

Legislative Analysis



SHORT-TERM RENTALS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5437 as introduced
Sponsor: Rep. Jason Morgan

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5438 (proposed substitute H-1)
Sponsor: Rep. Joey Andrews

House Bill 5439 as introduced
Sponsor: Rep. Amos O’Neal

House Bill 5443 (proposed substitute H-2)
Sponsor: Rep. Mike McFall

House Bill 5440 as introduced
Sponsor: Rep. Jenn Hill

House Bill 5444 as introduced
Sponsor: Rep. Veronica A. Paiz

House Bill 5441 as introduced
Sponsor: Rep. Julie Brixie

House Bill 5445 as introduced
Sponsor: Rep. Noah Arbit

House Bill 5442 as introduced
Sponsor: Rep. Erin Byrnes

House Bill 5446 as introduced
Sponsor: Rep. Kristian C. Grant

Committee: Local Government and Municipal Finance
Complete to 4-17-24

SUMMARY:

Together, House Bills 5437 to 5446 would regulate and levy assessments on short-term rental facilities in Michigan. House Bill 5438 would create a new act specifically pertaining to short-term rentals, and the remaining bills would subject short-term rental facilities to the various taxes currently levied on hotel rooms.

House Bills 5437 and 5439 to 5446 are tie-barred to House Bill 5438, meaning that none of those bills can take effect unless HB 5438 is also enacted.

SHORT-TERM RENTAL REGULATION ACT

House Bill 5438 would create the “Short-Term Rental Regulation Act.” The new act would create several regulations for a property offered as a *short-term rental*, including safety and insurance standards, a requirement that a property offered as a short-term rental be registered with the Michigan Department of Licensing and Regulatory Affairs (LARA) and included in a short-term rental database, provisions allowing for limited local regulations on short-term rentals, and additional fees and requirements for rentals listed on a *hosting platform*. It would also establish a 6% tax for units rented 15 or more days in a year. The bill would take effect 60 days after it is enacted.

Short-term rental would mean the rental of a single-family residence, a dwelling unit in a one-to-four-family house, or a unit or group of units in a condominium for up to 30 consecutive days. Short-term rental would *not* include the rental of a hotel, motel,

hotel condominium,¹ home, or condominium unit located within a resort that offers amenities such as golf, a skiing restaurant facility, or group meeting accommodation.

Hosting platform would mean a digital platform, third-party website, software, online-enabled application, mobile telephone application, or another similar electronic process that allows for all of the following for a short-term rental located in Michigan:

- The advertisement, listing, or offer of the short-term rental as available.
- The collection of occupancy charges.
- The arranging, booking, reserving, or renting of the short-term rental.

Facility requirements

An owner could not offer a dwelling as a short-term rental unless it is equipped with a functioning carbon monoxide detector,² a functioning smoke detector in each sleeping room, and a functioning fire extinguisher on each floor.

Short-term rental owners would be required to maintain liability insurance of at least \$1.0 million on each unit offered for rent that defends and indemnifies the owner and any tenants for bodily injury and property damage. (This provision would not apply to short-term rentals offered through a hosting platform that maintains equal or greater insurance coverage.)

An owner of a short-term rental would have to post the following information in a conspicuous place in every room of the dwelling and as a single form in every bedroom:

- The owner's emergency contact and a working phone number.
- Information regarding local emergency services, including a working phone number for the local police and fire departments.
- The floor plan and escape routes.

Registration and short-term rental database

LARA would have to create a certificate to be filed by an owner of a dwelling each year they offer the dwelling as a short-term rental that contains the following information:

- The name, current phone number, email, and address of the owner of the short-term rental.
- The address of the short-term rental.
- Certification that the owner has the required liability insurance.
- Emergency contact information for a person who resides within 30 miles of the dwelling.
- Certification that the owner has complied with all applicable local requirements.

A hosting platform would be prohibited from facilitating **booking transactions** for a short-term rental located in Michigan if the owner has not received a certificate approval number from LARA acknowledging that the certificate has been reviewed.

Booking transaction would mean a hosting platform's facilitation of a short-term rental transaction for compensation by enabling the reservation of a short-term rental or by collecting or processing occupancy charges.

