



SPONSOR: Rep. K. Williams & Sen. Mantzavinos & Sen. Townsend
Reps. Baumbach, Bolden, Griffith, K. Johnson,
Matthews, Parker Selby; Sen. Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 168

AN ACT TO AMEND TITLES 9 AND 30 OF THE DELAWARE CODE RELATING TO LODGING TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 2301, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2301. Occupations requiring licenses; definitions; fees; exemptions.

(a) "Persons" as defined in § 2701 of this title engaged in the occupations listed and defined in this section shall pay annual license taxes at the rates specified below. In addition to the license fee indicated below, each such person shall pay a fee of \$25 for each additional branch or business location, except that a finance or small loan agency as defined in this section shall pay the basic annual fee for each place of business.

(28) Accommodations intermediary, \$25. "Accommodations intermediary" means any person engaged in the business of facilitating or arranging the renting of rooms or dwelling units to an occupant on a website or through other means, including the renting of properties subject to a timeshare plan as defined by 11 U.S.C. § 101. This license fee shall not apply to a hotel, motel, or tourist home subject to a separate license fee under this subsection. A short-term rental, as defined in § 6101 of this title, that exclusively uses a third-party accommodations intermediary shall not be deemed an accommodations intermediary under this title. A person who rents property owned by such person on a casual and isolated basis shall also not be deemed an accommodations intermediary.

(f) Paragraphs (a)(5), (8), (9), (12), (13), ~~(17) and (19)-(25)~~ (17), (19)-(25), and (28) of this section shall be exempt from the additional license fee imposed by subsection (d) of this section.

Section 2. Amend Chapter 61, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6101. Definitions.

As used in this chapter:

(1) "Accommodations intermediary" means as defined in § 2301 of this title.

(2) "Hotel" means any person engaged in the business of operating a place where the public may, for a consideration, obtain sleeping accommodations and meals and which has at least 6 permanent bedrooms for the use of guests, excluding, however, any charitable, educational or religious institution, summer camp for children, hospital or nursing home.

(3) "Motel" means any person engaged in the business of furnishing, for a consideration, transient guests with sleeping accommodations, bath and toilet facilities, linen service and a place to park an automobile.

(4) "Occupancy" means the use or possession or the right to the use or possession by any person other than a permanent resident of any room or rooms in a hotel, ~~motel or tourist home~~ motel, tourist home, or short-term rental for any purpose or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

(5) "Occupant" means any person other than a permanent resident who for a consideration, uses, possesses or has a right to use or possess any room or rooms in a hotel, ~~motel or tourist home~~ motel, tourist home, or short-term rental under any lease, concession, permit, right of access, license or agreement.

(6) "Operator" means any person operating a hotel, ~~motel or tourist home~~ motel, tourist home, or short-term rental.

(7) "Permanent resident" means any occupant who has occupied or has the right to occupancy of any room or rooms in a hotel, ~~motel or tourist home for at least 5 consecutive months~~ motel, tourist home, or short-term rental for a continuous period of 150 days or more.

(8) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits and property or services of any kind or nature and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.

(9) "Short-term rental" means any person other than a hotel, motel, or tourist home who, for a consideration, provides a bedroom or dwelling unit to any occupant. A short-term rental shall not include any person who rents property owned by such person on a casual and isolated basis without using an accommodations intermediary.

(10) "Tourist home" means any person who operates a place where tourists or transient guests, for a consideration, may obtain sleeping accommodations and which has at least 5 permanent bedrooms for the use of tourists or transient guests, but which does not have cooking facilities for the use of tourists or transient guests.

§ 6102. Levy of tax and disposition of proceeds.

(a) There is imposed and assessed an excise tax at the rate of 8% of the rent upon every occupancy of a room or rooms in a hotel, ~~motel or tourist home~~ motel, tourist home, or short-term rental within this State.

(b) The ~~proceeds of this~~ tax shall be distributed as follows: ~~5%~~ 62.5% to the State General Fund, ~~4%~~ 12.5% to the Beach Preservation Program of the Department of Natural Resources and Environmental Control of the State, ~~4%~~ 12.5% annually shall be designated in the proportion in which collected, to the duly established convention and visitors bureau in each county and ~~4%~~ 12.5% to the Delaware Tourism Office.

