

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2019, Legislative Day No. 40

Bill No. 88-19

Introduced by Ms. Rodvien

By the County Council, November 18, 2019

Introduced and first read on November 18, 2019
Public Hearing set for and held on December 16, 2019
Bill AMENDED on January 21, 2020
Public Hearing on AMENDED bill set for and held on February 3, 2020
Bill Expires February 21, 2020

By Order: JoAnne Gray, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Finance, Taxation, and Budget – Use or Occupancy Tax –
2 Transient Lodging – Short-term Rentals
3

4 FOR the purpose of amending the County use or occupancy tax provisions to apply to all
5 transient lodging including short-term rentals; exempting short-term residential rentals
6 from certain recordkeeping provisions; adding ~~a definition~~ definitions of “hosting
7 platform” and “short-term rental”; amending certain definitions to include short-term
8 rentals; clarifying the applicability of the tax to short-term rentals; and generally
9 relating to finance, taxation, and budget.
10

11 BY repealing and reenacting, with amendments: ~~§ 4-6-105~~ §§ 4-6-102(b); and 4-6-105
12 Anne Arundel County Code (2005, as amended)
13

14 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
15 That Section(s) of the Anne Arundel County Code (2005, as amended) read as follows:
16

17 **ARTICLE 4. FINANCE, TAXATION, AND BUDGET**
18

19 **TITLE 6. TAXES ON SERVICES AND COMMODITIES**

EXPLANATION: CAPITALS indicate new matter added to existing law.
[[Brackets]] indicate matter deleted from existing law.
Captions and taglines in **bold** in this bill are catchwords and are not law.
Underlining indicates matter added to bill by amendment.
~~Strikeover~~ indicates matter removed from bill by amendment.

4-6-102. Recordkeeping.

(b) Availability. ~~[[Records]]~~ EXCEPT AS OTHERWISE PROVIDED FOR OWNERS OR OPERATORS OF SHORT-TERM RESIDENTIAL RENTALS, RECORDS and other documents shall be available at all times during normal business hours for inspection and examination by the Controller, the collecting authority, or the duly authorized representative, agent, or employee of the Controller or collecting authority.

4-6-105. Use or occupancy tax.

(a) Definitions. In this section, the following words have the meanings indicated.

(1) “Additional rent” means the rent paid by an occupant to a ~~[[room]]~~ remarketer that is in excess of the net rent.

(2) “Collecting authority” means the County Controller except as provided in subsection (k).

~~[[~~(3) (i) “Hotel” means a facility that offers sleeping accommodations to the transient public.

(ii) “Hotel” includes a motel, inn, bed and breakfast home or inn, rooming or guest house, and tourist home.

(iii) “Hotel” does not include a bed and breakfast home, rooming or guest house, or tourist home that has fewer than three bedrooms for the lodging of occupants.]]

~~[[~~(5)] (3) “Net rent” means the rent received by ~~[[a hotel]]~~ AN owner or operator from a ~~[[room]]~~ remarketer.

~~[[~~(6)] (4) “Occupant” means a person who uses or occupies a ~~[[room in a hotel]]~~ SHORT-TERM RENTAL.

~~[[~~(4)] (5) “[~~[[Hotel owner]]~~ OWNER or operator” means a person who possesses or has an ownership interest in a ~~[[hotel]]~~ SHORT-TERM RENTAL or is engaged in the business of operating ~~[[a hotel]]~~ SHORT-TERM RENTALS.

~~[[~~(8)] (6) ~~[[“Room remarketer”~~ “REMARKETER” means a person, other than the owner or operator ~~[[of a hotel]]~~ OF A SHORT-TERM RENTAL, who has the right, access, ability, or authority, through an internet transaction or any other means, to offer, reserve, book, arrange for, remarket, distribute, broker, or resell ~~[[rooms]]~~ SHORT-TERM RENTALS ~~[[for which use or occupancy is]]~~ subject to the tax levied under this section, AND THE TERM INCLUDES A HOSTING PLATFORM. FOR PURPOSES OF THIS DEFINITION “HOSTING PLATFORM” MEANS AN INTERNET-BASED ENTITY THAT, IN EXCHANGE FOR RENT, FACILITATES RESERVATIONS AND BOOKING TRANSACTIONS OF SHORT-TERM RESIDENTIAL RENTALS.

(7) (i) “Rent” means the consideration paid for the use or occupancy of a ~~[[room in a hotel]]~~ SHORT-TERM RENTAL in the County.

(ii) "Rent" includes both the "net rent" and the "additional rent" when the use or occupancy of a [[room]] SHORT-TERM RENTAL is reserved, booked, brokered, or otherwise arranged for by a [[room]] remarketer and the full amount of the rent is not paid by the occupant directly to the [[hotel]] owner or operator.

