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H.B. 109
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Pizzulli

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SUMMARY

- Limits the purposes for which townships, counties, and municipal corporations may regulate short-term rental properties.
- Requires a subdivision to subject short-term rental stays to the subdivision's lodging tax.
- Requires collection and remittance of the tax by the operator of the short-term rental platform.
- Requires the Superintendent of the Division of Real Estate and Professional Licensing to issue licenses to licensed real estate brokers and salespersons in an electronic format.

DETAILED ANALYSIS

Short-term rental properties

The bill imposes certain conditions and limitations on local short-term rental regulations. The bill defines "short-term rental property" as a house, apartment, condominium, cooperative unit, cabin, cottage, or bungalow, or one or more rooms therein, that is, or are, offered to transients or travelers for a fee for a period of 30 days or less, regardless of whether amenities, including meals, daily housekeeping, concierge services, or linen services, are provided.

The bill authorizes townships, counties, and municipal corporations (herein "local governments") to require registration or licensing of short-term rental properties so long as the fee for such a license or registration does not exceed \$20 per property. Furthermore, the proceeds of the fee must be used only to enforce the local government's short-term rental regulations.

However, the bill prohibits local governments from adopting or enforcing regulations, requirements, restrictions, or other resolutions or ordinances that (1) prohibit short-term rentals,

(2) create a lottery system for eligibility of a short-term rental property, (3) use zoning requirements to prohibit or limit short-term rental properties in areas that are zoned to allow for residential use, (4) restrict the number of short-term rental properties a person may operate, or (5) require that an owner of a short-term rental property occupy the property.¹

Municipal corporations (i.e., cities and villages), charter counties, and limited home rule townships are likely permitted to regulate short-term rental properties under their existing police powers. The bill limits rather than expands the regulatory authority of those local governments. Since municipal home rule authority is granted by the Ohio Constitution, the bill's limitations could be challenged.² The General Assembly has broader authority to limit county and township home rule powers, since they are derived from statute.

Lodging taxes

Under continuing law, all transactions by which lodging at a hotel is furnished to transient guests are subject to state and local sales taxes. In addition to the sales tax, local governments, i.e., counties, municipalities, townships, convention facilities authorities (CFAs), and lake facilities authorities (LFAs), are permitted to levy a tax on such lodgings within the local jurisdiction. Continuing law defines a hotel as an establishment in which five or more rooms are used for the accommodation of transient guests, i.e., persons occupying sleeping accommodations for less than 30 consecutive days.³ Under current law, counties, municipalities, and townships are authorized to expand the definition of hotel to include establishments with fewer than five rooms, i.e., to subject short-term rental properties to the tax. Whether the lodging tax is imposed on short-term rental properties or not, the person required to collect and remit the tax is the operator of the accommodation.

The bill requires any subdivision currently levying a lodging tax or levying such a tax in the future to extend it to short-term rental properties. If voter approval was required to enact the original tax, the bill allows the subdivision to amend the enacting resolution without receiving further voter approval in order to effectuate the extension. The bill further requires that collection and remittance of the tax be made by the operator of the short-term rental platform, i.e., the business that operates the application or website that connects owners of short-term rental properties to transient guests. All subdivisions with existing lodging taxes must enact this extension by the first day of the first month beginning 30 days after the bill's 90-day effective date.⁴

Real estate licenses

Under continuing law, the Superintendent of the Division of Real Estate and Professional Licensing issues licenses for real estate brokers and salespersons, and the form and size of

¹ R.C. 5325.01.

² Ohio Constitution, Article XVIII, Section 3.

³ R.C. 5739.01(M) and (N).

⁴ R.C. 5739.01, 5739.08, 5739.09, 5739.091, and 5741.01; Section 3.

licenses issued are prescribed by the Ohio Real Estate Commission.⁵ The bill requires the Commission to issue licenses in an electronic format.⁶

HISTORY

Action	Date
Introduced	02-18-25

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⁵ R.C. 4735.08 and 4735.09, not in the bill.

⁶ R.C. 4735.11.