

Duff on Hospitality Law

## **Oregon's Short-Term Rental Tax Expands its Reach**

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Oregon's legislature has broadened Oregon's tax on short-term room rentals (also called the transient lodging tax). The new law, Enrolled House Bill (EHB) 4120, expands the scope of persons who must collect and remit the tax and file returns.

### **Background and Prior Law**

EHB 4120 comes after a 2013 change in the law meant to treat third-party intermediaries on par with traditional hotels and motels. Apparently, the legislature now believes the earlier change did not go far enough—so in comes the amendment.

The old law and new law both require intermediaries to collect the tax along with short-term rental providers. But the old law defined intermediaries somewhat narrowly as those who simply facilitate and charge for short-term rental sales. While some intermediaries collected and paid the tax under this framework, that approach was not consistent across the market.

For example, some cities and counties reached voluntary agreements with certain intermediary companies to collect the tax; others had to rely on property owners' individual compliance. Some intermediary companies took the position that the tax did not apply to them.

### **EHB 4120**

EHB 4120 expands the definition of intermediaries: They now also include (1) those who collect payment for short-term rentals and (2) those who receive commissions or fees and require the lodging provider to collect payment through a specific third-party entity.<sup>[1]</sup> In addition to this substantive change, the revisions also make a few small changes to the tax statutes' organizational structure.

The revised legislation is anticipated to raise about \$2 million per year for local governments plus \$400,000 per year for the state. This extra revenue is tied to the broader definition of "intermediary" since under the new definition, more entities will be subject to the tax.

The Governor signed EHB 4120 into law on March 16, and it will go into effect on July 1.

### Supporters and Critics

The legislation was backed by Representative Pam Marsh, acting on behalf of the League of Oregon Cities, the Association of Oregon Counties, and the Oregon Restaurant and Lodging Association. Proponents say the amendment will finally level the playing field between online facilitators and hotels, and it will ensure that cities receive their fair share of tax revenue—despite that in practice, many online intermediaries already collect the tax on behalf of cities and counties.

Opponents say the revised law is complicated and costly for businesses to administer, since 100 local jurisdictions across the state each impose their own version of the tax. One legislator had proposed a more uniform system that would benefit both hotels and intermediaries, but that idea was put on hold in favor of a short-term fix. Representative Marsh said that while a more uniform system could work down the road, intermediary websites can use technology in the meantime to comply with the varying local regulations.

[1] ORS 320.300(12) now defines “intermediary” as “a person other than a transient lodging provider that facilitates the retail sale of transient lodging and: (a) Charges for occupancy of the transient lodging; (b) Collects the consideration charged for occupancy of the transient lodging; or (c) Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.”

**Tags:** EHB No. 4120, Enrolled House Bill, Enrolled House Bill (EHB) 4120, hotels, Oregon, rental tax, Representative Pam Marsh, short-term rentals tax, third-party intermediaries