



SPONSOR: Rep. K. Williams & Sen. Mantzavinos

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 2
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):

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

3 § 2301. Occupations requiring licenses; definitions; fees; exemptions.

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

8 (28) Accommodations intermediary, \$25. "Accommodations intermediary" means any person engaged in the
9 business of facilitating or arranging a short-term rental, as defined in § 6201 of this title, to an occupant on a website or
10 through other means, including the renting of properties subject to a timeshare plan as defined by 11 U.S.C. § 101. The
11 term accommodations intermediary includes a real estate broker licensed under paragraph (a)(16) of this section, but
12 only includes the broker of record and not real estate licensees working under that broker. This license fee shall not
13 apply to a hotel, motel, or tourist home subject to a separate license fee under this subsection. The owner of a short-
14 term rental, as defined in § 6201 of this title, that exclusively uses a third-party accommodations intermediary shall not
15 be deemed an accommodations intermediary under this section.

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

18 Section 2. Amend Part V, Title 30 of the Delaware Code by making deletions as shown by strike through and
19 insertions as shown by underline as follows:

20 Chapter 62. SHORT-TERM RENTAL LODGING TAX

21 § 6201. Definitions.

22 As used in this chapter:

23 (1) “Accommodations intermediary” means as defined in § 2301 of this title.

24 (2) “Rent” means the consideration received for occupancy, valued in money, whether received in money or
25 otherwise. “Rent” does not include the following:

26 a. Municipal taxes, if any.

27 b. Linen rental fees.

28 c. Cleaning fees.

29 d. Insurance fees.

30 e. Security deposits.

31 f. Other add-on fees not usually considered part of the rent.

32 g. Money received from a month-to-month holdover lease.

33 (3) “Short-term rental” means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer, or
34 other residential dwelling unit where a tourist or transient guest, for consideration, rents sleeping or living
35 accommodations for no more than 31 consecutive nights. “Short-term rental” does not include the following:

36 a. Hotels, motels, and tourist homes as defined under § 2301 of this title.

37 b. Rooms, groups of rooms, or other spaces used for assembly.

38 c. Dormitories or other residential facilities of educational or vocational institutions.

39 d. Healthcare facilities licensed by the State.

40 e. Campsites, cabins, or similar facilities in campgrounds.

41 f. Overnight camps for adults or children.

42 g. A rental arranged directly by the property owner, on a casual and isolated basis, that meets all the
43 following qualifications:

44 1. The rent is substantially below market rates.

45 2. The property is used as a rental for no more than 10 nights in aggregate per calendar year.

46 § 6202. Levy of short-term rental lodging tax.

47 There is imposed and assessed a short-term rental lodging tax at the rate of 4.5% of the rent upon every occupancy
48 of a short-term rental within this State.

49 § 6203. Collection of tax.

50 Accommodations intermediaries are responsible for collecting and remitting the short-term rental tax under § 6202
51 of this title unless the accommodations intermediary has a contractual arrangement with a hotel, motel, tourist home, or
52 other accommodations intermediary, licensed under § 2301 of this title, to collect and remit tax in accordance with this
53 chapter. The short-term rental tax must be collected no later than the earlier of the final payment of all rent due or
54 occupancy of the short-term rental. If a short-term rental stay is cancelled in whole, or in part, the cancelled portion of the
55 stay must not be subject to the short-term rental tax and any amount of tax collected for such cancelled portion must be
56 refunded.

57 § 6204. Remittance of tax.

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

62 § 6205. Obligations of an accommodations intermediary.

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

64 (1) Remit data required by the Division of Revenue in a format and manner prescribed by the Division of
65 Revenue, which may include all of the following:

66 a. Address of rental unit.

67 b. The number of nights rented for each property.

68 c. Aggregate rents collected for each property.

69 (2) Ensure that the accommodations intermediary license number is affixed on all marketing materials for
70 each rental unit.

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

72 § 6206. Distribution of the tax.

73 The tax shall be distributed as follows: 62.5% to the State General Fund; 12.5% to the Beach Preservation Fund of
74 the Department of Natural Resources and Environmental Control; 12.5% annually shall be designated in the proportion in
75 which collected, to the duly established convention and visitors bureau in each county; and 12.5% to the Delaware Tourism
76 Office.

77 Section 3. Amend § 6121, Title 30 of the Delaware Code by making deletions as shown by strike through and
78 insertions as shown by underline as follows:

79 § 6121. Eligible organizations.

80 Each county-based convention and visitors bureau, to be eligible to receive such moneys as enumerated in § 6102
81 and § 6206 of this title must be a registered Delaware nonprofit corporation, qualified under terms of the Internal Revenue
82 Code of 1986, as amended, § 501(c)(6) [26 U.S.C. § 501(c)(6)]. For the Counties of Kent, New Castle and Sussex, the
83 following organizations are designated to receive ~~the 1%~~ funding:

84 (1) Kent County: A Convention & Visitors Bureau shall be established in a manner to be determined by the
85 Governor of the State and the Administrator of the Kent County Levy Court.

