

Date of Hearing: July 15, 2025

ASSEMBLY COMMITTEE ON JUDICIARY

Ash Kalra, Chair

SB 346 (Durazo) – As Amended July 7, 2025

SENATE VOTE: 38-0

SUBJECT: LOCAL AGENCIES: TRANSIENT OCCUPANCY TAXES: SHORT-TERM RENTAL FACILITATOR

KEY ISSUE: SHOULD CITIES AND COUNTIES BE AUTHORIZED TO ENACT ORDINANCES THAT REQUIRE SHORT-TERM RENTAL FACILITATORS TO PROVIDE SPECIFIED INFORMATION ABOUT RENTAL PROPERTIES IN ORDER TO BETTER FACILITATE THE COLLECTION OF TRANSIENT OCCUPANCY TAXES?

SYNOPSIS

This bill would authorize a city or county (local agency) to enact ordinances that require “short-term rental facilitators” (e.g. Airbnb, HomeAway, Expedia, etc.) to provide addresses and other specified information about listed rental properties within the local agency’s jurisdiction. According to the author and sponsor, this information is necessary to facilitate the collection and enforcement of transient occupancy taxes (TOT). The cities and counties that support this bill contend that short-term rentals (STR) create additional costs that make TOT necessary. Moreover, while the local agency might already possess information about hosts who are licensed by the local agency, they cannot easily obtain information about rentals that are operating without a license.

In addition to requiring STR facilitators to provide requested information, the bill would permit the local agency to subject any short-term rental facilitator to an administrative fine or penalty for failing to provide the information that is requested. The bill would clarify that the local ordinance could permit the local agency to conduct an audit or otherwise examine the records of a short-term rental facilitator. Finally, the bill specifies that nothing in its provisions would preempt a local agency from enacting an ordinance that differs from the provisions of this bill.

This bill is sponsored by the League of California Cities and supported by many local cities and counties. The bill is opposed by the companies that facilitate short-term rentals, including Airbnb and Expedia. Although the bill was amended in the prior Committee to narrow the kinds of information a local agency or tax collector may request, proponents and opponents remain divided, primarily as to whether the platforms can be required to provide the host’s address without a subpoena. The bill recently passed out of the Assembly Local Government Committee on a 9-0 vote, with one member not voting.

SUMMARY: Enacts the Short-Term Rental Facilitator Act of 2025, which authorizes cities and counties to enact ordinances that require short-term rental facilitators to provide specified information. Specifically, **this bill:**

- 1) Defines the following terms:

- a) “Short-term rental” to mean the occupancy of a home, house, a room in a home or house, a campsite, or other lodging that is not a hotel in this state for a period of 30 consecutive days or less and under any other circumstances specified by the local agency in its ordinance that is facilitated by a short-term rental facilitator.
 - b) “Short-term rental facilitator” to mean a person or entity that facilitates for consideration, regardless of whether it is deducted as fees from the transaction, the occupancy of a short-term rental that is not owned by the person facilitating the rental, through a marketplace operated by the person or a related person or entity, and that directly or indirectly transmits or communicates the offer or acceptance between the purchaser and the operator.
 - c) Defines “local agency” to mean a city, county, or city and county.
- 2) Authorizes a local agency to enact an ordinance that, upon request by the local agency, requires each short-term rental facilitator to report, in the manner prescribed by the local agency, the physical address, including nine-digit ZIP Code, of each short-term rental within the local agency’s jurisdiction during the reporting period.
 - 3) Provides that if the information provided pursuant to 2) above is not sufficient for the local agency to identify a specific short-term rental at the provided address, the local agency may request the following:
 - a) The assessor parcel number of each short-term rental.
 - b) The URL associated with the specific short-term rental listing.
 - c) Information related to the identification of an accessory dwelling unit, guest house, or single unit located at the address or parcel number requested.
 - 4) Permits a local agency to subject a short-term rental facilitator that fails to report the information to an administrative fine or penalty, as specified.
 - 5) Authorizes a local agency to conduct an audit or otherwise examine the records of the short-term rental facilitator documenting the receipt of the TOT due and payable to the local agency. Specifies that any costs associated with an audit or examination shall be paid for by the local agency.
 - 6) Requires a short-term rental facilitator to include in the rental listing any applicable local license number associated with the short-term rental and any TOT certification by a local agency.
 - 7) Specifies that the provisions above only apply to a local agency that adopts an ordinance that makes the provisions applicable in their jurisdiction.
 - 8) Specifies that nothing in this bill shall be construed to preempt a local agency from adopting an ordinance that regulates short-term rentals, short-term rental facilitators, or the payment and collection of TOTs in manner different from the procedures prescribed in this bill.

