



Legislation Text

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Background:

In August 2018, Columbus City Council passed Ordinance 2145-2018 which amended Chapter 598 of the Columbus City Code in order to establish regulations for short-term rental operations and hosting platforms. As the first of two pieces of short-term rental related legislation, Ordinance 2145-2018 standardized this industry in alignment with the hotel/motel industry. This second piece of short-term rental legislation will amend Chapter 371 of the Columbus City Code in order to establish a regulatory tax framework. This legislation will standardize the levying, collection, and allocation of all short-term rental related taxes.

A number of the Ohio Revised Code provisions applicable to lodging taxes have been moved and/or renumbered since this Chapter 371 was originally enacted; however, to ensure that the state law bases used for the original enactment are maintained in order to reflect that the sole purpose of this ordinance is to address short-term rentals and not to change the existing hotel tax in any way, those Revised Code section references are maintained in this ordinance as originally enacted with cross-reference to the current Revised Code sections.

Emergency Justification: This legislation must be amended to emergency so that it takes effect by March 1, 2019 for penalties for short-term rentals and housing platforms.

To amend, enact, and repeal various provisions of Chapter 371 of the Columbus City Code in order to establish a regulatory tax framework for short-term rentals and to standardize the levying, collection, and allocation of all short-term rental related taxes, **and to declare an emergency.**

WHEREAS, localities across the United States have implemented, or are implementing, regulations and standards around the short-term rental and online hosting platform industry; and

WHEREAS, the State of Ohio currently has no regulations on short-term rentals and online hosting platforms; and

WHEREAS, short-term rentals and online hosting platforms innovate economic opportunity for the community and promote tourism within the City; and

WHEREAS, the City of Columbus has a duty to balance the diverse interests of those impacted by these rentals, including, but not limited to, short-term rental owners, renters, property owners, residential communities, and the hotel industry; and

WHEREAS, Chapter 371 of the Columbus City Codes regards regulations pertaining to the taxation of the industry of hotels/motels, which are similarly structured but uniquely different short-term lodging and accommodations; and

WHEREAS, the City of Columbus, in promotion of its efforts to provide safe and healthy neighborhoods while encouraging and allowing unique lodging accommodations, finds it necessary to amend Chapter 371 which will provide taxation regulations on short-term rental operations;

WHEREAS, an emergency exists in the usual operations of the City of Columbus in that it is necessary for this ordinance to take effect by March 1, 2019; now, therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That Sections 371.01, 371.02, 371.03, 371.04, 371.05, 371.06, 371.07, 371.08, 371.09, 371.10, and 371.14

of the Columbus City Codes are hereby amended to read as follows:

371.01 Definitions.

As used in this chapter:

- (a) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five (5) or more rooms are used for the accommodation of such guests, whether such rooms are in one (1) or several structures.
- (b) "Transient accommodation" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests in which four (4) or less rooms are used for the accommodation of such guests, whether such rooms are in one (1) or several structures.
- (c) "Transient guests" means any persons occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.
- (d) "Short-term rental guests" means any persons renting temporary lodging from a short-term rental host, or through a hosting platform on behalf of the short-term rental host, for less than thirty (30) consecutive days.
- (e) "Vendor" means the person who is the owner or operator of the hotel or transient accommodation or hosting platform or short-term rental host and who furnishes the lodging.
- (f) "Short-Term Rental" means any dwelling that is rented wholly or partly for a fee for less than thirty (30) consecutive days by persons other than permanent occupants from which permanent occupants receive monetary compensation.
- (g) "Permanent occupants" means any persons who reside in a dwelling more than 51% of the time during a calendar year, and the dwelling in which the persons resides shall be referred to as their primary residence.
- (h) "Short-term rental host" means the owner(s) or permanent occupant(s) of a short-term rental who offer the short-term rental for temporary lodging.
- (i) "Hosting Platform" means a person or entity in whatever form or format that facilitates, brokers, coordinates or otherwise arranges through advertising or any other means, a short-term rental booking transaction for accommodations between a short-term rental host and short-term rental guest, including, but not limited to, reservations and/or collection of payment for such accommodations on behalf of the short-term rental host.

371.02 - Imposition of tax.

- (a) For the purpose of providing revenue for the advancement of the cultural development of the community, for promotion and publicizing of the city of Columbus as a desirable location for conventions, trade shows and similar events to encourage the patronage and business of cultural, educational, religious, professional, sports, and other organizations to utilize the city of Columbus and its numerous facilities for such events, to support the production of affordable housing and create home ownership opportunities within the city of Columbus through the Affordable Housing Trust for Columbus and Franklin County, and for the further purpose of providing emergency human service needs to the community, all for the benefit of the citizens of the city of Columbus, an excise tax of three (3) percent is hereby levied on transactions by which lodging by a hotel or transient accommodations, including short-term rentals, is or is to be furnished to transient guests or short-term rental guests, pursuant to Ohio Revised Code Sec. 5739.02(C)(1) (currently Ohio Revised Code Sec. 5739.08(A)) and furthermore, an additional excise tax of three (3) percent is hereby levied on transactions by which lodging by a hotel or transient accommodations, including short-term rentals, is or is to be furnished to transient guests or short-term rental guests, pursuant to Ohio Revised Code Sec. 5739.02(C)(2) (currently Ohio Revised Code Sec. 5739.08(B)).

