

NetChoice *Promoting free expression and free enterprise on the net*

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Rep. Chris Turner, Chair
House Committee on Business & Industry
Texas House of Representatives

April 26, 2021

RE: **Opposition to HB 2515 removing Short-term Rentals in Texas**

Dear Chairman Turner and Members of the committee:

We ask that you **not** advance HB 2515. While well-intentioned, HB 2515 undermines property rights, empowers creation of a de facto ban on home-sharing, and will create a cottage industry empowering suits against Texas homeowners.

We do, however, agree with reasonable registration requirements for short-term rentals (STRs) and regularly advocate for use of such registrations.

Protecting property rights

HB 2515 undermines the property rights of Texas homeowners by impeding the ability to engage in home-sharing by creating the threat of lawsuits from disgruntled neighbors. This means fewer Texans can use their property the way they want.

Benefits to constituents of short-term rentals

Short-term rental services provide necessary income to many of Texas's residents. Over 52 percent of hosts nationwide live in low-to-moderate income households. More than 48 percent of the income hosts earn through certain short-term rental services is used to cover household expenses.

Consider, for example, families coming to College Station for graduation ceremonies or visiting the Alamo. Short-term rental services allow your residents to earn income by sharing their homes.

The presence of short-term rental services also brings new money into areas of Texas unserved or underserved by hotels. Since there are few hotels in many parts of Texas, travelers are not likely to encounter those areas' businesses. Conversely, guests who stay in underserved areas of Texas via short-term rental services, bring income to these areas as they visit restaurants, grocery stores, and businesses in the underserved parts of Texas.

Benefits of STRs to Texas during COVID

Throughout this pandemic tourism has plummeted. This is due in part to concerns about staying in hotels that often have many families in proximity of each other. STRs, however, provide families a greater sense of safety during COVID. STRs allow a family to travel and not worry about encountering someone with COVID. Moreover, STRs empower families to travel and stay in remote parts of Texas not served by hotels.

Big hotel chains benefit most from limits on excessive STRs

Big hotel chains are backing the HB 2515 for entirely selfish reasons. Big hotel chains see short-term rentals are a threat to their business model – however, it’s not for the reasons you may think.

The presence of short-term rental services is seen by some in the hotel industry as forcing hotels to keep prices at reasonable levels. For instance, LaSalle Hotel Properties’ CEO told investors that a law curtailing short-term rental services would allow hotels to boost their prices by eliminating competition.¹ The push behind HB 2515 is asking the Texas legislature to pick winners and losers between competing business models.

STRs constitute less than 0.09% of available homes in cities like Houston

According to data from a study paid for by the Hotel Industry,² 99.91% of homes in Houston *do not* engage in STRs of any kind. This includes owner-present, whole-home, and non-owner-occupied homes. To suggest that STRs or vacation-rentals, or non-owner-occupied homes have a material impact on Texas just doesn’t match the data.

HB 2515 increases risks regulatory capture by Big Hotel and creation of de facto bans on STRs

As noted above, the bill empowers localities to decide what constitutes a “violation.” That means the office could regulate broadly or arbitrarily in ways that make it harder for homeowners to comply with the law.

The makes the localities vulnerable to regulatory capture by the Big Hotel lobby. As you know, hotel chains are all too happy to bury the little guy—your constituents—in regulations so that they gain the upper hand and face fewer competitors.

It doesn’t take much imagination to see how that’ll play out: Big Hotel’s lobbyists will continually try to get the localities to promulgate more and more burdensome regulations. To counter that, homeowners will need to shell out time and money that they simply do not have.

At the same time, the Big Hotels will seek to continuously file technical violations against Texas homeowners to stamp out their presence. Handing over this much power to essentially create the rules and to file the complaints and bring lawsuits, Big Hotels can turn HB 2515 into a de facto ban on home-sharing in Texas.

Enabling retaliation between neighbors

By creating a private right of action with attorney’s fees, HB 2515 will lead to creation of a plaintiff’s bar exclusively seeking to sue homeowners engaging in home-sharing. The plaintiff’s bar will seek out disgruntled plaintiffs, encourage them to sue their neighbors, and turn neighbor against neighbor.

Imagine two neighbors differ on which candidate to support. HB 2515 can create a new cause of action to empower political retaliation. In essence, HB 2515 will likely lead to increased acrimony in Texas communities.

* * *

¹ Gaby Del Valle, *Hotel CEO: New Airbnb Regulations Should Allow A 'Big Boost' In Hotel Room Rates*, Gothamist (Oct. 27, 2016) (Passage of a law limiting short-term rental services “should be a big boost in the arm for the business, certainly in terms of the pricing.”)

² John W. O’Neill, *From Air Mattresses to Unregulated Business: AN ANALYSIS OF THE OTHER SIDE OF AIRBNB* (May 2016), available at https://www.ahla.com/sites/default/files/Airbnb_Analysis_September_2016_0.pdf (“This study was primarily funded by the American Hotel & Lodging Educational Foundation. Additional funds provided by the American Hotel & Lodging Association.”) Finding a total of 882 STRs in Houston.

We've seen high compliance rates when localities create reasonable registration and regulation for short-term rentals.

A more reasonable approach to home-sharing by creating a registration process would benefit all Texas residents. Such an approach would also ensure the home-sharing boon to homeowners and visitors also benefits non-participating residents through revenue collection that is funneled back into the local economy and city initiatives.

We welcome the opportunity to work with you on reasonable regulations that allow all to prosper.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carl Szabo".

Carl Szabo

Vice President and General Counsel, NetChoice

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