



AGENDA - Planning Commission

DATE: April 22, 2024 7:00 PM City Council Chambers

- I. Call to Order
- II. Roll Call
- III. Approval of Meeting Minutes
 - I. Approval of March 18, 2024 Minutes
- IV. Public Comment (Agenda Items)
- V. Unfinished Business
 - I. Short Term Rental Regulations Draft 2
- VI. New Business
- VII. Public Comment (Non-Agenda Items)
- VIII. Adjournment

Public Comment: Public Comments are limited to three minutes.

Live Stream: The meeting will be livestreamed to the Official City of Grosse Pointe Park YouTube Channel.

Planning Commission MEETING - March 18, 2024
7:00 PM

CALL TO ORDER

Chair Coletta called the meeting to order at 7:00 PM.

ROLL CALL

PRESENT MEMBERS: Commissioners Hodges, Stachecki, Vethancke, Evans, Taylor, and Coletta.

ABSENT MEMBERS: Commissioner Saros

ALSO PRESENT: Warren Rothe, Assistant City Manager and Commission Secretary; Michael Boettcher, McKenna

APPROVAL OF MEETING MINUTES

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APPROVAL OF JANUARY 22, 2024 MINUTES

Motion by Commission Hodges, seconded by Commissioner Taylor, to approve the January 22, 2024 meeting minutes.

The motion carried unanimously on a voice vote.

PUBLIC COMMENT (AGENDA ITEMS)

Two public comments were given.

UNFINISHED BUSINESS

UNFINISHED BUSINESS:
CAPITAL IMPROVEMENT PLAN

Secretary Rothe reviewed the capital improvement plan for the Commission's review and comment. Discussion occurred on the cost estimates, project identification, and grant funding opportunities.

Motino by Commissioner Stachecki, seconded by Commissioner Evans to approve the 2024-2030 Capital Improvement Plan and send the document to the City Council for their consideration.

The motion carried on a unanimous voice vote.

UNFINISHED BUSINESS:
ZONING ORDINANCE REWRITE

Michael Boettcher from McKenna presented Draft 2 of the Zoning Ordinance, and reviewed major changes to the document. He also presented community feedback received at the Open House in-person and online engagement activities. Chair Coletta commented on forming an

Advisory Group to further review the draft and feedback. The Commission discussed recent bills in the State legislature involving short-term rentals. A revised short-term rental ordinance will be presented to the Commission at its April 2024 meeting.

NEW BUSINESS

PUBLIC COMMENT (NON-AGENDA ITEMS)

No public comments were given.

ADJOURNMENT

Motion by Commissioner Vethacke, seconded by Commissioner Stachecki to adjourn the meeting.

The motion carried on an unanimous voice vote.

The meeting adjourned at 7:50 PM.

DRAFT PENDING APPROVAL



PLANNING COMMISSION MEETING

DATE: April 22, 2024

SUBJECT: Short Term Rental Regulations Draft 2

SUMMARY: New regulations have been prepared for the Planning Commission's review. This includes revisions to the previously presented police-power ordinance, along with another document that contains new regulations that would be contained within the City's Zoning Ordinance.

Zoning regulations are focused on specific land uses. Any amendment to the Zoning Ordinance requires a public hearing by the Planning Commission before the amendment can be considered by the City Council. Amending a zoning ordinance can take months.

Alternatively, by incorporating most of the regulations as a police-power ordinance, flexibility is preserved in crafting specific regulations that cover a wide range of concerns involving short-term rentals besides the use of the land itself, such as permitting, enforcement, and nuisance-related matters. A police-power ordinance is best viewed as a broad law to protect public health, safety, and welfare. Amendments to police-power ordinances can be made quicker than zoning amendments.

Also included for your review are materials related to House Bill 5348, the current bill that is being considered by the Michigan Legislature. A hearing was recently held on April 17 by the House Local Government and Municipal Finance Committee. While this prospective legislation is not the primary focus of this agenda item, it is appropriate for the Commission to consider during its continued work on short-term rentals.

A summary of major revisions to the police-power ordinance are as follows:

- Clarifies the definition of person to better capture the various relationships between parent, holding, and subsidiary companies.
- Reduced the number of licenses offered from 30 to 20.
- Requires all licensees to post a cash bond with the City.
- Changes the calculation of maximum occupancy to be the lessor of two (2) occupants per bedroom plus two (2) additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Residential Code, or the occupancy limitations set forth in Section 404 of Chapter 4 of the International Property Maintenance Code.
- Requires all licensees to develop a nuisance response plan which includes pertinent contact information for parties who wish to report violations and will be made available online as well as mailed to surrounding property owners.

Under the draft zoning regulations, all short-term rentals would be permitted as a special land use in the following zoning districts:

- NMU: Neighborhood Mixed Use
- CMU: Corridor Mixed Use
- CBD: Central Business District
- NR-3: Neighborhood Residential 3
- NR-2 Overlay Zone

Accompanying this memo are the following attachments:

1. Revised police-power ordinance with changes marked up.
2. Clean version of revised police-power ordinance.
3. Draft zoning ordinance regulations, including a summary of special land use approval standards.
4. MML Blog Post on House Bill 5348
5. Analysis and summary of House Bill 5348 from the House Fiscal Agency
6. House Bill 5438

FINANCIAL IMPACT:

RECOMMENDATION: Review the materials.

PREPARED BY: Warren Rothe, Assistant City Manager

Sec 1 – Purpose

The purpose of this Article is to secure the public health, safety and general welfare of City residents and property owners as well as visitors to the City, by regulating short-term rental properties to prevent nuisances and safety hazards that interfere with City residents' or property owners' rights to conduct normal, daily activities without unreasonable interference and to provide safe and healthy living arrangements for visitors who rent property on a short-term basis.

Sec 2 – Definitions

As used in this Article, the following words and phrases shall have the meanings herein ascribed to them:

- a. *Dwelling* means any house, room, or apartment which is wholly or partly used or intended to be used for living, sleeping, cooking, and eating.
- b. *License* means a short-term rental license issued by the City to the owner of a premises authorized to be used as a short-term rental. No licensee shall acquire by virtue of having been granted a license, a right of automatic renewal, nor shall any licensee have or acquire a property or liberty interest in or expectation of an initial or renewed license. All licenses terminate upon transfer of ownership, and may not be assigned, transferred, or hypothecated, in whole or in part.
- c. *Licensee* means the owner(s) holding a license.
- d. *Maximum Occupancy* means the maximum number of allowable occupants for the premises.
- e. *Nuisance* means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects an individual, or the generation of an excessive or concentrated effects from movement of people or things including but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibration; objectionable effluent; noise from a congregation of people, particularly at night; passing traffic; or invasion of street frontage by traffic generated from an adjacent premises which lacks sufficient parking and vehicle circulation facilities.
- f. *Occupant*. Means a non-owner living in, sleeping in, or otherwise having possession of a premises.
- g. *Owner* means a person holding legal or equitable title to the premises. An owner may designate an agent to perform duties or receive notice under this Chapter.
- h. *Person* means any individual, company, partnership, corporation, limited liability company, trust or other entity having the legal capacity to own or lease real property. For the purpose of this Ordinance, a parent company, holding company, subsidiary, ancillary or auxiliary company or any related entity shall be considered the same entity as their related entities.
- i. *Premises* means real property, and all fixtures and improvements, including the dwelling, located on it.
- j. *Rent or Rental* means to permit, provide for, or offer possession or occupancy of a dwelling on a premises on which the owner does not reside for a period of time to a person who is not the owner, pursuant to a written or unwritten agreement.

- k. *Short-term rental* means the rental or subletting of any dwelling on a premises for a term of 28 days or less.
- l. *Short-term rental, investor-owned* means a premises licensed under this Article that is not the principal residence of the owner, meaning that it is a location where the owner does not reside for at least half the year. If the property has not been issued a principal residence exemption by the City Assessor, there shall be a rebuttal presumption that it is investor-owned for the purposes of this Article.
- m. *Special Event Venue* means the place where a meeting or event of a specific type takes place and/or is held (i.e. – weddings, showers, and other parties/gatherings) that exceed the defined building/room capacity of the dwelling and/or structure.
- n. *Transfer of Ownership* has the meaning ascribed to it by MCL 211.27a or any subsequent sections or statues of the same import.

Sec 3 – License Required

- a. *General Regulations*: It shall be unlawful for any person to offer any premises as a short-term rental or conduct or operate a short-term rental on any premises within the City without a short-term rental license issued by the City.
- b. *Specific Regulations*: Persons seeking to operate a short-term rental must be registered with and licensed by the City prior to the commencement of any short-term rental activity. All short-term rental operations shall comply at all times with the requirements of this Article.

Sec 4 – Exceptions

This Article shall not apply to the following:

- a. *Family Occupancy*. A member of the owner’s family, as well as that family member’s guests, may occupy a premises as long as a member of that family retains ownership of the premises. The family occupancy exemption also exempts family occupancy of guest houses or similarly separate dwellings lawfully located on the same premises, when occupied by family guests, exchange students, visitors, medical caregivers, and child caregivers, without compensation to the owner.
- b. *House sitting*. During the temporary absence of the owner and the owner’s family, the owner may permit non-owner occupancy without remuneration to the owner.
- c. *Dwelling sales*. Occupancy following closing by a prior owner after the sale of a premises for the length of time agreed to by the parties to the dwelling sale agreement.
- d. *Estate representative*. Occupancy by a personal representative, trustee, or guardian (including family members) of the estate of the owner, with or without compensation. The estate shall notify the City of the owner's name, date of death or incapacity, and name of the person occupying the premises.

Sec 5 – Licensing Procedure and Criteria

- a. Application

Applicants for a short-term rental license shall file an application to conduct a short-term rental operation with the city on a form provided by the City for that purpose the application shall include:

1. The name, mailing address, and phone number of the owner(s) of the premises to be licensed.
2. The name, mailing address, and phone number of the applicant if different than the owner.
3. A notarized letter of authorization from the owner to the applicant if the applicant is not the owner of the premises sought to be licensed.
4. A description of the premises proposed to be used for short term rentals, including but not limited to:
 - a. Number of bedrooms
 - b. Number of bathrooms
 - c. Maximum Occupancy
 - d. Tax parcel ID number
5. A non-refundable application fee in an amount set from time to time by resolution of the City Council or its designee. If a license is granted, the application fee will be applied towards payment of the license fee.
6. Written confirmation that the premises owner does not have an ownership interest in more than one premises for which a short-term rental license has been issued or is being sought in the City of Grosse Pointe Park.
7. A statement whether the applicant **and/or property owner** has ever been cited for a violation of this Ordinance or had a short-term rental license revoked.
- 7.8. A nuisance response plan containing the information required by this Ordinance.

