

## **BILL ANALYSIS**

C.S.H.B. 2889  
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Ways & Means  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that the rights and duties of individuals who are or who engage with a third party that is not a hotel for the purpose of reserving a room or space in a hotel are unclear with regard to tax calculation, collection, and remittance obligations under current law. C.S.H.B. 2889 seeks to facilitate the efficient administration of state hotel occupancy taxes by clearly establishing the calculation of the hotel occupancy tax and providing for the collection and remittance by those who collect payment for the room or space in a hotel.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 3 of this bill.

### **ANALYSIS**

C.S.H.B. 2889 amends the Tax Code to subject a space in a hotel to the state hotel occupancy tax and to revise the charges considered to be the price of a room or space in a hotel for purposes of the tax by doing the following:

- including in the price all charges related to the use or possession of the room or space, including charges for cleaning and readying the room or space, furniture rental charges, and charges for reserving or booking the room or space; and
- excluding from the price charges for food or personal or telecommunications services that are separately itemized.

C.S.H.B. 2889 requires a person who is not the hotel's owner, operator, manager, or controller but who collects payment for a hotel room or space to collect for the state the hotel occupancy tax and to certify to the hotel's owner, operator, manager, or controller that the tax has been collected and will be paid to the comptroller of public accounts. The bill authorizes the hotel's owner, operator, manager, or controller who accepts the certification in good faith to exclude the amount of any taxes certified as collected from their filed hotel occupancy tax report. The bill authorizes a person who collects payment for a room or space in a hotel on behalf of the hotel's owner, operator, manager, or controller to request a waiver of those collection and certification requirements by submitting a written request to the comptroller explaining the person's reason for requesting the waiver. The bill authorizes the comptroller, after reviewing the request, to grant, conditionally grant, or deny the request. The comptroller's decision on a request for a waiver is final and not appealable.

C.S.H.B. 2889 authorizes the comptroller by rule to provide that a person who secures a room or space in a hotel for another person and who collects payment for the room or space is not

required to collect the state hotel occupancy tax if the annual gross receipts the person and any affiliated group of which the person is a member receive for securing rooms and spaces in hotels for others are \$250,000 or less.

**EFFECTIVE DATE**

October 1, 2021.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2889 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following:

- an authorization for a person who collects payment for a room or space in a hotel on behalf of the hotel's owner, operator, manager, or controller to request a waiver of the tax collection and certification requirements by submitting a written request to the comptroller explaining the reason for the request;
- an authorization for the comptroller to grant, conditionally grant, or deny the request; and
- a provision establishing the comptroller's decision on the request as final and not appealable.