¹ *Hotel condominium* would mean a group of units in a condominium or condominium projects rented by a common rental management company for transient rental that may include a reception or check-in desk.

² The carbon monoxide detector could be battery-powered, plugged in, wired into the property's AC line with secondary battery backup, or connected to a system through a control panel.

LARA would have to create, operate, and annually update a database of short-term rentals that includes the information listed above, and the LARA director would have to prescribe any forms necessary for the administration of the database. (The department could contract with a third party to create the database.)

Upon lawful request, LARA would be required to share the information in the database for a short-term rental with the local unit of government (defined by the act as a city, township, or village) in which the dwelling is located, law enforcement agencies, and members of the public. In sharing the information, LARA would also have to report the number of complaints received against an owner for a violation of the Short-Term Rental Regulation Act and the action taken in response to the complaint.

If a local unit of government revokes a short-term rental's permit for a violation of a local or zoning ordinance, LARA would have to remove it from the database.

Hosting platforms

The bill would require hosting platforms to have a current and valid registration on file with LARA and pay an annual registration fee of \$100 per listing (up to \$50,000) in order to facilitate booking transactions for a short-term rental located in Michigan.

LARA would have to issue a registration number to each hosting platform that meets the requirements of the Short-Term Rental Regulation Act, pays the registration fee, and agrees in writing to obtain written consent from all short-term rental owners in Michigan for the disclosure of any required records and to remove from its listing a short-term rental that does not comply with the act or reasonable local regulations.

Unless prohibited by a contrary law or administrative action, a hosting platform would have to develop and maintain a report of the booking transactions it facilitates for short-term rentals in Michigan, which would have to include the following records for each transaction:

- The full address of the short-term rental.
- The full legal name of the owner.
- As applicable, a current and valid permit, license, registration, or other related authorization issued by the local unit of government in which the rental is located for the dwelling's use as a short-term rental.
- The calendar dates that the short-term rental was rented.
- The nightly rate for the rental and any taxes or assessments collected.
- The hosting platform's compensation for facilitating the booking.

(The state treasurer would be responsible for establishing the form and manner of the report and could require a hosting platform to include any additional information necessary to enforce payment of the short-term rental excise tax, described below.)

Subject to any applicable laws, hosting platforms would have to provide the state treasurer with monthly itemized records from the report for all booking transactions facilitated in the preceding month. A hosting platform would also have to make the full report (excluding copies of message exchanges between the hosting platform, the short-term rental owner, guests, or other persons who booked the rental) available to LARA upon the LARA director's request.

The itemized records within the report would have to be maintained by the hosting platform for at least three years after the end of the calendar year in which a booking occurred.

LARA could audit a hosting platform's report and itemized records as necessary.

Short-term rental excise tax

The act would levy an excise tax, known as the "short-term rental excise tax," at 6% of the *occupancy charge* for all short-term rentals in Michigan that are rented for more than 14 days in a calendar year. The tax would be collected in the same manner and at the same time as use taxes and would be in addition to any other taxes, fees, or assessments imposed by law, including any hotel taxes.

Occupancy charge would mean the charge imposed for the use or occupancy of a short-term rental, including cleaning and service fees.³ The term would *not* include charges for food, beverage, state use or excise taxes, telephone service, or a damage deposit or damage insurance.

The state treasurer would administer the tax and would have to provide forms and promulgate rules as necessary. Proceeds would be deposited in the state treasury and credited to a restricted account.

Upon appropriation, 1% of the revenue would be distributed to LARA and the Department of Treasury for the administration of the act, up to \$1.0 million. The remaining amount collected from each short-term rental would be distributed to the local unit of government in which the rental is located.

An owner of a short-term rental could add the tax to the rental's occupancy charge for a listing facilitated by a hosting platform as long as the owner discloses the addition of the tax on the guest's bill or receipt.

Local regulations

With respect to short-term rentals, a local unit of government could enact and enforce reasonable regulations and uphold zoning decisions that do any of the following:

- Safeguard the public health, safety, and welfare (including providing for fire safety standards and blight mitigation).
- Determine the number of units allowed to be used as short-term rentals, including geographical restrictions, and establish a process by which this number could be adjusted.
- Establish a process by which the local unit of government could revoke a short-term rental permit and by which a revocation could be challenged.

