

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 608

99TH GENERAL ASSEMBLY

1263H.06P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 92.325, 92.327, 94.802, and 315.005, RSMo, and to enact in lieu thereof eight new sections relating to residential dwellings offered for rent to transient guests.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 92.325, 92.327, 94.802, and 315.005, RSMo, are repealed and eight  
2 new sections enacted in lieu thereof, to be known as sections 67.5055, 67.5056, 67.5110, 92.325,  
3 92.327, 94.802, 315.005, and 441.007, to read as follows:

**67.5055. 1. No city or county shall adopt, enforce, or maintain a residential  
2 property licensing ordinance or resolution that includes a requirement for periodic interior  
3 inspections of privately owned residential property for city or county code violations unless  
4 the lawful occupant has consented to such interior inspections. This subsection shall not  
5 apply to inspections of mixed-use residential and commercial property. This subsection  
6 shall not prohibit a city or county from conducting plan reviews, periodic construction  
7 inspections, or final occupancy inspections as required by building permits. No city shall  
8 adopt, enforce, or maintain an occupational permit requirement regarding interior spaces,  
9 other than safety-related requirements, that are more stringent or restrictive than county  
10 ordinances or state statutes.**

**2. Any lawful occupant residing in privately owned residential housing located  
11 within the corporate limits of a city may request an inspection at any time by the city or,  
12 if the property is located in the unincorporated area of the county, by the county to  
13 determine code violations.  
14**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

2           **67.5056.** Notwithstanding any provision of law to the contrary, no political  
3 subdivision can require a seller or transferor of private residential property to obtain an  
4 inspection of the private residence in order to sell or transfer the property.

5           **67.5110. 1.** As used in this section, the following terms mean:

6           (1) "Facilitation platform", an intermediary that facilitates the rental of a  
7 residential dwelling rental to, and collects payment from, a transient guest. A facilitation  
8 platform shall not include an entity that acts solely as a property manager;

9           (2) "Guest room", the same meaning as that term is defined under section 92.325;

10           (3) "Marketing platform", an intermediary that facilitates the rental of a  
11 residential dwelling rental to, but does not collect payment from, a transient guest;

12           (4) "Owner", a person who offers a residential dwelling rental to transient guests;

13           (5) "Political subdivision", any county, city, town, village, township, fire district,  
14 sewer district, or water district;

15           (6) "Reasonable regulation", any ordinance or law that does not expressly prohibit  
16 or have the practical effect of prohibiting residential dwelling rentals;

17           (7) "Residential dwelling", any building, structure, or part of a building or  
18 structure that is used and occupied for human habitation or intended to be so used,  
19 including any appurtenances belonging to it or enjoyed with it;

20           (8) "Residential dwelling rental", a single residential dwelling or any part thereof  
21 offered for rent to transient guests. This definition shall not include a time-share unit, as  
22 defined under section 407.600, or a lodging establishment as defined under section 92.325;

23           (9) "Transient guest", any person who rents and occupies a guest room in a  
24 residential dwelling rental for no more than thirty-one consecutive days during a calendar  
25 quarter. Transient guest shall not include an occupant under a lease agreement.

26           **2.** A political subdivision shall not impose a fee or enforce an ordinance or law that  
27 expressly prohibits or that has the practical effect of prohibiting residential dwelling  
28 rentals.

29           **3.** A political subdivision may enact and enforce an ordinance or law that, in order  
30 to protect the public's health and safety, imposes a reasonable regulation on residential  
31 dwelling rentals relating to:

32           (1) Sanitation, pollution control, fire and building codes, and parking restrictions,  
provided that such regulations shall not impose on residential dwelling rentals any  
commercial building or fire code requirements or require any interior or exterior  
alteration or reconstruction to a residential dwelling rental that is not also required of  
residential dwellings not offered for rent to transient guests;

33           **(2) Registration, permit, inspection, or self-inspection requirements, provided that**  
34 **any fees imposed for a registration, permit, or inspection shall be reasonable and**  
35 **commensurate with the actual costs incurred by the local political subdivision to**  
36 **administer and enforce the requirements;**

37           **(3) Posting or display requirements for licenses, permits, certificates, or**  
38 **registrations and for emergency procedures and emergency contact information;**

39           **(4) Response time periods for nuisance complaints related to a residential dwelling**  
40 **rental;**

41           **(5) Minimum age requirements for transient guests renting a residential dwelling**  
42 **rental;**