Effective January 1, 1989, the excise tax of three (3) percent levied pursuant to Ohio Revised Code Sec. 5739.02 (C) (1) (currently Ohio Revised Code Sec. 5739.08(A)) above shall be reduced to two and one-tenths (2.1) percent and shall be levied on transactions by which lodging by a hotel or transient accommodations is or is to be furnished to transient guests.

(b) Although the above levies are separate and distinct, for purposes of determining distribution, the combined amounts are hereinafter referred to as the "Hotel-Motel--Short-Term Rental Excise Taxes".

(c) All revenues received by the city from the hotel/motel/short-term rental excise taxes each year shall be divided for the use of promoting and publicizing the city of Columbus as a desirable location for conventions, trade shows, and similar events; for use in purchasing cultural services for the enrichment of the community; for support of the production of affordable housing and creation of home ownership opportunities in Columbus; and for emergency human

service needs. Of the combined rates of five and one-tenths percent (5.1%) the amount of tax allocated for the purpose of promoting the city of Columbus from funds generated by the hotel/motel/short-term rental excise taxes shall be two and thirty-nine-hundredths percent (2.39%) effective January 1, 2014. The maximum amount of said tax to be allocated for the purpose of expanding cultural services for the enrichment of the community shall not exceed a rate of one and sixty-eight-hundredths percent (1.68%) in relation to the five and one-tenths percent (5.1%) combined rate effective January 1, 2014. By December of each year, recipients of funding pursuant to promoting the city and for cultural enrichment shall provide the mayor and city council a performance report of that year's activities. The maximum amount of said tax to be allocated for the purpose of providing emergency human service needs to the community shall not exceed a rate of six-tenths percent (.6%) in relation to the five and one-tenths percent (5.1%) combined rate, effective January 1, 2014, of which up to three hundred thousand dollars (\$300,000.00) annually may be allocated by city council to assist social service agencies in the city with the capital costs of maintaining their facilities. The amount of tax allocated to support the production of affordable housing and create home ownership opportunities within the city of Columbus through the Affordable Housing Trust for Columbus and Franklin County shall be up to forty-three-hundredths percent (.43%) in relation to the five and one-tenths percent (5.1%) combined rate, effective January 1, 2014. The payment scheduled for each of the aforementioned allocations shall be determined by the city auditor, provided that the city shall disperse at least fifty (50) percent of the revenue from the three (3) percent tax levied pursuant to Ohio Revised Code Sec. 5739.02(C)(2) (currently Ohio Revised Code Sec. 5739.09), to make contributions to convention and visitors bureaus operating within the county, annually. The payment schedule for contributions to convention and visitors bureaus operating within the county shall be determined by the city auditor and shall follow the priorities established below:

- (1) The first priority is for said contributions to be paid to the Franklin County Convention Facilities Authority, a duly constituted convention and visitors bureau operating within the county of Franklin, Ohio, to the extent necessary to satisfy the city's obligation under Section 3.06 of the lease agreement dated as of June 1, 1990 between the Franklin County convention facilities authority, as lessor, and the city and the county of Franklin, Ohio, as lessees.
- (2) The second priority is for said contributions to be made pursuant to authorization of council to convention and visitors bureaus operating within the county of Franklin, Ohio, when in the judgment and opinion of the city auditor such contributions are not required to meet the first priority. The city auditor may make contributions on a monthly basis provided no second priority contribution shall be made in a month until such time as a first priority contribution is either satisfied or deemed not required.
- (3) Receipts attributed to the full service convention center hotel located on High Street in Columbus, Ohio across from the existing Columbus Convention Center shall be allocated for use as directed under Section 3.4 of the Cooperative Agreement among the City, the County of Franklin and the Franklin County Convention Facilities Authority beginning January 1, 2013 for a period of up to 30 years or the life of the bonds for the project, whichever is greater.
- (d) Each recipient organization of funds pursuant to the above described allocation shall within one hundred twenty (120) days after the end of their fiscal year provide to the city auditor financial statements of the organization for such fiscal year prepared in accordance with generally accepted accounting principles, with an opinion thereon by a firm of certified public accountants.
- (e) The tax imposed herein applies and is collectible at the time the lodging is furnished regardless of the time when the price is paid. The tax does not apply to lodging furnished to the state, or any of its political subdivisions, or any charitable organization for the lodging of transient indigent individuals, when such charitable organization pays the hotel or transient accommodation, including short-term rentals, for such lodging.
- (f) For the purpose of the proper administration of this chapter and to prevent evasion of the tax it is presumed that all lodging furnished by hotels or short-term rentals to transient guests and short-term rental guests is subject to the tax until the contrary is established.
- (g) To defray the expenses incurred in the collection and administration of the tax, the auditor may retain one-half percent (0.5%) of the collected gross revenues from the city's proportion of the tax on short-term rental guests paid to either the hosting platform or the short-term rental host.

