

HOUSE BILL NO. 5438

February 13, 2024, Introduced by Reps. Andrews, Brixie, Arbit, McKinney, Paiz, Hill, Byrnes, Rheingans, Scott, MacDonell, Dievendorf, Grant, O'Neal, Neeley, Brabec, Conlin, Morgan, Wilson, Hope, Tyrone Carter, Price, Wegela and Aiyash and referred to the Committee on Regulatory Reform.

A bill to provide for the registry, promotion, and regulation of certain short-term rentals and hosting platforms; to create certain databases; to provide for the imposition and collection of a statewide excise tax; to provide for the disbursement of the excise tax; to provide for the powers and duties of certain state and local governmental officers and entities; and to prescribe penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "short-term rental
2 regulation act".

3 Sec. 2. As used in this act:

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

5 (b) "Carbon monoxide detector" means a device that detects
6 carbon monoxide and alerts occupants via a distinct and audible
7 signal that is either self-contained in the unit or activated via a
8 system connection.

9 (c) "Department" means the department of licensing and
10 regulatory affairs, or its successor.

11 (d) "Director" means the director of the department.

12 (e) "Hosting platform" means a digital platform, third-party
13 website, software, online-enabled application, mobile telephone
14 application, or some other similar electronic process that allows
15 all of the following for a short-term rental located in this state:

16 (i) Advertisement, listing, or offer of the short-term rental
17 as available.

18 (ii) Collection of occupancy charges.

19 (iii) Arranging, booking, reserving, or renting of the short-
20 term rental by a person.

21 (f) "Hotel condominium" means a group of condominium units or
22 condominium projects rented by a common rental management company
23 for transient rental that may include a reception or check-in desk.

24 (g) "Local unit of government" means a city, township, or
25 village.

26 (h) "Occupancy charge" means the charge imposed for the use or
27 occupancy of a short-term rental, including cleaning fees and
28 services fees. Occupancy charge does not include charges for food,
29 beverages, state use tax or excise tax, telephone service, or

1 damage deposit or insurance.

2 (i) "Owner" means the owner of a short-term rental located
3 within this state.

4 (j) "Short-term rental" means the rental of a single-family
5 residence, a dwelling unit in a 1-to-4-family house, or any unit or
6 group of units in a condominium unit, for terms of not more than 30
7 consecutive days. Short-term rental does not include the rental of
8 a hotel, motel, hotel condominium, home, or condominium unit that
9 is located within a resort that offers amenities such as golf, a
10 skiing restaurant facility, or group meeting accommodation.

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

13 (l) "Short-term rental excise tax" or "excise tax" means the
14 short-term rental excise tax assessed on a short-term rental
15 booking transaction described in section 6.

16 (m) "Smoke detector" means a device, either battery operated
17 or electrical, that detects visible or invisible particles of
18 combustion.

19 (n) "Use tax" means the tax imposed under the use tax act,
20 1937 PA 94, MCL 205.91 to 205.111.

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

24 (2) Each year in which a dwelling is offered for short-term
25 rental, the owner shall file with the department a certificate. The
26 department may create the certificate required under this
27 subsection. A certificate filed with the department in accordance
28 with this subsection must contain all of the following information:

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

1 (b) Address of the short-term rental.

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

4 (d) Emergency contact information for the dwelling. For
5 purposes of this act, the emergency contact person must reside
6 within 30 miles from the dwelling.

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

9 (4) On lawful request, the department shall share the
10 information provided under subsection (2) with the local unit of
11 government where the short-term rental is located, law enforcement
12 agencies, and members of the public. If the department shares that
13 information provided under subsection (2) under this subsection,
14 the department shall also report the number of complaints received
15 by the department against an owner for a violation of this act and
16 the action taken in response to the complaint, including any
17 investigation to verify the complaint.

18 Sec. 4. An owner of a short-term rental shall do all of the
19 following:

20 (a) Maintain liability insurance of \$1,000,000.00 or more on
21 each short-term rental while it is being offered for rent unless
22 that short-term rental is offered through a hosting platform that
23 maintains equal or greater insurance coverage. Insurance coverage
24 described in this subdivision must defend and indemnify the owner
25 and any tenants in the short-term rental for bodily injury and
26 property damage.