EXISTING LAW:

- 1) Authorizes the legislative body of any city, county, or city and county to levy a “transient occupant tax” (TOT) on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging unless the occupancy is for a period of more than 30 days. (Revenue and Taxation Code Section 7280.)
- 2) Authorizes a local agency, by ordinance, to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The local agency shall set forth the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties, as specified. The local agency must provide for a reasonable period of time for the violator to correct or otherwise remedy a violation and any final determination must be subject to appeal to the superior court. (Government Code Section 53069.4.)
- 3) Authorizes a county or city to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. (California Constitution Article XI Section 7.)

FISCAL EFFECT: As currently in print this bill is keyed non-fiscal.

COMMENTS: According to the author:

As the short-term rental industry has grown in California, many local governments have been forced into Voluntary Collection Agreements (VCAs) that restrict their access to key data, such as property addresses, and severely limit their audit authority. Without receiving this data from platforms, it is difficult for local governments to discern if a given short-term rental is operating lawfully (having already submitted their address to obtain a small business license with the local government, and paying taxes), or unlawfully.

Right now, with anywhere from 25% to 70% of short-term rental properties operating unlicensed, two problems arise: 1) unclear tax collection practices, and 2) unlicensed operators in excess of local limits. This results in increased price and reduction in availability of long-term housing stock, exacerbating California’s housing crisis. It also results in local governments having to conduct full-on investigations with third-party companies to discover basic information (namely property addresses) that they should already have, having to spend taxpayer dollars in order to collect due tax dollars.

This bill attempts to achieve the author’s objectives by authorizing cities and counties (local agencies) to enact ordinances that will allow them to more effectively regulate short-term rentals (STR) and collect transient occupancy taxes (TOT) which they clearly have the authority, and the need, to collect. Specifically, in any local jurisdiction that adopts an ordinance authorized by the bill, each STR facilitator would, upon request, report to the local agency the physical address, including the ZIP code, of any STR within the agency’s jurisdiction for the reporting period identified in the request. (The requests could not be more frequent than three-month intervals within a 12-month period.) If the information provided is not sufficient to identify a specific STR, the agency may request the assessor parcel number, the URL associated with the listing, and information related to any accessory dwelling unit, guest house, or single unit at the address or parcel number.

Any ordinance authorized by the bill could allow the local agency to impose an administrative fine or penalty, as specified, if the STR facilitator fails to provide the information requested. The ordinance could also require the STR facilitator to include in the STR listing any applicable local license number or any transient occupancy tax certification issued by the local agency. Any ordinance enacted could also permit the local agency – at the local agency’s expenses – to conduct and audit any STR facilitator that is responsible for collecting and remitting the TOT. Finally, the bill provides that nothing in its provision would preempt a local agency from adopting a local ordinance that is different from the procedures described in the bill.

Transient occupancy taxes and the local impact of STRs. State law allows local agencies to levy “transient occupancy taxes” or TOT, typically calculated as a percentage of the amount charged to the guest. A TOT is a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home, motel, STR, or other lodging for a period of less than 30 days. According to the author and sponsors, enforcing the collection TOT is critical, because the increasing use of STRs imposes costs on local government, including increased demands for public safety and other public services. In addition, because STRs remove property from the stock of permanent rental housing, they contribute to the problem of rising rents and the associated costs of homelessness.

Although the TOT is imposed on the guest for the privilege of occupying the property, the taxes are typically collected and remitted to the local agency by a hotel, motel or STR facilitator that handles the payments. According to the analysis prepared by the Senate Local Government Committee, approximately 430 cities and 55 counties in California levy a TOT, at rates ranging from 3% to over 15.5%. According to the State Controller’s Office, TOTs generated over \$3.3 billion in revenue for local agencies in the 2022-2023 fiscal year.

While local agencies and tax assessors already have the authority to audit businesses subject to TOT, the author and sponsors of this bill claim that local agencies have been forced into Voluntary Collection Agreements (VCAs) that severely limit their audit authority and deny them access to key data, including property addresses. If local agencies cannot obtain this data from the platform, the supporters contend, it is difficult to enforce the TOT on short-term rentals or determine how many short-term rental hosts are complying with the law.

