
SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

Senator Jim Beall, Chair

2015 - 2016 Regular

Bill No:	SB 593	Hearing Date:	4/21/2015
Author:	McGuire		
Version:	4/6/2015		
Urgency:	No	Fiscal:	No
Consultant:	Randy Chinn		

SUBJECT: Residential units for tourist or transient use: hosting platforms

DIGEST: This bill 1) requires electronic “hosting platforms” (e.g., Airbnb) to regularly report the addresses of, nights of use at, and revenues obtained by residences that were leased through the platform; 2) prohibits the hosting platforms from offering properties if prohibited by law; and 3) requires the platforms to collect and remit any applicable transient occupancy tax if requested by the local government.

ANALYSIS:

Renting a home or room has never been easier because of the rise of several internet platforms. VRBO and Homeaway have for years been a source of vacation rental listings. More recently, Airbnb has expanded the availability of rentals to include individual rooms as well as homes, encouraging many property owners and renters to join the rental market.

Existing law authorizes cities and counties to levy occupancy taxes for the privilege of occupying rooms in hotels, inns, homes or other lodging.

This bill:

Requires the hosting platforms to report quarterly to the city or county the following:

- The address of each property that was offered and rented during the quarter
- The total number of nights the property was rented
- The amounts paid for the occupancy

Prohibits the hosting platform from facilitating the rental of a property if such rental is prohibited by the city or county.

Authorizes a city or county to establish civil fines on the hosting platforms of up to \$1,000 for a first day of violation, \$2,000 for a second day of violation, and \$5,000 for subsequent days of violation of these provisions. The platform must be given written notice of the violation and 30 days to correct the violation before a fine may be imposed.

Requires the hosting platform to collect the applicable transient occupancy tax if requested by the city or county.

COMMENTS:

- 1. Purpose of the bill.** The author believes that online vacation rental businesses, described as hosting platforms in the bill and exemplified by Airbnb and VRBO, force cities to bear the costs and burdens of their operation. Increased and undisclosed tourist traffic alters neighborhood character, creating additional demands on public safety. The author contends that the hosting platforms frequently ignore local government prohibitions on the renting of residences for less than 30 days and fail to collect and remit applicable transient occupancy taxes. Moreover, the increase in short-term vacation rentals reduces the availability of already scarce affordable housing.
- 2. Business is taking off.** Founded in 2008, Airbnb, a California company based in San Francisco, claims to have served over 25 million guests with growth of almost three times compared to 2013, according to one estimate. (Airbnb was originally founded as AirBed and Breakfast, giving an indication of its roots as a bedroom-sharing service.) Homeaway, another online vacation rental company, had over 1 million listings at the end of 2014, 17% more than 2013. The growth in online vacation rentals has created growing pains, particularly in Los Angeles and San Francisco. Supporters are concerned about unfair competition with hotels, the loss of housing, and short-term vacation rentals arising in residential neighborhoods. But the benefits to vacationers and individuals renting out their homes and apartments are undeniable, attested to by the remarkable growth of these businesses.
- 3. Level playing field.** Some parties raise concerns about fair competition in that properties rented through the online hosting platforms often don't assess the hotel tax, which can be 10% or more. To the extent that traditional hotel rentals are lost to lodging rented through the hosting platforms, cities will suffer revenue losses.
- 4. Loss of housing stock.** Relatively new concerns have arisen over the effect of these vacation rentals on the character of neighborhoods and the availability of

housing. The Los Angeles Alliance for a New Economy (LAANE), a nonprofit, asserts that Airbnb has taken more than 7,300 units out of the rental market, turning them into vacation rentals. In Venice, 12.5% of all housing units have become Airbnb units, without public approval.¹ Late last year San Francisco approved an ordinance legalizing short-term rentals with restrictions while reinforcing its prohibition against the conversion of residential housing into full-time de facto hotels. Many cities restrict or bar short-term rentals of less than 30 days.

- 5. A hotel in every neighborhood.** While the increasingly widespread availability of short-term rentals has given vacationers more choices, it can burden neighborhoods with unwanted guests. Cities can control where hotels are placed, and neighbors can have input when a residential usage is changed to a commercial usage, but short-term vacation rentals can pop up anywhere without oversight or regulation. Public safety officials may have more difficulty finding a responsible party to deal with a problem tenant in a short-term rental than a tenant in traditional lodging.
- 6. The hub of the wheel.** This bill recognizes the hosting platform as the center of the vacation rental universe, connecting renters with properties. From the perspective of a local government that wishes to collect its hotel taxes and regulate which properties are available for short-term rentals, it is certainly convenient to do so as the hosting platform has complete knowledge of which properties are rented, when they're rented and how much they're rented for. Denying a property access to the platform literally takes the property off the market, a very effective compliance tool.
- 7. Opponents' concerns.** Airbnb objects to being used to enforce legal obligations on the individuals making properties available on their site, known as hosts. It believes it is an invasion of privacy to reveal information about its hosts, particularly with no limitation on how that information is used. There may be alternative ways to accomplish the goals of this bill which reduce the obligations on the hosting platforms:
 - **Who is offering?** An alternative to making the hosting platform provide the rental information is for the local governments to go onto the hosting platform and search for properties in their jurisdiction. This should be a relatively simple search.

¹ Airbnb, Rising Rent, and the Housing Crisis in Los Angeles, March 2015. Roy Samaan for LAANE.

- **How much are they making?** The best way to ensure accurate information about how much and how many days a property was rented for would seem to be by getting it from the hosting platform. Such information could be obtained directly from the host, but there are obvious incentives for fudging the numbers.
- **Enforcing local restrictions.** Cities impose varying restrictions on short-term rentals, from prohibition to no restriction at all. When a city prohibits short-term rentals, it is easy to identify violators on the hosting platform. The most effective way to enforce the prohibition would be for the platform to bar the listing.

When a city allows a specific number of rental days, it is harder to know when there is a violation, because a property could be made available on multiple hosting platforms and through more traditional rental mechanisms. But the city could aggregate the information obtained from the platforms. At that point the city could identify violators and enforce its rules through the platforms to bar the listing. There is precedent for using an intermediary to enforce the law: The California Public Utilities Commission can require telephone companies to disconnect service from moving companies who violate their regulations.

- **Collecting the hotel tax.** Airbnb has negotiated agreements with several cities, including San Francisco, San Jose, and Malibu, to collect and remit hotel taxes. Other negotiations are in progress. Airbnb is concerned that the bill language may impose a tax liability upon it.
- 8. The sharing economy.** New internet-based business models are challenging and disrupting traditional businesses. These new models are often ill-fitted to existing laws and regulations. The impacts and consequences of these new business models are not yet fully realized. This bill attempts to reconcile the benefits from one of these new business models with the effects on competitors and community values.
- 9. Double referral.** If this bill is successful, it should be referred to the Rules Committee where a referral to the Governance and Finance Committee will be considered.

RELATED LEGISLATION:

SB 761 (Hall) — Requires the hosting platform to provide notice to renters subleasing their property that they may be in violation of their lease.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, April 15, 2015.)

SUPPORT:

California Association of Boutique and Breakfast Inns
California Association of Code Enforcement Officers
California Hotel and Lodging Association
California Police Chiefs Association
California Professional Firefighters
California State Association of Counties
California Teamsters Public Affairs Council
Neighbors for Overnight Oversight
Rural County Representatives of California
Santa Cruz county Conference and Visitors Council
UNITE-HERE, AFL-CIO

OPPOSITION:

Airbnb
Internet Association

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