All applicants selected to receive a license shall also file with the City prior to the issuance of the license, the following:

1. A licensing fee in an amount set from time to time by the City Council or its designee.
 2. A Cash Bond in the amount of \$1,500.00 which shall be held in escrow by the City while the rental license is active. The bond must be a cash bond in the form of a cashier's check and made payable to the to the City of Grosse Pointe Park. In the event the license is terminated without any finding of a violation under this Ordinance, the bond shall be released to the Licensee in full, without interest. In the event the Licensee is found to be in violation of this Ordinance, the City may declare the cash bond partially forfeited in the amount of the then outstanding violation.
- 2.3. A certificate of general liability insurance coverage issued by an insurance company licensed to do business in the State of Michigan covering the premises and insuring the licensee against risks arising from commercial rental activities on the premises.
- b. Inspections
- a. Upon the selection of a completed license application from the applicant pool, the City will schedule an inspection of the premises with the City Building Inspector. The Building Inspector will visit the premises and assess its fitness and safety for short-term rental operations using the standards contained in this Article and those required to obtain a Certificate of Occupancy pursuant to the City Code. The owner(s) of the premises described in the application shall be the only permitted short-term rental licensee but may designate to the City a local agent for purposes of receiving notices under this Article and shall do so if required by Section 6(b) of this Article.

- b. Each licensed premises shall be inspected annually for the initial three-year license period described in Section 8 of this Article. An inspection fee shall be charged in an amount determined by the City Council from time to time. At the conclusion of the initial license period, inspections for licensed premises shall follow the City's current requirements for registered rental properties.

c. Limits on Issuance of Licenses

The City may issue up to (~~3020~~) short-term rental licenses, under the following conditions:

1. No more than ten (10) licenses may be issued for investor-owned short-term rentals.
2. There must be a 120 feet separation distance between the property lines of each investor-owned short-term rental. This distance shall be measured along the street.
3. Regardless of the number of applicants, no person, including any related entities, may hold more than one license at the same time.
4. Licensees are valid for a period of three (3) years commencing on [REDACTED] following the adoption of this Article, and expiring at midnight on [REDACTED] of the third year following the adoption of this Article. Licenses may be issued at any time, but licenses issued after the first day of the first year of the three-year licensing period will be valid only until the expiration of that licensing period, such that all short-term rental licenses issued by the City will expire at the same time.
5. Licenses which terminate due to revocation by the City, death of the owner, a transfer of ownership of the premises, or any other reason will become available for re-issuance, but will expire at the end of the then three-year licensing period.
6. Licensees will be initially issued on the basis of a blind, random drawing conducted by the City. All complete applications will be included in the pool from which the license selections are made. The City shall set by resolution the due date for License applications to be included in the pool from which the license selections are made. The City shall also set by resolution the date on which the license selection drawing will be conducted. All premises for which a license is drawn from the license application pool shall be inspected before a license is issued pursuant to Section 5-b of this Article. If the City receives more than 30 license applications by the due date, then licenses which become available due to termination or resignation of a license or failure of the premises to pass inspection may be granted on the basis of a blind, random drawing to qualified applicants who applied by the due date and who were not selected in the initial drawing. The City shall consider any license application submitted after the due date on a first-come first-served basis.
7. Licenses are non-renewable, non-transferrable, non-assignable and remain the sole property of the City. Death of licensee who is a natural person, or a transfer of interest of more than fifty percent (50%) or a lesser but controlling interest in a partnership, corporation, limited liability company, trust, or other legal entity that owns the licensed premises, terminates a license immediately.
8. Notwithstanding any other provision of this Article, all licenses expire at the end of the three-year licensing period. If the City chooses to continue issuing short-term rental licenses pursuant to this Article, any person desiring to continue operating a short-term rental must renew their license. Any person desiring to commence operating a short-term rental must apply for a license should the City choose to continue its short-term rental program in order to have the opportunity to obtain a short-term rental license.

Sec 6 – Short-Term Rental Regulations

Premises licensed for short-term rentals under this Article shall comply at all times with all of the following requirements:

- a) No licensee shall advertise a short-term rental unit, unless the advertisement includes the licensee's license number and the maximum occupancy permitted in the unit.
- b) Licensees must be available to receive notices and respond to complaints from neighbors or the City, 24 hours per day, 7 days per week. Licensees who do not reside permanently in Wayne County or who do not maintain a permanent business location in Wayne County shall designate in writing to the City, as part of its application, the name, physical address, phone number(s), fax number (if available) and email address of a local agent. Notwithstanding the local agent's actual authority, the local agent shall be deemed to be the licensee's authorized agent for purposes of serving notice under this Article, including service of a civil infraction citation.
- c) The address of the premises must be prominently displayed inside the main area of the dwelling so that occupants will have it available in case of an emergency,
- d) The licensee's name, address, phone number(s) and email address must be displayed prominently in the main part of the dwelling, along with the name, address, phone number(s), fax number and email address of a designated local agent, if any, and supplied in writing to all persons who rent the premises.
- e) Fire extinguishers, smoke detectors and carbon monoxide detectors adequate for the dwelling, as determined by the City Building Inspector as part of the inspection of the premises, shall be provided, properly mounted and kept fully charged and in good working order at all times. Notwithstanding any inspection by the City building inspector, the fire inspector may inspect any building pursuant to the City Code.
- f) Dwellings may not be sublet by any tenant of the licensee.
- g) Licensee shall provide secure trash receptacles and must make those receptacles accessible by weekly trash removal services for occupants' use. Receptacles must be designed to prevent intrusion by animals and to ensure proper trash removal from the premises. Commercial dumpsters are not allowed on any premises used for short-term rentals.
- h) Licensee must ensure that the premises complies with all applicable parking regulations under the City Code.
- i) All short-term rentals shall be for the purposes of renting as a temporary dwelling only and may not include any commercial activities such as yard sales, festivals, retreats, class reunions, home occupations or similar uses. Short-term rentals shall not be marketed or used as a special event venue.
- j) The number of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of two (2) occupants per bedroom plus two (2) additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Residential Code, or the occupancy limitations set forth in Section 404 of Chapter 4 of the International Property Maintenance Code.

Sec 7 – Licensee Responsibility

The licensee and/or the licensee's local agent shall have the duty to remedy any violations of this Article, or any violation of State law or City Ordinance, by the occupants of a short-term

rental and/or guests of such occupants. For any violation of the foregoing provisions of the City Code, the City may (in addition to other remedies) notify the licensee and/or local agent of such violation by telephone or return receipt email at the phone number and email address posted on the interior notice or supplied in the licensee's application. The licensee and/or local agent shall be considered to have received notice of the violation upon receiving the telephone call or when a return receipt email message is received by the City, whichever is soonest. Upon receiving notice of the violation, the licensee and/or local agent shall ensure that the violation is remedied within two (2) hours of receipt of such notice. Failure to remedy the violation within two (2) hours after receiving notice of the violation, without good cause, shall constitute a material violation of this Article and may subject the licensee to a municipal civil infraction citation and court enforcement proceedings and the penalties imposed by law. Nothing in this Section limits the City or its authorized designee's right or ability to enforce violations of the City Code against occupants.

Sec 8 – Violations and Penalties.

- a. Violation. A violation of this Article is hereby declared to be a public nuisance and a nuisance per se and is declared to be offensive to the public health, safety, and welfare.
- b. Penalties. Any person who violates any provision of this Article shall be responsible for a municipal civil infraction and shall be subject to the penalties or sanctions stated in this subsection, plus the costs of attorney fees of the City in the enforcement. In addition, this Article shall be specifically enforceable by order of the Court to prohibit or enjoin future activities on or about the premises in violation of this Article. Each day this Article is violated shall be considered as a separate violation:
 - a. First and Second Violations: ~~fine of no less than \$250~~ Fine in the amount as established by resolution of the City Council;
 - ~~b. Second Violation: fine of no less than \$500;~~
 - c. b. Third Violation: A fine in the amount as established by resolution of the City Council and the permanent revocation of license. A person whose license has been revoked is ineligible to apply for or receive a license in the future. Appeal from revocation of a short-term license is allowed pursuant to the terms of this section.
- c. Revocation Appeal Procedure. Upon a finding by the City Code Enforcement Officer or his or her Designee of a third violation, the City Code Enforcement Officer or his or her Designee shall prepare or cause to be prepared a written notice specifying the alleged violation and the factual basis for this belief and a statement that the City intends to revoke the license within 14 days.
 - a. The written notice shall inform the licensee of a right to an appeal hearing to show cause as to why the license should not be revoked by filing with the City Clerk a written notice of appeal within 14 days of service of the written notice by the City Code Enforcement Officer or his or her designee.
 - b. If an appeal hearing is requested within 14 days of service of the written notice, the City Clerk shall refer a copy of this notice and the request for appeal hearing to an appeals panel consisting of the City Manager or their designee, Director of Public Safety or their designee, and the Chair of the Planning Commission or their designee. Upon receipt of the written notice and request for appeal, the City Clerk shall confer with the appeals panel to schedule a hearing. The hearing shall be held as soon as practical, but not later than 10 business days after the

filing of the notice of appeal with the City Clerk. The hearing provided for shall be conducted by the appeals panel.

- c. Written notice of the appeal hearing including the time, date, and place of the hearing shall be served on the licensee or the licensee's designated agent either personally or by certified mail, restricted delivery and return receipt requested.
- d. At the hearing, the licensee shall be given an opportunity to present evidence and legal arguments. The licensee may also be represented by an attorney, and the appeals panel may request the assistance of the City Attorney. The appeals panel's decision shall be in writing and shall specify the factual evidence upon which it is based and shall be a final decision. A copy of the appeals panel's written decision shall be provided to the licensee.

Sec 9 – Enforcement

- a. The Code Enforcement Officer or his or her Designee, any police officer having jurisdiction in the City, and other person as may be appointed from time to time by the City Council are hereby designated as the authorized local officials to issue municipal civil infraction citations for violation of this Article.
- b. In addition to enforcing this Article through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Municipal Court to abate or eliminate the nuisance per se or any other violation of this Article.
- c. The remedies provided in this Article are cumulative and the City's exercise of one remedy shall not bar the exercise of other remedies available to it.

Sec 10 – Nuisance Response Plan

- a) Content of Nuisance Response Plans. Each nuisance response plan accompanying an application for a permit required by this Ordinance shall contain the following information and otherwise be in a form required by the City:
 - a. The mailing address and telephone number of the owner or owners of the property to be used as a short-term rental;
 - b. The name, address, and telephone number of the person or persons...
 - c. The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.
 - d. The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this Ordinance, "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the short-term rental within 30 minutes of the initial nuisance complaint.
 - e. The proposed maximum number of overnight occupants, with supporting documentation identifying unusual size, interior layout, parking or other physical characteristics, if any.
 - f. The number of off-street parking spaces and number of bedrooms available at the short-term rental.
- b) Amendment of Nuisance Response Plans. At any time following the issuance of a permit required by this Ordinance, the owner or owners of a short-term rental being operated pursuant to such permit may change the content of the nuisance response plan

approved incident to the issuance of the permit by filing an amended response plan with the Building Department. Such amended response plan shall contain all of the information required by subsection (a) and shall be accompanied by an amended response plan fee in an amount established by resolution of the City Council.

