BILL ANALYSIS

Senate Research Center
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C.S.S.B. 451
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently in Texas, the regulation of residential property for short-term rentals (STRs), usually provided by various online peer-to-peer platforms, is regulated at the local municipal level. As a result, local jurisdictions have created an inconsistent patchwork of rules and regulations across the state of Texas, causing confusion, barriers to participation in Texas' tourism industry, and economic uncertainty.

STRs are an increasingly popular lodging choice for travelers in Texas. Estimates show that in 2015, spending by visitors staying in STRs sustained a total impact of $1.5 billion in economic activity and supported the creation of 16,000 permanent jobs in the state's economy (source: TXP, an economic analysis and public policy consulting firm). Over the last several years, STR growth has accompanied hotel revenue and occupancy growth, proving STRs as a complementary service to the state's overall travel and tourism industry. This bill accomplishes the following:

- Defines "short-term rental" as residential property rented for less than 30 days.
- Prohibits local municipalities and counties from outright or effectively banning a homeowners right to lease their property for periods of less than 30 days.
- Confirms that local lawmakers maintain responsibility for setting residential zoning restrictions and enacting local laws to protect the health and safety of their citizens.
- This bill does not apply to private entities such as property owners' associations. (Original Author’s / Sponsor’s Statement of Intent)

C.S.S.B. 451 amends current law relating to regulation of short-term rentals and short-term rental marketplaces by municipalities and counties.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 250, Local Government Code, by adding Section 250.008, as follows:

> Sec. 250.008. REGULATION OF SHORT-TERM RENTALS AND SHORT-TERM RENTAL MARKETPLACES. (a) Defines "local law," "short-term rental" (STR), and "short-term rental marketplace."
>
> > (b) Provides that Subsection (a)(2) (relating to the definition of short-term rental) does not affect the definition of short-term rental under Section 156.001 (relating to the definition of "short-term rental"), Tax Code, an ordinance, order, or resolution under Section 351.002 (Tax Authorized), Tax Code.

(c) Authorizes a municipality or county to adopt or enforce a local law that specifically regulates property used as an STR only if the local law's primary purpose is to protect the public's health and safety. Provides that local laws authorized by this subsection include regulations addressing certain matters, requiring the designation of an emergency contact for the property, and prohibiting the use of a rental for certain purposes.

(d) Requires a municipality or county, except as provided by this section, to apply a local law regulating land use to an STR in the same manner as another similar property. Provides that a local law described by this subsection includes regulations on zoning in accordance with the laws of this state, residential use, occupancy limitations, noise, property maintenance, nuisance, and reasonable limits on density if the limits do not effectively prohibit STRs.

(e) Prohibits a municipality or county, except as provided by this section, from adopting or enforcing a local law that expressly or effectively prohibits the use of a property as an STR, regulates the operation of an STR marketplace, imposes a tax or fee on a person operating an STR marketplace that is not otherwise authorized by the laws of this state, requires a person operating an STR marketplace to apply, calculate, collect, or remit an imposed tax, except as otherwise required by the laws of this state, regardless of whether the person has previously provided those services, or imposes a tax on a certain person for the provision of certain services.

(f) Provides that this section does not affect the authority of a municipality or county to adopt and enforce a local law that imposes a hotel occupancy tax on a person using an STR in the same manner as the tax imposed on a person using other property the use of which is subject to the tax.

(g) Authorizes a person operating an STR marketplace, if authorized by the municipality or county in which an STR is located, to apply, calculate, collect, or remit a certain imposed tax.

(h) Prohibits this section from being construed to affect regulations of a private entity, including a property owners' association as defined by Section 202.001 (Definitions), Property Code, affect residential tenancies under Chapter 92 (Residential Tenancies), Property Code, or otherwise limit a property owner's rights under the laws of the state.

(i) Provides that an STR is subject to applicable federal, state, and local laws regarding rental discrimination.

SECTION 2. Effective date: September 1, 2017.