

SENATE BILL NO. 1196

October 13, 2020, Introduced by Senator HORN and referred to the Committee on Economic and Small Business Development.

A bill relating to the promotion of convention business and tourism in this state; to provide for registry, promotion, and regulation of certain short-term rentals and hosting platforms; to create certain databases; to provide for imposition and collection of an excise tax; to provide for the disbursement of the excise tax; to establish the functions and duties of certain state departments and employees and certain local units of government; and to prescribe penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "Pure

1 Michigan funding act".

2 Sec. 2. As used in this act:

3 (a) "Booking transaction" means when a hosting platform, in
4 exchange for compensation, facilitates a short-term rental
5 transaction by directly or indirectly enabling the reservation of a
6 short-term rental or collecting or processing room charges.

7 (b) "Department" means the department of licensing and
8 regulatory affairs.

9 (c) "Director" means the director of the department.

10 (d) "Hosting platform" means a digital platform, third-party
11 website, software, online-enabled application, mobile phone
12 application, or some other similar electronic process through which
13 a short-term rental located in this state may be advertised,
14 listed, or offered as available.

15 (e) "Local unit of government" means a county, city, township,
16 or village.

17 (f) "Owner" means the owner of a short-term rental located
18 within this state or, if the short-term rental is operated or
19 managed by a person other than the owner, then the owner agent of
20 that short-term rental.

21 (g) "Owner agent" means a person who operates or manages
22 property offered for short-term rental.

23 (h) "Pure Michigan assessment" means the excise tax assessed
24 on each short-term rental booking transaction under section 5.

25 (i) "Room charge" means the charge imposed for the use or
26 occupancy of a short-term rental, excluding charges for food,
27 beverages, state use tax, telephone service or like services paid
28 in connection with the charge, and reimbursement of the Pure
29 Michigan assessment imposed by this act.

(j) "Short-term rental" means the rental of all or a portion of a dwelling, including, but not limited to, any single-family residence, 1- to 4-family house or dwelling unit, or condominium unit for terms of not more than 30 consecutive days.

(k) "Short-term rental database" means the short-term rental database created in section 3.

(l) "Use tax" means the tax imposed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

Sec. 3. (1) The department shall create and operate a short-term rental database, updated each year, of the information provided in subsection (2).

(2) Each year in which a dwelling is offered for short-term rental, the owner or the owner agent shall file with the department a certificate that provides all of the following:

(a) Name and address of the owner of the short-term rental.

(b) Address of the short-term rental.

(c) Certification that the owner has \$1,000,000.00 or more liability insurance on the short-term rental.

(3) The director shall prescribe the forms necessary for the administration of the short-term rental database.

Sec. 4. An owner of a short-term rental shall maintain liability insurance of \$1,000,000.00 or more on each short-term rental while it is being offered for rent unless that short-term rental is offered through a hosting platform that maintains equal or greater insurance coverage. Insurance coverage described in this section must defend and indemnify the owner agent and any tenants or owners in the short-term rental for bodily injury and property damage.

Sec. 5. A statewide excise tax known as the Pure Michigan

1 assessment is levied on the room charge of each use or occupancy of
2 a short-term rental in this state. The rate of the Pure Michigan
3 assessment is 5% of the room charge.

4 Sec. 6. The Pure Michigan assessment imposed by this act shall
5 be collected at the same time and in the same manner as the tax
6 imposed by the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

7 Sec. 7. (1) The Pure Michigan assessment imposed by this act
8 shall be administered by the state treasurer under 1941 PA 122, MCL
9 205.1 to 205.31.

10 (2) The state treasurer shall prescribe the forms necessary
11 for the administration of this act and may promulgate necessary
12 rules under the administrative procedures act of 1969, 1969 PA 306,
13 MCL 24.201 to 24.328.

14 (3) The Pure Michigan assessment imposed under this act is in
15 addition to any other tax, fee, or assessment imposed by law.

16 Sec. 8. An owner of a short-term rental may reimburse himself
17 or herself by adding the amount of the Pure Michigan assessment to
18 the room charge charged to short-term rental guests only if the
19 owner or owner agent discloses it on the bill or receipt provided
20 to the short-term rental guest.

21 Sec. 9. Proceeds from the collection of the Pure Michigan
22 assessment imposed by this act shall be deposited in the state
23 treasury, credited to a restricted account, and shall, upon
24 appropriation, be used as follows:

25 (a) 98% of the proceeds must be used by the Michigan strategic
26 fund and the Michigan economic development corporation for the
27 promotion of this state through the Pure Michigan campaign.

