

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 59** HLS 161ES 54
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

| | |
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| Date: February 24, 2016 10:00 AM | Author: MORENO |
| Dept./Agy.: Revenue | Analyst: Deborah Vivien |
| Subject: Expands the definition of hotel for sales tax purposes | |

TAX/SALES-USE, STATE EG INCREASE SD RV See Note Page 1 of 1
 Provides relative to imposition of the state sales and use tax on hotels (Items #9 and 30)

Current law authorizes a 4% state sales tax on the purchase of hotel or motel rooms, which is dedicated back to the local area in which the tax was generated. Hotels are defined as a business furnishing 6 or more rooms, cottages or cabins at a single location to transient guests.

Proposed law establishes remarketers as dealers which requires them to collect sales tax on behalf of the state and local taxing authorities. A remarketer is essentially defined as a person or entity that rents properties via internet or other electronic communication in an amount determined by the remarketer, directly or indirectly. The sale price is the amount required to be paid as a condition of occupancy and not the price the remarketer pays to the selling hotel, though the remarketer may obtain a sales tax refund in the amount of sales tax paid to the selling hotel. The hotel definition is expanded to include any number of rooms and adds any residential location, including a house, condominium, camp, etc. Mandatory reporting requirements upon remittance are included to be maintained in a database by the Department of Revenue. Any revenue derived from this bill will be remitted as hotel/motel tax and is dedicated to the local area in which the tax was generated.

| EXPENDITURES | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 5 -YEAR TOTAL |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Agy. Self-Gen. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Ded./Other | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| Annual Total | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

| REVENUES | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 5 -YEAR TOTAL |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Agy. Self-Gen. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Ded./Other | INCREASE | INCREASE | INCREASE | INCREASE | INCREASE | |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| Annual Total | | | | | | |

EXPENDITURE EXPLANATION

The Department indicates that there will be significant implementation costs. The agency will be responsible for maintaining a database of all dealers remitting the hotel sales tax. The definition of hotel, and thus the number of dealers, is greatly expanded in this bill. Enforcement through audit and other measures appears to require significant resources. The aggregate impact of all session bills may require an additional appropriation.

REVENUE EXPLANATION

This bill specifically targets remarketers of hotel rooms who buy unused hotel rooms at a discount and resells them online in sites like Expedia, Priceline, etc. The intent appears to be that the remarketer pays sales tax to the hotel when purchasing the discounted rooms and also collects sales tax upon sale of the room online. After receiving a credit for the amount of sales tax paid to the hotel, the remarketer is to remit sales tax based on the amount the final consumer paid online. Citing the same nexus issues prevalent in the discussions surrounding the situation with large online retailers, it is not certain that remarketers will recognize the duties of a dealer for purposes of collecting sales tax on behalf of the state. Combined with an unknown tax base, this component of the bill has no specific revenue estimate.

However, the bill also expands the definition of hotel to include any business furnishing any number of rooms, cottages or cabins to a transient guest, where current law exempts those providing fewer than 6 of these spaces at a single location and any residential location, including a house, condominium, camp, etc. This will subject a much larger number of locations to sales tax, including bed and breakfast establishments, online rentals, home rentals for special events, possibly management companies providing leases, etc. Some licensed properties, such as bed and breakfasts, management companies, etc., will probably remit this tax due to regulatory compliance, but it is not clear how the tax will be collected from other online or private rentals, such as Airbnb or private special event rentals, without an extensive and on-going enforcement effort covering a large number of rentals over the entire state that were not previously overseen. The amount of sales tax generated by the expanded definition could potentially be large. However, implementation and enforcement are questionable and, combined with an unknown tax base, results in no specific revenue estimate for this component of the bill.

Due to the dedication of essentially all hotel/motel sales tax collections to local governments, any additional sales tax collections under this bill will be passed through to the local entities in the areas in which the sales tax is generated.

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| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

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