(iii) "Rent" includes charges for services and booking fees that are a condition of use or occupancy and any amount for which credit is allowed by the [[hotel]] owner or operator or [[room]] remarketer to the occupant.

(iv) "Rent" does not include charges for optional services provided by the [[hotel]] OWNER OR OPERATOR OF A SHORT-TERM RENTAL to the occupant that are in addition to the charge for use or occupancy and that are set forth separately on the bill presented to the occupant.

(8) "SHORT-TERM RENTAL" MEANS A FACILITY THAT OFFERS SLEEPING ACCOMMODATIONS TO THE TRANSIENT PUBLIC FOR ~~A-FEE RENT~~, INCLUDING A HOTEL, MOTEL, INN, BED AND BREAKFAST HOME, BED AND BREAKFAST INN, ROOMING HOUSE, AS DEFINED IN § 18-1-101 OF THIS CODE, AND SHORT-TERM RESIDENTIAL RENTALS. FOR PURPOSES OF THIS DEFINITION, "SHORT-TERM RESIDENTIAL RENTAL" MEANS THE USE OR OCCUPANCY, ~~FACILITATED BY A HOSTING PLATFORM IN EXCHANGE FOR A-FEE RENT~~, OF ALL OR PART OF A DWELLING UNIT TO PROVIDE ACCOMMODATIONS TO TRANSIENT GUESTS FOR NO MORE THAN 120 CONSECUTIVE DAYS IN A CALENDAR YEAR.

(b) Levy and amount of tax. There is [[a hotel]] AN occupancy tax levied on the rent paid for the use [[or occupancy]] of a [[room in a hotel]] SHORT-TERM RENTAL in the County. The rate of the tax is 7% of the rent. THE OCCUPANCY TAX LEVIED UNDER THIS SECTION SHALL BE CONSIDERED THE HOTEL TAX REFERRED TO IN § 20-603 OF THE LOCAL GOVERNMENT ARTICLE OF THE STATE CODE.

(c) Calculation and collection; no remarketer. If the full amount of the rent is paid by the occupant directly to the [[hotel]] owner or operator OF A SHORT-TERM RENTAL, the [[hotel]] owner or operator shall collect the tax from the occupant and remit the tax to the collecting authority as provided in subsection (g).

(d) Calculation and collection; remarketer. If the use or occupancy of a [[room]] SHORT-TERM RENTAL is reserved, booked, or otherwise arranged for by a [[room]] remarketer and the full amount of the rent is not paid by the occupant directly to the [[hotel]] owner or operator, the [[room]] remarketer shall:

(1) FOR A SHORT-TERM RENTAL OTHER THAN A SHORT-TERM RESIDENTIAL RENTAL, collect the tax from the occupant based on the net rent and remit the tax to the [[hotel]] owner or operator who shall remit it to the collecting authority as provided in subsection (g); [[and]]

(2) collect the tax from the occupant based on the additional rent and remit the tax to the collecting authority as provided in subsection (g)[[.]]; AND

(3) FOR A SHORT-TERM RESIDENTIAL RENTAL, COLLECT THE TAX FROM THE OCCUPANT BASED ON THE NET RENT AND REMIT THE TAX TO THE COLLECTING

1 AUTHORITY AS PROVIDED IN SUBSECTION (G), BUT THE HOST SHALL REMIT THE TAX TO
2 THE COLLECTING AUTHORITY IF THE REMARKETER FAILS TO DO SO.

3
4 (e) **Exemptions.** The tax does not apply to the rent paid for the use or occupancy of a
5 ~~[[room in a hotel]]~~ SHORT-TERM RENTAL that continues for ~~[[90]]~~ 120 or more consecutive
6 days, provided that this exemption does not apply to a ~~[[room]]~~ remarketer that offers,
7 reserves, books, arranges for, remarkets, distributes, brokers, or resells ~~[[the room]]~~ A
8 SHORT-TERM RENTAL for use or occupancy by others..

9
10 (f) **Registration.** ~~[[A hotel]]~~ AN owner or operator or ~~[[room]]~~ remarketer that offers,
11 reserves, books, arranges for, remarkets, distributes, brokers, or resells ~~[[rooms]]~~ SHORT-
12 TERM RENTALS ~~[[for which use or occupancy is]]~~ subject to the tax levied under this section
13 shall register with the collecting authority on the form prescribed by the collecting
14 authority.

