

HOUSE BILL 1604

C2

8lr2830

By: **Delegate Frick**

Introduced and read first time: February 9, 2018

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Limited Residential Lodging**

3 FOR the purpose of altering certain definitions to ensure an innkeeper of certain limited
4 residential lodging has the same rights and responsibilities as an innkeeper of a
5 lodging establishment; providing that an innkeeper may not use a hosting platform
6 to offer a limited residential lodging unit to the public unless the innkeeper satisfies
7 certain requirements; authorizing certain State law enforcement agencies, a county,
8 or a municipality, after making a certain determination, to make a certain order,
9 issue a certain civil citation, impose certain penalties, and file a certain action;
10 providing that a hosting platform operator may not participate in or facilitate certain
11 booking transactions unless the hosting platform operator satisfies certain
12 requirements; requiring certain hosting platform operators to keep a record of
13 certain information for a certain period of time; requiring certain records to be made
14 available, under certain circumstances, to the Comptroller, the Department of Labor,
15 Licensing, and Regulation, certain State law enforcement agencies, a county, or a
16 municipality; authorizing certain courts, under certain circumstances, to issue a
17 certain injunction; authorizing certain local jurisdictions to notify an innkeeper or
18 hosting platform that the use of certain limited residential lodging units for limited
19 residential lodging is in violation of certain laws; providing that a certain notice be
20 provided to the hosting platform in a certain manner; authorizing certain local
21 jurisdictions to establish certain laws regulating certain activities; defining certain
22 terms; making the provisions of this Act severable; and generally relating to the
23 regulation of certain limited residential lodging units.

24 BY repealing and reenacting, with amendments,
25 Article – Business Regulation
26 Section 15–201
27 Annotated Code of Maryland
28 (2015 Replacement Volume and 2017 Supplement)

29 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Business Regulation
2 Section 15–208 and 15–209
3 Annotated Code of Maryland
4 (2015 Replacement Volume and 2017 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article – Land Use
7 Section 1–101(a), (i), and (t)
8 Annotated Code of Maryland
9 (2012 Volume and 2017 Supplement)

10 BY adding to
11 Article – Land Use
12 Section 4–105
13 Annotated Code of Maryland
14 (2012 Volume and 2017 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Business Regulation**

18 15–201.

19 (a) In this subtitle the following words have the meanings indicated.

20 (B) **“BOOKING TRANSACTION” MEANS ANY TRANSACTION IN WHICH THERE**
21 **IS A CHARGE TO OCCUPY ANY DWELLING, SLEEPING, OR OTHER LODGING**
22 **ACCOMMODATIONS IN A LODGING ESTABLISHMENT MADE AVAILABLE FOR USE BY**
23 **TRANSIENT GUESTS.**

24 (C) **“HOSTING PLATFORM” MEANS AN INTERNET–BASED DIGITAL ENTITY**
25 **THAT:**

26 (1) **ADVERTISES THE AVAILABILITY OF LIMITED RESIDENTIAL**
27 **LODGING UNITS FOR RENT; AND**

28 (2) **RECEIVES COMPENSATION FOR PROVIDING ADVERTISING,**
29 **FACILITATING RESERVATIONS, OR COLLECTING PAYMENTS FOR BOOKING**
30 **TRANSACTIONS ON BEHALF OF AN INNKEEPER THAT IS THE OWNER, OPERATOR,**
31 **MANAGER, OR KEEPER OF A LIMITED RESIDENTIAL LODGING UNIT.**

32 (D) **“HOSTING PLATFORM OPERATOR” MEANS A PERSON THAT OWNS OR**
33 **OPERATES A HOSTING PLATFORM.**

1 **[(b)] (E)** “Innkeeper” means the owner, operator, manager, or keeper of a lodging
2 establishment, or the agent of an owner, operator, manager, or keeper of a lodging
3 establishment.