A local unit of government would be authorized to revoke a short-term rental's permit for a violation of a local ordinance or a zoning ordinance. However, a local unit of government could not enforce an ordinance, rule, or regulation (including a zoning ordinance) that has the effect of a total ban on short-term rentals and violates section 207 of the Zoning Enabling Act.⁴

³ The occupancy charge would be the basis for the assessments imposed on short-term rentals under House Bills 5437 and 5439 to 5446.

⁴ Section 207 provides that a local zoning ordinance or zoning decision generally cannot totally prohibit a lawful land use within a local unit of government if there is a demonstrated need for that land use in the local unit or surrounding area.

When applicable, a hosting platform would be prohibited from facilitating booking transactions for a short-term rental in Michigan if the rental and its owner do not have current and valid authorization and registration from a local unit of government for the property's use as a short-term rental.

Penalties and LARA administration

For each violation of the act, LARA could order a short-term rental owner to pay a fine of up to \$1,000 and a hosting platform to pay a fine of up to \$5,000. Fines would be transmitted to the local unit of government where the short-term rental is located.

LARA would have to adopt rules and enforce standards for the issuance, renewal, suspension, revocation, and appeal of hosting platform registrations, as well as standards for service of process, notice, and demand.

COMPANION BILLS

House Bills 5437 and 5439 to 5446 would amend nine different acts, each of which generally allows an assessment to be levied on hotel or motel *room charges* to fund the tourism promotion efforts of a local or regional tourism bureau or marketing organization (often called a convention and visitor bureau, or CVB).⁵ Owners of these facilities can pass the assessment on to guests as an additional room charge if they notify the guests that they are doing so. The bills would extend the assessments to short-term rentals, reduce the minimum number of rooms required for a facility to be subject to the taxes, and make other related changes.

Room charge currently means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, phone service or like services, and reimbursement of the assessment (i.e., adding the assessment to customers' bills).⁶

The bills would amend the following acts:

- **House Bill 5437:** 1991 PA 180 (MCL 207.751 to 207.759), which allows an assessment of up to 1% on rooms in facilities in certain eligible cities and counties.
- **House Bill 5439:** The Regional Convention and Tourism Promotion Act (2010 PA 254; MCL 141.1431 to 141.1437), which allows an assessment of up to 5% on rooms in facilities with two or more guest rooms in Bay or Midland County.
- **House Bill 5440:** The Regional Tourism Marketing Act (1989 PA 244; MCL 141.891 to 141.900), which allows an assessment of up to 1% on rooms in facilities with 10 or more guest rooms in the Upper Peninsula.
- **House Bill 5441:** The Community Convention or Tourism Marketing Act (1980 PA 395; MCL 141.871 to 141.880), which allows an assessment of up to 5% on rooms in facilities with 10 or more guest rooms in counties with a population below 650,000 or in cities, villages, or townships within such a county, except for some areas subject to an assessment under the Convention and Tourism Marketing Act.
- **House Bill 5442:** The State Convention Facility Development Act (1985 PA 106; MCL 207.621 to 207.640), which allows an assessment of between 1.5% and 6%, based on

⁵ 1991 PA 180 (which HB 5437 would amend) provides for an assessment on these facilities to fund stadiums and convention centers, which is collected by a local government rather than a CVB.

⁶ The accommodations tax act (which HB 5443 would amend) instead refers to a "total charge for accommodations."

the number of rooms and the location of the facility, in counties with a population exceeding 700,000.

- **House Bill 5443:** The accommodations tax act (1974 PA 263; MCL 141.861 to 141.867), which allows an assessment of up to 8% on rooms in facilities in a county with a population of less than 600,000 that contains a city with a population of at least 40,000 at the time it enacts the assessment and allows an additional assessment of up to 2% on rooms in facilities in Kent County.
- **House Bill 5444:** The Regional Event Center Financing Act (2020 PA 340; MCL 141.1441 to 141.1445), which allows an assessment of up to 4% on rooms in facilities with 35 or more guest rooms in Ingham, Kalamazoo, Muskegon, and Washtenaw Counties.
- **House Bill 5445:** The Convention and Tourism Marketing Act (1980 PA 383; MCL 141.881 to 141.889), which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in Wayne County or a contiguous county.
- **House Bill 5446:** The Convention and Tourism Promotion Act (2007 PA 25; MCL 141.1321 to 141.1328), which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in the greater Grand Rapids area or greater Lansing area.

