



CITY OF PORTLAND
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BUREAU OF REVENUE AND FINANCIAL SERVICES

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Representative Phil Barnhart, Chair
House Committee on Revenue
900 Court Street NE, HR A
Salem, Oregon 97301

RE: HB 4120

Dear Chair Barnhart and Members of the Committee,

Thank you for the opportunity to comment on HB 4120. The City of Portland supports this bill to establish a level playing field in the transient lodging industry and ensure transient lodging tax is properly collected and remitted for all bookings.

Tax Fairness

Oregon's transient lodging tax collection and remittance statutes must be updated to ensure a level playing field for the industry. Traditional brick and mortar hotels across the state have been **collecting and remitting lodging taxes in full** for decades, correctly calculating the tax based on the total consideration paid by the guest. At the same time, some newer short-term rental platforms advertising residential and other rentals are **refusing to remit any tax** because, they argue, they do not fit the legal definition of "hotel operators" or "travel intermediaries" or other arguments under the law. They instead remit the tax directly to their hosts who frequently fail to remit it to the local jurisdiction. Other short-term rental platforms are collecting and remitting **only a selected portion of the tax**, arguing that they are not required to apply the tax to the entire amount charged to the traveler and deducting items like "service" and "cleaning" fees that should be included in the base against which the tax rate is applied because the traveler cannot avoid them.

Transient lodging taxes must be applied to the total consideration paid by the traveler for the rental in every case, and HB 4120 will help to ensure that happens. Failing to apply a uniform approach puts law-abiding hoteliers at a distinct competitive disadvantage because they are assessing the full legal tax rate while short-term rental platforms collect and remit either less or nothing at all, creating confusion for travelers who are unable to discern how much tax they should pay. Lastly, local jurisdictions are losing vital tax revenue in support of travel promotion, or money that otherwise goes to their general fund to support police and fire protection and parks, among other basic services.

Subpoena Authority

Unlike traditional brick-and-mortar hotels whose locations and compliance with local fire, life and safety codes are known, short-term rental platforms obscure rental locations until after the

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rental is fully booked and paid for. The City of Portland Revenue Division tracks industry compliance with short-term rental regulations and estimates that up to 80% of Portland short-term rentals locations are unknown and uninspected, putting guests at risk and leaving local governments to attempt to locate rental locations using ineffectual means such as comparing online rental listing pictures and descriptions to Google Street View. HB 4120 will correct this imbalance by providing local jurisdictions with the ability, if needed, to subpoena short-term rental platforms and other operators to ensure compliance with local zoning and fire, life and safety regulations by requesting basic information about their hosts limited by federal law to the name, address of rental location, and listing identifying number. In Portland, there are literally **thousands of short-term rental locations operating entirely outside the law** and without basic assurances or inspections as to their safety. In the vast majority of cases, we currently have no viable means to enforce our code.

Subpoena authority also provides a necessary means to enforce the tax code because some short-term rental platforms do not handle all financial transactions or expect their hosts to remit taxes collected on their behalf by the platform. In Portland, such hosts have failed to remit over \$2 million in taxes since 2013. We believe the authority to issue subpoenas already exists by virtue of our Home Rule authority. In fact, the City has issued subpoenas in accordance with its Home Rule authority that various online short-term rental platforms have complied with. Section (5) of HB 4120 simply codifies that authority and removes any doubt that a local jurisdiction's administrative subpoena authority is authorized by state statute. The subpoena authority we are seeking is limited by the Stored Communications Act and includes, by law, only basic subscriber information of any online platform such as name, address of the rental location and listing number. In short, the administrative subpoena authority sought in HB 4120 is exactly the type of subpoena authority contemplated in federal law.

HB 4120 will provide transparency and balance the playing field, ensuring transient lodging tax is properly collected and remitted for all bookings, whether the guest books directly with the lodging provider or through an intermediary. Lastly, HB 4120 will provide a means for local governments to meaningfully enforce local regulations.

The City of Portland respectfully urges your support for HB 4120. Thank you for your consideration.

Sincerely,



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