

# HOUSE BILL NO. 5605

December 07, 2021, Introduced by Rep. Filler and referred to the Committee on Commerce and Tourism.

A bill relating to the promotion of convention business and tourism in this state; to provide for promotion, regulation, registration, or licensure of certain short-term rentals and hosting platforms; 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, agencies, and employees and certain local units of government; to allow local units of government to register and regulate short-term rentals; and to prescribe penalties and

remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

3       Sec. 2. As used in this act:

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

8       (b) "Department" means the department of treasury.

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

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

16       (e) "Michigan housing and community development fund" means  
17 the Michigan housing and community development fund created in  
18 section 58a of the state housing development authority act of 1965,  
19 1966 PA 346, MCL 125.1458a.

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

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

26       (h) "Room charge" means the charge imposed for the use or  
27 occupancy of a short-term rental, excluding charges for food,

1 beverages, state use tax, telephone service or like services paid  
2 in connection with the charge, and reimbursement of the excise tax  
3 imposed by this act.

4 (i) "Short-term rental" means the rental of all or a portion  
5 of a residential dwelling, including, but not limited to, any  
6 single-family residence, 1- to 4-family house or dwelling unit, or  
7 condominium unit for terms of not more than 30 consecutive days.  
8 Short-term rental also includes rooms or lodging furnished by  
9 hotelkeepers, motel operators, and other persons furnishing  
10 accommodations as described in section 3a(1)(b) of the use tax act,  
11 1937 PA 94, MCL 205.93a. Short-term rentals do not include  
12 convention hotels as defined in section 3 of the state convention  
13 facility development act, 1985 PA 106, MCL 207.623.

14 (j) "Short-term rental excise tax" or "excise tax" means the  
15 short-term rental excise tax levied on each short-term rental  
16 transaction under section 3.

17 (k) "Use tax" means the tax imposed under the use tax act,  
18 1937 PA 94, MCL 205.91 to 205.111.

19 Sec. 3. A statewide excise tax known as the short-term rental  
20 excise tax is levied on the room charge of each use or occupancy of  
21 a short-term rental located in a county in which a convention hotel  
22 is located as described in section 3 of the state convention  
23 facility development act, 1985 PA 106, MCL 207.623. The rate of the  
24 short-term rental excise tax is the same percentage rate of the  
25 room charge that is levied under section 4 of the state convention  
26 facility development act, 1985 PA 106, MCL 207.624.

27 Sec. 4. (1) The excise tax imposed by this act shall be  
28 collected at the same time and remitted in the same manner as the  
29 use tax.

1           (2) A local unit of government shall not levy any additional  
2 accommodation tax in excess of the statewide excise tax described  
3 in subsection (1). A local unit of government may not continue to  
4 levy, assess, and collect an excise tax authorized by law before  
5 the effective date of this act.

6           Sec. 5. (1) The excise tax imposed by this act shall be  
7 administered by the state treasurer under 1941 PA 122, MCL 205.1 to  
8 205.31.

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

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

15           Sec. 6. An owner of a short-term rental may reimburse himself  
16 or herself by adding the amount of the excise tax to the room  
17 charge charged to short-term rental guests only if the owner or  
18 owner agent discloses it on the bill or receipt provided to the  
19 short-term rental guest.

20           Sec. 7. Proceeds from the collection of the excise tax imposed  
21 by this act shall be deposited in the state treasury, credited to a  
22 restricted account, and, upon appropriation, distributed as  
23 follows:

24           (a) Twenty percent to the Michigan housing and community  
25 development fund.

26           (b) Eighty percent proportionally to the local unit of  
27 government in which the short-term rental is located for which the  
28 excise tax was paid.

29           Sec. 8. (1) Except as otherwise provided in this section, an

owner or an owner agent of a short-term rental is responsible for remitting the excise tax imposed under this act.

(2) An owner may elect to have an owner agent, hosting platform, or other intermediary collect and remit room charges, use taxes, assessments, and the excise tax described in this act through a written agreement. However, if a short-term rental is offered through a hosting platform, the hosting platform shall collect and remit the use taxes and the excise tax imposed under this act to the department of treasury.

(3) Nothing in subsection (1) shall be construed to interfere with the ability of a hosting platform and an owner or owner agent to enter into a written agreement regarding the fulfillment of the requirements of this act.