- c) Notice of Nuisance Response Plan. Promptly following the approval and issuance of a permit required by this ordinance, or the approval of an amended response plan in the manner provided for by this ordinance, the Building Department shall cause notice of the availability of the nuisance response plan provided to the City by the permittee to be:
- a. Mailed by first class mail addressed to the owner or occupant of every property, any part of which is located within a 300-foot radius of the property that is to be used and occupied as a short-term rental; and
 - b. Posted on the city's internet website for short-term rental nuisance response plans, so that all such plans are available to all members of the public on the city's website.

Sec 10-11 – Review of short-term rental licensing program

The City Council or its designee shall review the short-term rental program described in this Article by the end of the initial three-year licensing period on the [REDACTED] of the third year following adoption of this Article. If the City Council does not renew the short-term rental licensing program by that date, the provisions of this Article shall expire such that no existing license shall be renewed, and no licenses shall be granted to applicants on the waiting list. No licensee shall acquire by virtue of having been granted a license, a right of automatic renewal, nor shall any licensee have or acquire a property or liberty interest in or expectation of an initial or renewed license.

Sec 1 – Purpose

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 - d. Tax parcel ID number
5. A non-refundable application fee in an amount set from time to time by resolution of the City Council or its designee. If a license is granted, the application fee will be applied towards payment of the license fee.
6. Written confirmation that the premises owner does not have an ownership interest in more than one premises for which a short-term rental license has been issued or is being sought in the City of Grosse Pointe Park.
7. A statement whether the applicant and/or property owner has ever been cited for a violation of this Ordinance or had a short-term rental license revoked.
8. A nuisance response plan containing the information required by this Ordinance.

All applicants selected to receive a license shall also file with the City prior to the issuance of the license, the following:

1. A licensing fee in an amount set from time to time by the City Council or its designee.
 2. A Cash Bond in the amount of \$1,500.00 which shall be held in escrow by the City while the rental license is active. The bond must be a cash bond in the form of a cashier's check and made payable to the to the City of Grosse Pointe Park. In the event the license is terminated without any finding of a violation under this Ordinance, the bond shall be released to the Licensee in full, without interest. In the event the Licensee is found to be in violation of this Ordinance, the City may declare the cash bond partially forfeited in the amount of the then outstanding violation.
 3. A certificate of general liability insurance coverage issued by an insurance company licensed to do business in the State of Michigan covering the premises and insuring the licensee against risks arising from commercial rental activities on the premises.
- b. Inspections
- a. Upon the selection of a completed license application from the applicant pool, the City will schedule an inspection of the premises with the City Building Inspector. The Building Inspector will visit the premises and assess its fitness and safety for short-term rental operations using the standards contained in this Article and those required to obtain a Certificate of Occupancy pursuant to the City Code. The owner(s) of the premises described in the application shall be the only permitted short-term rental licensee but may designate to the City a local agent for purposes of receiving notices under this Article and shall do so if required by Section 6(b) of this Article.

- b. Each licensed premises shall be inspected annually for the initial three-year license period described in Section 8 of this Article. An inspection fee shall be charged in an amount determined by the City Council from time to time. At the conclusion of the initial license period, inspections for licensed premises shall follow the City's current requirements for registered rental properties.

c. Limits on Issuance of Licenses

The City may issue up to (20) short-term rental licenses, under the following conditions:

1. No more than ten (10) licenses may be issued for investor-owned short-term rentals.
2. There must be a 120 feet separation distance between the property lines of each investor-owned short-term rental. This distance shall be measured along the street.
3. Regardless of the number of applicants, no person, including any related entities, may hold more than one license at the same time.
4. Licensees are valid for a period of three (3) years commencing on [REDACTED] following the adoption of this Article, and expiring at midnight on [REDACTED] of the third year following the adoption of this Article. Licenses may be issued at any time, but licenses issued after the first day of the first year of the three-year licensing period will be valid only until the expiration of that licensing period, such that all short-term rental licenses issued by the City will expire at the same time.
5. Licenses which terminate due to revocation by the City, death of the owner, a transfer of ownership of the premises, or any other reason will become available for re-issuance, but will expire at the end of the then three-year licensing period.
6. Licensees will be initially issued on the basis of a blind, random drawing conducted by the City. All complete applications will be included in the pool from which the license selections are made. The City shall set by resolution the due date for License applications to be included in the pool from which the license selections are made. The City shall also set by resolution the date on which the license selection drawing will be conducted. All premises for which a license is drawn from the license application pool shall be inspected before a license is issued pursuant to Section 5-b of this Article. If the City receives more than 30 license applications by the due date, then licenses which become available due to termination or resignation of a license or failure of the premises to pass inspection may be granted on the basis of a blind, random drawing to qualified applicants who applied by the due date and who were not selected in the initial drawing. The City shall consider any license application submitted after the due date on a first-come first-served basis.
7. Licenses are non-renewable, non-transferrable, non-assignable and remain the sole property of the City. Death of licensee who is a natural person, or a transfer of interest of more than fifty percent (50%) or a lesser but controlling interest in a partnership, corporation, limited liability company, trust, or other legal entity that owns the licensed premises, terminates a license immediately.
8. Notwithstanding any other provision of this Article, all licenses expire at the end of the three-year licensing period. If the City chooses to continue issuing short-term rental licenses pursuant to this Article, any person desiring to continue operating a short-term rental must renew their license. Any person desiring to commence operating a short-term rental must apply for a license should the City choose to continue its short-term rental program in order to have the opportunity to obtain a short-term rental license.

Sec 6 – Short-Term Rental Regulations

Premises licensed for short-term rentals under this Article shall comply at all times with all of the following requirements:

- a) No licensee shall advertise a short-term rental unit, unless the advertisement includes the licensee's license number and the maximum occupancy permitted in the unit.
- b) Licensees must be available to receive notices and respond to complaints from neighbors or the City, 24 hours per day, 7 days per week. Licensees who do not reside permanently in Wayne County or who do not maintain a permanent business location in Wayne County shall designate in writing to the City, as part of its application, the name, physical address, phone number(s), fax number (if available) and email address of a local agent. Notwithstanding the local agent's actual authority, the local agent shall be deemed to be the licensee's authorized agent for purposes of serving notice under this Article, including service of a civil infraction citation.
- c) The address of the premises must be prominently displayed inside the main area of the dwelling so that occupants will have it available in case of an emergency,
- d) The licensee's name, address, phone number(s) and email address must be displayed prominently in the main part of the dwelling, along with the name, address, phone number(s), fax number and email address of a designated local agent, if any, and supplied in writing to all persons who rent the premises.
- e) Fire extinguishers, smoke detectors and carbon monoxide detectors adequate for the dwelling, as determined by the City Building Inspector as part of the inspection of the premises, shall be provided, properly mounted and kept fully charged and in good working order at all times. Notwithstanding any inspection by the City building inspector, the fire inspector may inspect any building pursuant to the City Code.
- f) Dwellings may not be sublet by any tenant of the licensee.
- g) Licensee shall provide secure trash receptacles and must make those receptacles accessible by weekly trash removal services for occupants' use. Receptacles must be designed to prevent intrusion by animals and to ensure proper trash removal from the premises. Commercial dumpsters are not allowed on any premises used for short-term rentals.
- h) Licensee must ensure that the premises complies with all applicable parking regulations under the City Code.
- i) All short-term rentals shall be for the purposes of renting as a temporary dwelling only and may not include any commercial activities such as yard sales, festivals, retreats, class reunions, home occupations or similar uses. Short-term rentals shall not be marketed or used as a special event venue.
- j) The number of occupants in a dwelling unit during a short-term rental shall not exceed the lesser of two (2) occupants per bedroom plus two (2) additional occupants per finished story meeting the applicable egress requirements for occupancy in the Michigan Residential Code, or the occupancy limitations set forth in Section 404 of Chapter 4 of the International Property Maintenance Code.

Sec 7 – Licensee Responsibility

The licensee and/or the licensee's local agent shall have the duty to remedy any violations of this Article, or any violation of State law or City Ordinance, by the occupants of a short-term rental and/or guests of such occupants. For any violation of the foregoing provisions of the City

Code, the City may (in addition to other remedies) notify the licensee and/or local agent of such violation by telephone or return receipt email at the phone number and email address posted on the interior notice or supplied in the licensee's application. The licensee and/or local agent shall be considered to have received notice of the violation upon receiving the telephone call or when a return receipt email message is received by the City, whichever is soonest. Upon receiving notice of the violation, the licensee and/or local agent shall ensure that the violation is remedied within two (2) hours of receipt of such notice. Failure to remedy the violation within two (2) hours after receiving notice of the violation, without good cause, shall constitute a material violation of this Article and may subject the licensee to a municipal civil infraction citation and court enforcement proceedings and the penalties imposed by law. Nothing in this Section limits the City or its authorized designee's right or ability to enforce violations of the City Code against occupants.

Sec 8 – Violations and Penalties.

- a. Violation. A violation of this Article is hereby declared to be a public nuisance and a nuisance per se and is declared to be offensive to the public health, safety, and welfare.
- b. Penalties. Any person who violates any provision of this Article shall be responsible for a municipal civil infraction and shall be subject to the penalties or sanctions stated in this subsection, plus the costs of attorney fees of the City in the enforcement. In addition, this Article shall be specifically enforceable by order of the Court to prohibit or enjoin future activities on or about the premises in violation of this Article. Each day this Article is violated shall be considered as a separate violation:
 - a. First and Second Violations: Fine in the amount as established by resolution of the City Council;
 - b. Third Violation: A fine in the amount as established by resolution of the City Council and the permanent revocation of license. A person whose license has been revoked is ineligible to apply for or receive a license in the future. Appeal from revocation of a short-term license is allowed pursuant to the terms of this section.
- c. Revocation Appeal Procedure. Upon a finding by the City Code Enforcement Officer or his or her Designee of a third violation, the City Code Enforcement Officer or his or her Designee shall prepare or cause to be prepared a written notice specifying the alleged violation and the factual basis for this belief and a statement that the City intends to revoke the license within 14 days.
 - a. The written notice shall inform the licensee of a right to an appeal hearing to show cause as to why the license should not be revoked by filing with the City Clerk a written notice of appeal within 14 days of service of the written notice by the City Code Enforcement Officer or his or her designee.
 - b. If an appeal hearing is requested within 14 days of service of the written notice, the City Clerk shall refer a copy of this notice and the request for appeal hearing to an appeals panel consisting of the City Manager or their designee, Director of Public Safety or their designee, and the Chair of the Planning Commission or their designee. Upon receipt of the written notice and request for appeal, the City Clerk shall confer with the appeals panel to schedule a hearing. The hearing shall be held as soon as practical, but not later than 10 business days after the filing of the notice of appeal with the City Clerk. The hearing provided for shall be conducted by the appeals panel.

