



## Legislation Details (With Text)

**File #:** 20-0984      **Version:** 1

**Type:** Agenda Item      **Status:** Approved

**File created:** 7/17/2020      **In control:** Board of Supervisors

**On agenda:** 8/4/2020      **Final action:** 8/4/2020

**Title:** Treasurer-Tax Collector Department recommending the Board provide conceptual approval, pursuant to Board Policy A-3, to amend Chapter 3.28, Transient Occupancy Tax, of Title 3 of the El Dorado County Ordinance Code to: add a provision granting the Tax Collector authority to record a Certificate of Delinquency of Transient Occupancy Tax Lien against an operator who fails to remit occupancy taxes; require appeals of tax and/or penalty amounts charged to be heard by a Hearing Officer, consistent with other appeal processes in the County; and to make minor text corrections and updates for consistency with El Dorado County Ordinance Code and the State Revenue and Taxation Code.

FUNDING: N/A

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
8/4/2020	1	Board of Supervisors	Approved	Pass

Treasurer-Tax Collector Department recommending the Board provide conceptual approval, pursuant to Board Policy A-3, to amend Chapter 3.28, Transient Occupancy Tax, of Title 3 of the El Dorado County Ordinance Code to: add a provision granting the Tax Collector authority to record a Certificate of Delinquency of Transient Occupancy Tax Lien against an operator who fails to remit occupancy taxes; require appeals of tax and/or penalty amounts charged to be heard by a Hearing Officer, consistent with other appeal processes in the County; and to make minor text corrections and updates for consistency with El Dorado County Ordinance Code and the State Revenue and Taxation Code.

**FUNDING:** N/A

### **DISCUSSION / BACKGROUND**

Chapter 3.28, Transient Occupancy Tax, of Title 3 of the El Dorado County Ordinance Code gives the County authority to levy and collect a 10 percent Transient Occupancy Tax (TOT) for overnight stays in hotels, motels, inns and short-term rentals (STRs) in the unincorporated area of the County. (Overnight stays in campgrounds and recreational vehicle parks are excluded from the Ordinance.) It is required under the Ordinance that hotel, motel, inn and STR operators (“operators”) register the facility with the Tax Collector and obtain a Transient Occupancy Registration Certificate.

The Tax Collector is charged with the responsibility for enforcing the TOT Ordinance. Any person who violates any provision of Chapter 3.28 can be found guilty of a misdemeanor, punishable by imprisonment in the County jail not exceeding six months or, by a fine not exceeding \$1,000 or, both.

It is the opinion of the Tax Collector that civil enforcement tools would be beneficial as incentive for payment. It is recommended that the TOT Ordinance be amended to include the addition of a provision granting the Tax Collector authority to record a lien for delinquent TOT taxes against the real property of the operator. Before a non-compliant operator could sell a property or obtain some types of businesses financing, he or she would be required to bring TOT taxes into compliance. Similar lien language is in effect in several California counties and has proven beneficial as a compliance tool.

A further recommended revision to the TOT Ordinance is related to hearings requested by operators to appeal TOT tax amounts, interest or penalties levied. This revision will require that a Hearing Officer decide appeals. This is consistent with hearings in other County departments, such as the Building and Planning Departments. This process is tried and true in our County and allows for greater transparency and efficiency.

Lastly, minor text corrections and updates are recommended to bring the TOT Ordinance into compliance and consistency with El Dorado County Code and the State Revenue and Taxation Code. For instance, the definition of “on or before” has been as updated in the Tax Code and is recommended for update here as well.

#### **ALTERNATIVES**

The Board could choose not to update the TOT Ordinance and leave the language as adopted. Or, the Board could approve moving forward with some but not all of the recommended changes.

#### **PRIOR BOARD ACTION**

11/10/1992, Item #22, Ordinance #4262  
12/14/1999, Item # 52, Ordinance #4545  
12/10/2002, Addendum, Ordinance #4618

#### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

N/A

#### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

#### **FINANCIAL IMPACT**

It is not known at this time the dollar amount of additional TOT taxes that will be collected if the lien language is approved for inclusion in the Ordinance. It is anticipated, however, that this tool will be beneficial in enforcement efforts.

#### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

Following conceptual approval by the Board, the Treasurer-Tax Collector will return with First Reading of the Ordinance.

#### **STRATEGIC PLAN COMPONENT**

Good Governance

**CONTACT**

Karen Coleman