[Note: These assessments are not necessarily mutually exclusive—the 1% allowed under the Regional Tourism Marketing Act, for example, may be levied in addition to a local assessment under the Community Convention or Tourism Marketing Act.]

Broadly speaking, each act allows a CVB or local government to initiate an assessment district by filing notice of a proposed marketing program with the state for approval and sending notice to each owner of a *transient facility* (generally, a hotel or motel meeting the applicable size threshold) in the proposed district. A referendum of facility owners (one vote per room) is held on the question of whether to establish the assessment district and implement the assessment. The assessment revenue collected under each act is not state money, but belongs to the tourism bureau or marketing organization, to be used to implement the marketing program.

In addition to subjecting short-term rentals and other smaller facilities to the assessments, the bills would make the following changes:

- For a short-term rental, *room charge* would mean the occupancy charge, as defined in the Short-Term Rental Regulation Act, for the rental.⁷ (The definition of *room* would also be amended to include a dwelling used as a short-term rental.)
- Revenue from the assessments could be used (generally as part of a CVB’s marketing program) for housing activities or provisions or programs to assist with or provide child care. (Under House Bills 5439, 5440, 5441, and 5446, a marketing program could also include provisions clarifying the assessment on room charges for short-term rentals.)
- An entity initiating an assessment district must file a notice of a proposed marketing program with the state for approval and send notice to each owner of a transient facility in the proposed district. The CVB (or municipality, under HB 5444) can use any data reasonably available to compile the list of recipients, which the bills would specify includes the short-term rental database that would be created by the Short-Term Rental Regulation Act.⁸

⁷ For House Bill 5443, the total charge for accommodations would mean the occupancy charge.

⁸ This provision would not apply to HBs 5437, 5442, and 5443.

- For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room.⁹

Specific provisions for each bill are described below.

House Bill 5437 would amend 1991 PA 180, an act that allows for the financing of sports stadiums and convention facilities in certain municipalities, to include short-term rentals.

1991 PA 180 allows certain counties or municipalities within counties to levy, with voter approval, an excise tax of up to 1% on restaurants and bars, up to 2% on vehicle rentals, and up to 1% on hotel and motel rooms, with the revenues to fund construction of convention facilities or sports or entertainment facilities. The act currently applies to Wayne County, Kent County and Grand Rapids, Muskegon County and the city of Muskegon, Ingham County and Lansing, Oakland County and Pontiac, and Kalamazoo County and the city of Kalamazoo.

Accommodations tax

The hotel-motel excise tax authorized by the act is based on the gross receipts from the charges imposed by a business subject to the tax for accommodations provided to transient guests (guests who occupy an accommodation for less than 30 consecutive days), excluding charges imposed as reimbursement for the tax levied under the State Convention Facility Development Act or assessments imposed under the Convention and Tourism Marketing Act, the Regional Tourism Marketing Act, and the Community Convention or Tourism Marketing Act.

House Bill 5437 would extend the 1% tax on hotel and motel rooms to short-term rental facilities. (The definition of *accommodations* would also be amended to include a dwelling offered as a short-term rental.¹⁰) It would also specify that for a short-term rental, the charge imposed for the use or occupancy of accommodations is the occupancy charge.

Authorized uses

Revenues from the taxes levied under the act are deposited in a special fund to be used by eligible municipalities for the following purposes in the following order of priority:

- Costs borne for the election in which the ordinance establishing the tax was approved by voters and in the administration and enforcement of the ordinance.
- Costs associated with the acquisition, construction, improvement, or enlargement of a stadium or convention facility and the costs of current or future rent payments for the facility.
- Costs associated with the clearance and improvement of land for assembly and development purposes (to the extent not needed for purposes listed above or to maintain a reserve for those purposes in future years).