4 **(F)** **“LIMITED RESIDENTIAL LODGING” MEANS THE USE OF A RESIDENTIAL**
5 **DWELLING UNIT, INCLUDING ANY SINGLE-FAMILY HOUSE OR DWELLING,**
6 **MULTIFAMILY HOUSE OR DWELLING, CONDOMINIUM, OR COOPERATIVE, OR ANY**
7 **PORTION OF THE UNIT BY AN INNKEEPER TO PROVIDE ACCOMMODATIONS TO**
8 **TRANSIENT GUESTS FOR SLEEPING OR LODGING PURPOSES IN EXCHANGE FOR A**
9 **CHARGE OR FEE IMPOSED IN A BOOKING TRANSACTION.**

10 **(G)** **“LIMITED RESIDENTIAL LODGING UNIT” MEANS A RESIDENTIAL**
11 **DWELLING UNIT OR A PORTION OF THE UNIT USED FOR LIMITED RESIDENTIAL**
12 **LODGING.**

13 **[(c)] (H)** “Lodging establishment” means:

14 **(1)** an inn, hotel, motel, or other establishment that has at least four rooms
15 available for a fee to transient guests for lodging or sleeping purposes; **OR**

16 **(2)** **A LIMITED RESIDENTIAL LODGING UNIT.**

17 **15-208.**

18 **(A)** **AN INNKEEPER MAY NOT USE A HOSTING PLATFORM TO OFFER A**
19 **LIMITED RESIDENTIAL LODGING UNIT TO THE PUBLIC UNLESS:**

20 **(1)** **THE INNKEEPER IS LICENSED BY THE COMPTROLLER UNDER**
21 **TITLE 11, SUBTITLE 7 OF THE TAX – GENERAL ARTICLE; AND**

22 **(2)** **THE USE OF THE LIMITED RESIDENTIAL LODGING UNIT FOR**
23 **LIMITED RESIDENTIAL LODGING IS IN ACCORDANCE WITH THE APPLICABLE LAWS**
24 **OF THE LOCAL JURISDICTION IN WHICH THE LIMITED RESIDENTIAL LODGING UNIT**
25 **IS LOCATED.**

26 **(B)** **(1)** **AFTER DETERMINING THAT AN INNKEEPER IS IN VIOLATION OF**
27 **THIS SECTION, A STATE LAW ENFORCEMENT AGENCY OR A COUNTY OR**
28 **MUNICIPALITY MAY:**

29 **(I)** **ORDER THE INNKEEPER TO CEASE AND DESIST FROM USING**
30 **A HOSTING PLATFORM TO OFFER A LIMITED RESIDENTIAL LODGING UNIT TO THE**
31 **PUBLIC UNTIL THE INNKEEPER COMPLIES WITH THIS SECTION;**

32 **(II)** **ISSUE A CIVIL CITATION AND IMPOSE A PENALTY IN THE**

1 AMOUNT SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

2 (III) FILE AN ACTION FOR AN INJUNCTION IN A COURT OF
3 COMPETENT JURISDICTION.

4 (2) AN INNKEEPER THAT VIOLATES THIS SECTION IS SUBJECT TO A
5 CIVIL PENALTY OF:

6 (I) \$500 FOR A FIRST VIOLATION;

7 (II) \$1,000 FOR A SECOND VIOLATION; AND

8 (III) \$2,500 FOR EACH SUBSEQUENT VIOLATION.

9 (C) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE POWER OF A
10 COUNTY OR MUNICIPALITY TO REGULATE LIMITED RESIDENTIAL LODGING
11 ACTIVITIES OR IMPOSE PENALTIES FOR VIOLATIONS OF LOCAL LAW.

12 15-209.

13 (A) A HOSTING PLATFORM OPERATOR MAY NOT PARTICIPATE IN OR
14 FACILITATE A BOOKING TRANSACTION IN THIS STATE UNLESS THE HOSTING
15 PLATFORM SATISFIES THE REQUIREMENTS OF SUBSECTIONS (B) AND (C) OF THIS
16 SECTION.

17 (B) (1) A HOSTING PLATFORM OPERATOR THAT FACILITATES OR
18 PARTICIPATES IN BOOKING TRANSACTIONS OF A LIMITED RESIDENTIAL LODGING
19 UNIT SHALL:

20 (I) BE LICENSED BY THE COMPTROLLER UNDER TITLE 11,
21 SUBTITLE 7 OF THE TAX – GENERAL ARTICLE; AND

22 (II) BE REGISTERED UNDER § 7-202 OF THE CORPORATIONS
23 AND ASSOCIATIONS ARTICLE AND IN GOOD STANDING WITH THE STATE
24 DEPARTMENT OF ASSESSMENTS AND TAXATION TO DO BUSINESS IN THE STATE.