Opposition arguments have largely been rejected by courts in California. Although the supporters and opponents have very different views on the *frequency* of litigation between local governments and STR facilitators, there is no question that litigation has occurred, most notably in San Francisco and Santa Monica. After San Francisco adopted an ordinance that, among other things, subjected STR facilitators to fines if they allowed unregistered hosts on their platforms, they were sued by Airbnb and HomeAway, who alleged that the ordinance violated various federal statutes and the First Amendment. San Francisco and Airbnb eventually settled this suit in 2017. Among other things, the settlement required Airbnb to only allow permitted hosts on its platform and to provide the city with information it needed to enforce its laws.

A year after the settlement, HomeAway (also known as VRBO and acquired by Expedia in 2015) challenged a subpoena served upon it by the city tax collector requesting information about rentals arranged through the HomeAway website. When HomeAway refused to provide the information, the city filed a petition in superior court to enforce the subpoena. After the superior granted the city’s petition, HomeAway appealed to the First District Court of Appeal. On appeal, HomeAway claimed that the subpoena violated the federal Stored Communications Act (SCA),

which prohibits the government from disclosing electronic communications stored on the internet. The appellate court rejected these claims, largely because the information about the rental properties were not “electronic communications” within the meaning of the SCA. HomeAway also raised various constitutional claims, including that the subpoena’s breadth violated the Fourth Amendment. The appellate similarly rejected these claims. [*City and County of San Francisco v. HomeAway* (2018) Court of Appeal of the State of California, First Appellate District, A150385, San Francisco Superior Court No. CPF-16-515136.]

HomeAway and Airbnb also sued the City of Santa Monica, challenging a 2017 ordinance that imposed four obligations on the hosting platforms: (1) collecting and remitting TOT; (2) regularly disclosing listings and booking information to the city; (3) refraining from booking unlicensed properties; and (4) refraining from collecting fees for ancillary services. The platforms first alleged that the provision requiring them to not accept or remove unlicensed listings violated the federal Communications Decency Act (CDA), which protects internet companies from liability for posting third-party content. The platforms also raised the SCA and constitutional claims that had failed in the San Francisco case. The district court dismissed the complaint and all of its claims. On appeal, the Ninth Circuit Court of Appeal rejected the platforms’ CDA and First Amendment claims. (The platforms did not raise the SCA and Fourth Amendment claims on appeal.) As to the CDA claim, the Ninth Circuit pointed out that the ordinance did not hold a platform liable because of the “content” of the third party listing, but because of the third party’s unlawful “conduct” of listing a property without a license and because of a platform’s unlawful conduct in allowing the unlicensed listing. As for the First Amendment claim, the court reasoned similarly that the ordinance only regulated non-expressive conduct, not speech or expressive conduct. [*HomeAway, et.al. v. City of Santa Monica* (2019) 918 F.3d 676.]

Not only does this case law suggest that any ordinance passed under the authorization provided by this bill would be upheld, it also shows that state and federal courts have already rejected most of the opposition’s claims, including that such ordinances violate “federal statutes” (presumably the CDA and SCA) or the Fourth Amendment. In addition to raising their own statutory and due process rights, the platforms also claim that requesting addresses will violate the privacy rights of their hosts. The opponents have directed the Committee’s attention to cases in Boston and New York that, they claim, support the view that such ordinances violate the host’s privacy rights. In addition to the fact that those cases are not as relevant as the California case, the ordinances at issue did not merely ask for a host’s address; they asked for much more detailed information concerning the length of visits and the number of guests, which bear no relation to the local government’s legitimate interest in collecting a tax or regulating STR. While it is true that a physical address is deemed “personally identifiable information” under state law, it is difficult to believe that a court would find that STR hosts have a “reasonable expectation of privacy” in an address that, if properly licensed, is already a matter of public record.

Finally, the lawsuits suggest that even if the bill were amended in the manner that opponents have proposed – requiring the local agency to obtain a subpoena – the litigation history suggests that the platforms will simply challenge the scope of the subpoenas.