86 (2) Sussex County: A Convention & Visitors Bureau shall be established in a manner to be determined by the
87 Governor of the State and the Administrator of the Sussex County Council, and representatives from the Lewes
88 Chamber of Commerce, Rehoboth Beach — Dewey Beach Chamber of ~~Commerce~~ and Commerce, the Bethany —
89 Fenwick Area Chamber of ~~Commerce~~ Commerce, Greater Millsboro Chamber of Commerce, Georgetown Chamber
90 of Commerce, Milton Chamber of Commerce, the Chamber of Commerce for Greater Milford, Inc., and Western
91 Sussex Chamber of Commerce.

92 (3) In New Castle County: A qualifying county-based Convention & Visitors Bureau (The Greater
93 Wilmington Convention and Visitors Bureau), has been chartered by the Governor of the State, the County Executive
94 of New Castle County, and the Mayor of the City of Wilmington.

95 Section 4. Amend § 6122, Title 30 of the Delaware Code by making deletions as shown by strike through and
96 insertions as shown by underline as follows:

97 § 6122. Reporting and operating conditions.

98 Such recipient organization shall be subject to all reporting and operating conditions normally imposed upon
99 Delaware nonprofit corporations and public bodies. Recipient organizations shall make every effort to market a variety of
100 lodging options available in the marketplace.

101 Section 5. Amend § 8112, Title 9 of the Delaware Code by making deletions as shown by strike through and
102 insertions as shown by underline as follows:

103 § 8112. Lodging tax.

104 (a) New Castle County may impose, by duly enacted ordinance, a local lodging tax of no more than 3 percent of
105 the rent, in addition to the amount imposed by the State, for any room in a hotel, motel, ~~or~~ tourist home, or short-term
106 rental, as defined in § 6101 and § 6201 of Title 30, which is located within the unincorporated areas of the county.

107 (b) [Repealed.]

108 (c) Sussex County may impose, by duly enacted ordinance, a local lodging tax of no more than 3 percent of the
109 rent, in addition to the amount imposed by the State, for any room or rooms in a hotel, ~~motel or~~ motel, tourist home, or

110 short-term rental as defined in § 6101 and § 6201 of Title 30, which is located within the unincorporated areas of Sussex
111 County. Any funds realized by Sussex County pursuant to this subsection shall be expended solely within Sussex County,
112 for the capital and operating costs of beach nourishment, waterway dredging, economic development, tourism programs,
113 recreational activities, and water quality and flood control projects. An amount not to exceed 5% of the funds realized from
114 the tax may be used to pay the costs of administering projects funded under this subsection.

115 (d) Rentals by the Department of Natural Resources and Environmental Control are exempt from the lodging tax
116 established by this section.

117 Section 6. This Act is severable. If a provision of this Act or the application of this Act to a person or
118 circumstance is held invalid, the invalidity does not affect the provisions or applications of this Act that can be given effect
119 without the invalid provision or application.

120 Section 7. Section 1 of this Act takes effect 90 days after its enactment into law. Section 2 of this Act is effective
121 immediately and only applies to short-term rental agreements entered into on or after January 1, 2025. Sections 3, 4, 5, and
122 6 take effect immediately.

SYNOPSIS

House Bill No. 168 creates a short-term rental lodging tax at the rate of 8% of the rent upon every occupancy of a short-term rental within the State. For purposes of collecting the lodging tax on short-term rentals, HB 168 creates an occupational license for a short-term rental listing service. It also authorizes New Castle and Sussex Counties to impose a lodging tax of no more than 3 percent on short-term rentals.

House Substitute 2 to House Bill No. 168 is primarily different from House Bill No. 168 in that it decreases the tax rate on short-term rentals and uses different terms and definitions to identify the individuals responsible for collecting short-term rental taxes. Specifically, House Substitute 2 to House Bill No. 168 makes the following changes:

- (1) Requires accommodations intermediaries to obtain an occupational license and pay an annual licensing fee of \$25.00;
- (2) Ensures that accommodations intermediaries are responsible for the collection and remittance of taxes under this Act and clarifies responsibilities for the collection and remittance of the tax;
- (3) Defines an accommodations intermediary;
- (4) Decreases the short-term rental tax rate from 8% to 4.5%;
- (5) Establishes the short-term rental tax in a new chapter within Title 30;
- (6) Clarifies that short-term rental taxes will be distributed as follows: 62.5% to the State General Fund; 12.5% to the Beach Preservation Fund of the Department of Natural Resources and Environmental Control; 12.5% to be designated in the proportion in which collected, to the duly established convention and visitors bureau in each county; and 12.5% to the Delaware Tourism Office;
- (7) Adds the Georgetown, Millsboro, Milton, Milford, and Western Sussex Chambers of Commerce to those organizations that determine the Sussex County Convention & Visitors Bureau; and
- (8) Updates effective dates for licensing, tax levy, and related obligations.