



Legislation Text

File #: 20-1151, **Version:** 2

Treasurer-Tax Collector Department recommending the Board approve the Final Passage (Second Reading) of Ordinance-5128 **5131** amending Chapter 3.28, Transient Occupancy Tax, of Title 3 of the El Dorado County Ordinance Code to: add Section 3.28.091, Certificate of Tax Lien, giving the Tax Collector authority to record a Certificate of Delinquency of Transient Occupancy Tax Lien against an operator who fails to remit occupancy taxes; to 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. (Cont. 9/22/20, Item 37)

FUNDING: N/A

DISCUSSION / BACKGROUND

On September 22, 2020, the Board approved the Introduction (First Reading) of Ordinance 5128 **5131** and Continued it to October 6, 2020 for Final Passage (Second Reading).

The Treasurer-Tax Collector Department received conceptual approval from the Board of Supervisors to amend Chapter 3.28, Transient Occupancy Tax, of Title 3 of the El Dorado County Ordinance Code (Legistar File Number 20-0984, August 4, 2020, Agenda Item #37).

Chapter 3.28, known as the Transient Occupancy Tax Ordinance ("TOT Ordinance"), 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 TOT Ordinance.) It is required under the TOT 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. The addition of Section 3.28.091, Certificate of Tax Lien, would allow the Tax Collector 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 business 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. The 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 adopt some 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

County Counsel has reviewed and approved the draft Ordinance as to form.

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

N/A

CLERK OF THE BOARD FOLLOW UP ACTIONS

Following approval of the Introduction (First Reading) of the Ordinance, the Clerk's office will create a new version of this Legistar file for Final Passage.

STRATEGIC PLAN COMPONENT

Good Governance

CONTACT

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