371.03 Transient or short-term rental guest to pay taxes.

- (a) The taxes imposed by this chapter shall be paid by the transient guest or short-term rental guest to the vendor, and

each vendor shall collect from the transient or short-term rental guest the full and exact amount of the tax payable on each taxable lodging. Should the hosting platform collect the full and exact amount of the tax payable for each separate transaction, the short-term rental host shall be relieved of the requirements of this section. If the transaction is claimed to be exempt, the transient guest or short-term rental guest must furnish to the vendor, and the vendor must obtain from the transient guest or short-term rental guest, written proof of exempt status as set forth in Columbus City Codes, 1959, Section 371.02. If no such proof of exemption is obtained, it shall be presumed the tax applies.

(b) The excise tax imposed on any short-term rental guest shall be paid by the short-term rental guest to either (1) the hosting platform that facilitates booking services for short-term rental accommodations between a short-term rental host and short-term rental guest(s), or (2) the short-term rental host that offers accommodations without the use of a hosting platform or uses a hosting platform that does not collect short-term rental excise taxes from a short-term rental guest.

371.04 - Tax to be paid by transient or short-term rental guest --False evidence of tax-exempt status.

No transient or short-term rental guest shall refuse to pay the full and exact tax as required by this chapter, or present to the vendor false evidence indicating that the lodging as furnished is not subject to the tax.

371.05 - Required records-Inspection and destruction.

Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the tax the vendor's records shall show the identity of the transient guest or short-term rental guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to the inspection of the auditor of the city of Columbus, and shall be preserved for a period of four (4) years, unless the auditor, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

371.06 - Returns required.

Each vendor shall on or before the twentieth day of each month, whether or not lodging has been furnished, make and file a return for the preceding month, on forms prescribed by the auditor, showing the receipts from lodging furnished, the amount of tax due from the vendor to the city for the period covered by the return and such other information as the auditor deems necessary for the proper administration of the excise tax. Regardless of whether a short-term rental has been rented, such vendor or short-term rental host shall comply with the requirements of this section. The return shall be signed by the vendor or an authorized agent thereof. Returns shall be filed by mailing, or, if available, via electronic submission as provided for by the division of income tax, same to the division of income tax: excise taxes, together with payment to the city treasurer in the amount of tax shown to be due thereon. Any vendor who fails to timely file and pay a return under this chapter shall forfeit and pay to the city treasurer a penalty of ten (10) percent of the tax owed. Failure to timely file and pay shall result in the assessment of a penalty as set forth in Section 371.14371.99. The auditor may extend the time for making and filing returns. Additionally, the auditor, if it is deemed necessary in order to ensure the payment of the tax imposed by this chapter, may require returns and payment to be made for other than monthly periods. The auditor may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the auditor upon the basis of administrative costs to the city, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed. All returns shall bear the mark of the date received and shall also reflect the amount of payment received therewith.

371.07 Liability.

The vendor or authorized agent having control of or charged with the responsibility of making and filing the return and making payment is personally liable for failure to file the return or pay the tax due as required by this chapter.

If any vendor corporation required to file returns and to remit tax due to the city under the provisions of this chapter, fails for any reason to make such filing or payment, any of its officers or employees having control or supervision of or charged with the responsibility of filing returns and making payments, shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for such liability may be collected by assessment in the manner provided in this chapter.

If any vendor fails to collect the tax or any transient guest or short-term rental guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, such vendor, ~~or~~ transient guest or short-term rental guest shall be personally liable for the amount of the tax applicable to the transaction. The auditor may make an assessment against either the vendor or transient guest or short-term rental guest, as the facts may require, based upon any information in ~~his~~ the auditor's possession. An assessment against a vendor in cases where the tax imposed by or pursuant to this chapter has not been collected or paid, shall not discharge the transient guest's liability to reimburse the vendor for the tax applicable to such transaction. In each case, the auditor shall give to the vendor or transient guest or short-term rental guest assessed written notice of such assessment. Such notice may be served upon the vendor or transient guest or short-term rental guest assessed personally or by registered or certified mail. An assessment issued against ~~either any responsible party~~, pursuant to the provisions of this chapter shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any vendor or transient guest or short-term rental guest for the tax due on a particular transaction if said tax has actually been paid by another.

