

LEGISLATIVE BILL 57

Approved by the Governor March 07, 2019

Introduced by Morfeld, 46; Hunt, 8.

A BILL FOR AN ACT relating to rental property; to amend sections 77-2701 and 77-2701.04, Reissue Revised Statutes of Nebraska; to define terms; to prohibit ordinances and other regulations prohibiting short-term rentals of residential property as prescribed; to provide for agreements with online hosting platforms regarding taxation; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) For purposes of this section:

(a) Municipality means a city or village; and

(b) Short-term rental means a residential property, including a single-family dwelling or a unit in a condominium, cooperative, or time-share, that is rented wholly or partly for a fee for a period not longer than thirty consecutive days.

(2) A municipality shall not adopt or enforce an ordinance or other regulation that expressly or effectively prohibits the use of a property as a short-term rental.

(3) A municipality may adopt or enforce an ordinance or other regulation that specifically regulates property used as a short-term rental only if the municipality demonstrates that the primary purpose of the ordinance or other regulation is to protect the public's health and safety. An ordinance or other regulation authorized by this subsection includes:

(a) Requirements addressing:

(i) Fire and building codes;

(ii) Health and sanitation;

(iii) Traffic control; and

(iv) Solid or hazardous waste and pollution control; and

(b) Requirements regarding the designation of an emergency contact for the property.

(4) A municipality may adopt or enforce an ordinance or other regulation that imposes a sales tax or an occupation tax on short-term rentals if the tax is otherwise permitted by applicable law.

(5) A municipality may adopt or enforce an ordinance or other regulation that limits or prohibits the use of a short-term rental only if the law limits or prohibits the use of a short-term rental for the purpose of:

(a) Housing sex offenders;

(b) Operating a structured sober living home or similar enterprise;

(c) Selling illegal drugs;

(d) Selling alcohol or another activity that requires a permit or license under the Nebraska Liquor Control Act; or

(e) Operating a sexually oriented business.

(6) A municipality shall apply an ordinance or other regulation regulating land use to a short-term rental in the same manner as another similar property. An ordinance or other regulation described by this subsection includes:

(a) Residential use and other zoning matters;

(b) Noise and other nuisances; and

(c) Property maintenance.

(7) This section shall not be construed to affect regulations of a private entity, including a homeowners association organized under the Condominium Property Act or the Nebraska Condominium Act.

Sec. 2. Section 77-2701, Reissue Revised Statutes of Nebraska, is amended to read:

77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235, 77-27,236, and 77-27,238 and section 4 of this act shall be known and may be cited as the Nebraska Revenue Act of 1967.

Sec. 3. Section 77-2701.04, Reissue Revised Statutes of Nebraska, is amended to read:

77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and section 4 of this act, unless the context otherwise requires, the definitions found in sections 77-2701.05 to 77-2701.55 shall be used.

Sec. 4. (1) For purposes of this section, online hosting platform means a marketplace connected by computer to one or more other computers or networks, as through a commercial electronic information service or the Internet, through which (a) a seller or hotel operator may rent or furnish any room or rooms, lodgings, or accommodations in a hotel, a motel, an inn, a tourist camp, a tourist cabin, or any other place, (b) such room or rooms, lodgings, or accommodations may be advertised or listed, and (c) a purchaser or occupant may arrange for the occupancy of such room or rooms, lodgings, or accommodations.

(2) The Tax Commissioner may enter into an agreement with an online hosting platform to permit the online hosting platform to collect and pay the applicable sales taxes imposed under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, the Nebraska Visitors Development Act, and sections 13-318

to 13-326 and 13-2813 to 13-2816 on behalf of the seller or hotel operator otherwise required to collect such taxes for transactions consummated through the online hosting platform. Upon entering into such agreement with the online hosting platform, the Tax Commissioner shall waive the tax collection responsibility of a seller or hotel operator for transactions consummated through the online hosting platform for which the online hosting platform has assumed this responsibility. The online hosting platform shall give written notice to each seller or hotel operator which is covered by the agreement between the online hosting platform and the Tax Commissioner.

(3) Upon entering into an agreement with the Tax Commissioner under this section, the online hosting platform shall report aggregate information on the tax return prescribed by the Tax Commissioner, including an aggregate of gross receipts, exemptions, adjustments, and taxable receipts of all transactions subject to the agreement.

Sec. 5. The Revisor of Statutes shall assign section 1 of this act to Chapter 18.

Sec. 6. Original sections 77-2701 and 77-2701.04, Reissue Revised Statutes of Nebraska, are repealed.