

## SENATE THIRD READING

SB 346 (Durazo)

As Amended July 7, 2025

Majority vote

**SUMMARY**

Enacts the "Short-Term Rental Facilitator Act of 2025", which permits cities and counties to enact ordinances that require short-term rental facilitators to provide specified information on short-term rentals.

**Major Provisions**

- 1) Enacts the "Short-Term Rental Facilitator Act of 2025".
- 2) Specifies that this bill shall only apply to a local agency that adopts an ordinance that makes the provisions of this bill applicable within its jurisdictional boundaries.
- 3) Specifies that, upon request by the local agency, each short-term rental facilitator shall report, in the form and manner prescribed by the local agency, the physical address, including nine-digit ZIP Code, of each short-term rental during the reporting period.
- 4) Provides that if the information provided by the short-term rental facilitator pursuant to 3), 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 exclusively related to the identification of an accessory dwelling unit, guest house, or single unit of a timeshare or multifamily housing project located at a single address, which is located at the address or assessor parcel number requested.
- 5) Specifies that the reporting period in 3), above, may be no more frequently than in intervals of every 3 months within a 12-month period except it may be monthly if a local agency requires remittance of transient occupancy tax (TOT) monthly.
- 6) Provides that a local agency may make the failure of a short-term rental facilitator to report the information required by this bill subject to an administrative fine or penalty pursuant to existing law.
- 7) 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 if the short-term rental facilitator is responsible for collecting and remitting the TOT to the local agency pursuant to a local ordinance or collection agreement.
- 8) Specifies that any costs associated with an audit or examination shall be paid for by the local agency.

- 9) Requires a short-term rental facilitator to include in the listing of a short-term rental any applicable local license number associated with the short-term rental and any TOT certification by a local agency.

## COMMENTS

*Ordinances.* The California Constitution allows cities and counties to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws." It is from this fundamental power, commonly called the police power, that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public, including regulating business activity.

Current law allows counties and cities to establish ordinances, and makes violations of ordinances misdemeanors, unless the county or city makes them infractions. The violation of an ordinance may be prosecuted by county or city authorities in the name of the people of the State of California, or redressed by civil action. Current law outlines the fine structure for ordinance violations.

*Transient Occupancy Taxes.* State law allows cities and counties to levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home, motel or other lodging unless the occupancy is for a period of more than 30 days. These taxes, commonly known as TOTs, are typically collected by lodging providers as an itemized charge based on a percentage of a customer's bill, who then remit proceeds to the local agency where the lodging was provided. According to the State Controller's Office, in the 2022-2023 fiscal year, at least 429 cities and 55 counties levied a TOT, mostly for general revenue purposes, at rates that can reach as high as 15.5%. TOTs generated approximately \$3.3 billion in revenue for local agencies in the 2022-23 fiscal year. The state does not currently impose its own TOT. According to the sponsors, local agencies can require, by ordinance, short-term rental facilitators to collect and remit TOTs to the local agency. Some jurisdictions have entered into voluntary collection agreements with the facilitator to collect the TOT on their behalf. However, in cases where the facilitator does not collect the TOT, the local agency would need to collect it directly from the host property.

*Short-Term Rentals.* California has seen a rise in the home sharing industry with companies such as Airbnb, Homeaway, and VRBO gaining popularity due to their short-term rental practice. Short-term rentals, also known as vacation-rentals, are usually an individual's residential property, such as a home, room, apartment, or condominium that is rented out to a visitor for fewer than 30 consecutive days. Generally, the home sharing industry involves three primary participants: (1) the home sharing platforms, such as Airbnb, that advertise residential property offered for temporary rental and facilitates connecting renters with hosts for a fee, (2) the consumer who is often referred to as the "renter," "guest," or "visitor" of the residential property, and (3) the supplier, owner, operator, or "host" of the residential property. Short-term rentals are not a new practice, but the development of online hosting platforms, bookings, advertisements, and payments has increased the level and popularity of short-term rentals usage.

The popularity of short-term rentals could be attributed to its tourist and economic benefits. Utilizing online home sharing platforms, like Airbnb, can provide homeowners an opportunity to earn additional income to offset the cost of maintaining their residential property. For travelers, online rental platforms provide an online streamlined approach to obtaining booking as opposed to traditional booking of motels or hotels. However, short-term rentals also present some local

elected officials with a new set of challenges with short-term renters creating parking, trash, and safety concerns. As local agencies contend with the impacts from the growing popularity of short-term rentals, cities and counties have adopted ordinances to regulate or to prohibit short-term rentals.

A number of reports have been released in recent years indicate that, when short-term rentals accumulate in certain locales, it can have an impact on the housing market, potentially leading to higher rents and fewer long-term rentals available as well as reducing the overall supply of affordable housing and altering the character of certain neighborhoods. However, the studies are divided over how big of an impact there really is and note that this could be dependent upon local factors. According to an October 28, 2024 article published by CNN, "Over the past few years, Airbnb and Vrbo, two of the most well-known short-term home rental platforms, have faced increasing restrictions and even outright bans from some local governments who say the platforms have worsened housing affordability.