27 (b) Post all of the following in a conspicuous place in every
28 room in the dwelling:

29 (i) The owner's emergency contact, including a working

1 telephone number.

2 (ii) Information regarding local emergency services, including
3 a working telephone number for the police and fire department in
4 which the short-term rental is located.

5 (iii) The floor plan and escape routes.

6 (c) Compile the information under subdivision (b) (i) to (iii) in
7 a written form and place the form in every bedroom in the dwelling.

8 Sec. 5. An owner of a short-term rental shall not offer a
9 dwelling for short-term rental unless every bedroom in the dwelling
10 is equipped with all of the following functional equipment:

11 (a) Carbon monoxide detector that may be battery-powered,
12 plug-in with or without battery backup, wired into the property's
13 AC power line with secondary battery backup, or connected to a
14 system by means of a control panel.

15 (b) Smoke detector.

16 (c) Fire extinguisher.

17 Sec. 6. (1) Except as otherwise provided in this section, a
18 statewide excise tax known as the short-term rental excise tax is
19 levied on the charge for use or occupancy of a short-term rental in
20 this state. The excise tax described under this subsection must not
21 be levied on a short-term rental that is rented for 14 days or less
22 in a calendar year. The rate of the short-term rental excise tax is
23 6% of the occupancy charge.

24 (2) The excise tax imposed by this act must be collected at
25 the same time and in the same manner as the tax imposed by the use
26 tax act, 1937 PA 94, MCL 205.91 to 205.111.

27 (3) The excise tax imposed under this act is in addition to
28 any other tax, fee, or assessment imposed by law, including, but
29 not limited to, any hotel charges.

1 (4) As used in this section, "hotel charges" means taxes,
2 assessments, fees, or other charges imposed by a county, local unit
3 of government, or applicable tax authority under any of the
4 following acts:

5 (a) 1974 PA 263, MCL 141.861 to 141.867.

6 (b) The state convention facility development act, 1985 PA
7 106, MCL 207.621 to 207.640.

8 (c) 1991 PA 180, MCL 207.751 to 207.759.

9 (d) The convention and tourism promotion act, 2007 PA 25, MCL
10 141.1321 to 141.1328.

11 (e) The convention and tourism marketing act, 1980 PA 383, MCL
12 141.881 to 141.889.

13 (f) The community convention or tourism marketing act, 1980 PA
14 395, MCL 141.871 to 141.880.

15 (g) The regional tourism marketing act, 1989 PA 244, MCL
16 141.891 to 141.900.

17 (h) The regional convention and tourism promotion act, 2010 PA
18 254, MCL 141.1431 to 141.1437.

19 (i) The regional event center financing act, 2020 PA 340, MCL
20 141.1441 to 141.1445.

21 Sec. 7. (1) The short-term rental excise tax imposed by this
22 act must be administered by the state treasurer under 1941 PA 122,
23 MCL 205.1 to 205.31.

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

28 (3) The excise tax imposed under this act is in addition to
29 any other tax, fee, or assessment imposed by law.

1 (4) Proceeds from the collection of the excise tax imposed
2 under this act must be deposited in the state treasury, credited to
3 a restricted account, and must, on appropriation, be distributed as
4 follows:

5 (a) The lesser of 1% or \$1,000,000.00 to the department and
6 the state treasury for the administration of this act.

7 (b) The balance to the local unit of government in which the
8 short-term rental is located for which the excise tax was paid.

9 Sec. 8. An owner of a short-term rental may add the amount of
10 the excise tax to the occupancy charge for a short-term rental
11 agreement facilitated by a hosting platform if the owner discloses
12 the addition of the excise tax to the occupancy charge as described
13 in this section on the bill or receipt provided to that short-term
14 rental guest.

15 Sec. 9. (1) An owner of a short-term rental that violates this
16 act is responsible for a civil fine and may be ordered by the
17 department to pay a civil fine of not more than \$1,000.00 for each
18 violation.

19 (2) A hosting platform that violates this act is responsible
20 for a civil fine and may be ordered by the department to pay a
21 civil fine of not more than \$5,000.00 for each violation.

22 (3) Fines collected under this act must be transmitted to the
23 local unit of government where the short-term rental is located.

