

HOUSE AMENDMENT 1 TO hb1462.

deleting Section 1 and substituting therefor the following:

"SECTION 1. Ark. Code Ann. § 26-75-603 is amended to read as follows:

(a) From the effective date of the levying ordinance, the tax so levied shall be paid by the persons, firms, and corporations liable therefor and shall be collected by the advertising and promotion commission of the levying city or by a designated agent of the commission in the same manner and at the same time as the tax levied by the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

(b) The person paying the tax shall report and remit it upon forms provided by the commission, and as directed by the commission. The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq. and the Arkansas Tax Procedure Act, § 26-18-101, et seq., shall, so far as practicable, be applicable with respect to the practicable, be applicable with respect to the enforcement and collection of the tax levied pursuant to the authority of this subchapter. However, the administration and enforcement, and all actions, shall be by, and in the name of, the commission through the proper commission officials or agents. The commission shall have the authority to sue and be sued in its name. The Department of Finance and Administration shall have no authority to enforce or collect the tax levied pursuant to this subchapter.

(c) The levying city is authorized to adopt ordinances consistent with and in similar form to § 26-18-101, et seq. to enable the commission or its agent to enforce the tax through examination of records, notices of proposed and final assessment, and administrative hearings on proposed assessments. The levying city is also authorized to adopt ordinances which enable the commission to:

(1) assess penalties and interest against taxpayers who fail to timely report or pay the tax. The penalty is equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five percent (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of 10% per annum.

(2) assess unpaid or unreported tax within three (3) years of the date the tax is due.

(3) provide for judicial relief from proposed assessments in accordance with subsection (d) of this section.

(4) issue certificates of indebtedness in accordance with subsection (3) of this section.

(d)(1) Within thirty (30) days of the issuance of the notice and demand for payment of a deficiency in tax established by a final determination of the hearing officer, taxpayer may seek judicial relief from the final determination by either:

(A) Paying under protest the amount of the deficiency, plus penalty and

interest determined by the commission to be due, and filing a suit to recover that amount within one (1) year from the date of payment under protest; or

(B) (i) Filing with the commission a bond in double the amount of the tax deficiency due and by filing suit within thirty (30) days thereafter to stay the effect of the commission's determination.

(ii) The bond shall be subject to the condition that the taxpayer shall file suit within thirty (30) days after filing the bond, shall faithfully and diligently prosecute the suit to a final determination, and shall pay any deficiency found by the court to be due and any court cost assessed against him.

(iii) A taxpayer's failure to file suit, diligently prosecute the suit, or pay any tax deficiency and court costs, as required by this subsection, shall result in the forfeiture of the bond in the amount of the assessment and assessed court costs.

(C) The method provided in this section is the exclusive method for seeking relief from a written decision of the commission establishing a deficiency in tax. No injunction shall issue to stay proceedings for assessment or collection of this tax.

(e) (1) If a taxpayer does not timely and properly pursue his remedies seeking relief from a decision of the commission and a final assessment is made against the taxpayer, or if the taxpayer fails to pay the deficiency assessed upon notice and demand, then the commission shall, as soon as practicable thereafter, issue to the circuit clerk of the county in which the taxpayer's business is located a certificate of indebtedness certifying that the person named therein is indebted to the commission for the amount of the tax established by the commission as due.

(2) The circuit clerk shall enter immediately upon the circuit court judgment docket:

(A) The name of the delinquent taxpayer;

(B) The amount certified as being due;

(C) The name of the tax; and

(D) The date of entry upon the judgment docket.

(3) The entry of the certificate of indebtedness shall have the same force and effect as the entry of a judgment rendered by the circuit court. This entry shall constitute the commission's lien upon the title of any real and personal property of the taxpayer in the county where the certificate of indebtedness is recorded.

(4) The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the date of recording and shall automatically expire after the ten (10) year period has run. Actions on the lien on the certificate of indebtedness shall be commenced within ten (10) years after the date of recording of the certificate, and not afterward.

(5) The commission shall have all remedies and may take all proceedings for the collection of the tax which may be taken for the recovery of a judgment at law.

(f) The provisions of subsections (d) and (e) of this section shall be effective only when the levying city adopts an ordinance which specifically provides that these provisions shall be utilized by the commission in enforcing the tax. "