Ohio Legislative Service Commission

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Office of Research and Drafting

Legislative Budget Office

H.B. 109
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Rep. Pizzulli

Local Impact Statement Procedure Required: No

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Highlights

- Local government lodging tax revenue may increase from \$2 million to \$33 million annually due to the bill's mandatory extension of the tax to short-term rental properties, rather than just hotels. If tax compliance increases under the bill, actual revenue increases may be significantly higher than these estimates.
- The bill limits fees which political subdivisions may charge for registering or licensing short-term rentals to \$20 per property per year. Political subdivisions that currently charge higher fees will incur a loss in license or registration fee revenue.

Detailed Analysis

Short-term rentals

The bill (1) requires a political subdivision to subject short-term rental stays to the subdivision's lodging tax, (2) requires collection and remittance of the lodging tax by the operator of the short-term rental platform, and (3) limits local government short-term rental registration of license fees to a maximum of \$20 per property per year and restricts the use of the revenue collected to the enforcement of short-term rental property regulations.

Lodging tax

Under the bill, any subdivision levying a lodging tax, currently or in the future, must extend it to short-term rental properties, defined as establishments that are offered to transients or travelers for a fee for a period of 30 days or less. Current law allows subdivisions to levy lodging taxes on hotels, which are defined similarly to short-term rentals but are restricted to lodging consisting of five or more rooms. However, political subdivisions are also allowed to alter the definition of hotel for the purpose of their lodging tax to include establishments with fewer than five rooms. For example, in 2023, 71 of the 88 counties administered a county-level lodging tax.

Roughly 49% of these counties hold all establishments liable for taxation, including those with fewer than five rooms.

The bill requires subdivisions (e.g., counties, cities, townships, villages, and convention facilities authorities) to extend the lodging tax to all establishments providing lodging for less than 30 days, regardless of the number of rooms. Therefore, the fiscal effect will be more pronounced for those local governments that either do not impose the tax on short-term rentals with fewer than five rooms or otherwise lack enforcement of the lodging tax on such short-term rentals.[1] LBO is aware that some municipalities currently impose an excise tax on short-term rentals with fewer than five rooms. If these subdivisions choose to repeal their excise taxes when a mandatory lodging tax is introduced, the increase in their lodging tax collections will be offset by a decrease in their short-term rental excise tax collections.

LBO estimates that the extension of lodging taxes as required by the bill may increase local governments' tax collections between $2 million to $33 million annually. This estimate is based on available data derived from tax-compliant establishments. The bill also changes the entity responsible for paying the tax from the operator of the rental to the short-term rental platform. The actual increase in tax collections may be substantially higher if there are many establishments operating on short-term rental platforms such as Airbnb or Vrbo that are currently not tax compliant but will become so under the bill.

Calculations

Lodging tax rates and collections are available at the county, city, village, township, and convention facilities authority level from the Department of Taxation.[2] From this information, LBO identified lodging revenues (the tax base) for each county government. The variation in lodging revenues in counties that tax all lodging compared to counties with similar populations that tax only establishments with five or more rooms may be used to identify additional revenue that would be liable for taxation if the latter counties taxed all lodging. Aggregating across all counties, the estimated lodging revenues generated by short-term rentals with fewer than five rooms that are not currently taxed by a county may be estimated for the entire state.

LBO identified 32 counties that apply their lodging tax to short-term rentals with fewer than five rooms and 33 that do not. The tax liability status for such short-term rentals in the remaining six counties that levy a lodging tax could not be determined. There are 16 additional counties that do not levy a lodging tax but contain municipalities that do and one county that does not levy a lodging tax at any level of government. LBO estimates that the tax base would increase between 1% and 9% under the bill in counties that currently only levy a tax on lodging with more than five rooms.

Assuming the same proportion of counties tax short-term rentals with fewer than five rooms among counties for which LBO could not identify lodging tax policies, and that all noncounty subdivisions within each county follow the same policy as the county, the statewide estimated

[1] The tax is paid by the guest, and a few municipalities have a voluntary withholding contract with the "hosting platform," which presumably increases tax compliance.

[2] Refer to the Ohio Department of Taxation's Table S-4, which is found on tax.ohio.gov by navigating to "Resources For RESEARCHERS" and selecting "Tax Data Series."

increase in lodging tax collections is projected to be between $2 million and $33 million if all lodging taxes were applied to short-term rentals with fewer than five rooms.[3] The additional tax collections under the bill would be lower if the proportion of subdivisions that currently tax all lodging is higher than assumed, as the bill would not affect collections in these subdivisions. The opposite would hold true if the proportion of subdivisions that tax all lodging is lower than assumed.

Registration, licensure, and regulation

The bill limits the fees that a political subdivision may charge for licensing or registering a short-term rental property to $20 per property annually. This will lead to a reduction in fee revenue, possibly significant, for political subdivisions that collect fees from this source. Akron, for example, currently charges an annual $250 fee for registration. Cincinnati charges a registration fee of $250, which is valid for three years. Toledo charges an annual registration fee of $50 per unit.

The bill also prohibits political subdivisions from adopting or enforcing regulations, requirements, restrictions, or other resolutions or ordinances affecting the operation of short-term rental properties. The potential fiscal effects of this change are uncertain and would vary by political subdivision. Under home rule, political subdivisions may continue to regulate short-term rental properties under their existing police powers. Specifically, the bill would preclude political subdivisions from (1) prohibiting short-term rentals, (2) creating a lottery system for eligibility of a short-term rental property, (3) using zoning requirements to prohibit or limit short-term rental properties in areas that are zoned to allow for residential use, (4) restricting the number of short-term rental properties a person may operate, or (5) requiring that an owner of a short-term rental property occupy the property.

Electronic real estate brokers and salespersons licenses

The Division of Real Estate and Professional Licensing within the Department of Commerce may incur new costs to issue licenses in an electronic format in addition to physical copies required under current law. The cost of producing and issuing licenses in electronic format, including potential information technology systems updates, will be paid from the Division of Real Estate Operating Fund (Fund 5490).

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[3] The estimated range of tax collections accounts for the expected decrease in bookings from an increase in taxation. The sensitivity of hotel revenues to increases in taxation was derived from recent academic literature on the topic.