24 Sec. 10. (1) A hosting platform shall not facilitate booking
25 transactions for a short-term rental located in this state unless
26 the hosting platform is currently and validly registered with the
27 department under this section. The department shall issue a
28 registration number to each hosting platform that does all of the
29 following:

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

2 (b) Pays an annual registration fee to be determined by the
3 director. The annual registration fee must be an amount equal to
4 \$100.00 per listing, not to exceed \$50,000.00 per year as
5 determined by the department.

6 (c) Agrees in writing to obtain written consent from all
7 owners of a short-term rental located in this state for the
8 disclosure of the records required under subsection (4) to the
9 state treasury.

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

13 (a) Where applicable, the short-term rental and its owner have
14 not been issued a current and valid permit, license, registration,
15 or other related authorization by the applicable local unit of
16 government for the property's use as a short-term rental.

17 (b) A certificate approval number has not been received by the
18 short-term rental's owner acknowledging the department's review for
19 completion and accuracy of the certificate filed under section
20 3(2).

21 (3) The department shall adopt by rule, and enforce, standards
22 for the issuance, renewal, suspension, revocation, and appeal of
23 hosting platform registration, as well as standards for service of
24 process, notice, and demand.

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

28 (a) Develop and maintain a report, in a manner and form
29 established by the state treasurer, of short-term rental booking

1 transactions facilitated by the hosting platform in connection with
2 short-term rentals located in this state.

3 (b) The report described in subdivision (a) must include the
4 following records itemized for each individual short-term rental
5 booking transaction:

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

8 (ii) The full legal name of the owner.

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

13 (iv) The calendar dates that the short-term rental was rented,
14 along with the nightly rate and any taxes or assessments collected.

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

17 (vi) Any additional records as the state treasurer may require
18 by rule to enforce the payment of the excise tax.

19 (c) Subject to applicable laws, provide the state treasurer
20 monthly with the report's itemized records for all booking
21 transactions facilitated in the preceding month.

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

27 (i) Hosting platform.

28 (ii) Owner.

29 (iii) Guest.

1 (iv) Other person that booked a short-term rental.

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

5 (5) The department may audit a hosting platform's report and
6 its itemized records as necessary.

7 Sec. 11. (1) A local unit of government may enact and enforce
8 reasonable regulations and may uphold zoning decisions for short-
9 term rentals that do any of the following:

10 (a) Safeguard the public health, safety, and welfare,
11 including, but not limited to, fire safety standards and blight
12 mitigation.

13 (b) Determine the number of units allowed to be used as a
14 short-term rental by any method of its choosing.

15 (c) Establish a process by which the local unit of government
16 may reduce or expand the number of units allowed under subdivision

17 (b).

18 (d) Establish a process by which the local unit of government
19 may revoke a permit under this act, including the process to
20 challenge the revocation.

21 (2) A local unit of government may revoke the permit of a
22 short-term rental and its owner for a violation of a local
23 ordinance enacted under subsection (1) or a zoning ordinance.

24 (3) A local unit of government shall not enact or enforce any
25 ordinance, rule, or regulation, including, but not limited to, a
26 zoning ordinance, rule, or regulation, that has the effect of
27 totally banning or prohibiting short-term rentals.

28 Enacting section 1. This act does not take effect unless all
29 of the following bills of the 102nd Legislature are enacted into

- 1 law:
- 2 (a) Senate Bill No. _____ or House Bill No. 5441 (request no.
3 04046'23 **).
- 4 (b) Senate Bill No. _____ or House Bill No. 5443 (request no.
5 04165'23 **).
- 6 (c) Senate Bill No. _____ or House Bill No. 5442 (request no.
7 04166'23 **).
- 8 (d) Senate Bill No. _____ or House Bill No. 5445 (request no.
9 04167'23 **).
- 10 (e) Senate Bill No. _____ or House Bill No. 5440 (request no.
11 04168'23 **).
- 12 (f) Senate Bill No. _____ or House Bill No. 5446 (request no.
13 04174'23 **).
- 14 (g) Senate Bill No. _____ or House Bill No. 5439 (request no.
15 04175'23 **).
- 16 (h) Senate Bill No. _____ or House Bill No. 5444 (request no.
17 04176'23 **).
- 18 (i) Senate Bill No. _____ or House Bill No. 5437 (request no.
19 04177'23 **).