28 (b) 2% of the proceeds shall be distributed on a per capita
29 basis to the city, village, or township in which the short-term

1 rental is located as indicated in the short-term rental database as
2 described in section 3 to be used for code enforcement, law
3 enforcement, and other municipal services provided for short-term
4 rentals.

5 Sec. 10. (1) An owner of a short-term rental may elect to have
6 an owner agent, hosting platform, or other intermediary collect and
7 remit room charges, use taxes, assessments, and the Pure Michigan
8 assessment described in this act through a written agreement.

9 (2) If payment for the room charges for a short-term rental is
10 collected by an owner agent or a hosting platform, the Pure
11 Michigan assessment imposed under this act shall be remitted to the
12 state treasurer by the owner agent or the hosting platform.

13 Sec. 11. (1) An owner or owner agent of a short-term rental
14 who violates this act is responsible for a civil fine and may be
15 ordered by the department to pay a civil fine of not more than
16 \$1,000.00 for each violation.

17 (2) A hosting platform that violates this act is responsible
18 for a civil fine and may be ordered by the department to pay a
19 civil fine of not more than \$25,000.00 for each violation.

20 Sec. 12. (1) A hosting platform shall not facilitate booking
21 transactions for a short-term rental located in this state unless
22 the hosting platform is currently and validly registered with the
23 department under this section. The department may issue a
24 registration number to each hosting platform that does all of the
25 following:

26 (a) Meets the requirements of this act and its related rules.

27 (b) Pays an annual registration fee to be determined by the
28 director. The annual registration fee shall be an amount equal to
29 \$100.00 per listing, not to exceed \$50,000.00 per year as

1 determined by the department.

2 (c) Agrees in writing to obtain written consent from all
3 owners or owner agents of a short-term rental located in this state
4 for the disclosure of the records required under subsection (4).

5 (2) A hosting platform shall not facilitate booking
6 transactions for a short-term rental located in this state if 1 or
7 more of the following apply:

8 (a) Where applicable, the short-term rental and its owner or
9 owner agent have not been issued a current and valid permit,
10 license, registration, or other related authorization by the
11 applicable local unit of government for the property's use as a
12 short-term rental.

13 (b) A certificate approval number has not been received by the
14 short-term rental's owner or owner agent, acknowledging the
15 department's review for completion and accuracy of the certificate
16 filed pursuant to section 3(2).

17 (3) The department shall adopt by rule, and enforce, standards
18 for the issuance, renewal, suspension, revocation, and appeal of
19 hosting platform registration, as well as standards for service of
20 process, notice, and demand.

21 (4) Notwithstanding any other provision of law or
22 administrative action to the contrary, a hosting platform shall do
23 all of the following:

24 (a) Develop and maintain a report, in a manner and form
25 established by the department, of short-term rental booking
26 transactions facilitated by the hosting platform in connection with
27 short-term rentals located in this state.

28 (b) The report described in subdivision (a) must include the
29 following records itemized for each individual short-term rental

1 booking transaction:

2 (i) Address, including any unit designation, of the short-term
3 rental.

4 (ii) The full legal name of the owner and, where applicable,
5 owner agent.

6 (iii) Where applicable, the current and valid permit, license,
7 registration, or other related authorization issued by the
8 applicable local unit of government to the owner or owner agent for
9 the dwelling's use as a short-term rental.

10 (iv) The calendar dates that the short-term rental was rented,
11 along with the nightly rate and assessment amounts charged.

12 (v) The amount of the hosting platform's compensation for
13 facilitating the booking transaction.

14 (vi) Any additional records as the department may require by
15 rule.

16 (c) Subject to applicable laws, provide the department monthly
17 with the report's itemized records for all booking transactions
18 facilitated in the preceding month.

19 (d) Subject to applicable laws and except as provided under
20 this subdivision, make the full report described under subdivision
21 (a) available to the department when requested by the director. A
22 report version made available to the department shall not include
23 copies of specific message exchanges between any of the following:

24 (i) Hosting platform.

25 (ii) Owner.

26 (iii) Owner agent.

27 (iv) Guest.

28 (v) Other person that booked a short-term rental.

1 (e) Maintain itemized records within the report for a period
2 of 3 years following the end of the calendar year in which the
3 individual short-term rental booking transaction occurred.

4 (5) The department may audit a hosting platform's report and
5 its itemized records as necessary. Upon lawful request, the
6 department shall share the report or particular itemized records
7 with the local unit of government where the short-term rental is
8 located.

9 Sec. 13. (1) A local unit of government may enact reasonable
10 regulations for short-term rentals to safeguard the public health,
11 safety, and welfare.

12 (2) A local unit of government shall not enact or enforce any
13 ordinance, including, but not limited to, a zoning regulation that
14 has the total effect of prohibiting short-term rentals.