43           **(6) Limiting or prohibiting residential dwelling rentals to house sexual offenders,**  
44 **except that no such ordinance or law shall require an owner to conduct a criminal**  
45 **background check on any transient guest renting a residential dwelling rental; sell illegal**  
46 **drugs, liquor, or pornography; or promote topless dancing or other adult-oriented**  
47 **commercial activity; and**

48           **(7) Documentation indicating that an owner has obtained a certificate of no tax due**  
49 **and a retail sales tax license issued by the state department of revenue.**

50           **4. Nothing in this section shall prohibit political subdivisions from exercising the**  
51 **powers vested therein under chapters 64 and 89.**

52           **5. Prior to renting a residential dwelling rental to a transient guest, an owner shall**  
53 **obtain a certificate of no tax due and a retail sales tax license.**

54           **6. A transient guest shall pay and an owner shall collect and remit any applicable**  
55 **taxes imposed on a transient guest for the occupancy of a residential dwelling rental**  
56 **whether imposed by the state or by a local political subdivision or taxing authority in**  
57 **which the residential dwelling is located and whether the tax imposed be a sales tax, hotel**  
58 **and motel tax, occupancy tax, tourism tax, or otherwise. Local taxes imposed on the**  
59 **occupancy of a residential dwelling rental shall be of the same rate and same tax base as**  
60 **similar local taxes imposed on the occupancy of other guest rooms. Taxes shall be collected**  
61 **and remitted as follows:**

62           **(1) If an owner uses a facilitation platform, the facilitation platform shall collect**  
63 **and remit on behalf of the owner any applicable state and local taxes imposed on rentals**  
64 **facilitated by the facilitation platform for the occupancy of a guest room in a residential**  
65 **dwelling rental or lodging establishment by a transient guest. A facilitation platform may**  
66 **comply with this requirement by entering into a voluntary agreement with the department**  
67 **of revenue and any political subdivision or taxing authority to collect and remit applicable**  
68 **taxes, whether the tax imposed by a sales tax, hotel and motel tax, occupancy tax, tourism**

69 tax, or otherwise, and shall be deemed to be in compliance with this section for as long as  
70 that agreement is in force. A facilitation platform that is collecting and remitting applicable  
71 taxes shall report the taxes and remit the aggregate total amounts of each taxing authority,  
72 and shall not be required to list or otherwise identify any individual owners on any return  
73 or attachments to a return. A property manager that collects and remits on behalf of an  
74 owner taxes imposed on the occupancy of a residential dwelling by a transient guest shall  
75 not be considered a facilitation platform. For the purposes of the collection and remittance  
76 by a facilitation platform of any state sales tax imposed on a transient guest for the  
77 occupancy of a residential dwelling rental, the provisions of sections 32.096 to 32.110,  
78 sections 136.101 to 136.380, and sections 144.010 to 144.525 shall apply; and

79 (2) If an owner uses a marketing platform, the owner shall collect and remit any  
80 applicable state and local taxes imposed on the occupancy of a guest room in a residential  
81 dwelling rental by a transient guest.

82 7. Prior to facilitating a rental of a residential dwelling rental, a facilitation  
83 platform shall require as a term of service that the owner agrees to abide by all state and  
84 local rentals applicable to residential dwelling requirements including, but not limited to,  
85 requirements relating to permitting, to registration, and to collection and remittance of  
86 taxes.

87 8. Prior to facilitating a rental of a residential dwelling rental, a marketing  
88 platform shall:

89 (1) Disclose to both the transient guest and the owner in its terms of service the  
90 obligation to pay any applicable state and local taxes imposed on an occupancy of the  
91 residential dwelling rental;

92 (2) Require as a term of service that the transient guest agrees to pay any applicable  
93 state and local taxes imposed on the occupancy of a residential dwelling rental;

94 (3) Require as a term of service that the owner agrees to collect and remit any  
95 applicable state and local taxes to the proper taxing authorities; and

96 (4) Require as a term of service that the owner agrees to abide by all state and local  
97 requirements applicable to a residential dwelling rental including, but not limited to,  
98 requirements relating to permitting, to registration, and to collection and remittance of  
99 taxes.

100 9. A facilitation platform or a marketing platform shall maintain records of any  
101 rentals facilitated for three years from the date of rental for the purpose of audits  
102 requested by a taxing authority and conducted during normal business hours.

103 10. The provisions of subsections 5 through 9 of this section shall take effect on  
104 January 1, 2018.

