

By: Beckley

H.B. No. 1962

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

22 (4) "Short-term rental marketplace" means a
23 marketplace, Internet website, mobile application, or other
24 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 effect:

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

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

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

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

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

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

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

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

20 (1) a short-term rental marketplace:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (4) the total receipts and the total amount of booking
25 charges from the rental during the reporting period of all
26 short-term rentals located in a project financing zone as defined
27 by Section [351.1015](#) and offered for rent through the short-term

1 rental marketplace, categorized by project financing zone.

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

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

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

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

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

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

1 provided by the state under this section. The comptroller may not
2 deduct from the distributions to a municipality more than \$50,000
3 in each state fiscal year under this subsection.

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

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

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

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

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

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

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

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

2 (1) a short-term rental marketplace:

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

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

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

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

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

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

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

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

27 (2) enter into an agreement with a third-party vendor

1 to remit to the county the taxes described by Subdivision (1) that
2 the short-term rental marketplace collects.

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

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

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

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

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

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

1 rentals are located; and

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

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

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

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

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

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

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

1 the state under this section. The comptroller may not deduct from
2 the distributions to a county more than \$50,000 in each state fiscal
3 year under this subsection.

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

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

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

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

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

27 (b) Sections 352.002(c), 352.004, 352.0041, 352.0042,

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1 352.005, and 352.007, Tax Code, govern the imposition, computation,
2 administration, collection, and remittance of a county tax
3 authorized under this subchapter except as inconsistent with this
4 subchapter.

5 SECTION 5. This Act takes effect September 1, 2021.