

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2857
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, taxpayer information related to current or pending audits is public information and is required to be released by the Comptroller of Public Accounts of the State of Texas (comptroller) when requested. Taxpayer representatives frequently request the list of taxpayers under audit so they can solicit to potential clients. Current law requires a person who obtains this information to wait six days after the information was made available to them before making a direct solicitation to give the person under audit the opportunity to receive and process the audit information.

There is a civil penalty for failing to wait six days, but the penalty is difficult to enforce and has proven ineffective.

C.S.H.B. 2857 prohibits the comptroller from providing the information to any other person than the taxpayer until earlier than the 14th day after the date the comptroller mails the notice of intent to audit to the taxpayer. It also removes the civil penalty for soliciting before the sixth day.

C.S.H.B. 2857 amends the Tax Code to prohibit the comptroller, when responding to a request for taxpayer information from a requestor other than the taxpayer to whom the information relates, from providing information relating to a taxpayer that the comptroller is auditing or intends to audit to the requestor earlier than the 14th day after the date the comptroller mails the notice of intent to audit to the taxpayer.

The bill repeals provisions relating to the imposition of a civil penalty for the premature solicitation of business or employment from a taxpayer under comptroller audit or that the comptroller intends to audit. The bill clarifies that the bill does not affect the imposition of a civil penalty for conduct occurring before the bill's effective date. C.S.H.B. 2857 repeals Sections 111.0075(c), (d), (e), and (f), Tax Code.

C.S.H.B. 2857 amends current law relating to certain information regarding taxpayers subject to an audit that is provided to members of the public.

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 the heading to Section 111.0075, Tax Code, to read as follows:

Sec. 111.0075. PROVISION OF INFORMATION RELATING TO TAX AUDITS.

SECTION 2. Amends Sections 111.0075(a) and (b), Tax Code, as follows:

(a) Provides that this section applies to information that is requested from the Comptroller of Public Accounts of the State of Texas (comptroller) by a person under Chapter 552 (Public Information), Government Code. Deletes existing text providing that

this section applies to information that is made available by the comptroller to a person who requested that information under Chapter 552, Government Code.

(b) Prohibits the comptroller, notwithstanding Section 552.221(a), from providing information described by Subsection (a) of this section to a person other than the taxpayer to whom the information relates earlier than the 14th day after the date the comptroller mails the notice of intent to audit to the taxpayer. Deletes existing text prohibiting a person who obtains information described by Subsection (a) and who is not a taxpayer to whom the information relates, before the sixth day after the date the comptroller made the information available to the person, from using the information for the direct solicitation of business or employment for pecuniary gain.

SECTION 3. Repealer: Section 111.0075(c) (relating to certain prima facie evidence as proof of the date of violation if a person used the information for the direct solicitation of business or employment for pecuniary gain), Tax Code.

Repealer: Section 111.0075(d) (relating to a civil penalty for a person who violates Section 111.0075), Tax Code.

Repealer: Section 111.0075(e) (relating to authorizing the attorney general or certain district or county attorneys to institute and conduct a suit to collect the penalty authorized by this section), Tax Code.

Repealer: Section 111.0075(f) (relating to the penalty described in Section 111.0075 being in addition to any other penalty provided by law), Tax Code.

SECTION 4. Provides that the repeal by this Act of Section 111.0075(d), Tax Code, does not affect the imposition of a penalty under that section for conduct occurring before the effective date of this Act. Provides that, for purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct subject to the imposition of the penalty occurs before that date. Provides that conduct occurring before the effective date of this Act is governed by the law in effect when the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2021.