92.325. As used in sections 92.325 to 92.340, the following terms mean:

- 2 (1) "City", a constitutional charter city located in four or more counties;
- 3 (2) "Food", all articles commonly used for food or drink, including alcoholic beverages,  
4 the provisions of chapter 311 notwithstanding;
- 5 (3) "Food establishment", any cafe, cafeteria, lunchroom or restaurant which sells food  
6 at retail;
- 7 (4) "Governing body", the city council charged with governing the city;
- 8 (5) "Gross receipts", the gross receipts from retail sales of food prepared on the premises  
9 and delivered to the purchaser (excluding sales tax);
- 10 (6) **"Guest room", any room or unit where sleeping accommodations are regularly  
11 furnished to the public;**
- 12 (7) "Hotel, motel or tourist court", any structure or building, under one management,  
13 which contains rooms furnished for the accommodation or lodging of guests, with or without  
14 meals being so provided, and kept, used, maintained, advertised, or held out to the public as a  
15 place where sleeping accommodations are sought for pay or compensation to transient guests or  
16 permanent guests and having more than eight bedrooms furnished for the accommodations of  
17 such guests. Sleeping accommodations consisting of one bedroom or more, that rent for less  
18 than twenty dollars per day or less than eighty-five dollars per week and shelters for the homeless  
19 operated by not-for-profit organizations are not a "hotel, motel or tourist court" for the purposes  
20 of this act;
- 21 ~~[(7)]~~ (8) **"Lodging establishment", any building, group of buildings, structure,  
22 facility, place, or places of business where guest rooms are provided that is:**
  - 23 (a) **Owned, maintained, or operated by a person;**
  - 24 (b) **Kept, used, maintained, advertised, or held out to the public for hire, which can  
25 be construed to be a hotel, motel, motor hotel, apartment hotel, tourist court, resort, cabin,  
26 tourist home, bunkhouse, dormitory, or other similar place; and**
  - 27 (c) **Includes all such accommodations operated for hire as lodging establishments  
28 for either transient guests, permanent guests, or for both transient and permanent guests;**
- 29 (9) "Person", any individual, corporation, partnership or other entity;
- 30 ~~[(8)]~~ (10) **"Residential dwelling," any building, structure, or part of the building  
31 or structure that is used or occupied for human habitation or intended to be so used and  
32 includes any appurtenances belonging to or enjoyed with it. This definition shall not  
33 include time-share units, as defined under section 407.600, or lodging establishments, as  
34 defined under this section;**
- 35 (11) **"Residential dwelling rental", a residential dwelling or any part thereof  
36 offered for rent to transient guests;**

37           (12) "Transient guest", a person who occupies a room or rooms in a hotel, motel, [or]  
38 tourist court, **lodging establishment, or residential dwelling rental** for thirty-one days or less  
39 during any calendar quarter.

92.327. 1. Any city may submit a proposition to the voters of such city:

2           (1) A tax not to exceed seven and one-half percent of the amount of sales or charges for  
3 all:

4           (a) Sleeping rooms paid by the transient guests of hotels, motels and tourist courts  
5 situated within the city involved, and doing business within such city (excluding sales tax); or

6           (b) **Guest rooms paid by the transient guests of lodging establishments and**  
7 **residential dwelling rentals situated within the city;** and

8           (2) A tax not to exceed two percent of the gross receipts derived from the retail sales of  
9 food by every person operating a food establishment.

10          2. Such taxes shall be known as the "convention and tourism tax" and when collected  
11 shall be deposited by the city treasurer in a separate fund to be known as the "Convention and  
12 Tourism Fund". The governing body of the city shall appropriate from the convention and  
13 tourism fund as provided in sections 92.325 to 92.340.

94.802. 1. In addition to any tourism tax imposed by section 94.805, the governing body  
2 of any municipality with more than two thousand five hundred hotel and motel rooms inside the  
3 municipal limits may impose, by ordinance, a tourism tax at a rate not to exceed four percent on  
4 the following:

5           (1) The price paid or charged to any person for rooms or accommodations paid by  
6 transient guests of hotels, motels, condominium units, time-share interests in condominiums,  
7 campgrounds, ~~and~~ tourist courts, **and residential dwelling rentals, as defined under section**  
8 **67.5110**, situated within the municipality; and

9           (2) The price paid or charged for any admission ticket to or participation in any private  
10 tourist attraction in such municipality.