371.08 Assessment of tax and petition for reassessment of tax.

The auditor may make an assessment of tax against any vendor who fails to file a return required by this chapter or fails to remit the proper amount of tax in accordance with this chapter. When information in the possession of the auditor indicates that the amount required to be collected is, or should be, greater than the amount remitted by the vendor, the auditor may upon the basis of test checks of a vendor's business for a representative period which are hereby authorized, determine the ratio which the tax required to be collected under this chapter bears to the hotel's, ~~or~~ transient accommodation's lodging, or short-term rental which determination shall be the basis of an assessment as herein provided in this chapter. Notice of such assessment of tax shall be made in the manner prescribed in this chapter. Unless the vendor or transient guest or short-term rental guest, to whom said notice of assessment of tax is directed, files within thirty (30) days after service thereof, either personally or by registered or certified mail a petition in writing, verified under oath by said vendor, transient guest, short-term rental guest, or ~~his or her~~ an authorized agent thereof, having knowledge of the facts, setting forth with particularity the items of said tax assessment objected to, together with the reasons for such objections, said assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor of transient guests or short-term rental guests so assessed, to the treasurer of city of Columbus, Ohio. When a petition for reassessment of tax is filed, the auditor shall assign a time and place for the hearing of same and shall notify the petitioner thereof by registered or certified mail, but the auditor may continue the hearings from time to time if necessary. A penalty of fifteen percent shall be added to the amount of every assessment of tax made under this chapter. The auditor may adopt and promulgate rules and regulations providing for the remission of penalties added to such tax assessments made under this chapter. When any vendor or transient guest or short-term rental guest files a petition for reassessment of tax as provided in this chapter, the tax assessment made by the auditor, together with penalties thereon, shall become due and payable within three days after notice of the finding made at the hearing has been served, either personally or by certified mail, upon the party assessed.

371.09 - Four-year limitation for assessments of tax; exceptions.

No assessment shall be made or issued against a vendor or transient guest or short-term rental guest for any tax imposed by or pursuant to this chapter more than four years after the return date for the period in which the lodging was furnished, or more than four years after the return for such period is filed, whichever is later. This section does not bar an assessment:

- (1) When the auditor has substantial evidence of amounts of taxes collected by a vendor from transient guest's or short-term rental guest's lodging which were not returned to the city;
- (2) When the vendor assessed failed to file a return as required.

371.10 - Refund of erroneous payments.

The city treasurer shall refund to a vendor the amount of tax erroneously paid where the vendor has not been reimbursed from the transient guest or short-term rental guest. When such erroneous payment or tax assessment was not paid to a vendor, but was paid by the transient guest or short-term rental guest directly to the city treasurer or his agent, it shall be refunded to the transient guest or short-term rental guest. Applications for refund shall be filed with the city auditor, on the form so prescribed, within ninety (90) days from the date it is ascertained that the assessment or payment was

erroneous; provided, however, that in any event such applications for refund must be filed with the auditor within four (4) years from the date of the erroneous payment of the tax. On filing of such application, the auditor shall determine the amount of refund due to certify such amount. The auditor shall draw a warrant for such certified amount on the treasurer to the person claiming such refund.

371.14 - Vendor to collect tax; prohibition against rebates.

No vendor shall fail to collect the full and exact tax as required by this chapter. No vendor shall refund, remit or rebate to a transient guest or short-term rental guest, either directly or indirectly, any of the tax levied pursuant to this chapter, or make in any form of advertising verbal or otherwise, any statements which might imply that he or she is absorbing the tax, or paying the tax for the transient guest or short-term rental guest by an adjustment of prices, or furnishing lodging at the price including the tax or rebating the tax in any other manner.

SECTION 2. That existing Sections 371.01, 371.02, 371.03, 371.04, 371.05, 371.06, 371.07, 371.08, 371.09, 371.10, and 371.14 of the Columbus City Codes are hereby repealed.

SECTION 3. That new Section 371.19 of the Columbus City Codes is hereby enacted, reading as follows:

371.19 - Interest applied to all penalties.

Should a vendor be imposed any penalty under the provisions of this chapter, such imposition shall carry a daily interest rate of one percent (1%) of the total penalty to be compounded and assessed each day the penalty is not paid to the city. Such interest rate stops accruing once the all penalties and interest payments are remitted, collected, and deemed as satisfactory.

SECTION 4. That the title of Chapter 371 of the Columbus City Codes, currently entitled “HOTEL TAX”, is hereby amended to read “HOTEL/MOTEL/SHORT-TERM RENTAL TAX”.

SECTION 5. That existing Sections 371.11 and 371.12 of the Columbus City Codes are hereby repealed in their entirety.

SECTION 6. ~~That this ordinance shall take effect and be in force from and after March 1, 2019.~~ **That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage, if the Mayor neither approves nor vetoes the same.**