- c. Written notice of the appeal hearing including the time, date, and place of the hearing shall be served on the license or the licensee's designated agent either personally or by certified mail, restricted delivery and return receipt requested.
- d. At the hearing, the licensee shall be given an opportunity to present evidence and legal arguments. The licensee may also be represented by an attorney, and the appeals panel may request the assistance of the City Attorney. The appeals panel's decision shall be in writing and shall specify the factual evidence upon which it is based and shall be a final decision. A copy of the appeals panel's written decision shall be provided to the licensee.

Sec 9 – Enforcement

- a. The Code Enforcement Officer or his or her Designee, any police officer having jurisdiction in the City, and other person as may be appointed from time to time by the City Council are hereby designated as the authorized local officials to issue municipal civil infraction citations for violation of this Article.
- b. In addition to enforcing this Article through the use of a municipal civil infraction proceeding, the City may initiate proceedings in the Municipal Court to abate or eliminate the nuisance per se or any other violation of this Article.
- c. The remedies provided in this Article are cumulative and the City's exercise of one remedy shall not bar the exercise of other remedies available to it.

Sec 10 – Nuisance Response Plan

- a) Content of Nuisance Response Plans. Each nuisance response plan accompanying an application for a permit required by this Ordinance shall contain the following information and otherwise be in a form required by the City:
 - a. The mailing address and telephone number of the owner or owners of the property to be used as a short-term rental;
 - b. The name, address, and telephone number of the person or persons...
 - c. The manner of responding to or causing a response to a nuisance complaint, including but not limited to the manner in which the complainant or complainants will be notified of the response and the method of documenting prompt responses and timely corrective action.
 - d. The manner of assuring timely corrective action to remedy the conditions that caused the nuisance complaint. For the purposes of this Ordinance, "timely corrective action" shall include, at a minimum, a telephone call to the primary adult occupant of the short-term rental within 30 minutes of the initial nuisance complaint.
 - e. The proposed maximum number of overnight occupants, with supporting documentation identifying unusual size, interior layout, parking or other physical characteristics, if any.
 - f. The number of off-street parking spaces and number of bedrooms available at the short-term rental.
- b) Amendment of Nuisance Response Plans. At any time following the issuance of a permit required by this Ordinance, the owner or owners of a short-term rental being operated pursuant to such permit may change the content of the nuisance response plan approved incident to the issuance of the permit by filing an amended response plan with the Building Department. Such amended response plan shall contain all of the

information required by subsection (a) and shall be accompanied by an amended response plan fee in an amount established by resolution of the City Council.

- c) Notice of Nuisance Response Plan. Promptly following the approval and issuance of a permit required by this ordinance, or the approval of an amended response plan in the manner provided for by this ordinance, the Building Department shall cause notice of the availability of the nuisance response plan provided to the City by the permittee to be:
- a. Mailed by first class mail addressed to the owner or occupant of every property, any part of which is located within a 300-foot radius of the property that is to be used and occupied as a short-term rental; and
 - b. Posted on the city's internet website for short-term rental nuisance response plans, so that all such plans are available to all members of the public on the city's website.

Sec 11 – Review of short-term rental licensing program

The City Council or its designee shall review the short-term rental program described in this Article by the end of the initial three-year licensing period on the [REDACTED] of the third year following adoption of this Article. If the City Council does not renew the short-term rental licensing program by that date, the provisions of this Article shall expire such that no existing license shall be renewed, and no licenses shall be granted to applicants on the waiting list. No licensee shall acquire by virtue of having been granted a license, a right of automatic renewal, nor shall any licensee have or acquire a property or liberty interest in or expectation of an initial or renewed license.

Proposed Zoning Ordinance Short-Term Rental Regulations

Only allowed as a special land use in the following zoning districts. See [map](#) for specific locations.

- NMU: Neighborhood Mixed Use
- CMU: Corridor Mixed Use
- CBD: Central Business District
- NR-3: Neighborhood Residential 3
- NR-2 Overlay Zone

Standards for Special Land Uses – See Article 10 of Zoning Ordinance Draft for full regulations.

1. **Compatible with Adjacent Uses and Improvement to the Community.** The proposed use must be compatible with the adjacent uses and an improvement to the community. In determining whether this requirement has been met, consideration shall be given to location and screening of vehicular circulation and parking; location and screening or outdoor storage; hours of operation, bulk and placement of proposed structures in relation to surrounding uses, proposed landscaping and other site amenities.
2. **Consistent with Master Plan.** The proposed use must be consistent with the goals and vision of the Master Plan and any other strategic plans relevant to the area.
3. **Adequately Served by Essential Public Facilities.** The proposed use must be in a place that is served by essential public facilities and services. Is this Special Land Use located so as to be adequately served by essential public facilities, such as highways, streets, police, water and sewage, etc.?
4. **Impact on Pedestrian and Vehicle Traffic.** The proposed use must minimize the impact of the traffic generated by proposed use on surroundings uses. Does the location of the proposed Special Land Use within the zoning district minimize the impact of the traffic generated by the proposed use? Consider, proximity and access to major thoroughfares, estimated traffic generated by proposed use, proximity and relation to intersection, adequacy of driver sight distances, location of and access to off -street parking, required vehicular turning movements and provision for pedestrian traffic.
5. **Protect Health, Safety, and Welfare of Community from Nuisances.** The proposed use must not generate activities that are detrimental to the public health, safety, and welfare. Are there any detrimental effects or nuisances involved in the Special Land Use and how are these nuisances mitigated? Consider production of traffic, noise, vibration, smoke, fumes, odor, dust, glare, light, etc.
6. **Consistent with Zoning Ordinance and Intent of the Zoning District.** The use must be consistent and promote the intent and purpose of the Zoning Ordinance and the zoning district. Explain how this application for Special Land Use approval meets all specific criteria and design standards for the specific use outlined in the Zoning Ordinance.

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Short-Term Rental (STR) Regulation Act Introduced

Posted on February 28, 2024 by Jennifer Rigterink

It has been almost seven years of playing defense on the short-term rental issue. The first bill was introduced in April 2017. It was a preemption amendment to the Michigan Zoning Enabling Act. Legislators were told by proponents it was needed because municipalities across the state were banning STRs.

We've had over six years of pushing back on attempts to remove local decision-making on the regulation of short-term vacation rentals in our communities. With every attempt to preempt local control, we've provided workable alternatives to no avail.

1. This is **not** a preemption amendment to the Michigan Zoning Enabling Act!
2. Local units of government maintain authority to regulate short-term rentals.
3. An opt-in statewide excise tax is created (6% of the STR occupancy rate) and proceeds will be distributed to the local unit of government in which the STR is located.

HB 5438 provides many of the things we've pushed for in previous bills on this topic. It protects neighborhoods from an oversaturation of STRs. It allows communities to balance their housing needs for residents and businesses as well as visitors, and it provides some revenue to deal with the costs associated with being a destination place with an influx of visitors throughout the year.

The bill has been referred to the [House Committee on Local Government and Municipal Finance](#). We anticipate a hearing on the bill in the next few weeks. We will continue to provide updates on Live with the League, at CapCon, and additional blogs as things progress.

Jennifer Rigterink is the League's assistant director of state and federal affairs handling economic development, land use, and municipal services issues. She can be reached at jrigterink@mml.org.

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Legislative Analysis



SHORT-TERM RENTALS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5437 as introduced
Sponsor: Rep. Jason Morgan

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5438 (proposed substitute H-1)
Sponsor: Rep. Joey Andrews

House Bill 5439 as introduced
Sponsor: Rep. Amos O’Neal

House Bill 5443 (proposed substitute H-2)
Sponsor: Rep. Mike McFall

House Bill 5440 as introduced
Sponsor: Rep. Jenn Hill

House Bill 5444 as introduced
Sponsor: Rep. Veronica A. Paiz

House Bill 5441 as introduced
Sponsor: Rep. Julie Brixie

House Bill 5445 as introduced
Sponsor: Rep. Noah Arbit

House Bill 5442 as introduced
Sponsor: Rep. Erin Byrnes

House Bill 5446 as introduced
Sponsor: Rep. Kristian C. Grant

Committee: Local Government and Municipal Finance
Complete to 4-17-24

SUMMARY:

Together, House Bills 5437 to 5446 would regulate and levy assessments on short-term rental facilities in Michigan. House Bill 5438 would create a new act specifically pertaining to short-term rentals, and the remaining bills would subject short-term rental facilities to the various taxes currently levied on hotel rooms.

House Bills 5437 and 5439 to 5446 are tie-barred to House Bill 5438, meaning that none of those bills can take effect unless HB 5438 is also enacted.

SHORT-TERM RENTAL REGULATION ACT

House Bill 5438 would create the “Short-Term Rental Regulation Act.” The new act would create several regulations for a property offered as a *short-term rental*, including safety and insurance standards, a requirement that a property offered as a short-term rental be registered with the Michigan Department of Licensing and Regulatory Affairs (LARA) and included in a short-term rental database, provisions allowing for limited local regulations on short-term rentals, and additional fees and requirements for rentals listed on a *hosting platform*. It would also establish a 6% tax for units rented 15 or more days in a year. The bill would take effect 60 days after it is enacted.

Short-term rental would mean the rental of a single-family residence, a dwelling unit in a one-to-four-family house, or a unit or group of units in a condominium for up to 30 consecutive days. Short-term rental would *not* include the rental of a hotel, motel,

hotel condominium,¹ home, or condominium unit located within a resort that offers amenities such as golf, a skiing restaurant facility, or group meeting accommodation.

Hosting platform would mean a digital platform, third-party website, software, online-enabled application, mobile telephone application, or another similar electronic process that allows for all of the following for a short-term rental located in Michigan:

- The advertisement, listing, or offer of the short-term rental as available.
- The collection of occupancy charges.
- The arranging, booking, reserving, or renting of the short-term rental.

Facility requirements

An owner could not offer a dwelling as a short-term rental unless it is equipped with a functioning carbon monoxide detector,² a functioning smoke detector in each sleeping room, and a functioning fire extinguisher on each floor.

Short-term rental owners would be required to maintain liability insurance of at least \$1.0 million on each unit offered for rent that defends and indemnifies the owner and any tenants for bodily injury and property damage. (This provision would not apply to short-term rentals offered through a hosting platform that maintains equal or greater insurance coverage.)

An owner of a short-term rental would have to post the following information in a conspicuous place in every room of the dwelling and as a single form in every bedroom:

- The owner's emergency contact and a working phone number.
- Information regarding local emergency services, including a working phone number for the local police and fire departments.
- The floor plan and escape routes.

Registration and short-term rental database

LARA would have to create a certificate to be filed by an owner of a dwelling each year they offer the dwelling as a short-term rental that contains the following information:

- The name, current phone number, email, and address of the owner of the short-term rental.
- The address of the short-term rental.
- Certification that the owner has the required liability insurance.
- Emergency contact information for a person who resides within 30 miles of the dwelling.
- Certification that the owner has complied with all applicable local requirements.