11          2. As used in this section, the term "hotel", "motel", "condominium", "time-share  
12 interests in condominiums", [or] "tourist court", or "**residential dwelling rental**" means any  
13 structure or building, under one management, which contains rooms furnished for the  
14 accommodation or lodging of guests, with or without meals being provided, including bed and  
15 breakfast facilities, and kept, used, maintained, advertised, or held out to the public as a place  
16 where sleeping accommodations are sought for pay or compensation to transient guests and the  
17 use of the term "hotel" or "motel" alone shall also be deemed to include all such structures,  
18 buildings and facilities, and the term "campground" means real property, other than state-owned  
19 property, which contains parcels for rent to transient guests for pay or compensation, which may  
20 include temporary utility hook-ups for use by the transient guests, and where such transient

21 guests generally use tents, recreational vehicles or some other form of temporary shelter while  
22 on the rented premises. Shelters for the homeless operated by not-for-profit organizations are  
23 not a hotel, motel, or tourist court for the purposes of this section. As used in this section, the  
24 term "transient guest" means a person who occupies a room or rooms in a hotel, motel,  
25 campground, or tourist court for thirty consecutive days or less.

26 3. As used in this section, "private tourist attraction" means any commercial entity which  
27 appeals to the recreational desires and tastes of the traveling public through the presentation of  
28 services or devices designed to entertain or educate visitors, including but not limited to:

29 (1) Amusement parks, carnivals, circuses, fairs and water parks;

30 (2) Aerial tramways;

31 (3) Commercial animal, reptile, and zoological exhibits;

32 (4) Commercial beaches and hot springs;

33 (5) Go-carts/miniature golf establishments;

34 (6) Horse shows and rodeos;

35 (7) Rides on airplanes, helicopters, balloons, gliders, parachutes and bungee jumps;

36 (8) Automobile, bicycle, dog, horse, and other racing events;

37 (9) Music shows and pageants, movie theaters, and live theaters;

38 (10) Regularly scheduled and special professional sporting events including, but not  
39 limited to, football, baseball, basketball, hockey, tennis, golf, bowling, soccer, horse racing,  
40 bicycle racing, human track and field events, table tennis and other racquet events, except that  
41 attractions owned or operated by schools, colleges and universities shall be exempt from the  
42 provisions of this subdivision.

43

44 Attractions operating on an occasional or intermittent basis for fund-raising purposes by  
45 nonprofit charitable organizations whose ordinary activities do not involve the operation of such  
46 attractions shall be exempt from the admissions tax imposed by this section.

315.005. As used in sections 315.005 to 315.065, unless the context clearly indicates  
2 otherwise, the following terms mean:

3 (1) "Code", the standards relating to fire safety, sanitation, electrical wiring, fuel-burning  
4 appliances, plumbing, swimming pools and spas, sewage and waste treatment and disposal as  
5 adopted by the department. The department in its discretion, may incorporate, in whole or in  
6 part, the standards or codes promulgated by the National Fire Protection Association, Building  
7 Officials and Code Administration International, Inc., Great Lakes Upper Mississippi River  
8 Board of State Sanitary Engineers, and American Society of Sanitary Engineers;

9 (2) "Department", the director of the department of health and senior services or an agent  
10 of the director of the department of health and senior services;

11 (3) "Guest room", any room or unit where sleeping accommodations are regularly  
12 furnished to the public;

13 (4) "Lodging establishment", any building, group of buildings, structure, facility, place,  
14 or places of business where ~~five or more~~ guest rooms are provided, which is owned,  
15 maintained, or operated by any person and which is kept, used, maintained, advertised or held  
16 out to the public for hire which can be construed to be a hotel, motel, motor hotel, apartment  
17 hotel, tourist court, resort, cabins, tourist home, bunkhouse, dormitory, or other similar place by  
18 whatever name called, and includes all such accommodations operated for hire as lodging  
19 establishments for either transient guests, permanent guests, or for both transient and permanent  
20 guests, **including a residential dwelling rental, as defined under section 67.5110, that is**  
21 **rented to and occupied by transient guests for more than one hundred eighty-two days in**  
22 **a calendar year;**

23 (5) "Owner", the person responsible for obtaining a license from the department for  
24 operating the lodging establishment;

25 (6) "Permanent guest", any person who rents and occupies a guest room in a lodging  
26 establishment for a period of thirty-one days or more;

27 (7) "Person", any individual, partnership, corporation, association, organization, firm,  
28 or federal, state, county, city, village, or municipal association or corporation;

29 (8) "Transient guest", any person who rents and occupies a guest room in a lodging  
30 establishment for a period of less than thirty-one days.

**441.007. No owner, as that term is defined under section 67.5110, shall be required**  
2 **to obtain a business or occupational license by any political subdivision of the state for the**  
3 **sole reason that the owner offers to rent or lease, or in fact rents or leases, real property**  
4 **to a permanent guest or rents to transient guests for no more than one-hundred eighty-two**  
5 **days in a calendar year.**

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