**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3187**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.R. Smith and Oremus

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Introduced in the House on January 8, 2019

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Lodging marketplace

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/18/2018 House Prefiled

12/18/2018 House Referred to Committee on **Ways and Means**

1/8/2019 House Introduced and read first time ([House Journal‑page 121](file:///h:\hj\20190108.docx))

1/8/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 121](file:///h:\hj\20190108.docx))

3/3/2020 House Member(s) request name added as sponsor: Oremus

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=3187&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[12/18/2018](file:///p:\pprever\2019-20\3187_20181218.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 10 TO CHAPTER 1, TITLE 6 SO AS TO PROVIDE DEFINITIONS, TO PROVIDE THAT THE GOVERNING BODY OF A MUNICIPALITY OR COUNTY MAY NOT PROHIBIT VACATION RENTALS OR SHORT‑TERM RENTALS, TO PROVIDE THAT THE GOVERNING BODY OF A MUNICIPALITY OR COUNTY MAY NOT ENACT CERTAIN REGULATIONS, TO PROVIDE THAT A LODGING MARKETPLACE MAY REGISTER WITH THE DEPARTMENT OF REVENUE FOR A LICENSE FOR THE COLLECTION AND REMITTANCE OF ALL TAXES, TO PROVIDE THAT IN CERTAIN CIRCUMSTANCES THE GOVERNING BODY OF A MUNICIPALITY OR COUNTY MAY NOT LEVY CERTAIN FEES OR TAXES, AND TO PROVIDE FOR CERTAIN DISCLOSURE REQUIREMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 6 of the 1976 Code is amended by adding:

“Article 10

Lodging Marketplaces

Section 6‑1‑2100. For the purposes of this article:

(1) ‘Lodging marketplace’ means a person that provides a platform through which an unaffiliated third party offers to rent a vacation rental or short‑term rental to an occupant and collects the consideration for the rental from the occupant.

(2) ‘Lodging accommodations’ means any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration.

(3) ‘Lodging operator’ means a person that rents to an occupant any lodging accommodation offered through a lodging marketplace.

(4) ‘Lodging transaction’ means a charge to an occupant by a lodging operator for the occupancy of any lodging accommodation.

(5) ‘Unaffiliated third party’ means a person that is not owned or controlled, directly or indirectly, by the same interests.

(6) ‘Vacation rental’ or ‘short‑term rental’ means any individually or collectively owned single‑family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, or owner‑occupied residential home, that is offered for a fee and for less than thirty consecutive days. Vacation rentals and short‑term rentals do not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center, or another similar use.

Section 6‑1‑2110. (A) The governing body of a municipality or county may not prohibit vacation rentals or short‑term rentals.

(B) The governing body of a municipality or county may not enact or enforce any law, ordinance, regulation, or plan that prohibits or regulates short‑term rentals except as provided in this subsection. A municipality or county may not restrict the use of or regulate vacation rentals or short‑term rentals based on their classification, use, or occupancy. The governing body of a municipality or county may enact or enforce a law, ordinance, regulation, or plan that regulates short-term rentals for the following purposes:

(1) protection of the public’s health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, provided enforcement would not expressly or in practical effect prohibit the use of a property as a short‑term rental, and designation of an emergency point of contact, if the municipality or county demonstrates that the rule or regulation is for the primary purpose of protecting the public’s health and safety;

(2) adopting and enforcing residential use and zoning ordinances, including ordinances related to noise, protection of welfare, property maintenance, and other nuisance issues, if the ordinance is applied in the same manner as other similar properties; and

(3) limiting or prohibiting the use of vacation rentals or short‑term rentals for the purposes of housing sex offenders, operating or maintaining a structured, sober‑living home, selling illegal drugs, liquor control, or pornography, obscenity, nude or topless dancing, and other adult‑oriented businesses.

(C) This section does not apply to private entities or homeowners’ associations.

Section 6‑1‑2120. (A) A lodging marketplace may register with the Department of Revenue for a license for the collection and remittance of all taxes levied by this State and one or more counties or municipalities, for taxes due from a lodging operator on any lodging transaction facilitated by the lodging marketplace.