A hosting platform would be prohibited from facilitating **booking transactions** for a short-term rental located in Michigan if the owner has not received a certificate approval number from LARA acknowledging that the certificate has been reviewed.

Booking transaction would mean a hosting platform's facilitation of a short-term rental transaction for compensation by enabling the reservation of a short-term rental or by collecting or processing occupancy charges.

¹ *Hotel condominium* would mean a group of units in a condominium or condominium projects rented by a common rental management company for transient rental that may include a reception or check-in desk.

² The carbon monoxide detector could be battery-powered, plugged in, wired into the property's AC line with secondary battery backup, or connected to a system through a control panel.

LARA would have to create, operate, and annually update a database of short-term rentals that includes the information listed above, and the LARA director would have to prescribe any forms necessary for the administration of the database. (The department could contract with a third party to create the database.)

Upon lawful request, LARA would be required to share the information in the database for a short-term rental with the local unit of government (defined by the act as a city, township, or village) in which the dwelling is located, law enforcement agencies, and members of the public. In sharing the information, LARA would also have to report the number of complaints received against an owner for a violation of the Short-Term Rental Regulation Act and the action taken in response to the complaint.

If a local unit of government revokes a short-term rental's permit for a violation of a local or zoning ordinance, LARA would have to remove it from the database.

Hosting platforms

The bill would require hosting platforms to have a current and valid registration on file with LARA and pay an annual registration fee of \$100 per listing (up to \$50,000) in order to facilitate booking transactions for a short-term rental located in Michigan.

LARA would have to issue a registration number to each hosting platform that meets the requirements of the Short-Term Rental Regulation Act, pays the registration fee, and agrees in writing to obtain written consent from all short-term rental owners in Michigan for the disclosure of any required records and to remove from its listing a short-term rental that does not comply with the act or reasonable local regulations.

Unless prohibited by a contrary law or administrative action, a hosting platform would have to develop and maintain a report of the booking transactions it facilitates for short-term rentals in Michigan, which would have to include the following records for each transaction:

- The full address of the short-term rental.
- The full legal name of the owner.
- As applicable, a current and valid permit, license, registration, or other related authorization issued by the local unit of government in which the rental is located for the dwelling's use as a short-term rental.
- The calendar dates that the short-term rental was rented.
- The nightly rate for the rental and any taxes or assessments collected.
- The hosting platform's compensation for facilitating the booking.

(The state treasurer would be responsible for establishing the form and manner of the report and could require a hosting platform to include any additional information necessary to enforce payment of the short-term rental excise tax, described below.)

Subject to any applicable laws, hosting platforms would have to provide the state treasurer with monthly itemized records from the report for all booking transactions facilitated in the preceding month. A hosting platform would also have to make the full report (excluding copies of message exchanges between the hosting platform, the short-term rental owner, guests, or other persons who booked the rental) available to LARA upon the LARA director's request.

The itemized records within the report would have to be maintained by the hosting platform for at least three years after the end of the calendar year in which a booking occurred.

LARA could audit a hosting platform's report and itemized records as necessary.

Short-term rental excise tax

The act would levy an excise tax, known as the "short-term rental excise tax," at 6% of the *occupancy charge* for all short-term rentals in Michigan that are rented for more than 14 days in a calendar year. The tax would be collected in the same manner and at the same time as use taxes and would be in addition to any other taxes, fees, or assessments imposed by law, including any hotel taxes.

Occupancy charge would mean the charge imposed for the use or occupancy of a short-term rental, including cleaning and service fees.³ The term would *not* include charges for food, beverage, state use or excise taxes, telephone service, or a damage deposit or damage insurance.

The state treasurer would administer the tax and would have to provide forms and promulgate rules as necessary. Proceeds would be deposited in the state treasury and credited to a restricted account.

Upon appropriation, 1% of the revenue would be distributed to LARA and the Department of Treasury for the administration of the act, up to \$1.0 million. The remaining amount collected from each short-term rental would be distributed to the local unit of government in which the rental is located.

An owner of a short-term rental could add the tax to the rental's occupancy charge for a listing facilitated by a hosting platform as long as the owner discloses the addition of the tax on the guest's bill or receipt.

Local regulations

With respect to short-term rentals, a local unit of government could enact and enforce reasonable regulations and uphold zoning decisions that do any of the following:

- Safeguard the public health, safety, and welfare (including providing for fire safety standards and blight mitigation).
- Determine the number of units allowed to be used as short-term rentals, including geographical restrictions, and establish a process by which this number could be adjusted.
- Establish a process by which the local unit of government could revoke a short-term rental permit and by which a revocation could be challenged.

A local unit of government would be authorized to revoke a short-term rental's permit for a violation of a local ordinance or a zoning ordinance. However, a local unit of government could not enforce an ordinance, rule, or regulation (including a zoning ordinance) that has the effect of a total ban on short-term rentals and violates section 207 of the Zoning Enabling Act.⁴

³ The occupancy charge would be the basis for the assessments imposed on short-term rentals under House Bills 5437 and 5439 to 5446.

⁴ Section 207 provides that a local zoning ordinance or zoning decision generally cannot totally prohibit a lawful land use within a local unit of government if there is a demonstrated need for that land use in the local unit or surrounding area.

When applicable, a hosting platform would be prohibited from facilitating booking transactions for a short-term rental in Michigan if the rental and its owner do not have current and valid authorization and registration from a local unit of government for the property's use as a short-term rental.

Penalties and LARA administration

For each violation of the act, LARA could order a short-term rental owner to pay a fine of up to \$1,000 and a hosting platform to pay a fine of up to \$5,000. Fines would be transmitted to the local unit of government where the short-term rental is located.

LARA would have to adopt rules and enforce standards for the issuance, renewal, suspension, revocation, and appeal of hosting platform registrations, as well as standards for service of process, notice, and demand.

COMPANION BILLS

House Bills 5437 and 5439 to 5446 would amend nine different acts, each of which generally allows an assessment to be levied on hotel or motel *room charges* to fund the tourism promotion efforts of a local or regional tourism bureau or marketing organization (often called a convention and visitor bureau, or CVB).⁵ Owners of these facilities can pass the assessment on to guests as an additional room charge if they notify the guests that they are doing so. The bills would extend the assessments to short-term rentals, reduce the minimum number of rooms required for a facility to be subject to the taxes, and make other related changes.

Room charge currently means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, phone service or like services, and reimbursement of the assessment (i.e., adding the assessment to customers' bills).⁶

The bills would amend the following acts:

- **House Bill 5437:** 1991 PA 180 (MCL 207.751 to 207.759), which allows an assessment of up to 1% on rooms in facilities in certain eligible cities and counties.
- **House Bill 5439:** The Regional Convention and Tourism Promotion Act (2010 PA 254; MCL 141.1431 to 141.1437), which allows an assessment of up to 5% on rooms in facilities with two or more guest rooms in Bay or Midland County.
- **House Bill 5440:** The Regional Tourism Marketing Act (1989 PA 244; MCL 141.891 to 141.900), which allows an assessment of up to 1% on rooms in facilities with 10 or more guest rooms in the Upper Peninsula.
- **House Bill 5441:** The Community Convention or Tourism Marketing Act (1980 PA 395; MCL 141.871 to 141.880), which allows an assessment of up to 5% on rooms in facilities with 10 or more guest rooms in counties with a population below 650,000 or in cities, villages, or townships within such a county, except for some areas subject to an assessment under the Convention and Tourism Marketing Act.
- **House Bill 5442:** The State Convention Facility Development Act (1985 PA 106; MCL 207.621 to 207.640), which allows an assessment of between 1.5% and 6%, based on

⁵ 1991 PA 180 (which HB 5437 would amend) provides for an assessment on these facilities to fund stadiums and convention centers, which is collected by a local government rather than a CVB.

⁶ The accommodations tax act (which HB 5443 would amend) instead refers to a "total charge for accommodations."

the number of rooms and the location of the facility, in counties with a population exceeding 700,000.

- **House Bill 5443:** The accommodations tax act (1974 PA 263; MCL 141.861 to 141.867), which allows an assessment of up to 8% on rooms in facilities in a county with a population of less than 600,000 that contains a city with a population of at least 40,000 at the time it enacts the assessment and allows an additional assessment of up to 2% on rooms in facilities in Kent County.
- **House Bill 5444:** The Regional Event Center Financing Act (2020 PA 340; MCL 141.1441 to 141.1445), which allows an assessment of up to 4% on rooms in facilities with 35 or more guest rooms in Ingham, Kalamazoo, Muskegon, and Washtenaw Counties.
- **House Bill 5445:** The Convention and Tourism Marketing Act (1980 PA 383; MCL 141.881 to 141.889), which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in Wayne County or a contiguous county.
- **House Bill 5446:** The Convention and Tourism Promotion Act (2007 PA 25; MCL 141.1321 to 141.1328), which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in the greater Grand Rapids area or greater Lansing area.

[Note: These assessments are not necessarily mutually exclusive—the 1% allowed under the Regional Tourism Marketing Act, for example, may be levied in addition to a local assessment under the Community Convention or Tourism Marketing Act.]

Broadly speaking, each act allows a CVB or local government to initiate an assessment district by filing notice of a proposed marketing program with the state for approval and sending notice to each owner of a *transient facility* (generally, a hotel or motel meeting the applicable size threshold) in the proposed district. A referendum of facility owners (one vote per room) is held on the question of whether to establish the assessment district and implement the assessment. The assessment revenue collected under each act is not state money, but belongs to the tourism bureau or marketing organization, to be used to implement the marketing program.

In addition to subjecting short-term rentals and other smaller facilities to the assessments, the bills would make the following changes:

- For a short-term rental, *room charge* would mean the occupancy charge, as defined in the Short-Term Rental Regulation Act, for the rental.⁷ (The definition of *room* would also be amended to include a dwelling used as a short-term rental.)
- Revenue from the assessments could be used (generally as part of a CVB’s marketing program) for housing activities or provisions or programs to assist with or provide child care. (Under House Bills 5439, 5440, 5441, and 5446, a marketing program could also include provisions clarifying the assessment on room charges for short-term rentals.)
- An entity initiating an assessment district must file a notice of a proposed marketing program with the state for approval and send notice to each owner of a transient facility in the proposed district. The CVB (or municipality, under HB 5444) can use any data reasonably available to compile the list of recipients, which the bills would specify includes the short-term rental database that would be created by the Short-Term Rental Regulation Act.⁸

⁷ For House Bill 5443, the total charge for accommodations would mean the occupancy charge.

⁸ This provision would not apply to HBs 5437, 5442, and 5443.

- For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room.⁹

Specific provisions for each bill are described below.

House Bill 5437 would amend 1991 PA 180, an act that allows for the financing of sports stadiums and convention facilities in certain municipalities, to include short-term rentals.