25 (2) A HOSTING PLATFORM OPERATOR MAY NOT FACILITATE OR
26 PARTICIPATE IN A BOOKING TRANSACTION FOR A LIMITED RESIDENTIAL LODGING
27 UNIT IF:

28 (I) THE INNKEEPER OF THE LIMITED RESIDENTIAL LODGING
29 UNIT IS NOT LICENSED BY THE COMPTROLLER UNDER TITLE 11, SUBTITLE 7 OF THE
30 TAX – GENERAL ARTICLE; OR

1 **(II) THE HOSTING PLATFORM HAS RECEIVED NOTICE FROM A**
2 **LOCAL JURISDICTION UNDER § 4-105 OF THE LAND USE ARTICLE THAT THE USE OF**
3 **THE LIMITED RESIDENTIAL LODGING UNIT IS IN VIOLATION OF A ZONING LAW OR**
4 **OTHER LOCAL LAW.**

5 **(C) (1) FOR EACH BOOKING TRANSACTION FOR A LIMITED RESIDENTIAL**
6 **LODGING UNIT, A HOSTING PLATFORM OPERATOR SHALL:**

7 **(I) KEEP A RECORD OF THE INFORMATION REQUIRED UNDER**
8 **PARAGRAPH (2) OF THIS SUBSECTION; AND**

9 **(II) MAINTAIN THE RECORD FOR AT LEAST 4 YEARS AFTER THE**
10 **DATE OF THE BOOKING TRANSACTION.**

11 **(2) THE RECORD REQUIRED UNDER PARAGRAPH (1) OF THIS**
12 **SUBSECTION SHALL INCLUDE THE FOLLOWING INFORMATION:**

13 **(I) THE NAME AND ADDRESS OF THE INNKEEPER;**

14 **(II) THE NAME OF THE INDIVIDUAL THAT ENTERS A BOOKING**
15 **TRANSACTION FOR A LIMITED RESIDENTIAL LODGING UNIT AND, IF DIFFERENT, THE**
16 **NAME OF ANY TRANSIENT GUEST THAT STAYS IN THE LIMITED RESIDENTIAL**
17 **LODGING UNIT;**

18 **(III) THE PHYSICAL ADDRESS OF THE LIMITED RESIDENTIAL**
19 **LODGING UNIT;**

20 **(IV) THE TOTAL AMOUNT PAID FOR THE BOOKING**
21 **TRANSACTION;**

22 **(V) THE TOTAL AMOUNT OF ANY FEES CHARGED BY THE**
23 **HOSTING PLATFORM OPERATOR TO FACILITATE OR PARTICIPATE IN THE BOOKING**
24 **TRANSACTION;**

25 **(VI) THE AMOUNT OF SALES AND USE TAX COLLECTED FROM THE**
26 **BOOKING TRANSACTION AND REMITTED TO THE COMPTROLLER;**

27 **(VII) THE AMOUNT OF LOCAL TAX COLLECTED FROM THE**
28 **BOOKING TRANSACTION AND REMITTED TO A LOCAL GOVERNMENT; AND**

29 **(VIII) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT**
30 **OR THE COMPTROLLER.**

1 **(3) THE RECORD REQUIRED TO BE MAINTAINED UNDER THIS**
2 **SUBSECTION SHALL BE MADE AVAILABLE, DURING THE COURSE OF ANY**
3 **ENFORCEMENT ACTION, TO:**

4 **(I) THE COMPTROLLER;**

5 **(II) THE DEPARTMENT;**

6 **(III) A STATE LAW ENFORCEMENT AGENCY;**

7 **(IV) A COUNTY; OR**

8 **(V) A MUNICIPALITY.**

9 **(D) (1) AFTER DETERMINING THAT A HOSTING PLATFORM IS IN**
10 **VIOLATION OF THIS SECTION, THE DEPARTMENT, A STATE LAW ENFORCEMENT**
11 **AGENCY, A COUNTY, OR A MUNICIPALITY MAY ISSUE A CIVIL CITATION AND IMPOSE**
12 **A CIVIL PENALTY IN THE AMOUNT SPECIFIED UNDER PARAGRAPH (2) OF THIS**
13 **SUBSECTION.**

14 **(2) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A HOSTING**
15 **PLATFORM OPERATOR THAT VIOLATES THIS SECTION IS SUBJECT TO A CIVIL**
16 **PENALTY OF:**

