



OPPOSE HB1850 HD1: Tell Airbnb to Share Better

The fundamental flaws of HB1850 HD1:

- it would allow brokers to collect and remit taxes without any way of verifying that the amount they remit is anywhere near what the owners/operators owe;
- it provides no means to identify of the owners/operators; and
- it provides no responsibility on the broker to ensure that all of its listings are legal.

Because they are fundamental to the language of the bill, these flaws are unlikely to be adequately addressed through amendments.

Our recommendations:

Our recommendation is to kill this bill, but to the extent the legislature continues moving the bill forward, it should at a minimum be amended to include:

- 1) Anti-preemption language to ensure that the regulation of short-term rentals, vacation rentals or bed and breakfast lodging that the counties currently enforce or wish to adopt in the future.
 - a. Suggested language:

The Legislature declares its intent not to occupy the field of regulation of short-term rentals, vacation rentals or bed and breakfast lodging. This chapter establishes only minimum standards and is in addition to and supplementary to any other federal, state, or local law or ordinance, or any rule or regulation issued thereunder. Counties, cities and towns within this State shall have the power to adopt laws or ordinances, and rules and regulations thereunder, regulating short-term rentals, vacation rentals or bed and breakfast lodging within their jurisdictions. Any local regulation which is more favorable to neighbors of such rentals and lodging than the minimum standards applicable under this chapter, or any rule or regulation issued hereunder, shall not be affected by this chapter and such other laws, or rules or regulations, shall be in full force and effect and may be enforced as provided by law.
- 2) Removal of the amendment in HB 1850 HD1, Section 2, Chapter 237, *“(j) All registered transient accommodations broker tax collection agents may inquire and insure whether the transient accommodation is in compliance with all pertinent land use laws.”*



- a. At best, this language is unnecessary because it does not require companies like Airbnb to make sure its listings comply with local laws; it simply states that Airbnb *may* do this.
 - b. At worst, it undermines county laws that enforce vacation rentals by making it optional for companies like Airbnb to follow local laws.
- 3) A publicly verifiable means for tracking which vacation rentals are being advertised, which ones have paid taxes, and how much each has paid. This is necessary for answering the two crucial questions about each vacation rental being advertised online:
- a) Is it paying taxes? And, b) is it operating legally?

To accomplish this:

- a. all ads should include both a Tax ID number and the address of the property being advertised;
- b. brokers should be required to report Tax ID and address information for all listings along with the amount of tax money collected from each listing; and
- c. the report needs to be public.

This allows DoTax, the counties and individuals the data they need to keep the rise of illegal units in check. Even if DoTax doesn't have the resources to act on anything right now, this will preserve their ability to do so later on. Otherwise, the State would have no verifiable way to know who's paying what (if any) taxes, thus putting into question the actual net gain in tax revenue from the measure.

- 4) A penalty for "brokers" should they not secure the proper tax from individual owners/operators or enforce identification and reporting requirements. Not doing so ensures an uneven playing field between legal/illegal operators and reduces the State's ability to rely on such revenue for future planning of projects, etc.