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| BILL ANALYSIS |

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| C.S.H.B. 4602 |
| By: Canales |
| Ways & Means |
| Committee Report (Substituted) |

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| **BACKGROUND AND PURPOSE**  The owner of a motor vehicle using the vehicle for rental, such as a motor vehicle rental company that owns the vehicles provided to renters, is required to collect, report, and remit motor vehicle rental taxes. The rights and duties of individuals who are motor vehicle marketplace rental providers or who engage with a motor vehicle marketplace rental provider are unclear with regard to motor vehicle rental tax collection obligations under current law. C.S.H.B. 4602 seeks to update state law regarding the collection of motor vehicle rental taxes to facilitate the efficient collection, reporting, and remittance of such taxes by clearly establishing the responsibilities of persons involved in marketplace rental provider transactions. |
| **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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. |
| **ANALYSIS**  C.S.H.B. 4602 amends the Local Government Code and Tax Code to set out provisions relating to the collection, remittance, and administration of certain taxes on motor vehicles rented through a marketplace rental provider, which the bill defines in its Tax Code provisions as a person who:   * operates any type of marketplace, including a store with a physical location, a website, a software or mobile application, or a catalog, by which the owner of a motor vehicle lists, markets, or advertises the owner's motor vehicle for rental by others for consideration in Texas; * facilitates the rental of the owner's motor vehicle by another person by communicating between the owner and the other person the terms of the agreement and the acceptance of those terms; and * directly or indirectly collects or processes the receipts or rental charges paid by the person renting the motor vehicle for the owner of the motor vehicle.   The term "marketplace rental provider" expressly does not include a person who lists, markets, or advertises motor vehicles for rental only motor vehicles registered with the county tax assessor-collector as rental vehicles if the vehicle owners collect, report, and pay the tax on gross motor vehicle rental receipts to the comptroller of public accounts in the same manner as the sales and use tax is collected, reported, and paid by a retailer.  C.S.H.B. 4602 revises Tax Code provisions governing the tax on gross motor vehicle rental receipts as follows:   * expands what constitutes "gross rental receipts" for purposes of that tax to include value received or promised as consideration to a marketplace rental provider for rental of a motor vehicle; * specifies that the manner in which a motor vehicle owner must collect the tax is in the same manner as a retailer collects sales and use taxes and establishes an exception to the requirement for an owner to collect, report, and pay the tax to the comptroller for instances in which the motor vehicle is rented through a marketplace rental provider; * requires a marketplace rental provider through which a motor vehicle is rented to collect, report, and pay the tax on gross motor vehicle rental receipts to the comptroller in the same manner as is otherwise required of the owner and to register as a retailer with the comptroller in the same manner as is required of a retailer for sales and use tax purposes; * requires a marketplace rental provider to certify to the owner of a motor vehicle rented through the provider that the provider has collected, reported, and paid the tax and establishes that an owner who in good faith accepts the provider's certification is not themselves required to collect, report, or pay the tax; * authorizes the owner of a motor vehicle rented through a marketplace rental provider to elect to still report and pay the tax themselves to the comptroller and requires an owner who elects to do so to register as a retailer with the comptroller and inform the marketplace rental provider in writing of the election, who must then forward the tax collected by the provider to the owner; * requires a marketplace rental provider to add the tax to the rental charge and establishes that the tax is part of the rental charge, a debt owed to the marketplace rental provider by the person renting the vehicle, and recoverable at law in the same manner as the rental charge; * authorizes the comptroller to proceed against the owner of a rented motor vehicle or the marketplace rental provider, as applicable, for any unpaid gross motor vehicle rental receipts tax; * subjects a marketplace rental provider to the same $50 penalty that a motor vehicle owner is liable for if a tax report is not filed timely as required by law; * removes the requirement for the owner of a motor vehicle on which the motor vehicle sales or use tax has been paid who subsequently uses the vehicle for rental to collect the gross rental receipts tax from a person renting the vehicle and clarifies that such an owner may credit an amount equal to the motor vehicle sales or use tax paid by the owner to the comptroller against the amount of gross rental receipts due from the owner; * clarifies that the requirement for the owner of a motor vehicle used for rental purposes to keep for four years after purchasing the vehicle certain records and supporting documents is a requirement to keep those records and supporting documents for at least four years and subjects a marketplace rental provider through which a motor vehicle is rented to the same recordkeeping requirements as a motor vehicle owner with respect to the following:   + gross motor vehicle rental receipts received by the provider from a rental; and   + gross motor vehicle rental receipts tax paid to the comptroller by the provider on each motor vehicle used for rental purposes; and * requires a marketplace rental provider to send to the owner of a motor vehicle that is rented through the provider a report each month that shows the amount of tax collected, reported, and paid for each motor vehicle that the owner owns and that is rented through the provider and establishes that a provider is expressly not required to send the report to an owner who elects to report and pay the tax themselves.   C.S.H.B. 4602 revises Local Government Code provisions governing the short-term motor vehicle rental tax as follows:   * requires a marketplace rental provider through which a motor vehicle subject to the tax is rented to collect the tax for the benefit of the municipality or county imposing the tax; * requires a marketplace rental provider to add the tax, if applicable, and the gross motor vehicle rental receipts tax to the rental charge and establishes that the sum of the taxes part of the rental charge is a debt owed to the provider by the person renting the vehicle and is recoverable at law in the same manner as the rental charge; * establishes that all gross receipts of a marketplace rental provider from the rental of a motor vehicle subject to the tax are presumed to be subject to the tax, except for gross receipts for which the provider has accepted in good faith a properly completed exemption certificate; * subjects a marketplace rental provider to the same recordkeeping requirements as a vehicle owner with respect to the tax and expands the conduct constituting the fine-only misdemeanor offense of failure to keep records related to that tax to reflect the expanded scope of that recordkeeping requirement; * clarifies that the owner of a motor vehicle required to collect the tax must report and pay the taxes collected to the municipality or county as provided by the ordinance or order imposing the tax; * requires a marketplace rental provider that collects the tax to report and pay the taxes collected to the municipality or county as provided by the ordinance or order imposing the tax; * requires the marketplace rental provider to certify to the owner of a motor vehicle rented through the provider that the provider has collected, reported, and paid the tax to the municipality or county and establishes that an owner who in good faith accepts the provider's certification is not required to collect, report, or pay the tax to the municipality or county; and * authorizes the owner of a motor vehicle rented through a marketplace rental provider to elect to report and pay the tax to the municipality or county and requires an owner who elects to do so to register as a retailer and inform the marketplace rental provider in writing of the election, who must then forward the tax collected by the provider to the owner.   C.S.H.B. 4602 applies only to a rental agreement for the rental of a motor vehicle entered into on or after the bill's effective date. |
| **EFFECTIVE DATE**  October 1, 2023. |
| **COMPARISON OF INTRODUCED AND SUBSTITUTE**  While C.S.H.B. 4602 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.  The substitute does not include the Tax Code provision present in the introduced regarding the rate of the tax on gross motor vehicle rental receipts.  The substitute includes Local Government Code provisions regarding the short-term motor vehicle rental tax, whereas the introduced did not. |