(B) Notwithstanding any other provision of law, a lodging operator is entitled to an exclusion from any applicable taxes for any lodging transaction facilitated by a lodging marketplace for which the lodging operator has obtained from the lodging marketplace written notice that the lodging marketplace is registered with the department to collect applicable taxes for all lodging transactions facilitated by the lodging marketplace, and transaction history documenting tax collected by the lodging marketplace.

(C) A lodging marketplace that is registered with the department is not required to list or otherwise identify any individual lodging operator.

Section 6‑1‑2130. (A) Except as provided by this section, the governing body of a municipality or county may not levy a transaction sales, use, franchise, or other similar tax or fee, however denominated:

(1) on the business of operating a lodging marketplace;

(2) in the case of a lodging marketplace that is licensed pursuant to this article, on any lodging transaction facilitated by the lodging marketplace; or

(3) on any lodging operator with respect to any lodging transaction for which it has received documentation that the lodging marketplace has or will remit the applicable tax to the department pursuant to this article.

(B) The aggregate value on which taxes may be imposed for a vacation rental or short‑term rental is the gross proceeds of sales or gross income received by a lodging operator, except that the aggregate value does not include the gross proceeds or gross income received by a lodging operator from any lodging transactions for which the lodging operator has received documentation from a registered lodging marketplace showing that the lodging marketplace has remitted or will remit the applicable tax to the Department of Revenue.

(C) In the case of a lodging marketplace that is registered pursuant to this article, the governing body of a municipality or county may levy a transaction sales, use, franchise, accommodations, or other similar tax or fee on the lodging transaction provided by the lodging marketplace subject to the aggregate value pursuant to subsection (B) and subject to the following conditions:

(1) the adopted tax must be uniform on online lodging marketplaces, online lodging operators, and other taxpayers of the same class within the jurisdictional boundaries of the municipality or county; and

(2) the adopted tax must be administered, collected, and enforced by the department and remitted to the governing body of the municipality or county as provided by law.

(D) The tax may not be collected from a lodging operator with respect to any lodging transaction or transactions for which the lodging operator has received written notice or documentation from a registered lodging marketplace that it has or will remit the applicable tax with respect to those transactions to the department pursuant to this article.

(E) A lodging operator:

(1) remains accountable and liable for both:

(a) the accuracy of information the lodging operator furnishes to the lodging marketplace; and

(b) except as provided in subsection (D), the remittance of the full tax liability;

(2) is subject to audit, as provided by law, of the records in the lodging operator’s possession that are submitted to the lodging marketplace for the purposes of the electronic consolidated return;

(3) may withdraw any of the lodging operator’s properties from the electronic consolidated return on thirty days’ written notice to the lodging marketplace, the department, and the tax collector of the municipality or county.

(F) The department annually shall make available on its website the revenues collected and distributed to each municipality or county from lodging marketplaces pursuant to this article. The information must be anonymized and otherwise comply with the privacy requirements set forth in this article.

Section 6‑1‑2140. (A) Except as allowed in subsection (B), the Department of Revenue may not disclose information provided by a lodging marketplace without the written consent of the lodging marketplace. The information:

(1) is not subject to disclosure pursuant to Chapter 4, Title 30; and

(2) may not be disclosed to any agency of this State or of any municipality or county of this State.

(B) The department may disclose confidential information provided by a lodging marketplace only to:

(1) the taxpayer whom the information concerns;

(2) the Office of the Attorney General, solicitor, or any similar prosecuting authority for its use in an investigation or proceeding involving tax administration;

(3) any person only to the extent necessary for effective tax administration in connection with:

(a) the processing, storage, transmission, destruction, and reproduction of the information;

(b) the programming, maintenance, repair, testing, and procurement of equipment for purposes of tax administration; or

(c) the collection of the taxpayer’s civil liability;

(4) any state or federal judicial or administrative proceeding pertaining to tax administration if:

(a) the taxpayer is a party to the proceeding; and

(b) the proceeding arose out of, or in connection with, determining the taxpayer’s civil or criminal liability, or the collection of the taxpayer’s civil liability, with respect to any tax imposed under this article.

Section 6‑1‑2150. The Department of Revenue may promulgate regulations necessary to implement the provisions of this article and to ensure that a registered lodging marketplace collects and remits all applicable taxes and fees.”

SECTION 2. This act takes effect upon approval by the Governor.

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