1991 PA 180 allows certain counties or municipalities within counties to levy, with voter approval, an excise tax of up to 1% on restaurants and bars, up to 2% on vehicle rentals, and up to 1% on hotel and motel rooms, with the revenues to fund construction of convention facilities or sports or entertainment facilities. The act currently applies to Wayne County, Kent County and Grand Rapids, Muskegon County and the city of Muskegon, Ingham County and Lansing, Oakland County and Pontiac, and Kalamazoo County and the city of Kalamazoo.

Accommodations tax

The hotel-motel excise tax authorized by the act is based on the gross receipts from the charges imposed by a business subject to the tax for accommodations provided to transient guests (guests who occupy an accommodation for less than 30 consecutive days), excluding charges imposed as reimbursement for the tax levied under the State Convention Facility Development Act or assessments imposed under the Convention and Tourism Marketing Act, the Regional Tourism Marketing Act, and the Community Convention or Tourism Marketing Act.

House Bill 5437 would extend the 1% tax on hotel and motel rooms to short-term rental facilities. (The definition of *accommodations* would also be amended to include a dwelling offered as a short-term rental.¹⁰) It would also specify that for a short-term rental, the charge imposed for the use or occupancy of accommodations is the occupancy charge.

Authorized uses

Revenues from the taxes levied under the act are deposited in a special fund to be used by eligible municipalities for the following purposes in the following order of priority:

- Costs borne for the election in which the ordinance establishing the tax was approved by voters and in the administration and enforcement of the ordinance.
- Costs associated with the acquisition, construction, improvement, or enlargement of a stadium or convention facility and the costs of current or future rent payments for the facility.
- Costs associated with the clearance and improvement of land for assembly and development purposes (to the extent not needed for purposes listed above or to maintain a reserve for those purposes in future years).

Under the bill, housing activities and programs to assist with or provide child care would be added to this list of allowable uses of the tax revenue at the third tier.

MCL 207.751 et seq.

⁹ This would not apply to HBs 5437, 5442, and 5443, which do not provide for a referendum on an excise tax.

¹⁰ *Accommodations* currently means the room or other space provided for sleeping, including furnishings and other accessories, in a facility that is not a hospital, nursing home, emergency shelter, community mental health or substance abuse treatment facility, or campground.

House Bill 5439 would amend the Regional Convention and Tourism Promotion Act, which allows an assessment of up to 5% on rooms in facilities with two or more guest rooms in Bay or Midland County. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Regional Convention and Tourism Promotion Act allows a nonprofit convention and tourism bureau to levy an assessment on *transient facilities* of up to 5% of the room charge to support marketing and promotion programs. The assessment can be levied in counties with a population greater than 80,000 and less than 115,000 that contain a city with a population greater than 35,000 and less than 45,000 and that border a county that levies a tax under the accommodations tax act. (Bay County and Midland County are the only counties that meet these requirements.)

Transient facility currently means a building other than a hospital or nursing home that contains *two or more* rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for the use of the rooms.

Under the bill, *transient facility* would mean such buildings containing *one or more* rooms for those purposes, in addition to a dwelling offered as a short-term rental. (The definition of **room** would also be amended to include a dwelling offered as a short-term rental.)

Marketing program notice

A convention and tourism bureau must file a marketing program notice with the director of the Michigan Economic Development Corporation (MEDC) that describes the structure, history, membership, and activities of the bureau, and each owner of a transient facility located in the proposed assessment district must receive a copy. The bureau can use any data reasonably available to compile the list of recipients, which House Bill 5439 would specify includes the short-term rental database that would be created by Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5439, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide childcare, or provisions clarifying the assessment on room charges for short-term rentals as part of the marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request or to terminate an assessment, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.1432 et seq.

House Bill 5440 would amend the Regional Tourism Marketing Act, which allows an assessment of up to 1% on rooms in facilities with 10 or more guest rooms in the Upper Peninsula. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Regional Tourism Marketing Act allows a regional marketing organization to levy an assessment on *transient facilities* of up to 1% of the room charge to support marketing and promotion programs.

Transient facility generally means a building or combination of buildings under common ownership, operation, or management that contains *10 or more* rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for use of the rooms.

House Bill 5440 would amend the definition of *transient facility* to mean such facilities containing *one or more* rooms and to include a dwelling offered as a short-term rental.¹¹

Exempt facilities

An owner of a building or combination of buildings within a regional assessment district that otherwise qualifies as a transient facility but has fewer than 10 rooms or is located within one mile of a ski lift can agree in writing to join the tourism marketing program and be subject to the assessment. Such facilities are considered transient facilities for the purposes of the act, but owners are not eligible to vote in the referendum on the program.

House Bill 5440 would remove the 10-room maximum (these would be considered transient facilities under the bill) and would provide that a building, combination of buildings, or dwelling within a regional assessment district that is located within one mile of a ski lift and otherwise meets the definition of a transient facility is an *exempt facility* that can participate in the program without voting powers.

Program notice

A regional marketing organization must file a tourism marketing program notice with the president of the Michigan Strategic Fund that describes the structure, membership, and activities of the organization, and each owner of a transient facility located in the proposed assessment district must receive a copy. The organization can use any information reasonably available to compile the list of recipients; HB 5440 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5440, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide child care, or provisions clarifying the assessment on room charges for short-term rentals as part of the tourism marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at

¹¹ House Bill 5440 would also remove a provision referencing exempt facilities that have fewer than 10 rooms or are located within one mile of a ski lift to reflect other changes made by the bill, as described below.

least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request or to terminate an assessment, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.892 et seq.

House Bill 5441 would amend the Community Convention or Tourism Marketing Act, which allows an assessment of up to 5% on rooms in facilities with 10 or more guest rooms in certain counties. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Community Convention or Tourism Marketing Act allows a nonprofit convention and tourism bureau to levy an assessment on *transient facilities* of up to 5% of the room charge to support marketing and promotion programs. The assessment can be levied in counties with a population below 650,000 or in cities, villages, or townships within such a county, except for some areas subject to an assessment under another act. (Wayne, Oakland, Macomb, and Kent are the only Michigan counties with a population greater than 650,000.)

Transient facility generally means a building or combination of buildings under common ownership, operation, or management that contains *10 or more* rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for use of the rooms. (The term does not include a college or school dormitory, a hospital or nursing home, or a facility owned and operated by an organization exempt from federal taxation under section 501(c) of the Internal Revenue Code.)

House Bill 5441 would amend the definition of *transient facility* to mean such facilities containing *one or more* rooms and to include a dwelling offered as a short-term rental.¹²

The bill would also repeal section 9 of the act, which allows an owner of a building or combination of buildings within an assessment district that otherwise qualifies as a transient facility but has fewer than 10 guest rooms to agree in writing to join the marketing program and be subject to the assessment. (Since these facilities would be considered transient facilities under the bill, this section would no longer be necessary.)

Program notice

A tourism or convention bureau must file a marketing program notice with the president of the Michigan Strategic Fund that describes the structure, membership, and activities of the bureau, and each owner of a transient facility located in the proposed assessment district must receive a copy. The organization can use any information reasonably available to compile the list of recipients; HB 5441 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

¹² House Bill 5441 would also remove a provision referencing exempt facilities that have fewer than 10 rooms or are located within one mile of a ski lift to reflect other changes made by the bill, as described below.

Revenue uses

Under House Bill 5441, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide child care, or provisions clarifying the assessment on room charges for short-term rentals as part of the marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request or to terminate an assessment, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.872 et seq.

House Bill 5442 would amend the State Convention Facility Development Act, which imposes an excise tax on any person engaged in the business of providing accommodations to transient guests in a **convention hotel**. The act imposes a tax of 1.5% of the room charge on convention hotels with up to 160 rooms (3% in Detroit) and 5% on convention hotels with more than 160 rooms (6% in Detroit). The revenue from this tax is deposited in the Convention Facility Development Fund with collections from certain other sources. The bill would allow the assessment to be levied on short-term rentals and hotels with one or more guest rooms.

Convention hotel means a facility used in the business of providing accommodations that has *more than 80 rooms* for providing accommodations to transient guests and that complies with both of the following:

- It is located within a county with a population of 700,000 or more according to the most recent decennial census.
- It is located within a county that is either or both of the following:
 - A county that has a convention facility with 350,000 square feet or more of total exhibit space.
 - A county that has 2,000 or more rooms to provide accommodations for transient guests.

House Bill 5442 would amend the definition of **convention hotel** to mean those facilities with *one or more* rooms for providing accommodations for transient guests and would subject a **short-term rental** to the 1.5% room charge assessment (or the 3% assessment if the rental is located in Detroit) for facilities with up to 160 rooms, based on the occupancy charge.

With respect to the bill, **short-term rental** would mean a short-term rental, as defined by the Short-Term Rental Regulation Act, that meets both of the following criteria:

- It is located within a county with a population of 700,000 or more according to the most recent decennial census.
- It is located within a county that is either or both of the following:
 - A county that has a convention facility with 350,000 square feet or more of total exhibit space.

- A county that has 2,000 or more rooms to provide accommodations for transient guests.

The bill would also authorize the use of money in the Convention Facility Development Fund to be used for programs to assist with or provide child care and housing activities.

MCL 207.623 et seq.

House Bill 5443 would amend 1974 PA 263, known as the accommodations tax act, to allow qualifying counties and municipalities to collect an accommodations tax from owners of short-term rentals.

The act allows counties to enact a hotel-motel tax ordinance to levy, assess, and collect an accommodations tax of up to 8% of the total charges for *accommodations* if the county has a population of less than 600,000 and has a city within the county with a population of at least 40,000 at the time it enacts the ordinance. Cities and townships in a county with a population of more than 600,000 and less than 775,000 may levy an additional tax of up to 2% of the total accommodations charges. Generally speaking, revenue from the tax is to be used to support construction and maintenance costs of convention and entertainment facilities and activities promoting tourism and convention business within the county. (Calhoun, Genesee, Ingham, Kalamazoo, Kent, Muskegon, Saginaw, and Washtenaw Counties levy an excise tax under 1974 PA 263, and only cities and townships in Kent County are eligible to levy an additional tax under the act.¹³)

Accommodations means the room or other space provided for sleeping, including furnishing and other accessories. House Bill 5443 would provide that the term includes a dwelling offered as a short-term rental.

With respect to a short-term rental, the total charge for accommodations would be the occupancy charge, as defined in the Short-Term Rental Regulation Act.

Revenue from both the countywide and municipal taxes could be used to pay for housing activities or programs to assist with or provide child care.

MCL 141.861 et seq.