Under the bill, housing activities and programs to assist with or provide child care would be added to this list of allowable uses of the tax revenue at the third tier.

MCL 207.751 et seq.

⁹ This would not apply to HBs 5437, 5442, and 5443, which do not provide for a referendum on an excise tax.

¹⁰ *Accommodations* currently means the room or other space provided for sleeping, including furnishings and other accessories, in a facility that is not a hospital, nursing home, emergency shelter, community mental health or substance abuse treatment facility, or campground.

House Bill 5439 would amend the Regional Convention and Tourism Promotion Act, which allows an assessment of up to 5% on rooms in facilities with two or more guest rooms in Bay or Midland County. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Regional Convention and Tourism Promotion Act allows a nonprofit convention and tourism bureau to levy an assessment on *transient facilities* of up to 5% of the room charge to support marketing and promotion programs. The assessment can be levied in counties with a population greater than 80,000 and less than 115,000 that contain a city with a population greater than 35,000 and less than 45,000 and that border a county that levies a tax under the accommodations tax act. (Bay County and Midland County are the only counties that meet these requirements.)

Transient facility currently means a building other than a hospital or nursing home that contains *two or more* rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for the use of the rooms.

Under the bill, *transient facility* would mean such buildings containing *one or more* rooms for those purposes, in addition to a dwelling offered as a short-term rental. (The definition of **room** would also be amended to include a dwelling offered as a short-term rental.)

Marketing program notice

A convention and tourism bureau must file a marketing program notice with the director of the Michigan Economic Development Corporation (MEDC) that describes the structure, history, membership, and activities of the bureau, and each owner of a transient facility located in the proposed assessment district must receive a copy. The bureau can use any data reasonably available to compile the list of recipients, which House Bill 5439 would specify includes the short-term rental database that would be created by Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5439, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide childcare, or provisions clarifying the assessment on room charges for short-term rentals as part of the marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request or to terminate an assessment, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.1432 et seq.

House Bill 5440 would amend the Regional Tourism Marketing Act, which allows an assessment of up to 1% on rooms in facilities with 10 or more guest rooms in the Upper Peninsula. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Regional Tourism Marketing Act allows a regional marketing organization to levy an assessment on *transient facilities* of up to 1% of the room charge to support marketing and promotion programs.

Transient facility generally means a building or combination of buildings under common ownership, operation, or management that contains *10 or more* rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for use of the rooms.

House Bill 5440 would amend the definition of *transient facility* to mean such facilities containing *one or more* rooms and to include a dwelling offered as a short-term rental.¹¹

Exempt facilities

An owner of a building or combination of buildings within a regional assessment district that otherwise qualifies as a transient facility but has fewer than 10 rooms or is located within one mile of a ski lift can agree in writing to join the tourism marketing program and be subject to the assessment. Such facilities are considered transient facilities for the purposes of the act, but owners are not eligible to vote in the referendum on the program.

House Bill 5440 would remove the 10-room maximum (these would be considered transient facilities under the bill) and would provide that a building, combination of buildings, or dwelling within a regional assessment district that is located within one mile of a ski lift and otherwise meets the definition of a transient facility is an *exempt facility* that can participate in the program without voting powers.

Program notice

A regional marketing organization must file a tourism marketing program notice with the president of the Michigan Strategic Fund that describes the structure, membership, and activities of the organization, and each owner of a transient facility located in the proposed assessment district must receive a copy. The organization can use any information reasonably available to compile the list of recipients; HB 5440 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5440, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide child care, or provisions clarifying the assessment on room charges for short-term rentals as part of the tourism marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at

¹¹ House Bill 5440 would also remove a provision referencing exempt facilities that have fewer than 10 rooms or are located within one mile of a ski lift to reflect other changes made by the bill, as described below.

least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request or to terminate an assessment, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.892 et seq.

House Bill 5441 would amend the Community Convention or Tourism Marketing Act, which allows an assessment of up to 5% on rooms in facilities with 10 or more guest rooms in certain counties. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Community Convention or Tourism Marketing Act allows a nonprofit convention and tourism bureau to levy an assessment on *transient facilities* of up to 5% of the room charge to support marketing and promotion programs. The assessment can be levied in counties with a population below 650,000 or in cities, villages, or townships within such a county, except for some areas subject to an assessment under another act. (Wayne, Oakland, Macomb, and Kent are the only Michigan counties with a population greater than 650,000.)