15
16 (g) **Remittance and reports.** The tax collected by ~~[[a hotel]]~~ AN owner or operator or
17 ~~[[room]]~~ remarketer shall be remitted to the collecting authority no later than the 25th day
18 of each month. ~~[[The {{hotel}} EACH MONTH, REGARDLESS OF WHETHER THE TAX LEVIED~~
19 ~~UNDER THIS SECTION IS COLLECTED. AN~~ owner or operator or ~~[[room]]~~ remarketer shall
20 ~~[[at the same time]]~~ file with the collecting authority a FULLY COMPLETED return on forms
21 prescribed by the collecting authority that sets forth the amount of taxes collected during
22 the preceding period and such other information as the collecting authority may require.
23 AT THE DISCRETION OF THE CONTROLLER, A SHORT-TERM RESIDENTIAL RENTAL OWNER
24 OR OPERATOR MAY BE ALLOWED TO SUBMIT A RETURN ON A QUARTERLY BASIS.

25
26 (h) **Failure to remit or collect tax; failure to register.**

27
28 (1) ~~[[A hotel]]~~ AN owner or operator or ~~[[room]]~~ remarketer that fails to collect,
29 remit, or file a FULLY COMPLETED return for the tax levied by this section within the time
30 prescribed shall be assessed the amount of tax due, interest at the rate of 0.5% for each
31 month or fraction of a month, and a penalty of 10% of the tax due. The interest and penalty
32 shall be collected as part of the tax.

33
34 (2) ~~[[A hotel]]~~ AN owner or operator or ~~[[room]]~~ remarketer that fails to register as
35 required by subsection (f) shall be subject to a civil penalty of \$1,000 in addition to any
36 other amount owed under this subsection.

37
38 (i) **Refunds.** If a taxpayer has erroneously, illegally, or unconstitutionally paid the tax
39 levied by this section, the collecting authority shall refund the tax if the refund is applied
40 for in writing within three years after payment of the tax, and if there is good and sufficient
41 grounds for the refund. The application shall be in the form approved by the collecting
42 authority, signed by both the taxpayer and the proper officer of the ~~[[hotel]]~~ owner or
43 operator or ~~[[room]]~~ remarketer, and submitted to the collecting authority.

44
45 (j) **Purchaser or assignee.** Not less than 10 days before taking possession or control
46 of a ~~[[hotel]]~~ A SHORT-TERM RENTAL that is subject to the tax levied by this section, the
47 purchaser, transferee, or assignee shall notify the collecting authority by certified mail of
48 the sale, transfer, conveyance, or assignment. The notice shall set forth the name and
49 mailing address of the purchaser, transferee, or assignee, and the anticipated date of taking
50 possession or control. If notice to the collecting authority is not provided or if the collecting

1 authority informs the purchaser, transferee, or assignee that a possible claim for taxes
2 exists, the sums of money, property, or choses in action, or other consideration in which
3 the purchaser, transferee, or assignee has an interest are subject to a first priority, right, and
4 lien to the County, or the Mayor and Aldermen of the City of Annapolis, as appropriate,
5 for the tax. The purchaser, transferee, or assignee is liable to the extent of the amount of
6 the claim for unpaid taxes due under this section.

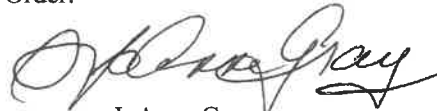
7
8 (k) **Collecting authority.** Except as otherwise provided by an agreement executed in
9 accordance with this subsection, the collecting authority for the tax levied by this section
10 is the County Controller. For the tax levied on the occupancy of ~~[[hotels]]~~ SHORT-TERM
11 RENTALS located in the City of Annapolis, the County may enter into an agreement with
12 the Mayor and Aldermen of the City of Annapolis delegating to the City of Annapolis the
13 authority to act as collecting authority.

14
15 SECTION 2. *And be it further enacted*, That this Ordinance shall take effect 45 days
16 from the date it becomes law.

AMENDMENTS ADOPTED: January 21, 2020

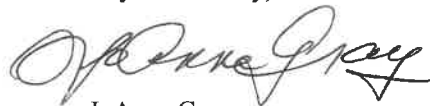
READ AND PASSED this 3rd day of February, 2020

By Order:



JoAnne Gray
Administrative Officer

PRESENTED to the County Executive for his approval this 4th day of February, 2020



JoAnne Gray
Administrative Officer

APPROVED AND ENACTED this 10th day of February, 2020



Steuart Pittman
County Executive

EFFECTIVE DATE: MAR 26 2020

Bill No. 88-19

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I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
88-19. THE ORIGINAL OF WHICH IS RETAINED IN THE FILES
OF THE COUNTY COUNCIL.

A handwritten signature in cursive script, appearing to read "JoAnne Gray", with a small mark at the end of the signature.

JoAnne Gray
Administrative Officer