Can cities and counties already enact the kinds of ordinances authorized by this bill? The author, co-sponsors, and supporters make a compelling case as to why such ordinances are necessary for the effective enforcement of TOT, especially when it comes to hosts that do not comply with existing permitting requirements, but who nonetheless unlawfully list their

properties with STR facilitators. Against these compelling reasons, the claims made by the opponents have been largely asked and answered by courts in California, and in favor of the local governments. Yet, the opponents may not be wrong when they state that this bill “seeks to grant cities and counties the authority they already have.” Indeed, the bill tacitly acknowledges the power of local governments to enact ordinances by specifying that nothing in the bill would prevent them from enacting ordinances that are different from (and presumably stronger than) the provisions set forth in the bill.

There does not appear to be anything in existing state law that prevents local governments from enacting ordinances that this bill authorizes. Local governments in California can already require facilitators to collect and remit TOT, and local ordinances have already required facilitators to limit listings to licensed or permitted hosts, and they have enacted ordinances that require the license or permit number to appear in the listing. Indeed, some local ordinances have gone further and effectively banned short-term rentals, or limited them to owner-occupied properties only. If local governments can enact ordinances that ban short-term rentals, then certainly they can exercise the lesser power of requesting information for TOT enforcement as a condition of operating within the jurisdiction.

Given that cities and counties appear to already possess this authority one wonders why the supporters think that this bill is so urgently needed and, equally, why the opponents so strongly object. Contrary to the statements in many of the letters of support, *this bill* does not require short-term rental facilitators to do, or refrain from doing, anything. When Committee staff have asked supporters why they think the bill is necessary – given that there is apparently nothing in existing law that would prevent them from enacting such ordinances now – the response has been that the *existing* ordinances are not very effective because the STR facilitators find a way around them, challenge them in court, or “force” the local governments into “voluntary” VCAs. As discussed above, the STR facilitators have indeed brought legal challenges, against ordinances themselves and against the scope of subpoenas. But it is not entirely clear how this bill, if enacted, would shield local governments from these lawsuits, however many there may be. The lawsuits have not alleged that the ordinances are unauthorized by state law; they have alleged (albeit not very successfully) that the ordinances violate federal statutes, the Fourth Amendment, the First Amendment, the due process rights of the platforms, and the privacy rights of their hosts.

Perhaps this bill will provide a template for local governments to follow and avoid entering into VCAs, but it is not at all clear that local ordinances that look like this bill will be any more effective than the ordinances that have already passed. And if more effective ordinances are needed, they can presumably be enacted with or without this bill.

ARGUMENTS IN SUPPORT: The League of California Cities, one of the co-sponsors, supports the bill because it “would better equip cities to enforce local ordinances related to short-term rentals, including the collection and remittance of transient occupancy taxes (TOT).” The League explains:

Short-term rentals are regulated exclusively at the local level via the adoption of an ordinance that often includes regulations on permitting, tax compliance, noise, parking, occupancy, as well as other responsibilities for hosts and short-term rental facilitators. In some instances, ordinances limit the number of short-term rentals allowed to operate lawfully, other ordinances ban short-term rentals entirely.

Short-term rentals can present numerous challenges to neighborhoods and adjacent property owners. They may create additional noise, traffic, parking, and public safety issues, decrease available housing stock, and in some cases turn residential neighborhoods into de-facto hotel rows, collectively creating additional demands on local public service providers.

Unfortunately, the enforcement of TOT ordinances and the collection and remittance of these taxes from short-term rentals can be inconsistent, even when voluntary collection agreements are in place with a short-term rental facilitator. Cities lack access to property addresses or other property-related information, even under these agreements, resulting in a difficult choice to either accept tax payments without any way to verify their accuracy and legality or attempt to collect taxes directly from property owners—a costly and time-consuming process. Meanwhile, short-term rental facilitators have full knowledge of these properties’ locations and resist disclosing this information. Cities can only compel short-term rental facilitators to disclose this critical information through certain legal action, such as subpoenas. This is not how oversight of public dollars should work.

ARGUMENTS IN OPPOSITION: Airbnb opposes the bill as “an unnecessary and overreaching proposal that seeks to grant cities and counties the authority they already have. Local governments already have the authority to approve local ordinances requiring accommodation platforms to facilitate tax collection, verify tax returns, and submit to tax audits.” Airbnb continues:

Requiring hosts’ private information is unnecessary to collect tourism taxes. While the stated intent of SB 346 is to help local governments collect tourism taxes, the language requires a potentially broad collection of hosts’ private and sensitive information that is unnecessary for tax collection, threatens hosts’ privacy, and violates federal law. Cities and counties already have the ability to formally audit short-term rental platforms regarding their tax remittance.