"Yet economists are divided over how much impact Airbnb and other short-term rentals (generally defined as a rental unit offered for 30 days or less) truly have on America's once-in-a-generation housing affordability crisis. It's a complex problem, and one characterized by high prices for both rentals and sales, elevated mortgage rates and a historic undersupply of homes."

*Short-Term Rental Ordinances.* Generally, many of the current short-term rental ordinances include regulations on permitting, tax compliance, noise, parking, and occupancy, as well as host and platform obligations and responsibilities. For instance, some ordinances require short-term rentals to limit the number of occupants per bedroom in the residential property. However, short-term rental ordinances' regulations and requirements vary from jurisdiction to jurisdiction. Many other jurisdictions in California have implemented more modest regulations or simply assess TOTs.

Nonetheless, some California cities have implemented caps or even bans on short-term rentals to address this issue. The City of Irvine has banned short-term rentals. Last year, the Santa Ana City Council voted to ban short-term residential rentals "to preserve the character of neighborhoods, address the negative impacts caused by these unpermitted business operations, and to open up much-needed housing supplies." The City website states, "The proliferation of online vacation rental platforms such as Airbnb.com and Vrbo.com has led to a spike in short-term rental activities in Santa Ana. However, these rentals, typically lasting less than 30 days, have been linked to a range of issues including trash and litter, excessive noise, parking problems, and neighborhood degradation. City staff identified over 1,100 active short-term rental units operating in Santa Ana, representing approximately 35% of the City's new housing needs as determined by the State of California. By banning short-term rentals, the City aims to preserve housing stock for long-term rental or sale, thus addressing the ongoing housing crisis. The ordinance expressly prohibits the offering, rental, or maintenance of any short-term rental for less than 30 days."

Local ordinances adopted by local agencies in California and nationwide in recent years have faced legal challenges from short term-rental facilitators. For instance, the Senate Judiciary Committee Analysis of this bill mentioned that, "It should be noted that one local ordinance in Santa Monica was challenged by short-term rental facilitators on a number of grounds. The ordinance at issue prohibited most types of short-term rentals and imposed four obligations on hosting platforms directly: (1) collecting and remitting TOT; (2) disclosing certain listing and

booking information regularly; (3) refraining from completing any booking transaction for properties not licensed and listed on Santa Monica's registry; and (4) refraining from collecting or receiving a fee for 'facilitating or providing services ancillary to a vacation rental or unregistered home-share.' The Ninth Circuit Court of Appeals found that the ordinance was not violative of Section 230 of the Communications Decency Act or the First Amendment to the United States Constitution."

Additionally, according to a May 1, 2017 *New York Times* article, "Airbnb agreed on Monday to settle a lawsuit against the city of San Francisco, putting to rest litigation that could have hampered the company's efforts to expand and go public.

"...Under the settlement between the city and the companies, Airbnb and other services like HomeAway will collect data from people who rent their homes out for less than a month on their sites. San Francisco will use that information to vet and register hosts. Companies like Airbnb will have to regularly provide the city with the data it needs to enforce local laws. The companies will also cancel reservations and deactivate listings if the city notifies them of an invalid registration."

### **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."

### **Arguments in Support**

According to the League of California Cities, "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.

"SB 346 would address the above issues by providing cities with the physical address of each short-term rental listed on the facilitator's website and full audit authority of TOT dollars. These changes would ensure the correct amount of TOT is being collected and remitted and would allow for more efficient enforcement against unlicensed units."

### **Arguments in Opposition**

According to Airbnb, "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. To that end, Airbnb has worked hand-in-hand with local governments over the past ten years to help verify the accuracy of tourism occupancy tax (TOT) collection. For example, we regularly share addresses and gross receipts with local governments during the course of an audit, while implementing guardrails to ensure the information is only used to verify the accuracy of the tourism taxes remitted. 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.

"...Local governments are well aware that private companies do not ordinarily disclose, and are not expected to disclose, commercially sensitive records. The privacy of those records are constitutionally protected, and require a subpoena or other legal process. We remain concerned that SB 346 misleads local governments about these constitutional requirements. SB 346 is an unnecessary and overreaching proposal that requires California hosts' private and sensitive information and violates federal law. Our hosts have expressed strong concern about their personal privacy if SB 346 is enacted. As a company that depends on our host community, we must oppose SB 346."

### **FISCAL COMMENTS**

None.

**VOTES****SENATE FLOOR: 38-0-2**

**YES:** Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson

**ABS, ABST OR NV:** Reyes, Wiener

**ASM LOCAL GOVERNMENT: 9-0-1**

**YES:** Carrillo, Ta, Pacheco, Ramos, Ransom, Blanca Rubio, Stefani, Ward, Wilson

**ABS, ABST OR NV:** Hoover

**ASM JUDICIARY: 11-0-1**

**YES:** Kalra, Dixon, Bauer-Kahan, Bryan, Connolly, Harabedian, Macedo, Pacheco, Papan, Stefani, Zbur

**ABS, ABST OR NV:** Sanchez

**UPDATED**

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CONSULTANT: Jimmy MacDonald / L. GOV. / (916) 319-3958

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