Transient facility generally means a building or combination of buildings under common ownership, operation, or management that contains *10 or more* rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for use of the rooms. (The term does not include a college or school dormitory, a hospital or nursing home, or a facility owned and operated by an organization exempt from federal taxation under section 501(c) of the Internal Revenue Code.)

House Bill 5441 would amend the definition of *transient facility* to mean such facilities containing *one or more* rooms and to include a dwelling offered as a short-term rental.¹²

The bill would also repeal section 9 of the act, which allows an owner of a building or combination of buildings within an assessment district that otherwise qualifies as a transient facility but has fewer than 10 guest rooms to agree in writing to join the marketing program and be subject to the assessment. (Since these facilities would be considered transient facilities under the bill, this section would no longer be necessary.)

Program notice

A tourism or convention bureau must file a marketing program notice with the president of the Michigan Strategic Fund that describes the structure, membership, and activities of the bureau, and each owner of a transient facility located in the proposed assessment district must receive a copy. The organization can use any information reasonably available to compile the list of recipients; HB 5441 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

¹² House Bill 5441 would also remove a provision referencing exempt facilities that have fewer than 10 rooms or are located within one mile of a ski lift to reflect other changes made by the bill, as described below.

Revenue uses

Under House Bill 5441, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide child care, or provisions clarifying the assessment on room charges for short-term rentals as part of the marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request or to terminate an assessment, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.872 et seq.

House Bill 5442 would amend the State Convention Facility Development Act, which imposes an excise tax on any person engaged in the business of providing accommodations to transient guests in a **convention hotel**. The act imposes a tax of 1.5% of the room charge on convention hotels with up to 160 rooms (3% in Detroit) and 5% on convention hotels with more than 160 rooms (6% in Detroit). The revenue from this tax is deposited in the Convention Facility Development Fund with collections from certain other sources. The bill would allow the assessment to be levied on short-term rentals and hotels with one or more guest rooms.

Convention hotel means a facility used in the business of providing accommodations that has *more than 80 rooms* for providing accommodations to transient guests and that complies with both of the following:

- It is located within a county with a population of 700,000 or more according to the most recent decennial census.
- It is located within a county that is either or both of the following:
 - A county that has a convention facility with 350,000 square feet or more of total exhibit space.
 - A county that has 2,000 or more rooms to provide accommodations for transient guests.

House Bill 5442 would amend the definition of **convention hotel** to mean those facilities with *one or more* rooms for providing accommodations for transient guests and would subject a **short-term rental** to the 1.5% room charge assessment (or the 3% assessment if the rental is located in Detroit) for facilities with up to 160 rooms, based on the occupancy charge.

With respect to the bill, **short-term rental** would mean a short-term rental, as defined by the Short-Term Rental Regulation Act, that meets both of the following criteria:

- It is located within a county with a population of 700,000 or more according to the most recent decennial census.
- It is located within a county that is either or both of the following:
 - A county that has a convention facility with 350,000 square feet or more of total exhibit space.

- A county that has 2,000 or more rooms to provide accommodations for transient guests.

The bill would also authorize the use of money in the Convention Facility Development Fund to be used for programs to assist with or provide child care and housing activities.

MCL 207.623 et seq.

House Bill 5443 would amend 1974 PA 263, known as the accommodations tax act, to allow qualifying counties and municipalities to collect an accommodations tax from owners of short-term rentals.

The act allows counties to enact a hotel-motel tax ordinance to levy, assess, and collect an accommodations tax of up to 8% of the total charges for *accommodations* if the county has a population of less than 600,000 and has a city within the county with a population of at least 40,000 at the time it enacts the ordinance. Cities and townships in a county with a population of more than 600,000 and less than 775,000 may levy an additional tax of up to 2% of the total accommodations charges. Generally speaking, revenue from the tax is to be used to support construction and maintenance costs of convention and entertainment facilities and activities promoting tourism and convention business within the county. (Calhoun, Genesee, Ingham, Kalamazoo, Kent, Muskegon, Saginaw, and Washtenaw Counties levy an excise tax under 1974 PA 263, and only cities and townships in Kent County are eligible to levy an additional tax under the act.¹³)

Accommodations means the room or other space provided for sleeping, including furnishing and other accessories. House Bill 5443 would provide that the term includes a dwelling offered as a short-term rental.

