under this subsection.

5 (j) If the short-term rental marketplace enters into an
6 agreement with a third-party vendor under Subsection (c)(2), the
7 vendor shall report and remit to a county that approved the
8 agreement all taxes imposed by the county under this chapter and
9 collected by the short-term rental marketplace on rentals of
10 short-term rentals located in that county at the times and in the
11 manner provided by the agreement.

12 (k) Notwithstanding any other law, this section applies to
13 the collection, remittance, and distribution of taxes imposed by a
14 political subdivision that is authorized to impose a hotel
15 occupancy tax under a provision of the Special District Local Laws
16 Code or civil statutes in the same manner the section applies to a
17 county authorized to impose a hotel occupancy tax under this
18 chapter.

19 (l) The comptroller may adopt rules to implement and
20 administer this section.

21 SECTION 4. Sections 334.253(a) and (b), Local Government
22 Code, are amended to read as follows:

23 (a) Sections 351.002(c), 351.004, 351.0041, 351.0043,
24 351.005, and 351.006, Tax Code, govern the imposition, computation,
25 administration, collection, and remittance of a municipal tax
26 authorized under this subchapter except as inconsistent with this
27 subchapter.

1 (b) Sections 352.002(c), 352.004, 352.0041, 352.0042,
2 352.005, and 352.007, Tax Code, govern the imposition, computation,
3 administration, collection, and remittance of a county tax
4 authorized under this subchapter except as inconsistent with this
5 subchapter.

6 SECTION 5. This Act takes effect September 1, 2019.