(4) If a short-term rental is offered through a hosting platform, the owner, owner's agent, or operator is jointly and severally liable with the hosting platform for the collection and remittance of the excise tax imposed under this act.

(5) Nothing in this act shall relieve owners, owner agents, or operators from any responsibilities with respect to excise taxes imposed under this act for booking transactions completed other than through hosting platforms.

(6) A hosting platform is relieved of liability under this act for failure to collect the correct amount of excise tax to the extent that the hosting platform can show that the error was due to incorrect or insufficient information given to the hosting platform by the owner, owner's agent, or operator, whether intentional or unintentional.

(7) A hosting platform that collects the use tax and the excise tax as required by this section may deduct and retain a

1 portion of the excise tax in the same amount and in the same manner  
2 as described in section 4f of the use tax act, 1937 PA 94, MCL  
3 205.94f.

4 (8) If payment for the room charges for a short-term rental is  
5 collected and remitted by a hosting platform and the amount  
6 collected and remitted is incorrect due to an error or omission of  
7 the owner, owner's agent, or operator of the short-term rental,  
8 then the hosting platform is not liable for the error or omission.

9 (9) A hosting platform shall not release any personally  
10 identifiable information relating to an owner, owner agent,  
11 operator of the short-term rental, or guest except as required by  
12 law.

13 (10) The regulation of a hosting platform is limited to the  
14 provisions provided in this act.

15 Sec. 9. (1) An owner or owner agent of a short-term rental who  
16 violates this act is responsible for a civil fine and may be  
17 ordered by the department to pay a civil fine of not more than  
18 \$1,000.00 for each 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 \$25,000.00 for each violation.

22 Sec. 10. (1) A local unit of government may enact reasonable  
23 regulations for short-term rentals, not including hosting  
24 platforms, to safeguard health and safety including 1 or more of  
25 the following:

26 (a) Noise.

27 (b) The number of individuals who may occupy a dwelling.

28 (c) Property maintenance.

29 (d) Health and sanitation.

1 (e) Traffic control.

2 (f) Solid and hazardous waste and pollution control.

3 (g) Liability insurance covering loss or liability for short-  
4 term rental use.

5 (h) Designation of an emergency contact and availability of  
6 the owner or an owner agent within a specified distance of the  
7 short-term rental.

8 (i) Inspection program to determine health and safety  
9 compliance.

10 (j) The compliance process.

11 (2) A local unit of government may by ordinance or resolution  
12 provide for the licensure or registration of short-term rentals and  
13 charge fees not to exceed the actual and reasonable costs of  
14 administration of the license or registration program. A local unit  
15 of government may develop a procedure to suspend or revoke a  
16 license or registration in the event a short-term rental owner or  
17 owner agent is found in contravention with the ordinance or  
18 resolution described in this subsection. The procedure shall  
19 include proper due process, including formal licensure review  
20 processes, reasonable notification of licensure or registration  
21 suspension or revocation, reasonable means and opportunity for the  
22 licensee to request a redetermination, and the ability for a formal  
23 determination hearing on the request by the licensee. If a local  
24 unit of government provides for the licensure or regulation of  
25 short-term rentals, then that licensure or regulation program must  
26 provide that the local unit of government must respond to an  
27 application for licensure or regulation within 30 days of receipt  
28 or that application is considered approved.

29 (3) An owner of a short-term rental shall maintain liability

1 insurance of \$1,000,000.00 or more on each short-term rental while  
2 it is being offered for rent unless that short-term rental is  
3 offered through a hosting platform that maintains equal or greater  
4 insurance coverage. Insurance coverage described in this subsection  
5 must defend and indemnify the owner agent and owners for third-  
6 party claims for bodily injury and property damage that arise out  
7 of the operation of the short-term rental.

8 (4) A local unit of government may not ban short-term rentals  
9 in an ordinance.

10 (5) A local unit of government shall not restrict the use of a  
11 short-term rental or regulate it based solely on its  
12 classification, frequency of use, use, ownership, or occupancy.

13 (6) Not later than 180 days after the effective date of this  
14 act, the department shall convene a meeting of and work with  
15 representatives of all of the following to create a model ordinance  
16 that addresses the regulatory issues described in subsection (1):

17 (a) Local units of government.

18 (b) Hosting platform operators.

19 (c) Owners and owner agents.