As currently written, SB 346 would empower jurisdictions to collect hosts’ private information without legal due process, such as their home parcel number or “any identifiable information” from a platform, with an undefined ability to use it – even for purposes unrelated to tax collection.

To protect hosts’ privacy, accommodations platforms should only share limited amounts of information for the sole purpose of ensuring the integrity of tourism tax collection and returns to local governments. Several federal courts have already ruled that non-public information, like addresses of short-term rental hosts, are considered private business records and platforms must be afforded due process before those records could be accessed.

Without clear guardrails in SB 346 on how hosts’ private information will be used, we cannot ensure our hosts’ information will be protected. We request an amendment that requires local governments to provide a valid legal request to short-term rental platforms in order to obtain private business records. . . Airbnb already works with many cities to help them enforce their short-term rental rules, including by displaying license numbers on listings in places that have adopted local ordinances requiring platforms to do so, alongside other tools and resources we offer local governments.

In 2020, Airbnb launched the City Portal as a first-of-its-kind resource to help local governments better understand the short-term rental landscape in their community, as well as offer tools to help cities enforce their laws. In jurisdictions with applicable regulations, city officials can use the City Portal to search for listings in their registration system and take action on listings they determine violate local regulations. Since its creation, we've expanded the City Portal to more than 430 jurisdictions around the world – including cities across California – and we remain the only short-term rental platform that offer local governments this kind of technology. Coupled with the City Portal, we believe that the provisions in the bill requiring short term rental hosts to include an applicable license number in a listing can sufficiently address the short-term rental compliance concerns that the author and sponsors have expressed.

REGISTERED SUPPORT / OPPOSITION:

Support

Asian American Hotel Owners Association
Board of Supervisors for the City and County of San Francisco
Buena Park; City of
California Association of County Treasurers & Tax Collectors
California Business Roundtable
California Contract Cities Association
California Hotel & Lodging Association
California State Association of Counties (CSAC)
California State Council of Service Employees International Union (SEIU California)
California Yimby
City of Alameda
City of Carlsbad
City of Duarte
City of Garden Grove
City of Hanford
City of Huntington Beach
City of Lakewood CA
City of Morro Bay
City of Norwalk
City of Rancho Cucamonga
City of Riverside
City of Stanton
City of Thousand Oaks
City of Walnut Creek
Civitas
County of Humboldt
County of Imperial
County of Lake
County of Los Angeles Board of Supervisors
County of Merced
County of Monterey
County of Napa
County of Placer

County of Riverside
County of San Luis Obispo
County of Santa Clara
County of Solano
County of Sonoma
County of Trinity
Fullerton; City of
Lake Forest; City of
Lakewood; City of
League of California Cities
Long Beach Area Chamber of Commerce
Los Angeles County Business Federation
Mammoth Lakes Tourism
Mayor's and Councilmembers' Association of Sonoma County Legislative Committee
Monterey; County of
Muniservices
Northeast Los Angeles Hotel Owners Association
Orange; County of
Palo Alto; City of
Pismo Beach; City of
Placentia; City of
Redwood Empire Division, League of California Cities
Rural County Representatives of California (RCRC)
San Bernardino County
San Francisco Board of Supervisors
San Rafael/Marin County Council of Mayors & Council Members; City of
Santa Barbara South Coast Chamber of Commerce
Santa Barbara; City of
The San Francisco Peninsula
Torrance Area Chamber of Commerce
Tustin, City of
Unite Here International Union, Afl-cio
Urban Counties of California (UCC)
Visit Berkeley
Visit Huntington Beach
Visit Oceanside
Visit Rancho Cordova
Visit Sacramento
Visit Santa Barbara
Visit Temecula Valley
Visit the Santa Ynez Valley
Visit Ventura
Visit Yosemite/Madera County
West Hollywood Chamber of Commerce
West Hollywood City

Support if amended

California Chamber of Commerce

Opposition

Airbnb
TechNet
Travel Technology Association

Oppose Unless Amended

Booking.com
Expedia Group

Analysis Prepared by: Tom Clark / JUD. / (916) 319-2334