With respect to a short-term rental, the total charge for accommodations would be the occupancy charge, as defined in the Short-Term Rental Regulation Act.

Revenue from both the countywide and municipal taxes could be used to pay for housing activities or programs to assist with or provide child care.

MCL 141.861 et seq.

House Bill 5444 would amend the Regional Event Center Financing Act, which allows an assessment of up to 4% on rooms in facilities with 35 or more guest rooms in certain counties. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Regional Event Center Financing Act allows a county to levy an assessment on *transient facilities* of up to 4% of the room charge to support the development and construction of an event center. The assessment can be levied in a county with a population greater than 250,000 and less than 300,000 that levies an excise tax under the accommodations act, a county with a population greater than 170,000 and less than 180,000, or a county with a population greater

¹³ 2024 PA 35 increased the maximum county tax from 5% to 8% and allowed cities and townships in Kent County to levy an additional 2% tax, although none have yet done so.

than 300,000 and less than 400,000 that levies an excise tax under the accommodations act. (Ingham, Kalamazoo, Muskegon, and Washtenaw Counties meet these requirements.)

Transient facility means a building that contains *at least 35 rooms* used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for the use of the rooms. (The term does not include a hospital or nursing home.)

HB 5444 would amend the definition of ***transient facility*** to mean such buildings that contain *one or more rooms* and to include a dwelling offered as a short-term rental.

Program notice

A county clerk must mail an event center financing program notice to each owner of a transient facility located in the municipality. The clerk can use any data reasonably available to compile the list of recipients; HB 5444 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5444, the assessment could be used to pay for housing activities or provisions or programs to assist with or provide child care.

Short-term rental vote shares

For the purposes of conducting a referendum to enact an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires a majority vote to approve the assessment if enough votes to represent at least 60% of the total number of rooms in a county are cast.)

MCL 141.1442

House Bill 5445 would amend the Convention and Tourism Marketing Act, which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in Wayne County or a county contiguous to Wayne County. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Convention and Tourism Marketing Act allows a nonprofit convention and tourism bureau to levy an assessment on ***transient facilities*** of up to 2% of the room charge to support marketing and promotion programs. The assessment can be levied in a county with a population above 1,500,000 and any counties contiguous to it. (Wayne County is the only county in Michigan with a population greater than 1,500,000. It is contiguous to Macomb, Monroe, Oakland, and Washtenaw Counties.)

Transient facility means a building that contains *at least 35 rooms* used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for the use of the rooms. (The term does not include a hospital or nursing home.)

House Bill 5445 would amend the definition of ***transient facility*** to mean such buildings that contain *one or more rooms* and to include a dwelling offered as a short-term rental.

Program notice

A tourism or convention bureau must file a marketing program notice with the president of the Michigan Strategic Fund that describes the structure, membership, and activities of the bureau, and each owner of a transient facility located in the proposed assessment district must receive a copy. The bureau can use any information reasonably available to compile the list of recipients; HB 5445 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5445, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide childcare, or provisions clarifying the assessment on room charges for short-term rentals as part of the marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.882 et seq.

House Bill 5446 would amend the Convention and Tourism Promotion Act, which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in the greater Grand Rapids area or the greater Lansing area. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Convention and Tourism Promotion Act allows a nonprofit convention and tourism bureau to levy an assessment on *transient facilities* of up to 2% of the room charge to support marketing and promotion programs. The assessment can be levied in an assessment district containing a city, county, village, or township with a population of more than 570,000 and less than 775,000 or that contains a municipality within which a 4% tax is levied under the Community Convention or Tourism Marketing Act. (Kent County is the only county in Michigan that meets the population requirement, and Ingham County charges a 4% tax under the Community Convention or Tourism Marketing Act.)

Transient facility means a building that contains *at least 35 rooms* used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for the use of the rooms. (The term does not include a hospital or nursing home.)