17 **(I) \$2,500 FOR A FIRST VIOLATION;**

18 **(II) \$5,000 FOR A SECOND VIOLATION; AND**

19 **(III) \$7,500 FOR EACH SUBSEQUENT VIOLATION.**

20 **(3) FOR PURPOSES OF A CIVIL PENALTY IMPOSED UNDER**
21 **PARAGRAPH (2) OF THIS SUBSECTION:**

22 **(I) EACH DAY THAT A HOSTING PLATFORM OPERATOR IS**
23 **OPERATING IN VIOLATION OF SUBSECTION (B)(1) OF THIS SECTION IS A SEPARATE**
24 **VIOLATION;**

25 **(II) EACH BOOKING TRANSACTION THAT A HOSTING PLATFORM**
26 **OPERATOR FACILITATES OR PARTICIPATES IN IN VIOLATION OF SUBSECTION (B)(2)**
27 **OF THIS SECTION IS A SEPARATE VIOLATION; AND**

28 **(III) EACH BOOKING TRANSACTION THAT A HOSTING PLATFORM**

1 OPERATOR FACILITATES OR PARTICIPATES IN FOR WHICH IT DOES NOT MAINTAIN
2 THE RECORDS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION IS A SEPARATE
3 VIOLATION.

4 (4) ON APPLICATION BY THE COMPTROLLER, THE DEPARTMENT, A
5 COUNTY, A MUNICIPALITY, OR A STATE LAW ENFORCEMENT AGENCY, A COURT OF
6 COMPETENT JURISDICTION MAY ISSUE AN INJUNCTION TO RESTRAIN ANY HOSTING
7 PLATFORM FROM VIOLATING THIS SECTION.

8 Article – Land Use

9 1–101.

10 (a) In this division the following words have the meanings indicated.

11 (i) “Local jurisdiction” means a county or municipal corporation and the territory
12 within which its powers may be exercised.

13 (t) (1) “Zoning law” means the legislative implementation of regulations for
14 zoning by a local jurisdiction.

15 (2) “Zoning law” includes a zoning ordinance, zoning regulation, zoning
16 code, and any similar legislative action to implement zoning controls in a local jurisdiction.

17 4–105.

18 (A) IN THIS SECTION, “HOSTING PLATFORM OPERATOR”, “INNKEEPER”,
19 “LIMITED RESIDENTIAL LODGING”, AND “LIMITED RESIDENTIAL LODGING UNIT”
20 HAVE THE MEANINGS STATED IN § 15–201 OF THE BUSINESS REGULATION ARTICLE.

21 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LOCAL
22 JURISDICTION MAY NOTIFY:

23 (1) AN INNKEEPER THAT THE USE OF A LIMITED RESIDENTIAL
24 LODGING UNIT FOR LIMITED RESIDENTIAL LODGING IS IN VIOLATION OF A ZONING
25 LAW OR OTHER LOCAL LAW; OR

26 (2) A HOSTING PLATFORM OPERATOR FOR AN INNKEEPER THAT
27 OPERATES A LIMITED RESIDENTIAL LODGING UNIT IN VIOLATION OF A ZONING LAW
28 OR OTHER LOCAL LAW.

29 (C) A NOTICE TO A HOSTING PLATFORM OPERATOR UNDER SUBSECTION (B)
30 OF THIS SECTION MAY BE SERVED ON THE RESIDENT AGENT DESIGNATED BY THE
31 HOSTING PLATFORM OPERATOR IN THE REGISTRATION REQUIRED UNDER § 7–202

1 **OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.**

2 **(D) A LOCAL JURISDICTION MAY REGULATE BY LOCAL LAW OR ZONING LAW**
3 **THE ACTIVITIES OF AN INNKEEPER ENGAGED IN LIMITED RESIDENTIAL LODGING OR**
4 **ADOPT OTHER REGULATIONS TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF**
5 **RESIDENTS AND TRAVELERS STAYING IN LIMITED RESIDENTIAL LODGING UNITS.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
7 the application thereof to any person or circumstance is held invalid for any reason in a
8 court of competent jurisdiction, the invalidity does not affect other provisions or any other
9 application of this Act that can be given effect without the invalid provision or application,
10 and for this purpose the provisions of this Act are declared severable.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2018.