House Bill 5444 would amend the Regional Event Center Financing Act, which allows an assessment of up to 4% on rooms in facilities with 35 or more guest rooms in certain counties. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Regional Event Center Financing Act allows a county to levy an assessment on *transient facilities* of up to 4% of the room charge to support the development and construction of an event center. The assessment can be levied in a county with a population greater than 250,000 and less than 300,000 that levies an excise tax under the accommodations act, a county with a population greater than 170,000 and less than 180,000, or a county with a population greater

¹³ 2024 PA 35 increased the maximum county tax from 5% to 8% and allowed cities and townships in Kent County to levy an additional 2% tax, although none have yet done so.

than 300,000 and less than 400,000 that levies an excise tax under the accommodations act. (Ingham, Kalamazoo, Muskegon, and Washtenaw Counties meet these requirements.)

Transient facility means a building that contains *at least 35 rooms* used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for the use of the rooms. (The term does not include a hospital or nursing home.)

HB 5444 would amend the definition of ***transient facility*** to mean such buildings that contain *one or more rooms* and to include a dwelling offered as a short-term rental.

Program notice

A county clerk must mail an event center financing program notice to each owner of a transient facility located in the municipality. The clerk can use any data reasonably available to compile the list of recipients; HB 5444 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5444, the assessment could be used to pay for housing activities or provisions or programs to assist with or provide child care.

Short-term rental vote shares

For the purposes of conducting a referendum to enact an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires a majority vote to approve the assessment if enough votes to represent at least 60% of the total number of rooms in a county are cast.)

MCL 141.1442

House Bill 5445 would amend the Convention and Tourism Marketing Act, which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in Wayne County or a county contiguous to Wayne County. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Convention and Tourism Marketing Act allows a nonprofit convention and tourism bureau to levy an assessment on ***transient facilities*** of up to 2% of the room charge to support marketing and promotion programs. The assessment can be levied in a county with a population above 1,500,000 and any counties contiguous to it. (Wayne County is the only county in Michigan with a population greater than 1,500,000. It is contiguous to Macomb, Monroe, Oakland, and Washtenaw Counties.)

Transient facility means a building that contains *at least 35 rooms* used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for the use of the rooms. (The term does not include a hospital or nursing home.)

House Bill 5445 would amend the definition of ***transient facility*** to mean such buildings that contain *one or more rooms* and to include a dwelling offered as a short-term rental.

Program notice

A tourism or convention bureau must file a marketing program notice with the president of the Michigan Strategic Fund that describes the structure, membership, and activities of the bureau, and each owner of a transient facility located in the proposed assessment district must receive a copy. The bureau can use any information reasonably available to compile the list of recipients; HB 5445 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5445, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide childcare, or provisions clarifying the assessment on room charges for short-term rentals as part of the marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.882 et seq.

House Bill 5446 would amend the Convention and Tourism Promotion Act, which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in the greater Grand Rapids area or the greater Lansing area. The bill would allow the assessment to be levied on facilities with one or more guest rooms, including short-term rentals.

The Convention and Tourism Promotion Act allows a nonprofit convention and tourism bureau to levy an assessment on *transient facilities* of up to 2% of the room charge to support marketing and promotion programs. The assessment can be levied in an assessment district containing a city, county, village, or township with a population of more than 570,000 and less than 775,000 or that contains a municipality within which a 4% tax is levied under the Community Convention or Tourism Marketing Act. (Kent County is the only county in Michigan that meets the population requirement, and Ingham County charges a 4% tax under the Community Convention or Tourism Marketing Act.)

Transient facility means a building that contains *at least 35 rooms* used in the business of providing dwelling, lodging, or sleeping to transient guests, regardless of whether membership is required for the use of the rooms. (The term does not include a hospital or nursing home.)

HB 5446 would amend the definition of *transient facility* to mean such buildings that contain *one or more rooms* and to include a dwelling offered as a short-term rental.

Program notice

A tourism or convention bureau must file a marketing program notice with the president of the MEDC that describes the structure, membership, and activities of the bureau, and each owner

of a transient facility located in the proposed assessment district must receive a copy. The bureau can use any information reasonably available to compile the list of recipients; HB 5446 would specify that this includes the short-term rental database created by the Short-Term Rental Regulation Act.

Revenue uses

Under House Bill 5446, the assessment could be used to pay for housing activities, provisions or programs to assist with or provide child care, or provisions clarifying the assessment on room charges for short-term rentals as part of the marketing program.

Short-term rental vote shares

For the purposes of initiating or conducting a referendum to enact or terminate an assessment, a dwelling offered as a short-term rental would be considered one room. (The act requires at least 40% of the total number of owners or owners representing at least 40% of the total number of rooms in an assessment district to provide a written request in order to initiate a referendum, and if a referendum is held as a result of that request, the results are decided by majority vote with each owner of a transient facility receiving one vote for each room in a facility within the assessment district.)

MCL 141.1322 et seq.

BACKGROUND:

Several bills proposing various permits, regulations, and taxes on short-term rentals were introduced during the 2021-22 legislative session, although none were ultimately enacted.

House Bill 4722 would have amended the Zoning Enabling Act to allow short-term rentals in residentially zoned areas and prohibit a local government from adopting or enforcing zoning ordinances that have the effect of prohibiting short-term rentals.¹⁴ House Bill 4722 passed the House in October 2021 and was reported from the Senate Regulatory Reform committee but did not advance to a full Senate vote. (A similar bill, SB 446, was also reported from the Senate Regulatory Reform committee but did not advance.)

Other bills from last session pertaining to short-term rentals include tie-barred HBs 5465 and 5466. House Bill 5465 would have created a new act to regulate and tax short-term rentals,¹⁵ and HB 5466 would have amended the Zoning Enabling Act to provide that a short-term rental that is rented 30 or fewer days in a calendar year is a permitted residential use of property that is not subject to special permits or procedures. A separate bill, House Bill 5605, proposed regulations for short-term rentals and a tax on those rentals in certain counties. None of these bills advanced beyond referral to their respective House committees.

¹⁴ For a summary of the bill as passed by the House, see: <https://www.legislature.mi.gov/documents/2021-2022/billanalysis/House/pdf/2021-HLA-4722-374ECB7E.pdf>.

¹⁵ House Bill 5465 is similar to HB 5438, with some differences in regulations and a proposed tax at 5% of the room charge on all short-term rentals.

FISCAL IMPACT:

Collectively, the bills would increase revenues for local units of government, the Convention Facility Development Fund, convention and tourism bureaus, regional marketing organizations, and certain authorities and impose administrative and regulatory costs on the Department of Licensing and Regulatory Affairs.

House Bill 5438

Based on the limited data available on the short-term rental market, it is estimated that the 6% excise tax under HB 5438 could generate anywhere from \$35.0 million to \$70.0 million. The relatively wide range is primarily the result of working with limited data from a subset of hosting platforms, an undefined market share from the hosting platforms with published data, the ability of short-term rentals to be listed on multiple hosting platforms, and the volatility of the short-term rental market, among other things.

After allocating 1%, or \$1.0 million, whichever is less, for the administration of the act, the balance of the revenue would be distributed to the local unit (city, village, or township) where the short-term rental was located for which the excise tax was paid. It is unclear if the allocation for administration of the act would be sufficient to satisfy the necessary costs in any given year. To the extent that it doesn't, LARA would either absorb the cost under current appropriations or the legislature could appropriate additional funds to cover the cost of administration.

House Bill 5438 would also impose civil fines of either \$1,000 for owners of a short-term rental that violate the act or \$5,000 for hosting platforms that violate the act. Costs could be incurred by local courts that experience an increase in court caseloads and the related administrative costs. Any civil fine revenue collected under the act would be transmitted to the local unit where the short-term rental was located.

The bill would also require hosting platforms to pay an annual registration fee equal to \$100 per listing, not to exceed \$50,000 per year. It is unclear how many hosting platforms currently operate in the state; therefore, it is unknown how much revenue this registration fee would generate. The bill does not direct the registration fees to any specific purpose.

House Bills 5437 and 5439 to 5446

The application of the various acts under the bills to short-term rentals would increase revenues for the entities and purposes specified in each of the various acts, which are noted in the legislative analysis above. However, an estimate of revenues by act and entity cannot be determined due to the lack of data on short-term rentals by local unit. The bills also would expand eligible uses of the revenue received under each of the acts to include costs associated with programs to assist with or provide child care and housing activities. However, there is no requirement that a specific amount be allocated for the new purposes.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

HOUSE BILL NO. 5438

February 13, 2024, Introduced by Reps. Andrews, Brixie, Arbit, McKinney, Paiz, Hill, Byrnes, Rheingans, Scott, MacDonell, Dievendorf, Grant, O'Neal, Neeley, Brabec, Conlin, Morgan, Wilson, Hope, Tyrone Carter, Price, Wegela and Aiyash and referred to the Committee on Regulatory Reform.

A bill to provide for the registry, promotion, and regulation of certain short-term rentals and hosting platforms; to create certain databases; to provide for the imposition and collection of a statewide excise tax; to provide for the disbursement of the excise tax; to provide for the powers and duties of certain state and local governmental officers and entities; and to prescribe penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 2. As used in this act:

1 (a) "Booking transaction" means when a hosting platform, in
2 exchange for compensation, facilitates a short-term rental
3 transaction by directly or indirectly enabling the reservation of a
4 short-term rental or collecting or processing occupancy charges.

5 (b) "Carbon monoxide detector" means a device that detects
6 carbon monoxide and alerts occupants via a distinct and audible
7 signal that is either self-contained in the unit or activated via a
8 system connection.

9 (c) "Department" means the department of licensing and
10 regulatory affairs, or its successor.

11 (d) "Director" means the director of the department.

12 (e) "Hosting platform" means a digital platform, third-party
13 website, software, online-enabled application, mobile telephone
14 application, or some other similar electronic process that allows
15 all of the following for a short-term rental located in this state:

16 (i) Advertisement, listing, or offer of the short-term rental
17 as available.

18 (ii) Collection of occupancy charges.

19 (iii) Arranging, booking, reserving, or renting of the short-
20 term rental by a person.

21 (f) "Hotel condominium" means a group of condominium units or
22 condominium projects rented by a common rental management company
23 for transient rental that may include a reception or check-in desk.

24 (g) "Local unit of government" means a city, township, or
25 village.

26 (h) "Occupancy charge" means the charge imposed for the use or
27 occupancy of a short-term rental, including cleaning fees and
28 services fees. Occupancy charge does not include charges for food,
29 beverages, state use tax or excise tax, telephone service, or

1 damage deposit or insurance.

2 (i) "Owner" means the owner of a short-term rental located
3 within this state.

4 (j) "Short-term rental" means the rental of a single-family
5 residence, a dwelling unit in a 1-to-4-family house, or any unit or
6 group of units in a condominium unit, for terms of not more than 30
7 consecutive days. Short-term rental does not include the rental of
8 a hotel, motel, hotel condominium, home, or condominium unit that
9 is located within a resort that offers amenities such as golf, a
10 skiing restaurant facility, or group meeting accommodation.

11 (k) "Short-term rental database" means the short-term rental
12 database created in section 3.

13 (l) "Short-term rental excise tax" or "excise tax" means the
14 short-term rental excise tax assessed on a short-term rental
15 booking transaction described in section 6.

