



# HOTEL OWNERS ACADEMY™

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WEBINAR



# HOTEL OWNERS & COVID-19: PRICE GOUGING LAWS


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# Hotel Owners & COVID-19: Price Gouging Laws



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# WHAT IS PRICE GOUGING?

When a business that provides essential consumer goods or services takes advantage of *abnormal market conditions* caused by events such as natural disasters, armed conflicts or other crises, by raising prices to excessive levels.



# Abnormal Market Conditions


Term typically found in anti-price gouging statutes

Emergency event drives an unusual increase in demand for certain basic goods and services deemed necessary for human comfort and survival

- food
- fuel
- equipment
- shelter




# Price Gouging is Controlled by State Law

- State statutes
  - Regulated by state consumer protection agencies
  - Civil and criminal penalties
  - 35 U.S. states have anti-price gouging legislation
  - 25 States have express provisions for hotels/motels
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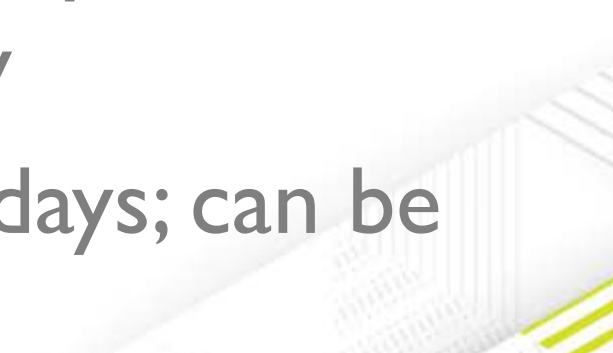
# How Do These Laws Work?

- Make it illegal for a business to excessively raise prices or rates for essential goods or services during an emergency
  - Usually triggered by declared state of emergency (president, governor, county, municipality)
  - Usually impose specific price limitations for essential items or services
  - Limitations usually in effect for days or weeks following the declaration of emergency
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# How Do These Laws Work?

## A COMMON APPROACH:

1. State of emergency is declared
  2. Businesses may not raise prices by more than 10% compared to their prices immediately before the declaration of a state of emergency
  3. Limitation remains in effect for 30 days; can be extended
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# COVID-19 Crisis and States of Emergency

- The federal government declared a national state of emergency on March 13, 2020
  - Nearly every state has made emergency declarations or proclamations
  - Many local governments have also made declarations encompassing their county or municipal areas.
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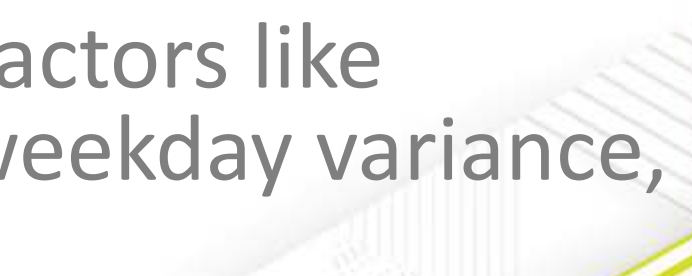
# How Are Hotel Companies Reacting to COVID-19?

- Many have drastically reduced or closed operations entirely.
- For those remaining in operation, occupancy is severely reduced due to travel restrictions, remain-at-home orders, ordered business closures and fear of contact what might result in infection

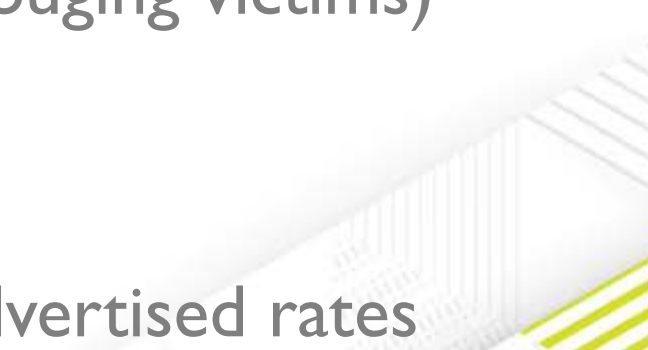
For hotels continuing to operate -- **RATES**: Are they going down or up?



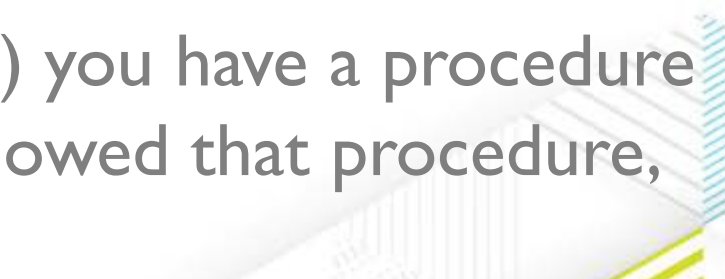
# RATES Are What Regulators Will Investigate

- Many hotels set rates on a semi-automated basis → rates may fluctuate beyond the imposed statutory limits without hotel personnel controlling the fluctuations
  - Investigators are often unfamiliar with nuances affecting rates, e.g., normal market factors like demand, comp set rates, weekend/weekday variance, etc.
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# Price Gouging Investigations

- Investigators want to compare rates prior to and during a declared emergency, looking for steep increases
  - Hotels are required to disclose:
    - Lists of rooms and rates for periods before/after emergency
    - Lists of guests and contact info (potential gouging victims)
    - Occupancy data by individual day
    - Information on rate setting practices
    - Information on budgeted, forecasted and advertised rates
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# How To Avoid and/or Defend Against Allegations of Price Gouging

- Learn the laws. Price gouging statutes differ. Compliance with these statutes is a necessity.
  - Stay on top of automatic pricing. Monitor to make sure the automatic system is not establishing rates that will be in violation of price gouging statutes.
  - Document everything. Create a record that (1) you have a procedure in place that complies with the law, (2) you followed that procedure, (3) and rates were consciously compliant.
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Thank You!

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