

HOUSE BILL NO. 5465

October 21, 2021, Introduced by Reps. Ellison and Tisdell and referred to the Committee on Commerce and Tourism.

A bill 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 a statewide 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:

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

1 regulation 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) "Carbon monoxide detector" means a device that detects
8 carbon monoxide and alerts occupants via a distinct and audible
9 signal that is either self-contained in the unit or activated via a
10 system connection.

11 (c) "Department" means the department of licensing and
12 regulatory affairs.

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

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

19 (f) "Local unit of government" means a city, township, or
20 village.

21 (g) "Owner" means the owner of a short-term rental located
22 within this state or, if the short-term rental is operated or
23 managed by a person other than the owner, then the owner agent of
24 that short-term rental.

25 (h) "Owner agent" means a person who operates or manages
26 property offered for short-term rental.

27 (i) "Short-term rental" means the rental of a single-family
28 residence, a dwelling unit in a 1-to-4-family house, or any unit or
29 group of units in a condominium unit, for terms of not more than 30

1 consecutive days.

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

4 (k) "Short-term rental excise tax" or "excise tax" means the
5 short-term rental excise tax assessed on each short-term rental
6 booking transaction under section 6.

7 (l) "Smoke detector" means a device, either battery operated or
8 electrical, that detects visible or invisible particles of
9 combustion.

10 (m) "Use tax" means the tax imposed under the use tax act,
11 1937 PA 94, MCL 205.91 to 205.111.

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

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

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

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

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

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

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

1 or owners in the short-term rental for bodily injury and property
2 damage.

3 Sec. 5. An owner or owner agent of a short-term rental shall
4 not offer a room for short-term rental unless the unit is equipped
5 with, or there is appropriate access to, all of the following
6 functional equipment:

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

11 (b) Smoke detector.

12 (c) Fire extinguisher.

13 Sec. 6. (1) A statewide excise tax known as the short-term
14 rental excise tax is levied on the room charge of each use or
15 occupancy of a short-term rental in this state. The rate of the
16 short-term rental excise tax is 5% of the room charge.

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

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

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

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

29 (4) Proceeds from the collection of the excise tax imposed by

1 this act must be deposited in the state treasury, credited to a
2 restricted account, and must, upon appropriation, be distributed as
3 follows:

4 (a) Fifty percent to the Michigan promotion program described
5 under section 89a of the Michigan strategic fund act, 1984 PA 270,
6 MCL 125.2089a.

7 (b) Fifty percent 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 or owner agent of a short-term rental may
10 reimburse himself or herself by adding the amount of the excise tax
11 to the room charge charged to short-term rental guests only if the
12 owner or owner agent discloses it on the bill or receipt provided
13 to the short-term rental guest.

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

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

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

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

28 (b) Pays an annual registration fee to be determined by the
29 director. The annual registration fee must be an amount equal to

1 \$100.00 per listing, not to exceed \$50,000.00 per year as
2 determined by the department.

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

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

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

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

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

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

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

29 (b) The report described in subdivision (a) must include the

1 following records itemized for each individual short-term rental
2 booking transaction:

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

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

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

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

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

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

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

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

25 (i) Hosting platform.

26 (ii) Owner.

27 (iii) Owner agent.

28 (iv) Guest.

29 (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. If the department shares a report with a local unit of
9 government pursuant to this subsection, the department shall
10 include in the report the number of complaints received by the
11 department against an owner or owner agent for a violation of this
12 act.

13 Sec. 11. A local unit of government may enact reasonable
14 regulations for short-term rentals to safeguard the public health,
15 safety, and welfare.

16 Enacting section 1. This act does not take effect unless
17 Senate Bill No. ____ or House Bill No. 5466 (request no. 04563'21)
18 of the 101st Legislature is enacted into law.