§ 6103. Collection of tax.

~~The tax shall be collected by the operator from the occupant at the time of the payment of the rent for the occupancy.~~ (a) Except as provided in subsection (b) of this section, the tax imposed under this chapter shall be collected from the occupant by the hotel, motel, tourist home, or accommodations intermediary at the time of payment of rent for the occupancy.

(b) Accommodations intermediaries are responsible for collecting and remitting taxes imposed under § 6102(a) of this title unless the accommodations intermediary has a contractual arrangement with a hotel, motel, tourist home or other accommodations intermediary licensed under § 2301 of this title, under which the hotel, motel, tourist home, or other accommodations intermediary is required to collect and remit the required taxes.

§ 6104. Payment of tax.

The amount of the tax collected for each month shall be reported and paid over to the Department of Finance not later than the fifteenth day of the month following the month of collection on forms to be prescribed by the Department of Finance. Interest at the rate of 1 percent per month, or fraction thereof, shall be charged on payments made after the prescribed due date.

§ 6105. Obligations of an accommodations intermediary.

(a) An accommodations intermediary shall do all of the following:

(1) Notify every hotel, motel, tourist home, or short-term rental for whom it performs services of the tax that must be collected pursuant to § 6102 of this title.

(2) Remit data required by the Division of Revenue in a format and manner prescribed by the Division of Revenue, which shall include all of the following:

a. Property address.

b. The number of nights rented for each property.

c. Aggregate rents collected for each property.

(3) Provide the State with all data necessary to enforce this chapter.

80 Section 3. Amend § 8112, Title 9 of the Delaware Code by making deletions as shown by strike through and
81 insertions as shown by underline as follows:

82 § 8112. Lodging tax.

83 (a) New Castle County may impose, by duly enacted ordinance, a local lodging tax of no more than 3 percent of
84 the rent, in addition to the amount imposed by the State, for any room in a hotel, motel, ~~or~~ tourist home, or short-term
85 rental, as defined in § 6101 of Title 30, which is located within the unincorporated areas of the county.

86 (c) Sussex County may impose, by duly enacted ordinance, a local lodging tax of no more than 3 percent of the
87 rent, in addition to the amount imposed by the State, for any room or rooms in a hotel, ~~motel or tourist home~~, motel, tourist
88 home, or short-term rental, as defined in § 6101 of Title 30, which is located within the unincorporated areas of Sussex
89 County. Any funds realized by Sussex County pursuant to this subsection shall be expended solely within Sussex County,
90 for the capital and operating costs of beach nourishment, waterway dredging, economic development, tourism programs,
91 recreational activities, and water quality and flood control projects. An amount not to exceed 5% of the funds realized from
92 the tax may be used to pay the costs of administering projects funded under this subsection.

93 Section 4. If a provision of this Act or the application of this Act to a person or circumstance is held invalid, the
94 provisions of this Act are severable if the invalidity does not affect the other provisions of this Act that can be given effect
95 without the invalid provision or the application of this Act that can be given effect without the invalid application.

96 Section 5. This Act takes effect on February 1, 2025, and only applies to rental agreements entered into after January
97 31, 2025.

SYNOPSIS

Substitute 1 to HB 168 applies the lodging tax to short-term rentals and requires an accommodations intermediary to obtain an occupational license and pay an annual licensing fee of \$25.00. This bill defines an accommodations intermediary as a person or business that facilitates or arranges the renting of rooms or dwelling units to an occupant on a website or through other means, including the renting of properties subject to a timeshare plan. Under this Act, accommodations intermediaries must collect and remit taxes and data as required by the Division of Revenue. This Act further authorizes New Castle and Sussex Counties to impose a lodging tax of no more than 3 percent on short-term rentals.

This bill is primarily different from the original in that it uses different terms and definitions to identify the individuals responsible for collecting short-term rental taxes.