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Office of Research and Drafting

Legislative Budget Office

S.B. 104
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 104's Bill Analysis]

Version: As Introduced

Primary Sponsor: Sen. Brenner

Local Impact Statement Procedure Required: No

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Highlights

- Local government lodging tax revenue may increase from $121 million to $150 million annually due to the bill's mandatory extension of the tax to short-term rental properties, rather than just hotels. If tax compliance increases under the bill, actual revenue increases may be significantly higher than these estimates.
- The bill limits fees which political subdivisions may charge for registering or licensing short-term rentals to $20 per property per year. Political subdivisions that currently charge higher fees will incur a loss in license or registration fee revenue.

Detailed Analysis

Short-term rentals

The bill (1) requires a subdivision to subject short-term rental stays to the subdivision's lodging tax, (2) requires collection and remittance of the lodging tax by the operator of the short-term rental platform, and (3) limits local government short-term rental registration of license fees to a maximum of $20 per property per year and restricts the use of the revenue collected to the enforcement of short-term rental property regulations.

Lodging tax

Under the bill, any subdivision currently levying a lodging tax or levying such a tax in the future must extend it to short-term rental properties, defined as establishments that are offered to transients or travelers for a fee for a period of 30 days or less. Current law allows subdivisions to levy lodging taxes on hotels, which are defined similarly to short-term rentals but are restricted to lodging consisting of five or more rooms. However, political subdivisions are also allowed to alter the definition of hotel for the purpose of their lodging tax to include establishments with fewer than five rooms. For example, in 2023, 71 of the 88 counties administered a county-level lodging tax. Roughly 48% of these counties hold all establishments liable for taxation, including those with fewer than five rooms. The bill requires subdivisions (counties, cities, townships, villages, and convention facilities authorities) to extend the lodging tax to all establishments providing lodging for less than 30 days, regardless of the number of rooms. Therefore, the fiscal effect will be more pronounced for those local governments that either do not impose the tax on short-term rentals or otherwise lack enforcement of the lodging tax on short-term rentals.[1]

LBO estimates that the extension of lodging taxes as required by the bill may increase local governments' lodging tax collections between $121 million to $150 million annually. This estimate is based on available data derived from tax compliant establishments. The bill also changes the entity responsible for paying the tax from the operator of the rental to the short-term rental platform. The actual increase in tax collections may be substantially higher if there are many establishments operating on short-term rental platforms such as Airbnb or Vrbo that are currently not tax compliant but will become so under the bill.

Calculations

Lodging tax rates and collections are available at the county, city, village, township, and convention facilities authority level from the Department of Taxation.[2] From this information, LBO identified hotel revenues for each county government. The variation in hotel revenues in counties that tax all establishments compared to counties with similar populations that tax only establishments with five or more rooms may be used to identify additional revenue that would be liable for taxation if the latter counties taxed all establishments. Aggregating across all counties, the estimated hotel revenues generated by establishments with less than five rooms that are not currently taxed by a county may be estimated for the entire state.

LBO estimates county governments' lodging tax collections would increase between $68 million and $84 million if their tax applies to all lodging, which constitutes a 45% to 56% increase above current collections.[3] A similar estimate for all cities, villages, townships, and convention facilities authorities would require knowledge of each subdivision's definition of hotel. However, a practical estimate may be derived by scaling up the projected increase in county lodging tax collections based on their proportion of the total statewide lodging tax collections.

According to the latest available data for calendar year 2023, lodging tax collections totaled $268.5 million. County governments and their associated conventional facilities (56.0% of total) collected the majority of local lodging taxes, with the remainder accruing to cities (33.5%), townships (9.2%), and villages (1.3%). This suggests that the total increase in lodging taxes due to the bill may be $121 million to $150 million when considering all subdivisions.[4] Note that this

[1] A few municipalities impose the tax on the "hosting platform," which presumably increases tax compliance.

[2] Refer to the Ohio Department of Taxation's Table S-4, which is found on tax.ohio.gov by navigating to "Resources For RESEARCHERS" and selecting "Tax Data Series."

[3] The estimated range of tax collections accounts for the expected decrease in bookings from an increase in taxation. The sensitivity of hotel revenues to increases in taxation was derived from recent academic literature on the topic.

[4] $68 million ÷ 56.0% = $121 million and $84 million ÷ 56.0% = $150 million.

estimate assumes the proportion of all noncounty subdivisions that use the state definition of hotel (establishment with at least five rooms) is the same as the proportion of counties who do so. The additional tax collections under the bill would be lower if the proportion of noncounty subdivisions that use the state definition of hotel is higher, as the bill would not affect collections in these subdivisions. The opposite would hold true if the proportion of noncounty subdivisions that use the state definition is lower.

Registration, licensure, and regulation

The bill limits the fees that a political subdivision may charge for licensing or registering a short-term rental property to $20 per property annually. This will lead to a reduction in fee revenue, possibly significant, for political subdivisions that collect fees from this source. Akron, for example, currently charges an annual $250 fee for registration. Cincinnati charges a registration fee of $250, which is valid for three years. Toledo charges an annual registration fee of $50 per unit.

The bill also prohibits political subdivisions from adopting or enforcing regulations, requirements, restrictions, or other resolutions or ordinances affecting the operation of short-term rental property. The potential fiscal effects of this change are uncertain and would vary by political subdivision. Under home rule, political subdivisions may continue to regulate short-term rental properties under their existing police powers. Specifically, the bill would preclude political subdivisions from (1) prohibiting short-term rentals, (2) creating a lottery system for eligibility of a short-term rental property, (3) using zoning requirements to prohibit or limit short-term rental properties in areas that are zoned to allow for residential use, (4) restricting the number of short-term rental properties a person may operate, or (5) requiring that an owner of a short-term rental property occupy the property.

Electronic real estate brokers and salespersons licenses

The Division of Real Estate and Professional Licensing within the Department of Commerce may incur new costs to issue licenses in an electronic format in addition to physical copies required under current law. The cost of producing and issuing licenses in electronic format, including potential information technology systems updates, will be paid from the Division of Real Estate Operating Fund (Fund 5490).

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