

110-3-3.05 Hotel Motel Tax Performance Review Board and Investigation of Complaints.

(1) The membership and terms of office of the Hotel Motel Tax Performance Review Board shall be as specified in O.C.G.A. 48-13-56.1.

(2) The Hotel Motel Tax Performance Review Board shall meet annually between September 1 and December 1 to review complaints filed in accordance with paragraph (4) of this Chapter. DCA shall give notice to all interested parties of the meeting place and time.

(3) DCA shall develop and/or amend forms as necessary for the submission of complaints from interested parties.

(4)(A) Complaints – Minimum Standards.

1. Complaints must be related to inappropriate expenditures of or failure to appropriately expend Hotel/Motel Tax receipts collected by a local government in the current or most recently ended fiscal year. A complaint may involve a local government or other entities authorized by the local government to expend Hotel Motel Tax revenues.

2. Complaints based solely on immaterial expenditure timing issues will not be considered bona fide complaints. For the purposes of these Rules, the threshold for expenditure timing materiality shall be the greater of:

- 25% of restricted revenue earned by the local government subject to the complaint in their most recently ended fiscal period, or
- 25% of the median restricted revenues earned by all governments imposing one of the 5% Hotel Motel Taxes.

3. Complaints may be submitted by taxpayers, local governments, innkeepers, or private sector nonprofit organizations.

4. Complaints must cite the code section of Georgia law which pertains to the specific Hotel/Motel Tax authorization of the government named in the complaint and must provide additional information as specified in the complaint filing forms provided by DCA.

5. Complaints that fail to meet the criteria listed in paragraph (4) (A) of this Chapter may be rejected for failing to meet minimum standards.

6. A nonrefundable filing fee of \$100 must be submitted with each complaint filed with DCA. The filing fee may be waived at the sole discretion of the Commissioner of DCA.

(B) Findings of Noncompliance in Audited Financial Statements. Findings of Noncompliance in Audited Financial Statements submitted to the Department of Community Affairs by the Department of Audits and Accounts will be investigated as bona fide complaints provided that they meet the threshold for materiality listed in paragraph (4) (A) of this Chapter.

(5) Complaints must be postmarked or hand delivered no later than June 1 in order to be considered by the Hotel Motel Tax Performance Review Board in the meeting(s) held between September 1 and December 1 and must be submitted to the Department of Community Affairs at the address specified on the complaint form. Complaints submitted via facsimile will not be accepted.

(6) Complaints Processing. The Department of Community Affairs shall review and investigate all bona fide complaints meeting the minimum criteria specified in Paragraph (4) (A) of this Chapter and issue a preliminary finding to the relevant local government. The local government collecting the hotel/motel tax shall be given the opportunity to respond to the preliminary finding within 30 calendar days. Any comments received from the local government shall be included in a report of findings and recommendations submitted to the Hotel Motel Tax Performance Review Board.

(7) The Hotel Motel Tax Performance Review Board shall review all bona fide complaints along with the analysis documents provided by DCA. The Performance Review Board shall issue a written report of its findings, which shall include such evaluations, judgments, and recommendations, as it deems appropriate. The findings of the Performance Review Board shall be submitted to the Commissioner of DCA within 60 calendar days of the final hearing of each complaint. A copy of such findings shall be provided to the local government at the same time.

(8) The Commissioner of DCA shall have 30 calendar days to review the findings of the Hotel Motel Tax Performance Review Board. If the Commissioner determines that remedial action is necessary, the local government shall be issued a notice by certified mail, return receipt requested or statutory overnight delivery. The local government shall be given a period of 90 calendar days from the date of the Commissioner's notice to take the necessary remedial action with respect to such findings and shall notify the Commissioner of such remedial action taken. It shall be the local government's responsibility to negotiate, as necessary, with any other entity involved in the complaint to satisfactorily implement the remedial action requirements. If the Commissioner determines that the local government has substantially met the remedial action requirements but only minor deficiencies remain, the Commissioner may allow up to 30 additional calendar days to correct such minor deficiencies. It shall be the Commissioner's sole discretion as to whether remedial action has been satisfactorily taken. In the event that satisfactory remedial action does not occur within the specified period, the Commissioner of DCA shall immediately notify the Commissioner of the

Department of Revenue, who is authorized under O.C.G.A. 48-13-56.1 to take appropriate action to enforce compliance with such remedial action, up to and including termination of the tax.

Authority O.C.G.A. Sec. 48-13-56.1 et seq. **History.** Original Rule entitled "Hotel Motel Tax Performance Review Board and Investigation of Complaints" adopted. F. Feb. 7, 2005; eff. Feb. 27, 2005 **Amended:** F. Apr. 3, 2008; eff. Apr. 23, 2008.