16 (m) "Smoke detector" means a device, either battery operated
17 or electrical, that detects visible or invisible particles of
18 combustion.

19 (n) "Use tax" means the tax imposed under the use tax act,
20 1937 PA 94, MCL 205.91 to 205.111.

21 Sec. 3. (1) The department shall create and operate a short-
22 term rental database, updated each year, of the information
23 provided in subsection (2).

24 (2) Each year in which a dwelling is offered for short-term
25 rental, the owner shall file with the department a certificate. The
26 department may create the certificate required under this
27 subsection. A certificate filed with the department in accordance
28 with this subsection must contain all of the following information:

29 (a) Name and address of the owner of the short-term rental.

1 (b) Address of the short-term rental.

2 (c) Certification that the owner has \$1,000,000.00 or more
3 liability insurance on the short-term rental.

4 (d) Emergency contact information for the dwelling. For
5 purposes of this act, the emergency contact person must reside
6 within 30 miles from the dwelling.

7 (3) The director shall prescribe the forms necessary for the
8 administration of the short-term rental database.

9 (4) On lawful request, the department shall share the
10 information provided under subsection (2) with the local unit of
11 government where the short-term rental is located, law enforcement
12 agencies, and members of the public. If the department shares that
13 information provided under subsection (2) under this subsection,
14 the department shall also report the number of complaints received
15 by the department against an owner for a violation of this act and
16 the action taken in response to the complaint, including any
17 investigation to verify the complaint.

18 Sec. 4. An owner of a short-term rental shall do all of the
19 following:

20 (a) Maintain liability insurance of \$1,000,000.00 or more on
21 each short-term rental while it is being offered for rent unless
22 that short-term rental is offered through a hosting platform that
23 maintains equal or greater insurance coverage. Insurance coverage
24 described in this subdivision must defend and indemnify the owner
25 and any tenants in the short-term rental for bodily injury and
26 property damage.

27 (b) Post all of the following in a conspicuous place in every
28 room in the dwelling:

29 (i) The owner's emergency contact, including a working

1 telephone number.

2 (ii) Information regarding local emergency services, including
3 a working telephone number for the police and fire department in
4 which the short-term rental is located.

5 (iii) The floor plan and escape routes.

6 (c) Compile the information under subdivision (b) (i) to (iii) in
7 a written form and place the form in every bedroom in the dwelling.

8 Sec. 5. An owner of a short-term rental shall not offer a
9 dwelling for short-term rental unless every bedroom in the dwelling
10 is equipped with all of the following functional equipment:

11 (a) Carbon monoxide detector that may be battery-powered,
12 plug-in with or without battery backup, wired into the property's
13 AC power line with secondary battery backup, or connected to a
14 system by means of a control panel.

15 (b) Smoke detector.

16 (c) Fire extinguisher.

17 Sec. 6. (1) Except as otherwise provided in this section, a
18 statewide excise tax known as the short-term rental excise tax is
19 levied on the charge for use or occupancy of a short-term rental in
20 this state. The excise tax described under this subsection must not
21 be levied on a short-term rental that is rented for 14 days or less
22 in a calendar year. The rate of the short-term rental excise tax is
23 6% of the occupancy charge.

24 (2) The excise tax imposed by this act must be collected at
25 the same time and in the same manner as the tax imposed by the use
26 tax act, 1937 PA 94, MCL 205.91 to 205.111.

27 (3) The excise tax imposed under this act is in addition to
28 any other tax, fee, or assessment imposed by law, including, but
29 not limited to, any hotel charges.

1 (4) As used in this section, "hotel charges" means taxes,
2 assessments, fees, or other charges imposed by a county, local unit
3 of government, or applicable tax authority under any of the
4 following acts:

5 (a) 1974 PA 263, MCL 141.861 to 141.867.

6 (b) The state convention facility development act, 1985 PA
7 106, MCL 207.621 to 207.640.

8 (c) 1991 PA 180, MCL 207.751 to 207.759.

9 (d) The convention and tourism promotion act, 2007 PA 25, MCL
10 141.1321 to 141.1328.

11 (e) The convention and tourism marketing act, 1980 PA 383, MCL
12 141.881 to 141.889.

13 (f) The community convention or tourism marketing act, 1980 PA
14 395, MCL 141.871 to 141.880.

15 (g) The regional tourism marketing act, 1989 PA 244, MCL
16 141.891 to 141.900.

17 (h) The regional convention and tourism promotion act, 2010 PA
18 254, MCL 141.1431 to 141.1437.

19 (i) The regional event center financing act, 2020 PA 340, MCL
20 141.1441 to 141.1445.

21 Sec. 7. (1) The short-term rental excise tax imposed by this
22 act must be administered by the state treasurer under 1941 PA 122,
23 MCL 205.1 to 205.31.

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

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

1 (4) Proceeds from the collection of the excise tax imposed
2 under this act must be deposited in the state treasury, credited to
3 a restricted account, and must, on appropriation, be distributed as
4 follows:

5 (a) The lesser of 1% or \$1,000,000.00 to the department and
6 the state treasury for the administration of this act.

7 (b) The balance to the local unit of government in which the
8 short-term rental is located for which the excise tax was paid.

9 Sec. 8. An owner of a short-term rental may add the amount of
10 the excise tax to the occupancy charge for a short-term rental
11 agreement facilitated by a hosting platform if the owner discloses
12 the addition of the excise tax to the occupancy charge as described
13 in this section on the bill or receipt provided to that short-term
14 rental guest.

15 Sec. 9. (1) An owner of a short-term rental that violates this
16 act is responsible for a civil fine and may be ordered by the
17 department to pay a civil fine of not more than \$1,000.00 for each
18 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 \$5,000.00 for each violation.

22 (3) Fines collected under this act must be transmitted to the
23 local unit of government where the short-term rental is located.

24 Sec. 10. (1) A hosting platform shall not facilitate booking
25 transactions for a short-term rental located in this state unless
26 the hosting platform is currently and validly registered with the
27 department under this section. The department shall issue a
28 registration number to each hosting platform that does all of the
29 following:

1 (a) Meets the requirements of this act and its related rules.

2 (b) Pays an annual registration fee to be determined by the
3 director. The annual registration fee must be an amount equal to
4 \$100.00 per listing, not to exceed \$50,000.00 per year as
5 determined by the department.

6 (c) Agrees in writing to obtain written consent from all
7 owners of a short-term rental located in this state for the
8 disclosure of the records required under subsection (4) to the
9 state treasury.

10 (2) A hosting platform shall not facilitate booking
11 transactions for a short-term rental located in this state if 1 or
12 more of the following apply:

13 (a) Where applicable, the short-term rental and its owner have
14 not been issued a current and valid permit, license, registration,
15 or other related authorization by the applicable local unit of
16 government for the property's use as a short-term rental.

17 (b) A certificate approval number has not been received by the
18 short-term rental's owner acknowledging the department's review for
19 completion and accuracy of the certificate filed under section
20 3(2).

21 (3) The department shall adopt by rule, and enforce, standards
22 for the issuance, renewal, suspension, revocation, and appeal of
23 hosting platform registration, as well as standards for service of
24 process, notice, and demand.

25 (4) Notwithstanding any other provision of law or
26 administrative action to the contrary, a hosting platform shall do
27 all of the following:

28 (a) Develop and maintain a report, in a manner and form
29 established by the state treasurer, of short-term rental booking

1 transactions facilitated by the hosting platform in connection with
2 short-term rentals located in this state.

3 (b) The report described in subdivision (a) must include the
4 following records itemized for each individual short-term rental
5 booking transaction:

6 (i) Address, including any unit designation, of the short-term
7 rental.

8 (ii) The full legal name of the owner.

9 (iii) Where applicable, the current and valid permit, license,
10 registration, or other related authorization issued by the
11 applicable local unit of government to the owner for the dwelling's
12 use as a short-term rental.

13 (iv) The calendar dates that the short-term rental was rented,
14 along with the nightly rate and any taxes or assessments collected.

15 (v) The amount of the hosting platform's compensation for
16 facilitating the booking transaction.

17 (vi) Any additional records as the state treasurer may require
18 by rule to enforce the payment of the excise tax.

19 (c) Subject to applicable laws, provide the state treasurer
20 monthly with the report's itemized records for all booking
21 transactions facilitated in the preceding month.

22 (d) Subject to applicable laws and except as provided under
23 this subdivision, make the full report described under subdivision
24 (a) available to the department when requested by the director. A
25 report version made available to the department must not include
26 copies of specific message exchanges between any of the following:

27 (i) Hosting platform.

28 (ii) Owner.

29 (iii) Guest.

1 (iv) Other person that booked a short-term rental.

2 (e) Maintain itemized records within the report for a period
3 of 3 years following the end of the calendar year in which the
4 individual short-term rental booking transaction occurred.

5 (5) The department may audit a hosting platform's report and
6 its itemized records as necessary.

7 Sec. 11. (1) A local unit of government may enact and enforce
8 reasonable regulations and may uphold zoning decisions for short-
9 term rentals that do any of the following:

10 (a) Safeguard the public health, safety, and welfare,
11 including, but not limited to, fire safety standards and blight
12 mitigation.

13 (b) Determine the number of units allowed to be used as a
14 short-term rental by any method of its choosing.

15 (c) Establish a process by which the local unit of government
16 may reduce or expand the number of units allowed under subdivision

17 (b).

18 (d) Establish a process by which the local unit of government
19 may revoke a permit under this act, including the process to
20 challenge the revocation.

21 (2) A local unit of government may revoke the permit of a
22 short-term rental and its owner for a violation of a local
23 ordinance enacted under subsection (1) or a zoning ordinance.

24 (3) A local unit of government shall not enact or enforce any
25 ordinance, rule, or regulation, including, but not limited to, a
26 zoning ordinance, rule, or regulation, that has the effect of
27 totally banning or prohibiting short-term rentals.

28 Enacting section 1. This act does not take effect unless all
29 of the following bills of the 102nd Legislature are enacted into

1 law:

2 (a) Senate Bill No. _____ or House Bill No. 5441 (request no.
3 04046'23 **).

4 (b) Senate Bill No. _____ or House Bill No. 5443 (request no.
5 04165'23 **).

6 (c) Senate Bill No. _____ or House Bill No. 5442 (request no.
7 04166'23 **).

8 (d) Senate Bill No. _____ or House Bill No. 5445 (request no.
9 04167'23 **).

10 (e) Senate Bill No. _____ or House Bill No. 5440 (request no.
11 04168'23 **).

12 (f) Senate Bill No. _____ or House Bill No. 5446 (request no.
13 04174'23 **).

14 (g) Senate Bill No. _____ or House Bill No. 5439 (request no.
15 04175'23 **).

16 (h) Senate Bill No. _____ or House Bill No. 5444 (request no.
17 04176'23 **).

18 (i) Senate Bill No. _____ or House Bill No. 5437 (request no.
19 04177'23 **).