

BILL ANALYSIS

Senate Research Center

S.B. 1415
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Finance
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As Filed

DIGEST

In 1988, the comptroller's office created the property management company exemption, after the sales tax base was broadened to include certain services provided by a property management company to a commercial property owner. This exemption provides that the property management company's employees are considered to be employees of the rental property. The comptroller's audit division (division) provides that favorable tax treatment is not available for a property management company's employees, if a parent corporation or an affiliated entity provides consolidated payroll, employee benefits, and administration. The division's position penalizes business operations, and taxes property management companies differently who provide the same services, depending solely on whether payroll and benefits administration was out sourced to a third party; done on a consolidated basis; or separately prepared by each legal entity. S.B. 1415 would provide statutory basis for the existing property management company exemption and would clarify the consolidation of payroll and benefits administration.

PURPOSE

As proposed, S.B. 1415 defines "real property service" and "property management company."

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 151.0048, Tax Code, by adding Subsections (d) and (e), to define "real property service" to mean that the definition does not include a service listed under Subsection (a), if the service is performed by an employee permanently assigned to one rental property by a property management company and the property management company is reimbursed by the property owner on a dollar-for-dollar basis. Provides that an employee permanently assigned to one rental property is considered an employee of that property, if the employee remains assigned to the property while employed by successive owner or management companies. Provides that an individual is treated as an employee of the property management company or an affiliate of the property management company if certain conditions exist. Requires the property management company to collect tax on a service listed under Subsection (a), if the service is performed by the same employee for other properties. Provides that the management company owes tax on the purchase price of all taxable items purchased and provided to employees providing services on managed rental property. Defines "property management company" to mean a person who, for consideration, operates and manages all the activities at a property held by the owner for purposes of rental, including an office building, mall, or other retail or office complex, an apartment complex, a duplex, or a home, and whose responsibilities include securing tenants, hiring and supervising employees for operation or upkeep of the property, receiving and applying revenues, and incurring and paying expenses derived from the operation of the property as directed by the owner.

SECTION 2. Effective date: on the first day of the first calendar quarter beginning on or after the date that it may take effect under Section 39, Article III, Texas Constitution. Makes application of this Act prospective.

SECTION 3. Emergency clause