HB 5446 would amend the definition of *transient facility* to mean such buildings that contain *one or more rooms* and to include a dwelling offered as a short-term rental.

Program notice

A tourism or convention bureau must file a marketing program notice with the president of the MEDC that describes the structure, membership, and activities of the bureau, and each owner

of a transient facility located in the proposed assessment district must receive a copy. The bureau can use any information reasonably available to compile the list of recipients; HB 5446 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5446, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide child care, or provisions clarifying the assessment on room charges for short-term rentals as part of the marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.1322 et seq.

BACKGROUND:

Several bills proposing various permits, regulations, and taxes on short-term rentals were introduced during the 2021-22 legislative session, although none were ultimately enacted.

House Bill 4722 would have amended the Zoning Enabling Act to allow short-term rentals in residentially zoned areas and prohibit a local government from adopting or enforcing zoning ordinances that have the effect of prohibiting short-term rentals.¹⁴ House Bill 4722 passed the House in October 2021 and was reported from the Senate Regulatory Reform committee but did not advance to a full Senate vote. (A similar bill, SB 446, was also reported from the Senate Regulatory Reform committee but did not advance.)

Other bills from last session pertaining to short-term rentals include tie-barred HBs 5465 and 5466. House Bill 5465 would have created a new act to regulate and tax short-term rentals,¹⁵ and HB 5466 would have amended the Zoning Enabling Act to provide that a short-term rental that is rented 30 or fewer days in a calendar year is a permitted residential use of property that is not subject to special permits or procedures. A separate bill, House Bill 5605, proposed regulations for short-term rentals and a tax on those rentals in certain counties. None of these bills advanced beyond referral to their respective House committees.

¹⁴ For a summary of the bill as passed by the House, see: <https://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-4722-374ECB7E.pdf>.

¹⁵ House Bill 5465 is similar to HB 5438, with some differences in regulations and a proposed tax at 5% of the room charge on all short-term rentals.

FISCAL IMPACT:

Collectively, the bills would increase revenues for local units of government, the Convention Facility Development Fund, convention and tourism bureaus, regional marketing organizations, and certain authorities and impose administrative and regulatory costs on the Department of Licensing and Regulatory Affairs.

House Bill 5438

Based on the limited data available on the short-term rental market, it is estimated that the 6% excise tax under HB 5438 could generate anywhere from \$35.0 million to \$70.0 million. The relatively wide range is primarily the result of working with limited data from a subset of hosting platforms, an undefined market share from the hosting platforms with published data, the ability of short-term rentals to be listed on multiple hosting platforms, and the volatility of the short-term rental market, among other things.

After allocating 1%, or \$1.0 million, whichever is less, for the administration of the act, the balance of the revenue would be distributed to the local unit (city, village, or township) where the short-term rental was located for which the excise tax was paid. It is unclear if the allocation for administration of the act would be sufficient to satisfy the necessary costs in any given year. To the extent that it doesn't, LARA would either absorb the cost under current appropriations or the legislature could appropriate additional funds to cover the cost of administration.

House Bill 5438 would also impose civil fines of either \$1,000 for owners of a short-term rental that violate the act or \$5,000 for hosting platforms that violate the act. Costs could be incurred by local courts that experience an increase in court caseloads and the related administrative costs. Any civil fine revenue collected under the act would be transmitted to the local unit where the short-term rental was located.

The bill would also require hosting platforms to pay an annual registration fee equal to \$100 per listing, not to exceed \$50,000 per year. It is unclear how many hosting platforms currently operate in the state; therefore, it is unknown how much revenue this registration fee would generate. The bill does not direct the registration fees to any specific purpose.

House Bills 5437 and 5439 to 5446

The application of the various acts under the bills to short-term rentals would increase revenues for the entities and purposes specified in each of the various acts, which are noted in the legislative analysis above. However, an estimate of revenues by act and entity cannot be determined due to the lack of data on short-term rentals by local unit. The bills also would expand eligible uses of the revenue received under each of the acts to include costs associated with programs to assist with or provide child care and housing activities. However, there is no requirement that a specific amount be allocated for the new purposes.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.